

# Detailed Application Process

Once you have determined the type of application you need to use, the manner in which you are going to apply, and have completed and sent in your application, there are several steps that are completed to process your application. Department of Justice (DOJ) and Department of Revenue (DOR) work jointly on all applications.

All applications for **Bars/Taverns/Restaurants**, whether they include gambling or not must be sent to: *Montana Department of Justice, Gambling Control Division, PO Box 201424, Helena, MT 59620-1424.*



Mailman  
delivering your  
application.

The **FIRST STAGE** of the application process is called the **“Initial Review”** and is generally as follows:

- 1) A DOJ license specialist will do a quick review of the application and documents to verify there are sufficient documents supplied to begin processing the application, as well as confirm that the FEIN has been supplied from the IRS in order to scan the application and documents in to the system;
- 2) DOJ license specialist will scan the application and all documents in to our joint computer system called GenTax;
- 3) DOJ license specialist will set up a case to be worked jointly by DOJ and DOR. This is very similar to an electronic file which enables both agencies to work simultaneously on the same file;
- 4) DOJ license specialist begins processing the case by depositing fees, sending the fingerprint cards and personal history statements to be processed and sending the case to DOR for the next step in the process;
- 5) The case is sent to DOR’s management officer for balancing liquor licensing fees, issuance of a license number and assignment to the appropriate compliance specialist;
- 6) The Compliance Specialist will then conduct an **Initial Review** of the application and supporting documentation. The purpose of this **Initial Review** of the

application and supporting documents by DOR is to ensure the necessary information is available to publish the transfer or issuance of the license, as well as grant temporary operating authority (TA), if applicable. Specialist will make note of any missing or incomplete information after their review.

7) There are certain items DOR looks for and



processes followed in the **Initial Review:**

- i. If the application is for a new all-beverage, city beer or beer with a wine amendment or restaurant beer and wine license, excluding vet/frat, golf course beer and wine, non-profit arts, resort and airport determine whether a license is available using the Quota Sheet.
- ii. If there is a license available continue with the review, if not, reject the application.
- iii. Send a quota update to DOR Liquor Licensing notifying them of the receipt of a new application.
- iv. Make note of any existing secured parties or liens on the license to notify the lenders or lienholders of receipt of an application to transfer the license.
- v. Make note of any existing legal actions against the license as these must be cleared up prior to approval of the application. Notify Bureau Chief and applicable legal counsel of receipt of the application.
- vi. If the application is as a result of a lottery, contact the Lottery Specialist to verify application information and obtain a copy of the lottery application.
- vii. If the application is for a license being transferred from another quota area (floater), determine, using the Quota Sheet, if the original quota area has the availability for a license to be floated out and the new quota area has the availability for a license to be floated in. If either scenario is not true, the application must be rejected.
- viii. Verify the ownership interests reported on the application are the same as those reported in supporting documents. The purchaser on the purchase/sale documents must correspond with the applicant stated on the application.
- ix. Verify license fees (new license only), processing fees and initial application fees, if applicable, are paid and that the existing license has been properly renewed.
- x. Verify the application is complete.
- xi. Verify a copy of the proposed buy-sell agreement to transfer the license has been supplied and shows the applicant as the buyer and the current licensee as the seller.



- xii. Verify source of funding for purchase of the license and capital contributions, if applicable; have been supplied including, but not limited to, loan documents, gifting statements, finance institution statement, pay stubs, bank statements, etc.
- xiii. Floor plan of the proposed premises to be licensed on an 8 ½ x 11 sheet of paper clearly showing all areas where alcohol will be sold, stored and served, including exterior dimensions and proper labeling.
- xiv. Assumed Business Name filing, if applicable.
- xv. Additional documentation required for entity applicants as stated in ARM 42.12.103. (Certificate of Existence or Fact, Articles of Organization or Incorporation, stock certificates, stock ledger, bylaws and organizational minutes)
- xvi. Proof that all filings and payments related to Montana income, corporation, withholding, business, and other taxes, are current for the applicant in all cases, and if the application is for a sale of the license, for the seller (current licensee).
- xvii. If the applicant is other than a sole proprietor or partnership, the entity must be in "good standing" with the MT Secretary of State office.
- xviii. Verify the proof of *Possessory Interest* in the real property by reviewing real estate purchase documents or lease agreements to determine that the applicant will own or lease the property.
- xix. For new locations, that a completed *Certified Survey Affidavit* has been provided verifying the physical location of the premises is within the appropriate quota area. Must show a physical address and be completed by a certified licensed land surveyor.
- xx. Review menus, if applicable, to determine: 1. Food is available for purchase on site for a *beer license or beer with a wine amendment* (does not have to be prepared on site). 2. An evening dinner meal is on the menu, hours of operation for *RBW* licenses.
- xxi. Review bank signature card to determine that only the applicant and other approved persons (i.e. a manager having access to the funds used to operate the business) are the only authorized individuals on the account and that the FEIN is the same as on page 2 of the application

