

# MAINE STATE LEGISLATURE

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5110  
H. 9131

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**VETERANS AND LEGAL AFFAIRS**

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**STATE OF MAINE**

**SENATE**

**126TH LEGISLATURE**

**FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 590, L.D. 1548, Bill, "An Act To Support Maine Businesses by Authorizing Certain Brewing Partnerships"

Amend the bill by striking out everything after the title and before the summary and inserting the following:

**'Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** current law with regard to tenant breweries producing malt liquor at host breweries does not reflect federal recognition of this practice; and

**Whereas,** it may be beneficial to breweries in this State to enter into partnerships that allow for shared manufacturing facilities; and

**Whereas,** some licensed brewers have existing excess production capacity that could be utilized by tenant brewers, creating new employment opportunities in this State; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 28-A MRSA §2, sub-§32-A** is enacted to read:

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

**COMMITTEE AMENDMENT**

R. 45.

1       **Sec. 2. 28-A MRSA §605, first ¶**, as amended by PL 1997, c. 373, §54, is further  
2 amended to read:

3       Except as otherwise provided in this section, no license or any interest in a license  
4 may be sold, transferred, assigned or otherwise subject to control by any person other  
5 than the licensee. If the business, or any interest in the business, in connection with  
6 which a licensed activity is conducted is sold, transferred or assigned, the license holder  
7 shall immediately send to the bureau the license and a sworn statement showing the name  
8 and address of the purchaser. The bureau is not required to refund any portion of the  
9 licensee fee if the license is surrendered before it expires. For the purposes of this  
10 section, a tenant brewer who is licensed in accordance with section 1355-A, subsection 6  
11 is not considered to be subject to the control of the host brewer, as described in that  
12 subsection, or considered to have been transferred or assigned the license or interest in  
13 the license of the host brewer.

14       **Sec. 3. 28-A MRSA §1052-B, sub-§1**, as amended by PL 2011, c. 629, §17, is  
15 further amended to read:

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

22       **Sec. 4. 28-A MRSA §1355-A, sub-§6** is enacted to read:

23       **6. Tenant brewer.** Except as otherwise provided, the following provisions apply to  
24 a tenant brewer license under which the holder of a tenant brewer license may produce  
25 malt liquor at the manufacturing facility of another brewer, referred to in this subsection  
26 as "the host brewer," licensed by the bureau under subsection 3.

27       A. To be eligible for a tenant brewer license, a person must submit an application to  
28 the bureau in a manner prescribed by the bureau and hold a brewer's notice approved  
29 by the United States Department of the Treasury, Alcohol and Tobacco Tax and  
30 Trade Bureau, that authorizes a tenant brewer to use the facilities and equipment of a  
31 host brewer.

32       B. A tenant brewer is subject to the same requirements regarding production of malt  
33 liquor as if the tenant brewer conducted its manufacturing on its own premises  
34 independently.

35       C. A tenant brewer is not eligible for privileges provided in subsection 2 except for  
36 sampling described by paragraph A, subparagraphs (1) and (2).

37       D. A tenant brewer is governed by the provisions of subsection 3 except for the  
38 privileges granted under paragraph C.

39       E. A tenant brewer may not brew or produce malt liquor for another brewer or  
40 certificate of approval holder.

41       F. A tenant brewer shall ensure that the tenant brewer maintains control of the raw  
42 ingredients used to manufacture the tenant brewer's product.

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G. Only one tenant brewer license may be issued per host brewer licensed under subsection 3.

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H. The bureau may require a tenant brewer to maintain a record or log indicating which equipment is being used at any time by the tenant brewer in the production of malt liquor and which employees are working on production of the tenant brewer's product.

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I. The bureau shall require that reports from a tenant brewer be submitted in a manner similar to the manner in which a brewer licensed under subsection 3 submits reports. The bureau shall also require a tenant brewer to submit copies of reports required of holders of an approved brewer's notice issued by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau authorizing the tenant brewer to engage in an alternating proprietorship.

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**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.'

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**SUMMARY**

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This amendment replaces the bill. The amendment establishes a license for a tenant brewer, which is a brewer that produces malt liquor at the manufacturing facility of another licensed brewer. A tenant brewer is licensed simply for the production of malt liquor and is not granted privileges extended to the host brewer, such as operation of an on-site retail store or offering on-site taste-testing for the public. Under the amendment, a host brewer may have only one tenant brewer operating at its facility. The amendment also clarifies that tenant brewers are authorized to take part in beer and wine taste-tasting festivals. The amendment adds an emergency preamble and emergency clause to the bill.

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**FISCAL NOTE REQUIRED**

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(See attached)



# 126th MAINE LEGISLATURE

LD 1548

LR 2145(02)

**An Act To Support Maine Businesses by Authorizing Certain Brewing Partnerships**

**Fiscal Note for Bill as Amended by Committee Amendment "A" (S-252)**  
**Committee: Veterans and Legal Affairs**  
**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Additional costs to the Department of Public Safety associated with licensing and inspection of tenant brewers can be absorbed within existing budgeted resources.