



# Partnerships in Administering Alcoholic Beverage Regulations in MT

# Learning Objectives:

- ▶ Learn about liquor license regulations in Montana.
- ▶ Learn about the different license types in Montana.
- ▶ Learn about the partnerships with Liquor Control Division.
- ▶ Learn about the liquor licensing and regulatory role of the Liquor Control Division.

# Liquor License Regulations in Montana

- ▶ Montana Code Annotated (MCA)

*16-1-101. Citation -- declaration of policy -- subject matters of regulation.*

*(1) Chapters 1 through 4 and 6 of this title may be cited as the "Montana Alcoholic Beverage Code".*

*(2) It is the policy of the state of Montana to effectuate and ensure the entire control of the manufacture, sale, importation, and distribution of alcoholic beverages within the state subject to the authority of the state acting through the department.*

*(3) This code is an exercise of the police power of the state for the protection of the welfare, health, peace, morals, and safety of the people of the state and of the state's power under the 21st amendment to the United States constitution to control the transportation and importation of alcoholic beverages into the state. The overall purposes of this code under the 21st amendment to the United States constitution are to promote temperance, create orderly markets, and aid in the collection of taxes. The provisions of this code must be broadly construed to accomplish these purposes.*

- ▶ Administrative Rules of Montana

- Further define MCA

# Code of Federal Regulations (CFR)



**TTB** Alcohol and Tobacco  
Tax and Trade Bureau  
U.S. Department of the Treasury

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## TTB Regulations

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TTB publishes its proposed and recently finalized regulations in the Federal Register. To view our Federal Register documents, [click here](#).

Our currently effective regulations are contained in Title 27, Chapter I, of the Code of Federal Regulations (27 CFR). To view our existing regulations, you may search the [Electronic Code of Federal Regulations](#) (eCFR) or use the link below to browse a specific part of the TTB regulations within [27 CFR, Chapter I](#) in the eCFR. The eCFR is a current version of the CFR updated by the U.S. Government Printing Office (GPO). Once at the GPO Web site, you may use the onsite search engine to browse the eCFR.

[27 CFR Part 1](#), Basic Permit Requirements Under the Federal Alcohol Administration Act, Non-Industrial Use of Distilled Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits

[27 CFR Part 4](#), Labeling and Advertising of Wine

[27 CFR Part 5](#), Labeling and advertising of Distilled Spirits

[27 CFR Part 6](#), "Tied-House"

[27 CFR Part 7](#), Labeling and Advertising of Malt Beverages

[27 CFR Part 8](#), Exclusive Outlets

[27 CFR Part 9](#), American Viticultural Area

[27 CFR Part 10](#), Commercial Bribery

[27 CFR Part 11](#), Consignment Sales

[27 CFR Part 12](#), Foreign Nongeneric Names of Geographic Significance used in the Designation of Wines

[27 CFR Part 13](#), Labeling Proceedings

[27 CFR Part 16](#), Alcoholic Beverage Health Warning Statement

[27 CFR Part 17](#), Drawback on taxpaid distilled spirits used in manufacturing nonbeverage products

[27 CFR Part 18](#), Production of volatile fruit-flavor concentrate

[27 CFR Part 19](#), Distilled Spirits Plants

[27 CFR Part 20](#), Distribution and use of distilled alcohol and wine

# Alcoholic Beverage License Types in Montana-

## The Three Tiers:

*Distribution system for alcoholic beverages set up in the United States after the repeal of Prohibition in 1920*

- ▶ On Premises and Off Premises (Retail)
- ▶ Manufacturers
- ▶ Wholesalers

# On-Premises Consumption Retail Licenses

- County All-Beverage License \*
- City All-Beverage License \*
- Beer License \*\*
- Beer License with Wine Amendment \*\*
- Restaurant Beer and Wine License
- Veterans Club - County License
- Veterans Club - City License
- Golf Course Beer and Wine License
- Resort All-Beverages License
- Tour Boat Endorsement (Resort)
- Airport All-Beverages License
- Passenger Carrier (Railroad/Airline)
- Nonprofit Arts Organization Beer/Wine
- Catering Endorsement (Beer/Wine)
- Catering Endorsement (Restaurant Beer and Wine)
- Catering Endorsement (All-Beverages)
- Wine Amendment (to Beer License)

