

CHAPTER 51

CERTIFICATE OF APPROVAL HOLDERS

SUBCHAPTER 1

GENERAL PROVISIONS

§1351. Certificate of approval

1. Certificate of approval required. All out-of-state manufacturers of malt liquor or wine, out-of-state wholesalers of malt liquor or wine and out-of-state spirits suppliers must obtain a certificate of approval from the bureau.

[PL 2019, c. 615, §2 (AMD); PL 2019, c. 615, §7 (AFF).]

2. Definition. For purposes of this section, "out-of-state spirits supplier" means an out-of-state spirits manufacturer or a person that engages in the out-of-state purchase of spirits for resale to the bureau.

[PL 2019, c. 615, §2 (NEW); PL 2019, c. 615, §7 (AFF).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1997, c. 373, §112 (AMD). PL 2019, c. 615, §2 (AMD). PL 2019, c. 615, §7 (AFF).

SUBCHAPTER 2

MANUFACTURERS

§1355. Manufacturer licenses

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 248 (AMD). PL 1987, c. 342, §107 (RPR). PL 1987, c. 623, §15 (RPR). PL 1993, c. 60, §1 (AMD). PL 1993, c. 542, §§1,2 (AMD). PL 1993, c. 730, §46 (AMD). PL 1997, c. 373, §113 (AMD). PL 1999, c. 275, §2 (AMD). PL 1999, c. 535, §6 (AMD). PL 1999, c. 790, §A34 (AMD). PL 2001, c. 236, §§1,2 (AMD). PL 2001, c. 501, §§1,2 (AMD). PL 2005, c. 377, §1 (AMD). PL 2009, c. 167, §1 (AMD). PL 2011, c. 48, §1 (AMD). PL 2011, c. 62, §§1, 2 (AMD). PL 2011, c. 280, §2 (AMD). PL 2011, c. 629, §21 (RP).

§1355-A. Manufacturer licenses

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

[PL 2021, c. 658, §226 (AMD).]

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

[PL 2021, c. 658, §226 (NEW).]

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

A. By employees for the purpose of quality control of the product; and [PL 2021, c. 658, §226 (NEW).]

B. By wholesalers for the purpose of determining whether to carry the product as a wholesale product if the licensee pays the excise tax on the product sampled according to section 1652. [PL 2021, c. 658, §226 (NEW).]
[PL 2021, c. 658, §226 (NEW).]

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

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

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

(2) By wholesalers for the purpose of determining whether to carry the product as a wholesale product if the licensee pays the excise tax on the product sampled according to section 1652. [PL 2021, c. 658, §226 (AMD).]

B. A licensee governed by this subsection may serve to the public samples of liquor produced by the licensee at the manufacturing facility where that liquor is produced by the licensee under the conditions specified in this paragraph.

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

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

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

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

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

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

(7) The licensee may not serve samples to minors or visibly intoxicated persons. [PL 2021, c. 658, §226 (AMD).]

C. [PL 2021, c. 658, §226 (RP).]

D. A licensee governed by this subsection may sell for off-premises consumption liquor produced by the licensee from the manufacturing facility where liquor is produced by the licensee under the conditions specified in this paragraph.

(1) Sales made in accordance with this paragraph do not require the licensee to obtain an additional retail license under chapter 45.

- (2) Liquor sold in accordance with this paragraph may not be consumed anywhere on the licensed premises.
- (3) The area of the licensed premises where the licensee opts to transact sales for off-premises consumption is not required to be separate from and may be accessed by the same entrance as the area licensed for on-premises consumption of liquor under chapter 43 in accordance with paragraph I.
- (4) Sales under this paragraph may be made only during the hours of legal sale as provided in section 4.
- (5) Spirits sold by a distillery must first be sold to the State, subject to the listing, pricing and distribution provisions of this Title. Spirits sold by a small distillery are subject to the requirements of subsection 5, paragraph G.
- (6) Except as provided in subsection 3, paragraphs C and C-1, sales may be made only by the bottle, by the case or in bulk. [PL 2021, c. 658, §226 (AMD).]
- E. [PL 2021, c. 658, §226 (RP).]
- F. [PL 2021, c. 658, §226 (RP).]
- G. [PL 2021, c. 658, §226 (RP).]
- H. [PL 2021, c. 658, §226 (RP).]
- I. A licensee governed by this subsection may be issued one on-premises retail license under chapter 43 per licensed manufacturing facility under the conditions specified in this paragraph.
- (1-A) The on-premises retail license issued under chapter 43 may be for retail activities located at the manufacturing facility or for retail activities at another location if the same person or persons hold a majority ownership interest in both the manufacturing facility and the premises licensed under chapter 43.
- (2) The retail license issued under chapter 43 authorizes the sale for on-premises consumption of products produced at the manufacturing facility as well as other liquor permitted to be sold under the applicable class of the retail license.
- (2-A) Liquor sold under a retail license issued under chapter 43 on the premises of the manufacturing facility may not be consumed on any part of the premises where patrons are not generally permitted.
- (3) All records related to activities under the authority of the manufacturing facility's license issued under this section must be kept separate from records related to activities under the authority of the retail license issued under chapter 43. Income from the sale of liquor under subparagraph (4-A) or under paragraph B or D by a manufacturing facility that is located on the same premises as the retail license issued under chapter 43 is not included in calculating whether that retail licensee satisfies any applicable income from the sale of food requirement set forth in chapter 43.
- (4) Spirits sold under the authority of the retail license issued under chapter 43 to the holder of a distillery license must first be sold to the State, subject to the listing, pricing and distribution provisions of this Title. Spirits sold under the authority of the retail license issued under chapter 43 to the holder of a small distillery license are subject to the requirements of subsection 5, paragraph H.
- (4-A) A person issued a retail license under chapter 43 for premises other than the licensed manufacturing facility may sell liquor for off-premises consumption under the conditions stated in paragraph D.

