

# Restaurant Beer and Wine License



**What is a restaurant beer and wine license?**

**How do I get one?**

**What can I do with it?**

## What is a restaurant beer and wine (RBW) license?

An RBW license allows a restaurant to serve beer and wine at retail for on-premises consumption between the hours of 11 a.m. and 11 p.m. to customers who order food. Beer and wine may not be sold for off-premises consumption. Gambling is not allowed in conjunction with an RBW license.

The following definitions apply:

*Restaurant* means a public eating place where:

- The staff prepares and serves individually priced meals that customers eat on the premises.
- At least 65 percent of the establishment's annual gross income is from the sale of food.
- The space includes a dining room and a kitchen.
- There is a sufficient number and variety of employees needed to prepare, cook and serve meals and to satisfy the department that the space is intended as a full-service restaurant.
- Dinner is served at least four days a week for at least two hours between 5 p.m. and 11 p.m.

*Fast-food restaurant* means an establishment that serves a majority of its food and drink in throw-away containers and does not qualify as a restaurant for the purpose of this license.

An RBW licensee can also request a catering endorsement that allows the licensee to provide and serve beer and wine at catered events within 100 miles of the licensed premises. See [ARM 42.12.128](#) for specific requirements.

## Where do I start?

The Department of Revenue (DOR) Alcoholic Beverage Control Division (ABCD) issues a limited number of city RBW licenses (quota), determined by the population of the city or town in which the license operates (quota area). To see RBW licenses that are available, contact the DOR ABCD at (406) 444-6900 or visit [MTRevenue.gov](https://tap.dor.mt.gov) to view the quota sheet.

Licenses are available in one of three ways:

- First-Come First-Serve
- Competitive Bid
- Purchasing from an existing licensee

If a new license is available on a first-come first-serve basis, you may begin the application process. You can file your application electronically at <https://tap.dor.mt.gov>.

If the license is subject to the competitive bid process, check the DOR ABCD website for availability at [MTRevenue.gov](https://tap.dor.mt.gov). You can also sign up to receive notifications of future competitive bids and keep an eye on the website.

If there are no licenses available, you may be able to purchase an existing license; contact a local real estate agent, etc.



## Other Things to Consider Before Applying:

A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not apply for an RBW license at the same location.

An on-premises retail licensee (including any individual with an ownership interest) who sells the licensee's existing retail license may not apply for an RBW license for a period of one year from the date that license is transferred to a new purchaser.

## What are the associated costs?

- One-time RBW license processing fee: \$400.
- Annual RBW license fee: \$400.
- Annual catering endorsement fee (if applicable): \$200.
- Fingerprint card fee for each individual with 10 percent or more ownership interest in the business. Price subject to change.
- One-time seating fee for restaurants with seating for 60 people or less: \$5,000 (\*20 percent = \$1,000).
- One-time seating fee for restaurants with seating between 61 and 100 people:  
\$10,000 (\*20 percent = \$2,000).
- One-time seating fee for restaurants with seating for 101 people or more:  
\$20,000 (\*20 percent = \$4,000).

\*Applicants must pay 20 percent of the seating fee at the time they submit an RBW application. The remaining balance is due before approval of the application. Seating and license fees apply only to newly issued licenses. The other fees apply when buying an existing license and are in addition to the cost of buying the license from a third party.

## What do I need to apply?

### When applying for an RBW license, you must provide the following general information:

- A completed alcoholic beverage/gambling operator combined license application. You have the option to apply with a premises or without a premises (online applications only).
- Temporary Operating Authority form for gambling and/or alcohol requesting to operate before approval (online applications only and some restrictions apply). The form is available at [MTRevenue.gov](https://mtrevenue.gov).
- 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](https://mtrevenue.gov).
- A certified survey affidavit of the premises from a private land, local county, or local city surveyor identifying the exact location, including the address and quota area (city or county) if the department determines the proposed premises are in close proximity to a quota area boundary line.).
- A floor plan that includes the business name, physical address, areas where you intend to serve and store alcoholic beverages, seating areas, drink preparation area, external dimensions, entry ways, and any patio or deck area. Do not send in the original blueprints, only an 8½-by-11-inch copy of the floor plan.

**When applying for an RBW license, you must provide the following financial information showing the “intent to purchase” the alcoholic beverage license and/or building:**

*NOTE:* You cannot exchange funds for the alcoholic beverage license beyond earnest money 5 percent of the license price without ABCD approval.

- Copies of any loan agreements, contracts, notes and all related security agreements, guarantees, and trust indentures.
- If you used funds other than from 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 area 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 an RBW license, you need to 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.



## When applying for an RBW license, you must provide the following management information, including:

- Location Manager Form. The form is available at [MTRevenue.gov](https://MTRevenue.gov).
- Personal criminal history statement form for each location manager. The form is available at [MTRevenue.gov](https://MTRevenue.gov).
- Two fingerprint cards and fees for each location manager.

## Miscellaneous information, including:

- A copy of the restaurant's menu showing that the restaurant serves an evening meal.
- A document stating the restaurant's days and hours of operation.
- A document stating the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is already built.



