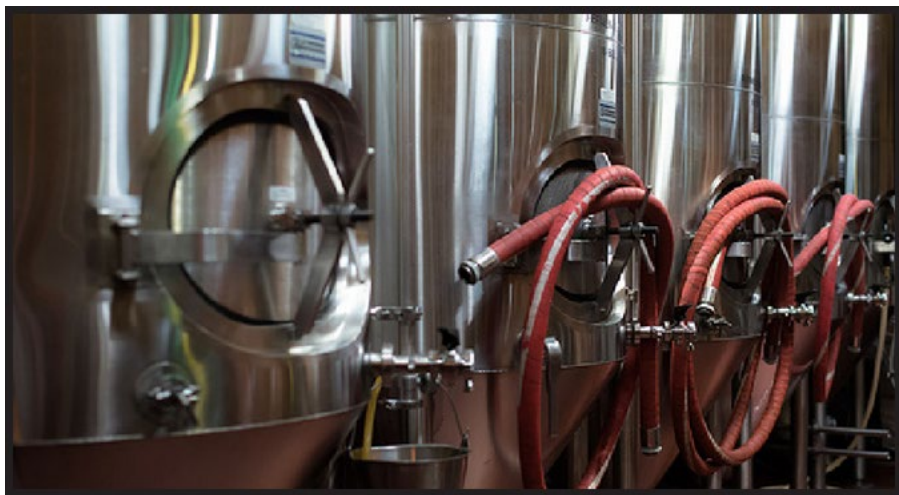


The Domestic Brewery License



What is a domestic brewery license?
How do I get one?
What can I do with it?



ALCOHOLIC
BEVERAGE
CONTROL
DIVISION
MONTANA



MONTANA
DEPARTMENT OF
REVENUE

What is a domestic brewery license?

A domestic brewery license allows the licensee to brew, sell, and deliver its beer to any licensed beer wholesaler. In some cases, it allows the licensee to provide samples of beer it brews for consumption in their sample room, with or without charge, and may deliver beer to any licensed wholesaler, licensed retailers, and the public.

Montana recognizes three types of domestic breweries. The term domestic brewery means a microbrewery, small brewery, and a large brewery throughout the rest of this booklet unless otherwise specified:

1. Breweries that produce less than 200 barrels annually (**Microbrewery**).
2. Breweries that produce between 200 and 60,000 barrels annually (**Small Brewery**).
3. Breweries that produce more than 60,000 barrels annually (**Large Brewery**).

NOTE: barrel limit is calculated according to the state's fiscal year, July 1 through June 30

Any domestic brewery licensed in the state may own, lease, maintain, and operate a department-approved storage depot in any city or town in Montana. Breweries may use the depots for receiving, handling, storing, selling, and distributing its beer. They may not use storage depots for manufacturing or consumption.

Where do I start?

A brewery license may be applied for directly from the Department of Revenue (DOR) Alcoholic Beverage Control Division (ABCD) and does not need to be purchased from an

existing licensee unless you are buying an existing licensed brewery business and the beer inventory.

You may apply electronically through [TAP](#).

What are the associated costs?

- One-time domestic brewery license processing fee: **\$200**.
- New domestic brewery license fee: **\$500**.
- One-time domestic brewery storage depot license processing fee (per storage depot): **\$100**, if needed.
- New domestic brewery storage depot license (per storage depot): **\$400**.
- Fingerprint card fee for each individual with 15% or more ownership interest in the business: **\$30 each**. *Price subject to change.*

What do I need to apply?

When applying for a domestic brewery license, you must provide the following general information:

- A completed application for a domestic brewery license.
- Alcohol and Tobacco Tax and Trade Bureau (TTB) Federal Brewers Notice to manufacture beer.
- Agreements with licensed beer wholesalers who will distribute your products, if applicable.
- [Temporary Operating Authority \(TOA\)](#) request, if applicable (for a maximum of 180 days).
- **Labels:** Certificate of label approvals (COLA) from the TTB for each brand of beer to be manufactured, if applicable. TTB label approvals will not delay the processing of your application.
 - o A Montana brewery that has an annual nationwide production of less than 10,000 barrels is exempt from the ABCD label approval process unless:

- the beer is more than 8.75% alcohol by volume (abv) but not more than 14% abv even if the product will only be sold in a sample room.
- Label approvals must be filed online through [TAP](#) after approval of your application.
- More information regarding TTB COLA may be found at <https://www.ttb.gov/>.

NOTE: Beer over 8.75% abv may be considered liquor depending on how the beer is produced and beer over 14% abv is considered liquor in Montana and liquor must follow the distilled spirits product and labeling approval process. Liquor may not be sold or served in the sample room and must go through the state liquor warehouse.



