

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND TWELVE

S.P. 667 - L.D. 1889

An Act To Amend the Liquor Laws of the State

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 28-A MRSA §2, sub-§11-A**, as enacted by PL 1993, c. 730, §8, is repealed.

**Sec. 2. 28-A MRSA §2, sub-§15, ¶I**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

I. "Incorporated civic organization" means any charitable or ~~nonprofit~~ civic organization incorporated as a corporation without stock under Title 13, chapter 81 or Title 13-B.

**Sec. 3. 28-A MRSA §2, sub-§15, ¶M**, as amended by PL 1995, c. 558, §2, is further amended to read:

M. "Outdoor stadium" means any commercially operated outdoor facility with ~~5,000~~ 3,000 or more fixed seats designed or used for the playing of any sport or event, ~~or any outdoor facility with 3,000 or more seats at times when that facility is being used for the playing of professional baseball~~, that is open to the general public, charges a fee and has adequate facilities for the sale and consumption of wine and malt liquor.

**Sec. 4. 28-A MRSA §2, sub-§16-A**, as amended by PL 2005, c. 539, §3, is further amended to read:

**16-A. Low-alcohol spirits product.** "Low-alcohol spirits product" means a product containing spirits that has an alcohol content of ~~6%~~ 8% or less by volume.

**Sec. 5. 28-A MRSA §2, sub-§29-B** is enacted to read:

**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.

**Sec. 6. 28-A MRSA c. 9**, as amended, is repealed.

**Sec. 7. 28-A MRSA c. 17**, as amended, is repealed.

**Sec. 8. 28-A MRSA §454**, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

**Sec. 9. 28-A MRSA §707, sub-§3**, as amended by PL 2005, c. 390, §2, is further amended to read:

**3. Retail licensee; interest in wholesaler or certificate of approval.** Except as authorized in section ~~1012, subsection 5~~ 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
- B. Certificate of approval issued to an out-of-state manufacturer or foreign wholesaler of malt liquor or wine.

**Sec. 10. 28-A MRSA §707, sub-§4**, as amended by PL 2005, c. 390, §3, is further amended to read:

**4. Certificate of approval holder or Maine manufacturer; interest in wholesaler or retail license.** Except as authorized in section ~~1012, subsection 5~~ 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
- B. Maine retail license.

**Sec. 11. 28-A MRSA §708-B**, as enacted by PL 1997, c. 483, §1, is repealed and the following enacted in its place:

**§708-B. Donations to public broadcasting stations and incorporated civic organizations**

**1. Donations for auctions.** Notwithstanding any other provisions of law, a person licensed in the State as a brewery, small brewery, winery, small winery, distillery, small distillery or wholesaler may donate a gift certificate to purchase its product or donate its product to a public broadcasting station or an incorporated civic organization licensed under section 1071 for the purpose of an auction. A certificate of approval holder may donate a gift certificate to purchase its product or donate its product to a public broadcasting station or an incorporated civic organization licensed under section 1071 for the purpose of an auction as long as the product donated is provided by a wholesaler who is reimbursed for the product by the certificate of approval holder for the cost of the donated product. Spirits donated by a distiller under this subsection must have been sold to the State for listing, pricing and distribution as required by this Title. Any donation is subject to the following.

- A. A brewery, winery, distillery or wholesaler shall maintain a record of each donation, including the value of each donation and the date on which each donation was made.
- B. A public broadcasting station or licensed incorporated civic organization shall ensure that the recipient of the donated item is 21 years of age or older.

**2. Donations for on-premises events.** Notwithstanding any other provisions of law, a person licensed in the State as a brewery, winery, distillery or wholesaler may donate its product to an incorporated civic organization that has been issued a license for an on-premises event open to the public. A certificate of approval holder may donate its product to an incorporated civic organization that has been issued a license for an on-premises event open to the public as long as the product donated is provided by a wholesaler who is reimbursed for the product by the certificate of approval holder for the cost of the donated product. Spirits donated by a distiller under this subsection must have been sold to the State for listing, pricing and distribution as required by this Title. A brewery, winery, distillery or wholesaler shall maintain a record of each donation, including the value of each donation and the date on which each donation was made.

