

An Agency Liquor Store



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

What is an agency liquor store?

An agency liquor store is a privately owned liquor store that is under contract with the State of Montana to sell distilled spirits and wine to the public and licensed retailers.



Where do I start?

To open a new agency liquor store, you first need to find out if it is allowed in the community where you want to open the store, or if an existing liquor store is available for purchase from a current owner. Montana law limits the number of liquor stores in any given community. "Community," means an incorporated city or town, or an area the United States Census Bureau identifies as a community for census purposes.

Regardless of the population change, a community is prohibited from having another agency liquor store if that community is within 35 miles of another community with an agency liquor store. The distance between two communities is measured by the shortest route on a paved road from one community boundary to the other.

To find out if a community is eligible for a new liquor store,

contact the Alcoholic Beverage Control Division (ABCD) Agency Liquor Store Specialist at (406) 444-0724 or by email at doralcoholicbeveragecontrol@mt.gov.

What are the associated costs?

There are no department-related costs associated with the Invitations For Bids (IFB) process for a new agency liquor store. The purchase price of an existing agency liquor store is negotiated between the current agent(s) (owner(s) of the liquor store) and the buyer(s). The department plays no role. As the agent, you are responsible for buying the equipment you will need to operate the agency liquor store. You should not incur any costs associated with opening a new agency liquor store until you have been awarded a contract.

Once you are offered the contract, you will be required to provide proof of insurance and possessory interest in the premises (lease or document showing you own the property).

How do I apply to open a NEW store?

When applying for a new agency liquor store, you need to provide a petition signed by 20 adults in the community or by however many adults in the community it takes to equal five percent (5%) of its population, whichever number is greater, to the department. The petition must clearly state you are requesting for the department to determine if a new agency liquor store should be opened in the petitioned community. Make sure the petition shows the printed name, mailing address, and signature of each person signing the petition.

Within six months of submitting your petition, you must send the department a letter of interest.

The letter should state you are willing to submit a bid to

operate a new agency liquor store. After the department receives the petition and the letter of interest, the department will hold a public hearing.

A department hearings officer presides over the hearing and collects the information you and the public present. The hearings officer determines:

- if the department solicits bids for a new agency liquor store in that community.
- if the department had considered any limitations or restrictions on the location and operation of the new agency liquor store.
- considers any other issues or possible effects on the community directly related to the operation of the proposed new agency liquor store.

If the department decides to solicit requests for IFB, the process to select an agent begins.

The department selects an agent according to the competitive procedures outlined in the Montana Procurement Act and drafts an agency franchise agreement. If the agent satisfactorily meets all requirements, the agreement is valid for the remainder of the existing 10-year renewal term and then is renewed every ten years after that time period.

If the department receives no bids or none of the bids meets the minimum requirements specified in the IFB, the department will wait three years before soliciting again for a new agency liquor store in the community.

How do I purchase an EXISTING store?

If a community is not eligible for a new agency store, the current agent(s) (owner(s) of the liquor store) may sell and

assign their agency franchise agreement. If the department approves the application, the applicant is named as the new agent for the remaining term of the agreement. For example, if a person buys an existing store, they only have what is left of the remainder of the 10-year contract. When the 10-year period is up the contract is renewable for an additional 10-year period if the requirements of the agency franchise agreement have been satisfactorily performed. To find agency franchise agreements for sale, check with a local real estate agent or the newspaper.

The selling price is negotiated between the current agent(s) (owner(s) of the liquor store) and the proposed buyer(s). The department will need to know who is responsible for any outstanding balances and how those balances will be paid. The process of approving a new agent(s) on an existing agency franchise agreement takes a **minimum of 60 days**.

What do I need to apply?

When applying for the assignment of an agency franchise agreement you will need to provide:

- Copies of any loan agreements, contracts, notes, and all related security agreements, guarantees, and trust indentures.
- If funds come from somewhere other than a loan the last 6 months of bank statements must be provided from the bank account used to pay for the alcoholic beverage license, building, and/or start-up operating funds for the business.
- Other sources of funding:
 - File the [non-institutional loan \(NIL\) form](#) with the application if any lenders or other sources of financing are not state or federally-regulated financial institutions, including gifting statements.

