

Liquor Licensing Terms

Administrative Support means the team of support people who assist the Liquor Control Division of the Department of Revenue.

Aggravating Circumstances means no effort on the part of the licensee to prevent a violation from occurring, failure to report a violation at the time of renewal, ignoring warnings issued by a regulating authority about compliance problems, failure to timely respond to requests during the investigation of a violation; and a violation's significant negative effect on the health and welfare of the community in which the licensee operates.

All-alcoholic beverages license means a license to sell liquor, beer, table wine and hard cider at retail for on or off premises consumption.

Applicant means the person or entity who prior to issuance of a license shall file with the department an application containing information and statements relative to them as an applicant and the premises where the alcoholic beverage is to be sold as required by the department.

Associated business means a business that is not licensed by the state to keep or sell alcoholic beverages, but has an alcoholic beverages licensed business located within or on the premises owned or controlled by the "associated business." Examples of associated businesses are: a hotel that is not licensed to keep or sell alcoholic beverages, but leases space in the hotel to a licensee to sell alcoholic beverages; or a shopping mall that is not licensed to keep or sell alcoholic beverages, but leases space in the mall to a licensee to sell alcoholic beverages. ARM 42.12.106

Basic Permit means the permit issued by the TTB authorizing the applicant to manufacture, distribute and sell beer and malt beverages.

Beer means a malt beverage containing not more than 8.75% alcohol by volume; or an alcoholic beverage containing not more than 14% alcohol by volume, that is made by the alcoholic fermentation of an infusion, or decoction, or a combination of both, in potable brewing water, of malted cereal grain; and in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients.

Beer Importer means a person other than a brewer who imports malt beverages.

Bona fide sale means a transaction that completely transfers the license to a qualified purchaser for consideration. ARM 42.12.106

Bureau Chief means the person who oversees the Liquor Licensing Bureau.

Building means an enclosed structure with external walls and a roof. A series of structures linked together, such as a commercial mall, structures contained on a city block or structures connected by skyways, are not considered one building for licensing purposes. ARM 42.13.111

Buy-sell agreement means a document that transfers ownership of the license to a qualified purchaser for consideration. The document must be in the same name as the applicant. The terms must be clearly defined (i.e. amount of liquor license and terms and terms of purchase).

Caffeinated or stimulant enhanced malt beverage means a beverage:

(i) that is fermented in a manner similar to beer and from which some or all of the fermented alcohol has been removed and replaced with distilled ethyl alcohol; (ii) that contains at least 0.5% of alcohol by volume; (iii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55; and (iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine; or

(b) a beverage: (i) that contains at least 0.5% of alcohol by volume; (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55; (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract;

(iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine; (v) for which the producer is required to file a formula for approval with the United States alcohol and tobacco tax and trade bureau pursuant to 27 CFR 25.55; and (vi) that is not exempt pursuant to 27 CFR 25.55(f). Beer wholesalers and table wine distributors are prohibited from distributing caffeinated or stimulant enhanced malt beverages.

Catering endorsement is a certificate attached separately to an on-premises license that allows the licensee to cater and sell alcoholic beverages to persons attending a special event upon premises not otherwise licensed.

Certified Survey Affidavit (CSA) means the Department of Revenue form or a sworn statement or affidavit that is completed by the local county

or city surveyor, or a private licensed land surveyor attesting to the location of the proposed premises. ARM 42.12.130

Change order means the document used by the LCD Compliance Specialist to process the application which contains the license transfer information or the GenTax work item utilized by LCD and sent to DOJ addressing any audit concerns found in review of the complete application.

Charter means a written grant by a country's legislative power by which an institution is created and its rights and privileges are defined. Regarding Veteran and Fraternal organizations, these mostly honorific charters tend "to provide an 'official' imprimatur to their activities, and to that extent it may provide them prestige and indirect financial benefit.

Check sheet is the work item referenced by the LCD as the initial processing and review of the application.

Combined application means a required form an applicant must complete to acquire an on-premises liquor license and/or gambling license operator license

Complete application means all information requested on the license application forms and the necessary supporting documentation has been supplied in compliance with the law. ARM 42.12.106

Compliance Specialist means a DOR Liquor Licensing employee.

