

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1642

H.P. 1133

House of Representatives, June 22, 2017

An Act To Clarify Licensing Provisions for the Manufacture and Sale of Liquor

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LUCHINI of Ellsworth.

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,** the Department of Administrative and Financial Services, Bureau of
4 Alcoholic Beverages and Lottery Operations is charged with enforcing the laws relating
5 to licensing of the manufacture and sale of liquor; and

6 **Whereas,** the bureau's recent interpretation of a law regarding brewery ownership
7 could lead to consequences that were not intended by the Legislature; and

8 **Whereas,** it is imperative that the law be clarified as soon as possible to avoid
9 unintended consequences that could imperil operations by breweries during premium
10 tourism season; and

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

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

16 **Sec. 1. 28-A MRSA §1355-A, sub-§2, ¶I,** as amended by PL 2017, c. 34, §1, is
17 further amended to read:

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 paragraphs D and E.

30 (5) The licensee shall ensure that products purchased for off-premises
31 consumption under paragraph D are not consumed on the licensed premises.

32 **Sec. 2. 28-A MRSA §1355-A, sub-§2-A** is enacted to read:

33 **2-A. Majority interest requirement.** A person licensed as a manufacturer under
34 this section who is authorized by this section to hold a retail license may be issued a retail
35 license as long as the manufacturer has a controlling interest in both the licensed
36 manufacturing facility and the licensed retail establishment, regardless of the business
37 structure of either licensed entity.

1 **Sec. 3. 28-A MRSA §1355-A, sub-§5, ¶E**, as enacted by PL 2011, c. 629, §22,
2 is amended to read:

3 E. A holder of a distillery or small distillery license may be issued one license under
4 chapter 43 per distillery location for a connected establishment for the sale of liquor
5 to be consumed on the premises at the distillery.

6 (1) For the purposes of this paragraph, "connected establishment" means a Class
7 A restaurant or a Class A restaurant/lounge that is owned ~~exclusively~~ by the
8 holder of the in-state manufacturer license.

9 (2) All records of the manufacturer license must be kept separate from the
10 records of the retail licensee.

11 **Sec. 4. Bureau of Alcoholic Beverages and Lottery Operations prohibited**
12 **from suspending, revoking or refusing to renew certain licenses under**
13 **certain circumstances.** Before June 30, 2018, the Department of Administrative and
14 Financial Services, Bureau of Alcoholic Beverages and Lottery Operations may not
15 suspend, revoke or refuse to renew a license issued under the Maine Revised Statutes,
16 Title 28-A, section 1355-A or Title 28-A, chapter 43 or 45 that was initially issued prior
17 to June 1, 2017 solely on the basis that the establishment licensed under Title 28-A,
18 chapter 43 or 45 was determined by the bureau after June 1, 2017 to not be exclusively
19 held or exclusively owned by a person licensed to manufacture liquor under Title 28-A,
20 section 1355-A.

21 The prohibition described in this section does not apply if the reason for suspension,
22 revocation or failure to renew is due to the licensee's substantial misrepresentation of or
23 failure to disclose material facts required for the issuance or renewal of the license.

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

26 **SUMMARY**

27 This bill clarifies one of the criteria that qualify a person who is licensed to
28 manufacture liquor in the State to also have an establishment licensed for the sale of
29 liquor to be consumed on the licensed premises. The bill requires that the person have a
30 controlling interest in both the manufacturing business and the on-premises
31 establishment, regardless of the business structure of either entity. Under current law,
32 and as applicable to this bill, "person" is defined as an individual, partnership,
33 corporation, firm, association or other legal entity.

34 The bill also temporarily prohibits the Department of Administrative and Financial
35 Services, Bureau of Alcoholic Beverages and Lottery Operations from suspending,



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LD 1642

LR 2394(01)

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Fiscal Note for Original Bill
Sponsor: Rep. Luchini of Ellsworth
Fiscal Note Required: Yes

Fiscal Note

Minor revenue increase - General Fund

Fiscal Detail and Notes

Clarifications to the criteria that allow entities licensed to manufacture liquor also to have an establishment licensed for the sale of liquor to be consumed on the licensed premises will allow more entities to seek licensure from the Bureau of Alcoholic Beverages and Lottery Operations. The additional licenses are anticipated to result in a minor increase in General Fund revenue.