



LIQUOR CONTROL DIVISION

Frequently Asked Questions

On-Premises Licensees

Sales, Service, and Consumption of Alcohol

Q. [How old does an individual have to be to serve alcohol?](#)

A. Montana Alcoholic Beverage Code does not have a requirement for age to serve alcohol. However, Labor and Industry statute 39-2-306, MCA, states bartenders, waiters, or waitresses must be at least 18 years of age.

Q. [Can I serve alcohol to anyone who is intoxicated or apparently intoxicated?](#)

A. No. Code 16-3-301 (4) states: It is unlawful for a licensee, a licensee's employee, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

- (a) any person under 21 years of age; or
- (b) any person actually, apparently, or obviously intoxicated.

Q. [Can I have a wine or beer tasting event?](#)

A. Yes. A licensee can provide samples of beer and wine to customers with or without charge.

Q. [Can beer coolers be accessible to customers so they can access a particular product for purchase?](#)

A. No. Service of alcohol must be directly handled by the licensee or licensee's employees unless the sale for off-premises area is separated by four walls from the on-premises area.

Q. [Can I refuse to serve alcohol to a customer?](#)

A. Yes. This is a business decision of the licensee.

Q. [What if a customer purchases alcohol and wants to consume the alcohol they purchased on site?](#)

A. A licensee can only sell for on-premises consumption, by the drink. However, the customer can provide the bartender with the product and have the bartender pour the drinks.

Q. [Are bar tabs allowed?](#)

A. Yes. This would be a business decision made by the licensee.

Q. [If a customer purchases a bottle of wine to consume with dinner; can the customer take the remaining wine home?](#)

A. Yes and No. If the location in which the customer is eating has an all-beverage or a beer license with a wine amendment then yes. If the location holds a restaurant beer and wine license, the customer may not take the remaining wine. All customers must still abide by the local open container laws.

Q. [Can I allow customers to furnish a bottle of wine to have with dinner?](#)

A. No. A licensee can only have products on their licensed premises that have been purchased from a licensed beer wholesaler, table wine distributor, winery, or agency liquor store.

Where can I serve, sell and store alcoholic beverages?

Q. [Can I serve alcohol in my parking lot for a summer event?](#)

A. A licensee can only sell and serve alcohol on the floor plan approved by the department. However, if the licensee has a catering endorsement and is hired to cater an event that they are NOT the sponsor (an unlicensed individual or entity) of in their parking lot, the licensee could sell and serve alcohol at the event. The area must be enclosed in such a way to prevent customers from entering the licensed premises with alcohol purchased at the event or vice versa.

Q. [If our town is having an event, can I sell alcoholic beverages on the sidewalk?](#)

A. Yes and No. A licensee can only sell on the floor plan as filed and approved by the department. However, if the licensee has a catering endorsement and caters an event sponsored by another party within an enclosed area, as defined in department rule, then the answer is yes.

Q. [If I own a license at a golf course can I sell alcohol on the course?](#)

A. Yes. If the licensee has a golf course beer and wine or all-beverages license and service of alcohol is within the boundaries of the golf course as filed and approved by the department.

Q. [Can I have more than one bar on my licensed premises?](#)

A. Yes. A licensee can have as many bar areas within their approved licensed premises as they see fit to operate their business within the constraints of the Montana Alcoholic Beverage Code and its Administrative Rules.

Q. [Can I have a patio or deck?](#)

A. Yes. The patio or deck must be specifically designated on the floor plan with a perimeter barrier. It must be immediately adjacent from the indoor portion of the licensed premises. A perimeter barrier as stated in Code means; a barrier enclosing the perimeter of the patio/deck portion of the licensed premises which defines the boundary of the licensed premises in a way that clearly marks for patrons, licensees, licensees' employees, investigators, local law enforcement or other interested parties where consumption of alcohol is allowed and impedes access to the service areas by underage persons or others who may attempt to enter the premises without the licensee's knowledge.

