

## OFFICE OF POLICY AND LEGAL ANALYSIS

**Date:** March 11, 2020  
**To:** Veterans and Legal Affairs Committee  
**From:** Janet Stocco, Legislative Analyst

**LD 2131, An Act To Correct Errors, Inconsistencies and Conflicts in and To Revise the State's Liquor Laws****SUMMARY**

Resolve 2019, chapter 15, section 2 directed the Office of Policy and Legal Analysis to “prepare an analysis regarding inconsistencies, duplications and ambiguities contained within the text of the Maine Revised Statutes, Title 28-A and, on or before January 1, 2020, submit that analysis to the Joint Standing Committee on Veterans and Legal Affairs.” Over the past interim, the Title 28-A Subcommittee held 6 public meetings and reviewed many of the inconsistencies, duplications and ambiguities identified in a draft version of this report. LD 2131 contains the Subcommittee’s recommendations for amending Title 28-A in response to the report. Importantly, the Subcommittee did not address all of the items in the report, nor did the Subcommittee agree that every item it reviewed necessitated legislative action.

**Amendments outside of Title 28-A**

<i>Bill page</i>	<i>Statute</i>	<i>Summary</i>	<i>vote</i>
1	17 MRSA §2003-A	Changes the headnote of Title 17, section 2003-A to clarify that this section of law prohibits public drinking.	
102	36 MRSA §1811(1)(D)	Changes the cross-reference to §1355-A(2)(B) regarding sales tax on liquor samples sold by in-state manufacturers, which has been moved to §1355-A(2)(B) on p.70 of the bill.	

**Amendments to Title 28-A. Substantive Amendments Highlighted** (If an amendment resolves a conflict or clarifies existing practice ≠ substantive)

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
1. It makes a number of changes to address ambiguities, inconsistencies and conflicts in the laws governing <b>certificates of approval (COAs)</b> :				
A. It restructures the “certificate of approval holder” definitions which includes persons with certificates of approval as well as persons with in-state manufacturing licenses, to add clarity and ensures the defined term is used correctly throughout the Title--i.e., by not redundantly listing both “certificate of approval holder” and Maine manufacturers (also known as “persons licensed under §1355-A”) in the same phrases.	§2(8) <i>Example:</i> §708-C(1) §1071(6)	p.2 p.32 p.58	p.2 p.65 p.102	
B. It resolves a conflict in the law by removing in-state manufacturers, that receive licenses, from a provision requiring persons engaged in certain activities to obtain COAs.	§1351	p.69	p.119	

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
C. It changes from a COA to a license the type of authority that a person that operates a special warehouse storage facility must obtain because the laws specific to certificate of approval holders generally do not apply to special warehouse storage facilities. It further clarifies which laws are applicable to these storage facilities.	§1371 <i>Example:</i> §1403(2)	p.83 p.85	p. 132 p.135	
D. It removes ambiguities by clarifying which of the general qualification and application requirements for liquor licenses apply to applicants for a COA and	§601, §602, §604, and §651, §652	p.23-25; p.28-29	p.47-49 p.53-54	
by specifying that persons that have been issued COAs are subject to administrative discipline for violating liquor laws and rules under Title 28-A, chapter 33 to the same extent as persons that have been issued licenses.	§§801-805	p.35-40	p.72-76	
E. It removes a conflict in the law by repealing a provision requiring the BABLO to deposit the yearly fees paid by certificate of approval holders into the General Fund because, under Title 28-A, section 83-B, the bureau is directed to deposit its net revenues in the General Fund.	§1362 <i>Compare:</i> §83-B(10)	p.81	p.129 p. 20	
2. It removes ambiguous language from the Title 28-A definitions section stating that only "responsible persons" or "persons of good reputation" may obtain certain types of liquor licenses but retains the general character requirements for licensure set forth in section 654.	§2(15) <i>Compare:</i> §654(1)	p.3-6	p.4-6 p.57	
3. It moves the definitions of "pool hall" and "minibar" <i>into</i> and the definitions of "club member," "hotel guest," "dining car," "passenger car" and "vessel" <i>out of</i> the subsection with definitions for the types of establishments eligible to obtain retail liquor licenses. <ul style="list-style-type: none"> <li>• See repeal of §2(19-A) (minibar); §2(23-A) (pool hall) and insertion of these definitions in §2(15)(L-1) &amp; (N-1). Bill p. 5 &amp; 7.</li> <li>• See new §2(9-B) (club member) from §2(15)(D); new §2(12-B) (hotel guest) from §2(15)(H); new §2(10-B) (dining car and passenger car) from §2(15)(E); new §2(33-A) (vessel) from §2(15)(V), bill p.2-4. <i>Note:</i> corporations, not each vessel/car, are licensed. See §1077, bill p. 65.</li> </ul> It also ensures consistent use of these defined terms throughout the Title: <ul style="list-style-type: none"> <li>• <i>Examples:</i> Bill p.29: §705(1-B) ("hotel guest" &amp; "club member"); bill p.58-59: §1072 ("club member(s)"); bill p.44/binder p.86: §1051(3) ("hotel guest(s)")</li> </ul>				

Proposed Amendment

Vote

- BABLO request:** Remove the following phrase--which is included in current law--from the definition of "bed and breakfast guest" (bill p. 1) and "hotel guest" (bill p.3) "does not include a person whose name and address are registered on the [hotel or bed and breakfast] registry solely for the purpose of obtaining liquor"

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
4. It replaces the word "club" with the word "center" in the statutes describing the requirements for licensure of indoor racquet centers (¶K), ice skating centers (¶J) and curling centers (¶D-1) to dispel confusion regarding whether the licensure requirements applicable to clubs apply to these centers.	§2(15) <i>Compare:</i> §1072 vs. §1073	p.4-5 p.58-59 p.59-60	p.4-5 p.102 p.103	
It also corrects several errors in the law that, in combination, suggest curling centers may be licensed to sell only wine, not spirits or malt liquor. <i>Compare</i> §1073(1) (may be licensed to sell spirits, wine and malt liquor) bill p.59-60.	§1001 to §1005	p.40-42	p.77-80	

