

§1355-A. Manufacturer licenses**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

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

[PL 2019, c. 529, §4 (AMD).]

2. Manufacturers. The following provisions apply to brewery, small brewery, winery, small winery, distillery and small distillery licensees.

A. A licensee may permit sampling of the liquor product on the premises:

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

(2) By wholesalers for the purpose of determining whether to carry the product as a wholesale product if the holder of the license pays the excise tax on the product sampled according to section 1652; and

(3) By the public if the holder of the license pays the excise tax on the product sampled according to section 1652. [PL 2011, c. 629, §22 (NEW).]

B. A licensee under this section may serve to the public complimentary samples of liquor produced by the licensee at the licensed premises where liquor is produced by the licensee. [PL 2011, c. 629, §22 (NEW).]

C. A licensee under this section may sell to nonlicensees during regular business hours from the licensed premises where liquor is produced by the licensee liquor produced by the bottle, by the case or in bulk for consumption off the licensed premises. Spirits sold by distillers in accordance with this paragraph must be first sold to the State, subject to the listing, pricing and distribution provisions of this Title. [PL 2019, c. 168, §2 (AMD).]

D. A licensee under this section may sell from the licensed premises where liquor is produced by the licensee liquor produced by the licensee for consumption off the licensed premises.

(1) Sales made in accordance with this paragraph do not require a licensee under this section 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 a licensee opts to transact sales for off-premises consumption is not required to be separate from and may be accessed by the same entrance for the area licensed for on-premises consumption of liquor under chapter 43 in accordance with paragraph I. [PL 2017, c. 347, §3 (AMD).]

E. A licensee may serve complimentary samples of liquor on Sunday after the hour of 5 a.m. and may sell liquor on Sunday after the hour of 5 a.m. if the municipality in which the licensed premises is located has authorized the sale of liquor on Sunday for consumption off the premises under chapter 5. [PL 2015, c. 74, §6 (AMD).]

F. A licensee may charge for samples or shall otherwise comply with the conditions in paragraph E. Each sample poured is subject to a charge in an amount determined by the licensee and is subject to the sales tax on liquor under Title 36, section 1811. A licensee shall maintain a record of liquor samples subject to a charge and maintain those records for a period of 2 years. [PL 2011, c. 629, §22 (NEW).]

G. A licensee that is a brewery or small brewery may sell on the premises during regular business hours and within the hours of legal sale to nonlicensees liquor produced at the licensed premises.

The volume of the package may not exceed 15.5 gallons and must be consumed off the premises. The sale of packages described in this paragraph must comply with keg tagging requirements provided in section 714. Each licensee shall submit a monthly report to its wholesaler detailing sales made directly from the premises. The wholesaler 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 pick-up fee. [PL 2015, c. 166, §3 (AMD).]

H. A small winery or small brewery licensee shall keep and maintain complete records on all sales to a retail licensee. [PL 2011, c. 629, §22 (NEW).]

I. A licensee may be issued one retail license under chapter 43 per licensed location, on the premises of the licensed location or at another location, for the sale of liquor to be consumed on the premises at the retail premises if the same person or persons hold a controlling interest in both the licensed manufacturing location and the licensed retail establishment.

(2) The retail license authorizes the sale of products of the brewery, small brewery, winery, small winery, distillery or small distillery, in addition to other liquor permitted to be sold under the retail license, to be consumed on the premises.

(2-A) Liquor sold under a chapter 43 retail license operated on the premises of a location licensed under this section may not be consumed on any part of the premises where patrons are not generally permitted.

(3) All records related to activities under a manufacturer license issued under this section must be kept separate from records related to the retail license.

(4) A distillery or small distillery must meet the requirements of subsection 5, paragraphs D and E.

(5) The licensee shall ensure that products purchased for off-premises consumption under paragraph D are not consumed on the licensed premises. [PL 2017, c. 347, §4 (AMD).]

J. A licensee may display up to 25 bottles of liquor produced by the licensee in a window of the location under paragraph D where liquor is sold for consumption off the licensed premises. Locations licensed under subsection 4, paragraph B, subparagraph (2) or subsection 5, paragraph B, subparagraph (3) may also display up to 25 bottles of liquor produced by the licensee. [PL 2011, c. 629, §22 (NEW).]

