

Title 28-A: LIQUORS

Chapter 45: LICENSES FOR THE SALE OF LIQUOR TO BE CONSUMED OFF THE LICENSED PREMISES

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MRS Title 28-A, Chapter 45: LICENSES FOR THE SALE OF
LIQUOR TO BE CONSUMED OFF THE LICENSED PREMISES

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Maine Revised Statutes

Title 28-A: LIQUORS

Chapter 45: LICENSES FOR THE SALE OF LIQUOR TO BE CONSUMED OFF THE LICENSED PREMISES

§1201. ISSUANCE OF LICENSES; STOCK OF MERCHANDISE

1. Licenses for sale of malt liquor and table wine. The bureau may issue licenses under this section for the sale and distribution of malt liquor or wine to off-premise retail licensees, as defined in section 2, subsection 27, paragraph A.

[1997, c. 373, §105 (AMD) .]

2. Ineligible as licensee. The bureau may not issue a license for the sale of malt liquor or wine to any person who is not engaged in a bona fide retail business other than the sale of malt liquor or wine at retail.

[1997, c. 373, §105 (AMD) .]

3. Cannot sell liquor to be consumed on the premises. Except as provided in section 1207, a person licensed under this section may not sell malt liquor or wine to be consumed on the premises.

[2009, c. 438, §3 (AMD) .]

3-A. Sale of liquor for off-premises consumption to retailer prohibited. A person licensed under this section, or an agent or employee of the person, may not knowingly sell liquor to another retailer licensed under this section for resale except as provided in section 606.

[2013, c. 476, Pt. A, §26 (AMD) .]

4. Licenses in unincorporated places where no local option vote is taken. Licenses in an unincorporated place, where no local option vote is taken under chapter 5, must be approved by the county commissioners of the county.

[1987, c. 45, Pt. A, §4 (NEW) .]

5. Qualifications. The bureau may not issue any licenses for new premises unless:

A. The premises have been in operation for a period of at least 3 months immediately before the date of the application; or [1997, c. 373, §107 (AMD) .]

B. The applicant proves to the satisfaction of the bureau that all proper standards and requirements of laws and rules of the bureau have been met and that the applicant is a resident of the State. [1997, c. 373, §107 (AMD) .]

[1997, c. 373, §107 (AMD) .]

6. Stock of groceries or compatible merchandise required. All off-premise retail licensees must have and maintain:

A. An adequate stock of groceries fit for human consumption of at least \$1,000 wholesale value; [1987, c. 342, §103 (RPR) .]

B. A stock of merchandise reasonably compatible with a stock of malt liquor or wine of at least \$1,000 wholesale value; or [1987, c. 342, §103 (RPR) .]

C. A combination of both groceries fit for human consumption and compatible merchandise of at least \$1,000 wholesale value. [1987, c. 342, §103 (RPR).]

[1987, c. 342, §103 (RPR) .]

7. Compatible merchandise. Each licensee shall display the groceries or compatible merchandise, or both, in the general sales area of the licensed premises, except that foodstuffs and other consumable products used in the preparation of food and cut flowers and potted flowers are not required to be displayed if they are stored elsewhere on the premises. Compatible merchandise:

A. Includes:

- (1) Tobacco products;
- (2) Newspapers;
- (3) Greeting cards;
- (4) Paper products;
- (5) Cut flowers and potted flowers;
- (5-A) Glasses, stemware, china and devices designed to open containers of wine and beer;
- (6) A stock of foodstuffs and other consumable products used on the premises in the preparation of food for consumption on or off the premises; and
- (7) Other items equally compatible with a stock of malt liquor or wine; and [2005, c. 193, §1 (AMD) .]

B. Does not include:

- (1) Gasoline and oil;
- (2) Used or new cars, parts or accessories; or
- (3) Other items of stock that may be equally incompatible in nature. [1987, c. 342, §104 (RPR) .]