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
5. It makes a number of changes to the laws requiring that certain on-premises retail licensees either <b>offer food</b> or <b>sell a specific amount of food</b> to the public to maintain their eligibility for a liquor license, including:				
A. Replacing several duplicative definitions of "full course meal" with the substantively identical definition of "full meal" that also appears in current law and ensuring consistent use of defined term throughout Title 28-A; <ul style="list-style-type: none"> <li>• See repeal of definitions in §2(15)(R)(1) and 2(15)(R-1) on p.6 of bill and §1208(2)(C) on p.69 of bill.</li> </ul>	§2(11-E); §10(2-B); §1051(4)	p.2 p.11-12 p.44-45	p.14 p.86	
B. Removing language regarding the service of meals from the definition of “hotel,” because hotels are not required to sell <i>meals</i> to the public under existing law – instead they are required to sell <i>food</i> ;	§2(15)(H) §1061	p.4 p.54	p.4-5 p.95-6	
C. Removing a conflict in current law by specifying that a hotel with a Class I-A license is not required to have 10% of its gross annual income from the sale of food;	§1002(3)(A) §1061(3)	p.54	p.77-8 p.95-6	
D. Clarifying that, to calculate whether a hotel (that does not have a Class I-A license) has satisfied the requirement that at least 10% of its gross annual income be from the sale of food, the hotel’s income from the rental of rooms or from the sale of liquor in separately licensed minibars is not included. This new provision matches current practice and mirrors an existing provision of law that excludes income from the bowling business in calculating whether the bowling center has satisfied the requirement that at least 10% of its gross annual income be from the sale of food;	§1061(3) <i>Compare:</i> §1012(6) binder p.84: minibars §1073(2) binder p.103: bowling §1073-A(3) bill p.60: rewrite of bowling center statute	p.54	p.95-6	
E. Clarifying that qualified catering services may be located in unincorporated places and filling an omission in current law by specifying that a licensed part-time qualified catering service that operates for no more than 3 months in a year in a municipality having a population of 20,001 to 30,000 persons must have a minimum annual gross income of \$10,000 from the sale of food to the public; <i>See Title 28-A Report, Appendix F.</i>	§1076(2) & new §1076(3) (C)(2)(a-b)	p.63	p.106 to 107	
F. Standardizing language regarding BABLO’s assessment of whether an applicant for an initial on-premises retail license is likely to meet or an applicant for renewal of an on-premises retail license has met any applicable food-sales requirements; and	§1061(3-A, 3-B) hotel; §1062(4, 5) restaurant; §1063(3, 4) Class A rest/lounge; §1073-A(3, 4) Bowling center; Bill p.54-60; Binder p.95-103			
G. Establishing a new one-year grace period for an on-premises retail establishment that applies for license renewal but did not meet an applicable food-sales requirement during the previous year.	See sections cited above			

Proposed Amendment

Vote

**2. Technical Issue:** Change “meal” to “full meal” in §1051(4), p.45, line 1 of bill? Note: “full meal” is used earlier in this sentence.

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
6. It defines “spirits supplier,” a previously undefined term, and standardizes the statutory language used to describe spirits suppliers throughout the State’s liquor laws, including by removing references to spirits brokers that are now included in the “spirits supplier” definition.	§2(31-C) <i>Examples:</i> §85(2) §90(4), (5) §1052-D(1)	p.8-9 p.15 p.17-18 p.49	none p.23 p.24-5 p.91	

It also newly authorizes spirits suppliers to offer sweepstakes, games and contests inside packages of spirits under the same conditions licensed Maine manufacturers, wholesale licensees and retail licensees may do so.	§708-A	p.32	p.65	
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Proposed Amendment

Vote

**3. Technical Issue:** Remove “out-of-state” on p.9, line 2 in “spirits supplier” definition as BABLO requested during hearing on LD 2089?

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
7. It replaces the term “liquor,” which is defined for purposes of the State’s liquor laws to mean malt liquor, wine and spirits, with more specific terms in several statutes when all 3 types of alcohol are not intended to be included.	Ex: §455(1) §1074(3)	p.21 p.60	p.43 p.103	
8. It removes unnecessary statutory references to fortified wine in statutes that govern wine generally, because “wine” is defined for purposes of the State’s liquor laws to include fortified wine. See §2(36) (defining wine) p.10 of bill. Also removes references to “fortified wine” from spirits-regulation statutes because “fortified wine” was removed from the laws regulating spirits via P.L. 2013, ch. 269. Fortified wine is now regulated as a type of wine.	§1071(6) Examples: §123(2 & 4) §353	p.58 p.19 p.20	p.102 p.27-8 p.36	
9. It resolves an inconsistency by providing that public service corporation licenses are issued to airline corporations, railroad corporations and vessel corporations and not the individual aircraft, dining cars, passenger cars and vessels that those corporations operate in the State. It also removes a duplicative statute governing public service corporations and standardizes the language used throughout the Title regarding public service corporations.	§2(15)(A, P-1, W);  §652(6);  §1077	p.3-6  p.29  p.65-66	p.4-6  p.54  p.108	
10. It clarifies an ambiguity in the law by specifying that the term “wholesale licensee” as used in the State’s liquor laws means only a licensed in-state wholesaler of malt liquor or wine and not an out-of-state wholesaler of malt liquor or wine that has been issued a COA. See <i>Title 28-A Report, Appendix J</i> .	§2(34); §1401(1); Example: §707-A(2)	p.9 p.84 p.30	p.9 p.133 p.63	
It also extends the prohibition against a wholesale licensee selling any malt liquor or wine that has not been purchased from a certificate of approval holder or a licensed special warehouse storage facility to another wholesale licensee to a prohibition against selling such products to any purchaser, including a retail licensee.	§1403(2)	p.85	p.135	
11. It replaces the phrase “wholesale liquor provider” with the phrase “wholesale spirits provider” throughout the State’s liquor laws to more accurately describe the scope of that entity’s authority in the State. <ul style="list-style-type: none"> <li>Example amendments-uniform use of term: §708-C(1) (replace “State’s wholesale liquor provider” on bill p. 32); §1355-A(5)(G) (replace “wholesaler contracted by the bureau under section 90” on bill p.78).</li> </ul>	repeal §501 & enact new §2(34-A)	p.23 p.9	p.47	
It also removes an inconsistency in the law by specifying that the wholesale spirits provider and the principal officers of the wholesale spirits provider may not hold or have a direct financial interest in an agency liquor store license or a license to manufacture any type of liquor in this State or another state.	Compare §90(2), (3) and §502	p.16 p.23	p.24 p.47	