(5) The licensee shall ensure that products purchased for off-premises consumption under paragraph D are not consumed on the premises of the manufacturing facility or the retail license issued under chapter 43, if that retail license authorizes retail activities at another location. [PL 2021, c. 658, §226 (AMD).]

J. A licensee governed by this subsection may display up to 25 bottles of liquor produced by the licensee in a window of a location where the licensee is authorized by this section to sell its products for on-premises consumption or for off-premises consumption. [PL 2021, c. 658, §226 (AMD).]

K. A licensee governed by this subsection may transport liquor produced at the licensed manufacturing facility in bulk or packaged in kegs, bottles or cans, including by the case, to:

(1) Another manufacturing facility licensed under this section if the same person or persons hold a majority ownership interest in both of the licensed manufacturing facilities; and

(2) An establishment licensed for retail sales operated by the licensee under paragraph I; subsection 4, paragraph B, subparagraph (2); or subsection 5, paragraph B, subparagraph (3) as long as the same person or persons hold a majority ownership interest in both the licensed manufacturing facility and the licensed retail establishment. [PL 2021, c. 658, §226 (AMD).]

[PL 2021, c. 658, §226 (AMD).]

2-A. Majority interest requirement.

[PL 2017, c. 347, §5 (RP).]

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

A. The establishment licensed under chapter 43 or 45 was determined by the bureau after the license was issued to not be exclusively held or exclusively owned by a person licensed to manufacture liquor under this section; or [PL 2017, c. 341, §1 (NEW).]

B. The licensee is in violation of section 707, subsection 2, 3-A or 5-A, if the violation existed in the same manner at the time the license was initially issued or at the time the license was renewed. [PL 2019, c. 665, §11 (AMD).]

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

[PL 2019, c. 665, §11 (AMD).]

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

A. A holder of a brewery license may produce and bottle more than 30,000 barrels of malt liquor per year. [PL 2021, c. 658, §226 (AMD).]

B. A holder of a small brewery license may produce and bottle up to 30,000 barrels of malt liquor per year.

(1) Upon application by a holder of a small brewery license that has produced malt liquor in an amount that exceeds 30,000 barrels in one year, the bureau may renew that holder's small brewery license for only one additional year.

(2) A holder of a small brewery license may sell or deliver its products to licensed retailers or wholesalers. The licensee may sell, on the premises for off-premises consumption, malt liquor produced at the licensed premises by the bottle, by the case or in bulk to licensed retailers, including, but not limited to, off-premises retail licensees, restaurants and clubs. Notwithstanding section 1361, the holder of a small brewery license may sell its products

directly to a retail licensee under this paragraph without selling to a wholesale licensee. A small brewery licensee shall keep and maintain complete records on all sales to a retail licensee. [PL 2021, c. 658, §226 (AMD).]

B-1. To be eligible for a brewery or small brewery license, a person must hold a brewer's notice issued by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau. [PL 2021, c. 658, §226 (NEW).]

C. Notwithstanding any provision of this Title to the contrary, an on-premises retail license issued under chapter 43 pursuant to subsection 2, paragraph I to the holder of a brewery or small brewery license authorizes the sale of malt liquor in prefilled, refillable bottles for off-premises consumption under the conditions specified in this paragraph.

- (1) Only malt liquor brewed at the brewery or small brewery associated with the on-premises retail license issued under chapter 43 may be sold under this paragraph.
- (2) Malt liquor must be dispensed in bottles provided by and with labels unique to the brewery or small brewery of 32 to 64 ounces in volume.
- (3) No more than 6 bottles may be prefilled at any one time.
- (4) A deposit may be charged per bottle. Bottles sold under this paragraph are not subject to Title 38, chapter 33.
- (5) The bottle in which the malt liquor is dispensed must be sealed by the licensee with a seal that is tamper-evident.
- (6) Malt liquor dispensed in accordance with this paragraph must be consumed off the premises.
- (7) All sales of malt liquor under this paragraph must be accompanied by a sales receipt with a time stamp that indicates time of purchase.
- (8) Malt liquor may not be sold pursuant to this paragraph after 10:00 p.m.

The bureau may adopt rules to enforce this paragraph. Rules adopted in accordance with this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 658, §226 (AMD).]

C-1. A holder of a brewery or small brewery license may sell for off-premises consumption kegs of malt liquor produced by the licensee under the conditions specified in this paragraph.

- (1) Only malt liquor brewed at the brewery or small brewery may be sold by the keg, which may not exceed 15.5 gallons in volume and which must comply with the tagging and labeling requirements set forth in section 714.
- (2) Sales under this paragraph may be made only during the hours of legal sale as provided in section 4.
- (3) The brewery or small brewery shall submit a monthly report to its wholesale licensee detailing sales made under this paragraph. The wholesale licensee shall calculate the fees for any bottle deposit and submit an invoice to the licensee for expenses associated with the requirements prescribed in Title 38, chapter 33 including the retailer handling fee, state container deposit and a mutually agreed-upon pickup fee. [PL 2021, c. 658, §226 (NEW).]

D. [PL 2021, c. 658, §226 (RP).]

E. A holder of a brewery or small brewery license may produce low-alcohol spirits products containing malt liquor produced by the brewery or small brewery and may import spirits solely for this purpose.