K. For the purposes of selling liquor for on-premises and off-premises consumption, a licensee who operates more than one facility licensed for the manufacture of liquor under this section may:

(1) Transfer product produced by the licensee in bulk or packaged in kegs, bottles or cans, including by the case, at one facility licensed for the manufacture of liquor to another facility at which the licensee is licensed to manufacture liquor or to any location where the licensee:

(a) Serves samples of the manufacturer's product in accordance with subsection 2, paragraphs E and F; and

(b) Is authorized under this section to sell the manufacturer's product to nonlicensees for off-premises consumption; and

(2) Transfer product produced by the licensee in bulk or packaged in kegs, bottles or cans, including by the case, from a facility at which the licensee is licensed to manufacture liquor to any establishment licensed for on-premises consumption under chapter 43 operated by the licensee as authorized under paragraph I.

If the same person or persons hold a majority ownership interest of greater than 50% in more than one facility licensed for the manufacture of liquor under this section, the person or persons are

considered one licensee for the purpose of transferring liquor as authorized by this paragraph. [RR 2017, c. 1, §18 (COR).]
[PL 2019, c. 168, §2 (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 more than 30,000 barrels of malt liquor per year. [PL 2019, c. 529, §5 (AMD).]

B. A holder of a small brewery license may produce 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 consumption off the premises, 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. [PL 2019, c. 529, §5 (AMD).]

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

(1) Only malt liquor brewed at the brewery where the on-premises establishment is licensed may be sold at the on-premises establishment.

(2) Malt liquor must be dispensed in bottles provided by and with labels unique to the 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 from the on-premises establishment for off-premises consumption must be accompanied by a sales receipt with a time stamp that indicates time of purchase.
- (8) Sale of malt liquor from the on-premises establishment for off-premises consumption may not be made 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 in accordance with Title 5, chapter 375, subchapter 2-A. [PL 2015, c. 166, §4 (AMD).]

D. Notwithstanding any provision of this Title to the contrary, a brewery or small brewery licensed in accordance with this section may sell malt liquor to be consumed off the premises under the conditions specified in this paragraph if the brewery or small brewery is participating in a taste-testing event under section 1052-D.

- (1) The brewery or small brewery may sell only malt liquor produced in the State by that brewery or small brewery.

- (2) A sale of malt liquor in accordance with this paragraph must be accompanied by a sales receipt. [PL 2019, c. 360, §1 (NEW).]

[PL 2019, c. 360, §1 (AMD); PL 2019, c. 529, §5 (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 more than 50,000 gallons per year of wine that is not hard cider and may produce more than 3,000 barrels per year of wine that is hard cider. [PL 2019, c. 529, §6 (AMD).]

B. A holder of a small winery license may produce up to 50,000 gallons per year of wine that is not hard cider and may produce 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 consumption off the premises, 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.

- (2) A holder of a small winery license, upon application to and approval of the bureau and payment of the license fees, 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 2019, c. 529, §6 (AMD).]

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 wine, sparkling wine and fortified wine produced at the small winery may not exceed 50,000 gallons per year. [PL 2011, c. 629, §22 (NEW).]

D. Notwithstanding any provision of this Title to the contrary, a winery or small winery licensed in accordance with this section may sell wine to be consumed off the premises under the conditions specified in this paragraph if the winery or small winery is participating in a taste-testing event under section 1052-D.

(1) The winery or small winery may sell only wine produced in the State by that winery or small winery.

(2) A sale of wine in accordance with this paragraph must be accompanied by a sales receipt. [PL 2019, c. 360, §2 (NEW).]

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 2019, c. 360, §2 (AMD); PL 2019, c. 529, §6 (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.

(1) The small distillery off-premises license fee is \$100.

(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 the license fees, 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 2011, c. 629, §22 (NEW).]

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. 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 2011, c. 629, §22 (NEW).]

E. A holder of a distillery or small distillery license may be issued one license under chapter 43 per distillery location for a connected establishment for the sale of liquor to be consumed on the premises at the distillery.

(1) For the purposes of this paragraph, "connected establishment" means a Class A restaurant or a Class A restaurant/lounge that is owned by the holder of the in-state manufacturer license.

