

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 935

S.P. 326

In Senate, March 17, 2015

An Act Regarding Alcohol Manufacturing Licenses Issued to Research Facilities

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator DILL of Penobscot.
Cosponsored by Representative TIPPING-SPITZ of Orono and
Senators: ALFOND of Cumberland, DUTREMBLE of York, SAVIELLO of Franklin,
Representatives: BLACK of Wilton, TIMBERLAKE of Turner.

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

2 **Sec. 1. 28-A MRSA §2, sub-§25-B** is enacted to read:

3 **25-B. Research facility.** "Research facility" means a facility owned and operated by
4 a postsecondary educational institution that is licensed under section 1355-A, subsection
5 7.

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

7 **32-B. Subject manufacturer.** "Subject manufacturer" means a person licensed
8 under section 1355-A, subsection 3, 4 or 5 who has received approval documentation
9 from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade
10 Bureau to engage in an alternating proprietorship as allowed by federal regulation.

11 **Sec. 3. 28-A MRSA §1355-A, sub-§2,** as enacted by PL 2011, c. 629, §22, is
12 amended to read:

13 **2. Manufacturers.** The following provisions apply to brewery, small brewery,
14 winery, small winery, distillery ~~and~~ small distillery and research facility licensees.

15 A. A licensee may permit sampling of the liquor product on the premises:

16 (1) By employees for the purpose of quality control of the product;

17 (2) By wholesalers for the purpose of determining whether to carry the product
18 as a wholesale product if the holder of the license pays the excise tax on the
19 product sampled according to section 1652; and

20 (3) By the public if the holder of the license pays the excise tax on the product
21 sampled according to section 1652.

22 B. A licensee under this section may serve to the public complimentary samples of
23 liquor produced by the licensee at the licensed premises where liquor is produced by
24 the licensee.

25 C. A licensee under this section may sell to nonlicensees during regular business
26 hours from the licensed premises where liquor is produced by the licensee liquor
27 produced by the bottle, by the case or in bulk for consumption off the licensed
28 premises. Spirits sold by distillers and small distillers in accordance with this
29 paragraph must be first sold to the State, subject to the listing, pricing and distribution
30 provisions of this Title.

31 D. A licensee under this section may sell from the licensed premises where liquor is
32 produced by the licensee liquor produced by the licensee for consumption off the
33 licensed premises.

34 E. A licensee may serve complimentary samples of liquor on Sunday after the hour
35 of 9 a.m. and may sell liquor on Sunday after the hour of 9 a.m. if the municipality in
36 which the licensed premises is located has authorized the sale of liquor on Sunday for
37 consumption off the premises under chapter 5.

1 F. A licensee may charge for samples or shall otherwise comply with the conditions
2 in paragraph E. Each sample poured is subject to a charge in an amount determined
3 by the licensee and is subject to the sales tax on liquor under Title 36, section 1811.
4 A licensee shall maintain a record of liquor samples subject to a charge and maintain
5 those records for a period of 2 years.

6 G. A licensee that is a brewery or small brewery may sell on the premises during
7 regular business hours and within the hours of legal sale to nonlicensees liquor
8 produced at the licensed premises. The volume of the package may not exceed 15.5
9 gallons and must be consumed off the premises. The sale of packages described in
10 this paragraph must comply with keg tagging requirements provided in section 714.
11 Each licensee shall submit a monthly report to its wholesaler detailing sales made
12 directly from the premises. The wholesaler shall calculate the fees for any bottle
13 deposit and submit an invoice to the licensee for expenses associated with the
14 requirements prescribed in Title 32, chapter 28 including the retailer handling fee,
15 state container deposit and a mutually agreed-upon pick-up fee.

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

18 I. A licensee may be issued one retail license under chapter 43 per licensed location
19 for the sale of liquor to be consumed on the premises at the retail premises.

20 (1) The retail license must be held exclusively by the holder of the brewery,
21 small brewery, winery, small winery, distillery or small distillery license.

22 (2) The retail license authorizes the sale of products of the brewery, small
23 brewery, winery, small winery, distillery or small distillery, in addition to other
24 liquor permitted to be sold under the retail license, to be consumed on the
25 premises.

26 (3) All records related to activities under a manufacturer license issued under
27 this section must be kept separate from records related to the retail license.

28 (4) A distillery or small distillery must meet the requirements of subsection 5,
29 paragraph E.

30 J. A licensee may display up to 25 bottles of liquor produced by the licensee in a
31 window of the location under paragraph D where liquor is sold for consumption off
32 the licensed premises. Locations licensed under subsection 4, paragraph B,
33 subparagraph (2) or subsection 5, paragraph B, subparagraph (3) may also display up
34 to 25 bottles of liquor produced by the licensee.