(1) If a small brewery license holder produces low-alcohol spirits products pursuant to this paragraph, the combined total of malt liquor and low-alcohol spirits products produced at the small brewery may not exceed 30,000 barrels per year. [PL 2021, c. 658, §226 (NEW).]
[PL 2021, c. 658, §226 (AMD).]

4. Wineries; small wineries. Except as otherwise provided in this section, the following provisions apply to wineries and small wineries.

A. A holder of a winery license may produce and bottle more than 50,000 gallons per year of wine that is not hard cider and may produce and bottle more than 3,000 barrels per year of wine that is hard cider. [PL 2021, c. 658, §226 (AMD).]

B. A holder of a small winery license may produce and bottle up to 50,000 gallons per year of wine that is not hard cider and may produce and bottle up to 3,000 barrels per year of wine that is hard cider.

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

(2) A holder of a small winery license, upon application to and approval of the bureau and payment of a \$50 license fee per location, may obtain licenses for off-premises consumption for up to 2 additional locations other than the location of the in-state manufacturer licensed under this section. The holder of the licenses is not required to conduct any bottling or production at the additional licensed locations but may conduct all activities permitted by this section at the additional licensed locations. [PL 2021, c. 658, §226 (AMD).]

B-1. To be eligible for a winery or small winery license, a person must hold a basic permit for producing wine from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau. [PL 2021, c. 658, §226 (NEW).]

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

(1) If a small winery license holder produces fortified wine pursuant to this paragraph, the combined total of all wine, other than hard cider, produced at the small winery may not exceed 50,000 gallons per year. [PL 2021, c. 658, §226 (AMD).]

D. [PL 2021, c. 658, §226 (RP).]

For purposes of this subsection, "fortified wine" means wine to which spirits have been added as long as the resulting liquor does not exceed 24% alcohol by volume.
[PL 2021, c. 658, §226 (AMD).]

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

A. A holder of a distillery license may distill, rectify, blend and bottle more than 50,000 gallons of spirits per year. [PL 2011, c. 629, §22 (NEW).]

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

(2) Upon application by a holder of a small distillery license whose distillery has produced spirits in an amount that exceeds 50,000 gallons in one year, the bureau may renew that holder's small distillery license for only one additional year.

(3) A holder of a small distillery license, upon application to and approval of the bureau and payment of a \$100 license fee per location, may obtain licenses for off-premises consumption for up to 2 additional locations other than the location of the in-state manufacturer licensed under this section. The holder of the licenses is not required to conduct any bottling or production at the additional licensed locations but may conduct all activities permitted by this section at the additional licensed locations. [PL 2021, c. 658, §226 (AMD).]

C. To be eligible for a distillery or small distillery license, a person must hold a basic permit for distilling, rectifying, blending and bottling spirits from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau. [PL 2011, c. 629, §22 (NEW).]

D. Except as otherwise provided in this section, spirits produced by a holder of a distillery or small distillery license must be sold to the State and are subject to the listing, pricing and distribution provisions of this Title. [PL 2021, c. 658, §226 (AMD).]

E. [PL 2021, c. 658, §226 (RP).]

F. [PL 2021, c. 658, §226 (RP).]

F-1. A distillery or small distillery may sell to the public for on-premises consumption cocktails containing samples of spirits produced by the distillery or small distillery under the conditions specified in this paragraph.

(1) A cocktail may be sold only at the manufacturing facility where the spirits are produced or at an additional location licensed under paragraph B, subparagraph (3).

(2) The distillery or small distillery may include wine or spirits not manufactured by the distillery or small distillery as an ingredient in the cocktail only if the distillery or small distillery purchased the wine or spirits from an agency liquor store licensed as a reselling agent.

(3) A cocktail may not contain more than 4 1/2 ounces of spirits. [PL 2023, c. 34, §5 (AMD).]

G. Notwithstanding paragraph D, a holder of a small distillery license that sells its products directly to consumers for off-premises consumption under paragraph B, subparagraph (3), subsection 2, paragraph D or subsection 2, paragraph I, subparagraph (4-A) may pay the bureau the difference between the distillery's price charged to the bureau and the discounted retail price charged by the bureau under section 606, subsection 4-B. A small distillery is not required to transport spirits that will be sold for off-premises consumption as described in this paragraph to a warehouse operated by the bureau or by a wholesale spirits provider. A holder of a small distillery license shall record the quantity of spirits sold for off-premises consumption that were not transported to a warehouse as described in this paragraph and submit monthly reports of this information, along with the full amount of state liquor tax due as prescribed by chapter 65, to the bureau in a manner prescribed by the bureau. [PL 2021, c. 658, §226 (AMD).]

H. Notwithstanding paragraph D, a holder of a small distillery license that sells its products or offers complimentary samples of its products directly to consumers for on-premises consumption under paragraph F-1 or under subsection 2, paragraph B or I may pay the bureau the difference between the distillery's price charged to the bureau and the discounted retail price charged by the bureau under section 606, subsection 4-B. A small distillery is not required to transport spirits that will be sold for on-premises consumption as described in this paragraph to a warehouse operated by the bureau or by the wholesale spirits provider. A holder of a small distillery license shall record the quantity of spirits sold for on-premises consumption that were not transported to a warehouse as described in this paragraph and submit monthly reports of this information, along with the full

amount of state liquor tax due as prescribed by chapter 65, to the bureau in a manner prescribed by the bureau. [PL 2021, c. 658, §226 (AMD).]

I. [PL 2021, c. 658, §226 (RP).]

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

(1) If a small distillery license holder produces low-alcohol spirits products pursuant to this paragraph, the combined total of spirits and low-alcohol spirits products produced at the small distillery may not exceed 50,000 gallons per year. [PL 2021, c. 658, §226 (NEW).]

