

MAINE STATE LEGISLATURE

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L.D. 1643

Date: 4/19/22

(Filing No. S-571)

VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE

SENATE

130TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 528, L.D. 1643, "An Act To Correct Errors, Inconsistencies and Conflicts in and To Revise the State's Liquor Laws"

Amend the bill by inserting after section 4 the following:

'Sec. 5. 28-A MRSA §2, sub-§2-D is enacted to read:

2-D. Bottle, the verb. The verb "bottle" means to package spirits, wine or malt liquor for sale in containers.'

Amend the bill in section 6 in subsection 5 by striking out all of paragraph A (page 1, lines 28 and 29 in L.D.) and inserting the following:

'A. Producing malt liquor by fermentation of malt, wholly or partially, or any substitute for malt; or'

Amend the bill by inserting after section 6 the following:

'Sec. 7. 28-A MRSA §2, sub-§6-C is enacted to read:

6-C. Business entity. "Business entity" means a partnership, corporation, firm, association or other legal entity.'

Amend the bill in section 10 in subsection 11 in paragraph A in the first line (page 2, line 18 in L.D.) by striking out the following: "the person's own"

Amend the bill in section 15 in subsection 15 in paragraph K in the last line (page 4, line 34 in L.D.) by inserting after the following: "paddleball" the following: ', pickleball'

Amend the bill by inserting after section 16 the following:

'Sec. 17. 28-A MRSA §2, sub-§18, as amended by PL 1987, c. 342, §10, is repealed and the following enacted in its place:

18. Malt liquor. "Malt liquor" means liquor:

A. For which no less than 51% of the total alcohol by volume derives from the fermentation of malt, one or more substitutes for malt or any combination of malt and one or more substitutes for malt; and

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COMMITTEE AMENDMENT "A" to S.P. 528, L.D. 1643 (S-571)

1 B. For which no more than 49% of the total alcohol by volume derives from the
 2 fermentation of flavors, other nonbeverage ingredients and adjuncts, including honey,
 3 fruit, fruit juice, fruit concentrate, herbs, spices, maple syrup and other food materials.

4 "Malt liquor" does not include beverages made with malt liquor to which spirits have been
 5 added.'

6 Amend the bill in section 21 in subsection 29 by striking out all of paragraph A (page
 7 7, lines 6 and 7 in L.D.) and inserting the following:

8 'A. Producing the person's own malt liquor by fermentation of malt, wholly or partially,
 9 or any substitute for malt; or'

10 Amend the bill in section 22 in subsection 29-A in paragraph A in the first line (page
 11 7, line 18 in L.D.) by striking out the following: "the person's own"

12 Amend the bill by striking out all of section 23 and inserting the following:

13 **'Sec. 23. 28-A MRSA §2, sub-§29-B,** as amended by PL 2019, c. 529, §3, is further
 14 amended to read:

15 **29-B. Small winery.** "Small winery" means a facility person that ferments; and ages
 16 and bottles:

17 A. Up to 50,000 gallons per year of ~~its~~ the person's own wine that is not hard cider;
 18 and

19 B. Up to 3,000 barrels per year of ~~its~~ the person's own wine that is hard cider.'

20 Amend the bill by inserting after section 26 the following:

21 **'Sec. 27. 28-A MRSA §2, sub-§31-D** is enacted to read:

22 **31-D. Substitute for malt.** "Substitute for malt" means rice, grain of any kind, bran,
 23 glucose, sugar and molasses and any other substitute for malt allowed by the United States
 24 Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau.'

25 Amend the bill in section 32 in subsection 36 in the first line (page 9, line 13 in L.D.)
 26 by inserting after the following: "liquor" the following: ',' other than malt liquor.'

27 Amend the bill by striking out all of section 33 and inserting the following:

28 **'Sec. 33. 28-A MRSA §2, sub-§37,** as amended by PL 1997, c. 767, §3, is further
 29 amended to read:

30 **37. Winery.** "Winery" means a facility person that ferments; and ages and bottles
 31 wine and hard cider.'

32 Amend the bill by striking out all of section 53.

33 Amend the bill by striking out all of section 58.

34 Amend the bill by striking out all of section 89 and inserting the following:

35 **'Sec. 89. 28-A MRSA §606,** as amended by PL 2021, c. 592, Pt. B, §2, is further
 36 amended to read:

37 **§606. ~~Liquor bought from bureau; sale to government agencies~~ Purchase of spirits**
 38 **by licensees, government instrumentalities, airlines, ferry services, hospitals**
 39 **and state institutions**

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1 **1. Purchase of liquor spirits.** Subject to the restrictions provided in subsection 1-A,
2 a person licensed to sell spirits for on-premises consumption ~~must~~ shall purchase spirits
3 from an agency liquor store licensed as a reselling agent ~~under section 453-C~~. This
4 subsection does not apply to public service corporations operating interstate.

5 **1-A. On-premises licensees; purchase from agency store reselling agent.** A Except
6 for a public service corporation that operates interstate, a person licensed to sell spirits for
7 on-premises consumption on the premises shall purchase spirits from ~~an agency liquor store~~
8 a reselling agent only, in accordance with this subsection. A licensee that violates this
9 subsection is subject to the administrative penalties provided in section 2074-A.

10 A. The sale price of spirits sold by a reselling agent to an establishment licensed for
11 on-premises consumption must be the retail price established by the commission or the
12 discounted retail price established by the bureau in accordance with subsection 1-C.

13 B. Upon completion of a transaction, the ~~agency liquor store~~ reselling agent and the
14 on-premises licensee shall each retain a copy of the licensee order form.

15 **1-C. Price of state spirits sales to agency liquor stores.** The bureau may offer
16 discounts below the retail price set by the commission on spirits sold to agency liquor
17 stores.

18 ~~**1-D. Purchase of spirits.** Subject to the restrictions provided in subsection 1-A, a~~
19 ~~person licensed to sell spirits for on-premises consumption must purchase spirits from a~~
20 ~~reselling agent. This subsection does not apply to public service corporations operating~~
21 ~~interstate.~~

22 **3. Prospective licensees may order liquor spirits in advance.** Upon approval of the
23 bureau, ~~persons who have~~ a person that has been issued an agency liquor store license
24 effective at a future date or a license, to sell spirits for on-premises consumption effective
25 at a future date, may order liquor spirits in advance of the effective date of the license and
26 may advertise the effective date.

27 **4-A. Discount rates for agency liquor stores; rulemaking.** Beginning July 1, 2014,
28 the bureau shall set the wholesale price of spirits, which is the price an agency liquor store
29 pays to purchase spirits from the State, at a minimum discount of 12% off the retail price.
30 Upon the expiration or termination of all contracts for the operation of the State's wholesale
31 spirits business in effect on January 1, 2022, the bureau shall set the wholesale price of
32 spirits, which is the price an agency liquor store pays to purchase spirits from the State, at
33 a minimum discount of 18% off of the retail price.

34 The bureau by rule may establish discount rates greater than the minimum discount rates
35 established in this subsection, including:

36 A. Graduated discount rates, which must be structured in a way that does not adversely
37 affect agency liquor stores that stock a low level of inventory; and

38 B. Increased discount rates to be awarded as part of a sales incentive program for
39 agency liquor stores. In adopting a sales incentive program under this paragraph, the
40 bureau shall consider the effect of the sales incentive program on state revenue and on
41 any pending or existing contracts awarded under section 90.

42 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
43 chapter 375, subchapter 2-A.

1 **4-B. Discount rate for small distilleries.** Beginning July 1, 2019, the bureau shall
 2 set the wholesale price of spirits produced by a small distillery licensed under section
 3 1355-A, subsection 5, paragraph B and retained by that small distillery for sale under
 4 section 1355-A, subsection 5, paragraph G or H, which is the price the small distillery pays
 5 to purchase those spirits from the State, at a discount of 22.75% ~~of~~ off the retail price.

6 **5. Sale to government instrumentalities.** The bureau may authorize the sale of spirits
 7 to government instrumentalities within the State ~~approved by the bureau~~. The bureau shall
 8 set the price.