[2005, c. 193, §1 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §§102-104 (AMD). 1993, c. 266, §21 (AMD). 1997, c. 373, §§105-107 (AMD). 2005, c. 193, §1 (AMD). 2009, c. 438, §3 (AMD). 2013, c. 368, Pt. V, §41 (AMD). 2013, c. 476, Pt. A, §26 (AMD).

§1201-A. TRANSFER OF SPIRITS AMONG CERTAIN LICENSEES

Notwithstanding section 606, subsection 1 and section 1201, subsection 3-A, if a business or corporation has multiple locations in the State licensed to sell spirits for consumption off the premises, spirits may be transferred from one of those licensed locations to another to facilitate the sale of those spirits. A licensee that transfers spirits from one location to another in accordance with this section must notify the bureau of all transfers in advance on a form determined by the bureau. The licensee shall maintain a record of all transfers made in accordance with this section. [2003, c. 208, §1 (NEW).]

SECTION HISTORY

2003, c. 208, §1 (NEW).

§1202. PAYMENT FOR SALES IN OFF-PREMISE RETAILERS

1. Employees under 17. No employee under 17 years of age may accept payment for the sale of malt liquor or wine at the check-out counter of an off-premise retail licensee's establishment.

[1993, c. 266, §22 (AMD) .]

2. Employees who are 17. An employee who is at least 17 years of age but less than 21 years of age may accept payment only in the presence of an employee who is at least 21 years of age and is in a supervisory capacity.

[1997, c. 373, §108 (AMD) .]

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1993, c. 266, §22 (AMD). 1997, c. 373, §108 (AMD).

§1203. LICENSE FOR FLORISTS AND FLORIST SHOPS

(REPEALED)

SECTION HISTORY

1987, c. 45, §A4 (NEW). 1987, c. 342, §105 (RP).

§1204. SHIP CHANDLERS

1. Issuance of licenses. The bureau may issue licenses under this section for the sale of malt liquor and table wine to be consumed off the premises to ship chandlers, as defined in section 2, subsection 15, paragraph S.

[1997, c. 373, §109 (AMD) .]

2. Conditions on sales. Ship chandlers may sell malt liquor and wine only to ships which are:

A. Not licensed as retail licensees; and [1987, c. 342, §106 (NEW).]

B. Registered in another state or another country. [1987, c. 342, §106 (NEW).]

[1987, c. 342, §106 (NEW) .]

3. Exception to off-premise retail licensee requirements. Notwithstanding section 1201, a licensed ship chandler is not required to have or maintain a stock of groceries, compatible merchandise or combination of both.

[1987, c. 342, §106 (NEW) .]

SECTION HISTORY

1987, c. 342, §106 (NEW). 1997, c. 373, §109 (AMD).

§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 stocking at least 125 different wine labels to conduct taste testings of wine on that licensee's premises. An off-premise retail licensee may request authority to conduct a taste testing using forms prescribed by the bureau. The request must indicate if a sales representative licensed under section 1502 will be pouring samples for taste testing and verification

that the sales representative has successfully completed an alcohol server education course approved by the commissioner. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited.

[2015, c. 129, §4 (AMD) .]

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

- A. Wine may not be served to persons who have not yet attained the age of 21 years; [2009, c. 459, §2 (AMD).]
- B. 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; [2009, c. 459, §2 (AMD).]
- C. A person may not be charged a fee for any wine served as part of a taste-testing activity; [2009, c. 459, §2 (AMD).]
- D. A person may not be served who is visibly intoxicated; [2009, c. 459, §2 (AMD).]
- E. Taste testing must be limited to a designated area; [2009, c. 459, §2 (AMD).]
- F. Taste testing must be conducted within the hours of retail sale established in this Title; [2009, c. 459, §2 (AMD).]
- G. The retail licensee must obtain the written permission of the bureau before conducting any taste-testing activity; [1997, c. 373, §111 (AMD).]
- H. The retail licensee may conduct up to 3 tastings per month, including tastings conducted under sections 460 and 1207; [2011, c. 103, §2 (AMD).]
- I. Taste testing is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5; [2009, c. 459, §2 (AMD).]
- J. The retail licensee must notify the bureau of the date and time scheduled for all taste-testing events. This notification must list the name of any sales representative licensed under section 1502 who will be pouring samples for taste testing; [2015, c. 129, §5 (AMD).]
- K. The retail licensee must purchase all wine served at a taste testing from a wholesale licensee; [2009, c. 2, §79 (COR).]
- L. Prior to a taste-testing event, the retail licensee shall post prominently at the entrance to the store a sign that announces the date and time of the event; and [2013, c. 368, Pt. V, §42 (AMD).]
- M. An off-premise retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the off-premise retail licensee's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph L. [2009, c. 510, §6 (NEW).]

