

STATE OF MAINE
DEPARTMENT OF THE SECRETARY OF STATE

Rulemaking Fact Sheet

(see 5 M.R.S. § 8057-A(1))

Agency: Bureau of Alcoholic Beverages and Lottery Operations/ Liquor and Lottery Commission
Name, Address, Telephone Number, and Email Address of Agency Contact Person:

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Chapter Number and Rule Title: Chapter 2 Pricing of Spirits

Type of Rule: Routine Technical

Statutory Authority: 28-A M.R.S. §81 (5)

Public Hearing(s) : Friday, April 17, 2026, 11:00am, 19 Union Street, 3rd Floor, Room 325, Augusta, ME

Comment Deadline(s): Monday, April 27, 2026, 5:00pm, SpiritsPricing.BABLO@maine.gov

Principal Reason(s) or Purpose for Proposing this Rule [see 5 M.R.S. § 8057-A(1)(A)]:

The purpose of this rule is to amend current rule to provide clarity on the elements used in the pricing formula for spirits. This chapter adds multi-pack and emergency pricing, not previously recognized in the existing rule and adds a Director's designee in pricing matters.

Is Material Incorporated by Reference into the Rule [see 5 M.R.S. § 8056(2-A)]? No

Analysis and Expected Operation of the Rule [see 5 M.R.S. § 8057-A(1)(B) & (D)]:

This will provide clarification for industry members and interested parties by defining the elements used in the calculation of the pricing of spirits. The changes include a provision for emergency pricing to allow for changes to retail price outside of the quarterly schedule currently outlined in rule and addresses pricing for multiple unit packing.

Brief Summary of Relevant Information Considered During Development of the Rule (including up to 3 primary sources relied upon)[see 5 M.R.S. §§ 8057-A(1)(E) & 8063-B]:

28-A M.R.S. §§83-C and 606 (4-A)

Estimated Fiscal Impact of the Rule [see 5 M.R.S. § 8057-A(1)(C)]:

None

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

Economic Impact, Whether or Not Quantifiable in Monetary Terms [see 5 M.R.S. § 8057-A(2)(A)]:

Click or tap here to enter text.

Individuals, Major Interest Groups and Types of Businesses Affected and How They Will Be Affected [see 5 M.R.S. § 8057-A(2)(B)]:

Click or tap here to enter text.

Benefits of the Rule [see 5 M.R.S. § 8057-A(2)(C)]:

Click or tap here to enter text.

Note: If necessary, additional pages may be used.

STATE OF MAINE
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Notice of Agency Rulemaking Proposal

AGENCY: Bureau of Alcoholic Beverages and Lottery Operations

CHAPTER NUMBER AND RULE TITLE: 2 Pricing of Spirits

TYPE OF RULE: Routine Technical

PROPOSAL FILING NUMBER: [Will be Assigned by the Department of the Secretary of State]

BRIEF SUMMARY: Amends chapter 2, regarding spirits pricing to provide elements of the pricing formula, multi-pack and emergency pricing and the process by which wholesale and retail pricing is determined.

PUBLIC HEARING: Friday, April 17, 2026, 11:00am, 19 Union Street, 3rd Floor, Room 325, Augusta, ME 04330

COMMENT DEADLINE : Monday, April 27, 2026, 5:00pm, SpiritsPricing.BABLO@maine.gov

CONTACT PERSON FOR THIS FILING:

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CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT *(if different)*: Same

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: None

STATUTORY AUTHORITY FOR THIS RULE: 28-A M.R.S. §§83-C and 606 (4-A)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: As above

AGENCY WEBSITE: <https://www.maine.gov/dafs/bablo/>

EMAIL ADDRESS FOR OVERALL AGENCY RULEMAKING LIAISON:

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Choose one of the following:

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ADDITIONAL INFORMATION FOR THE WEB NOTICE

DETAILED SUMMARY:

Changes to Chapter 2 provide details of the elements of a pricing formula and the process used to determine the retail and wholesale prices of spirits, pursuant to PL 2023, c. 632, §6. Director's designee is included as an additional authority in pricing decisions, subject to approval of the Liquor and Lottery Commission. Authorizes multi-pack pricing based on volume, pricing in emergency situations and on-premise product designation.

Chapter 2: PRICING OF SPIRITS

SUMMARY: This rule establishes the wholesale and retail price-setting policy with respect to the sale of spirits in the State of Maine. This rule also establishes the discount rate (wholesale price) for agency liquor stores.