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**4. BABLO request:** The bill resolves the conflict between §90(2) and §90(3) on p.16 by specifying that the wholesale spirits provider may not have any financial interest in a license or permit in any state to manufacture *liquor*, as in §90(3) of current law. BABLO requests

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that this conflict instead be resolved by only prohibiting the wholesale spirits provider from having a financial interest in a license or permit to manufacture *spirits*, as in §90(2) of current law. If the committee prefers this approach to resolving the conflict, should make conforming amendment to §502(2) on page 23 of the bill.

- 5. **Pine State request:** Did not object to prohibiting a wholesale spirits provider or its principal officers from having financial interests in a manufacturer of *liquor* (see above), but requests that LD 2131 newly provide a *di minimus* exception that allows the ownership of up to 1% of the securities of a corporation that is a manufacturer of liquor. Compare §707(6) on p.63 of the binder.

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
12. It makes several changes to the laws governing <b>hard cider</b> to address ambiguities and omissions in a manner that matches current practice, including by making the following changes. <i>See Title 28-A Report, Appendix B.</i>				
A. Although hard cider technically meets the definition of “wine” under existing law, it adds clarifying language expressly stating that hard cider is considered “wine” for purposes of the Title.	§2(36)	p.10	p.9	
B. It clarifies that hard cider may be sold by retailers licensed to sell either malt liquor or wine for on-premises or off-premises consumption.	§14(1)	p.13	p.15	
C. It provides that hard cider may be sold and distributed within the State by wholesale licensees authorized to sell and distribute either malt liquor or wine within the State.	§14(2)	p.13	Not stated	
D. It clarifies that hard cider is not subject to the general 60¢ per gallon excise tax on wine in §1652(2). Hard cider products are instead subject only to the 35¢ per gallon excise tax on hard cider in the same subsection.	§1652(2)	p.92	p.152	
13. It makes several changes to the laws governing <b>low-alcohol spirits products</b> to address ambiguities, inconsistencies and omissions in those laws, including by making the following changes. <i>See Title 28-A Report, Appendix B.</i>				
A. It clarifies products containing < 0.5 % alcohol by volume are not low-alcohol spirits products, just as all items containing < 0.5 % alcohol by volume are not “liquor,” thus not subject to regulation under Title 28-A.	§2(16-A) See §2(16)	p.6	p.6 p.6	
B. It newly specifies that licensed Maine distilleries, small distilleries and rectifiers are authorized to produce low-alcohol spirits products and that licensed Maine breweries, small breweries and tenant breweries are authorized to produce low-alcohol spirits products containing malt liquor. Current law already authorizes licensed Maine wineries and tenant wineries to produce low-alcohol spirits products that contain wine, because these products are included in the definitions of “fortified wine” and “wine.” See binder p.3: §2(11-B)(B) (“fortified wine”); binder p.9: §2(36) (“wine”); binder p.123: §1355-A(4)(C) (wineries may fortify wine).	§2(11)(B), (29-A)(B), (25) and §2(5)(B), (29)(B).* p. 1-9  See also §1355-A(3)(E) p.75; (5)(J) p.78; (6) p.79		p.2-8  p.122 - 125	
C. It specifies that, as is current practice, low-alcohol spirits products may be sold and distributed within the State by wholesale licensees authorized to sell and distribute wine within the State.	§13(2)	p.13	p.15	
D. It clarifies that, as is current practice, low-alcohol spirits products that qualify as fortified wine are not subject to the general 60¢ per gallon excise tax on wine under §1652(2).  All low-alcohol spirits products are instead subject to a \$1.24 per gallon excise tax under §1652(1-A) and a 30¢ per gallon low-alcohol spirits product tax under §1365. Note: §1365 on p. 82-83 of the bill also includes information from §1364(4) which is repealed in the bill. (See §1364(4) on p. 130 of the binder.)	§1652(2)  §1652(1-A)  §1365	p.92  not in bill p. 82-83	p.152  p.152  p. 130	

Proposed Amendments

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6. **\*Technical issue:** Add authority to manufacture low-alcohol spirits products to “tenant brewery” definition in §2(32-A) on p.9 of bill?

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>																				
14. It replaces the phrase "alcoholic beverages," which is not defined for the purposes of the State's liquor laws, with the appropriate defined terms throughout the liquor laws.*	<i>Example:</i> §10(2-B)(C)	p.12	p.14																					
15. It combines in a single section of statute the licensing fees for agency liquor stores that are currently listed in separate provisions.  <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;"></td> <td style="text-align: center;"><b>Bill</b></td> <td style="text-align: center;"><b>Current law (binder)</b></td> <td colspan="2"></td> </tr> <tr> <td><b>Initial fee \$2,000</b></td> <td>§1010-A(2)(A) on p.43</td> <td>§453-B on p.41</td> <td colspan="2"></td> </tr> <tr> <td><b>Renewal fee \$700</b></td> <td>§1010-A(2)(B) on p.43</td> <td>§1010-A(2)(A) on p.83; <i>Note:</i> §453-B’s \$300 renewal fee does <b>not</b> apply per §1010-A(2)(A)</td> <td colspan="2"></td> </tr> <tr> <td><b>Transfer fee \$2,000</b></td> <td>§1010-A(2)(C) on p.43</td> <td>§453-B on p.41</td> <td colspan="2"></td> </tr> </table>		<b>Bill</b>	<b>Current law (binder)</b>			<b>Initial fee \$2,000</b>	§1010-A(2)(A) on p.43	§453-B on p.41			<b>Renewal fee \$700</b>	§1010-A(2)(B) on p.43	§1010-A(2)(A) on p.83; <i>Note:</i> §453-B’s \$300 renewal fee does <b>not</b> apply per §1010-A(2)(A)			<b>Transfer fee \$2,000</b>	§1010-A(2)(C) on p.43	§453-B on p.41						
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It also removes an ambiguity in the law by clarifying that, as is the current practice, agency liquor store licenses grant authority to sell not only spirits but also malt liquor and wine for off-premises consumption.**	§123(2, 4) §453(1)(A)	p.19 p.20-1	p.27-8 p.38																					