[2015, c. 129, §5 (AMD) .]

3. Rules. The bureau 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.

[2013, c. 476, Pt. A, §27 (AMD) .]

SECTION HISTORY

1989, c. 488, (NEW). 1995, c. 30, §§4-6 (AMD). 1997, c. 373, §§110,111 (AMD). 1997, c. 414, §§1-3 (AMD). 1997, c. 683, §A16 (AMD). 2005, c. 32, §1 (AMD). RR 2009, c. 2, §§79, 80 (COR). 2009, c. 459, §2 (AMD). 2009, c. 510, §§4-6 (AMD). 2011, c. 69, §§1, 2 (AMD). 2011, c. 103, §2 (AMD). 2013, c. 368, Pt. V, §§42, 43 (AMD). 2013, c. 476, Pt. A, §27 (AMD). 2015, c. 129, §§4, 5 (AMD).

§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 sections 460, 1205, 1207, 1208, 1402-A and 1504. [2011, c. 629, §20 (AMD) .]

SECTION HISTORY

1993, c. 266, §23 (NEW). 2009, c. 438, §4 (AMD). 2009, c. 459, §3 (AMD). 2009, c. 652, Pt. A, §42 (RPR). 2011, c. 629, §20 (AMD).

§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 labels of malt liquor to conduct taste testing of malt liquor on that licensee's premises. An off-premise retail licensee may request authority to conduct a taste testing using forms prescribed by the bureau. The request must indicate if a sales representative licensed under section 1502 will be pouring samples for taste testing and verification that the sales representative has successfully completed an alcohol server education course approved by the commissioner. Any other consumption of alcoholic beverages on an off-premise retail licensee's premises is prohibited, except as permitted under section 460 or 1205.

[2015, c. 129, §6 (AMD) .]

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. [2009, c. 459, §4 (NEW) .]

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. [2009, c. 459, §4 (NEW) .]

C. A person may not be charged a fee for any malt liquor served as part of a taste-testing activity. [2009, c. 459, §4 (NEW) .]

D. A person may not be served who is visibly intoxicated. [2009, c. 459, §4 (NEW) .]

E. Taste testing must be limited to a designated area. [2009, c. 459, §4 (NEW) .]

F. Taste testing must be conducted within the hours of retail sale established in this Title. [2009, c. 459, §4 (NEW) .]

G. The retail licensee must obtain the written permission of the bureau before conducting any taste-testing activity. [2009, c. 459, §4 (NEW) .]

H. The retail licensee may conduct up to 3 tastings per month, including tastings under section 460 or 1205. [2011, c. 103, §3 (AMD) .]

I. Taste testing is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5. [2009, c. 459, §4 (NEW) .]

J. The retail licensee must notify the bureau of the date and time scheduled for all taste-testing events. This notification must list the name of any sales representative licensed under section 1502 who will be pouring samples for taste testing. [2015, c. 129, §7 (AMD).]

K. The retail licensee must purchase all malt liquor served at a taste testing from a wholesale licensee. [2009, c. 459, §4 (NEW).]

L. Prior to a taste-testing event, the retail licensee shall post prominently at the entrance to the store a sign that announces the date and time of the event. [2013, c. 368, Pt. V, §44 (AMD).]

M. An off-premise retail licensee, with prior approval from the bureau, may conduct an invitation-only taste-testing event at the off-premise retail licensee's premises in place of or to coincide with a taste-testing event that is open to the public. A taste-testing event that is exclusively invitation only is not subject to the posting requirement in paragraph L. [2009, c. 510, §11 (NEW).]

