

MAINE STATE LEGISLATURE

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STATE OF MAINE
130TH LEGISLATURE
SECOND REGULAR SESSION



Disposition of bills and summaries of all laws enacted or finally passed

**JOINT STANDING COMMITTEE ON VETERANS
AND LEGAL AFFAIRS**

July 2022

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LD 1358 Resolve, Directing the Bureau of Alcoholic Beverages and Lottery Operations To Evaluate Direct-to-consumer Wine and Spirits Sales

ENACTED LAW SUMMARY

Resolve 2021, chapter 175 provides \$100,000 in funding from the Liquor Operation Revenue Fund for the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations to obtain contracted services to review the direct shipment of wine to consumers in the State under current law, identifying potential areas of concern, and the laws in each other state that allows the direct shipment of spirits to consumers located in that state. Stakeholders affected by the direct shipment of wine and spirits to consumers in the State including, but not limited to, licensed in-state wineries and small wineries; licensed in-state distilleries and small distilleries; wine and spirits retailers; wine wholesalers; and bottle redemption centers must be consulted in conducting these reviews. The bureau must submit a report summarizing its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over alcoholic beverages matters by February 15, 2023. The committee may report out legislation based upon the report to the 131st Legislature in 2023.

LD 1643 An Act To Correct Errors, Inconsistencies and Conflicts in and To Revise the State's Liquor Laws

ENACTED LAW SUMMARY

Public Law 2021, chapter 658 makes a number of changes to the Maine Revised Statutes, Title 28-A, the State's liquor laws, to standardize the language; to correct and address errors, conflicts, ambiguities, omissions and inconsistencies; and to revise those laws, including by making the following changes to the Title.

1. It makes a number of changes to the laws governing certificates of approval to import liquor into the State, including:
 - A. Clarifying which of the general qualification and application requirements for liquor licenses apply to applicants for a certificate of approval and specifies that persons with certificates of approval are subject to administrative discipline for violating liquor laws and rules to the same extent as persons with licenses;
 - B. Repealing a provision requiring the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations to deposit the yearly fees paid by certificate of approval holders into the General Fund, which conflicts with the requirement in section 83-B that the bureau deposit only its net revenues into the General Fund; and
 - C. Changing the authority that a person operating a special warehouse storage facility must obtain from a certificate of approval to a license because the laws applicable to certificate of approval holders generally do not apply to special warehouse storage facilities.

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2. It removes an ambiguity in the law by clarifying that, as is the current practice, agency liquor store licenses grant authority to sell not only spirits but also malt liquor and wine for off-premises consumption. It also combines within a single statutory provision the licensing fees for agency liquor stores.
3. It moves the definition of “business entity” from section 707 to the general definitions section of the Title.
4. It removes ambiguous language from the definitions section of the Title stating that only “responsible persons” or “persons of good reputation” may obtain certain types of liquor licenses but retains the general character requirements for licensure set forth in section 654.
5. It moves the definitions of “pool hall” and “minibar” into and the definitions of “club member,” “hotel guest,” “dining car,” “passenger car” and “vessel” out of the provision defining the types of establishments eligible to obtain retail liquor licenses. It also streamlines the definition of “hotel guest,” adds a new definition of “bed and breakfast guest” and ensures consistent use of these defined terms throughout the Title.
6. It clarifies within the definitions of “malt liquor” and “wine” that liquor produced by the fermentation of malt, substitutes for malt and other nonbeverage ingredients, including fruit concentrate, is considered malt liquor and not wine as long as no less than 51 % of the total alcohol by volume derives from the fermentation of malt and substitutes for malt. It also newly defines “substitute for malt.”
7. It replaces the word “club” with the word “center” in the statutes governing licensure of indoor racquet centers, indoor ice skating centers and curling centers to dispel confusion regarding whether the licensure requirements applicable to clubs apply to these centers. It also adds pickleball to the list of racquet sports offered at licensed indoor racquet centers and corrects several errors in the law that, in combination, suggest curling centers may be licensed to sell only wine and not spirits or malt liquor.
8. It makes a number of changes to the laws requiring that certain on-premises retail licensees either offer food to the public or sell a specific amount of food to the public to maintain their eligibility for a liquor license, including:
 - A. Replacing duplicative definitions of “full course meal” with the substantively identical definition of “full meal” that also appears in current law and ensuring consistent use of this defined term throughout the Title;
 - B. Removing language regarding the service of meals from the definition of “hotel,” because hotels are not required to sell meals; removing a conflict in current law by specifying that a hotel with a Class I-A license is not required to have 10% of its gross annual income from the sale of food; and clarifying that, to calculate whether a hotel that does not have a Class I-A license has satisfied the requirement that at least 10% of its gross annual income be from the sale of food, the hotel’s income from the rental of rooms or the sale of liquor in separately licensed minibars is not included;