Proposed Amendments

Vote

- 7. **\*Technical issue:** In §708(2) on bill p. 31, line 2, “alcoholic beverage” should be “malt liquor or wine”, not “liquor.”
- 8. **\*\*Technical issue:** Amend definition of “agency liquor store” §2(1) binder p. 1 to clarify these stores sell spirits, wine and malt liquor”?
- 9. **BABLO request:** As stated above, agency liquor stores sell spirits, wine and malt liquor. But, the existing local option questions in §123(2) & (4) are intended to address only the sale of spirits and are thus rewritten on p. 19 of the bill. Because spirits may only be sold for off-premises consumption by agency liquor stores, however, BABLO requests that these local option questions continue to refer to agency liquor stores for clarity: “Shall this municipality authorize the State to permit the ~~operation of sale of spirits for off-premises consumption~~ at agency liquor stores on [Sunday or days other than Sunday, depending on subsection of §123].”
- 10. **BABLO request:** Similar to the request above, BABLO also requests that “at agency liquor stores” be added after “sale of spirits for off-premises consumption” in §353 on p.20, line 20 of the bill. [Should only adopt this amendment if adopt amendment above.]
- 11. **BABLO request:** In §606(3) on p. 27, line 12 of the bill, reference is made to an entity that has a license to sell spirits for off-premises consumption. BABLO suggests specifically referring to agency liquor stores in this provision.

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>															
16. It clarifies that an applicant for a liquor license must possess all licenses, permits or approvals required under Title 22 for the applicant's underlying business before applying for the liquor license.	§601(1)(D)	p.24	p.47-8																
17. It removes inconsistencies re: establishments eligible for auxiliary licenses, off-premises catering licenses and mobile service bar licenses. <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"><b>Auxiliary licenses</b></td> <td><i>Compare</i> §1012(2) bill p.43 and binder p.84 <i>with</i> §1075(1) bill p.61 and binder p.104</td> <td colspan="3"></td> </tr> <tr> <td><b>Off-premises catering licenses</b></td> <td><i>Compare</i> §1012(3) bill p.44 and binder p.84 <i>with</i> §1052(1) bill p.48 and binder p.89</td> <td colspan="3"></td> </tr> <tr> <td><b>Mobile service bar licenses</b></td> <td><i>Compare</i> §1012(4) bill p.44 and binder p.84 <i>with</i> §1075-A(2) bill p.61 and binder p.104</td> <td colspan="3"></td> </tr> </table>	<b>Auxiliary licenses</b>	<i>Compare</i> §1012(2) bill p.43 and binder p.84 <i>with</i> §1075(1) bill p.61 and binder p.104				<b>Off-premises catering licenses</b>	<i>Compare</i> §1012(3) bill p.44 and binder p.84 <i>with</i> §1052(1) bill p.48 and binder p.89				<b>Mobile service bar licenses</b>	<i>Compare</i> §1012(4) bill p.44 and binder p.84 <i>with</i> §1075-A(2) bill p.61 and binder p.104							
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<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
It also specifies that, as is current practice, when an on-premises retail licensee obtains an off-premises catering license, that license authorizes the licensee to conduct off-premises catering of only the same type or types of liquor that the licensee may sell pursuant to the licensee's underlying on-premises retail license.	§1052(3-A)	p.48	Not in §1052 p.89	
18. It makes a number of changes to the laws governing <b>liquor taste-testing events and product sampling activities</b> to address ambiguities, inconsistencies and omissions in those laws, including the following. <i>See Title 28-A Report, Appendix E.</i>				
A. It clarifies that the prohibitions against serving liquor to minors or to visibly intoxicated persons apply to all authorized liquor taste-testing and product sampling events. Many provisions of law currently contain these prohibitions—for example, §1205(2)(A & D) in binder p.113-114.  §1051(6)(E) – bill p.45 / binder p.86-87      §1355-A(2)(B)(7) – bill p.71 / binder p.120      §1402(3)(E) – bill p.84 / binder p.134 §1402-A(4-A) – bill p.85 / binder p.134      §1504(4) – bill p.90 / binder p.147-148      §1553(3)(B) – bill p.91/binder p.150-151				
B. It newly specifies who, other than a licensed sales representative, may pour samples at public taste-testing and product sampling events conducted at an off-premises retail location. Under the bill, samples may also be poured by an employee of the off-premises or on-premises retailer where the taste-testing or product sampling event takes place or, where applicable, by the owner or employee of the licensed Maine manufacturer that produced the product being tasted or sampled.	§460(2)(P) §1051(8)(S) §1205(2)(N) §1207(2)(N)	p.22 p.47 p.68 p.69	p.45-46 p.87-88 p.113-4 p.115	
C. It clarifies an ambiguity by specifying that, other than during an authorized taste-testing or product sampling event, an off-premises retail licensee has a duty to prevent the consumption of liquor on its premises.	<i>Example:</i> §1206	p.68	p.114-5	
D. It resolves a conflict in current law by providing that, when an authorized taste-testing festival is held on a portion of the premises of an on-premises retail licensee, the bureau must temporarily suspend the authority of the on-premises retail licensee to sell liquor for on-premises consumption in the area designated for the taste-testing event. The on-premises retail licensee may nevertheless continue to sell liquor for on-premises consumption on the portion of its premises that falls outside the area designated for the taste-testing event.	§1052-D (7)(A & B)	p.50	p.92	
E. It fills an omission in the law by specifying that an out-of-state manufacturer that is sponsored by a certificate of approval holder, wholesale licensee or spirits supplier to participate in a taste-testing festival may provide for taste testing any spirits, wine or malt liquor produced by the sponsored manufacturer, even though those products are not currently listed for sale in the State.	§1052-D (7)(I)*	p.51	p.92	
F. It moves the statutory language granting licensed Maine liquor manufacturers the authority to sell their products at certain taste-testing events from the manufacturer licensing statute to the relevant taste-testing event statute for clarity and (see below)	§1355-A (3)(D), (4)(D), (5)(I), §1052-D(9)	p.75 p.76 p.78 p.52	p.122 p.123 p.124-5 <i>none</i>	
Grants small distilleries new authority to self-distribute their spirits products for sale at these taste-testing events.	§1052-D (9)(B)	p.52	<i>See</i> p.124-5	
G. It restricts the types of individuals who may receive partial-bottle samples of spirits or wine under statutes authorizing sampling by retail licensees to the owner and supervisory or managerial employees of the retail licensee. This restriction does not exist currently if spirits are given to an employee of an on-premises retailer.	§1402-A (3-A) §1504(6)	p.85 p.91	p.134 p.148	