- xxii. Run queries in GenTax to verify no applicant, owner, partner, member, shareholder, and/or officer has interest in a manufacturer license, wholesale license, or state agency liquor store.
- xxiii. Verify, if the applicant is applying for an all-beverages license that upon approval of this application, the applicant will not have an interest in more than 3 all-beverages licenses or own an interest in half the allowable all beverage licenses in this particular quota area. (
- xxiv. Verify there is no other application currently pending for the same license or location.
- xxv. If the location will be operated in conjunction with a restaurant, not owned or operated by the applicant, verify a *Concession Agreement* has been supplied and complies with ARM 42.12.133.
- xxvi. If the location is operated under a franchise, verify a *Franchise Agreement* has been supplied, the terms are clear and the franchisor will not derive any income from the sales of alcohol.
- xxvii. If the application is for a new resort license (not resort determination), RBW, or golf course beer and wine license determine if there are any additional up-front fees required and if so make sure they have been paid. (Initial application fees for resort and golf course beer and wine are \$20,000 plus license and processing fees. RBW fees are dependent upon the seating requested.)
- xxviii. For special licenses as indicated below, in addition to the above, verify the following:
  - If the application is for a *Golf Course Beer and Wine* license:
    - That the applicant has not held a beer and wine or all-beverages license within 12 months of the date of the application.
    - That the application is made by the person or entity that owns and operates the golf course.
    - If the owner of the golf course is not the state, a unit of the university system or a local government, the owner:
      - May only make sales of beer and wine during the time of year that the golf course is open for business, and the sales on days during that time must stop by 1 hour after sunset.
      - May not exceed a seating capacity of 75 persons on the premises where beer and wine are sold.
  - If the application is for a *Veteran/Fraternal* license:
    - The appropriate license fee based on the quota area where the license is not be located.
    - Copy of the *Charter* has been provided.
    - IRS Letter of Non-Profit designation.
  - If the application is for a *Floater* license:
    - The applicant is applying to float an all beverage license (beer and wine are not allowed to float).

- Quota allows for a license to float out of and into the requested areas.
- A new license number has been obtained for the new area.
- If the application is as a result of the lottery, verify license is not pledged as security for any institutional or non-institutional loans or used as collateral.
- Obtain a copy of the lottery application from the lottery coordinator to verify the application (Form 5) is in the same applicant name as indicated on the Lottery application.
- Application must be for a transfer of ownership and location. An existing licensee cannot float their own license.
- If the application is for an *Airport* license:
  - Applicant has provided documentation showing the airport is publicly owned, served by scheduled airlines, enplaning and deplaning a minimum total of 20,000 passengers annually.
  - Application is being made by the agency owning and operating the airport.
  - If the applicant intends to lease the license, that a lease agreement between the applicant and the lessee, as well as fingerprint cards, personal history statements and applicable fees have been provided to qualify the lessee.
- If the application is for a *Resort* license:
  - If the applicant has also requested a tour boat endorsement, the applicant has provided documentation verifying the boats are at least 40 feet in length and equipped to carry at least 50 passengers, as well as provided proof of the following:
    - County health department inspection and approval of food services on the boat.
    - Inspection and approval by the Department of Fish, Wildlife and Parks of boat safety equipment requirements.
    - Current boat registration.
    - Business liability insurance coverage.
    - The resort licensee/applicant is the owner of the tour boat.
  - Applicant has provided documentation verifying the number of accommodations for the resort area. (*May issue one resort all-beverages license for the first 100 accommodation units and an additional license for each additional 50 accommodation units.*)

- If the application is for a *Political Subdivision of the State/Fairgrounds* license:
    - Applicant is applying for a beer or beer and wine license.
    - An existing quota license may be transferred to a political subdivision of the state but if the license is already owned by a political subdivision of the state the license may only be transferred to another political subdivision of the state.
    - Applicant has not applied for gambling but may have horseracing.
    - The license is only to be issued for a fairgrounds complex owned by the political subdivision
    - Floor plan shows all facilities contained in the fairgrounds.
    - If the applicant intends to lease the license, that a lease agreement between the applicant and the lessee, as well as fingerprint cards, personal history statements and applicable fees have been provided to qualify the lessee.
- 8) If Temporary Operating Authority (TA) is requested, the following requirements must be met:
- The request to operate must be at the same location as the current licensed premises. TA cannot be issued for a transfer of location or issuance of a NEW license.
  - Processing fees are paid.
  - License is properly renewed.
  - Minimum mandatory pages of the application are complete, including the initial page with FEIN and applicant information, corporate statement for entity applicants, ownership declarations page and TA request page.
  - A copy of the proposed buy-sell agreement to transfer the license has been supplied, shows the applicant as the buyer and the current licensee as the seller.
  - Source of funding documents including, but not limited to, loan documents, gifting statements, finance institution statements.
  - Floor plan of the licensed premises.
  - Bank signature card.
  - Assumed Business Name filing, if applicable.
  - Additional documentation required for entity applicants as stated in ARM 42.12.103.
  - Proof that all filings and payments related to Montana income, corporation, withholding, business, and other taxes, are current for the applicant in all cases, and if the application is for a sale of the license, for the seller (current licensee).
  - If the applicant is other than a sole proprietor or partnership, the entity must be in "good standing" with the MT Secretary of State office.
  - Proof of *Possessory Interest* in the real property by reviewing real estate purchase documents or lease agreements to determine that the applicant will own or lease the property.

