

MAINE STATE LEGISLATURE

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L.D. 364
(Filing No. H-175)

VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 251, L.D. 364, Bill, "An Act To Allow a Sales Representative To Serve Spirits or Wine at a Tasting Event"

Amend the bill by striking out the title and substituting the following:

'An Act To Allow a Sales Representative To Serve Alcoholic Beverages at a Tasting Event'

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

Sec. 1. 28-A MRSA §460, sub-§1, as enacted by PL 2009, c. 459, §1, is amended to read:

1. Taste testing on agency liquor store premises. Subject to the conditions in subsection 2, the bureau may authorize an agency liquor store stocking at least 200 different codes of distilled spirits products to conduct taste testing of distilled spirits on that licensee's premises. An agency liquor store may request authority to conduct a taste testing using forms prescribed by the bureau. The request must indicate if a sales representative licensed under section 1502 will be pouring samples for taste testing and verification that the sales representative has successfully completed an alcohol server education course approved by the commissioner. Any other consumption of alcoholic beverages on an agency liquor store's premises is prohibited, except as permitted under section 1205 or 1207.

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

L. The agency liquor store must notify the bureau of the date and time scheduled for all taste-testing events. This notification must list the name of any sales representative licensed under section 1502 who will be pouring samples for taste testing.

Sec. 3. 28-A MRSA §1051, sub-§8, as enacted by PL 2013, c. 258, §1, is amended to read:

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1 **8. Liquor taste-testing events for general public on retail licensee's premises.**
 2 The bureau may authorize an on-premise retail licensee to conduct taste testings of liquor
 3 open to the public on the licensed premises. Taste-testing events under this subsection
 4 must be conducted during hours that are authorized by the bureau for the sale of liquor on
 5 the licensed premises and may be held in collaboration with a certificate of approval
 6 holder, sales representative licensed under section 1502 or wholesale licensee. An on-
 7 premise retail licensee may request authority to conduct a taste testing using forms
 8 prescribed by the bureau. The request must indicate if a sales representative licensed
 9 under section 1502 will be pouring samples of liquor for taste testing and verification that
 10 the sales representative has successfully completed an alcohol server education course
 11 approved by the commissioner. The following conditions apply to all taste-testing events
 12 conducted under this subsection.

- 13 A. Liquor may not be served to persons who have not yet attained 21 years of age.
- 14 B. A person may not be served more than a total of 12 ounces of malt liquor having
 15 an alcohol content of 6% or less; for malt liquor having an alcohol content greater
 16 than 6% but less than 12%, a person may not be served more than a total of 6 ounces;
 17 or, for malt liquor having an alcohol content of 12% or greater, a person may not be
 18 served more than a total of 3 ounces.
- 19 C. A person may not be served more than a total of 5 ounces of wine having an
 20 alcohol content of 14% or less; or, for wine having an alcohol content greater than
 21 14%, a person may not be served more than a total of 3 ounces of wine.
- 22 D. A person may not be served more than a total of 1 1/2 ounces, in 1/2 ounce
 23 servings, of distilled spirits having an alcohol content of 80 proof or less; or, for
 24 distilled spirits containing an alcohol content of greater than 80 proof, a person may
 25 not be served more than a total of 3/4 of an ounce in 1/4 ounce servings.
- 26 E. A person may not be charged a fee for any liquor served as part of a taste-testing
 27 event.
- 28 F. A person may not be served who is visibly intoxicated.
- 29 G. A taste-testing event must be conducted within the hours of retail sale established
 30 in this Title.
- 31 H. The retail licensee must obtain the written permission of the bureau before
 32 conducting a taste-testing event.
- 33 I. The retail licensee may conduct no more than one taste-testing event per month.
- 34 J. A taste-testing event is not allowed in any municipality where on-premises and
 35 off-premises sales are not allowed pursuant to chapter 5.
- 36 K. The retail licensee must notify the bureau of the date and time scheduled for a
 37 taste-testing event. This notification must list the name of any sales representative
 38 licensed under section 1502 who will be pouring samples for taste testing.
- 39 L. Liquor served at a taste-testing event may be provided by the retail licensee
 40 purchasing the liquor from a wholesale licensee or agency liquor store. A record of a
 41 transaction under this paragraph must be maintained and made available to the
 42 bureau.

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1 M. The retail licensee shall establish a designated area in which to conduct a
2 taste-testing event in accordance with this section and shall make reasonable attempts
3 to ensure that tastings are confined to the designated area.

4 N. The retail licensee, with prior approval from the bureau, may conduct an
5 invitation-only taste-testing event at the licensed premises in place of or to coincide
6 with a taste-testing event that is open to the public.

7 O. After a taste-testing event is concluded, the retail licensee may return any unused
8 portion of liquor used to conduct the taste-testing event to the licensee's existing
9 stock.

10 P. A certificate of approval holder, licensed sales representative or wholesale
11 licensee who participates in a taste-testing event may provide and distribute food or
12 snacks to be consumed in conjunction with the liquor to be tasted at no cost to the
13 public or the retail licensee if the total cost for the food or snacks does not exceed
14 \$200 per event. Any remaining food or snacks provided in conjunction with a
15 taste-testing event must be removed by the certificate of approval holder, licensed
16 sales representative or wholesale licensee from the licensed premises at the
17 conclusion of the event.