Proposed Amendments

Vote

- 12. **BABLO request:** Current law --§460(2-A)(D) binder p.46 & §1205(2-A)(D) binder p.114 & §1207(2-A)(D) binder p.116--requires, when a taste-testing event is conducted for the public at an off-premises retailer, that the request indicate whether a licensed sales representative will be pouring samples and, if so, verification that the sales representative completed an alcohol server education course. The bill--§460(2)(P) p.22 & §1205(2)(N) p.68 & §1207(2)(N) p.69--identifies who may pour samples at these taste-testing events, and includes “a sales representative licensed under section 1502 whose name is listed on the request” for the taste-testing event. BABLO requests that the name of the sales representative not be required to be listed on the form, to provide flexibility in these events.
- 13. **BABLO request:** BABLO also requests that a spirits supplier be authorized to pour spirits at taste-testing events conducted for the public at an off-premises retailer in --§460(2)(P) p.22 & §1205(2)(N) p.68 & §1207(2)(N) p.69-- of the bill.
- 14. **\*Technical issue:** §1052-D(7)(J) of current law, binder p.93, provides directions for the products a sponsored manufacturer may provide at a taste-testing festival. Thus, the new language in §1052-D(2)(I) on bill p.51, lines 31-32 is likely unnecessary.

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
19. It corrects an error in current law that suggests on-premises retail licenses are issued to international air terminals and instead specifies that on-premises retail licenses may be issued to qualified establishments located within international air terminals.	§2(15)(K-1) §2(12-C) §4(1)(E) §1079	p.5 p.3 p.11 p.66	p.5   p.109	
20. It streamlines the process for disposal of spirits subject to a court's forfeiture order by newly authorizing the BABLO or a wholesale spirits provider to choose, without obtaining an additional court order, to destroy the forfeited spirits rather than to restock and resell the forfeited spirits in agency liquor stores.	§2229(2)	p.101	p.176	
21. It makes a number of changes to the laws governing the <b>administration and sale of spirits</b> in the State to address errors and inconsistencies:				
A. It amends conflicting provisions of law regarding the pricing of spirits to clarify that, as is current practice, the State Liquor and Lottery Commission establishes the retail price of spirits and BABLO establishes the wholesale price of spirits, which is the price that agency liquor stores pay to purchase spirits from the bureau.	§83-C(2) §90(7) §606(4-A) §1651(1)	p.14 p.19 p.27 p.91	p.20 p.26 p.52 p.151	
B. It resolves a conflict in the laws governing the purchase of spirits by removing statutory language suggesting that agency liquor stores may purchase spirits from a wholesale spirits provider and retaining provisions of law correctly stating that agency liquor stores purchase spirits only from the bureau.*	§453-C(1) §503 §606(8)	p.21 p.23 p.27	p.41 p.47 p.52	
C. It amends statutes incorrectly suggesting an agency liquor store may sell or deliver spirits to on-premises retailers and clarifies that only agency liquor stores licensed as reselling agents may make these sales and deliveries.	§459 §606(1-A)	p.22 p.26	p.45 p.51	

Proposed Amendment

Vote

- 15. **\*Technical issue:** Clarify spirits samples served at restaurants must be purchased from BABLO (not the wholesale spirits provider) in §1055(1)(G) on p.54, ln. 4 of the bill?



Proposed Amendment

**16. BABLO request:** Rewrite first sentence of §83-C(2), on bill p.14, by switching the order of the phrases to clarify that the commission sets the retail price first (with BABLO input) and, after that, BABLO establishes the wholesale price:

§83-C(2). Price regulation. Make recommendations to the commission regarding the retail prices of spirits sold in the State and Establish ~~establish~~ the wholesale ~~and retail~~ prices of spirits sold ~~to agency liquor stores in this State.~~ [remainder of bill provision unchanged...]