I. Definitions

As used in this Rule, unless otherwise indicated, the following words and phrases are defined as follows:

- A. **Agency liquor store.** “Agency liquor store” means a person who is licensed by the Bureau to sell spirits for off-premises consumption. Agency liquor stores are the sole source of spirit sales to on-premises licensees.
- B. **Bureau.** “Bureau” means the Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services.
- C. **Commission.** “Commission” means the State Liquor and Lottery Commission established by 5 M.R.S. § 12004-G, sub-§14.
- D. **Director.** “Director” means the Director of the Bureau of Alcoholic Beverages and Lottery Operations.
- E. **FOB.** “FOB” or “Freight on Board” means the case cost at which a Supplier sells their product to the State.
- EF. **Line extension.** “Line extension” means the introduction of an additional bottle size of a currently approved spirits product or the introduction of an additional flavor in the same size of a currently approved spirits product.
- FG. **List price.** “List price” means the regular retail price of spirits products as approved by the Commission.
- H. **Minimum State Profit Threshold.** The minimum amount of profit for a spirits product, as determined by the Bureau to achieve sufficient State revenues pursuant to 28-A M.R.S. § 1651. In establishing the Minimum State Profit Threshold, the Bureau shall take into account the State budget impacts, input from the public and industry, recommendations from public health officials, and others.
- GI. **NABCA.** “NABCA” means the National Alcohol Beverage Control Association which is a trade association representing eighteen (18) jurisdictions known as “control

jurisdictions.” Control jurisdictions regulate the wholesale and retail sale and distribution of alcohol within those jurisdictions.

- HJ. Premises.** “Premises” means all parts of the contiguous real estate occupied by a person licensed in any way by the Bureau over which that person has direct or indirect control or interest, that the person uses in the operation of a business licensed by the Bureau and that has been approved by that department as proper places for the exercise of a licensed privilege. Premises includes the places defined in 28-A M.R.S. §2, sub-§24, ¶¶A and B.
- HK. Special price.** “Special price” means a temporary reduction of a list price for a specific spirits product as approved by the Director or Director’s designee.
- HL. Spirits or Spirits Product(s).** “Spirits” or “Spirits Product(s)” means any liquor produced by distillation or, if produced by any other process, strengthened or fortified by the addition of distilled spirits of any kind. Spirits does not include low-alcohol spirits products as that term is defined in 28-A M.R.S. § 2, sub-§16-A or fortified wine as that term is defined in 28-A M.R.S. §2, sub-§11-B.
- HM. State’s Spirits Distribution Contractor.** “State’s Spirits Distribution Contractor” means an entity or entities contracted by the State to distribute spirits to establishments licensed by the Bureau to sell liquor for off-premises consumption. The State’s Spirits Distribution Contractor is prohibited from selling spirits directly to establishments licensed by the Bureau to sell spirits for on-premises consumption.
- HN. Supplier.** “Supplier” means a person who distills, rectifies, brews, ferments, bottles, or otherwise produces spirits.
- HO. Supplier’s Representative.** “Supplier’s Representative” means a person or group, licensed as a sales representative in the State of Maine, contracted by a supplier to be the sole representative of the supplier’s product at the retail and wholesale level.
- HP. Vendor of record.** “Vendor of record” means the “primary source of supply,” as that term is defined in 28-A M.R.S. § 1451, sub-§3.

II. Pricing

All final list and special pricing decisions shall be made solely by the Director or the Director’s designee in accordance with this Rule and Title 28-A of Maine law. Final list pricing decisions by the Director or the Director’s designee are subject to the approval of the Commission.

A. Pricing of New Spirits Products

1. After the Commission has approved a new spirits product for listing, the Director or the Director’s designee shall propose a price for the spirits product subject to the approval of the Commission for that spirits product.
2. ~~The Director shall establish the list price of new spirits products and may take into account any of the following factors:~~
 - a. ~~The NABCA price exchange book;~~

- b. ~~— The NABCA retail price index;~~
- e. ~~— New England control states' current retail pricing;~~
- d. ~~— Costs of similar products in an applicable category and sold in Maine;~~
- e. ~~— Whether a product is a line extension;~~
- f. ~~— Whether a spirits product has an acceptable gross profit margin;~~
- g. ~~— The cost of product, including freight, supplier's insurance, applicable bailment, and other similar charges;~~
- h. ~~— Agency store profit margin; and~~
- i. ~~— Price point adjustments.~~

2. The Director or the Director's designee shall make a recommendation to the Commission on the retail price of spirits to be sold in Maine. In the development of pricing policy, the Bureau may consider input from industry participants, public health members, the public, and others.

