

**Statutory Provisions Related to the Governance and Operation of the
Maine Bureau of Alcoholic Beverages and Lottery Operations**

Maine Revised Statutes Annotated Title 28-a: Liquors

Chapter 3-a: Administration and Organization

28-a M.R.S.A. § 81. State Liquor and Lottery Commission

1. Oversight of Bureau of Alcoholic Beverages and Lottery Operations. The commission shall monitor the operation of the bureau in its administration of the laws relating to the sale of spirits.
2. Advice. The commission shall advise the director of the bureau regarding the administration of the functions of the bureau. The commission may advise the Governor and the Legislature regarding issues relating to the operation of the bureau and the administration of the laws relating to the sale of spirits.
3. Listing of items. The commission shall determine which items may be listed for sale in the State. Products listed must be made available by the supplier at a warehouse designated by the commission.
4. Notice to delist or stop purchases. Before any item listed by the commission is discontinued or delisted or before the commission issues any order to stop purchases of any item listed, the commission shall give the vendor of the items reasonable written notice of its intention to delist or stop purchase of the items.

28-a M.R.S.A. § 82-A. Enforcement of licensing

1. Authority. In addition to any authority a law enforcement officer has to enforce the laws, a law enforcement officer may, subject to subsections 2 and 4, enforce this Title or the rules adopted pursuant to this Title against violations that may result in an administrative sanction against a licensee or the licensee's agents or employees.
2. Commissioner. The commissioner in consultation with the Commissioner of Public Safety or the Commissioner of Public Safety's designee may by agreement, with the consent and approval of the affected law enforcement agency, designate the law enforcement agency's officers to exercise the enforcement authority identified in subsection 1.
3. Contract officers. The commissioner in consultation with the Commissioner of Public Safety or the Commissioner of Public Safety's designee may appoint contract officers for the purpose of enforcing this Title and the rules adopted pursuant to this Title against specific violations that may result in an administrative sanction against a licensee, or the licensee's agents or employees.
4. Limitation. The commissioner in consultation with the Commissioner of Public Safety or the Commissioner of Public Safety's designee may limit the authority granted

by this section to specific sections of this Title and rules adopted pursuant to those sections.

28-a M.R.S.A. § 83-B. Enforcement and licensing activities of the bureau

The bureau shall establish policies and rules and propose legislation concerning the administration and the enforcement of the laws under this Title and for the sale of liquor in this State. The bureau shall:

1. Enforcement. Enforce the laws relating to the manufacture, importation, storage, transportation and sale of all liquor and administer those laws relating to licensing and the collection of taxes on liquor required to be remitted under this Title;

2. Licensing and licensing hearings. Issue and renew all licenses authorized by this Title and hold licensing hearings as required by this Title. The director of the bureau or the director's designee shall appoint a hearing officer who may conduct hearings in any licensing matter pending before the bureau. The hearing officer, after holding the hearing, shall render a final decision based upon the record of the hearing. Except as provided in section 805, the decision of the hearing officer is final.

The hearing officer may administer oaths and issue subpoenas for witnesses and subpoenas duces tecum to compel the production of books and papers relating to any license question in dispute before the bureau or to any matter involved in a hearing. Witness fees in all proceedings are the same as for witnesses before the Superior Court and must be paid by the bureau, except that, notwithstanding Title 16, section 253, the bureau is not required to pay the fees before the travel and attendance occur;

3. Recommend revocation of licenses. Recommend to the District Court that it suspend or revoke, in accordance with sections 802, 803 and 1503, any license issued pursuant to this Title or the rules adopted under this Title;

4. Prevent sale to minors and others. Prevent the sale of liquor by licensees to minors and intoxicated persons;

5. Appeals of municipal decisions. Review all appeals from the decisions of municipal officers. The director or the director's designee may appoint a hearing officer as provided in subsection 2 to conduct hearings;

