



STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS

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COMMISSIONER

JANET T. MILLS
GOVERNOR

MEMORANDUM

GREGORY R. MINEO
DIRECTOR

TO: All On-premises licensees
FROM: Tim Poulin, Deputy Director
RE: Guidance for openings of restaurants and bars; required health and safety precautions
Guidance on outdoors seating prior to and after June 1st
Guidance on use of mobile service carts and auxiliary licensed areas on golf courses
Guidance on the continuation of “to go” beer, wine and cocktails
Guidance on penalties for non-compliance

DATE: May 14, 2020

This memorandum is intended to provide guidance on several important topics to on-premises licensees regarding what establishments are considered a “restaurant” or a “bar” relative to Governor Mills’ Executive Order to Stay Safer at Home; [Number 49](#) and her Plan for Restarting Maine’s Economy.

On Friday, May 8th, the Governor announced a Rural Re-Opening Plan that allows restaurants in counties in Maine where COVID-19 has not had community transmission and where a lower number of cases exists. Restaurants subject to the guidance in this memorandum **may open on Monday, May 18th** in the following counties: Aroostook, Franklin, Hancock, Kennebec, Knox, Lincoln, Oxford, Piscataquis, Sagadahoc, Somerset, Waldo and Washington.

If your restaurant is **located** in Androscoggin, Cumberland, Penobscot and York counties, you **may not open until June 1st** as originally indicated in the Governor’s Executive Order [Number 49](#) noted above and as she announced on Friday, May 8th.

Please read this document in its entirety and refer to a quick reference chart at the end of this memorandum to help you navigate the details provided in this memorandum. **Please note** – the guidelines outlined in this memorandum from BABLO and DECD (see section 3) are **subject to modification** to meet the needs of the Governor’s Reopening Plan and Maine’s economy so please check both agencies websites frequently.

The memorandum contains the following sections:

1. Type of licensees included in the Restaurant Category
2. Type of licensees included in the Bar Category
3. Health and Safety requirements for openings on May 18th **and** June 1st
4. Health and Safety requirements for outside seating for openings on May 18th **and** June 1st
5. Use of Mobile Service Bars and Auxiliary licensed areas on golf courses
6. Continuation of “to go” beer, wine and cocktails by on-premises licensees on or after May 18th
7. Penalties for non-compliance
8. Liquor Licensing Inspector Contact Information
9. Quick Reference Chart for your type of license

Section 1. Types of Liquor Licensees in the Restaurant category. Under the restaurant category, the following license types are considered a restaurant and may **open for business on May 18th or June 1st** depending on the county location of the licensee with the health and safety precautions listed in Section 3:

A. Class A Restaurants (License number starts with CAR)

- i. Licensed to sell beer, wine and/or spirits.
- ii. Food Requirement – Kitchen must remain open and staffed during all hours of operation and must offer full meals during all hours of alcohol service.
- iii. Full meals are defined as a meal consisting of a diversified selection of food that ordinarily cannot be consumed without the use of tableware and that cannot be conveniently consumed while standing or walking.

B. Restaurant (License number starts with RES)

- i. Licensed to sell beer and/or wine.
- ii. Food Requirement – Establishment must provide food.
 1. Food includes cold or hot meals, including sandwiches and salads, but is not limited to hamburgers, cheeseburgers, hot dogs, pizzas and other food items that customarily appear on a restaurant menu. Food does not include prepackaged snack foods such as popcorn, chips or pretzels.

C. Class A Restaurant Lounge (License number starts with CARL)

- i. Licensed to sell beer, wine and spirits.
- ii. Food Requirement – Kitchen must remain open and staffed until 9:00pm and must offer full meals up until 9:00pm.
 1. Full meals are defined as a meal consisting of a diversified selection of food that ordinarily cannot be consumed without the use of tableware and that cannot be conveniently consumed while standing or walking.
- iii. **In order to be open after 9:00pm, the kitchen would have to remain open and staffed and food would need to be offered.**
 1. Food includes cold or hot meals, including sandwiches and salads, but is not limited to hamburgers, cheeseburgers, hot dogs, pizzas and other food items that customarily appear on a restaurant menu. Food does not include prepackaged snack foods such as popcorn, chips or pretzels.

D. Bed and Breakfast (License number starts with BB)

- i. Licensed to serve beer, wine and spirits.
- ii. Food Requirement – Must provide at least one meal per day.
 1. **To be considered a restaurant, the establishment's dining room must be open to the public and must serve food.**
 - a. Food includes cold or hot meals, including sandwiches and salads, but is not limited to hamburgers, cheeseburgers, hot dogs, pizzas and other food items that customarily appear on a restaurant menu. Food does not include prepackaged snack foods such as popcorn, chips or pretzels.