Concession agreements are agreements between either a retail on-premises consumption beer or all-alcoholic beverages licensee and a non-licensed entity operating a business directly related to the liquor operation. Both parties must conduct their respective enterprises within the same building, as set forth in ARM 42.12.133, and the premises must meet suitability requirements as set forth in ARM 42.12.122. ARM 42.12.106

Conditional approval letter means a letter that is issued upon completion of the license application investigation and public protest period, but prior to approval of the premises. A conditional approval letter precedes issuance of a license, is not an approval to operate, and is not to be confused with a license with conditions written on the face of the license itself pursuant to 16-1-302 , MCA. The conditions appearing on the face of the license are permanent and last through the existence of ownership by the current licensee. ARM 42.12.106

Cross collateralization means collateral for one loan also serving as collateral for other loans.

DOJ means the Department of Justice - Gambling Control Division.

DOR BIT means the Department of Revenue / Business and Income Tax Division.

Denial of Application means an administrative action issued against an applicant denying an application for transfer or issuance of a license to retail, distribute or manufacture alcoholic beverages.

Denial of Renewal means an administrative action issued against a license for failure to provide a complete renewal application, renewal fees or late fees.

Department means the Department of Revenue unless otherwise specified, and includes the Department of Justice with respect to receiving and processing, but not granting or denying, an application under a contract entered into under [16-1-302](#). 16-1-106 MCA

Duly Authorized Representative means a Department of Justice investigator or any member of a county sheriff's department or the police force of a city or town, provided the police force is organized pursuant to Title 7, Chapter 32, part 41, MCA

Entity means a person, corporation, partnership, trust, agency, estate, two or more persons having a joint or common economic interest; a state, the United States and includes individual officers, directors, members or other persons in active control of the activities of the "entity".

Final Agency Decision means the final decision made by the Hearings Examiner or other Agency Members as may have been appointed by the department.

Fingerprint card (FPC) means a card used for a criminal check conducted by the Department of Justice that is required for all individual officers, directors, or other persons in active control or ownership of the activities of the "entity".

Floater means an all-alcoholic beverage license that may be transferred to a new location outside the quota area for which it was originally issued. This type of license cannot be mortgaged or sold for 5 years after the transfer. In the case of a floater license which is issued as the result of a lottery this type of license will have a gaming restriction, the license code designation will be an -003.

Floor Plan means a drawing of the premises proposed for licensing that shows where alcoholic beverages will be sold, stored, consumed and manufactured, as well as exterior dimensions, business/trade name, address and date.

Franchise agreement means a contract or agreement by which a franchisee is granted the right to engage in business under a marketing plan prescribed in substantial part by the franchisor. The franchisee is required to pay, directly or indirectly, a fee for the right to operate under the agreement. For liquor only licensing purposes the franchise agreement must include an acknowledgment that the franchisor cannot receive the assignment of a percentage of any sales of alcoholic beverages.

GenTax means the Department of Revenue database used jointly with the Department of Justice, Gambling Control Division to process applications, alterations, investigations, liquor notices and track liquor and gaming licenses.

Good standing means a corporation that is authorized to do business in Montana has been issued a certificate of incorporation or certificate of good standing within the last six months by the Montana Secretary of State.

Good standing verification means a certificate of good standing verification provided by DOR BIT to verify the entity or person is in good standing with DOR tax requirements.

Hearings Examiner means the person appointed by the department for the conduct of hearings in contested cases where a hearing is requested by the licensee or applicant.

Immediate family means a spouse, dependent children, or dependent parents.

IMT means Information Management and Technology division.

Information letter means the letter provided to local government officials informing them of the application for a license. A copy of the floor plan, along with pages of the application accompany the letter.

Initial Application Check Sheet means the "DOR Check Sheet" sent to DOJ verifying initial application documents have been received and reviewed by a LCD Compliance Specialist for compliance, completeness and accuracy in order to issue Temporary Operating Authority and to publish the transfer.

Lapse means the department shall cancel such license of record and no portion of the fee paid therefor shall be refundable.

Lease means a bona-fide agreement whereby the applicant will show possessory interest in the premises (i.e. amount and terms).

License fee means the annual license fee assessed new licenses in accordance with 16-4-501, MCA. All licenses must be renewed and the annual license fee paid on or before the due date of each year.