A perimeter barrier shall consist of a fence or wall at least three feet high or an alternative barrier that accomplishes the same purposes and is approved by the department. A perimeter barrier may be with or without entrances from the parking lot, sidewalk or other areas beyond the patio or deck regardless of whether those areas beyond the licensed premise are land or water.

Q. [If I have a "smoking hut" can my customers take their drinks with them to smoke?](#)

A. Yes and No. As a licensee you can only sell and serve customers on your licensed premises. If you have a "smoking hut" available to customers and they choose to take their drinks with them to smoke, are you in jeopardy of violation? No; however, if you or your staff sell and serve drinks in the "smoking hut", then yes you could be in jeopardy of violation. This would also depend on whether the "smoking hut" is part of the approved premises on file with the department. The licensee should be aware of the local regulations on open containers.

Q. [Can I have seating in my bar just at gambling machines?](#)

A. No. The premises must include sufficient seating, consisting of not less than 12 seats at the bar, tables, booths, in gaming areas, or any combination. The 12 seats required are independent of seats at gaming machines.

Q. [I have a large back lawn behind the bar, can alcohol be served there during the summer?](#)

A. Yes and No. If the lawn area is not a part of your already licensed premises, you cannot serve alcohol out there. However, you can request an alteration to your premises to include the outdoor area. The lawn must be immediately adjacent from the indoor portion of the licensed premises, enclosed with a perimeter barrier and contiguous with the licensed premises. A perimeter barrier shall consist of a fence or wall at least three feet high or an alternative barrier that accomplishes the same purposes and is approved by the department. A perimeter barrier may be with or without entrances from the parking lot, sidewalk or other areas beyond the patio or deck regardless of whether those areas beyond the licensed premise are land or water.

Q. [I currently sell food through a drive-up window. Can I also sell beer, wine or](#)

distilled spirits for off-premises consumption through the drive-up window?

A. No. A licensee cannot conduct sales or service of any alcoholic beverages through a drive-up window as stated in the Administrative Rules of Montana (ARM).

Q. Can I place a trailer or alternative storage area on the golf course and stock alcohol in it?

A. No. All alcohol must be stored within the building designated as the licensed premises.

Q. I don't have enough space to store alcohol in the building. Is it acceptable to store my alcohol off-premises for example: my home or in an alternative storage area?

A. No. A licensee can only store alcohol in areas described on the floor plan as filed and approved by the department.

Q. If my restaurant has a beer and wine license and my chefs utilize distilled spirits (bourbon, vodka, etc.) to cook with, is that acceptable?

A. No. Only those alcoholic beverages for which the premises are specifically licensed may be received, accepted or stored.

What can I sell?

Q. Can I sell a keg for off premises consumption?

A. Yes and No. On premises licenses are allowed to sell alcohol for on or off premises consumption in their original packages or individual servings. Kegs are considered the original package. Restaurant beer and wine licensees can only sell for on premises consumption to patrons who order food and may not sell kegs.

Q. Can I sell beer, wine, or a bottle of distilled spirits to go?

A. Yes and No. On premises licensees can sell alcohol for on or off premises consumption in their original packages or individual servings, which are also governed by local open container laws. Restaurant beer and wine licensees can only sell for on premises consumption to patrons who order food.

Q. Can pre-mixed drinks be stored in a container in a cooler? For example: Margaritas, Tom and Jerry's, etc.

A. Yes. Licensees can store pre-mixed drinks for sale by the drink to consumers. These mixtures cannot be packaged and sold to consumers in more than an individual serving for off-premises consumption if they contain alcohol.

Q. Can I sell alcohol to the restaurant, or customers at the restaurant, across the street?

A. No. A licensee can only sell to the public on their licensed premises that is approved by the department, or to the public for off premises consumption in the original packages or individual servings.

Q. [Can I sell caffeinated malt beverages in original packages?](#)

A. Yes and No. Caffeinated malt beverages are classified as a distilled spirit and must be purchased from an Agency liquor store. Therefore, only licensee's that have an all-beverage license may sell caffeinated malt beverages.