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- C. Clarifying that qualified catering services may be located in unincorporated places and filling an omission in the law by specifying the minimum income from the sale of food required to maintain a liquor license as a part-time qualified catering service that operates for no more than three months in a year in a municipality having a population of 20,001 to 30,000 persons;
 - D. Standardizing language regarding the bureau’s assessment of whether an applicant for an initial on-premises retail license is likely to meet or an applicant for renewal of an on-premises retail license has met any applicable food-sales requirements; and
 - E. Establishing a new one-year grace period for a license-renewal applicant that did not meet the relevant food-sales requirement during the previous year.
9. It corrects an error in current law stating that licensed Class A restaurants and Class A restaurants/lounges must purchase from the bureau the spirits they offer to customers as complimentary samples and instead provides that these spirits must be purchased from reselling agents.
10. It aligns the two definitions of “out-of-state spirits supplier” previously used in the Title. It also newly defines “spirits supplier” and standardizes the use of that term throughout the title, including by removing reference to spirits brokers. It newly authorizes spirits suppliers to offer sweepstakes, games and contests inside packages of spirits under the same conditions that licensed Maine manufacturers, wholesale licensees and retail licensees may offer sweepstakes, games and contests inside packages of liquor.
11. It replaces the phrase “alcoholic beverages,” which is not defined, with the appropriate defined terms throughout the Title. It also replaces the term “liquor,” which is defined to mean malt liquor, wine and spirits, with more specific terms in several statutes when all three types of alcohol are not intended to be included.
12. It replaces the phrase “wholesale liquor provider” with the phrase “wholesale spirits provider” to more accurately describe the scope of that entity’s authority in the State.
13. It removes incorrect references to fortified wine in the statutes governing spirits and unnecessary references to fortified wine in the statutes governing wine, because fortified wine is not a type of “spirits” but is a type of “wine” as those terms are defined in the Title.
14. It resolves an inconsistency by providing that public service corporation licenses are issued to airline corporations, railroad corporations and vessel corporations and not the individual aircraft, dining cars, passenger cars and vessels that those corporations operate in the State. It also removes a duplicative statute governing public service corporations and standardizes the language used throughout the Title regarding public service corporations.

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15. It corrects an error in current law that suggests on-premises retail licenses are issued to international air terminals and instead specifies that on-premises retail licenses may be issued to qualified establishments located within international air terminals.
16. It clarifies an ambiguity in the law by specifying that the term “wholesale licensee” means only a licensed in-state wholesaler of malt liquor or wine and not an out-of-state wholesaler of malt liquor or wine that has been issued a certificate of approval. It also extends the prohibition against a wholesale licensee selling to another wholesale licensee any malt liquor or wine that has not been purchased from a certificate of approval holder or a licensed special warehouse storage facility to a prohibition against a wholesale licensee selling such products to any purchaser, including a retail licensee.
17. It makes several changes to the laws governing hard cider in a manner that matches current practice, including by:
 - A. Clarifying within the definition of “wine” that hard cider is a type of wine for purposes of the Title;
 - B. Clarifying that hard cider may be sold by retailers licensed to sell either malt liquor or wine for on-premises or off-premises consumption; and
 - C. Providing that hard cider may be sold and distributed within the State by wholesale licensees authorized to sell and distribute either malt liquor or wine within the State.
18. It makes several changes to the laws governing low-alcohol spirits products, including:
 - A. Clarifying that products containing less than 0.5% alcohol by volume are not considered low-alcohol spirits products, just as all products containing less than 0.5% alcohol by volume are not considered liquor or subject to regulation under the Title;
 - B. Newly specifying that licensed Maine distilleries, small distilleries and rectifiers are authorized to produce low-alcohol spirits products and that licensed Maine breweries, small breweries and tenant breweries are authorized to produce low-alcohol spirits products containing malt liquor. Licensed Maine wineries and tenant wineries are already authorized to produce low-alcohol spirits products that contain wine, because these products are a type of fortified wine;
 - C. Specifying that, as is current practice, low-alcohol spirits products may be sold and distributed within the State by wholesale licensees authorized to sell and distribute wine within the State.
 - D. Removing a duplicative provision requiring certificate of approval holders that manufacture low-alcohol spirits products to report the number of gallons of low-alcohol spirits products sold to wholesale licensees on a monthly basis.