[2015, c. 129, §7 (AMD) .]

3. Rules. The bureau 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.

§1207. Dual liquor license

(As enacted by PL 2009, c. 438, §5 is REALLOCATED TO TITLE 28-A, SECTION 1208)

[2013, c. 476, Pt. A, §28 (AMD) .]

SECTION HISTORY

2009, c. 438, §5 (NEW). 2009, c. 459, §4 (NEW). 2009, c. 510, §§8-11 (AMD). 2009, c. 510, §7 (RAL). 2011, c. 103, §3 (AMD). 2013, c. 368, Pt. V, §§44, 45 (AMD). 2013, c. 476, Pt. A, §28 (AMD). 2015, c. 129, §§6, 7 (AMD).

§1208. DUAL LIQUOR LICENSE

(REALLOCATED FROM TITLE 28-A, SECTION 1207)

Notwithstanding any other provision of law, the bureau may issue a dual liquor license to a retail establishment to serve wine to be consumed on the premises in accordance with subsection 2 if that establishment is licensed to sell wine to be consumed off the premises and meets the criteria listed in subsection 1. [2009, c. 510, §7 (RAL).]

1. Minimum criteria. In order for the bureau to issue a dual liquor license in accordance with this section the following criteria must be met:

A. The licensee has submitted an application as prescribed by the bureau and the fee under subsection 3 to the bureau; [2009, c. 510, §7 (RAL).]

B. The licensee's establishment includes a full kitchen that prepares hot and cold meals to be consumed on the premises; [2009, c. 510, §7 (RAL).]

C. The licensee's establishment includes at least 2 restrooms available for use by patrons; [2009, c. 510, §7 (RAL).]

D. The licensee has dedicated an area of the establishment with table seating for a minimum of 16 people to sit and eat a meal prepared by the licensee; [2009, c. 510, §7 (RAL).]

E. The licensee carries a stock of at least \$35,000 of wine; [2009, c. 510, §7 (RAL).]

F. The licensee has not committed a violation of this chapter during the past 2 years; and [2009, c. 510, §7 (RAL).]

G. The licensee has received approval from the appropriate municipal officers prior to submitting an application to the bureau. [2009, c. 510, §7 (RAL).]

[2009, c. 510, §7 (RAL) .]

2. License requirements. The holder of a dual liquor license is governed by the following when serving wine to be consumed on the premises:

A. Each serving of wine must be dispensed by the licensee or an employee of the licensee who is at least 21 years of age from a stock of wine that is separated from the wine that is for sale for consumption off the premises; [2009, c. 510, §7 (RAL).]

B. The licensee shall ensure that at least 2 employees at least 21 years of age are present at all times when wine is being consumed on the premises with at least one whose primary responsibility is sales of wine and other items sold to be consumed off the premises; [2009, c. 510, §7 (RAL).]

C. Wine may be served only to be consumed on the premises when accompanied by a full meal. For the purposes of this paragraph, "full meal" means a diversified selection of food that cannot ordinarily be consumed without the use of tableware and cannot be conveniently consumed while standing or walking; [2009, c. 510, §7 (RAL).]

D. Patrons of the establishment may not consume any alcoholic beverage on the premises unless it is served in accordance with this section by the licensee or an employee of the licensee; and [2009, c. 510, §7 (RAL).]

E. A licensee may not serve wine to be consumed on the premises after 8:00 p.m. [2009, c. 510, §7 (RAL).]

[2009, c. 510, §7 (RAL) .]

3. License fee. The license fee for a dual liquor license is \$600 annually in addition to the license to sell malt liquor or wine for consumption off the premises.

[2009, c. 510, §7 (RAL) .]

4. Rules. The bureau shall adopt rules to implement this section. Rules adopted in accordance with this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[2009, c. 510, §7 (RAL) .]

SECTION HISTORY

2009, c. 510, §7 (RAL).