6. Investigate and recommend changes. Carry out a continuous study and investigation of the sale of liquor throughout the State and the operation and administration of state activities relating to licensing and enforcement under this Title and recommend to the commissioner any changes in the laws or rules and methods of operation that are in the best interest of the State;

7. Rules. Adopt rules consistent with this Title or other laws of the State for the administration, licensing, clarification, execution and enforcement of all laws concerning liquor and to prevent violations of those laws. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. The rules adopted by the Department of Public Safety before July 1, 2013 are deemed adopted by the bureau;

8. Rules for food service organizations. Adopt rules permitting food service organizations to purchase malt liquor, wine and fortified wine from a wholesale licensee, notwithstanding section 1401, subsection 9. For the purposes of this subsection, "food service organization" means a business entity that provides catering services to passengers on international flights and cruises. The rules must provide that a food service organization is not required to have a license in order to purchase malt liquor, wine and fortified wine from a wholesale licensee for consumption by passengers on international flights and cruises after leaving port;

9. Publish laws and rules. Ensure that licensees have access to the provisions of this Title, other laws governing liquor and all rules adopted pursuant to this Title in accordance with this section.

A. The bureau shall provide notification to licensees that the provisions of this Title and rules adopted pursuant to this Title are available on the bureau's publicly accessible website and that the bureau will provide a paper copy of this Title or rules to a licensee at no charge, upon request from that licensee.

B. The bureau shall notify all licensees of changes to this Title and rules adopted within 90 days of adjournment of each regular session of the Legislature.

C. The bureau may charge a reasonable fee for paper copies of this Title, any new laws enacted in this Title or any newly adopted or existing rules to cover the cost of producing the paper copy to persons other than licensees. Nothing in this paragraph prevents the bureau, upon its own discretion, from providing paper copies for no fee.

D. The bureau shall keep that part of its publicly accessible website regarding this section updated with any new or updated laws or rules;

10. Deposit revenues. Deposit all net revenues derived from licensing and enforcement under this Title to the General Fund; and

11. Certification. Certify monthly to the Treasurer of State and the commissioner a complete statement of expenses and revenues collected in accordance with the licensing and enforcement functions of the bureau. The bureau shall submit an annual report that includes a complete statement of expenses and revenues collected in accordance with the licensing and enforcement functions of the bureau to the Governor and the joint standing committee of the Legislature having jurisdiction over alcoholic beverage matters, together with recommendations for changes to this Title.

28-a M.R.S.A. § 83-C. Administration of the spirits business by the bureau; rules

The bureau shall establish policies and rules and propose legislation concerning the administration of the spirits business laws under this Title. The bureau shall:

1. Administration and trade marketing supervision. Manage the administration and trade marketing of spirits through agency liquor stores and consistent with one or more contracts awarded under section 90;

2. Price regulation. Establish the wholesale and retail prices of spirits sold in this State. The bureau shall adopt rules regarding the wholesale pricing of spirits and the retail

pricing of spirits sold by agency liquor stores. An entity awarded a contract under section 90 is granted the privilege to distribute spirits under this Title and is immune from antitrust action so long as the entity is in compliance with the bureau's rules and all other applicable laws and regulations;

3. Purchase. Oversee the wholesale purchase and storage of spirits for sale in the State. If the bureau awards a contract under section 90, spirits delivered to and stored at a warehouse approved by the bureau are the property of the supplier. Spirits become the property of the bureau upon removal from the warehouse for shipment to an agency liquor store. Spirits delivered to an agency liquor store become the property of the licensee upon receipt of delivery. A person awarded a contract under section 90 at no time takes legal title to any spirits delivered to the warehouse. The bureau may buy and have in its possession spirits for sale to the public. The bureau shall buy spirits directly and not through the State Purchasing Agent. All spirits must be free from adulteration and misbranding;

4. Investigate and recommend changes. Carry out a continuous study and investigation of the sale of spirits throughout the State and the operation and administration of state activities regarding the sale of spirits and recommend to the commissioner any changes in the laws or rules and methods of operation that are in the best interest of the State;