9 **6. Sale to airlines and ferry services for consumption outside the State.** The bureau
 10 may authorize the sale of spirits ~~not~~ for consumption within outside of the State to airlines
 11 and ferry services or their agents ~~as authorized by the bureau~~. The bureau shall set the
 12 price.

13 **6-A. Sale to hospitals and state institutions.** The bureau may authorize the sale of
 14 spirits to hospitals and state institutions within the State for medicinal purposes only. The
 15 bureau shall set the price.

16 **7. Premium must be collected.** Nothing in this section permits the sale of spirits
 17 without collecting the entire premium assessed under chapter 65.

18 **8. Limits on price.** An agency liquor store shall sell all spirits purchased from the
 19 bureau ~~or through an entity awarded a contract under section 90~~ at the retail price
 20 established by the commission.'

21 Amend the bill by inserting after section 94 the following:

22 '**Sec. 95. 28-A MRSA §707, sub-§8, ¶A**, as enacted by PL 2019, c. 665, §10, is
 23 repealed.'

24 Amend the bill by inserting after section 110 the following:

25 '**Sec. 111. 28-A MRSA §753**, as enacted by PL 1987, c. 45, Pt. A, §4, is amended
 26 to read:

27 **§753. ~~Certificate of approval holder~~ Special warehouse facility licensee to keep**
 28 **records**

29 **1. Records to be kept.** ~~Every certificate of approval holder~~ A licensee operating a
 30 special warehouse storage ~~facilities~~ facility within the State shall keep complete records
 31 concerning all transactions conducted at the special warehouse storage facility. The records
 32 must show:

33 A. The date and amounts of all liquor received and from whom they were received;
 34 and

35 B. The dates and amounts of all liquor shipped or withdrawn and the name of the
 36 person for whom the liquor was shipped or withdrawn.

37 **2. Manner in which records to be kept.** ~~The certificate of approval holder~~ A licensee
 38 shall maintain the records upon the premises.'

39 Amend the bill by striking out all of section 153 and inserting the following:

40 '**Sec. 153. 28-A MRSA §1012, sub-§3**, as amended by PL 2021, c. 76, §1, is
 41 repealed and the following enacted in its place:

1 **3. Off-premises catering license.** A club licensed to sell spirits, wine and malt liquor
 2 or a licensed Class A restaurant, licensed Class A restaurant/lounge, licensed Class A
 3 lounge, licensed hotel, licensed bed and breakfast, licensed auditorium, licensed civic
 4 auditorium or licensed performing arts center may obtain a license to conduct off-premises
 5 catering of the same type or types of liquor that the establishment may sell pursuant to the
 6 establishment's underlying club, Class A restaurant, Class A restaurant/lounge, Class A
 7 lounge, hotel, bed and breakfast, auditorium, civic auditorium or performing arts center
 8 license as provided in section 1052. The fee for an off-premises catering license is \$10 per
 9 calendar day of the event or gathering.'

10 Amend the bill by striking out all of section 163 and inserting the following:

11 'Sec. 163. 28-A MRSA §1052, as amended by PL 2021, c. 76, §2, is further
 12 amended to read:

13 **§1052. Off-premise Off-premises catering at planned events or gatherings**

14 **1. Off-premises catering license for sale of liquor off premises.** ~~Class A restaurants,~~
 15 ~~Class A lounges, Class A restaurant/lounges, hotels, bed and breakfasts, clubs, auditoriums,~~
 16 ~~civic auditoriums and performing arts centers~~ A club licensed to sell spirits, wine and malt
 17 liquor or a licensed Class A restaurant, licensed Class A restaurant/lounge, licensed Class
 18 A lounge, licensed hotel, licensed bed and breakfast, licensed auditorium, licensed civic
 19 auditorium or licensed performing arts center may apply for an additional license to
 20 conduct off-premises catering of spirits, wine and malt liquor at planned events or
 21 gatherings to be held at locations other than the licensee's premises under this section.

22 ~~2. Fee. The license fee for the off premise catering license is \$10 per calendar day of~~
 23 ~~the event or gathering.~~

24 **3. Sponsor Type of event.** ~~The off premise sales~~ An off-premises catering license
 25 authorizes the licensee to sell the type or types of liquor specified in subsection 3-A only
 26 at:

- 27 A. Public events or public gatherings sponsored by a charitable, nonprofit organization
- 28 or civic group; and
- 29 B. Private events or private gatherings sponsored by an individual person, organization
- 30 or association of persons.

31 **3-A. Type of liquor.** An off-premises catering licensee may sell at an event described
 32 in subsection 3 only the type or types of liquor that the licensee is authorized to sell pursuant
 33 to the licensee's underlying club, Class A restaurant, Class A restaurant/lounge, Class A
 34 lounge, hotel, bed and breakfast, auditorium, civic auditorium or performing arts center
 35 license.

36 **4. Application.** The licensee must apply for an off-premises catering license by filing
 37 a written application with the bureau at least 24 hours before the event or gathering. The
 38 application must include the following:

- 39 A. Title and purpose of the event;
- 40 B. Date, time and duration;
- 41 C. Location;
- 42 D. Approximate number of persons to be accommodated;

- 1 E. Name and address of the sponsoring person, organization or association;
- 2 F. If food is to be served, the name and address of the food caterer, if other than the
- 3 licensee; and
- 4 G. Approval by the municipal officers, or a municipal official designated by the
- 5 municipal officers, of the municipality in which the proposed additional licensed
- 6 premises are located, which, notwithstanding section 653, may be granted without
- 7 public notice. The bureau shall accept approval required under this paragraph in
- 8 electronic form submitted by the applicant or directly by the municipality to the bureau.

9 **5. Ruling on application.** Upon receipt of the application, the bureau may
 10 immediately approve or deny the application. The bureau shall advise the applicant that
 11 the license and the ~~off-premise~~ off-premises sales license may be revoked and suspended
 12 under chapter 33.

13 **6. Local option questions.** The bureau may not grant approval for the sale of liquor
 14 at events to be held in areas where the voters have voted in the negative concerning the
 15 pertinent local option questions.'

16 Amend the bill by inserting after section 168 the following:

17 '**Sec. 169. 28-A MRSA §1055**, as enacted by PL 2015, c. 142, §3, is amended by
 18 amending the section headnote to read:

19 **§1055. Liquor samples at Class A restaurants and Class A restaurant/lounges'**

20 Amend the bill in section 184 in subsection 4 in the 3rd line (page 54, line 15 in L.D.)
 21 by striking out the following: "enforcement officer" and inserting the following:
 22 '~~enforcement officer~~ inspector'

23 Amend the bill in section 187 in §1073 in the first line (page 55, line 1 in L.D.) by
 24 inserting after the first occurrence of the following: "**centers**;" the following: '**indoor**'

25 Amend the bill in section 193 in subsection 4 in the first line (page 57, line 38 in L.D.)
 26 by striking out the following: "A" and inserting the following: 'A Notwithstanding section
 27 803, subsection 4, a'

28 Amend the bill by striking out all of section 221 and inserting the following:

29 '**Sec. 221. 28-A MRSA §1355-A**, as amended by PL 2021, c. 514, §2, is further
 30 amended to read:

31 **§1355-A. Manufacturer licenses**

32 **1. Issuance of licenses.** The bureau may issue licenses under this section to breweries,
 33 small breweries, wineries, small wineries, distilleries ~~and~~, small distilleries, bottlers and
 34 rectifiers in the State that operate under federal law and federal supervision.

35 **1-A. Definition.** For purposes of this section, "manufacturing facility" means the
 36 premises of a brewery, small brewery, winery, small winery, distillery or small distillery
 37 licensed under this section where liquor products are produced.

38 **1-B. Bottlers and rectifiers.** A bottler or rectifier licensed under this section may
 39 permit sampling of a liquor product bottled or rectified by that licensee on the premises
 40 where it is bottled or rectified:

- 41 A. By employees for the purpose of quality control of the product; and

1 B. By wholesalers for the purpose of determining whether to carry the product as a
2 wholesale product if the licensee pays the excise tax on the product sampled according
3 to section 1652.