E. Hotel (License number starts with HOT)

- i. Licensed to sell beer, wine and spirits.
- ii. Food Requirement – Must provide 3 meals per day.
 1. **To be considered a restaurant, the establishment's dining room must be open to the public and serve full meals.**
 - a. Full meals are defined as a meal consisting of a diversified selection of food that ordinarily cannot be consumed without the use of tableware and that cannot be conveniently consumed while standing or walking.

F. Hotel with Food Optional Service (License number starts with HOF)

- i. Licensed to sell beer, wine and spirits.
- ii. Food Requirement – None.
 1. **To be considered a restaurant, the establishment's dining room must be open to the public and must serve food.**
 - a. Food includes cold or hot meals, including sandwiches and salads, but is not limited to hamburgers, cheeseburgers, hot dogs, pizzas and other food items that customarily appear on a restaurant menu. Food does not include prepackaged snack foods such as popcorn, chips or pretzels.

G. In-State Manufacturers

i. Large breweries (License number starts with BRW)

1. If you have an associated chapter 43 license that establishment is considered a restaurant and you must follow the requirements under 1.C above (the license number starts with CARL).
 - a. The tasting room in your manufacturing facility is not consider a restaurant under these guidelines.
 - b. **If your large brewery does not have an associated chapter 43 establishment as provided here, your tasting room cannot be open until on July 1st.**

ii. Small breweries (License number starts with SMB)

1. If you have an associated chapter 43 license that establishment is considered a restaurant.
 - a. The license numbers for associated chapter 43 establishments for some small breweries permitted to open on June 1st start with CAR, RES and CARL.
 - i. If your associated chapter 43 establishment license number starts with CAR, RES or CARL, see 1.A, B or C above depending on the type of license issued for the requirements for that license type.
 - ii. If your associated chapter 43 establishment license number starts with HOF, see 1.F above for the requirements for that license type.
 - iii. If your associated chapter 43 establishment license number starts with CAL, see 2.A below.
 - b. The tasting room in your manufacturing facility is not consider a restaurant under these guidelines.
 - c. **If your small brewery does not have an associated chapter 43 establishment as provided here, your tasting room cannot be open until on July 1st.**

iii. Small distilleries (License number starts with SMD)

1. If you have an associated chapter 43 license that establishment is considered a restaurant and you must follow the requirements under 1.C above (the license number starts with CARL).
 - a. If your associated chapter 43 establishment license number starts with CAL, see 2.A below.
 - b. The tasting room in your manufacturing facility is not consider a restaurant under these guidelines.
 - c. **If your small distillery does not have an associated chapter 43 establishment as provided here, your tasting room cannot be open until July 1st.**

iv. Small wineries (License number starts with SMW)

1. If the small winery has an associated chapter 43 license that establishment is considered a restaurant and you must follow the requirements under 1.A above (the license number starts with CAR).
 - a. The tasting room in your manufacturing facility is not consider a restaurant under these guidelines.
 - b. **If your small winery does not have an associated chapter 43 establishment as provided here, your tasting room cannot be open until July 1st.**

H. Golf Courses (License number starts with GC)

- i. **To be considered in this restaurant category, the kitchen must remain open and staffed during all hours of service and must offer food during all hours of service.**
 1. If the kitchen is open as noted above, and the golf course has either an auxiliary license or a mobile service bar or both, you may sell beer, wine or spirits from the mobile service cart and auxiliary license as applicable to your golf course.
 2. Food includes cold or hot meals, including sandwiches and salads, but is not limited to hamburgers, cheeseburgers, hot dogs, pizzas and other food items that customarily appear on a restaurant menu. Food does not include prepackaged snack foods such as popcorn, chips or pretzels.
- ii. If the golf course is licensed as a Class A Restaurant (CAR), you must follow the requirements in 1.A above.
- iii. If the golf course is licensed as a Club with Catering Privileges (CCP), you must follow the requirements for 1.I below.
- iv. Refer to Section 6 below for mobile service bars and auxiliary licensed areas.

I. Veterans' and Fraternal Clubs (License numbers start with CCP or CWC)

- i. Permission under these guidelines is strictly to members and registered guests of members only of the club.
- ii. **To be considered in this restaurant category, the kitchen must remain open and staffed during all hours of service and must offer food during all hours of service.**
 1. Food includes cold or hot meals, including sandwiches and salads, but is not limited to hamburgers, cheeseburgers, hot dogs, pizzas and other food items that customarily appear on a restaurant menu. Food does not include prepackaged snack foods such as popcorn, chips or pretzels.