REVISOR'S NOTE: (Paragraph J as enacted by PL 2021, c. 742, §1 is REALLOCATED TO TITLE 28-A, SECTION 1355-A, SUBSECTION 5, PARAGRAPH K)

K. **(REALLOCATED FROM T. 28-A, §1355-A, sub-§5, ¶J)** A rectifier and a holder of a distillery or small distillery license shall comply with all applicable requirements of Title 38, section 1615. [PL 2023, c. 405, Pt. A, §104 (AMD).]
[PL 2023, c. 34, §5 (AMD); PL 2023, c. 405, Pt. A, §104 (AMD).]

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

A. To be eligible for a tenant brewery license, a person must submit an application to the bureau in a manner prescribed by the bureau and hold a brewer's notice issued by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau that authorizes a tenant brewery to use the facilities and equipment of a host brewery. If the tenant brewery meets the requirements of subsection 3, paragraph B, the application must be accompanied by the license fee set forth in section 1551 for a small brewery. If the tenant brewery does not meet the requirements of subsection 3, paragraph B, the application must be accompanied by the license fee set forth in section 1551 for a brewery. [PL 2021, c. 658, §226 (AMD).]

B. A tenant brewery is subject to the same requirements regarding production of malt liquor and low-alcohol spirits products containing malt liquor as if the tenant brewery conducted its manufacturing on its own premises independently. [PL 2021, c. 658, §226 (AMD).]

C. A tenant brewery is not eligible for privileges provided in subsection 2 except for sampling described by paragraph A, subparagraphs (1) and (2). [PL 2021, c. 658, §226 (AMD).]

D. A tenant brewery is governed by the provisions of subsection 3 except for the privileges granted under paragraph C. [PL 2021, c. 658, §226 (AMD).]

E. A tenant brewery may not brew or produce malt liquor or low-alcohol spirits products containing malt liquor for another brewery or certificate of approval holder. [PL 2021, c. 658, §226 (AMD).]

F. A tenant brewery shall ensure that the tenant brewery maintains control of the raw ingredients used to manufacture the tenant brewery's product. [PL 2021, c. 658, §226 (AMD).]

G. [PL 2015, c. 15, §1 (RP).]

G-1. Licenses issued under subsection 3 may allow for up to 9 tenant breweries at a time at the manufacturing facility of a host brewery. [PL 2021, c. 658, §226 (AMD).]

H. The bureau may require a tenant brewery to maintain a record or log indicating which equipment is being used at any time by the tenant brewery in the production of malt liquor or low-alcohol spirits products containing malt liquor and which employees are working on production of the tenant brewery's product. [PL 2021, c. 658, §226 (AMD).]

I. The bureau shall require that reports from a tenant brewery be submitted in a manner similar to the manner in which a brewery licensed under subsection 3 submits reports. The bureau shall also require a tenant brewery to submit copies of reports required of holders of an approved brewer's notice issued by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau authorizing the tenant brewery to engage in an alternating proprietorship. [PL 2021, c. 658, §226 (AMD).]

[PL 2021, c. 658, §226 (AMD).]

7. Tenant winery. Except as otherwise provided, the following provisions apply to a tenant winery license under which the holder of a tenant winery license may produce and bottle wine at the manufacturing facility of another winery, referred to in this subsection as "a host winery," licensed by the bureau under subsection 4. This subsection applies to hard cider produced by a manufacturer licensed as a winery or small winery under subsection 4.

A. To be eligible for a tenant winery license, a person must submit an application to the bureau in a manner prescribed by the bureau and hold an approved application for an alternating proprietorship issued by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau that authorizes a tenant winery to use the facilities and equipment of a host winery. If the tenant winery meets the requirements of subsection 4, paragraph B, the application must be accompanied by the license fee set forth in section 1551 for a small winery. If the tenant winery does not meet the requirements of subsection 4, paragraph B, the application must be accompanied by the license fee set forth in section 1551 for a winery. [PL 2021, c. 658, §226 (AMD).]

B. A tenant winery is subject to the same requirements regarding manufacture of its product as if the tenant winery conducted its manufacturing on its own premises independently. [PL 2015, c. 185, §3 (NEW).]

C. A tenant winery is not eligible for privileges provided in subsection 2 except for sampling described by paragraph A, subparagraphs (1) and (2). [PL 2015, c. 185, §3 (NEW).]

D. A tenant winery may not produce wine or hard cider for another winery or certificate of approval holder. [PL 2015, c. 185, §3 (NEW).]

E. A tenant winery shall ensure that the tenant winery maintains control of the raw ingredients used to manufacture the tenant winery's wine or hard cider. [PL 2021, c. 658, §226 (AMD).]

F. A license issued under subsection 4 may allow for up to 9 tenant wineries at a time at the manufacturing facility of a host winery. [PL 2015, c. 185, §3 (NEW).]

G. The bureau may require a tenant winery to maintain a record or log indicating which equipment is being used at any time by the tenant winery in the production of wine or hard cider and which employees are working on production of the tenant winery's product. [PL 2015, c. 185, §3 (NEW).]

H. The bureau shall require that reports from a tenant winery be submitted in a manner similar to the manner in which a winery licensed under subsection 4 submits reports. The bureau shall also require a tenant winery to submit copies of reports required of holders of an approved application issued by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau authorizing the tenant winery to engage in an alternating proprietorship. [PL 2015, c. 185, §3 (NEW).]

[PL 2021, c. 658, §226 (AMD).]