Q. [Can I fill growlers at my retail location for off premises consumption?](#)

A. Yes. It is lawful for an on-premises retailer to sell or furnish beer to the public in its original package or in growlers. The beer must be taken away from the premises of the retailer for consumption off the premises of the retailer. Growlers may not be filled in advance of sale and may be furnished by the consumer. A growler is defined as any refillable, resealable container complying with federal law. (16-1-106 & 16-3-303, MCA)

Who can I buy from?

Q. [Can I order directly from a winery or brewery?](#)

A. Yes. If the brewery or winery is licensed in the state of Montana ordering directly is acceptable. There are reporting requirements for the retailer and the brewery or winery.

Q. [Can I purchase beer and wine dispensers from manufacturers?](#)

A. Yes. However, it is unlawful for any brewer, beer importer, or wholesaler to lease, furnish, give, or pay for any premises, furniture, fixtures, equipment, or any other advertising matter or any other property to a retail licenses used or to be used in the dispensation of beer or wine as stated in Code

Q. [If I run out of beer, wine, or liquor, can I purchase some from another grocery store or bar to make it through the night?](#)

A. No. A retailer may not purchase beer and/ or wine from another retailer. Only purchase beer and / or wine from a brewery, winery, or wholesaler/distributor and distilled spirits only from an Agency liquor store.

Q. [If I make homemade beer and wine, can I provide samples to customers?](#)

A. No. Only sell or sample beer and wine that has been purchased from a brewery, winery, or wholesaler/ distributor.

Q. [Is it prohibited to purchase an individuals wine collection for display?](#)

A. Yes. Only wine on your licensed premises that was purchased directly from a

licensed table wine distributor or winery is permitted.

Q. Can I request a wholesaler/distributor to provide samples to see if customers prefer a particular product prior to purchasing a large quantity?

A. An industry member can provide up to 3 liters of wine, 3 gallons of beer, and 3 liters of distilled spirits to a retailer that has not purchased the product in the last 12 months. The retailer can offer samples of those products to their employees and customers.

Q. If I reduce my draught beer selection from 5 to 3 handles and have excess beer, can a credit be issued from the wholesaler/ distributor?

A. No. A business decision of the licensee to reduce their beer selection is not sufficient reason for the wholesaler/distributor to accept return of product.

Q. If I order too much product from the wholesaler/distributor at a catered event, can I return the product?

A. No. This is considered consignment sales and is prohibited under the Montana Alcoholic Beverage Code and Federal Code.

Q. If a business is placed on nonuse, or it is a seasonal business, can the inventory be returned to the wholesaler/ distributor?

A. No. This is considered consignment sales and is prohibited under the Montana Alcoholic Beverage Code and Federal Code.

Q. If I change the wine menu, can the distributor come pick up the wine I no longer want to carry?

A. No. Changing your wine menu does not follow under the guidelines for a sufficient reason to return product. These guidelines can be found under Administrative Rule 42.13.305.

Q. Can a retailer purchase product from a distributor/ wholesaler outside their territory if the distributor/ wholesaler in their territory does not carry a particular brand or product?

A. Yes and No. Section 16-3-219, MCA states that a retailer, excluding an all beverage licensee, located within the territory for which a wholesaler has been appointed may personally or through an employee obtain beer not exceeding three barrels in package or draft form. Section 16-3-418, MCA states an on-premises licensee may obtain wine from a WINERY; therefore dock sales of wine by an on-premises licensee, other than an all beverage licensee, is not permitted, regardless of the territory.

Hours of Service

Q. [Can the licensee or their employees have an alcoholic drink after their shift ends at 2 a.m.?](#)

A. No. Consumption of alcohol by anyone, even an owner or their employees, can only occur between the hours of 8 a.m. and 2 a.m.
(MCA 16-3-305)

Q. [Can I temporarily move my license to another location?](#)

A. No. Licenses are issued to a specific location. To move a license to another location requires an application process.