- A completed [ABCD Authorization to Disclose Tax Information Form](#) for each individual with ownership over 15% and each entity for the purchaser of the license.

- A floor plan that includes but is not limited to the following: the business name, physical address, license number (if known), alcohol storage area(s), drive-through window (if applicable), sample room (if applicable), manufacturing area, external dimensions, entryways and any patio or deck area (if applicable). Do not send in the original blueprints or architect drawings, and only submit an 8 ½" x 11" size copy of the floor plan. See the [Floor Plan Fact Sheet](#) for more details.

When applying for a domestic brewery license, provide the following financial information showing the “intent to purchase” the alcoholic beverage license, inventory, and building, if applicable:

NOTE: DO NOT exchange funds for the alcohol beverage license [if applicable] beyond earnest money 5 percent of the license price without prior ABCD TA or license approval.

- 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 provide the last 6 months of bank statements from the bank account you are using to pay for the alcoholic beverage license, building, and/or start-up operating funds for the business.
- Other sources of funding:
 - o 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, projected balance sheet and income statements are acceptable.
- Copy of business's bank signature card.
- Purchase/transfer documents for the alcoholic beverage license, such as a buy/sell agreement, contract for deed, warranty deed, and bill of sale, if applicable.

When applying for a domestic brewery license, 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 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.

When applying for a domestic brewery license, provide the following management information:

- [Location Manager Form](#) (if someone other than an owner over 15% is managing the business).
- Personal [Criminal History Statement Forms](#) for each location manager.
- Two fingerprint cards and fees for each location manager.

What are the steps in the application process?

- The application process takes on average 90 days and begins when ABCD receives a complete application package and all supporting documents.
- Application is then reviewed by the ABCD.
- Applicant will receive a letter requesting any additional documents, if needed.
- When all required documents are received, ABCD notifies local agencies with jurisdiction over the area of the application in process.
- Before final approval of any new location, it is the responsibility of the applicant to contact local building, health, and fire code officials to schedule inspections. ABCD may not approve an application until:
 - o Local officials have given notice that the licensed premises meet their requirements.
 - o A background check of the applicant(s) and a premises inspection is conducted so ABCD can verify the applicant(s) and location meet suitability requirements.

- ABCD conducts a final review of the application. If necessary, any additional or closing documents may be requested.
- Final approval is granted when the licensing specialist receives all finalized documents, inspections, and any outstanding issues or violations (if any) have been resolved.



What taxes does a domestic brewery pay?

Breweries are required to electronically file a beer excise tax (BET) return quarterly for all sales to retailers and sales out of their sample room during the preceding quarter.

If a brewery sells directly to a wholesaler or distributor, the wholesaler or distributor pays the taxes after it sells the product to retailers.

The tax rate is based upon the number of barrels produced in a fiscal year, July 1 through June 30. Returns must be filed electronically through [TAP](#).

<i>Barrels Produced</i>	<i>Tax Rate Per Barrel</i>
0 - 5,000	\$1.30
5,001 - 10,000	\$2.30
More than 10,000	\$4.30

For the purposes of production reporting and calculating taxes owed, a brewer who has produced 5,000 barrels of beer or less in the preceding year will begin the next year at the \$1.30 per barrel tax rate. The quarter after the brewer exceeds a production increment, the per barrel tax rate will increase to the next production increment amount.

Example: If the 5,001st barrel is produced in the first quarter, the tax rate will be \$1.30 for the first quarter. The per barrel tax rate will increase to \$2.30 beginning with the second quarter and will continue at that rate for the remainder of the year or until the quarter after the next production increment is exceeded.

A brewery that has produced 10,001 barrels of beer or more in the preceding year will begin the next year at the \$4.30 per barrel tax rate. This includes new breweries that produce more than 10,000 barrels in the first month of the year. All the brewery's production will be taxed at the \$4.30 per barrel tax rate for the year.

A brewery must notify both the department and its wholesalers, in writing, by the end of the quarter when a production increment is exceeded, resulting in the brewery moving to the next production increment.

Need help filing any of these forms? Contact the DOR Business and Income Tax Examiner at (406) 444-0723 or email ABCD at



What are the rules for a domestic brewery license?

- All licensees, their agents, and employees must conduct the licensed 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 of Montana (ARMs) for the Department.
- Title 16 and the ARMs can be found on our website [here](#) under Links and Information.
- All licensees must keep up on any changes to Title 16 MCAs and the ARMs.

- **NOTE:** these may change from time to time. Contact ABCD if there are any questions.



