

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1691

H.P. 1192

House of Representatives, January 6, 2010

**An Act To Amend the Laws Governing Taste Testing of Alcoholic
Beverages by Retail Licensees**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WEBSTER of Freeport.
Cosponsored by Senator SULLIVAN of York and
Representatives: CORNELL du HOUX of Brunswick, RUSSELL of Portland, TRINWARD of
Waterville.

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

3 **Whereas,** current law is prohibitive to retail establishments that wish to conduct
4 tastings of alcoholic beverages; and

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

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

10 **Sec. 1. 28-A MRSA §460, sub-§2, ¶J,** as enacted by PL 2009, c. 459, §1, is
11 amended to read:

12 J. The agency liquor store may conduct up to 3 tastings per month but no more than
13 12 taste-testing events per year for agency liquor stores that are in operation for less
14 than 12 months per year, and no more than 18 taste-testing events per year for agency
15 liquor stores that are in operation year-round, including tastings conducted under
16 sections 1205 and 1207.

17 **Sec. 2. 28-A MRSA §460, sub-§2, ¶N,** as enacted by PL 2009, c. 459, §1, is
18 amended to read:

19 N. For a minimum of 7 days immediately prior to a taste-testing event, the agency
20 liquor store shall prominently post at the entrance to the store a sign that announces
21 the date and time of the taste-testing event. Taste-testing activities must be
22 conducted away from the primary entrance or exit of the agency liquor store and in a
23 manner so that precludes the possibility of observation by children a person who
24 chooses not to take part in the taste-testing event may navigate through the agency
25 liquor store and maintain a distance of a minimum of 15 feet from the area where the
26 taste-testing event is taking place. The Department of Public Safety shall report
27 annually by January 15th to the joint standing committee of the Legislature having
28 jurisdiction over alcohol regulation matters regarding the operation and effectiveness
29 of this paragraph. This paragraph applies to agency liquor stores that are full-service
30 grocery stores that offer a wide variety of sundries and food and beverage items for
31 sale and do not showcase alcoholic beverages as the primary product offered for sale.
32 This paragraph does not apply to agency liquor stores that are specialty stores that
33 showcase alcoholic beverages as the primary product offered for sale or agency
34 liquor stores that specialize in food products and are too small in area to
35 accommodate the 15-foot distance requirement.

36 **Sec. 3. 28-A MRSA §460, sub-§2, ¶O** is enacted to read:

37 O. Notwithstanding paragraphs H and N, an agency liquor store, with prior approval
38 from the bureau, may conduct an invitation-only taste-testing event at the agency
39 liquor store location in a private room in place of or to coincide with a taste-testing
40 event that is open to the public.

1 **Sec. 4. 28-A MRSA §1205, sub-§2, ¶H**, as amended by PL 2009, c. 459, §2, is
2 further amended to read:

3 H. The retail licensee may conduct up to 3 tastings per month but no more than 12
4 taste-testing events per year for retail licensees that are in operation for less than 12
5 months per year, and no more than 18 taste-testing events per year for retail licensees
6 that are in operation year-round, including tastings conducted under sections 460 and
7 1207;

8 **Sec. 5. 28-A MRSA §1205, sub-§2, ¶K**, as amended by PL 2009, c. 459, §2, is
9 further amended to read:

10 K. The retail licensee must purchase all wine served at a taste testing from a
11 wholesale licensee; and

12 **Sec. 6. 28-A MRSA §1205, sub-§2, ¶L**, as enacted by PL 2009, c. 459, §2, is
13 amended to read:

14 L. For a minimum of 7 days immediately prior to a taste-testing event, the retail
15 licensee shall prominently post at the entrance to the store a sign that announces the
16 date and time of the taste-testing event. Taste-testing activities must be conducted
17 away from the primary entrance or exit of the store and in a manner so that precludes
18 the possibility of observation by children a person who chooses not to take part in the
19 taste-testing event may navigate through the store and maintain a distance of a
20 minimum of 15 feet from the area where the taste-testing event is taking place. The
21 Department of Public Safety shall report annually by January 15th to the joint
22 standing committee of the Legislature having jurisdiction over alcohol regulation
23 matters regarding the operation and effectiveness of this paragraph. This paragraph
24 applies to retail licensees that are full-service grocery stores that offer a wide variety
25 of sundries and food and beverage items for sale and do not showcase alcoholic
26 beverages as the primary product offered for sale. This paragraph does not apply to
27 retail licensees that are specialty stores that showcase alcoholic beverages as the
28 primary product offered for sale or retail licensees that specialize in food products
29 and are too small in area to accommodate the 15-foot distance requirement; and

