

Please note this is a summary of the law and does not include strategy or unintended consequences.

Maine Liquor Law Changes and Substance Abuse Legislative Updates 2009 Summary

LD 498 – An Act Regarding Alcoholic Beverage Tastings – On premise

Sponsored by Representative John Tuttle- D- Sanford

Summary – This bill allows for the tasting of distilled spirits, wine, and malt liquor on off-premise licensee's premises. Many of the same laws apply for all three categories. They are as follows:

1. Distilled spirits may not be served to persons who have not yet attained 21 years of age.
2. A person may not be charged a fee for any distilled spirits, wine, or malt liquor served as part of a taste-testing activity.
3. A person may not be served who is visibly intoxicated.
4. Taste testing must be limited to a designated area.
5. Taste testing must be conducted within the hours of retail sale established in this Title.
6. The agency liquor store must obtain the written permission of the bureau before conducting any taste-testing activity.
7. The agency liquor store may conduct up to 3 tastings per month but no more than 12 taste-testing events of distilled spirits, wine and malt liquor per year.
8. Taste testing is not allowed in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5.
9. The agency liquor store must notify the bureau of the date and time scheduled for all taste-testing events.
10. The agency liquor store must purchase all distilled spirits served at a taste testing from the wholesale liquor provider as defined in section 501.
11. 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.

Laws specific to taste testing distilled spirits:

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.

1. 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.

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

3. Distilled spirits having an alcohol content of greater than 80 proof may not be offered for tasting at the same time as distilled spirits having an alcohol content of 80 proof or less.

Laws specific to taste testing wine:

Subject to the conditions in subsection 2, the bureau may authorize an off-premise retail licensee, 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.

1. 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;

Laws specific to taste testing malt liquor:

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.

1. 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.

LD 971 – An Act To Amend the Laws Governing Liquor Liability and Licensing – on and off premise

Sponsored by Representative Seth Berry- D- Bowdoinham

Summary – This bill amends the laws governing liquor liability and licensing. It changed the claim for and award of damages for all losses from \$250,000 to \$350,000.

LD 1008 – An Act To Increase Consumer Choice for Wine – neither

Sponsored by Representative Melissa Innes- D-Yarmouth

Summary – This bill allows for the direct shipment of wine from a winery that has obtained a wine direct shipper license from the bureau.

Shipping requirements:

- Shipped wine must be produced by the shipper and must be used for personal use and not for resale.
- A direct shipper may not ship wine products commonly known as “wine coolers”

- Each packed shipped must be marked so that it conspicuously reads “CONTAINS ALCOHOL: SIGNATURE OF A PERSON 21 YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY.”
- The common carrier will obtain the signature of a person 21 years of age or older at the address listed on the shipping label.
- The common carrier shall request photographic identification from the person signing for the shipment and verify that the person is 21 years of age or older.
- A direct shipper may not ship a container of wine of less than 750 milliliters and may ship no more than 12 cases, each of which may contain no more than 9 liters or an equivalent volume, to any one recipient address in a calendar year.
- A person, including a common carrier, who knowingly causes a direct shipment in violation of this section is subject to a fine up to \$500 for a first offense and up to \$1,000 for any subsequent violation of this section. A direct shipper or common carrier who knowingly delivers wine to a person under 21 years of age is subject to a fine up to \$5,000. The bureau may suspend or revoke a wine direct shipper license for failure to comply with the shipping limits and reporting requirements required by this section. The bureau may accept payment of an offer in compromise in lieu of suspension; such payments must be determined by rules adopted by the bureau.

LD 904 – An Act to Permit Brew Pubs to Sell Half-Gallon Containers of Malt Liquor (Growler bill) – on and off premise (mostly on)

Sponsored by Representative Nancy Smith- D-Monmouth

Summary – Notwithstanding any provision of this Title to the contrary, a brewery or small brewery licensed in accordance with this section may sell from the establishment at the site of the brewery licensed for the sale of alcoholic beverages to be consumed on the premises malt liquor to be consumed off the premises under the conditions specified in this subsection.

- Only malt liquor brewed at the brewery where the on-premises establishment is licensed may be sold to patrons of the on-premises establishment.
- Malt liquor must be dispensed in bottles from 32 ounces to 64 ounces in volume provided by and unique to the brewery.
- No more than 6 bottles may be prefilled at any one time.
- A deposit may be charged per bottle. Bottles sold under this subsection are not subject to Title 32, chapter 28.
- The bottle in which the malt liquor is dispensed must be sealed by the licensee with a seal that is tamper evident.
- Malt liquor dispensed in accordance with this subsection must be consumed off the premises.
- All sales of malt liquor from the on-premises establishment for off-premises consumption must be accompanied by a sales receipt with a time stamp that indicates time of purchase.
- Sale of malt liquor from the on-premises establishment for off-premises consumption may not be made after 10:00 p.m.