Licensed *Microbreweries (less than 200 gallons) MAY:*

- Provide ONLY FREE samples between 8 a.m. and 2 a.m. at the licensed premises in an approved sample room. You **may not** charge for those beer samples.
- Sell prepared servings for off-premises consumption between 8 a.m. and 2 a.m. See the [Prepared Servings – Cocktail, Beer, and Wine To Go Fact Sheet](#).
- Sell products in original packaging (including growlers and crows) for off-premises consumption at the premises in an approved sample room, at an approved curbside area, or a drive-through window between 8 a.m. and 2 a.m.
- Sell and deliver beer to wholesalers, licensed retailers, and the public using their own trucks, equipment, and employees.
 - o Limits: individual deliveries, other than draught beer,

are limited to the case equivalent of 8 barrels a day to each licensed retailer; and the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels a year.

- o This may also include delivery to a retailer's approved noncontiguous storage area located within 10 miles of the licensed premises.
 - How do you know if they have one? A license will be issued with approved non-contiguous storage information listed on the front of it.
 - Look up a license on [TAP](#) to see if a licensee has an approved noncontiguous storage area.
- Ship products outside of Montana but must adhere to the receiving state laws.



Licensed *Small Breweries (200 gallons-60,000 barrels) MAY:*

Serve samples, with or without charge, (up to 48 ounces per customer per day) for on-premises consumption between 10 a.m. and 8 p.m. in an approved sample room, including on an approved patio, deck, or lawn if:

- o The outdoor area(s) are designated on the [floor plan \(click for specifics\)](#) you submitted with your application.
- o It is immediately accessible from the sample room.
- o Building, health, and fire approval has been obtained.
- o It has an approved perimeter barrier.

A ***perimeter barrier*** is a barricade enclosing the perimeter of the patio/deck. The barrier must be constructed in a manner that impedes foot traffic and clearly defines the boundary of the exterior portion of the premises. The barrier must be a solid structure that is at least three feet high and have a single six-foot entrance permitting public access from an unlicensed area to the patio/deck. The barrier may be constructed of materials such as lattice or wrought iron that do not form a solid structure, have a portion of it be water, and/or have additional entrances permitting public access to the patio/deck. If there are questions relating to this contact ABCD.

- Customers may stay on the premises and continue to consume until 9 p.m., including collaboration beers (fill out the [Brewery Collaboration Notification Form](#) and send to ABCD before participating in a collaboration).
- Provide no more than 2,000 barrels annually for on-premises consumption including all affiliated manufacturers in approved sample room(s).
- Sell prepared servings for off-premises consumption between 10 a.m. and 8 p.m. (prepared servings [drinks to go] count towards sample room limits).

- Sell beer in original packaging (including growlers and crowlers) for off-premises consumption at the premises in an approved sample room, at an approved curbside area or a drive-through window between the hours of 8 a.m. and 2 a.m.
- Sell and serve non-alcoholic (NA) type products in their approved sample room if they are not over .5% abv.
- Sell beer at a discounted rate to non-profit organizations, individuals and special permit holders so long as you do not violate any existing distributor agreements.
- Sell and deliver beer to wholesalers, licensed retailers, catered events, special permit holders and the public using their own trucks, equipment, and employees.
 - o Limits: individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a day to each licensed retailer; and the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels a year.
 - o The licensee or permit holder may pick up the product directly from the brewery by producing a copy of the license or special permit.
 - o This may also include a retailer's approved noncontiguous alcohol storage area located within 10 miles of the licensed premises.
 - How do you know if they have one? A license will be issued with approved non-contiguous storage information listed on the front of it.
 - Look up a license on [TAP](#) to see if a licensee has an approved noncontiguous storage area.
- Apply for a [Brewery Storage Depot](#) to store products.
- Ship products outside of Montana but must adhere to the receiving state laws.

- Sell and serve products in their approved sample room beers that were produced in collaboration with other brewers.
 - No more than 6 distinct beers served per calendar year.
 - Limits the brewer who goes to another brewer's premises to produce a collaborated beer to sell not more than 7 barrels, or an equal proportion based on the number of participating brewers, whichever is less, in its sample room.
 - All brewers must be actively involved in the brewing of the beer. **Actively Involved:** means all brewers were present for the brewing process.
 - You must fill out the [Beer Collaboration Form](#) before you start the process.

Licensed *Large Breweries* MAY:

- Sell and deliver only to licensed beer wholesalers.
- Ship products outside of Montana but must adhere to the receiving state laws.
- NOT allow for on-premises consumption.
- NOT provide samples.
- NOT sell for off-premises consumption from the brewery location.

A domestic brewery licensee may NOT:

- Allow customers to bring their own alcoholic beverages onto the licensed premises.
- Lock premises doors while there are still customers inside.
- Obtain a special permit.
- Sell or serve alcoholic beverages from vending machines.
- Allow anyone (including owners, employees, and customers) to consume on the licensed premises between 9 p.m. and 10 a.m.