SECTION HISTORY

PL 2011, c. 629, §22 (NEW). PL 2013, c. 345, §4 (AMD). PL 2013, c. 359, §1 (AMD). PL 2015, c. 15, §§1, 2 (AMD). PL 2015, c. 74, §6 (AMD). PL 2015, c. 166, §§3, 4 (AMD). PL 2015, c.

185, §3 (AMD). PL 2015, c. 440, §§1, 2 (AMD). RR 2017, c. 1, §18 (COR). PL 2017, c. 34, §1 (AMD). PL 2017, c. 123, §1 (AMD). PL 2017, c. 280, §§1-3 (AMD). PL 2017, c. 341, §1 (AMD). PL 2017, c. 347, §§3-5 (AMD). PL 2019, c. 168, §§2-4 (AMD). PL 2019, c. 360, §§1-3 (AMD). PL 2019, c. 404, §§26, 27 (AMD). PL 2019, c. 529, §§4-6 (AMD). PL 2019, c. 665, §11 (AMD). PL 2021, c. 91, §§1, 2 (AMD). PL 2021, c. 514, §2 (AMD). PL 2021, c. 658, §226 (AMD). PL 2021, c. 742, §1 (AMD). RR 2021, c. 2, Pt. A, §100 (COR). PL 2023, c. 34, §5 (AMD). PL 2023, c. 405, Pt. A, §104 (AMD).

§1355-B. Research manufacturer license

The bureau may issue a research manufacturer license to distill, rectify or brew spirits, wine or malt liquor to a state-supported postsecondary educational institution operating under federal law and federal supervision to manufacture malt liquor, wine or spirits. A license issued under this section authorizes the licensee to manufacture spirits, wine or malt liquor for research, educational and business development purposes as described by this section. The bureau may issue a research manufacturer license for the manufacture of malt liquor, wine and spirits or for the manufacture of one or 2 of these 3 types of liquor as specified on the license. [PL 2015, c. 149, §1 (NEW).]

1. Eligible licensees. The bureau may issue a research manufacturer license to a state-supported postsecondary educational institution, or its agent, that submits an application to the bureau in a manner prescribed by the bureau. The bureau may require appropriate approval documentation from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau that authorizes the educational institution, or its agent, to manufacture liquor. The Bureau of Alcoholic Beverages and Lottery Operations may issue a license under this section only to an educational institution, or its agent, that:

A. Offers a course or courses for a degree program related to food sciences or agricultural sciences; and [PL 2015, c. 149, §1 (NEW).]

B. Offers, as an outreach component of the institution, education and consulting through the application of the institution's research regarding food science and food processing to assist businesses in the State, including, but not limited to, manufacturers licensed under section 1355-A. [PL 2015, c. 149, §1 (NEW).]

[PL 2015, c. 149, §1 (NEW).]

2. Location. A research manufacturer licensee may manufacture liquor only at a facility, subject to approval by the bureau, on the campus of the educational institution where courses for the programs described in subsection 1, paragraphs A and B are offered.

[PL 2015, c. 149, §1 (NEW).]

3. Manufacture of liquor limited to certain purposes. A licensee under this section may not manufacture liquor for sale, distribution or any other commercial purpose other than to collect fees for educational, testing or consulting services provided by the licensee. A licensee may manufacture liquor for the following purposes:

A. Business development consultation, including, but not limited to, recipe development and food health and safety practices; [PL 2015, c. 149, §1 (NEW).]

B. General education about the manufacture of liquor for manufacturers licensed under section 1355-A, persons considering licensure and others who seek to manufacture liquor for their own personal use; or [PL 2015, c. 149, §1 (NEW).]

C. Educational course work as part of the educational institution's curriculum for a degree program in food sciences or agricultural sciences. [PL 2015, c. 149, §1 (NEW).]

Nothing in this section prohibits a research manufacturer licensee from charging a fee for the production of liquor or the use of equipment for the purposes described in this section.

[PL 2015, c. 149, §1 (NEW).]

4. Consumption of liquor on premises; transport of liquor from premises. A research manufacturer licensee is governed by the provisions of this subsection regarding the consumption of liquor on the research manufacturer's facility premises and the transport of liquor from the facility premises.

A. A licensee may permit sampling of the liquor produced on the facility premises by a person at least 21 years of age who is:

(1) A member of the faculty or staff of the institution who teaches or assists with course work and programs related to the liquor manufacturing, a student enrolled in a course in which manufacturing is included in the curriculum or a client of the outreach component described in subsection 1, paragraph B for the purpose of quality control of the product; or

(2) A manufacturer licensed under section 1355-A who is receiving the consulting and educational services provided by the institution licensed under this section. [PL 2015, c. 149, §1 (NEW).]

B. Liquor manufactured at the facility premises may be transported from the facility premises:

(1) By a person licensed under section 1355-A for whom the research manufacturer licensee manufactured the liquor in a quantity not to exceed 50 gallons; and

(2) By a client at least 21 years of age who is registered with the outreach component described under subsection 1, paragraph B in a quantity not to exceed 32 ounces of malt liquor, 16 ounces of wine or 8 ounces of spirits per client for the duration of the course offered by the extension program. [PL 2015, c. 149, §1 (NEW).]

C. Liquor transported from the facility in accordance with paragraph B, subparagraph (2) must be clearly labeled with the research manufacturer's name and license number, the product contained in the bottle and the alcohol content of the product. This paragraph does not apply to liquor that is properly labeled and will be listed for distribution or sale by a person licensed under section 1355-A. [PL 2015, c. 149, §1 (NEW).]