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
22. It makes a number of additional changes to §1355-A, the statute governing the licensure of <b>Maine liquor manufacturers</b> , including:				
A. It restores the statutory authority of Maine bottlers and rectifiers to obtain licenses, which authority was unintentionally repealed through Public Law 2019, chapter 529. It also newly specifies the types of sampling activities that may occur on the premises of a licensed Maine bottler or rectifier under current practice.	§1355-A(1) §1355-A(1-B)	p.69 p.70	p.119 none	
B. It combines in one location several scattered provisions describing the authority of licensed Maine breweries, small breweries, wineries, small wineries, distilleries and small distilleries, at the manufacturing facility where their products are produced, to sell samples of those products to the public or offer samples of those products to the public at no cost.	§1355-A (2)(B) <i>Includes:</i> (2)(A)(3), (2)(E & F)	p.70-71	p.120	
It newly clarifies samples may not be served to minors or visibly intoxicated persons (although this prohibition is not stated in existing §1355-A, current practice does not authorize serving samples to such individuals).	§1355-A (2)(B)(7)	p.71	none	
It newly clarifies that the area of the manufacturing facility where samples are sold or offered need not be separate from and may be accessed by the same entrance as the area that is licensed for on-premises retail sales. <i>Compare</i> §1355-A(2)(D)(3) (similar rule for off-premises sales in current law and retained in the bill on p.71).	§1355-A (2)(B)(5)	p.70	none	
C. It combines in one location several scattered provisions describing the authority of licensed Maine breweries, small breweries, wineries, small wineries, distilleries and small distilleries, to sell their products for off-premises consumption at the manufacturing facility where the products are made. <i>See Title 28-A Report, Appendix G.</i>	§1355-A (2)(D) <i>Includes:</i> (2) (C & pt. E)	p.71	p.120	
D. It moves the provision authorizing Maine breweries and small breweries to sell malt liquor for off-premises consumption in kegs from a generally applicable subsection of the statute to the subsection of the statute specifically applicable to breweries and small breweries. It also clarifies the language of this provision.	§1355-A (3)(C-1) <i>Formerly:</i> (2)(G)	p.75 p.71-72	p.120	
E. It moves the provision requiring Maine small breweries and small wineries to keep and maintain records of their sales to retail licensees from a generally applicable subsection of the statute to the 2 subsections of the statute specifically applicable to small breweries and to small wineries.	§1355-A (3)(B)(2) (4)(B)(1) <i>Formerly:</i> (2)(H)	p.74 p.76 p.72	p.120	

Summary	Statute	Bill	Binder	vote
F. It clarifies, as is current practice but not stated in current law, that when calculating whether a licensed Maine manufacturing facility's one statutorily authorized establishment for on-premises sales has satisfied any applicable statutory requirement that 10% of its gross annual income be from the sale of food, income from the Maine manufacturer's sale of liquor samples or sale of liquor for off-premises consumption is not included.	§1355-A (2)(I)(3)	p.72	p.120-121	
G. It clarifies the law authorizing each licensed Maine brewery, small brewery, winery, small winery, distillery and small distillery to obtain one license for on-premises retail sales per licensed manufacturing facility. <i>In other words, some of the re-organization and language changes in §1355-A(2)(I) are for clarification only.</i>	§1355-A (2)(I)	p.72-73	p.120-121	
It relaxes the requirements applicable when a distillery or small distillery obtains this type of on-premises retail license by eliminating the requirements that the on-premises retail establishment be a Class A restaurant or Class A restaurant/lounge owned by the same person who owns the distillery or small distillery. Instead, under the bill a distillery or small distillery may obtain any type of on-premises retail license as long as the same person or persons holds a majority ownership interest in the on-premises retail license and the distillery or small distillery. These relaxed requirements match the requirements applicable under current law when a licensed brewery, small brewery, winery or small winery obtains this type of on-premises retail license.	<i>Repeal of:</i> §1355-A (5)(E)  <i>Default back to:</i> §1355-A (2)(I)(1-A)	p.77  p.72	p.124	
H. It newly authorizes a licensed Maine manufacturer that has its one statutorily authorized licensed establishment for on-premises sales at a location separate from its manufacturing facility to conduct sales of its products for off-premises consumption at that separate licensed location. Under current law, a Maine manufacturer may conduct sales of its products for off-premises consumption at its one licensed establishment for on-premises sales only if the on-premises establishment is located at the manufacturing facility.	<i>New:</i> §1355-A (2)(I)(4-A) <i>Compare:</i> §1355-A (2)(D)	p.72  p.71	None  p.124	
Similarly, the bill newly specifies a licensed Maine brewery or a small brewery that has its one statutorily authorized licensed establishment for on-premises sales at a location separate from its manufacturing facility to sell malt liquor packaged in refillable containers, commonly referred to as growlers, at this location. Under current law, growlers may only be sold at an on-premises establishment located at the manufacturing facility.	§1355-A (3)(C) lead-in sentence & (3)(C)(1)	p.74-75	p.122	
I. It resolves a conflict in current law and conforms the law to current practice by specifying that, when a small distillery serves samples of its products at its manufacturing facility, it need not first send those products through the State's spirits warehouse and distribution system.	§1355-A (2)(B)(6) <i>Compare to</i> (2)(C) and (5)(F & H)	p.70  p.71 p.77-78	p.120  p.120 p.124	
<i>Similarly, it allows a small distillery that sells products at its one statutory authorized licensed establishment for on-premises sales to self-distribute its products to that facility, without first sending those products through the State's spirits warehouse and distribution system--this is not stated in current law but is current practice.</i>	§1355-A (2)(I)(4) <i>Compare to</i> (5)(D & H)	p.72  p.77 & p.78	p.121  p.124	
J. It clarifies an ambiguity in the law by explicitly stating that a licensed Maine small winery, which may under current law obtain licenses to conduct off-premises retail sales at up to 2 additional locations other than the manufacturing facility, must pay a \$50 license fee for each of those additional locations.	§1355-A (4)(B)(2) <i>Fee from:</i> §1551(3)(F)	p.76  not in bill	p.123  p.150	