(2) All records of the manufacturer license must be kept separate from the records of the retail licensee. [PL 2017, c. 280, §3 (AMD).]

F. A distillery or small distillery may provide samples to the public of liquors produced by the distillery that have been sold to the State in accordance with paragraph D and repurchased by the distillery or small distillery. [PL 2011, c. 629, §22 (NEW).]

F-1. **(TEXT EFFECTIVE UNTIL 9/10/22) (TEXT REPEALED 9/10/22)** 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.

This paragraph is repealed September 10, 2022. [PL 2021, c. 91, §1 (NEW).]

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) or subsection 2, paragraph C, D or E 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 wholesaler contracted by the bureau under section 90. 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 2019, c. 404, §26 (AMD).]

H. Notwithstanding paragraph D, a holder of a small distillery license that sells its products directly to consumers for on-premises consumption under paragraph E or F-1 or under subsection 2, paragraph B, E or F 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 a wholesaler contracted by the bureau under section 90. 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. 91, §2 (AMD).]

I. Notwithstanding any provision of this Title to the contrary, a distillery or small distillery licensed in accordance with this section may sell spirits to be consumed off the premises under the conditions specified in this paragraph if the distillery or small distillery is participating in a taste-testing event under section 1052-D.

- (1) The distillery or small distillery may sell only spirits produced in the State by that distillery or small distillery.
- (2) Spirits sold in accordance with this paragraph are subject to the listing, pricing and distribution provisions of this Title.
- (3) A sale of spirits in accordance with this paragraph must be accompanied by a sales receipt.

[PL 2019, c. 360, §3 (NEW).]

[PL 2021, c. 91, §§1, 2 (AMD).]

6. Tenant brewer. Except as otherwise provided, the following provisions apply to a tenant brewer license under which the holder of a tenant brewer license may produce malt liquor at the

manufacturing facility of another brewer, referred to in this subsection as "the host brewer," licensed by the bureau under subsection 3.

A. To be eligible for a tenant brewer license, a person must submit an application to the bureau in a manner prescribed by the bureau and hold a brewer's notice approved by the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, that authorizes a tenant brewer to use the facilities and equipment of a host brewer. [PL 2013, c. 345, §4 (NEW).]

B. A tenant brewer is subject to the same requirements regarding production of malt liquor as if the tenant brewer conducted its manufacturing on its own premises independently. [PL 2013, c. 345, §4 (NEW).]

C. A tenant brewer is not eligible for privileges provided in subsection 2 except for sampling described by paragraph A, subparagraphs (1) and (2). [PL 2013, c. 345, §4 (NEW).]

D. A tenant brewer is governed by the provisions of subsection 3 except for the privileges granted under paragraph C. [PL 2013, c. 345, §4 (NEW).]

E. A tenant brewer may not brew or produce malt liquor for another brewer or certificate of approval holder. [PL 2013, c. 345, §4 (NEW).]

F. A tenant brewer shall ensure that the tenant brewer maintains control of the raw ingredients used to manufacture the tenant brewer's product. [PL 2013, c. 345, §4 (NEW).]

G. [PL 2015, c. 15, §1 (RP).]

G-1. Licenses issued under subsection 3 may allow for up to 9 tenant brewers at a time at the manufacturing facility of a host brewer. [PL 2015, c. 15, §2 (NEW).]

H. The bureau may require a tenant brewer to maintain a record or log indicating which equipment is being used at any time by the tenant brewer in the production of malt liquor and which employees are working on production of the tenant brewer's product. [PL 2013, c. 345, §4 (NEW).]

I. The bureau shall require that reports from a tenant brewer be submitted in a manner similar to the manner in which a brewer licensed under subsection 3 submits reports. The bureau shall also require a tenant brewer 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 brewer to engage in an alternating proprietorship. [PL 2013, c. 345, §4 (NEW).]

[PL 2015, c. 15, §§1, 2 (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 wine at the manufacturing facility of another winery, referred to in this subsection as "the 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. [PL 2015, c. 185, §3 (NEW).]

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 product. [PL 2015, c. 185, §3 (NEW).]

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 2015, c. 185, §3 (NEW).]

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).

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