Licensee means a person, partnership, association, or other entity holding a Montana retail liquor license, a retail liquor operation located on a U.S. military installation, an alcoholic beverage manufacturer, a table wine distributor, or a beer wholesaler within Montana. ARM 42.12.106

Liquor Control Division (LCD) means the division of the Department of Revenue responsible for the licensing and compliance of the sales, manufacture and distribution of alcoholic beverages.

Loan means a written contract by which one delivers a sum of money to another with the agreement that the money be returned with interest within a specified period of time. ARM 42.12.106

Lottery means the process of awarding a quota-defined license when the department advertises the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery

MABC means the Montana Alcoholic Beverage Code.

MAPA means the Montana Administrative Procedures Act.

Manager is a person employed by the licensee as the licensee's agent to oversee the alcoholic beverages business conducted in the licensee's licensed premises. The manager or the person designated to represent the manager must possess a past and present status as a business

person and citizen who demonstrates the likelihood of operating the licensed establishment on behalf of the licensee in compliance with all applicable laws of the state and local governments.

Management Officer means the person in charge of administrative oversight of the Liquor Control Division.

Mitigating Circumstances means a justification or excuse for a violation of the code, but which, in fairness, may be considered as extenuating enough to reduce the penalty imposed for the purpose of ARM 42.13.101.

New license means a license that is newly issued and not currently in use or owned by another licensee.

Non-Institutional Lender (NIL) means a person other than a state or federally regulated banking or financial institution, a credit union, an investment company, or a development company or other regulated lender as defined in 31-1-111, MCA, who loans money to the applicant for a license or to the licensee. ARM 42.12.106

Nonuse is a term applied to a license not actually in use in a going establishment for a period of 90 days or more.

Notice of Deficiency means a notice received from a city or county official stating that the licensee is not in compliance with city, county or state laws.

Notice of Denial of Application means a document issued by DOR to the applicant denying the issuance of a license. The denial notice contains the applicant's MAPA rights.

Notice of Lapse means an administrative action issued against a license not used in an operating establishment for a period of 90 consecutive days without department approval.

Notice of Violation means an administrative action issued against a licensee for a violation of the MABC.

Notice of Revocation means an administrative action issued against a licensee that is not likely to follow the laws and rules regarding the sales, service and consumption of alcoholic beverages based on multiple past and current violations of the MABC.

On-premises consumption license means a retail license to sell alcoholic beverages by the drink for consumption on the licensed premises.

Operating Establishment means an establishment that is open at least 20 hours a week for any four weeks in a 90-day period, maintains at least ten cases of alcoholic beverages on the premises each day the establishment is open, alcoholic beverages are displayed for sale in the purchase or consumption area of the establishment each day the establishment is open and the sale of alcoholic beverages is at least \$50 each week that the establishment is open.

Ownership interest means the involvement in the business operated under the license by someone who owns some or all of the assets of the business, shares any portion of the profits, or any portion of the losses or liabilities of the business. Someone with an ownership interest in a liquor license shares in the financial risks of the business and is entitled to the profits or suffers the losses. Ownership interest includes the right to control the location or ownership of a license. Examples of ownership interests would include the authority to participate in such business decisions as the sale of the license, relocation of the license, change or creation of any financial arrangements for loan repayment or funding sources, or any responsibilities listed in ARM [42.12.132](#) to be held by the licensee. Participation in business decisions does not include providing advice. A right of first refusal is not an ownership interest. ARM 42.12.106

Parties means a: licensee; applicant; secured party; protestor; or attorney representing the licensee, applicant, secured party, protestor, or other interested party. ARM 42.12.106

Patio/Deck means an outdoor area that is part of the licensed premises, specifically designated on a floor plan, with a perimeter barrier and immediately adjacent to, and accessible from, the indoor portion of the licensed premises. ARM 42.12.106

Perimeter barrier means a barrier enclosing the perimeter of the patio/deck portion of a 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; impedes access to the service areas by underage persons or others who may attempt to enter the premises without the licensee's knowledge; and consists 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 premises are land or water. ARM 42.12.106

Person means a natural person, corporation, partnership, trust, agency, or other entity and includes individual officers, directors, or other persons in active control of the activities of the entity. 16-1-106 MCA

Personal History Statement means the Department of Justice document that an applicant for a license must complete and submit in order for a background check to be conducted.