§1209. SALE OF PRIVATELY HELD WINE BY AUCTION

Notwithstanding any provision to the contrary in section 1201, chapter 55 or chapter 57, this section governs wine auctions. [2015, c. 366, §1 (NEW).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Auction permittee" means a person licensed under Title 32, section 285 who is issued a permit pursuant to this section. [2015, c. 366, §1 (NEW).]

B. "Fine and rare wine" means a wine that is not available for purchase in this State through a licensed retailer or wholesaler. [2015, c. 366, §1 (NEW).]

C. "Privately held wine" means fine and rare wine owned for consumption or investment purposes by a person who is not licensed as a liquor manufacturer, retailer, distributor or wholesaler in any state or by the Federal Government. [2015, c. 366, §1 (NEW).]

D. "Wine auction" means an event at which an auction permittee auctions privately held wine owned by or consigned to the auction permittee. [2015, c. 366, §1 (NEW).]

[2015, c. 366, §1 (NEW) .]

2. Wine auctions. A wine auction may be held by an auction permittee only in accordance with this section. A person legally owning privately held wine may sell or commission for sale the privately held wine to an auction permittee by means of an auction pursuant to this section. Privately held wine may not be auctioned under this section to a person who holds a license under this subpart or subpart 3.

[2015, c. 366, §1 (NEW) .]

3. Permit; fee. Subject to the conditions in subsection 4, the bureau may issue a permit to conduct a wine auction to a person licensed under Title 32, section 285 who applies for a wine auction permit. A permit issued pursuant to this subsection is valid for the length of the auction, which may not exceed 2 days. The permit fee for a wine auction is \$250.

[2015, c. 366, §1 (NEW) .]

4. Conditions. The following conditions apply to a wine auction and a wine auction permit under this section.

A. The auction permittee shall submit to the bureau an inventory of the privately held wine to be sold at the auction on a form determined by the bureau. The inventory form must include the owner of the privately held wine and identifying information as to where the privately held wine was purchased by the owner. For the purposes of subsection 1, paragraph B, wine is considered fine and rare wine if it is not available for purchase in this State through a licensed retailer or wholesaler at the time the inventory is submitted to the bureau. [2015, c. 366, §1 (NEW).]

B. The auction permittee shall notify the bureau at least 30 days prior to the auction of the address, date and time scheduled for the wine auction. [2015, c. 366, §1 (NEW).]

C. The auction permittee shall obtain written verification of the identity of each successful bidder who purchases privately held wine at the wine auction. The information must include, at a minimum, the name and address of the person. [2015, c. 366, §1 (NEW).]

D. Privately held wine sold at the wine auction may not be opened or consumed on the premises of the wine auction. [2015, c. 366, §1 (NEW).]

E. The auction permittee shall notify the bureau of each sale of privately held wine at the wine auction. [2015, c. 366, §1 (NEW).]

F. The privately held wine to be sold at auction may not be stored on the premises where the wine auction is conducted except while the wine auction is being conducted. [2015, c. 366, §1 (NEW) .]

G. The auction permittee shall ensure that each recipient of privately held wine sold at the wine auction is 21 years of age or older. [2015, c. 366, §1 (NEW).]

H. The auction permittee shall ensure that each bottle of privately held wine sold at the wine auction has a permanently affixed label stating that the wine is privately held wine. [2015, c. 366, §1 (NEW) .]

[2015, c. 366, §1 (NEW) .]

5. Excise tax; sales tax. An auction permittee shall comply with the provisions of chapter 65 and Title 36, Part 3 including all requirements relating to the collection, reporting and remittance of the excise and sales and use taxes of the State on sales of privately held wine sold at a wine auction. The bureau may refuse to issue a wine auction permit to an auction permittee who has violated this subsection.

[2015, c. 366, §1 (NEW) .]

6. Beverage container deposit. A container of privately held wine auctioned under this section must comply with the provisions of Title 32, chapter 28.

[2015, c. 366, §1 (NEW) .]

7. Rules. The bureau shall 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.

[2015, c. 366, §1 (NEW) .]

SECTION HISTORY

2015, c. 366, §1 (NEW) .

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