4 **2. Manufacturers other than bottlers and rectifiers.** The following provisions
5 apply to brewery, small brewery, winery, small winery, distillery and small distillery
6 licensees.

7 A. A licensee governed by this subsection may permit sampling of the a liquor product
8 produced by that licensee on the premises where the liquor product is produced:

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

10 (2) By wholesalers for the purpose of determining whether to carry the product as
11 a wholesale product if the holder of the license licensee pays the excise tax on the
12 product sampled according to section 1652; and,

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

15 B. A licensee under this section governed by this subsection may serve to the public
16 complimentary samples of liquor produced by the licensee at the licensed premises
17 manufacturing facility where that liquor is produced by the licensee under the
18 conditions specified in this paragraph.

19 (1) The licensee may sell samples to the public or offer samples to the public at
20 no cost.

21 (2) The licensee shall pay the excise tax, if any, according to section 1652 on all
22 samples served to the public under this paragraph. If a sample is sold by the
23 licensee, it is also subject to the sales tax on liquor under Title 36, section 1811.

24 (3) The licensee shall maintain a record of all samples the licensee sells under this
25 paragraph and shall maintain those records for a period of 2 years.

26 (4) The licensee may serve samples to the public under this paragraph only during
27 the hours of legal sale set forth in section 4.

28 (5) The area of the licensed premises where the licensee serves samples to the
29 public under this paragraph is not required to be separate from and may be accessed
30 by the same entrance as the area licensed for on-premises consumption of liquor
31 under chapter 43 in accordance with paragraph I.

32 (6) Spirits samples served to the public under this paragraph by a distillery must
33 first be sold to the State, subject to the listing, pricing and distribution provisions
34 of this Title. Spirits samples served to the public under this paragraph by a small
35 distillery are subject to the requirements of subsection 5, paragraph H.

36 (7) The licensee may not serve samples to minors or visibly intoxicated persons.

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

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- 1 D. A licensee ~~under this section~~ governed by this subsection may sell for off-premises
 2 consumption liquor produced by the licensee from the licensed premises manufacturing
 3 facility where liquor is produced by the licensee ~~liquor produced by the licensee for~~
 4 ~~consumption off the licensed premises~~ under the conditions specified in this paragraph.
- 5 (1) Sales made in accordance with this paragraph do not require a the licensee
 6 ~~under this section~~ to obtain an additional retail license under chapter 45.
- 7 (2) Liquor sold in accordance with this paragraph may not be consumed anywhere
 8 on the licensed premises.
- 9 (3) The area of the licensed premises where a the licensee opts to transact sales for
 10 off-premises consumption is not required to be separate from and may be accessed
 11 by the same entrance ~~for as~~ the area licensed for on-premises consumption of liquor
 12 under chapter 43 in accordance with paragraph I.
- 13 (4) Sales under this paragraph may be made only during the hours of legal sale as
 14 provided in section 4.
- 15 (5) Spirits sold by a distillery must first be sold to the State, subject to the listing,
 16 pricing and distribution provisions of this Title. Spirits sold by a small distillery
 17 are subject to the requirements of subsection 5, paragraph G.
- 18 (6) Except as provided in subsection 3, paragraphs C and C-1, sales may be made
 19 only by the bottle, by the case or in bulk.
- 20 ~~E. A licensee may serve complimentary samples of liquor on Sunday after the hour of~~
 21 ~~5 a.m. and may sell liquor on Sunday after the hour of 5 a.m. if the municipality in~~
 22 ~~which the licensed premises is located has authorized the sale of liquor on Sunday for~~
 23 ~~consumption off the premises under chapter 5.~~
- 24 ~~F. A licensee may charge for samples or shall otherwise comply with the conditions~~
 25 ~~in paragraph E. Each sample poured is subject to a charge in an amount determined by~~
 26 ~~the licensee and is subject to the sales tax on liquor under Title 36, section 1811. A~~
 27 ~~licensee shall maintain a record of liquor samples subject to a charge and maintain~~
 28 ~~these records for a period of 2 years.~~
- 29 ~~G. A licensee that is a brewery or small brewery may sell on the premises during~~
 30 ~~regular business hours and within the hours of legal sale to nonlicensees liquor~~
 31 ~~produced at the licensed premises. The volume of the package may not exceed 15.5~~
 32 ~~gallons and must be consumed off the premises. The sale of packages described in this~~
 33 ~~paragraph must comply with keg-tagging requirements provided in section 714. Each~~
 34 ~~licensee shall submit a monthly report to its wholesaler detailing sales made directly~~
 35 ~~from the premises. The wholesaler shall calculate the fees for any bottle deposit and~~
 36 ~~submit an invoice to the licensee for expenses associated with the requirements~~
 37 ~~prescribed in Title 38, chapter 33 including the retailer handling fee, state container~~
 38 ~~deposit and a mutually agreed upon pick-up fee.~~
- 39 ~~H. A small winery or small brewery licensee shall keep and maintain complete records~~
 40 ~~on all sales to a retail licensee.~~
- 41 I. A licensee governed by this subsection may be issued one on-premises retail license
 42 under chapter 43 per licensed location, ~~on the premises of the licensed location or at~~
 43 ~~another location, for the sale of liquor to be consumed on the premises at the retail~~

- 1 ~~premises if the same person or persons hold a controlling interest in both the licensed~~
 2 ~~manufacturing location and the licensed retail establishment manufacturing facility~~
 3 ~~under the conditions specified in this paragraph.~~
- 4 (1-A) The on-premises retail license issued under chapter 43 may be for retail
 5 activities located at the manufacturing facility or for retail activities at another
 6 location if the same person or persons hold a majority ownership interest in both
 7 the manufacturing facility and the premises licensed under chapter 43.
- 8 (2) The retail license issued under chapter 43 authorizes the sale for on-premises
 9 consumption of products of produced at the brewery, small brewery, winery, small
 10 winery, distillery or small distillery, in addition to manufacturing facility as well
 11 as other liquor permitted to be sold under the applicable class of the retail license;
 12 to be consumed on the premises.
- 13 ~~(2-A) Liquor sold under a chapter 43 retail license operated on the premises of a~~
 14 ~~location licensed under this section issued under chapter 43 on the premises of the~~
 15 ~~manufacturing facility may not be consumed on any part of the premises where~~
 16 ~~patrons are not generally permitted.~~
- 17 (3) All records related to activities under a ~~manufacturer~~ the authority of the
 18 manufacturing facility's license issued under this section must be kept separate
 19 from records related to activities under the authority of the retail license issued
 20 under chapter 43. Income from the sale of liquor under subparagraph (4-A) or
 21 under paragraph B or D by a manufacturing facility that is located on the same
 22 premises as the retail license issued under chapter 43 is not included in calculating
 23 whether that retail licensee satisfies any applicable income from the sale of food
 24 requirement set forth in chapter 43.
- 25 ~~(4) A distillery or small distillery must meet the requirements of subsection 5,~~
 26 ~~paragraphs D and E Spirits sold under the authority of the retail license issued~~
 27 ~~under chapter 43 to the holder of a distillery license must first be sold to the State,~~
 28 ~~subject to the listing, pricing and distribution provisions of this Title. Spirits sold~~
 29 ~~under the authority of the retail license issued under chapter 43 to the holder of a~~
 30 ~~small distillery license are subject to the requirements of subsection 5, paragraph~~
 31 ~~H.~~
- 32 (4-A) A person issued a retail license under chapter 43 for premises other than the
 33 licensed manufacturing facility may sell liquor for off-premises consumption under
 34 the conditions stated in paragraph D.
- 35 (5) The licensee shall ensure that products purchased for off-premises
 36 consumption under paragraph D are not consumed on the ~~licensed~~ premises of the
 37 manufacturing facility or the retail license issued under chapter 43, if that retail
 38 license authorizes retail activities at another location.
- 39 ~~J. A licensee governed by this subsection may display up to 25 bottles of liquor~~
 40 ~~produced by the licensee in a window of ~~the a~~ location under paragraph D where liquor~~
 41 ~~is sold for consumption off the licensed premises. Locations licensed under subsection~~
 42 ~~4, paragraph B, subparagraph (2) or subsection 5, paragraph B, subparagraph (3) may~~
 43 ~~also display up to 25 bottles of liquor produced by the licensee where the licensee is~~

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1 authorized by this section to sell its products for on-premises consumption or for off-
2 premises consumption.