18 Q. A certificate of approval holder, licensed sales representative or wholesale
19 licensee who participates in a taste-testing event may provide material to advertise
20 the liquor being offered at the taste-testing event or for the promotion of responsible
21 use of alcohol. A certificate of approval holder, licensed sales representative or
22 wholesale licensee may use the advertising material only for promotional display on
23 the licensed premises. Advertising material related to the taste-testing event may
24 include signs, coasters, napkins, table tents and items of like value and must be
25 removed by the certificate of approval holder, licensed sales representative or
26 wholesale licensee from the licensed premises at the conclusion of the event.

27 R. A certificate of approval holder, licensed sales representative or wholesale
28 licensee who participates in a taste-testing event may distribute novelties to the public
29 during the event at a cost not to exceed \$3 per novelty. All remaining novelties under
30 this paragraph must be removed by the certificate of approval holder, licensed sales
31 representative or wholesale licensee from the licensed premises at the conclusion of
32 the taste-testing event.

33 The bureau may adopt rules to implement this subsection. Rules adopted pursuant to this
34 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

35 **Sec. 4. 28-A MRSA §1205, sub-§1**, as amended by PL 2011, c. 69, §1, is further
36 amended to read:

37 **1. Taste testing on off-premise retail licensee's premises.** Subject to the
38 conditions in subsection 2, the bureau may authorize an off-premise retail licensee
39 stocking at least 125 different wine labels to conduct taste testings of wine on that
40 licensee's premises. An off-premise retail licensee may request authority to conduct a
41 taste testing using forms prescribed by the bureau. The request must indicate if a sales
42 representative licensed under section 1502 will be pouring samples for taste testing and
43 verification that the sales representative has successfully completed an alcohol server

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1 education course approved by the commissioner. Any other consumption of alcoholic
2 beverages on an off-premise retail licensee's premises is prohibited.

3 Sec. 5. 28-A MRSA §1205, sub-§2, ¶J, as amended by PL 2009, c. 459, §2, is
4 further amended to read:

5 J. The retail licensee must notify the bureau of the date and time scheduled for all
6 taste-testing events. This notification must list the name of any sales representative
7 licensed under section 1502 who will be pouring samples for taste testing;

8 Sec. 6. 28-A MRSA §1207, sub-§1, as amended by PL 2009, c. 510, §8, is
9 further amended to read:

10 1. **Taste testing on off-premise retail licensee's premises.** Subject to the
11 conditions in subsection 2, the bureau may authorize an off-premise retail licensee
12 stocking at least 100 different labels of malt liquor to conduct taste testing of malt liquor
13 on that licensee's premises. An off-premise retail licensee may request authority to
14 conduct a taste testing using forms prescribed by the bureau. The request must indicate if
15 a sales representative licensed under section 1502 will be pouring samples for taste
16 testing and verification that the sales representative has successfully completed an alcohol
17 server education course approved by the commissioner. Any other consumption of
18 alcoholic beverages on an off-premise retail licensee's premises is prohibited, except as
19 permitted under section 460 or 1205.

20 Sec. 7. 28-A MRSA §1207, sub-§2, ¶J, as enacted by PL 2009, c. 459, §4, is
21 amended to read:

22 J. The retail licensee must notify the bureau of the date and time scheduled for all
23 taste-testing events. This notification must list the name of any sales representative
24 licensed under section 1502 who will be pouring samples for taste testing.

25 Sec. 8. 28-A MRSA §1501, as amended by PL 2013, c. 588, Pt. B, §5, is further
26 amended to read:

27 **§1501. Lists of officers, partners and sales representatives**

28 All persons selling liquor ~~to~~ in the State shall furnish to the bureau a list of all officers
29 and directors, if a corporation, or a list of all partners, if a partnership, and the name of
30 the sales representatives of the person within the State.

31 Sec. 9. 28-A MRSA §1505, first ¶, as enacted by PL 2009, c. 459, §5, is
32 amended to read:

33 A sales representative holding a license under section 1502 may participate in a
34 tasting event permitted under section 460 ~~or~~ section 1051, subsection 8; section 1205; or
35 section 1207 subject to the provisions of this section.

36 Sec. 10. 28-A MRSA §1505, sub-§4, as enacted by PL 2009, c. 459, §5, is
37 amended to read:

38 4. **Pour or distribute.** A sales representative participating in a tasting event
39 pursuant to this section may not pour or distribute to consumers the products being
40 offered for tasting during the event unless the sales representative was listed on a request
41 submitted to the bureau by a licensee to conduct a taste testing in accordance with section

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COMMITTEE AMENDMENT "A" to H.P. 251, L.D. 364

1 460; section 1051, subsection 8; section 1205; or section 1207. A sales representative
2 who pours or distributes products to consumers at a tasting event under section 460;
3 section 1051, subsection 8; section 1205; or section 1207 must have successfully
4 completed an alcohol server education course approved by the commissioner.'

5 **SUMMARY**

6 This amendment replaces the bill and is the majority report of the committee. The
7 amendment provides that a licensed sales representative may pour samples of spirits,
8 wine or malt liquor at a taste-testing event that has been authorized by the Department of
9 Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery
10 Operations at an on-premise retail licensee's establishment, an agency liquor store or an
11 off-premise retail licensee's establishment. Under the amendment, when a retailer
12 requests authority to conduct a taste-testing event, the request must indicate whether a
13 licensed sales representative will be participating by pouring samples and verification that
14 the sales representative has successfully completed an alcohol server education course
15 approved by the commissioner.

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