# Brewery/Winery/Distillery Licenses

- Brewery Producing less than 20,000 Barrels Annually
- Brewery Producing greater than 20,000 Barrels Annually
- Brewery Storage Depot
- Winery License
- Winery Registration
- Direct Ship Endorsement
- Distillery License
- Vendor (entity that sells distilled spirits to the department)

# Off-Premises Consumption Retail Licenses

- Sacramental Wine License
- Beer License
- Wine License
- Beer and Wine License



# Wholesaler/Distributor/Importer

- Beer Wholesaler
- Beer Wholesaler Sub Warehouse
- Table Wine Distributor
- Table Wine Distributor Sub Warehouse
- Wine Importer
- Beer Wholesaler/Table Wine Distributor
- Beer Wholesaler/Table Wine Distributor Sub Warehouse

# Special Permits:

***Allows organizations or associations to sell and serve beer and wine. The purpose is to “raise funds for a needy person” or “postsecondary school” up to 3 times a year.***

- Special Permit to Sell Beer and Wine
- Special Permit to Sell All-Beverages
- Permit to Sell Beer and Wine (Sports Season)

# Catering Endorsement:

- ▶ To be within 100 miles of regular business.
- ▶ To notify local law prior to event.
- ▶ Only the licensee, the licensee's employees, or the licensee's agents are authorized to sell and serve alcoholic beverages at the event.
- ▶ A licensee with a catering endorsement is to report via TAP or mail by the 15<sup>th</sup> of each month regarding the events catered the previous month.
- ▶ "The holder of a catering endorsement may sell and serve alcoholic beverages at retail only at a booth, stand, or other fixed place of business within the exhibition enclosure, confined to specified premises or designated areas described in the notice given to the local law enforcement agency that has jurisdiction over the premises where the event is to be catered."

# Liquor License Bureau

- ▶ The bureau has administrative authority to issue alcoholic beverage licenses and manage compliance with state laws and rules. In order to do so, this bureau partners with many agencies.

# Partnerships with Liquor Control Division

- ▶ Department of Justice, Gambling Control Division
- ▶ Local law enforcement agencies
- ▶ State and Federal law enforcement
- ▶ Alcohol and Tobacco Trade Bureau (TTB)
- ▶ Courts
- ▶ Licensees and their employees
- ▶ Associations and interested parties

# Licensing and Regulatory Role

- ▶ The Liquor Licensing Bureau in the Department of Revenue is responsible for properly licensing Montana businesses that manufacture and/or sell alcoholic beverages (manufacturers, distributors, and retailers) in a manner that protects the public health and safety in a fair and uniform process.

# Complaints

- ▶ **16-4-406. Renewal -- suspension or revocation -- penalty -- mitigating and aggravating circumstances. (1)**  
The department shall upon a written, verified complaint of a person request that the department of justice investigate the action and operation of a brewer, winery, wholesaler, domestic distillery, table wine distributor, beer or wine importer, retailer, or any other person or business licensed or registered under this code.

# Criteria for Action and Penalties

16-4-406, MCA

(2) Subject to the opportunity for a hearing under the Montana Administrative Procedure Act, if the department, after reviewing admissions of the licensee or receiving the results of the department of justice's or a local law enforcement agency's investigation, has reasonable cause to believe that a licensee has violated a provision of this code or a rule of the department, it may, in its discretion and in addition to the other penalties prescribed:

- (a) reprimand a licensee;
- (b) proceed to revoke the license of the licensee;
- (c) suspend the license for a period of not more than 3 months;
- (d) refuse to grant a renewal of the license after its expiration;

or

- (e) impose a civil penalty not to exceed \$1,500.



# Common Violations and Applied Regulations

## Sale to underage person:

16-3-301. Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age.

(4) It is unlawful for any 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;

# Sale to intoxicated person:

16-3-301, MCA

(4) It is unlawful for any 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.