**Sec. 12. 28-A MRSA §709, sub-§2, ¶E,** as amended by PL 2011, c. 259, §1, is further amended to read:

E. Those licensed under sections 1052-B; or 1052-C, ~~1205, 1207 and 1402~~ offering free samples or tastings;

**Sec. 13. 28-A MRSA §709, sub-§2, ¶H,** as amended by PL 2005, c. 319, §1, is further amended to read:

H. Licensees whose licensed premises include more than one room charging different prices for the same drink served in the different rooms; ~~or~~

**Sec. 14. 28-A MRSA §709, sub-§2, ¶I,** as enacted by PL 2005, c. 319, §2, is repealed and the following enacted in its place:

I. Conducting taste testing under section 460, 1051, 1205, 1207 or 1355-A;

**Sec. 15. 28-A MRSA §709, sub-§2, ¶¶J and K** are enacted to read:

J. Providing samples authorized under section 1355-A, 1402, 1402-A or 1504; or

K. Donations authorized under section 708-B.

**Sec. 16. 28-A MRSA §1012, sub-§5,** as enacted by PL 2005, c. 390, §4, is repealed.

**Sec. 17. 28-A MRSA §1052-B, sub-§1,** as amended by PL 2003, c. 91, §1, is further amended to read:

**1. Special taste-testing festival license.** Malt liquor manufacturers licensed under section 1401 and manufacturers of malt liquor or wine licensed as small breweries or ~~farm~~ small wineries under section ~~1355~~ 1355-A may apply jointly for an additional license to participate in a special taste-testing festival under this section. The special taste-testing festival license is valid for no more than 3 consecutive days and may be issued once annually.

**Sec. 18. 28-A MRSA §1052-C, sub-§1,** as enacted by PL 2011, c. 259, §2, is amended to read:

**1. Special food and beverage industry taste-tasting event license.** Malt liquor and wine wholesalers licensed under section 1401 and manufacturers licensed under section ~~1355~~ 1355-A may apply jointly for a special food and beverage industry taste-tasting event license to participate in a special food and beverage industry taste-testing event under this section. This license authorizes taste testing of malt liquor, wine, fortified wine and spirits at an event designed to promote the food and beverage or hospitality industry where more than 50% of the participants in the event represent an industry or business that holds a license to manufacture, sell or serve alcoholic beverages.

**Sec. 19. 28-A MRSA §1071, sub-§6,** as enacted by PL 2009, c. 102, §1, is amended to read:

**6. Server requirements.** An incorporated civic organization issued a license in accordance with this section shall provide the names of those who will be serving alcoholic beverages at the public event or gathering being sponsored. In the event that a server from that list is unavailable, a licensed manufacturer, distributor, wholesaler, ~~farm~~ small winery or small brewery that has provided alcoholic beverages to be served at the event may provide serving assistance.

**Sec. 20. 28-A MRSA §1206,** as repealed and replaced by PL 2009, c. 652, Pt. A, §42, is amended to read:

**§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 ~~and~~ 1208, 1402-A and 1504.

**Sec. 21. 28-A MRSA §1355,** as amended by PL 2011, c. 280, §2, is repealed.

**Sec. 22. 28-A MRSA §1355-A** is enacted to read:

**§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.

**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.**

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.

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.

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.

E. A licensee may serve complimentary samples of liquor on Sunday after the hour of 9 a.m. and may sell liquor on Sunday after the hour of 9 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.

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.

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 32, chapter 28 including the retailer handling fee, state container deposit and a mutually agreed-upon pick-up fee.

H. A small winery or small brewery licensee shall keep and maintain complete records on all sales to a retail licensee.

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.

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.

**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.

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.

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 32, chapter 28.

(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.

**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.

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.

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.

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.

**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.

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.

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.

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.

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.

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.