LD 758 – An Act to Allow Municipalities and Counties to Require Bartender Training for Liquor Licensees – on premise

Sponsored by Representative Charles Harlow- D-Portland

Summary: This bill added the following as a reason for denial of an application for an on-

premise license to the municipal officers or the county commissioners.

After September 1, 2010, server training, in a program certified by the bureau and required by local ordinance, has not been completed by individuals who serve alcoholic beverages.

LD 989 – An Act to Allow for a Dual Liquor License – on premise

Sponsored by Representative Linda Valentino- D-Saco

Summary -- 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.

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:

- The licensee's establishment includes a full kitchen that prepares hot and cold meals to be consumed on the premises;
- The licensee's establishment includes at least 2 restrooms available for use by patrons;
- 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;
- The licensee carries a stock of at least \$35,000 of wine;
- The licensee has not committed a violation of this chapter during the past 2 years; and
- The licensee has received approval from the appropriate municipal officers prior to submitting an application to the bureau.

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

- 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;
- 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;
- 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;
- 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
- A licensee may not serve wine to be consumed on the premises after 8:00 p.m.

LD 1309 – An Act to Clarify the Use of Instant Redeemable Coupons with Alcoholic Beverages

Sponsored by Representative Stacey Fitts- R-Pittsfield

Summary- This bill expands the current law around discounts and rebates for alcoholic beverages. It added the stipulations that mail-in rebates, certificates, or merchandise included with a spirits product must be inserted in the package or attached to the package by the

manufacturer. It also added the following to the law:

Instant marketing promotions. A manufacturer or supplier of spirits listed for sale by the commission may offer monetary rebates in the form of instant redeemable coupons attached to the spirits product as approved by the commission in accordance with conditions or rules established by the commission. Agency store licensees may redeem the coupons only upon proof of purchase and in accordance with the terms listed on the coupon. Instant redeemable coupons included with a spirits product must be inserted in the package or attached to the package by the manufacturer. Instant redeemable coupons attached to spirits sold to on-premise retail licensees by reselling agents are for the benefit of the on-premise retail licensee.

This section does not prohibit a certificate of approval holder from including a mail-in offer, a certificate, instant redeemable coupon or merchandise in or on a package of beer, wine or low-alcohol spirits for sale by an off-premise retailer. The package containing the mail-in offer, certificate, instant redeemable coupon or merchandise must be packaged by the certificate of approval holders at the brewery or winery.

This section does not prohibit the unconditional distribution of merchandise to the patrons of an on-premise establishment.

LD 430 – An Act to Allow the Licensing of Minibars in Hotel Rooms
Sponsored by Representative John Tuttle- D-Sanford

Summary- Under this bill, a hotel owner that has or wants minibars in hotel rooms may, but is not required to, obtain a license for the minibars.

The bureau may issue a license for the placement of a minibar to an operator of a hotel licensed under section 1061 or in accordance with the license required by the bureau.

Liabilities.

- A person who rents a room that contains a minibar must present proper identification to show proof of age and that a minibar may only be stocked by an employee who is 21 years of age or older.
- 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.

LD 532 – An Act Regarding Liquor Licenses Issued to Incorporated Civic Organizations
Sponsored by Representative Richard Cebra- R-Naples

Summary- An Incorporated Civic Organization issued a liquor license must provide the names of people serving alcohol at public events or gatherings that are sponsored by the organization. If the server on the list is unavailable, a licensed distributor, manufacturer, wholesaler or other qualified person that has provided alcoholic beverages to be served at the event may provide serving assistance.

LD 549 – An Act To Amend the Employment Practices Law Regarding Substance Abuse Testing
Sponsored by Senator Carol Weston-R-Montville (Waldo County)

Summary- This bill provides that employers using substance abuse testing may use tests that have been recognized by the federal Food and Drug Administration as accurate and reliable through a clearance or approval process and directs the use of that agency's cleared or approved cutoff levels and procedures if the Department of Health and Human Services cutoff levels or procedures do not exist for the particular test.

