

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

I. The registered occupant of a hotel room equipped with a minibar is liable for any violation of liquor laws by anyone under 21 years of age who also occupies or enters the room; and

J. A minibar may be stocked and serviced only by an employee who is 21 years of age or older.

The Department of Public Safety may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. Implementation. The Department of Public Safety shall implement the provisions of this Act using existing departmental personnel and resources.

See title page for effective date.

CHAPTER 459

H.P. 353 - L.D. 498

An Act Regarding Alcoholic Beverage Tastings

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

Sec. 1. 28-A MRSA §460 is enacted to read:

§460. Agency liquor store taste testing of distilled spirits

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. Any other consumption of alcoholic beverages on an agency liquor store's premises is prohibited, except as permitted under section 1205 or 1207.

2. Conditions on taste-testing activities. The conditions under this subsection apply to taste-testing activities under this section.

A. Distilled spirits may not be served to persons who have not yet attained 21 years of age.

B. A person may not be served more than a total of 1 1/2 ounces, in 1/2 ounce servings, of distilled spirits having an alcohol content of 80 proof or less; or, for distilled spirits containing an alcohol content of greater than 80 proof, a person may not be served more than a total of 3/4 of an ounce in 1/4 ounce servings.

C. Distilled spirits must be dispensed using a standard measuring device.

D. Distilled spirits having an alcohol content of greater than 80 proof may not be offered for tast-

ing at the same time as distilled spirits having an alcohol content of 80 proof or less.

E. A person may not be charged a fee for any distilled spirits served as part of a taste-testing activity.

F. A person may not be served who is visibly intoxicated.

G. Taste testing must be limited to a designated area.

H. Taste testing must be conducted within the hours of retail sale established in this Title.

I. The agency liquor store must obtain the written permission of the bureau before conducting any taste-testing activity.

J. The agency liquor store may conduct up to 3 tastings per month but no more than 12 taste-testing events per year, including tastings conducted under sections 1205 and 1207.

K. Taste testing is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5.

L. The agency liquor store must notify the bureau of the date and time scheduled for all taste-testing events.

M. The agency liquor store must purchase all distilled spirits served at a taste testing from the wholesale liquor provider as defined in section 501.

N. Taste-testing activities must be conducted in a manner that precludes the possibility of observation by children. The Department of Public Safety shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the operation and effectiveness of this paragraph.

3. Rules. The Department of Public Safety may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 28-A MRSA §1205, as amended by PL 2005, c. 32, §1, is further amended to read:

§1205. Taste testing of wine

1. Taste testing on off-premise retail licensee's premises. Subject to the conditions in subsection 2, the bureau may authorize an off-premise retail licensee, ~~50% or more of whose gross income is derived from the sale of wine, malt liquor or spirits,~~ stocking at least 125 different wine labels or a fine wine store to conduct taste testings of wine on that licensee's premises. Any other consumption of alcoholic beverages

on an off-premise retail licensee's premises is prohibited.

2. Conditions on taste-testing activities. The following conditions apply to taste-testing activities under this section:

- A. ~~No wine~~ Wine may not be served to persons who have not yet attained the age of 21 years;
- B. ~~No~~ A person may not be served more than a total of 5 ounces of wine having an alcohol content of 14% or less; or, for wine having an alcohol content greater than 14%, a person may not be served more than a total of 3 ounces of wine;
- C. ~~No~~ A person may not be charged a fee for any wine served as part of a taste-testing activity;
- D. ~~No~~ A person may not be served who is visibly intoxicated;
- E. Taste testing is must be limited to a designated area;
- F. Taste testing ~~shall~~ must be conducted within the hours of retail sale established in this Title;
- G. The retail licensee must obtain the written permission of the bureau before conducting any taste-testing activity;
- H. ~~A~~ The retail licensee may conduct up to 3 tastings per month but no more than one taste-testing 12 taste-testing events per month year, including tastings conducted under sections 460 and 1207;
- I. Taste testing is not allowed in any municipality where ~~on-premise~~ on-premises and ~~off-premise~~ off-premises sales are not allowed pursuant to chapter 5;
- J. The retail licensee must notify the ~~Bureau of Liquor Enforcement~~ bureau of the date and time scheduled for ~~an on-premise taste-testing~~ all taste-testing events; and
- K. The retail licensee must purchase all wine served at a taste testing from a wholesale licensee; and
- L. Taste-testing activities must be conducted in a manner that precludes the possibility of observation by children. The Department of Public Safety shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the operation and effectiveness of this paragraph.

3. Rules. The Department of Public Safety may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

For the purposes of this section, "fine wine store" means a store that carries at least 250 different wine

labels or carries at least 125 different wine labels, holds a wine license only and meets the compatible merchandise requirement of section 1201, subsections 6 and 7.