3 ~~K. For the purposes of selling liquor for on-premises and off-premises consumption,~~
4 ~~a licensee who operates more than one facility licensed for the manufacture of liquor~~
5 ~~under this section may~~ A licensee governed by this subsection may transport liquor
6 produced at the licensed manufacturing facility in bulk or packaged in kegs, bottles or
7 cans, including by the case, to:

8 (1) ~~Transfer product produced by the licensee in bulk or packaged in kegs, bottles~~
9 ~~or cans, including by the case, at one facility licensed for the manufacture of liquor~~
10 ~~to another~~ Another manufacturing facility at which the licensee is licensed to
11 manufacture liquor or to any location where the licensee is licensed under this
12 section if the same person or persons hold a majority ownership interest in both of
13 the licensed manufacturing facilities; and

14 (a) ~~Serves samples of the manufacturer's product in accordance with~~
15 ~~subsection 2, paragraphs E and F; and~~

16 (b) ~~Is authorized under this section to sell the manufacturer's product to~~
17 ~~nonlicensees for off-premises consumption; and~~

18 (2) ~~Transfer product produced by the licensee in bulk or packaged in kegs, bottles~~
19 ~~or cans, including by the case, from a facility at which the licensee is licensed to~~
20 ~~manufacture liquor to any~~ An establishment licensed for on-premises consumption
21 under chapter 43 retail sales operated by the licensee as authorized under paragraph
22 I, subsection 4, paragraph B, subparagraph (2); or subsection 5, paragraph B,
23 subparagraph (3) as long as the same person or persons hold a majority ownership
24 interest in both the licensed manufacturing facility and the licensed retail
25 establishment.

26 ~~If the same person or persons hold a majority ownership interest of greater than 50%~~
27 ~~in more than one facility licensed for the manufacture of liquor under this section, the~~
28 ~~person or persons are considered one licensee for the purpose of transferring liquor as~~
29 ~~authorized by this paragraph.~~

30 **2-B. Grandfathering of certain licenses issued prior to January 1, 2018.** The
31 bureau may not suspend, revoke or refuse to renew a license issued under this section or
32 chapter 43 or 45 that was initially issued prior to January 1, 2018 solely on the basis that:

33 A. The establishment licensed under chapter 43 or 45 was determined by the bureau
34 after the license was issued to not be exclusively held or exclusively owned by a person
35 licensed to manufacture liquor under this section; or

36 B. The licensee is in violation of section 707, subsection 2, 3-A or 5-A, if the violation
37 existed in the same manner at the time the license was initially issued or at the time the
38 license was renewed.

39 The prohibition described in this subsection does not apply if the reason for suspension,
40 revocation or refusal to renew is due to the licensee's substantial misrepresentation of or
41 failure to disclose material facts required for the issuance or renewal of the license.

42 **3. Breweries; small breweries.** Except as otherwise provided in this section, the
43 following provisions apply to breweries and small breweries.

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- 1 A. A holder of a brewery license may produce and bottle more than 30,000 barrels of
2 malt liquor per year.
- 3 B. A holder of a small brewery license may produce and bottle up to 30,000 barrels of
4 malt liquor per year.
- 5 (1) Upon application by a holder of a small brewery license that has produced malt
6 liquor in an amount that exceeds 30,000 barrels in one year, the bureau may renew
7 that holder's small brewery license for only one additional year.
- 8 (2) A holder of a small brewery license may sell or deliver its products to licensed
9 retailers or wholesalers. The licensee may sell, on the premises for ~~consumption~~
10 ~~off the premises~~ off-premises consumption, malt liquor produced at the licensed
11 premises by the bottle, by the case or in bulk to licensed retailers, including, but
12 not limited to, off-premises retail licensees, restaurants and clubs. Notwithstanding
13 section 1361, the holder of a small brewery license may sell its products directly
14 to a retail licensee under this paragraph without selling to a wholesale licensee. A
15 small brewery licensee shall keep and maintain complete records on all sales to a
16 retail licensee.
- 17 B-1. To be eligible for a brewery or small brewery license, a person must hold a
18 brewer's notice issued by the United States Department of the Treasury, Alcohol and
19 Tobacco Tax and Trade Bureau.
- 20 C. Notwithstanding any ~~other~~ provision of this Title to the contrary, an on-premises
21 retail license issued under chapter 43 pursuant to subsection 2, paragraph I to the holder
22 of a brewery or small brewery licensed in accordance with this section may sell from
23 the establishment at the site of the brewery licensed for the sale of alcoholic beverages
24 to be consumed on the premises license authorizes the sale of malt liquor to be
25 consumed off the premises in prefilled, refillable bottles for off-premises consumption
26 under the conditions specified in this paragraph.
- 27 (1) Only malt liquor brewed at the brewery ~~where the on-premises establishment~~
28 ~~is licensed or small brewery associated with the on-premises retail license issued~~
29 under chapter 43 may be sold at the ~~on-premises establishment~~ under this
30 paragraph.
- 31 (2) Malt liquor must be dispensed in bottles provided by and with labels unique to
32 the brewery or small brewery of 32 to 64 ounces in volume.
- 33 (3) No more than 6 bottles may be prefilled at any one time.
- 34 (4) A deposit may be charged per bottle. Bottles sold under this paragraph are not
35 subject to Title 38, chapter 33.
- 36 (5) The bottle in which the malt liquor is dispensed must be sealed by the licensee
37 with a seal that is tamper-evident.
- 38 (6) Malt liquor dispensed in accordance with this paragraph must be consumed off
39 the premises.
- 40 (7) All sales of malt liquor ~~from the on-premises establishment for off-premises~~
41 ~~consumption~~ under this paragraph must be accompanied by a sales receipt with a
42 time stamp that indicates time of purchase.

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- 1 ~~(8) Sale of malt liquor from the on-premises establishment for off-premises~~
- 2 ~~consumption may not be made~~ Malt liquor may not be sold pursuant to this
- 3 ~~paragraph after 10:00 p.m.~~
- 4 The bureau may adopt rules to enforce this paragraph. Rules adopted in accordance
- 5 with this paragraph are routine technical rules ~~in accordance with~~ as defined in Title 5,
- 6 chapter 375, subchapter 2-A.
- 7 C-1. A holder of a brewery or small brewery license may sell for off-premises
- 8 consumption kegs of malt liquor produced by the licensee under the conditions
- 9 specified in this paragraph.
- 10 (1) Only malt liquor brewed at the brewery or small brewery may be sold by the
- 11 keg, which may not exceed 15.5 gallons in volume and which must comply with
- 12 the tagging and labeling requirements set forth in section 714.
- 13 (2) Sales under this paragraph may be made only during the hours of legal sale as
- 14 provided in section 4.
- 15 (3) The brewery or small brewery shall submit a monthly report to its wholesale
- 16 licensee detailing sales made under this paragraph. The wholesale licensee shall
- 17 calculate the fees for any bottle deposit and submit an invoice to the licensee for
- 18 expenses associated with the requirements prescribed in Title 38, chapter 33
- 19 including the retailer handling fee, state container deposit and a mutually agreed-
- 20 upon pickup fee.
- 21 ~~D. Notwithstanding any provision of this Title to the contrary, a brewery or small~~
- 22 ~~brewery licensed in accordance with this section may sell malt liquor to be consumed~~
- 23 ~~off the premises under the conditions specified in this paragraph if the brewery or small~~
- 24 ~~brewery is participating in a taste testing event under section 1052-D.~~
- 25 ~~(1) The brewery or small brewery may sell only malt liquor produced in the State~~
- 26 ~~by that brewery or small brewery.~~
- 27 ~~(2) A sale of malt liquor in accordance with this paragraph must be accompanied~~
- 28 ~~by a sales receipt.~~
- 29 E. A holder of a brewery or small brewery license may produce low-alcohol spirits
- 30 products containing malt liquor produced by the brewery or small brewery and may
- 31 import spirits solely for this purpose.
- 32 (1) If a small brewery license holder produces low-alcohol spirits products
- 33 pursuant to this paragraph, the combined total of malt liquor and low-alcohol spirits
- 34 products produced at the small brewery may not exceed 30,000 barrels per year.
- 35 **4. Wineries; small wineries.** Except as otherwise provided in this section, the
- 36 following provisions apply to wineries and small wineries.
- 37 A. A holder of a winery license may produce and bottle more than 50,000 gallons per
- 38 year of wine that is not hard cider and may produce and bottle more than 3,000 barrels
- 39 per year of wine that is hard cider.
- 40 B. A holder of a small winery license may produce and bottle up to 50,000 gallons per
- 41 year of wine that is not hard cider and may produce and bottle up to 3,000 barrels per
- 42 year of wine that is hard cider.