Q. [Can I close my business for winter?](#)

A. Yes. The department can, upon a written request by the licensee, allow the licensee to place a license on nonuse status for a period of 90 days. However, continued requests for nonuse status or extensions thereof may not be approved without written evidence of the reasons for failure to place the license in operation.

Q. [Can I operate my license on a Seasonal basis?](#)

A. Yes. If the department receives a written request and the establishment is determined to be a dude ranch, resort, park hotel, tourist facility or like business. The closure is only effective from the date of the department's letter of authorization through the end of the specified period.

Q. [Can I be open after 2 a.m. if I do not sell alcohol?](#)

A. Yes. If an establishment licensed to sell alcoholic beverages is used in conjunction with a hotel, restaurant, bus depot, railway terminal, grocery store, pharmacy, or other lawful business, other than that of the sale of alcoholic beverages, then such other lawful business need not be closed.

Q. [During what hours can alcohol be sold?](#)

A. Alcohol can be sold between the hours of 8 a.m. and 2 a.m. However, for a restaurant, beer and wine license alcohol can only be sold to patrons who order food between the hours of 11 a.m. and 11 p.m. This applies to the consumption of any alcohol after these hours.

Change of Hours, Location, Premises or Ownership

Q. [If I want to alter my premises what do I do?](#)

A. A licensee can alter their licensed premises by sending a written request of the alteration to the department with a copy of the existing floor plan and a proposed floor

plan. Once the department reviews and approves the request, the licensee may begin the alteration.

Q. [If I sell a percentage of my business to an individual, what do I need to do?](#)

A. If you want to sell a portion of your business, you can do so by supplying the department all documentation supporting the change. For sales of over 10% of the ownership, an application process is required. For any change to the ownership, the licensee must obtain approval from the department prior to issuance of shares, execution of documents or exchange of money.

Q. [If I paint my bar and redecorate the inside of the building, do I need to notify the department?](#)

A. No. Law does not require licensees to notify the department for cosmetic changes.

Q. [Can I close my bar for a couple of days for seasonal cleaning?](#)

A. Yes. The bar cannot be closed for 90 days or greater.

Q. [If I close down for a short time, can my license be put on hold and forego the license fee?](#)

A. All license renewal fees are due whether the license is on nonuse status or active.

Q. [I am going to add a poker room to my building, what types of things should I consider with the addition?](#)

A. If you add a poker room to your licensed premises you must follow the rules for altering your premises. Follow all applicable laws regarding the addition by ensuring the sales and service of alcohol is handled directly by the licensee or employees and that adequate safeguards are in place to prevent sales to minors and intoxicated persons. Also contact the Department of Justice for guidelines on operating a poker room.

Q. [If someone wants to invest in my business, do I need to do anything with the department?](#)

A. Yes. Depending on the investor's percentage of ownership, different forms are needed to complete the process:

- The investor is simply loaning money to the licensee, this requires notification to the department and possible completion of the Non-Institutional Lender form. Located at <http://www.revenue.mt.gov>
- If the investor is less than 10% shareholder, then the licensee must immediately report the change as well as supply all the documents supporting the change to the department.
- If the investor becomes a 10% or greater shareholder the licensee is required to complete the application process.

Q. Can I apply for more than one all beverages license?

A. Yes. If the applicant is applying for an all-beverages license, they cannot, upon approval of the application own more than 3 all-beverages license or own an interest in half the allowable all beverage licenses in a particular quota area.

Promotions

Q. Can I advertise that free alcohol drinks available?

A. Yes.

Q. May I advertise happy hour times and drink specials on-line?

A. Yes.

Q. Can I require customers to purchase a particular product in order to participate in a drawing or giveaway?

A. No. A drawing or giveaway cannot require the customer to make a purchase and the offer has to be open to everyone.

Costs

Q. Can I have a sale on distilled spirits products for less than the cost I purchased it from the Agency liquor store?

A. No. Distilled spirits must not be sold for anything under the departments posted price as state in MCA 16-3-307

Q. Can I charge a corkage fee to allow patrons to bring their own beer or wine on my premises?

A. No. Patrons cannot bring their own alcoholic beverages on to the licensed premises. A liquor licensee may only have products on the licensed premises that has been purchased from a beer wholesaler, table wine distributor, and brewery, winery, or Agency liquor store.