- o [Personal criminal history statement forms](#) for each NIL. Two fingerprint cards and fees for each NIL.
- Copies of lease, rent, purchase options, financing agreements, or other evidence showing possessory interest in the building.
- Financial statements, such as a balance sheet, income statement, or tax return for the business. If it is a new business, a projected balance sheet and income statements are acceptable.



- Purchase/transfer documents for the agency liquor store, such as a buy/sell agreement, contract for deed, warranty deed, and bill of sale, if applicable.
- Copy of business's bank signature card.
- A completed ABCD authorization to disclose tax information form for each individual with ownership over 15% and the applying entity.

When a proposed buyer wishes to relocate an agency liquor store – the applicant MUST provide the following:

- A floor plan that includes the business name and physical address, areas where you intend to store or sell alcoholic beverages, external dimensions, entryways, and where they lead including types of other businesses in

the building and other customer service areas in which you have a possessory interest. Do not send in the original blueprints, only an 8 ½" x 11" size copy of the floor plan.

- A plat plan showing the adjacent businesses, streets, parking, access for a 40-foot semi-truck, and where you intend to hang your signage identifying your business as an agency liquor store.

When applying for the assignment of an agency franchise agreement, you need to provide the following ownership information (based on the entity type applying), including:

- Copy of partnership agreement documentation.
- Copy of Articles of Incorporation and amendments or addenda.
- Copy of Bylaws and amendments or addenda.
- Copy of partnership agreement documentation.
- Copy of articles of incorporation and amendments or addenda.
- 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 in-state corporations).
- Copy of authority to conduct business in Montana (for out-of-state corporations).
- Copy of documentation from the Secretary of State verifying approved assumed business name (ABN).
- Copy of federal employer identification number (FEIN) verification from IRS.



- Completed [personal criminal history statement form](#) for each individual with 15% or more ownership interest in the business. Two fingerprint cards and fees for each individual with 15% or more ownership interest in the business.



What is the application process?

- The application process takes an **average of 60 days** and begins when the Department of Revenue (DOR) ABCD receives a complete application package and all supporting documents.
- Application is reviewed by the ABCD.
- ABCD sends a letter to the applicant(s) requesting any additional documents if needed.
- Before final approval of any new location, ABCD will not approve an application until:
- A background check of the applicant(s) and a premises inspection are completed so ABCD can verify the location meets suitability requirements.
- After the completion of the audit and investigation, ABCD conducts a final review of the application. If necessary, any additional or closing documents may be

requested.

- Final approval is granted when the liquor store specialist receives all finalized documents, inspections, and any outstanding issues or violations (if any) have been resolved.



What compensation do agents receive?

Agents receive compensation in the form of a commission rate discount. You receive the commission rate discount through a reduction on the posted price of liquor purchased from the state liquor warehouse. The posted price is the department-fixed price of a bottle of liquor. It serves as the wholesale price in the sale of liquor to all beverage licensees and as the minimum retail price for other customers.

The agent's commission rate is updated annually and is effective from February 1 to January 31.

The agent's commission rate is determined based on the total posted price of liquor the agent purchased from the department in the previous calendar year, as follows:

Commission Rate	Prior Calendar Year Liquor Purchases*
16.00%	\$0.00 to \$250,000.00
15.50%	\$250,000.01 to \$500,000.00
15.00%	\$500,000.01 to \$720,000.00
14.50%	\$720,000.01 to \$950,000.00
14.00%	\$950,000.01 to \$1,525,000.00
13.50%	\$1,525,000.01 to \$1,850,000.00
13.00%	\$1,850,000.01 to \$2,250,000.00
12.75%	\$2,250,000.01 to \$3,250,000.00
12.50%	\$3,250,000.01 to \$7,000,000.00
12.15%	\$7,000,000.01 and above

*The department will adjust these dollar values each year based on the consumer price index (CPI) for the prior calendar year and notify the agent of the adjustment. Check for the most recent threshold due to annual CPI rate changes.

What are the rules for an agency liquor store?