- If all the above items are met, notify DOJ - note in the Initial Application Check sheet sent back whether or not TA will be issued. Send a copy of the letter approving TA for 45 days to the applicant, licensee, attorney, Montana Beer and Wine Wholesalers Association, and DOR Liquor Distribution (only for all-beverage).

After their **“Initial Review”**, DOR will send the case back to DOJ for their review. Upon completion, DOJ will send a letter to you addressing any concerns and/or modifications necessary to complete the initial review of the application. You will generally receive 10 days to respond.

The **SECOND STAGE** of the application process is called the **“Audit and Investigation”**. This is generally the longest part of the process. DOJ and DOR each have separate case processing procedures during this stage that happen simultaneously:

DOR will make a **2nd** review of the documents and notify DOJ of any audit requests or concerns, which could include but are not limited to any modification or clarification to documents provided that do not comply with liquor licensing laws and rules, possible alterations if the existing floor plan does not match the new floor plan, closing documents, etc.

DOJ will conduct a background check for each individual involved with the ownership and management of the license;



A DOJ auditor will be assigned to the case and conduct a complete initial audit review of the application and documents;

Upon completion of the initial audit review, the auditor will send their report to the supervisor for review;

The supervisor will then assign an investigator to the case;

Investigation



The investigator will review the initial audit review and setup an interview with the applicant(s) to address any concerns found in the initial audit review and background checks, as well as conduct a premises inspection of the location to verify the location meets suitability requirements for operation of a liquor and/or gambling license. Suitability requirements can be found under [ARM 42.12.122](#).

Upon completion of the investigation, the investigator will prepare his/her report and send his report back to the auditor along with any documents that may have been collected in the field.

The auditor will review the investigators report and any documents provided during the investigation and prepare a final audit report.

The final audit report will be sent to the supervisor for review.

The supervisor will then move the case on to the **Final Review Stage**.

During the **Audit and Investigation Stage** by DOJ, DOR has the following procedure:

- Notify local officials that we have received your application. We notify local officials that we have received an application to help us determine if any concerns or issues exist that may prevent the applicant or proposed location from qualifying for a license;
-  Publish the transfer or issuance of the license in the local newspaper (2 week publication for a transfer and 4 week publication for a new license) (For **Bars/Taverns/Restaurants ONLY**)

During the Audit and Investigation process, there are several things you can be doing to assist us:

- ❖ You can (*for a new location or new license*) contact local building, health and fire code officials to obtain their approvals. They must contact us to let us know that your location meets their approval. There are several ways they can contact us to provide their approval of your location:
  - Fax (406) 444-0722;
  - [By Phone](#); or
  - [By E-mail](#).
- ❖ Answer all DOJ communications whether by telephone, mail or e-mail in a timely fashion;
- ❖ Provide all documents or requests for information as quickly as possible;
- ❖ If you reside in an area that requires a Conditional Use Permit (CUP), contact the planning division and apply for the CUP; and

- ❖ Contact your City or County Commission and inquire whether a city/county license fee is required in your area;

**You are almost done, one last step!**



## **The final stage in processing your application is the APPROVAL:**

There are several things that will happen at this stage depending on your type of transaction:

- DOJ will send you a letter letting you know that the process is complete. Please understand this letter may request additional documentation. At that time, you will contact us to set up a closing date;
- There may be several documents that need to be signed and finalized;
- You may need to set up a closing with an escrow agent if applicable;
- All fees need to have been provided to both divisions (DOJ & DOR);
- *For new locations* building, health and fire code approvals must have occurred;
- Good Standing Certificates must have been provided for all applicants, partners, shareholders and members; and
- Conditional Use Permits provided, if applicable.

Once all the final documents have been received and all other approvals have been provided, we will issue your approval letter and liquor license.



*We know that it is impossible to answer every question so please contact us with any questions or concerns you may have with the process.*

**Toll Free at 1-866-859-2254 (in Helena, 444-6900)**