35 **Sec. 4. 28-A MRSA §1355-A, sub-§7** is enacted to read:

36 **7. Subject manufacturer; research facility license.** Except as otherwise provided,
37 the following provisions apply to a research facility license under which a subject
38 manufacturer may produce malt liquor, wine, sparkling wine, fortified wine or spirits at
39 the research facility under this subsection.

40 A. To be eligible as a subject manufacturer, a person must submit an application to
41 the bureau in a manner prescribed by the bureau and hold appropriate approval
42 documentation from the United States Department of the Treasury, Alcohol and

- 1 Tobacco Tax and Trade Bureau that authorizes a subject manufacturer to use the
2 facilities and equipment of a research facility.
- 3 B. A subject manufacturer is subject to the same requirements regarding production
4 of malt liquor, wine, sparkling wine, fortified wine or spirits as if the subject
5 manufacturer conducted its manufacturing on its own premises independently.
- 6 C. A subject manufacturer is not eligible for privileges provided in subsection 2
7 except for sampling described by subsection 2, paragraph A.
- 8 D. A subject manufacturer licensed under subsection 3 is governed by the provisions
9 of subsection 3 except for the privileges granted under subsection 3, paragraph C and
10 may manufacture only 31 gallons per batch of malt liquor at one time.
- 11 E. A subject manufacturer licensed under subsection 4 is governed by the provisions
12 of subsection 4 except the subject manufacturer may manufacture only 53 gallons per
13 batch of wine, sparkling wine or fortified wine at one time.
- 14 F. A subject manufacturer licensed under subsection 5 is governed by the provisions
15 of subsection 5 except the subject manufacturer may manufacture only 53 gallons per
16 batch of spirits at one time.
- 17 G. A subject manufacturer may not manufacture at the research facility malt liquor,
18 wine, sparkling wine, fortified wine or spirits for another manufacturer or certificate
19 of approval holder.
- 20 H. A subject manufacturer shall ensure that the subject manufacturer maintains
21 control of the ingredients used to manufacture the subject manufacturer's product and
22 may purchase the ingredients from the research facility.
- 23 I. A research facility may be used by more than one subject manufacturer at one
24 time. A research facility shall ensure that the ingredients, equipment used and
25 product of a subject manufacturer are segregated and maintained separately from any
26 other ingredients, equipment or product.
- 27 J. The bureau may require a subject manufacturer to maintain a record or log
28 indicating which equipment is being used at any time by the subject manufacturer in
29 the production of malt liquor, wine, sparkling wine, fortified wine or spirits and
30 which of the subject manufacturer's employees are working on production of the
31 subject manufacturer's product.
- 32 K. The bureau shall require that reports from a subject manufacturer be submitted in
33 the same manner as reports from a tenant brewer under subsection 6 are submitted.
34 The bureau shall also require a subject manufacturer to submit to the bureau copies of
35 reports required by the United States Department of the Treasury, Alcohol and
36 Tobacco Tax and Trade Bureau authorizing the subject manufacturer to engage in an
37 alternating proprietorship.
- 38 L. A research facility may charge a subject manufacturer a reasonable fee for the use
39 of the research facility.
- 40 M. A subject manufacturer's product manufactured at a research facility is owned by
41 the subject manufacturer as if the subject manufacturer manufactured the product on
42 its own premises independently.

1 N. A research facility may manufacture malt liquor, wine, sparkling wine, fortified
2 wine or spirits for its own research or instructional purposes. A research facility may
3 manufacture up to 31 gallons per batch of malt liquor and up to 53 gallons per batch
4 of wine, sparkling wine, fortified wine or spirits under this paragraph at any one time.
5 An employee of or a student working or studying at a research facility who is 21
6 years of age or older may take from the facility up to 72 ounces of each malt liquor
7 product, 24 ounces of each wine, sparkling wine or fortified wine product or 12
8 ounces of each spirits product manufactured under this paragraph for sampling
9 purposes. A research facility licensed under this subsection is not eligible for
10 privileges under subsection 2 except for the privileges in subsection 2, paragraphs A,
11 B and E. A research facility may sell liquor to retailers and wholesalers pursuant to
12 the provisions of this chapter.

13

SUMMARY

14 This bill creates a liquor manufacturing license for a research facility at a
15 postsecondary educational institution. Under the bill, other liquor manufacturers, known
16 as subject manufacturers, may produce malt liquor, wine, sparkling wine, fortified wine
17 and spirits at the research facility and the research facility may itself manufacture malt
18 liquor, wine, sparkling wine, fortified wine and spirits for research or instructional
19 purposes, which the research facility also may sell to the State, wholesalers or retailers or
20 directly to the public under certain circumstances.