Q. Can I provide free alcohol drinks?

A. Yes. However, the licensee and / or employees are still required to follow all laws and rules relating to the consumption of alcohol on their licensed premises.

Concession Agreements

Q. If I have a concession agreement with a restaurant, can I share a portion of the proceeds of the sale of alcohol with the restaurant operator?

A. No. All proceeds from the sale of alcoholic beverages are the property of the licensee.

Q. If I have a concession agreement, can I share employees or do my employees have to serve the alcohol?

A. Yes. The parties to a concession agreement can share employees. In the event the parties do share employees, the licensee must retain the right to discipline any employee relating to the sale of alcohol. Violations of liquor law are the sole responsibility of the licensee.

Q. What types of signage is required on my building?

A. Alcoholic beverages must be advertised and displayed as being available for purchase. Licensees operating with a concession agreement must have signage both inside and outside of the premises that plainly discloses to the public who the parties to the agreement are. At least one sign inside the premises measuring not less than 8 ½ x 11 inches with font size not smaller than 72 inches. It must be clearly visible to customers and must disclose: the existence of a concession agreement, names of the parties, and the assumed business name as filed with the Secretary of State's office as well as, the fact that the licensee is responsible for the service of alcoholic beverages within the premises. There also must be at least one sign outside of the building so the public can easily determine alcoholic beverages are available.

Q. Can I or an individual operate a restaurant out of a portion of my building and sell alcohol in the restaurant?

A. Yes. This arrangement can be accomplished through a concession agreement. It is a mutually beneficial agreement between a retail licensee and a non-licensed entity.

Catering

Q. If I cater an event, can I share part of the profits with the sponsor of the event?

A. Yes. A licensee can share revenue from the sale of alcohol with the sponsor of a catered event. That is if the sponsor is the state of Montana, a political subdivision of the state, or a qualified entity under section 501 (c) of the Internal Revenue Code.

Q. If I have a catering endorsement, can I sell and serve alcohol at a dance hall across the street a couple nights a week if bands/concerts and dances are taking place?

A. No. A licensee that holds a catering endorsement can sell and serve alcoholic

beverages at a special event which is a short, infrequent, out of the ordinary occurrence, such as a fair, wedding reception, or sporting contest as stated in Code.

Q. [If I have a banquet room, can I allow another licensee to cater there?](#)

A. No. A licensee with a catering endorsement cannot cater at a location already occupied with a retail license. In addition, a licensee cannot have any product on their licensed premises that they did not purchase from a wholesaler, distributor, winery, brewery, or Agency liquor store.

Q. [Can I sell alcohol at locations other than my bar?](#)

A. No and Yes. A license is issued for specific licensed premises as indicated on the face of your license. However, if you have a catering endorsement, you may be hired to sell and serve alcohol at special events within 100 miles of your licensed premises.

Q. [Can I cater alcohol at an event?](#)

A. Yes. Licensees can apply for a catering endorsement to their license. Licensees with a catering endorsement can cater special events within 100 miles of their licensed premises that is sponsored by someone else and not on another licensed premises.

Violations/ Enforcement Concerns

Q. [What if business is slow and I am having trouble paying my lease?](#)

A. If the licensee (Lessee) is behind in lease payments, the lessor and lessee will need to construct a promissory note and complete a non-institutional lender form for the rent or lease payments owed to avoid possible violation for undisclosed ownership. If both parties agree to renegotiate terms of the lease, a copy of the new lease must be supplied.

Q. [What if business is slow and I am unable to make my loan payments to a prior licensee?](#)

A. If the licensee (buyer) is behind in payments, the seller and buyer may need to construct a promissory note and complete a non-institutional lender form for the payments owed to avoid a possible violation for undisclosed ownership. In addition, or as an alternative, the loan agreement may be amended to change the terms of the loan.