[PL 2015, c. 149, §1 (NEW).]

5. Liquor manufactured for another licensee; amount limitation. The following limits apply to the amount of liquor a research manufacturer licensee may produce for a manufacturer licensed under section 1355-A:

A. Fifty gallons of malt liquor per manufacturer per year; [PL 2015, c. 149, §1 (NEW).]

B. Fifteen gallons of wine per manufacturer per year; and [PL 2015, c. 149, §1 (NEW).]

C. Ten gallons of spirits per manufacturer per year. [PL 2015, c. 149, §1 (NEW).]

[PL 2015, c. 149, §1 (NEW).]

6. Reporting. A research manufacturer licensee shall submit reports in a manner prescribed by the bureau. A research manufacturer licensee shall also submit to the bureau copies of reports the licensee is required to file with the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau.

[PL 2015, c. 149, §1 (NEW).]

7. License fee. The annual fee for a research manufacturer license is \$100.

[PL 2015, c. 149, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 149, §1 (NEW).

§1356. Illegal manufacture

1. Illegal manufacture; penalty. Any person not licensed by the bureau who manufactures for sale any liquor, and any person who sells any liquor manufactured by that person without a license in the State, commits a Class E crime.
[PL 1997, c. 373, §114 (AMD).]

2. Seizure and labeling of equipment and materials.

[PL 1987, c. 342, §108 (RP).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1987, c. 342, §108 (AMD). PL 1997, c. 373, §114 (AMD).

§1357. Sales to persons in another state

Notwithstanding any provision of this Title to the contrary, a manufacturer licensed under section 1355-A may sell and ship its products to a person located in another state, as long as the sale and shipment are authorized by and conducted in accordance with the requirements of the law of the state where the shipment is delivered. [PL 2021, c. 8, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 8, §2 (NEW).

SUBCHAPTER 3

MALT LIQUOR AND WINE

§1361. Certificate of approval; malt liquor or wine

1. Certificate of approval required. An out-of-state manufacturer or out-of-state wholesaler of malt liquor or wine may not engage in the following activities unless the manufacturer or wholesaler has obtained a certificate of approval from the bureau in accordance with this section:

A. Offer malt liquor or wine for sale in the State or sell malt liquor or wine in the State; or [PL 2021, c. 658, §227 (NEW).]

B. Transport into or cause to be transported into the State malt liquor or wine for sale or resale in the State. [PL 2021, c. 658, §227 (NEW).]

[PL 2021, c. 658, §227 (AMD).]

2. Fee for certificate of approval. The fee for a certificate of approval under this section is \$1,000 per year for malt liquor only and \$1,000 per year for wine only, except that the fee for an out-of-state manufacturer or out-of-state wholesaler of wine or malt liquor that ships 120 gallons of wine or malt liquor or less per year is \$100. Payment of the fee must accompany the application for the certificate of approval.

[PL 2021, c. 658, §227 (AMD).]

3. Conditions on certificate of approval. A certificate of approval under this section is subject to the laws of the State and the rules of the bureau.

A. [PL 2021, c. 658, §227 (RP).]

[PL 2021, c. 658, §227 (AMD).]

4. No sales of malt liquor or wine to person without wholesale license. Except as otherwise authorized in sections 2073-C, 2073-D and 2073-E, a certificate of approval holder may not sell malt liquor or wine to a person that is not a wholesale licensee or cause malt liquor or wine to be transported into the State for sale to any person that is not a wholesale licensee.

Malt liquor or wine must be delivered to the place of business of the wholesale licensee as shown in the wholesale licensee's license, must be unloaded and inventoried at the wholesale licensee's premises upon the wholesale licensee's receipt of the shipment and must come to rest before delivery is made to any retailer to enable the bureau to inspect and inventory the wholesale licensee's warehouses for the purpose of verifying taxes that are required to be paid on imported malt liquor and wine.

This subsection does not apply to a licensed small brewery or small winery authorized under section 1355-A to sell its own products directly to retailers.

[PL 2021, c. 658, §227 (AMD).]

5. No exclusivity agreement. A certificate of approval holder may not make it a condition in selling malt liquor or wine to any wholesale licensee that the wholesale licensee may not sell malt liquor or wine manufactured or sold by other manufacturers or out-of-state wholesalers.

[PL 2021, c. 658, §227 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1993, c. 507, §1 (AMD). PL 1997, c. 373, §§115,116 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 20, §1 (AMD). PL 2005, c. 683, §A46 (AMD). PL 2007, c. 539, Pt. QQQ, §1 (AMD). PL 2011, c. 629, §23 (AMD). PL 2013, c. 531, §5 (AMD). PL 2019, c. 529, §7 (AMD). PL 2021, c. 658, §227 (AMD).

§1362. Disposal of fees

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1997, c. 373, §117 (AMD). PL 2021, c. 658, §228 (RP).

§1363. Manufacture of malt liquor or table wine; credit; furnishing materials and equipment

(REPEALED)

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1997, c. 373, §118 (AMD). PL 2019, c. 665, §12 (RP).

§1364. Invoices and reports

1. Furnish invoices. All certificate of approval holders shall promptly file with the bureau a copy of every invoice sent to wholesale licensees and the original copy of the Maine purchase order. The invoice must include the licensee's name and the purchase number.

[PL 1997, c. 373, §119 (AMD).]

2. File monthly reports. All certificate of approval holders shall furnish a monthly report on or before the 15th day of each calendar month in the form prescribed by the bureau.

[PL 2011, c. 147, §1 (AMD).]