Section 2. Type of Liquor Licensee in the Bar Category. Under the bar category, the following license types are considered a bar and may open for business on July 1st with the health and safety precautions listed in Section 4:

- A. Class A Lounge** (License number starts with CAL)
 - i. Licensed to sell beer, wine and spirits.
 - ii. Food Requirement – Establishment must have food available.
 - 1. Food includes cold or hot meals, including sandwiches and salads, but is not limited to hamburgers, cheeseburgers, hot dogs, pizzas and other food items that customarily appear on a restaurant menu. Food does not include prepackaged snack foods such as popcorn, chips or pretzels.
 - iii. May open July 1st if the foregoing requirements and the other health and safety requirements are met.

- B. Taverns** (License number starts with TAV)
 - i. Licensed to sell beer only.
 - ii. Food Requirement – None.
 - iii. May open July 1st if the foregoing requirements and the other health and safety requirements are met.

- C. In-State Manufacturers – May open July 1st if the following requirements and the other health and safety requirements are met.**
 - i. Large breweries** (License number starts BRW)
 - 1. If the large brewery doesn't have a chapter 43 establishment as referenced in 1.G.i above, and the brewery only has its tasting room, it is classified as a bar under these guidelines.

 - ii. Small breweries** (License number starts with SMB)
 - 1. If a small brewery has an associated chapter 43 license which is a Class A Lounge (CAL), you must follow the requirements under 2.A above.
 - 2. If the small brewery doesn't have a chapter 43 establishment as referenced in 1.G.i above, and the brewery only has its tasting room, it is classified as a bar under these guidelines.

 - iii. Small distilleries** (License number starts with SMD)
 - 1. If a small distillery has an associated chapter 43 license which is a Class A Lounge (CAL), you must follow the requirements under 2.A above.
 - 2. If the small distillery doesn't have a chapter 43 establishment as referenced in 1.G.i above, and the distillery only has its tasting room, it is classified as a bar under these guidelines.

 - iv. Small wineries** (License number starts with SMW)
 - 1. If the small winery doesn't have a chapter 43 establishment as referenced in 1.G.i above, and the winery only has its tasting room, it is classified as a bar under these guidelines.

Section 3. Health and Safety precautions for those licensees authorized for opening on May 18th and June 1st

Please refer to the Maine Department of Economic and Community Development's (DECD) [COVID19 Prevention Checklist Industry Guidance](#) document. The document will likely be updated so please refer to DECD's website at <https://www.maine.gov/decd/covid-19-prevention-checklists> under the Rural Reopening Plan for access to the updated guidance document.

It is critical that you read this information and adhere to the requirements outlined. The checklist for licensees under the bar category in Section 2 will be available on the DECD's website as noted above by mid-June.

Section 4. Health and Safety requirements for outside seating prior to and after June 1st.

Licensees that are authorized to open on or after May 18th that includes outside dining must adhere to the following guidelines:

- A. **Seating area defined in application.** The seating area must be designated in the licensee's application diagram on file with the Bureau
- i. If the licensee has never been approved by its municipality for outside seating, the licensee will be required to file an application for an extension of privileges with the municipality. After approval by the municipality, the licensee must file the approval with the Bureau.
 1. The application for the extension of privileges can be found on the Bureau's website at <https://www.maine.gov/dafs/bablo/liquor-licensing/license-and-permit-applications>, under Section 1, form #6.

The approved application must be sent by email to MaineLiquor@Maine.gov **and** your assigned inspector for approval. Please refer to the end of the memorandum for contact information for inspectors.
 2. You are **not authorized** to use the outside seating space for the type of liquor license issued by the Bureau unless **approved by the Bureau**.
 - ii. If a licensee is currently approved for service in an outside consumption area and wishes to expand this approved area to comply with health and safety requirements, the licensee must complete and file the application for extension of privileges as noted in the previous paragraph.
 1. The completed application **does not** need municipal approval and only needs to be submitted by email to the Bureau as noted in the previous paragraph.
 - iii. If there is no change to your current application relative to an approved area for outside service, there is no action needed on your part.
 - iv. Licensee must adhere to the health and safety precautions described in Section 3.

Section 5. Use of Mobile Service Bars and Auxiliary licensed areas on golf courses.

Licensees authorized to open under Section 1.H may exercise the privileges granted under a mobile service bar and/or an auxiliary license as applicable to the licensee.