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- E. Clarifying that wholesale licensees are entitled to excise tax credits for low-alcohol spirits products to the same extent that they are entitled to credits for malt liquor or wine if the applicable products are destroyed by the bureau; destroyed by fire, flood or other natural disaster; sold to an instrumentality of the United States or to a National Guard state training site exempted by the bureau; sold to a licensee registered with the bureau for resale to airlines for international flights; or sold to a ship chandler for resale to vessels of foreign registry or to vessels of domestic registry that are destined for a foreign port; and
 - F. Authorizing the importation into and transportation within the State of low-alcohol spirits products for personal use in the same volume that wine may be imported into and transported within the State for personal use.
19. It clarifies that an applicant for a liquor license must possess all licenses, permits or approvals required under Title 22 for the applicant's underlying business before applying for the liquor license.
20. It removes inconsistencies in several provisions of the liquor laws regarding the types of establishments eligible to obtain auxiliary licenses, off-premises catering licenses and mobile service bar licenses. It also specifies that, as is current practice, when an on-premises retail licensee obtains an off-premises catering license, that license authorizes the licensee to conduct off-premises catering of only the same type or types of liquor that the licensee may sell pursuant to the licensee's underlying on-premises retail license.
21. It makes a number of changes to the laws governing liquor taste-testing and product sampling events, including:
- A. Clarifying that the prohibitions against serving liquor to minors or to visibly intoxicated persons apply to all liquor taste-testing and product sampling events;
 - B. Removing a requirement that retailers seeking written permission from the bureau to conduct spirits, wine or malt liquor taste-testing events provide the names of any licensed sales representatives who will be pouring samples at those events;
 - C. Newly specifying that samples at a taste-testing or product sampling event may be poured not only by a licensed sales representative but also by an employee of the retailer where the taste-testing or product sampling take place or, where applicable, by the owner or employee of the licensed Maine manufacturer that produced the product being tasted or sampled;
 - D. Clarifying that, other than during an authorized taste-testing or product sampling event, an off-premises retail licensee has a duty to prevent the consumption of liquor on that retail licensee's premises;
 - E. Resolving a conflict in the law by providing that, when an authorized taste-testing event is held on a portion of the premises of an on-premises retail licensee, the bureau must