# Ownership of a License

- ▶ **16-4-401. License as privilege -- criteria for decision on application.** (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in [16-4-311](#) and subsection (6) of this section and subject to subsection (8), in the case of a license that permits on-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

- (a) if the applicant is an individual:
  - (i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all-beverages sales;
  - (ii) the applicant does not possess an ownership interest in an agency liquor store as defined in [16-1-106](#);
  - (iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;
  - (iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and
  - (v) the applicant is not under 19 years of age;

# Ownership of a License

## 16-4-402, MCA

**Application -- investigation.** (1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee or letter of credit as provided in [16-4-501\(7\)\(f\)](#), the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

- (i) the applicant is qualified to receive a license;
- (ii) the applicant's premises are suitable for the carrying on of the business; and
- (iii) the requirements of this code and the rules promulgated by the department are met and complied with.

# Ownership of a License

16-4-404, MCA

**Protest period -- contents of license -- posting -- privilege -- transfer.**

(1) A license may not be issued until on or after the date set in the notice for hearing protests.

(2) Every license issued under this code must state the name of the person to whom it is issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under the license, and other information the department considers necessary. If the licensee is a partnership or if more than one person has an interest in the business operated under the license, the names of all persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises in which the business authorized under the license is conducted, and the license must be exhibited upon request to any authorized representative of the department or the department of justice or to any peace officer of the state of Montana.

# Ownership of a License

ARM 42.12.106

(43) "Undisclosed ownership interest" means a person with an ownership interest in a license who is not identified as an applicant, shareholder, or member of an applicant on an application for the license, or as a licensee on the face of the license.

# Hours of Operation

16-3-304.

**Closing hours for licensed retail establishments.** Except as provided in [16-3-305](#), all licensed establishments wherein alcoholic beverages are sold, offered for sale, or given away at retail shall be closed each day between 2 a.m. and 8 a.m.; provided, however, that when any municipal incorporation has by ordinance further restricted the hours of sale of alcoholic beverages, then the sale of alcoholic beverages is prohibited within the limits of any such city or town during the time such sale is prohibited by this code and in addition thereto during the hours that it is prohibited by such ordinance. During such hours all persons except the alcoholic beverage licensee and employees of such licensed establishment shall be excluded from the licensed premises.



# Hours of Sale and Consumption

16-3-305, MCA

**Sale of alcoholic beverages during closed hours unlawful -- lawful business need not be closed.** During the hours when the licensed establishments where alcoholic beverages are sold at retail are required by this code to be closed, it shall be unlawful to sell, offer for sale, give away, consume, or allow the consumption of alcoholic beverages. When an establishment licensed to sell alcoholic beverages is operated 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.

# Alterations to Licensed Premises

- ▶ Painting, re-flooring, interior decorating is not considered altering a premises.
- ▶ Alterations are adding to the footprint of the floor plan, adding a patio or parking lot, taking down walls, etc.
- ▶ Licensee must receive pre-approval to alter the licensed premises.
- ▶ Building, health and fire officials will need to approve the final changes.

## Progressive Penalty Schedule

Violation	1st Offense	2nd Offense	3rd Offense	4th Offense
Sale to Underage Person	\$250	\$1,000	\$1,500/20-day Suspension	Revocation
Sale to Intoxicated Person	\$250	\$1,000	\$1,500/20-day Suspension	Revocation
Open after Hours	\$150	\$600	\$1,000/12-day Suspension	Revocation
Sale or Consumption after Hours	\$150	\$600	\$1,000/12-day Suspension	Revocation
Refilling of Bottles	\$250	\$1,000	\$1,500/20-day Suspension	Revocation
Unapproved Premises Alteration	\$300	\$600	\$1,000/12-day Suspension	Revocation
Undisclosed Location Manager	\$150	\$600	\$1,000/12-day Suspension	Revocation
Improper Use of Catering Endorsement	\$150	\$600	\$1,000/12-day Suspension	Revocation
Accept More than 7 Days Credit	\$250	\$1,000	\$1,500/20-day Suspension	Revocation
Extend More than 7 Days Credit	\$250	\$1,000	\$1,500/20-day Suspension	Revocation
Exceed Sample Room Service Limits	\$150	\$600	\$1,000/12-day Suspension	Revocation
Undisclosed Ownership Interest		\$1,500/Revocation		
Denial of Inspection of Premises or Records		\$1,500/Revocation		



▶ Thank you!