3. Certification that excise tax paid. A certificate of approval holder may not ship or cause to be transported into the State any malt liquor or wine until the bureau has certified that:

A. The excise tax has been paid; or [PL 1987, c. 45, Pt. A, §4 (NEW).]

B. The wholesale licensee, to whom shipment is to be made, has filed a bond to guarantee payment of the excise tax as provided in section 1405. [PL 2021, c. 658, §229 (AMD).]

[PL 2021, c. 658, §229 (AMD).]

4. Reports of low-alcohol spirits products.

[PL 2021, c. 658, §230 (RP).]

5. Limitation on definition of "certificate of approval holder." Notwithstanding section 2, subsection 8, as used in this section, "certificate of approval holder" means an in-state manufacturer of

malt liquor or wine licensed under section 1355-A or an out-of-state manufacturer of or out-of-state wholesaler of malt liquor or wine that has been issued a certificate of approval under section 1361.

[PL 2019, c. 615, §3 (NEW); PL 2019, c. 615, §7 (AFF).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 528, §VV5 (AMD). PL 1991, c. 591, §VV5 (AMD). PL 1997, c. 373, §119 (AMD). PL 2011, c. 147, §1 (AMD). PL 2019, c. 615, §3 (AMD). PL 2019, c. 615, §7 (AFF). PL 2021, c. 658, §§229, 230 (AMD).

§1365. Low-alcohol spirits product tax

In addition to any tax paid under section 1652, each certificate of approval holder that manufactures low-alcohol spirits products shall pay a tax of 30¢ on each gallon of low-alcohol spirits product sold to a wholesale licensee. In addition to the forms filed pursuant to section 1364, on or before the 15th day of each calendar month, a certificate of approval holder that manufactures low-alcohol spirits products shall file with the bureau a monthly report on the number of gallons of low-alcohol spirits product sold to wholesale licensees with a copy of each invoice relating to each such sale. The certificate of approval holder must enclose payment for the tax due under this section on the reported sales. [PL 2021, c. 658, §231 (AMD).]

SECTION HISTORY

PL 1991, c. 528, §RRR (AFF). PL 1991, c. 528, §VV6 (NEW). PL 1991, c. 591, §VV6 (NEW). PL 1997, c. 373, §120 (AMD). PL 2013, c. 368, Pt. XXXX, §2 (AMD). PL 2013, c. 368, Pt. XXXX, §13 (AFF). PL 2021, c. 658, §231 (AMD).

§1366. Retail sales at farmers' market

(REPEALED)

SECTION HISTORY

PL 2011, c. 280, §3 (NEW). PL 2011, c. 629, §24 (AMD). RR 2017, c. 1, §19 (COR). PL 2017, c. 168, §§1-3 (AMD). PL 2019, c. 360, §4 (RP).

§1367. Tastings at farmers' markets

(REPEALED)

SECTION HISTORY

RR 2017, c. 1, §20 (COR). PL 2017, c. 168, §4 (NEW). PL 2019, c. 360, §5 (RP).

§1368. Retail sales and taste testing at farmers' markets

1. Farmers' market defined. For purposes of this section, "farmers' market" has the same meaning as in Title 7, section 415, subsection 1, paragraph A.

[PL 2019, c. 360, §6 (NEW).]

2. Retail sales and taste-testing events at farmers' markets. Subject to the conditions set forth in this section and the applicable bylaws of the farmers' market, a small brewery, small winery or small distillery licensed under section 1355-A or an employee of the licensee who is at least 21 years of age may sell or offer for taste testing at a farmers' market any wine, spirits or malt liquor manufactured in the State by the licensee.

[PL 2019, c. 360, §6 (NEW).]

3. Conditions. The following conditions apply to retail sales and taste-testing events permitted under this section:

A. The licensee shall apply for authorization to conduct retail sales or taste-testing events at farmers' markets using a form prescribed by the bureau and by paying an annual fee of \$75. The

licensee shall submit the application at least 30 days prior to the first date when the licensee will conduct retail sales or conduct a taste-testing event at a farmers' market; [PL 2019, c. 360, §6 (NEW).]

B. Prior to each month during which the licensee wishes to conduct retail sales or taste-testing events at farmers' markets, the licensee shall provide to the bureau a list of the date, time and location of each farmers' market at which the licensee intends to conduct retail sales or taste-testing events and must receive approval from the bureau for that month. The bureau may request a diagram of the layout of each farmers' market at which the licensee intends to conduct retail sales or taste-testing events; [PL 2019, c. 360, §6 (NEW).]

C. The licensee shall keep and maintain a record of the dates, times and locations of the licensee's conduct of retail sales or taste-testing events at farmers' markets under this section; [PL 2019, c. 360, §6 (NEW).]

D. The farmers' market must consist of at least 6 separate stalls or booths that sell farm or food products, not including liquor, and must be authorized by the bureau under subsection 4; [PL 2019, c. 360, §6 (NEW).]

E. The stall or booth operated by the licensee at the farmers' market is considered part of the licensed premises of the licensee for purposes of this chapter; [PL 2019, c. 360, §6 (NEW).]

F. All wine, spirits and malt liquor for retail sale must be prepackaged and sold by the bottle or case. The holder of a small distillery license may provide spirits for sale at a farmers' market in the same manner as permitted under section 1355-A, subsection 5, paragraph G; [PL 2019, c. 360, §6 (NEW).]

G. The licensee may not charge a fee for samples at a taste-testing event under this section and may not serve spirits, wine or malt liquor to a minor or an individual who is visibly intoxicated. The licensee may not serve a taste-testing sample of more than 4 ounces of malt liquor, 1 1/2 ounces of wine or 1/2 ounce of spirits and may not serve an individual more than 6 samples per day; and [PL 2019, c. 360, §6 (NEW).]