## What are the steps in the application process?

- The application process takes on average 90 days and begins when the Department of Justice (DOJ), Gambling Control Division (GCD) receives a complete application package and all supporting documents.
- Application is reviewed by the DOR ABCD.
- GCD sends a letter to the applicant requesting any additional documents needed.
- ABCD notifies local agencies with jurisdiction over the area (law enforcement, building department, fire department, health department, etc.) of the application in process. They have 14 days to advise the department if the applicant and the premises meet all laws and ordinances.
- Prior to 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 will not approve an application until:
  - Local officials have given notice that the licensed premises meet their requirements.
  - 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 and GCD conduct a final review of the application. If necessary, any additional documents will be requested.

## What are the rules for an RBW license?

- All licensees, their agents, and employees must conduct the licensed 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 RBW licensee may:

- Serve beer and wine from 11 a.m. to 11 p.m. You may stay open after 11 p.m. or open before 11 a.m. as long as you do not serve beer and wine during that time.
- Serve or provide samples, with or without charge, of beer and wine to customers who are seated for table service.
- Close for up to 90 consecutive days without department approval. The Non-use form is available at [MTRevenue.gov](https://mtrevenue.gov).
- Serve alcoholic beverages on your patio, deck, or lawn if:
  - It was designated on the floor plan you submitted with your application.
  - It is immediately accessible from the interior premises.
  - If it has a 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 have additional entrances permitting public access to the patio/deck.

### **An RBW licensee may not:**

- Allow anyone (licensee, employee, customer) to consume any alcoholic beverage on the licensed premises between 11 p.m. and 11 a.m.
- Cook with distilled spirits, since you can only receive, accept or store those alcoholic beverages for which your establishment is specifically licensed for.
- Allow customers to bring their own alcoholic beverages onto the licensed premises.
- Allow any alcoholic products that you did not purchase from a beer wholesaler, table wine distributor, brewery, or winery on the licensed premises.
- Move product between locations if you own more than one license.
- Sell or serve alcoholic beverages through a drive-up window or vending machines.
- Sell beer and wine for off-premises consumption.
- Own any interest in a manufacture license, agency liquor store, or wholesale distributor license.

## **An RBW license issued through competitive bid may not:**

- Stop using the license within the first five years.
- Transfer the license within the first year after receiving the license unless the transfer is due to a death of an owner.
- Propose a location for the license within the first year of operation that had the same license type within the previous 12 months.

## **An RBW license issued through competitive bid must:**

- Use the license within one year of being notified they were the successful bidder or the license and bid amount are subject to forfeiture.



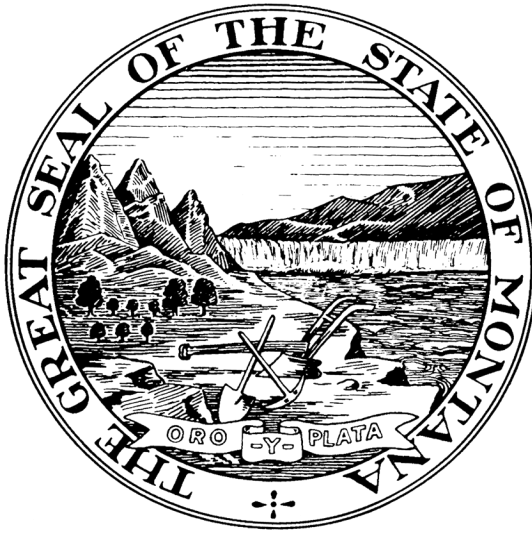
## An RBW licensee must:

- Serve dinner at least four days a week for at least two hours between 5 p.m. and 11 p.m.
- Include all beer and wine purchases on the food bill. Beer or wine may not be purchased separately.
- Give law enforcement access to their licensed premises at all times.
- Ensure that all employees serving open-container alcoholic beverages are 18 years or older.
- Notify the department when there is a change in manager within 30 days of hire for the location.
- Notify the department regarding most changes to the existing license before the change occurs. Contact your ABCD Licensing Specialist for more information.
- Ensure that all employees who serve or sell alcoholic beverages and their immediate supervisors:
  - Obtain state-approved training (Responsible Alcohol Sales and Service Training [RASS]) 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).

## Miscellaneous:

- Additional fees for this type of license may be charged by local city and county agencies.
- All license renewal fees are due whether the license is on non-use status or active.
- Alterations
  - If you 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. The form is available at [MTRevenue.gov](https://mtrevenue.gov).
  - Once the department reviews and approves the request, you may begin the alteration without it affecting your license. You may request to have your license placed on a non-use status while under construction. You may not use altered areas until the department has approved them and they have passed building, health, fire, and DOJ premises inspections.
- Seasonal Status
  - If a licensed establishment—such as a dude ranch, resort, park hotel, or tourist facility—would like to begin operating its license on a seasonal basis, it must send a written request to the department that includes the type of business, justification for operating seasonally, and the general dates of operation.
  - If approved, the license closure is only effective from the date of the department's letter of authorization through the end of the specified period. A licensee must notify the department before changing general dates of operation.



# Department of Revenue

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