5. Sales incentives to agents; rules. Consider federal regulations that govern sales incentives for alcoholic beverages and the effect of a sales incentive program on General Fund revenue and pending or existing contracts with any person awarded a contract under section 90. The bureau may adopt rules to provide for a sales incentive program for agency liquor stores. Rules adopted in accordance with this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A;

6. Rules. Adopt rules consistent with this Title or other laws of the State for the administration of all laws concerning the sale of spirits. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A;

7. Certification. Certify monthly to the Treasurer of State and the commissioner a complete statement of revenues from and expenses for the sale of spirits by the bureau and submit an annual report that includes a complete statement of the revenues and expenses of the bureau to the Governor and the joint standing committee of the Legislature having jurisdiction over alcoholic beverage matters, together with recommendations for changes to this Title;

8. Establish performance standards for contracts. Establish performance standards for any contract awarded under this Title, subject to applicable laws relating to public contracts; and

9. Report on expenditures. Report annually on expenditures and investments made by the bureau, including, but not limited to, reductions in the list price at which spirits are sold and incentives offered to agency liquor stores, to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over alcoholic beverage matters. The report must include the impact of those spending initiatives on the number of cases of spirits sold in the State and on sales of spirits generally.

28-a M.R.S.A. § 84. Director of Bureau of Alcoholic Beverages and Lottery Operations

The director of the bureau or the director's designee shall:

1. Manage sale of spirits. Manage the sale of spirits through agency liquor stores in accordance with applicable laws and rules that provide for the operation of wholesale distribution of spirits;

1-A. Manage enforcement and licensing activities. Manage the enforcement and licensing activities of the bureau under section 83-B;

2. Act as chief administrative officer of bureau. Act as chief administrative officer of the bureau, having general charge of the office and records and employ such personnel as necessary to fulfill the purpose of this Title. The personnel must be employed with the approval of the Commissioner of Administrative and Financial Services and are subject to the Civil Service Law;

3. Act as executive secretary. Act as executive secretary of the commission;

4. Confer with commissioner. Confer regularly as necessary or desirable and not less than once a month with the Commissioner of Administrative and Financial Services on the operation and administration of the bureau and make available for inspection by the Commissioner of Administrative and Financial Services, upon request, all books, records, files and other information and documents of the bureau; and

5. Certification. Certify monthly to the Treasurer of State and the Commissioner of Administrative and Financial Services a complete statement of revenues and expenses for liquor sales for the preceding month and submit an annual report that includes a complete statement of the revenues and expenses for the bureau to the Governor and the Legislature, together with recommendations for changes in this Title.

28-a M.R.S.A. § 85. Inventory and working capital

1. Deleted. Laws 2013, c. 368, § V-22, eff. June 26, 2013.

2. Inventory. The bureau may keep and have on hand a stock of spirits for sale, the value of which when priced for resale must be computed on the delivered case cost F.O.B. liquor warehouse designated by the commission filed by liquor suppliers. The inventory value must be based upon actual cost for which payment may be due. Spirits may not be considered to be in the inventory until payment has been made for them.

3. Deleted. Laws 2013, c. 368, § V-22, eff. June 26, 2013.

28-a M.R.S.A. § 86. Conflict of interest

In addition to the limitations set forth in Title 5, section 18, any member of the commission or any employee of the commission or the bureau may not accept directly or indirectly any samples, gratuities, favors or anything of value from a manufacturer, wholesaler, wholesale licensee or retail licensee or any representative of a manufacturer,

wholesaler, wholesale licensee or retail licensee under circumstances that may reasonably be construed as influencing or improperly relating to past, present or future performance of official duties.

28-a M.R.S.A. § 87. Eligibility of employees

A person is not eligible for employment with the bureau if that person:

1. Interest in corporation. Has any official, professional or other connection with or owns any stock in a corporation interest either directly or indirectly in the manufacture or sale of liquor; or
2. Violation of state or federal law. Has been convicted or adjudicated guilty of violating any state or federal law regulating the manufacture, sale or transportation of liquor.