Political Subdivision of the State means the subordinate entities that comprise the state, ie. counties and incorporated cities and towns.

Premises means one building or a specific portion or portions of one building as described on the floor plan, identified by a unique address and approved by the department. The premises shall contain all service areas used by the licensee and the licensee's patrons and those service areas in which the licensee operates outside of and attached to the licensed building and to which patrons are permitted free access from the building. ARM 42.13.111

Prepared-food business means a restaurant, except the food need not be prepared on-site. ARM 42.12.106

Primarily meals with table service means a restaurant where the business records show that the gross sales of food is greater than the sum of any other activity conducted on the premises. ARM 42.12.106

Progressive Penalty Schedule means the increase in penalties or days of suspension for multiple offenses of the MABC.

Proof of Violation means information supporting allegations that the licensee or its employees or representatives have violated a provision of the MABC through a law enforcement citation, DOJ investigation, licensee's admission or a written, verified complaint.

Protests may be made against the approval of the application by a person who has extended credit to the transferor or by residents of the county from which the application comes or adjoining Montana counties.

Processing fee means the fee required for processing endorsement and license applications.

Promissory note means a bona-fide loan agreement clearly defining the amount, terms, lender and borrower.

Public convenience and necessity means an indication that the issuance of a license will materially promote the public's ability to engage in the licensed activity.

Public place means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort.
16-1-106 MCA

Publish means public notice of a pending application for a retail on-premises new license, transfer of ownership, corporate structure change adding new shareholders or transfer of ownership and location that is published in a newspaper of general circulation in the city, town, or county from which the license originates and/or is located. This is done when DOR determines that an application for a license is complete.

Quota means the system utilized by the department to maintain and monitor the availability of liquor licenses in each city and county area in Montana as stipulated by statute.

Reprimand means, in the case of a sale to minor only, that if the licensee does not commit the same offense again within one year that the offense will not be considered a first offense for application of the progressive penalty schedule. The written reprimand shall be available only one time per licensee.

Restaurant as it applies to an all-beverages license or a retail on-premises beer or beer and wine license (but not a restaurant beer and wine license), means a public eating establishment allowing for seated service for a minimum of 12 persons at tables or booths where the sale of food served is prepared on-site.

Restaurant beer and wine license (RBW) means a license which must be attached to a restaurant and can only be used in conjunction with food service. The licensee must agree to forego any kind of gambling, maintain 65% of business income from food sales, and must only have table service of beer and wine to those customers who are eating or waiting to be seated to eat.

Retail Alcoholic Beverages license means a license operated by an establishment for the retail sale of alcoholic beverage for either on- or off-

premises consumption but does not include brewery, winery, or distillery licenses.

Sacramental Wine means wine that is manufactured and sold exclusively for use as sacramental wine or for other religious purposes. Sacramental wine must be purchased through a Montana table wine distributor or winery licensed in Montana excluding sacramental wine more than 16% alcohol by volume which must be purchased from an agency liquor store.

Samples means beer and wine samples that may be poured and served to on-premises retailers and their employees in de minimis quantities for business purposes only and may not be sold (in reference to industry members such as manufacturers and distributors). Business purposes include negotiating a sale, promoting the product and determining the quality and character of the product. These samples must be beer and wine products that have not been purchased within the last 12 months, in limited quantities (3 liters of wine, 3 gallons of beer)

Substantially different use means a change great enough to create a new type of business operation at a premises which is easily distinguishable from the business currently operated or previously planned to be operated at the same premises. ARM 42.12.106

Suitability of Premises is the area to be licensed that meets the requirements of law and rule as a location suitable for the carrying on of an alcoholic beverages business.

Suspension means to suspend the license privileges of a license for a specific period of time not more than 3 months.

Temporary operating authority (TA) means authority issued to an applicant to operate the business being transferred pending final approval of the application. As provided by 16-4-404 , MCA may be issued only to an applicant who requests a transfer of ownership. Temporary operating authority must not be granted on an application for an original license, or when there is a proposed change of location for the existing licensed premises. The granting of temporary operating authority is neither a temporary license nor a permit.

Transfer fee is the processing fee as specified in ARM [42.12.111](#).

Transfer of ownership and/or location means the transfer or sale of a license to another qualified person or change of location (if the existing license is changing location).

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. ARM 42.12.106