<b>Summary</b>	<b>Statute</b>	<b>Bill</b>	<b>Binder</b>	<b>vote</b>
It similarly clarifies that a licensed small distillery, which may under current law also obtain licenses to conduct off-premises retail sales at up to 2 additional locations other than the manufacturing facility, must pay a \$100 license fee for each of those additional locations.	§1355-A (5)(B)(3) <i>Fee from:</i> (5)(B)(1)	p.77  p.77	p.124  p.123	
<i>In addition, the bill clarifies that a small winery or small distillery may transport its products from the manufacturing facility to these 2 additional locations licensed for off-premises consumption, as long as the same person owns a majority interest in manufacturing facility and off-premises consumption licenses.</i>	§1355-A (2)(K)(2)	p.73, cross- refs on ln. 31-32	p.121	
K. It corrects an omission in the law and matches current practice by specifying that a tenant brewery or tenant winery seeking licensure may pay the reduced license fee for a small brewery or small winery if it qualifies as a small brewery or small winery. Otherwise, the tenant brewery or tenant winery must pay the higher brewery or winery license fee.	§1355-A (6)(A) (7)(A)	p.78-79	p.125- 126	

Proposed Amendment

Vote

**17. Policy Consideration - Minimum production requirements:** BABLO inquired whether there should be minimum production requirements for business to be licensed as a brewery, small brewery, distillery, small distillery, winery or small winery in the State? Alternatively, should the privilege of making off-premises sales or opening an on-premises retail location under §1355-A(2)(D & I) depend on a minimum production requirement?

<b>Summary</b>	<b>Statute</b>	<b>Bill</b>	<b>Binder</b>	<b>vote</b>																				
23. It reorganizes, clarifies & removes inconsistencies in laws governing <b>importation</b> of liquor into and <b>transportation</b> of liquor within Maine. In addition to this reorganization, the scattered explicit and implicit statutory authority throughout Title 28-A of different entities to import or transport within Maine spirits, wine or malt liquor are also specifically stated in the newly rewritten import and transport provisions of the bill.																								
<table border="0" style="width: 100%;"> <tr> <td style="width: 30%;"></td> <td style="width: 30%;"><b>Current law (binder)</b></td> <td style="width: 30%;"><b>Bill</b></td> <td></td> </tr> <tr> <td><b>Transport liquor for illegal sale</b></td> <td>§2073(1-2) on p.161</td> <td>Same location but remove redundant <i>mens rea</i> on p.93-94</td> <td></td> </tr> <tr> <td><b>Import &amp; transport of spirits</b></td> <td>§2075 on p.162-163</td> <td>New §2073-A (import) &amp; §2073-B (transport) on p. 94-97</td> <td></td> </tr> <tr> <td><b>Import &amp; transport of malt liquor/wine</b></td> <td>§2077 on p.164-165</td> <td>New §2073-C (import) &amp; §2073-D (transport) on p.97-99</td> <td></td> </tr> <tr> <td><b>Special liquor import privileges and special spirits import privileges</b></td> <td>§2073(3) on p.161-162 §2075(3) on p.163</td> <td rowspan="2">} Combined in new §2073-E on p.99-100</td> <td></td> </tr> </table>		<b>Current law (binder)</b>	<b>Bill</b>		<b>Transport liquor for illegal sale</b>	§2073(1-2) on p.161	Same location but remove redundant <i>mens rea</i> on p.93-94		<b>Import &amp; transport of spirits</b>	§2075 on p.162-163	New §2073-A (import) & §2073-B (transport) on p. 94-97		<b>Import &amp; transport of malt liquor/wine</b>	§2077 on p.164-165	New §2073-C (import) & §2073-D (transport) on p.97-99		<b>Special liquor import privileges and special spirits import privileges</b>	§2073(3) on p.161-162 §2075(3) on p.163	} Combined in new §2073-E on p.99-100					
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<b>Special liquor import privileges and special spirits import privileges</b>	§2073(3) on p.161-162 §2075(3) on p.163	} Combined in new §2073-E on p.99-100																						
It also changes the units of measurement applicable to spirits and wine in these provisions from quarts and gallons to liters, which is the unit of measurement typically used when referring to spirits and wine products, and it changes the unit of measurement applicable to malt liquor from gallons to fluid ounces, which is the unit of measurement typically used when referring to malt liquor products.																								
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Proposed Amendments and Policy ConsiderationsVote

- 18. BABLO request:** §1355-A(3)(E) on p.75 and §1355-A(4)(C) on p.76 authorize (small) breweries and (small) wineries to import spirits for purposes of producing low-alcohol spirits products. The authority of wineries and breweries to import spirits exists in §2073-B(2)(B)(2) on p.96--BABLO suggests cross-references be added to either the provisions in §1355-A or those in §2073-B to clarify that these entities import spirits *to manufacture low-alcohol spirits products*. [See also proposed amendments #19 & #20 below.]
- 19. BABLO request:** In addition, BABLO requests that §2073-B(2)(B)(2) on bill p. 96 be amended to clarify that not only wineries and breweries, but also small wineries, small breweries, distilleries and small distilleries may import spirits for this purpose.

If proposed amendments #18 & # 19 are adopted, §2073-B(2)(B) could be amended to read:

B. A person may transport spirits *that* the person transported into the State pursuant to section 2073-A, subsection 2, paragraph C to:

- (1) A warehouse designated by the commissioner under section 81; ~~or~~
- (2) A ~~winery, brewery,~~ bottler or rectifier licensed under section 1355-A; *or*
- (3) A manufacturer licensed under section 1355-A, for the production of low-alcohol spirits products.