Sec. 3. 28-A MRSA §1206, as enacted by PL 1993, c. 266, §23, is amended to read:

§1206. Consumption prohibited on off-premises retail premises

A person may not consume liquor on the premises of an off-premise retail licensee licensed under this chapter except as provided in ~~section~~ sections 460, 1205 and 1207.

Sec. 4. 28-A MRSA §1207 is enacted to read:

§1207. Taste testing of malt liquor

1. Taste testing on off-premise retail licensee's premises. Subject to the conditions in subsection 2, the bureau may authorize an off-premise retail licensee stocking at least 100 different brands of malt liquor to conduct taste testing of malt liquor on that licensee's premises. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited, except as permitted under section 460 or 1205.

2. Conditions on taste-testing activities. The conditions under this subsection apply to taste-testing activities under this section.

- A. Malt liquor may not be served to persons who have not yet attained 21 years of age.
- B. A person may not be served more than a total of 12 ounces of malt liquor having an alcohol content of 6% or less; for malt liquor having an alcohol content greater than 6% but less than 12%, a person may not be served more than a total of 6 ounces; or, for malt liquor having an alcohol content of 12% or greater, a person may not be served more than a total of 3 ounces.
- C. A person may not be charged a fee for any malt liquor served as part of a taste-testing activity.
- D. A person may not be served who is visibly intoxicated.
- E. Taste testing must be limited to a designated area.
- F. Taste testing must be conducted within the hours of retail sale established in this Title.
- G. The retail licensee must obtain the written permission of the bureau before conducting any taste-testing activity.
- H. The retail licensee may conduct up to 3 tastings per month but no more than 12 taste-testing events per year, including tastings under section 460 or 1205.

I. Taste testing is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5.

J. The retail licensee must notify the bureau of the date and time scheduled for all taste-testing events.

K. The retail licensee must purchase all malt liquor served at a taste testing from a wholesale licensee.

L. Taste-testing activities must be conducted in a manner that precludes the possibility of observation by children. The Department of Public Safety shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over alcohol regulation matters regarding the operation and effectiveness of this paragraph.

3. Rules. The Department of Public Safety may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 5. 28-A MRSA §1505 is enacted to read:

§1505. Participation in tasting events

A sales representative holding a license under section 1502 may participate in a tasting event permitted under section 460 or 1205 subject to the provisions of this section.

1. Educational presentations. A sales representative participating in a tasting event pursuant to this section may provide written or oral educational presentations and materials relating to the brands and products being offered for tasting at the event, as long as no cost is imposed for the presentations or materials on the licensee or the consumer.

2. Complimentary food or snacks. A sales representative participating in a tasting event pursuant to this section may provide and distribute, at no cost to the consumer or the licensee, complimentary food or snacks to be offered and consumed in conjunction with the products to be tasted, as long as the total cost for the food or snacks does not exceed \$200 per event. Any remaining food or snacks provided in conjunction with a tasting event must be removed from the licensee's premises by the sales representative at the conclusion of the tasting event.

3. Records and invoices. A sales representative participating in a tasting event pursuant to this section shall keep and maintain records and invoices showing the costs for any food, snacks or educational or informational materials provided at any approved tasting event.

4. Pour or distribute. A sales representative participating in a tasting event pursuant to this section

may not pour or distribute to consumers the products being offered for tasting during the event.

The Department of Public Safety may adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. Implementation. The Department of Public Safety shall implement the provisions of this Act using existing departmental personnel and resources.

See title page for effective date.

CHAPTER 460

H.P. 937 - L.D. 1333

**An Act To Ensure that
Replacement Culverts Permit
Fish Passage**

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

Sec. 1. 38 MRSA §480-Q, sub-§2, ¶B, as repealed and replaced by PL 1995, c. 27, §1, is amended to read:

B. Crossings do not block passage for fish passages or other aquatic organisms in water courses. Culverts and installation techniques utilized must achieve natural stream flow. This paragraph applies only to water courses containing fish;

Sec. 2. 38 MRSA §480-Q, sub-§2-A, as amended by PL 1993, c. 315, §2, is further amended to read:

2-A. Existing road culverts. In any protected natural resource area, a permit is not required for the repair and maintenance of an existing road culvert or for the replacement of an existing culvert, as long as the replacement culvert is:

B. Not more than 25% longer than the culvert being replaced; and

C. Not longer than 75 feet.

Ancillary culverting activities, including excavation and filling, are included in this exemption. A person repairing, replacing or maintaining an existing culvert under this subsection shall ensure that erosion control measures are taken to prevent sedimentation of the water and that the crossing does not block passage for fish passage in the water course or passage for other aquatic organisms in the water course if passage for fish is required under this subsection. Replacement culverts and techniques used in installing the culverts must achieve natural stream flow. This subsection applies only to water courses containing fish.