ROS

1 (1) A holder of a small winery license may sell or deliver its products to licensed
2 retailers or wholesalers. The licensee may sell, on the premises for consumption
3 ~~off the premises,~~ off-premises consumption any wine produced at the licensed
4 premises by the bottle, by the case or in bulk to licensed retailers, including, but
5 not limited to, off-premises retail licensees, restaurants and clubs. Notwithstanding
6 section 1361, the licensee may sell its products directly to a retail licensee under
7 this paragraph without selling to a wholesale licensee. A small winery licensee
8 shall keep and maintain complete records on all sales to a retail licensee.

9 (2) A holder of a small winery license, upon application to and approval of the
10 bureau and payment of ~~the a~~ \$50 license fees fee per location, may obtain licenses
11 for off-premises consumption for up to 2 additional locations other than the
12 location of the in-state manufacturer licensed under this section. The holder of the
13 licenses is not required to conduct any bottling or production at the additional
14 licensed locations but may conduct all activities permitted by this section at the
15 additional licensed locations.

16 B-1. To be eligible for a winery or small winery license, a person must hold a basic
17 permit for producing wine from the United States Department of the Treasury, Alcohol
18 and Tobacco Tax and Trade Bureau.

19 C. A holder of a winery or small winery license may fortify wine produced by the
20 winery license holder and import spirits solely for this purpose.

21 (1) If a small winery license holder produces fortified wine pursuant to this
22 paragraph, the combined total of ~~wine, sparkling wine and fortified wine~~ all wine,
23 other than hard cider, produced at the small winery may not exceed 50,000 gallons
24 per year.

25 ~~D. Notwithstanding any provision of this Title to the contrary, a winery or small winery~~
26 ~~licensed in accordance with this section may sell wine to be consumed off the premises~~
27 ~~under the conditions specified in this paragraph if the winery or small winery is~~
28 ~~participating in a taste testing event under section 1052 D.~~

29 ~~(1) The winery or small winery may sell only wine produced in the State by that~~
30 ~~winery or small winery.~~

31 ~~(2) A sale of wine in accordance with this paragraph must be accompanied by a~~
32 ~~sales receipt.~~

33 For purposes of this subsection, "fortified wine" means wine to which spirits have been
34 added as long as the resulting liquor does not exceed 24% alcohol by volume.

35 **5. Distilleries; small distilleries.** Except as otherwise provided in this section, the
36 following provisions apply to distilleries and small distilleries.

37 A. A holder of a distillery license may distill, rectify, blend and bottle more than
38 50,000 gallons of spirits per year.

39 B. A holder of a small distillery license may distill, rectify, blend and bottle not more
40 than 50,000 gallons of spirits per year.

41 ~~(1) The small distillery off premises license fee is \$100.~~

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- 1 (2) Upon application by a holder of a small distillery license whose distillery has
- 2 produced spirits in an amount that exceeds 50,000 gallons in one year, the bureau
- 3 may renew that holder's small distillery license for only one additional year.
- 4 (3) A holder of a small distillery license, upon application to and approval of the
- 5 bureau and payment of ~~the a \$100 license fees~~ fee per location, may obtain licenses
- 6 for off-premises consumption for up to 2 additional locations other than the
- 7 location of the in-state manufacturer licensed under this section. The holder of the
- 8 licenses is not required to conduct any bottling or production at the additional
- 9 licensed locations but may conduct all activities permitted by this section at the
- 10 additional licensed locations.
- 11 C. To be eligible for a distillery or small distillery license, a person must hold a basic
- 12 permit for distilling, rectifying, blending and bottling spirits from the United States
- 13 Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau.
- 14 D. ~~Spirits~~ Except as otherwise provided in this section, spirits produced by a holder of
- 15 a distillery or small distillery license must be sold to the State and are subject to the
- 16 listing, pricing and distribution provisions of this Title.
- 17 ~~E. A holder of a distillery or small distillery license may be issued one license under~~
- 18 ~~chapter 43 per distillery location for a connected establishment for the sale of liquor to~~
- 19 ~~be consumed on the premises at the distillery.~~
- 20 (1) ~~For the purposes of this paragraph, "connected establishment" means a Class~~
- 21 ~~A restaurant or a Class A restaurant/lounge that is owned by the holder of the in-~~
- 22 ~~state manufacturer license.~~
- 23 (2) ~~All records of the manufacturer license must be kept separate from the records~~
- 24 ~~of the retail licensee.~~
- 25 ~~F. A distillery or small distillery may provide samples to the public of liquors produced~~
- 26 ~~by the distillery that have been sold to the State in accordance with paragraph D and~~
- 27 ~~repurchased by the distillery or small distillery.~~
- 28 F-1. A distillery or small distillery may sell to the public for on-premises consumption
- 29 cocktails containing samples of spirits produced by the distillery or small distillery
- 30 under the conditions specified in this paragraph.
- 31 (1) A cocktail may be sold only at the manufacturing facility where the spirits are
- 32 produced or at an additional location licensed under paragraph B, subparagraph
- 33 (3).
- 34 (2) The distillery or small distillery may include wine or spirits not manufactured
- 35 by the distillery or small distillery as an ingredient in the cocktail only if the
- 36 distillery or small distillery purchased the wine or spirits from an agency liquor
- 37 store licensed as a reselling agent.
- 38 (3) A cocktail may not contain more than 4 1/2 ounces of spirits.
- 39 This paragraph is repealed March 30, 2025.
- 40 G. Notwithstanding paragraph D, a holder of a small distillery license that sells its
- 41 products directly to consumers for off-premises consumption under paragraph B,
- 42 subparagraph (3) ~~or~~, subsection 2, paragraph ~~C~~, D or ~~E~~ subsection 2, paragraph I.

1 subparagraph (4-A) may pay the bureau the difference between the distillery's price
 2 charged to the bureau and the discounted retail price charged by the bureau under
 3 section 606, subsection 4-B. A small distillery is not required to transport spirits that
 4 will be sold for off-premises consumption as described in this paragraph to a warehouse
 5 operated by the bureau or by a ~~wholesaler contracted by the bureau under section 90~~
 6 wholesale spirits provider. A holder of a small distillery license shall record the
 7 quantity of spirits sold for off-premises consumption that were not transported to a
 8 warehouse as described in this paragraph and submit monthly reports of this
 9 information, along with the full amount of state liquor tax due as prescribed by chapter
 10 65, to the bureau in a manner prescribed by the bureau.

11 H. Notwithstanding paragraph D, a holder of a small distillery license that sells its
 12 products or offers complimentary samples of its products directly to consumers for on-
 13 premises consumption under paragraph ~~E or F-1~~ or under subsection 2, paragraph ~~B, E~~
 14 or F I may pay the bureau the difference between the distillery's price charged to the
 15 bureau and the discounted retail price charged by the bureau under section 606,
 16 subsection 4-B. A small distillery is not required to transport spirits that will be sold
 17 for on-premises consumption as described in this paragraph to a warehouse operated
 18 by the bureau or by a ~~wholesaler contracted by the bureau under section 90~~ the
 19 wholesale spirits provider. A holder of a small distillery license shall record the
 20 quantity of spirits sold for on-premises consumption that were not transported to a
 21 warehouse as described in this paragraph and submit monthly reports of this
 22 information, along with the full amount of state liquor tax due as prescribed by chapter
 23 65, to the bureau in a manner prescribed by the bureau.