LD 532 – An Act To Clarify Allowable Practices Concerning Maine Farm Wineries

Sponsored by Representative Richard Cebra- R-Naples

Summary - This bill allows an owner, employee or designated representative of a Maine farm winery to serve wine from the winery at an event at which an incorporated civic organization is licensed to serve or sell liquor.

LD 623 – An Act To Provide the Office of Chief Medical Examiner Access to Controlled Substances Prescription Monitoring Program Data for the Purpose of Conducting Cause of Death Investigations

Sponsored by Representative Anne Perry- D-Calais

Summary - This bill amends the controlled substances prescription monitoring laws to authorize Office of Chief Medical Examiner access to prescription monitoring information. Office of Chief Medical Examiner access would be for the limited purpose of conducting investigations into the cause, manner and circumstances of death in medical examiner cases. The bill specifies that prescription monitoring information under the possession or control of the Office of Chief Medical Examiner is confidential and may not be further disseminated.

LD 1359 – An Act To Improve the Use of Data from the Controlled Substances Prescription Monitoring Program

Sponsored by Senator Peter Mills- R-Skowhegan (Somerset County)

This bill amends the Controlled Substances Prescription Monitoring Program as follows.

1. It provides that "dispenser" includes a prescriber and a licensed substance abuse treatment program, such as a methadone clinic, that administers or dispenses controlled substances. It further clarifies that "prescriber" includes nonphysician prescribers.

2. It requires the Department of Public Safety, State Bureau of Identification to report to the Controlled Substances Prescription Monitoring Program information related to arrests and convictions for crimes that include the use, possession, furnishing, sale or diversion of a controlled substance.

3. It requires the Office of the Chief Medical Examiner to file with the Controlled Substances Prescription Monitoring Program information concerning the death of a person in which a controlled substance or other drug may have contributed to the person's death.

4. If the Office of the Chief Medical Examiner has reported to the Controlled Substances Prescription Monitoring Program that a controlled substance or other drug may have contributed to a person's death, it requires the program to notify all prescribers and dispensers who reported information pertaining to the deceased person.

5. It authorizes health care licensing boards to make the determination of "reasonable cause" that would allow the boards access to prescription monitoring information.

6. It expands access to prescription monitoring information to the MaineCare program and the Office of the Chief Medical Examiner and contains provisions regarding the confidentiality of prescription monitoring information possessed by the Office of the Chief Medical Examiner.

7. It directs the Department of Health and Human Services, Office of Substance Abuse to adopt rules to implement the law.

LD 250 – An Act To Streamline and Clarify Laws Pertaining to the Civil and Criminal Possession of Marijuana

Sponsored by Representative Patty Crockett- D-Augusta

Summary- This bill changes the civil fines and the criminal penalties for possession of marijuana.

Marijuana. Except as provided in section 2383-B, subsection 5, a person may not possess marijuana. The law reads:

- A person who possesses a usable amount of marijuana commits a civil violation for which a fine of \$350 must be adjudged for possession of up to 1 1/4 ounces of marijuana and a fine of \$700 must be adjudged for possession of over 1 1/4 ounces to 4 ounces of marijuana, none of which may be suspended.
- A person who possesses a usable amount of marijuana after having previously violated this subsection within a 6-year period commits a civil violation for which a fine of \$550 must be adjudged for possession of up to 1 1/4 ounces of marijuana and a fine of \$1,000 must be adjudged for possession of over 1 1/4 ounces to 4 ounces of marijuana, none of which may be suspended.

LD 310 – An Act Regarding Grassroots Lobbying

Sponsored by Representative Pamela Trinward- D-Waterville

Summary- The bill defines "grassroots lobbying." It provides that a person who already files monthly reports as a lobbyist must disclose grassroots lobbying payments and expenditures. For a person who does not file reports as a lobbyist, the bill requires disclosure of grassroots lobbying expenditures once more than \$2,000 has been spent on grassroots lobbying.

Definition of Grassroots Lobbying.

Grassroots lobbying" means to communicate with members of the public to solicit them to communicate directly with any covered official for the purpose of influencing legislative action when that solicitation is made by:

- A. A broadcast, cable or satellite transmission;
- B. A communication delivered by e-mail, a website or any other digital format;
- C. A communication delivered by print media;
- D. A letter or other written communication delivered by mail or by comparable delivery service;

E. Telephone; or

F. A method of communication similar to those listed in paragraphs A to E.

"Grassroots lobbying" does not include a person communicating with that person's stockholders, employees, board members, officers or dues-paying members.