

# THE RESTAURANT BEER & WINE LICENSE



What is it?  
How do I get one?  
What can I do with it?



Liquor Control Division

## WHAT IS A RESTAURANT BEER AND WINE (RBW) LICENSE?

An RBW license allows a restaurant to serve beer and wine to patrons who order food. Montana law defines “restaurant” as a public eating place where:

- the staff prepares and serves individually priced meals that patrons eat on the premises;
- at least 65% of the establishment’s annual gross income is from the sale of food;
- the space includes a dining room and a kitchen;
- there is a sufficient number and variety of employees needed to prepare, cook and serve meals and to satisfy the department that the space is intended as a full-service restaurant; and
- dinner is served at least four days a week for at least two hours, between 5 p.m. and 11 p.m.

A fast-food restaurant, an establishment that serves a majority of its food and drink in throw-away containers, does not meet the definition of restaurant for the purpose of this license. Gambling is not allowed in conjunction with an RBW license.

Restaurants with an RBW license can request from the Department of Revenue a catering endorsement that allows the licensee to provide food, beer and wine at a special event within 100 miles of the licensed premises. At least 65% of gross income earned from the event must come from the sale of food.

## WHERE DO I START?

Montana law requires the Department of Revenue to issue a limited number of RBW licenses and allows the department to issue them only inside, or within five miles of, the limits of an incorporated city or town. The number of licenses is limited by the population of the

city or town in which the licenses operate.

To see if any RBW licenses are available in the city or town you’d like to operate the license, contact the Department of Revenue toll free at (866) 859-2254 or in Helena at (406) 444-6900.

If a new license is available, you may begin the application process. If a new license is not available, you may be able to purchase a pre-existing license. Check with a local real estate agent or the Montana Tavern Association for a listing of licenses for sale.



## WHAT ARE THE ASSOCIATED COSTS?

Applicants have to pay 20% of the one-time seating fee listed below at the time they submit an RBW application. The remaining balance is due before approval of the application.

- One-time Liquor Control processing fee: \$200
- Annual license fee: \$400
- One-time seating fee for restaurants able to seat

60 people or less: \$5,000 (20% = \$1,000)

- One-time seating fee for restaurants able to seat between 61 and 100 people: \$10,000 (20% = \$2,000)
- One-time seating fee for restaurants able to seat 101 people or more: \$20,000 (20% = \$4,000)
- Catering endorsement fee (if applicable): \$200
- Fingerprint card fee for each individual with 10% or more interest in the business: price subject to fluctuation

Seating fees apply only to newly issued licenses. The other fees apply when buying a pre-existing license and are in addition to the cost of buying the license from a third party.

## HOW DO I APPLY?

To apply for a new or existing license, you'll need to provide the Department of Revenue with the following:

### 1. A completed Alcoholic Beverage/Gambling Operator Combined License application, including:

- A personal history statement
- Liquor authorization to disclose tax information form
- Certified survey affidavit

You can file your combined license application at <https://tap.dor.mt.gov/?Link=CombinedAPP>. You can obtain a complete application package, as well as fingerprint cards for background check, by visiting [revenue.mt.gov/home/liquor/forms.aspx](http://revenue.mt.gov/home/liquor/forms.aspx) or by calling (406)444-6900 or (866)859-2254.

### 2. Financial records showing the purchase of the license and/or building, including:

- Copies of any loan agreements, contracts, notes

and all related security agreements. If you didn't take any loans, then you will need to provide copies of your bank statements.

- Copies of lease, rent, purchase options, financing agreements or other evidence showing possessory interest in the building
- Financial statements, such as balance sheet, income statement or tax return for the business
- Franchise agreement
- Purchase/transfer documents for liquor license, such as buy/sell agreement, contract for deed, warranty deed and bill of sale
- Copy of business' bank signature card



### 3. Ownership information, including:

- Copy of partnership agreement documentation (if applicable)
- Copy of Articles of Incorporation and Amendments or Addendums
- Copy of Bylaws and Amendments or Addendums
- Copy of Certificate of Fact (for LLCs and LLPs)
- LLC organizational information
- Copy of stock certificates, corporate minutes and attachments

- Stock ledger or register
- Copy of Certificate of Existence (for instate corporations)
- Copy of authority to conduct business in Montana (for out-of-state corporations)
- Copy of documentation from the Secretary of State verifying that the use of the assumed business name (ABN) has been approved
- Copy of federal employer identification number (FEIN) verification from IRS
- Completed personal history statement form from each individual with 10% or more interest in the business
- Two fingerprint cards from each individual with 10% or more interest in the business (for the purpose of background check)
- Fingerprint card fee for each individual with 10% or more interest in the business

#### 4. Management information, including:

- Copy of management agreement, contract or minutes identifying who is managing the daily operation of the business (necessary only if applying as entity)
- Personal history statement form from each manager
- Two fingerprint cards from each manager (for the purpose of a background check)
- Fingerprint card fee for each manager

#### 5. Miscellaneous information, including:

- An Authorization to Disclose Tax Information form to verify that all involved parties are up-to-date with their tax filings and payments
- A floor plan showing any areas where you intend to serve or store alcohol. The floor plan should show seating areas, external dimensions, entry ways and any patio area.