24 ~~I. Notwithstanding any provision of this Title to the contrary, a distillery or small~~
 25 ~~distillery licensed in accordance with this section may sell spirits to be consumed off~~
 26 ~~the premises under the conditions specified in this paragraph if the distillery or small~~
 27 ~~distillery is participating in a taste testing event under section 1052-D.~~

28 (1) ~~The distillery or small distillery may sell only spirits produced in the State by~~
 29 ~~that distillery or small distillery.~~

30 (2) ~~Spirits sold in accordance with this paragraph are subject to the listing, pricing~~
 31 ~~and distribution provisions of this Title.~~

32 (3) ~~A sale of spirits in accordance with this paragraph must be accompanied by a~~
 33 ~~sales receipt.~~

34 J. A holder of a distillery or small distillery license may produce low-alcohol spirits
 35 products.

36 (1) If a small distillery license holder produces low-alcohol spirits products
 37 pursuant to this paragraph, the combined total of spirits and low-alcohol spirits
 38 products produced at the small distillery may not exceed 50,000 gallons per year.

39 **6. Tenant brewer brewery.** Except as otherwise provided, the following provisions
 40 apply to a tenant ~~brewer~~ brewery license under which the holder of a tenant ~~brewer~~ brewery
 41 license may produce and bottle malt liquor at the manufacturing facility of another ~~brewer~~
 42 brewery, referred to in this subsection as "the a host brewer brewery," licensed by the
 43 bureau under subsection 3.

- 1 A. To be eligible for a tenant ~~brewer~~ brewery license, a person must submit an
- 2 application to the bureau in a manner prescribed by the bureau and hold a brewer's
- 3 notice ~~approved~~ issued by the United States Department of the Treasury, Alcohol and
- 4 Tobacco Tax and Trade Bureau; that authorizes a tenant ~~brewer~~ brewery to use the
- 5 facilities and equipment of a host ~~brewer~~ brewery. If the tenant brewery meets the
- 6 requirements of subsection 3, paragraph B, the application must be accompanied by
- 7 the license fee set forth in section 1551 for a small brewery. If the tenant brewery does
- 8 not meet the requirements of subsection 3, paragraph B, the application must be
- 9 accompanied by the license fee set forth in section 1551 for a brewery.
- 10 B. A tenant ~~brewer~~ brewery is subject to the same requirements regarding production
- 11 of malt liquor and low-alcohol spirits products containing malt liquor as if the tenant
- 12 ~~brewer~~ brewery conducted its manufacturing on its own premises independently.
- 13 C. A tenant ~~brewer~~ brewery is not eligible for privileges provided in subsection 2
- 14 except for sampling described by paragraph A, subparagraphs (1) and (2).
- 15 D. A tenant ~~brewer~~ brewery is governed by the provisions of subsection 3 except for
- 16 the privileges granted under paragraph C.
- 17 E. A tenant ~~brewer~~ brewery may not brew or produce malt liquor or low-alcohol spirits
- 18 products containing malt liquor for another ~~brewer~~ brewery or certificate of approval
- 19 holder.
- 20 F. A tenant ~~brewer~~ brewery shall ensure that the tenant ~~brewer~~ brewery maintains
- 21 control of the raw ingredients used to manufacture the tenant ~~brewer's~~ brewery's
- 22 product.
- 23 G-1. Licenses issued under subsection 3 may allow for up to 9 tenant ~~brewers~~
- 24 breweries at a time at the manufacturing facility of a host ~~brewer~~ brewery.
- 25 H. The bureau may require a tenant ~~brewer~~ brewery to maintain a record or log
- 26 indicating which equipment is being used at any time by the tenant ~~brewer~~ brewery in
- 27 the production of malt liquor or low-alcohol spirits products containing malt liquor and
- 28 which employees are working on production of the tenant ~~brewer's~~ brewery's product.
- 29 I. The bureau shall require that reports from a tenant ~~brewer~~ brewery be submitted in
- 30 a manner similar to the manner in which a ~~brewer~~ brewery licensed under subsection
- 31 3 submits reports. The bureau shall also require a tenant ~~brewer~~ brewery to submit
- 32 copies of reports required of holders of an approved brewer's notice issued by the
- 33 United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau
- 34 authorizing the tenant ~~brewer~~ brewery to engage in an alternating proprietorship.
- 35 **7. Tenant winery.** Except as otherwise provided, the following provisions apply to a
- 36 tenant winery license under which the holder of a tenant winery license may produce and
- 37 bottle wine at the manufacturing facility of another winery, referred to in this subsection as
- 38 "the a host winery," licensed by the bureau under subsection 4. This subsection applies to
- 39 hard cider produced by a manufacturer licensed as a winery or small winery under
- 40 subsection 4.
- 41 A. To be eligible for a tenant winery license, a person must submit an application to
- 42 the bureau in a manner prescribed by the bureau and hold an approved application for
- 43 an alternating proprietorship issued by the United States Department of the Treasury,
- 44 Alcohol and Tobacco Tax and Trade Bureau that authorizes a tenant winery to use the

- 1 facilities and equipment of a host winery. If the tenant winery meets the requirements
 2 of subsection 4, paragraph B, the application must be accompanied by the license fee
 3 set forth in section 1551 for a small winery. If the tenant winery does not meet the
 4 requirements of subsection 4, paragraph B, the application must be accompanied by
 5 the license fee set forth in section 1551 for a winery.
- 6 B. A tenant winery is subject to the same requirements regarding manufacture of its
 7 product as if the tenant winery conducted its manufacturing on its own premises
 8 independently.
- 9 C. A tenant winery is not eligible for privileges provided in subsection 2 except for
 10 sampling described by paragraph A, subparagraphs (1) and (2).
- 11 D. A tenant winery may not produce wine or hard cider for another winery or
 12 certificate of approval holder.
- 13 E. A tenant winery shall ensure that the tenant winery maintains control of the raw
 14 ingredients used to manufacture the tenant winery's ~~product~~ wine or hard cider.
- 15 F. A license issued under subsection 4 may allow for up to 9 tenant wineries at a time
 16 at the manufacturing facility of a host winery.
- 17 G. The bureau may require a tenant winery to maintain a record or log indicating which
 18 equipment is being used at any time by the tenant winery in the production of wine or
 19 hard cider and which employees are working on production of the tenant winery's
 20 product.
- 21 H. The bureau shall require that reports from a tenant winery be submitted in a manner
 22 similar to the manner in which a winery licensed under subsection 4 submits reports.
 23 The bureau shall also require a tenant winery to submit copies of reports required of
 24 holders of an approved application issued by the United States Department of the
 25 Treasury, Alcohol and Tobacco Tax and Trade Bureau authorizing the tenant winery
 26 to engage in an alternating proprietorship.'
- 27 Amend the bill in section 232 in subsection 3 in paragraph E in the first line (page 77,
 28 line 31 in L.D.) by striking out the following: "Wine or malt liquor" and inserting the
 29 following: 'Malt liquor or wine'
- 30 Amend the bill in section 255 in §1504 in the first indented paragraph in the first 2
 31 lines (page 82, lines 29 and 30 in L.D.) by striking out the following: "manufacturer or
 32 spirits" and inserting the following: '~~manufacturer or~~'
- 33 Amend the bill by striking out all of section 259 and inserting the following:
- 34 '**Sec. 259. 28-A MRSA §1652, sub-§4**, as amended by PL 2013, c. 368, Pt. XXXX,
 35 §8 and affected by §13, is further amended to read:
- 36 **4. Excise tax accounts and adjustments.** The bureau shall open an excise tax account
 37 with ~~all manufacturers~~, each wholesale ~~licensees~~ licensee and each certificate of approval
 38 ~~holders~~ holder and make the following adjustments when appropriate. As used in this
 39 subsection, "certificate of approval holder" means an in-state manufacturer of malt liquor,
 40 wine or low-alcohol spirits products licensed under section 1355-A or an out-of-state
 41 manufacturer of or out-of-state wholesaler of malt liquor, wine or low-alcohol spirits
 42 products that has been issued a certificate of approval under section 1361.

