

# An Agency Liquor Store



**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 liquor licensees.

## Where do I start?

To open a new agency liquor store, you first need to find out if it is allowed in the community in which 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 according to its population. By “community,” we mean an incorporated city or town, or an area the United States Census Bureau identifies as a community for census purposes.

A new agency liquor store may not open in a community of 12,000 people or less if it is within 35 miles of another community where an agency liquor store exists. (We measure the distance between two communities by the shortest route on a paved road from one community boundary to the other.)

The exception to this law is when the most recent population estimate shows a 25 percent growth or a growth of 1,000 inhabitants within a two-year period, whichever is greater. And, when that population increase is reasonably expected to continue for at least five years.



Here are the number of liquor stores that communities of various populations in Montana may legally have:

Community population	Number of allowed agency liquor stores
0 to 12,000	1
12,001 to 52,000	2
52,001 to 92,000	3
92,001 to 132,000	4
132,001 to 172,000	5
Over 172,001	1 per 40,000 inhabitants

To find out if a community is eligible for a new liquor store, contact the agency liquor store specialist at (406) 444-0724.

## 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 and the buyer. The department plays no role. You, as the agent, are also 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 proof of control of the premises.

## How do I apply to open a NEW store?

When applying for a new agency liquor store, you must provide a petition signed by either 20 adults in the community or by the number of adults in the community equal to 5 percent of its population, whichever is greater, to the department. The petition must clearly state that you are asking the department to determine if a new agency liquor store should be opened in the 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 a letter of interest to the department.

The letter should state that you are willing to submit a bid to operate a new agency liquor store. After the department receives the petition and letter of interest, the department holds 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.
- Determines 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. To learn more about the IFB process, contact the agency liquor store specialist at (406) 444-0724.

The department selects an agent according to the competitive procedures outlined in the Montana Procurement Act and drafts a 10-year agency franchise agreement. If the agent satisfactorily meets all requirements, the agreement is renewed every 10 years.

If the department receives no bids, or if none of the bids meet 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, agents 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 that 10-year contract. When that 10-year period is up, the contract is renewable for additional 10-year periods if the requirements of the agency franchise agreement have been satisfactorily performed. To find agency franchise agreements that are for sale, check with a local real estate agent or the newspaper.

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

## What do I need to apply?

When applying for 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 you did not take out a loan, you must provide the last six 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. You must 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. The form is available at [MTRevenue.gov](https://mtrevenue.gov).
  - Authorization for examination and release of information for each NIL.
  - Personal criminal history statement form for each NIL. The form is available at [MTRevenue.gov](https://mtrevenue.gov).
  - 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.

- 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 10 percent and each entity for the purchaser of the license and the seller of the license, if applicable. The form is available at [MTRevenue.gov](http://MTRevenue.gov).
- 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 other customer service areas in which you have possessory interest. Do not send in the original blueprints, only an 8½-by-11-inch 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 assignment of an agency franchise agreement, you must provide the following ownership information (based on 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 that the Assumed Business Name (ABN) has been approved.
- Copy of Federal Employer Identification Number (FEIN) verification from IRS.
- Completed personal history statement form for each individual with 10 percent or more ownership interest in the business. The form is available at [MTRevenue.gov](https://mtrevenue.gov).
- Two fingerprint cards and fees for each individual with 10 percent or more ownership interest in the business.

## What are the steps in the application process?

- The application process takes on average 60 days and begins when DOR receives a complete application package and all supporting documents.
- Application is reviewed by the DOR ABCD.
- ABCD sends a letter to the applicant requesting any additional documents needed.
- Prior to final approval of any new location, ABCD will not approve an application until:
  - DOJ has conducted a background check of the applicant(s) and verified 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 documents will be requested.

## 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 price fixed by the department for a bottle of liquor. It also 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 upon 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 upon the Consumer Price Index for the prior calendar year and notify the agent of the adjustment.

## 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 and the United States.
  - County and city or town ordinances.
  - Indian alcohol beverage laws applicable within the areas of Indian country.
  - Rules of the department.

### An agency liquor store must:

- Be open a minimum of six hours a day between 8 a.m. and 2 a.m. Stores must be open Tuesday through Saturday and closed on Sundays, Mondays, and all legal holidays. Stores may be open on Mondays that are not legal holidays if 51 percent or more of the all-beverage licensees in the immediate market area sign a petition form prescribed by the department. The department will verify the validity of the signatures on the petition, and if the department determines that the petition contains a sufficient number of valid signatures, the agency liquor store will be allowed to be open on Mondays that are not legal holidays.
- Order a minimum of 10 cases, which can be a combination of full cases and repack units. Agents can order products in less than full cases. The department offers approximately 600 products in less than full case lots

- Sell liquor to all beverage licensees (bars and restaurants) at the state's posted price, as listed in the most current quarterly price book. An agent 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 can:**

- Deliver product directly to licensees and the public.
- Order inventory on a department-designated day every week.

### **An agency liquor store franchisee cannot:**

- Offer samples 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 or beer wholesale or table wine distributor license or any other type of alcoholic beverage licenses.

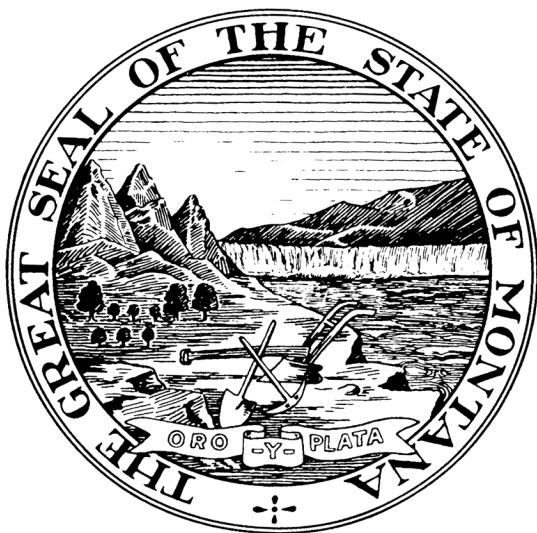
## Miscellaneous:

- Alterations
  - If you decide to remodel your establishment, you must send ABCD an alteration request form letter along with a copy of the existing floor plan and a proposed floor plan showing the alterations before starting the alteration.
- It is strongly encouraged that agents and their employees who sell alcoholic beverages:
  - Obtain state-approved alcoholic beverage sales and service training within 60 days of hire.
  - Complete renewal training every three years.

You can find a list of approved training providers at [www.AlcoholServerTraining.mt.gov](http://www.AlcoholServerTraining.mt.gov).

- If you have any questions regarding agency liquor stores, contact the agency liquor store specialist at (406) 444-0724.





# Department of Revenue

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