- 20. BABLO request (alternative to #18 & #19 above?):** Alternatively, BABLO requests that §2073-E(1)(F) on p.100 of the bill, which provides a process for BABLO to issue permits to in-state spirits manufacturers to import spirits “for use as an ingredient in distilling or manufacturing spirits and other spirituous liquor products,” be expanded to include all licensed Maine manufacturers that produce low-alcohol spirits products. Key difference: under §2073-B(2)(B), permits are not required, but under §2073-E(1)(F), permits are required.
- 21. Policy Consideration - Contracted Manufacturing:** §2073-C(2)(C) on p.97 of the bill, which derives from current §2077(1-A) on p.164 of the binder, allows small breweries and small wineries to import malt liquor or wine into the State. During the Subcommittee process, BABLO explained these entities import malt liquor and wine from out-of-state companies that manufacture products for them.
- a. BABLO suggested defining “contract manufacturing” and establishing requirements for contract manufacturing in LD 2131.
  - b. The Maine Beer and Wine Distributors Association requested that the committee clarify what a licensed Maine manufacturer may do with products imported under §2073-C(2)(C). May these products be (see bill p. 70-75):
    - o Imported directly to the licensee’s one chapter 43 licensed location for on-premises consumption under §1355-A(2)(I), rather than being imported to the manufacturing facility itself? If imported to the manufacturing facility, can it be transported to the manufacturing facility under §1355-A(2)(K)—although not “produced at the licensed manufacturing facility”?
    - o Sampled in the tasting room §1355-A(2)(B)—although not “produced by the licensee at the manufacturing facility”?
    - o Sold for off-premises consumption under §1355-A(2)(D)—although not “produced by the licensee”?
    - o Sold in growlers under §1355-A(3)(C)—although not “brewed at the brewery or small brewery”?
    - o Sold in kegs under §1355-A(3)(C-1) —although not “brewed at the brewery or small brewery”?
  - c. BABLO also suggests expanding the authority to import products from out of state—*i.e.*, contract manufacturing authority—by amending §2073-C(2)(C) to apply not only to small breweries and small wineries but also to all licensed Maine manufacturers.

<i>Summary</i>	<i>Statute</i>	<i>Bill</i>	<i>Binder</i>	<i>vote</i>
24. It corrects <b>scattered typographical, cross-reference and drafting errors</b> in the Title, including by removing all gendered pronouns. These changes are made throughout Title 28-A, examples of each change are set forth below (but many more exist!).				
a) It removes gendered pronouns as required by Public Law 2019, chapter 475, section 52. For example:	§1452(1)(C)	p.88	p.141	
b) It changes the word “premise” to appropriate word “premises” and also restructures phrases in the following format: “consumed on the premises” to the following format: “on-premises consumption.”	§1201(6) §1062(1)	p.66 p.55	p.111 p.96	
c) It removes the unnecessary word “general” from the phrase “general public”	§2(15)(F-1)	p.4	p.4	
d) It changes the words “brewer” and “distiller” to “brewery” and “distillery”.	§2(5) & (11)	p.1-2	p.2-3	
e) It changes “beer” to “malt liquor,” the term defined in §2(18) on binder p.7.	§1012(6)(C)	p.44	p.85	
f) It changes “table wine” to “wine,” the term defined in §2(36) on binder p.9 and bill p.10.	§1051(4, 5)	p.44-5	p.86	
g) It changes “foreign” to “out-of-state” unless another country is intended. (Example of other country: §2(15)(S) on bill p.6)	§1405(1)(C)	p.87	p.138	
h) It removes the word “judge” from phrase “District Court judge” throughout the title.	§§801-803	p.35-40	p.72-75	
i) It replaces the word “Maine” in phrases like “Maine manufacturer” with “in-State” - per Revisor’s Office	§1652(2)	p.92	p.152	
j) It replaces phrases stating “no person may do X” with “a person may not do X” - per Revisor’s Office	§1072(6)	p.59	p.103	

**TECHNICAL AMENDMENTS TO RECONCILE WITH OTHER SUBCOMMITTEE BILLS:**

**22. Amend the bill to conform to LD 2088 (3-tier system), if that bill is enacted with the committee amendment, by:**

- (a) striking changes to §707 on p. 29 of the bill, because those provisions are repealed and replaced in LD 2088;
- (b) striking changes to §1363 on p. 82 of the bill because that section is repealed in LD 2088.
- (c) correcting the cross-references in §1355-A(2-B) on bill p.73-74 as those cross-references were changed in LD 2088.

**23. Amend the bill to conform to LD 2089 (COA for spirits suppliers bill), if that bill is enacted with the committee amendment, by:**

- (a) striking definition of “certificate of approval holder” on p. 2 of the bill because LD 2089 has a more comprehensive definition;

Note: do not need to strike “spirits supplier” definition in §2(31-C) on p.8 of bill, because that term is no longer defined by LD 2089.

(b) because “spirits suppliers” are newly considered “certificate of approval holders” under LD 2089, if a statute gives a certain authority or imposes a certain duty on “certificate of approval holders,” the statute does not need to also give the same authority or impose the same duty on “spirits suppliers.” To do so would be redundant. Thus, should amend the following to remove “spirits supplier(s)”:

§708-A (in-pack sweepstakes) on bill p.32, lines 16 & 19

§708-C(1) (donations to charities) on bill p.32, line 29 and §708-C(2) on bill p.33, line 3

§1052-D(1) (taste-testing festivals) on bill p.49, lines 12-13

- (c) striking the amendment to §1351 on p.69 of the bill because LD 2089 makes this correction and clarifies that malt liquor and wine COAs must be obtained under §1361 and spirits COAs must be obtained under new §1381 in LD 2089;

- (d) amend the cross-references to the transportation statutes that appear in §1381(5) in LD 2089, the new COA for spirits suppliers statute
- (e) delete the following provisions from this bill (LD 2131), because they are already enacted through LD 2089:

§1364(5) on p. 82 of the bill; §1401-A on p.84 if the bill, and §1451(1-A) on p.88 of the bill.

- 24. **Effective Date:** LD 2089, which requires out-of-state spirits suppliers to obtain COAs, is not effective until Sept. 1, 2020. Make LD 2131 effective the same day? Or, work with Revisor’s Office to address?
- 25. **Amend the bill to conform LD 2088 (3-tier system) with LD 2089 (COAs for out-of-state spirits suppliers):**
  - (a) Amend the definition of “out-of-state spirits supplier” in §707(8)(B)—which definition is created in LD 2088 and refers to entities whose spirits products are listed for sale in the State—to refer to out-of-state spirits suppliers *who have been issued a certificate of approval under section 1381*—the new requirement created in LD 2089.

**FISCAL IMPACT**

- Not yet determined.