Section 6. Continuation of “to go” beer, wine and cocktails by on-premises licensees on or after May 18th

Licensees authorized to open under these guidelines of this memorandum may continue these temporary privileges **until further notice** for:

- Beer and wine sold in the manufacturer’s original containers – see [Guidance Memo of March 18th](#) for full details.
- **Please Note – Update to the Bureau’s Guidance on “Growlers to Go” from April 23rd**. The Bureau is revising its guidance on growlers to go for beer to allow licensees to continue this practice to now include the replenishment of inventory of kegs to conduct this activity. For the other requirements of this activity, see the [Guidance Memo of April 23rd](#).
- Cocktails to go – see [Guidance Memo of April 27th](#) for full details and requirements.
- Please refer to the Bureau’s website for all guidance memos and any updates to these memos that may impact these special temporary privileges or any other facet of your licensure at <https://www.maine.gov/dafs/bablo/liquor-licensing>.

Section 7. Penalties for non-compliance

Any establishment operating in a non-compliant manner will subject their health and liquor licenses to review and potential suspension and revocation. Specifically, because the current prohibition on dine-in service is essential to protect the public health during this stage of the COVID-19 epidemic, the Health Inspection Program (HIP) will issue an Imminent Health Hazard (IHH) finding to the establishment for creating a public health threat by allowing patrons to congregate in close proximity, which creates a substantial risk of further spread of COVID-19 and has been prohibited by the abovementioned executive orders. The IHH finding would be issued in accordance with HIP’s Rule at 10-144 CMR Ch. 201, §6(F). If the establishment refuses to comply by continuing to operate in a way that threatens public health, HIP will issue an emergency license suspension pursuant to 5 MRS §10003, as such activity increases the risk of spreading COVID-19 during this extreme public health emergency. HIP will lift the suspension if and when the establishment agrees to discontinue dine-in service.

The Bureau of Alcoholic Beverages and Lottery Operations (BABLO) will also issue a citation if an establishment conducts activities not consistent with, or in violation of, Executive Order 14 FY 19/20 or Executive Order 49 FY 19/20, regardless of whether a sale of alcoholic beverages occurs. Such conduct is illegal and in violation of the liquor license. Any activity that violates State law or administrative rule adopted by the Bureau or another state agency impacts the liquor license and may result in action up to and including suspension or revocation of the liquor license.

Section 8. Contact Information for the Bureau’s Liquor Licensing Inspectors:

<u>Inspector’s Email Address</u>	<u>Territory</u>
Anthony.R.Austin@Maine.gov	Cumberland County (east of turnpike), York County (east of turnpike)

Marlene.Richards@Maine.gov

Androscoggin, Oxford, Cumberland County (west of turnpike), and York County (west of turnpike)

Craig.C.McCabe@Maine.gov

Franklin, Kennebec, Lincoln, Sagadahoc and Somerset Counties

Eileen.K.Keating@Maine.gov

Hancock, Knox, Waldo and Washington Counties

Robert.L.Sinclair@Maine.gov

Aroostook, Penobscot and Piscataquis Counties

Section 9. Quick Reference Chart for your type of license

Liquor License Number starts with	Restaurant - Yes?	Bar – Yes?	For more detailed guidance for your establishment for special operational requirements
CAR	Yes		See Section 1.A. on page 2; see Section 4 for outside seating on page 6
RES	Yes		See Section 1.B. on page 2; see Section 4 for outside seating on page 6
CARL	Yes		See Section 1.C. on page 2; see Section 4 for outside seating on page 6
CAL		Yes	See Section 2.A. on page 5; see Section 4 for outside seating on page 6
TAV		Yes	See Section 2.B. on page 5; see Section 4 for outside seating on page 6
BRW	See Guidance	See Guidance	See Sections 1.G.i. and 2.C.i. on pages 3 and 5; see Section 4 for outside seating on page 6
SMB	See Guidance	See Guidance	See Sections 1.G.ii. and 2.C.ii. on pages 3 and 5; see Section 4 for outside seating on page 6
SMD	See Guidance	See Guidance	See Sections 1.G.iii. and 2.C.iii. on pages 4 and 5; see Section 4 for outside seating on page 6
SMW	See Guidance	See Guidance	See Sections 1.G.iv and 2.C.iv. on pages 4 and 5; see Section 4 for outside seating on page 6
BB	Yes, and see Guidance		See Section 1.D. on page 2; see Section 4 for outside seating on page 6
HOT	Yes, and see Guidance		See Section 1.E. on page 3; see Section 4 for outside seating on page 6
HOF	Yes, and see Guidance		See Section 1.F. on page 3; see Section 4 for outside seating on page 6
GC	Yes		See Section 1.H. on page 3; see Section 4 for outside seating on page 6
CCP or CWS	Yes, and see Guidance	Yes, and see Guidance	See Section 1.H. on page 5

The Bureau will continue to communicate updates on this matter as needed. If you have any further questions, please contact me directly at Tim.Poulin@Maine.gov or 207.287.6750.