1 A. The bureau may grant credits and make tax adjustments that it determines the
 2 wholesale licensee or certificate of approval holder is entitled to upon the filing of
 3 affidavits in the form prescribed by the bureau.

4 B. The bureau shall refund all excise tax paid by the wholesale licensee or certificate
 5 of approval holder on all malt liquor ~~or~~ wine ~~caused to be destroyed by a supplier or~~
 6 low-alcohol spirits products that have been destroyed as long as the quantity and size
 7 are verified by the bureau and the destruction is witnessed by an authorized
 8 representative of the bureau.

9 C. If a wholesale licensee's inventories are destroyed by fire, flood or other natural
 10 disaster, the bureau may refund the excise tax on the wholesale licensee's inventories.

11 D. Any wholesale licensee selling malt liquor ~~or~~ wine or low-alcohol spirits products
 12 to an instrumentality, a licensee for resale to an airline, a training site or a ship chandler
 13 shall present proof of that sale to the bureau. The bureau shall grant to the wholesale
 14 licensee a credit of all state excise tax paid in connection with that sale under the
 15 following conditions.

16 (1) The bureau shall grant a credit for the excise tax on malt liquor ~~or~~ wine or
 17 low-alcohol spirits products sold by wholesale licensees to any instrumentality of
 18 the United States or any Maine National Guard state training site exempted by the
 19 bureau.

20 (2) The bureau shall grant a credit for the excise tax on malt liquor ~~or~~ wine or
 21 low-alcohol spirits products sold to any ship chandler as long as the malt liquor
 22 ~~and~~ wine and low-alcohol spirits products are resold to vessels of foreign registry
 23 for consumption after that vessel has left port or are resold for consumption on
 24 board vessels of United States registry that are destined for a foreign port.

25 (3) The bureau shall grant a credit for the excise tax on malt liquor ~~and table~~ wine
 26 and low-alcohol spirits products sold to a licensee registered with the bureau for
 27 resale to licensed airlines or to unlicensed airlines for their international flights.'

28 Amend the bill by striking out all of section 264 and inserting the following:

29 'Sec. 264. 28-A MRSA §2073-C is enacted to read:

30 **§2073-C. Importation of malt liquor, wine or low-alcohol spirits products**

31 **1. Prohibition.** Except as provided in subsection 2, section 1403-A or section 2073-E,
 32 a person may not transport malt liquor, wine or low-alcohol spirits products into the State
 33 or cause malt liquor, wine or low-alcohol spirits products to be transported into the State.

34 **2. Exceptions.** Notwithstanding subsection 1, a person may transport malt liquor,
 35 wine or low-alcohol spirits products into the State or cause malt liquor, wine or low-alcohol
 36 spirits products to be transported into the State in the following circumstances.

37 **A. An individual may transport into the State up to 400 fluid ounces of malt liquor, up**
 38 **to 4 liters of wine and up to 4 liters of low-alcohol spirits products for the individual's**
 39 **personal use.**

40 **B. Upon application, the bureau may grant a permit to an individual authorizing the**
 41 **individual to transport into and within the State more than 400 fluid ounces of malt**

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1 liquor, more than 4 liters of wine or more than 4 liters of low-alcohol spirits products
2 for the individual's personal use.

3 C. A licensed in-state small brewery, a licensed in-state small winery and a wholesale
4 licensee may transport malt liquor or wine into the State or may cause malt liquor or
5 wine to be transported into the State by an out-of-state manufacturer of malt liquor or
6 wine that has been issued a certificate of approval, an out-of-state wholesaler that has
7 been issued a certificate of approval or a common carrier or contract carrier authorized
8 by the Department of Public Safety. Each shipment of malt liquor or wine transported
9 into the State in accordance with this paragraph must be accompanied by an invoice
10 that includes the purchase number and the names of the sender and the licensed in-state
11 small brewery, licensed in-state small winery or wholesale licensee that is the intended
12 recipient of the malt liquor or wine.

13 **3. Penalties.** The following penalties apply to violations of this section.

14 A. A person that transports into the State or that causes to be transported into the State
15 a quantity of less than 1,300 fluid ounces of malt liquor, less than 40 liters of wine or
16 less than 40 liters of low-alcohol spirits products in violation of this section commits a
17 civil violation for which a fine of not more than \$500 may be adjudged.

18 B. A person that transports into the State or that causes to be transported into the State
19 a quantity of 1,300 or more fluid ounces of malt liquor, 40 or more liters of wine or 40
20 or more liters of low-alcohol spirits products in violation of this section commits a
21 Class E crime, which is a strict liability crime as defined in Title 17-A, section 34,
22 subsection 4-A.

23 **4. Evidence.** The possession of more than 800 fluid ounces of malt liquor, more than
24 8 liters of wine or more than 8 liters of low-alcohol spirits products in one or more
25 containers that are not labeled in accordance with Title 38, section 3105 is prima facie
26 evidence of a violation of this section.

27 **5. Forfeiture.** Notwithstanding section 2221-A, a court shall order malt liquor, wine
28 or low-alcohol spirits products transported or caused to be transported into the State in
29 violation of this section to be forfeited to the State and disposed of as provided in section
30 2229:

31 A. If a person fails to appear in court either in person or by counsel on the date and
32 time specified in response to a Uniform Summons and Complaint issued for a violation
33 of this section; or

34 B. As part of every adjudication and imposition of a fine under subsection 3, paragraph
35 A and every conviction under subsection 3, paragraph B.'

36 Amend the bill by striking out all of section 265 and inserting the following:

37 'Sec. 265. 28-A MRSA §2073-D is enacted to read:

38 **§2073-D. In-state transportation of malt liquor, wine or low-alcohol spirits products**

39 **1. Prohibition.** Except as provided in subsection 2 and section 2073-E, a person may
40 not transport within the State more than 400 fluid ounces of malt liquor, more than 4 liters
41 of wine and more than 4 liters of low-alcohol spirits products unless the malt liquor, wine
42 or low-alcohol spirits products were legally purchased from:

- 1 A. An off-premises retail licensee;
 2 B. An in-state manufacturer authorized under section 1355-A to sell malt liquor, wine
 3 or low-alcohol spirits products for off-premises consumption; or
 4 C. A direct shipper licensed under section 1403-A.

5 **2. Exceptions.** Notwithstanding subsection 1, a person may transport malt liquor,
 6 wine or low-alcohol spirits products within the State in the following circumstances.

7 A. An individual may transport within the State malt liquor, wine or low-alcohol spirits
 8 products in accordance with a permit issued under section 2073-C, subsection 2,
 9 paragraph B.

10 B. A person may transport malt liquor or wine the person transported into the State
 11 pursuant to section 2073-C, subsection 2, paragraph C.

12 C. A licensed in-state manufacturer of malt liquor, wine or low-alcohol spirits products
 13 may transport malt liquor, wine or low-alcohol spirits products produced by the
 14 manufacturer or may cause a common carrier or contract carrier authorized by the
 15 Department of Public Safety to transport malt liquor, wine or low-alcohol spirits
 16 products produced by the manufacturer to:

17 (1) A bottler or rectifier licensed under section 1355-A;

18 (2) A wholesale licensee;

19 (3) Any location to which the licensed in-state manufacturer is authorized to
 20 transport its own products under section 1355-A;

21 (4) A warehouse operated by the licensed in-state manufacturer; or

22 (5) The state line for transportation outside the State.

23 D. A wholesale licensee may transport malt liquor, wine or low-alcohol spirits
 24 products to an on-premises or off-premises retailer of malt liquor or wine in accordance
 25 with sections 713 and 1401.

26 Each shipment of malt liquor, wine or low-alcohol spirits products transported within the
 27 State in accordance with paragraph B, C or D must be accompanied by an invoice that
 28 includes the purchase number and the names of the sender and intended recipient of the
 29 malt liquor, wine or low-alcohol spirits products.