H. All activities authorized under this section must be conducted within the hours of retail sales established in this Title and may not be conducted in any municipality where on-premises and off-premises sales are not allowed pursuant to chapter 5. [PL 2019, c. 360, §6 (NEW).]
[PL 2019, c. 360, §6 (NEW).]

4. Farmers' market authorization. At least 30 days prior to the sale or taste testing of wine, spirits or malt liquor, a farmers' market must obtain municipal approval to sell or conduct taste testing of wine, spirits and malt liquor under this section. If the farmers' market is held on private property, the application must include a written statement signed by the owner of the property permitting the sale or taste testing of wine, spirits or malt liquor in accordance with this section.
[PL 2019, c. 360, §6 (NEW).]

5. Rules. The bureau may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2019, c. 360, §6 (NEW).]

SECTION HISTORY

PL 2019, c. 360, §6 (NEW).

SUBCHAPTER 4

SPECIAL WAREHOUSES

§1371. Special warehouse storage facilities

1. Licensing of special warehouse storage facilities. Notwithstanding the importation restrictions of section 1361, subsection 4 and sections 2073-A and 2073-C, the bureau may issue a license authorizing the direct importation of malt liquor, wine or spirits by a manufacturer, wholesaler or spirits supplier located in a foreign country or another state into special warehouse storage facilities located within the State that are under the direct supervision and control of the licensee under this section or into a public warehouse with the approval of the bureau.
[PL 2021, c. 658, §232 (AMD).]

2. Fee. The fee for a license under this section is \$600 a year for malt liquor only, \$600 a year for wine only and \$600 a year for spirits only.
[PL 2021, c. 658, §232 (AMD).]

3. Stored liquor not subject to state spirits tax or excise tax until withdrawn. Liquor stored in special warehouse storage facilities licensed under this section is not subject to the state spirits tax under section 1651 or to the excise tax under section 1652 until it is withdrawn from the special warehouse storage facilities.

A. Malt liquor and wine withdrawn from the special warehouse storage facilities by wholesale licensees immediately become subject to the same tax as malt liquor and wine imported into the State from out-of-state certificate of approval holders. The wholesale licensee shall withdraw the malt liquor and wine to be distributed in the State by the procedure established in sections 1404 and 1405. [PL 2021, c. 658, §232 (AMD).]

B. The bureau may withdraw spirits from special warehouse storage facilities. [PL 1997, c. 373, §122 (AMD); PL 2013, c. 368, Pt. V, §61 (REV).]

C. Out-of-state purchasers authorized by the bureau may withdraw spirits, wine and malt liquor from special warehouse storage facilities. The authorization allows the out-of-state purchasers to directly transport the spirits, wine and malt liquor to the state border for delivery outside of the State. Products withdrawn by authorized out-of-state purchasers for delivery outside of the State are not subject to the state spirits tax under section 1651 or the state excise tax under section 1652.
[PL 2021, c. 658, §232 (AMD).]

[PL 2021, c. 658, §232 (AMD).]

SECTION HISTORY

PL 1987, c. 45, §A4 (NEW). PL 1989, c. 183 (AMD). PL 1997, c. 373, §§121,122 (AMD). PL 2013, c. 368, Pt. V, §61 (REV). PL 2013, c. 368, Pt. XXXX, §3 (AMD). PL 2013, c. 368, Pt. XXXX, §13 (AFF). PL 2021, c. 658, §232 (AMD).

SUBCHAPTER 5**SPIRITS****§1381. Certificate of approval; spirits**

1. Definition. For purposes of this section, "out-of-state spirits supplier" means an out-of-state spirits manufacturer or a person that engages in the out-of-state purchase of spirits for resale to the bureau.
[PL 2019, c. 615, §4 (NEW); PL 2019, c. 615, §7 (AFF).]

2. Certificate of approval required. An out-of-state spirits supplier may not transport spirits into the State or cause spirits to be transported into the State unless the out-of-state spirits supplier has obtained a certificate of approval from the bureau in accordance with this section.

[PL 2019, c. 615, §4 (NEW); PL 2019, c. 615, §7 (AFF).]

3. Fee for certificate of approval. The fee for a certificate of approval under this section is \$1,000 per year, except that the fee for an out-of-state spirits supplier that transports or causes to be transported a total of 450 liters of spirits or less per year is \$100. Payment of the fee must accompany the application for the certificate of approval.

[PL 2019, c. 615, §4 (NEW); PL 2019, c. 615, §7 (AFF).]

4. Conditions on certificate of approval. A certificate of approval under this section is subject to the laws of the State, including, but not limited to, all applicable requirements of Title 38, section 1615, and the rules of the bureau.

[RR 2021, c. 2, Pt. A, §101 (COR).]

5. Shipment restrictions. Except as provided in sections 2073-A and 2073-E, a person that has been issued a certificate of approval under this section may transport spirits into the State or cause spirits to be transported into the State only if the spirits are delivered to a warehouse designated by the commission under section 81.

[PL 2021, c. 658, §233 (AMD).]

6. Phased-in fee.

[PL 2019, c. 615, §4 (NEW); PL 2019, c. 615, §7 (AFF); MRSA T. 28-A §1381, sub-§6 (RP).]

SECTION HISTORY

PL 2019, c. 615, §4 (NEW). PL 2019, c. 615, §7 (AFF). PL 2021, c. 658, §233 (AMD). PL 2021, c. 742, §2 (AMD). RR 2021, c. 2, Pt. A, §101 (COR).

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