a. To establish the retail price recommendation, the Director or the Director's designee must create and use a mathematical formula to calculate the retail price. The Bureau will publish the mathematical formula used to calculate the retail price of spirits and how the formula was developed. The Bureau shall determine how Suppliers will submit FOB prices to the State. The Director or the Director's designee must consider the following in establishing the mathematical formula used to make a retail price recommendation:

- i. Type of alcohol;
- ii. Proof level of alcohol;
- iii. Volume of the container or multi-pack product;
- iv. An acceptable profit level for the State, also referred to as the Minimum State Profit Threshold;
- v. Premium tax;
- vi. The price at which a supplier sells their product to the State, or FOB;
- vii. Location and size of distillery where the alcohol is produced;
- viii. Costs associated with compliance with Maine bottle redemption laws; and

- ix. Other factors deemed necessary by the Bureau to ensure growth in revenue from the business is achieved in a socially responsible manner, pursuant to 28-A M.R.S. § 90 (1).
 - b. The process used to develop a retail price recommendation include the following items:
 - i. The FOB as provided by the supplier.
 - ii. The appropriate category markup and premium tax applied by the Bureau.
 - iii. A rounding up of the resulting price up in the manner described in Part (II)(A)(5) of these rules.
 - iv. The Bureau shall assess whether the wholesale price of the product meets the Minimum State Profit Threshold, as published by the Bureau.
 - v. If the wholesale price does not achieve the Minimum State Profit Threshold, the retail price will increase incrementally until the price achieves the Minimum State Profit Threshold. The process of incremental increases to meet the Minimum State Profit Threshold will be published by the Bureau.
 - vi. The Director or the Director's designee will make the final pricing recommendation to the Commission.
 - c. The Bureau shall establish an online pricing calculator that will be available to suppliers. The pricing calculator will allow suppliers to input their desired FOB and see the calculated retail price.
 - d. Suppliers may provide testimony on the pricing recommendation at the Commission meeting in which it is presented.
3. Spirits suppliers may appeal the retail pricing decisions made by the Commission within 30 days of their decision, in a process as established by 28-A M.R.S. § 83-C (6), and as described in Chapter 5.
 4. The Bureau shall publish any changes to the metrics and processes used to establish the list price recommendation. If the proposed changes result in a change to a product's price, the Director shall notify suppliers, suppliers' representatives or vendors of record sixty (60) days in advance of the effective date of the change.
 35. Retail price points for products packaged at 375 milliliter or larger shall be limited to the following values: \$XX.49 or \$xx.99. Retail price points for products under 375 milliliter shall be limited to the following values: \$XX.29; \$XX.49; \$XX.79 or \$XX.99.

B. List Price Changes

1. List price change requests may be submitted to the Director or the Director's designee by suppliers, suppliers' representatives, or vendors of record.
2. Review of list price change requests shall be completed quarterly by the Director or the Director's designee and approved by the Commission, with any price changes effective by the first day of the following months: February, May, August, and November.
3. All requests for list price changes must be submitted in a form or format as prescribed by the Director or the Director's designee at least ninety (90) days prior to the first of each month in which a price change, if approved, would be effective.
4. For Supplier-initiated list price changes, the Director or Director's designee shall make a list price change recommendation to the Commission. The recommended price change shall be established in the manner described in Part II (A)(2)(b) of these rules.
45. List prices may be reviewed monthly by the Director, regardless of whether a request has been made. The Director will notify suppliers, suppliers' representatives or vendors of record of any price changes initiated under this subsection at least sixty (60) days in advance of the effective date of any change.
56. The following process shall occur with respect to list price decisions:
 - a. Prior to rendering final decisions on list prices, the Director or the Director's designee shall make a preliminary decision on list prices being considered.
 - b. Notice of the Director's or the Director's designee's preliminary decision on list prices shall be given to suppliers, supplier's representatives, vendors of record, or other stakeholders, any of whom may comment on the Director's preliminary decision. Notice may be given by the Director or the Director's designee electronically or in hardcopy. All comments concerning the Director's or Director's designee's preliminary decision about list prices must be submitted in writing within ten (10) days of the notice.
 - c. After receiving and reviewing comments submitted pursuant to paragraph b of this subsection, the Director or the Director's designee shall issue final decisions on any list prices within fifteen (15) days of the close of the comment period.
 - d. At its next scheduled meeting, the Commission will consider any of the Director's or the Director's designee's recommendations ~~decisions~~ on list prices and determine whether to approve or disapprove the ~~Director's~~ final price ~~decisions~~ recommendation.
 - e. If any of the Director's or the Director's designee's price change ~~decisions~~ recommendations are not approved by the Commission, the list

price will not be changed and subsequent change requests may be submitted during the next pricing cycle as set forth in these Rules.