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- temporarily suspend the retailer's authority to sell liquor for on-premises consumption only in the area designated for the taste-testing event;
- F. Moving the statutory language granting licensed Maine manufacturers the authority to sell their products at certain taste-testing events from the manufacturer licensing statute to the relevant taste-testing event statute for clarity and granting small distilleries new authority to self-distribute their spirits products for sale at these taste-testing events; and
 - G. Restricting to the owner and supervisory or managerial employees of the retail licensee the types of individuals who may receive partial-bottle samples of spirits or wine under statutes authorizing sampling by retail licensees.
22. It clarifies that the District Court's authority to suspend or revoke the license of a mobile service bar; the mobile service bar licensee's underlying golf course, disc golf course, Class A restaurant/lounge or Class I hotel license; and any other licenses held by the mobile service bar licensee for a violation occurring at the mobile service bar is an exception to the general rule that license suspensions apply only to the specific premises where a violation occurs.
23. It changes the term "liquor enforcement officer" where used in the Title to "liquor inspector," the current term for the position.
24. It streamlines the process for disposal of spirits subject to a court's forfeiture order by newly authorizing the bureau or a wholesale spirits provider to choose, without obtaining an additional court order, to destroy the forfeited spirits rather than to restock and resell the forfeited spirits in agency liquor stores.
25. It makes a number of changes to the laws governing the sale of spirits in the State, including:
- A. Resolving a conflict in the law regarding the pricing of spirits by clarifying that, as is current practice, the State Liquor and Lottery Commission establishes the retail price of spirits and the bureau establishes the wholesale price of spirits, which is the price that agency liquor stores pay to purchase spirits from the bureau;
 - B. Resolving a conflict in the laws governing the purchase of spirits by removing statutory language suggesting that agency liquor stores may purchase spirits from a wholesale spirits provider and retaining provisions of law correctly stating that agency liquor stores purchase spirits only from the bureau; and
 - C. Amending statutory provisions incorrectly suggesting that all agency liquor stores may sell or deliver spirits to on-premises retailers and clarifying that only agency liquor stores that are licensed as reselling agents may make these sales and deliveries.
26. It makes a number of additional changes to section 1355-A, the statute governing the licensure of Maine liquor manufacturers, including:

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- A. Restoring the statutory authority of bottlers and rectifiers to obtain licenses, which authority was unintentionally repealed by Public Law 2019, chapter 529, and newly specifying the sampling activities that may be conducted by bottlers and rectifiers;
- B. Combining several scattered provisions describing the authority of breweries, small breweries, wineries, small wineries, distilleries and small distilleries, at the manufacturing facilities where their products are produced, to sell samples of those products to the public or offer samples of those products to the public at no cost. It newly clarifies that samples may not be served to minors or visibly intoxicated persons and that the area of the manufacturing facility where these samples are sold or offered need not be separate from and may be accessed by the same entrance as the area of the manufacturing facility that is licensed for on-premises retail sales;
- C. Combining several scattered provisions describing the authority of breweries, small breweries, wineries, small wineries, distilleries and small distilleries, at the manufacturing facility where their products are produced, to sell their products for off-premises consumption;
- D. Moving the provision authorizing breweries and small breweries to sell malt liquor for off-premises consumption in kegs from a generally applicable subsection of the statute to the subsection specifically applicable to breweries and small breweries and moving the provision requiring small breweries and small wineries to keep and maintain records of their sales to retail licensees from a generally applicable subsection of the statute to the two subsections specifically applicable to these entities;
- E. Clarifying the provision authorizing each brewery, small brewery, winery, small winery, distillery and small distillery to obtain one license to conduct on-premises retail sales per licensed manufacturing facility. It also eliminates the requirements that a distillery's or a small distillery's on-premises retail establishment must be a Class A restaurant or Class A restaurant/lounge owned by the same person who owns the distillery or small distillery. Instead, like the other categories of manufacturers, a distillery or small distillery may obtain any type of on-premises retail license as long as the same person or persons holds a majority ownership interest in the on-premises retail license and the distillery or small distillery;
- F. Clarifying, as is current practice, that when calculating whether a manufacturing facility's one statutorily authorized establishment for on-premises sales has satisfied any applicable statutory requirement that 10% of its gross annual income be from the sale of food, income from the sale of liquor samples or sale of liquor for off-premises consumption is not included;
- G. Newly authorizing a manufacturer that has its one statutorily authorized licensed establishment for on-premises sales at a location separate from its manufacturing facility to conduct sales of its products for off-premises consumption at that separate licensed location including, if the manufacturer is a brewery or a small brewery, malt liquor packaged in refillable containers that are commonly referred to as growlers;