- A certified survey identifying the exact location, including address and quota area (city or county), of the premises. The survey may be completed by a licensed surveyor.
- A copy of the restaurant's menu showing that the restaurant serves an evening dinner
- A document stating the restaurant's hours of operation

Mail all documents to:

Department of Justice, Gambling Control Division  
 2550 Prospect Ave  
 P.O. Box 201424  
 Helena, MT 59620



#### WHAT ARE THE STEPS IN THE APPLICATION PROCESS?

The application process takes between 90 and 120 days and begins when the Gambling Control Division (GCD) receives a complete application package and all supporting documents. The process follows state statutes, as written in Montana Code Annotated.

- The Department of Revenue, Liquor Control

Division (LCD) reviews the application.

- GCD sends a letter to the applicant requesting any additional documents it might need.
- After GCD receives all documents it requires, LCD then publishes a legal notice in a newspaper circulated in the city, town or county in which the license would be issued. The notice informs readers of the applicant's intent to acquire a license. The notice also tells readers where they can send any objections they might have to LCD approving the license and the deadline for doing so.
- LCD notifies local agencies with jurisdiction over the area (e.g. law enforcement, fire department, health department, etc.) of any deficiencies in the application.
- After the protest deadline and the completion of the audit review, LCD and GCD conduct a final review of the application. If necessary, LCD and GCD request from the applicant any additional documents that the audit review might have identified as needed.
- If one or more people filed a protest, LCD schedules a hearing with the applicant and protestor(s). The application process is discontinued until the hearing examiner makes a ruling on the application.
- Once the hearing examiner makes a ruling and/or LCD has received all additional documents it has requested from the applicant, LCD promptly issues a final decision.

### **WHAT ARE THE RULES OF AN RBW LICENSE?**

State rule, as written in Administrative Rules of Montana (42.13.101): *All licensees, their agents, and employees must conduct the licensed premises in compliance with the rules of other state and local agencies and abide by*

*all: provisions of the laws of Montana and the United States related to alcoholic beverages; county and city or town ordinances related to alcoholic beverages; Indian liquor laws applicable within the areas of Indian country, as defined by 18 USC 1151, provided a tribe having jurisdiction over such area of Indian country adopted an ordinance, certified by the Secretary of the Interior, and published in the Federal Register; and rules of the department relating to alcoholic beverages.*



### **Serving**

- You must serve dinner four days a week for at least two hours, between 5 and 11 p.m.
- All employees serving open-container alcoholic beverages must be 18 years or older.
- You may provide samples of beer and wine, with or without a charge, to customers ordering food.
- You may serve alcohol on your patio, deck or lawn if the area was specifically designated on the floor plan you submitted with your application, if it has a perimeter barrier and if it is immediately adjacent to the indoor portion of the licensed premises.

- You may serve beer and wine from 11 a.m. to 11 p.m. You may stay open after 11 p.m. or open before 11 a.m. as long as you do not serve alcohol during that time.
- You may serve beer and wine to customers who are seated for table service and intending to order food.
- All beer and wine purchases must be stated on the food bill. Beer or wine may not be purchased separately.
- You may serve beer and wine to customers in designated waiting areas if they are waiting to be seated and intending to order food.

### Consumption

- Customers may consume alcohol in a “smoking hut” if the hut is part of the approved premises on file with the department. You need to be aware of local laws regarding open containers, which can change from one county or city to another.
- No one, including customers, is permitted to consume alcohol at the service bar, the area where alcohol beverages are stored and prepared for table delivery.
- No one, including the licensee and employees, may consume any alcohol on the licensed premises between 11 p.m. and 11 a.m.
- Customers cannot bring their own beer or wine onto the premises.
- You may purchase your beer or wine only from a brewery, winery, distributor or wholesaler licensed by the state.

### Alterations

If you decide to remodel or otherwise alter your establishment, to keep your premises licensed you will need to send to the department a written request explaining the alterations and include a copy of the existing floor plan and a proposed floor plan showing the alterations. Once the department

reviews and approves the request, you may begin the alteration without it affecting your license. Once completed, you cannot operate in the space until it's passed fire, building and health inspections.



### Seasonal business

If a licensed establishment—such as a dude ranch, resort, park hotel, tourist facility or similar seasonal business—would like to begin operating its license on a seasonal basis, it will need to send a written request for doing so to the department. If approved, the license closure is only effective from the date of the department’s letter of authorization through the end of the specified period.

### Miscellaneous

Because the RBW license does not include liquor, you may not use distilled spirits in preparing dishes.



## Department of Revenue

Liquor Control Division  
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