**Sec. 23. 28-A MRSA §1361, sub-§4**, as amended by PL 2005, c. 683, Pt. A, §46, is further amended to read:

**4. No sales of malt liquor or wine to person without wholesale license.** No certificate of approval holder, except a small ~~Maine~~ brewery or ~~farm~~ 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.



**Sec. 24. 28-A MRSA §1366, sub-§1**, as enacted by PL 2011, c. 280, §3, is amended to read:

**1. Retail sales at farmers' market.** A licensee under section ~~1355~~ 1355-A, subsection ~~2 or 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.

**Sec. 25. 28-A MRSA §1402-A, first ¶**, as enacted by PL 1997, c. 228, §1, is amended to read:

A person licensed as a small brewery, ~~farm~~ small winery or wholesaler may give a retail licensee samples of products under the following conditions:

**Sec. 26. 28-A MRSA §1402-A, sub-§3-A**, as enacted by PL 2003, c. 69, §1, is amended to read:

**3-A. Partial-bottle wine samples.** ~~The products are partial-bottle wine samples may be 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 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;~~ Partial-bottle wine samples may be 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 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;

**Sec. 27. 28-A MRSA §1402-A, sub-§4**, as amended by PL 2003, c. 69, §2, is further amended to read:

**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

**Sec. 28. 28-A MRSA §1402-A, sub-§5**, as enacted by PL 1997, c. 228, §1, is repealed.

**Sec. 29. 28-A MRSA §1403-A, sub-§2**, as enacted by PL 2009, c. 373, §1, is amended to read:

**2. Direct shipment of wine.** A ~~farm~~ 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 Liquor Licensing and Tax Division an application in a form determined by the bureau accompanied by an application fee of not more than \$200 and 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.

**Sec. 30. 28-A MRSA §1403-A, sub-§10**, as enacted by PL 2009, c. 373, §1, is amended to read:

**10. Payment of excise and premium taxes.** A direct shipper located outside the State shall ~~quarterly~~ annually pay to the bureau all excise and premium taxes due on sales to residents of the State in the preceding ~~quarter~~ year, the amount of such taxes to be calculated as if the sales were in the State.

**Sec. 31. 28-A MRSA §1504, sub-§5**, as enacted by PL 2007, c. 113, §1, is amended to read:

**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, ~~and~~. 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.

**Sec. 32. 28-A MRSA §1504, sub-§6**, as enacted by PL 2007, c. 113, §1, is repealed and the following enacted in its place:

**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.

**Sec. 33. 28-A MRSA §1551, sub-§3, ¶F**, as amended by PL 2005, c. 683, Pt. B, §21, is further amended to read:

F. ~~Farm~~ Small winery, includes bottling (one year).....\$50;

**Sec. 34. 28-A MRSA §1551, sub-§3, ¶G**, as amended by PL 2005, c. 377, §2, is further amended to read:

G. Small ~~Maine~~ brewery, includes bottling (one year).....\$50;  
and

**Sec. 35. 28-A MRSA §1551, sub-§3, ¶H**, as enacted by PL 2005, c. 377, §3, is amended to read:

H. Small ~~brewer~~ distiller, includes bottling (one year) .....\$100.

**Sec. 36. 28-A MRSA §1652, sub-§2-B**, as enacted by PL 1997, c. 501, §4, is amended to read:

**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~~ 1355-A, having the effect of voiding the license.

**Sec. 37. 28-A MRSA §2077, sub-§1-A**, as amended by PL 2009, c. 373, §2, is further amended to read:

**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 ~~farm~~ 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.

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.

**Sec. 38. 28-A MRSA §2077, sub-§1-B,** as enacted by PL 2003, c. 452, Pt. P, §7 and affected by Pt. X, §2, is amended to read:

**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 ~~farm~~ small winery licensee into the State must be accompanied by an invoice that includes the wholesale licensee's, small brewery licensee's or ~~farm~~ small winery licensee's name and purchase number.

---

In House of Representatives, ..... 2012

Read twice and passed to be enacted.

..... Speaker

---

In Senate, ..... 2012

Read twice and passed to be enacted.

..... President

---

Approved ..... 2012

..... Governor