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- H. Clarifying that a person must obtain authority to produce malt liquor or wine from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau to be eligible to obtain, respectively, any type of brewery or winery license;
 - I. Clarifying that, like distilleries and small distilleries, the license issued to any type of brewery or winery authorizes that manufacturer to bottle its products. It also adds a definition of “bottle,” when used as a verb, to the definitions section of the Title;
 - J. Resolving a conflict and conforming the law to current practice by specifying that, when a small distillery serves samples of its products at its manufacturing facility or when it sells its own products for off-premises or on-premises consumption at its one licensed establishment for on-premises sales, it need not first send those products through the State’s spirits warehouse and distribution system;
 - K. Clarifying the fee that a small winery or small distillery, each of which may under current law obtain licenses to conduct off-premises retail sales at up to two additional locations other than the manufacturing facility, must pay for the licensure of each additional location. It further clarifies that the small winery or small distillery may itself transport its products from its manufacturing facility to each of these two additional locations, as long as the same person owns a majority interest in the manufacturing facility and the relevant additional location; and
 - L. It corrects an omission in the law by specifying that, as is current practice, a tenant brewery or tenant winery seeking licensure may pay the reduced small brewery or small winery license fee if it qualifies as a small brewery or small winery.
27. It reorganizes, clarifies and removes inconsistencies in the laws governing the importation of liquor into and the transportation of liquor within the State. It clarifies that wineries, small wineries and tenant wineries may import spirits or purchase spirits manufactured in the State for the purpose of producing fortified wine and that breweries, small breweries and tenant breweries may import spirits or purchase spirits manufactured in the State for the purpose of producing low-alcohol spirits products containing malt liquor. It also changes the units of measurement applicable to spirits and wine in these provisions from quarts and gallons to liters, the unit of measurement typically used when referring to spirits and wine products, and it changes the unit of measurement applicable to malt liquor from gallons to fluid ounces, the unit of measurement typically used when referring to malt liquor products.
28. It provides that the language in the definitions section of the Title may not be construed to affect the current practice by which some breweries and small breweries enter contracts with other breweries to produce a portion of their malt liquor products and directs the bureau to study the issues of contract brewing and minimum Maine liquor manufacturer production requirements and submit a report to the joint standing committee of the Legislature having jurisdiction over alcoholic beverages matters on these topics by January 15, 2023.
29. It corrects scattered typographical, cross-reference and drafting errors in the Title, including by removing all gendered pronouns as required by Public Law 2019, chapter 475, section 52.

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Public Law 2021, chapter 658 also amends for clarity the headnote of the Maine Revised Statutes, Title 17, section 2003-A, which prohibits public drinking.

LD 1743 An Act To Amend Certain Definitions in the Statutes Governing the Gambling Control Board

ENACTED LAW SUMMARY

Public Law 2021, chapter 513 amends the statutes governing the Department of Public Safety, Gambling Control Board to change the defined term “electronic facsimile” to “electronic table game” and to conform the definition of “table game” to that change. It also corrects a cross-reference.

LD 1745 An Act To Amend the Laws Governing the Gambling Control Board

ENACTED LAW SUMMARY

Public Law 2021, chapter 697 allows an employee license issued by the Department of Public Safety, Gambling Control Board to be renewed for either a one-year term or a three-year term. The renewal fee for a one-year employee license is \$25, and the renewal fee for a three-year employee license is \$50.

LD 1750 An Act To Create a Framework for Maine’s Spirits Contract

ENACTED LAW SUMMARY

Part A of Public Law 2021, chapter 592:

1. Directs the Commissioner of Administrative and Financial Services to award a single 10-year contract for spirits administration and spirits trade marketing through a competitive bidding process for a contract term that will begin when the current contracts for spirits administration and spirits trade marketing expire;
2. Directs the commissioner to develop a request for proposals that is designed to encourage vigorous bidding and that requires bidders to provide detailed information, including: information regarding the bidder’s prior experience and knowledge of the relevant industries; a description of the bidder’s proposed marketing strategies and the scope of the spirits administration services the bidder will provide, as well as the fee that the bidder will charge for these strategies and services; an identification of the services for which the bidder proposes to use a subcontractor and the identity of that subcontractor; information demonstrating the bidder’s financial capacity and access to capital; a description of the bidder’s capabilities for providing transportation and distribution of spirits to agency liquor stores, including its