- Allow anyone (including owners, employees, and customers) sell any beer on the licensed premises between 2 a.m. and 8 a.m.
- Possess a financial or ownership interest in a Montana retail license (unless you have been approved for a co-located license with an all-alcoholic beverage or beer/wine retail license— call ABCD for more information), agency liquor store or a wholesale distributor license.
- Manage a wholesaler or distributor license. See the [Managing Other Licenses Fact Sheet](#) found on our website.
- Use a common carrier or a 3rd party delivery company to deliver to the public or retailers.

A domestic brewery licensee MUST:

- Give law enforcement access to their licensed premises at all times.
- Ensure all employees serving open-container alcoholic beverages are 18 years or older.
- Notify the department when there is a change in a location manager within 30 days of hire for your alcoholic beverage business. See the [Location Manager Fact Sheet](#) on our website.
- Be paid for beer purchased from licensed Montana retailers within 7 days of the sale.
- Be paid for beer purchased from licensed Montana beer wholesalers. Otherwise, allowing consignment sales by exceeding more than a 30-day payment term to beer wholesalers and importers may be considered inducement in Federal code (see TTB Industry Circular 2022-1).
- Notify ABCD regarding most changes to the existing license BEFORE the change occurs. Contact your [ABCD Licensing Specialist](#) with questions.
- Ensure all employees who serve or sell alcoholic beverages

and their immediate supervisors:

- o Have completed and passed the state-approved Responsible Alcohol Sales and Service (RASS) training within 60 days of hire.
- o Complete RASS renewal training every three 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.

Miscellaneous:

• Alterations

- o 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 license. You may not use the new premises area(s) until the department has approved them and they have passed building, health, fire, and a premises inspection. **Exception:** In certain cases, pre-approval is not required. Contact ABCD if you are unsure.
- o Not sure if your “remodel” is considered an alteration, [Contact your Licensing Specialist](#).

• Providing Samples to Licensed Retail Establishments:

- o You may host a sampling event where you pour and serve beer samples to licensed on-premises retailers and their employees for the following purposes:
 - To promote your product.
 - To negotiate a sale.
 - To determine the quality and character of a

product.

- **Providing Samples at an Industry Trade Show event:**

- You may provide samples at an industry trade show event where you pour and serve beer samples to attendees for the following purposes:
 - To promote your product.
 - To negotiate a sale.
 - To determine the quality and character of a product.
- Employees or agents who intend to provide their beer at an industry trade show may bring product using its own equipment, trucks, and employees or using a common carrier, deliver alcoholic beverages it produces from its premises to the industry trade show.
- After an industry trade show, any remaining beer may be retained by the manufacturer, its employees, or the licensee where the trade show took place, if applicable.
- See the [Industry Trade Show Fact Sheet](#).

- **Public Tasting Events**

- Breweries may participate at a public tasting event (such as a brewfest) only at the following:
 - An on-premises licensed establishment.
 - An event catered by an on-premises licensee.
 - An event held by a special permit holder.
- See the [Public Tasting Event Fact Sheet](#).

Applicable Definitions:

Affiliated manufacturer means a manufacturer of beer that one or more members of the manufacturing entity have more than a majority share interest in, or that controls directly or indirectly another beer manufacturing entity. This includes a manufacturer of beer for which the business operations conducted between or among entities are interrelated or



interdependent to the extent that the net income of one entity may not reasonably be determined without reference to operations of the other entity; or of which the brand names, products, recipes, merchandise, trade name, trademarks, labels, or logos are identical or nearly identical.



Alcoholic Beverage means a compound produced and sold for human consumption as a drink that contains more than 0.5 percent of alcohol by volume.

Beer means a malt beverage containing not more than 8.75% abv or an alcoholic beverage containing not more than 14% abv:

- 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 sugars used for fermentation of the alcoholic beverage are at least 75 percent derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients.

Liquor Classification when beer has more than 14% abv, or if it has more than 8.75% abv and does not meet the definition of

beer (such as any caffeinated malt beverage), that alcoholic beverage is then considered a distilled spirit and must be shipped through the Montana state liquor warehouse.

Malt beverage means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption; or an alcoholic beverage made by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, or molasses that has not undergone distillation.

Non-institutional lender means a person other than a state or federally regulated banking or financial institution, a credit union, an investment company, 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.

Questions? Contact an [ABCD Licensing Specialist](#) for more information.



ALCOHOLIC BEVERAGE CONTROL DIVISION

MONTANA

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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/#FactSheetsEmail ABCD](https://mtrevenue.gov/dor-publications/liquor-publications/#FactSheetsEmailABCD)

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