All agents and employees must conduct the premises in compliance with all:

- Alcohol-related provisions of the laws of Montana (Montana Code Annotated [MCA] Title 16 and the United States Code of Federal Regulations (CFR).
- County and city or town ordinances.
- Indian alcohol beverage laws applicable within the areas of Indian Country.
- Administrative Rules or Montana (ARMs) for the Department – Chapter 42.

Title 16 and the ARMs can be found on our website [here](#) under Links and Information. **NOTE:** these change from time to time. Contact ABCD if there are any questions.

All agents must keep up on any changes to Title 16 MCAs and the ARMs.

An agency liquor store MUST:

- Operate their agency liquor store for not less than six hours per day Tuesday through Saturday between the hours of 8 a.m. and 2 a.m.
- Order a minimum of ten (10) cases, which can be a combination of full cases and repack units. Agents may order products in less than full cases. The department offers approximately 600 products in less than full cases.
- Sell liquor to all beverage licensees (bars and restaurants) at the state's posted price, as listed in the most current quarterly price book. Agents must give an 8 percent reduction on case lot sales of regular list products to licensees. Agents may mark up the price to the public above the posted price but can never sell for a price less than the posted price unless the product has been discontinued.
- Pay for all liquor purchased from the liquor warehouse **within 60 days** of the date on the invoice from the department.
- Notify the department regarding changes to the agreement **before** the change occurs. Contact your ABCD Agency Liquor Store Specialist for more information.

An agency liquor store franchisee MAY:

- Be open on Sundays, Mondays, and state-legal holidays with no minimum operating hour requirements between 8 a.m. and 2 a.m.
- Agents may order inventory on a department-designated day every week.
- Deliver products directly to licensees and the public.



An agency liquor store franchisee may NOT:

- Offer samples for consumption at an agency liquor store.
- Open or consume alcoholic beverages on the store premises.
- Own any interest in an alcoholic manufacture license, alcohol retail license, beer wholesaler and table wine distributor license, or any other type of retail alcoholic beverage license.

Miscellaneous:

• Alterations

- If you decide to remodel your establishment, you must send ABCD an [alteration request form](#) along with a copy of the existing [floor plan](#) and a proposed floor plan showing the alterations **before** starting the alteration.
 - Once the Department reviews and approves the request, you may begin the alteration without it affecting your agency liquor store.
 - You may not use altered premises areas until the department has approved them and they have passed building, health, fire, and premises inspections.
- Not sure if your “remodel” is considered an alteration contact your Agency Liquor Store Specialist.

• Noncontiguous Storage

- An agency liquor store may be approved for one noncontiguous storage area. See the [noncontiguous storage form](#) for more information.
- Montana licensed table wine distributors and distilleries may ask the agency liquor store owner to see a copy of the ABCD storage approval letter

outlining the noncontiguous storage specifics or call the ABCD Liquor Store specialist.

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- **Responsible Alcohol Sales and Service Training (RASS) [16.4.1006, MCA](#)**

ABCD strongly encourages agents and their employees selling alcoholic beverages to the public to:

- o Have completed and passed the state-approved training RASS training within **60 days** of hire.
- o Complete RASS renewal training every three (3) years.
- o [Click here](#) to find out if someone is server-trained. You must know their name and birthdate.

You may find a list of approved training providers at www.AlcoholServerTraining.mt.gov.

Questions?

Contact the Agency Liquor Store Specialist at (406) 444-0724 or by email at doralcoholicbeveragecontrol@mt.gov.



ALCOHOLIC BEVERAGE CONTROL DIVISION

MONTANA

2517 Airport Road
P.O. Box 1712 Helena,
MT 59624

Phone: (406) 444-6900

Fax: (406) 444-0722

Website: [Alcoholic Beverage Control - Montana Department of Revenue \(mtrevenue.gov\)](https://mtrevenue.gov)

Forms: [Forms - Montana Department of Revenue \(mtrevenue.gov\)](https://mtrevenue.gov)

Online Applications: [TAP](#)

Fact Sheets: <https://mtrevenue.gov/dor-publications/liquor-publications/#FactSheetsEmailABCD>

Email ABCD - doralcoholicbeveragecontrol@mt.gov

Email Outreach & Education - DORABCD-O&E@mt.gov



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