- f. The Commission's determination of whether to approve or disapprove the Director's or the Director's designee's list price change ~~decisions~~ recommendations is final.

C. **Special Pricing**

1. Suppliers, supplier's representatives or vendors of record may request, in writing, special pricing for products packaged at 375 milliliter and higher to the Director or the Director's designee. Multi-pack products that contain a combined volume at or above 375 milliliters may be eligible for special pricing.
2. All requests and recommendations must be made sixty (60) days prior to the requested effective date of the proposed special price.
3. The Director's or the Director's designee's decision on special price requests and recommendations is final.
4. All cost-sharing decisions related to special pricing shall be authorized solely at the discretion of the Director or the Director's designee. Only the State shall participate in cost-sharing with the suppliers, suppliers' representatives or vendors of record.
5. Special pricing of spirits products may also be initiated by the Director or the Director's designee at their Director's discretion.
6. In making a special pricing decision, the Director or the Director's designee may consider any of the following factors:
 - a. Whether the subject spirits product has been out of stock ninety (90) days prior to the special price request;
 - b. Performance of the subject spirits product if the spirits product has been specially priced previously;
 - c. The amount of cost-sharing between the supplier, supplier's representative or vendors of record and the State;
 - d. Seasonal and promotional factors; and
 - e. Any of the criteria listed in section II(A)(2) of these Rules.

D. **Special Pricing in Emergency Situations**

1. Suppliers, suppliers' representatives, or vendors of record may request, in writing to the Director, an immediate change to a product's price because of an emergency situation necessitating the increase.

- a. The requestor must demonstrate the nature of the emergency and its impact on the retail price set by the Commission for the requestor's spirits products.
- b. Special price changes made by the Director become effective on the first day of the month following approval by the Director.
- c. Special price changes made by the Director due to emergency situations may be in effect for a maximum period of 60 days.

E. **On-Premises Accounts.** The Bureau may designate certain products to be sold by on-premises licensees only. On-premises licensees must purchase such a product from reselling agency stores.

III. Agency Liquor Store Profit Margin

- A. **Minimum Discounts.** Agency liquor stores must purchase spirits products from the State. The State will sell spirits products to agency liquor stores at wholesale prices (discount off retail prices) ~~based on the~~ at a discount rate of 18% off the retail price. s of spirits products as follows:
 1. ~~For spirits products at a retail price of \$24.99 or less, the discount rate is twelve percent (12%) of the list price; and~~
 2. ~~For spirits products at a retail price of \$25.00 or more, the discount rate is fourteen percent (14%) of the list price.~~
- B. **Growth Incentive.** BABLO seeks the support of agency liquor stores to achieve its volume recovery/growth objective. To reward this support, the Bureau will increase Minimum Discounts as follows:
 1. To be eligible for a growth incentive, the growth of nine (9) liter cases must meet or exceed a minimum total growth rate of 4.5% (four and ½ percent). Growth of less than 4.5% (four and ½ percent) over the previous year would not produce a discount increase.
 2. The growth achieved in any year will increase the discount rate starting the following year. FY15 is year one and performance that year would earn the discount rate increase, if achieved, starting in FY16.
 3. The discount rate increase would increase as follows for growth:
 - a. For growth of nine (9) liter cases of 4.5% (four and ½ percent), the discount rate increases by 0.75% (¾ of one percent);
 - b. For growth of nine (9) liter cases of 5% (five percent), the discount rate increases by 1.00% (one percent);

- c. For growth of nine (9) liter cases of 5.5% (five and ½ percent), the discount rate increases by 1.75% (one and ¾ percent); or
 - d. For growth of nine (9) liter cases of 6.0% (six), the discount rate increases by 2.50% (two and ½ percent).
- 4. If the gross profit of the spirits business increases more than 10% in any year, the discount rate will be increased by 1.00%. This increase is in addition to the increase described in B.3 of this subparagraph.
 - 5. All discount increases achieved as described in this section would continue each year but would be capped when the total discount rate reaches eighteen percent (18%).
 - 6. Once the discount rate is increased pursuant to subparagraph B.3 and/or B.4, it would not be decreased by the Bureau absent a change in rule or statute.
 - 7. Growth incentives apply to all agency liquor stores equally.
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STATUTORY AUTHORITY: 28-A M.R.S.A. §88

EFFECTIVE DATE:

June 19, 2004 - filing 2004-215

AMENDED:

August 25, 2014 – filing 2014-203

WORD VERSION CONVERSION AND ACCESSIBILITY CHECK: July 8, 2025