30 **3. Penalties.** The following penalties apply to violations of this section.

31 A. A person that transports within the State less than 1,300 fluid ounces of malt liquor,
 32 less than 40 liters of wine or less than 40 liters of low-alcohol spirits products in
 33 violation of this section commits a civil violation for which a fine of not more than
 34 \$500 may be adjudged.

35 B. A person that transports within the State 1,300 or more fluid ounces of malt liquor,
 36 40 or more liters of wine or 40 or more liters of low-alcohol spirits products in violation
 37 of this section commits a Class E crime, which is a strict liability crime as defined in
 38 Title 17-A, section 34, subsection 4-A.

39 **4. Evidence.** The possession of more than 800 fluid ounces of malt liquor, more than
 40 8 liters of wine or more than 8 liters of low-alcohol spirits products in one or more

1 containers that are not labeled in accordance with Title 38, section 3105 is prima facie
2 evidence of a violation of this section.

3 5. Forfeiture. Notwithstanding section 2221-A, a court shall order malt liquor, wine
4 or low-alcohol spirits products transported within the State in violation of this section to be
5 forfeited to the State and disposed of as provided in section 2229:

6 A. If a person fails to appear in court either in person or by counsel on the date and
7 time specified in response to a Uniform Summons and Complaint issued for a violation
8 of this section; or

9 B. As part of every adjudication and imposition of a fine under subsection 3, paragraph
10 A and every conviction under subsection 3, paragraph B.'

11 Amend the bill by inserting after section 279 the following:

12 'Sec. 280. 28-A MRSA §2519, sub-§2, ¶B, as amended by PL 1995, c. 140, §8, is
13 further amended to read:

14 B. A liquor enforcement officer inspector;'

15 Amend the bill by inserting after section 280 the following:

16 'Sec. 281. Construction. The Maine Revised Statutes, Title 28-A, section 2,
17 subsections 29 and 29-B, as amended by this Act, may not be construed to affect the current
18 practice by which some breweries and small breweries enter contracts with other breweries
19 to produce a portion of their malt liquor products.

20 'Sec. 282. Report. Not later than January 15, 2023, the Department of Administrative
21 and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations shall
22 submit a report to the joint standing committee of the Legislature having jurisdiction over
23 alcoholic beverages matters regarding any appropriate parameters for contract brewing by
24 licensed in-state breweries and small breweries and the minimum on-site production
25 requirements, if any, that should be imposed on in-state manufacturers of liquor as a
26 requirement of licensure under the Maine Revised Statutes, Title 28-A, section 1355-A. In
27 preparing the report, the bureau shall consult with relevant stakeholders in the industry,
28 including representatives of a statewide association of breweries and small breweries and
29 a statewide association of wholesale licensees of malt liquor. The committee is authorized
30 to submit legislation related to the report to the 131st Legislature in 2023.'

31 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
32 number to read consecutively.

33 SUMMARY

34 This amendment makes the following changes to the bill.

35 1. It modifies the language within the definitions of "brewery," "small brewery,"
36 "distillery" and "small distillery" describing the type of liquor production in which such
37 manufacturers engage to more closely align with the language used to describe those
38 activities in current law. It also removes from the definitions of "brewery," "small
39 brewery," "winery" and "small winery" reference to the authority of such manufacturers to
40 bottle their products in containers and adds that authority to the relevant portions of the
41 statute governing the authorized activities of licensed in-state liquor manufacturers. It

ROS

- 1 defines "bottle," when used as a verb in the State's liquor laws, to mean packaging spirits,
2 wine or malt liquor for sale in containers.
- 3 2. It states that the language of the amended definitions of "brewery" and "small
4 brewery" may not be construed to affect the practice by which breweries and small
5 breweries currently enter contracts with other breweries to produce a portion of their malt
6 liquor products. In addition, it directs the Department of Administrative and Financial
7 Services, Bureau of Alcoholic Beverages and Lottery Operations to study the issues of
8 contract brewing and minimum in-state manufacturer production requirements, in
9 consultation with representatives of a statewide association of breweries and small
10 breweries and a statewide association of wholesale licensees of malt liquor, and to submit
11 a report to the joint standing committee of the Legislature having jurisdiction over alcoholic
12 beverages matters on these topics by January 15, 2023. The committee may submit
13 legislation related to the report to the 131st Legislature in 2023.
- 14 3. It clarifies within the definitions of "malt liquor" and "wine" that liquor that is
15 produced by the fermentation of malt, substitutes for malt and other nonbeverage
16 ingredients, including fruit concentrate, is considered malt liquor and not wine. It also adds
17 a definition of "substitute for malt."
- 18 4. It adds pickleball to the list of racquet sports offered at licensed indoor racquet
19 centers.
- 20 5. It moves the definition of "business entity," a phrase used in several provisions of
21 the Maine Revised Statutes, Title 28-A, from Title 28-A, section 707 to the general
22 definitions section for the Title.
- 23 6. The bill changes from a certificate of approval to a license the authority required by
24 the operator of a special warehouse storage facility in the State. The amendment clarifies
25 within other provisions of Title 28-A referencing the operators of such facilities that they
26 are licensees and not certificate of approval holders.
- 27 7. It changes the term "liquor enforcement officer" where used in Title 28-A to "liquor
28 inspector," which is the current term for the position.
- 29 8. It clarifies that the authority of the District Court to suspend or revoke the licenses
30 of both a mobile service bar and of the underlying golf course, disc golf course, Class A
31 restaurant, Class A restaurant/lounge or Class I hotel license and any other licenses held by
32 the mobile service bar licensee for a violation occurring at the mobile service bar is an
33 exception to the general rule that license suspensions apply only to the specific premises
34 where a violation occurs.
- 35 9. It clarifies that, to be eligible for a brewery, small brewery, winery or small winery
36 license, a person must first hold a brewer's notice to produce malt liquor or hold a basic
37 permit for producing wine from the United States Department of the Treasury, Alcohol and
38 Tobacco Tax and Trade Bureau.
- 39 10. It clarifies that income from the sale of an in-state manufacturer's liquor for off-
40 premises consumption at its one location licensed pursuant to Title 28-A, chapter 43 is not
41 included when calculating whether the manufacturer has satisfied any applicable income
42 from the sale of food requirement that is a condition of the license for the one location
43 licensed pursuant to Title 28-A, chapter 43.

1 11. It clarifies that a small distillery may self-distribute its spirits products to be sold
2 for both on-premises and off-premises consumption at its one location licensed pursuant to
3 Title 28-A, chapter 43.

4 12. It clarifies that wholesale licensees are entitled to excise tax credits for low-alcohol
5 spirits products to the same extent that wholesale licensees are entitled to excise tax credits
6 for malt liquor or wine if the malt liquor, wine or low-alcohol spirits products are destroyed
7 by the bureau; destroyed by fire, flood or other natural disaster; sold to an instrumentality
8 of the United States or a National Guard state training site exempted by the bureau; sold to
9 a licensee registered with the bureau for resale to airlines for international flights; or sold
10 to a ship chandler for resale to vessels of foreign registry or vessels of domestic registry
11 that are destined for a foreign port.

12 13. It authorizes the importation into and transportation within the State of low-alcohol
13 spirits products for personal use in the same volume that wine may be imported into and
14 transported within the State for personal use.

15 14. It incorporates the changes to Title 28-A made by Public Law 2021, chapter 76;
16 Public Law 2021, chapter 91; Public Law 2021, chapter 514; and Public Law 2021, chapter
17 592 and makes other minor, technical corrections to the bill and to Title 28-A.

18 **FISCAL NOTE REQUIRED**

19 **(See attached)**



130th MAINE LEGISLATURE

LD 1643

LR 452(02)

An Act To Correct Errors, Inconsistencies and Conflicts in and To Revise the State's Liquor Laws

Fiscal Note for Bill as Amended by Committee Amendment "A" (§ 571)
Committee: Veterans and Legal Affairs
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services from the provisions in this bill are expected to be minor and can be absorbed within existing budgeted resources.