30 **Sec. 7. 28-A MRSA §1205, sub-§2, ¶M** is enacted to read:

31 M. Notwithstanding paragraphs F and L, a retail licensee, with prior approval from
32 the bureau, may conduct an invitation-only taste-testing event at the retail licensee
33 store location in a private room in place of or to coincide with a taste-testing event
34 that is open to the public.

35 **Sec. 8. 28-A MRSA §1207**, as enacted by PL 2009, c. 438, §5, is reallocated to
36 28-A MRSA §1208.

37 **Sec. 9. 28-A MRSA §1207, sub-§1**, as enacted by PL 2009, c. 459, §4, is
38 amended to read:

39 **1. Taste testing on off-premise retail licensee's premises.** Subject to the
40 conditions in subsection 2, the bureau may authorize an off-premise retail licensee

1 stocking at least 100 different brands labels of malt liquor to conduct taste testing of malt
2 liquor on that licensee's premises. Any other consumption of alcoholic beverages on an
3 off-premise retail licensee's premises is prohibited, except as permitted under section 460
4 or 1205.

5 **Sec. 10. 28-A MRSA §1207, sub-§2, ¶H,** as enacted by PL 2009, c. 459, §4, is
6 amended to read:

7 H. The retail licensee may conduct up to 3 tastings per month but no more than 12
8 taste-testing events per year for retail licensees that are in operation for less than 12
9 months per year, and no more than 18 taste-testing events per year for retail licensees
10 that are in operation year-round, including tastings under section 460 or 1205.

11 **Sec. 11. 28-A MRSA §1207, sub-§2, ¶L,** as enacted by PL 2009, c. 459, §4, is
12 amended to read:

13 L. For a minimum of 7 days immediately prior to a taste-testing event, the retail
14 licensee shall prominently post at the entrance to the store a sign that announces the
15 date and time of the taste-testing event. Taste-testing activities must be conducted
16 away from the primary entrance or exit of the store and in a manner so that precludes
17 the possibility of observation by children a person who chooses not to take part in the
18 taste-testing event may navigate through the store and maintain a distance of a
19 minimum of 15 feet from the area where the taste-testing event is taking place. The
20 Department of Public Safety shall report annually by January 15th to the joint
21 standing committee of the Legislature having jurisdiction over alcohol regulation
22 matters regarding the operation and effectiveness of this paragraph. This paragraph
23 applies to retail licensees that are full-service grocery stores that offer a wide variety
24 of sundries and food and beverage items for sale and do not showcase alcoholic
25 beverages as the primary product offered for sale. This paragraph does not apply to
26 retail licensees that are specialty stores that showcase alcoholic beverages as the
27 primary product offered for sale or retail licensees that specialize in food products
28 and are too small in area to accommodate the 15-foot distance requirement.

29 **Sec. 12. 28-A MRSA §1207, sub-§2, ¶M** is enacted to read:

30 M. Notwithstanding paragraphs F and L, a retail licensee, with prior approval from
31 the bureau, may conduct an invitation-only taste-testing event at the retail licensee
32 store location in a private room in place of or to coincide with a taste-testing event
33 that is open to the public.

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

36 **SUMMARY**

37 This bill strikes a provision that requires taste testing of alcoholic beverages by retail
38 establishments to be conducted in a manner that precludes the possibility of observation
39 by children. It replaces that provision with a requirement that signs announcing the time
40 and date of a taste-testing event be posted for at least 7 days immediately prior to the

1 event. The bill also increases from 12 to 18 the maximum annual number of taste-testing
2 events that may be conducted by stores or licensees that are open year-round. The bill
3 also requires that taste-testing events that take place at full-service grocery stores be set
4 up in a way that a person who chooses not to take part in the taste-testing event may
5 navigate through the store and maintain a distance of a minimum of 15 feet from the
6 taste-testing event unless the store is a specialty store that showcases alcoholic beverages
7 or is too small to meet the 15-foot distance requirement for taste-testing events. The bill
8 also provides for invitation-only taste-testing events.