The non-institutional lender form (form 13) can be located at <http://www.revenue.mt.gov>

Q. [If I have more than one license, can I share products between the two premises?](#)

A. No. It is unlawful for a licensed retailer to transport product from one licensed premises or facility to any other licensed premises owned by the licensee.

Q. Can I let someone operate my liquor license while I go on vacation or lease my license for a period of time?

A. No. The licensee of record must maintain ultimate control, liability, responsibility and accountability for the retail liquor operation. However, the licensee can hire a manager to oversee the alcoholic beverages business conducted in the licensee's premises in compliance with ARM 42.12.132, approved by the state. A Management Agreement must be submitted to the department within 30 days of employment.

Q. Can I accept money from a distributor to advertise?

A. No. A distributor is prohibited from being financially interested, either directly or indirectly, in the operation of the business of a retailer.

Q. If I receive money (borrow or gift) from someone to help pay the bills, am I subject to violation?

A. Yes and No. If the lender or gifter has paid such bills prior to notification to the department, yes. To prevent a violation, the best course of action would be for the licensee and the lender to enter into a promissory note with appropriate terms to pay back the money with interest. In the case of a gift, prepare a gifting statement. In both of these cases, a Non-Institutional Lender form, copy of the note or gifting statement, fingerprint cards and personal history statement completed by the lender or gifter and the fee would be required.

Q. Can I tell law enforcement they are not allowed in my bar?

A. No. A liquor licensee cannot deny access to law enforcement.

Q. If we only have a few regulars in the bar and the bartender wants to start closing up and cleaning before we actually close, can she/he lock the doors?

A. No. The doors of licensed premises shall not be locked while persons other than the licensee or the licensee's employees are within or upon the licensed premises.

Miscellaneous Questions

Q. Can I offer my employees a percentage of alcohol sales as an incentive?

A. Yes and No. You cannot offer your employees a percentage of the sale of alcohol alone. However, you can offer them a percentage of gross sales from all sources.

Q. Can I use my license as collateral on a loan?

A. Yes. Use of the license as collateral is permitted if it is property of the debtor/borrower.

Q. Do I have to renew my license or is the license fee a one-time fee?

A. All licensees must pay a license renewal fee each year by June 30th to the department.

Q. [Can the city charge me a licensing fee in addition to my state liquor license fee?](#)

A. Yes. The city can charge a licensing fee, not to exceed the sum equal to five-eighths of the fee for an all-beverages license or 100% of the fee for a beer or beer and wine license collected by the department.

Q. [Can a local cab company purchase alcohol from a retailer and deliver it to a consumer?](#)

A. No. Under 16-6-302, MCA - A person who has not been issued a license under this code who sells or keeps for sale in Montana any alcoholic beverage commits a criminal offense and upon conviction is punishable by a fine not to exceed \$5,000 or by imprisonment in the state prison for not less than 1 or more than 5 years or by both the fine and imprisonment. Also under subsection (1) of that same statute, in consideration of the purchase or transfer of any property or for any other consideration (the cab fare) or at the time of the transfer of any property, give (which means it does not matter whether he sold or gave it to him, he received some consideration, whether through the cab fare or increase in business for providing that service), to any other person an alcoholic beverage; which in turn supports the rest of Title 16 in that you must have a license to sell or give alcoholic beverages to any person.

Q. [Can a retailer accept return of product purchased? \(For example: beer, wine, or distilled spirits\)](#)

A. Yes, in their normal course of business.

Q. [What is the purpose of keg tags, where can a retailer obtain them and how much do they cost?](#)

A. Keg tags are to be attached to kegs sold in the state for tracking purposes and to assist law enforcement with the enforcement of the Montana Alcoholic Beverage Code. You can obtain the keg tags from our department. There is no cost associated. The applicable statutes associated with Keg Identification tags are 16-3-321 through -324, MCA.