

The Restaurant Beer & Wine License



What is a restaurant beer and wine license?

How do I get one?

What can I do with it?



ALCOHOLIC
BEVERAGE
CONTROL
DIVISION
MONTANA



MONTANA
DEPARTMENT OF
REVENUE

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. only to customers who order food. Gambling is not allowed in conjunction with an RBW license.

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

Where do I start?

An RBW license may be applied for directly from the Department of Revenue (DOR) Alcoholic Beverage Control Division (ABCD). ABCD issues a limited number of city RBW licenses (quota) which is determined by the population of the city or town in which the license operates (quota area). To see available RBW licenses, contact a licensing specialist or click the [quota sheet](#) link.

Licenses are available in one of three ways:

- First-come, first-served purchase from the Department "off the shelf".
- Competitive Bid.
- Purchase from an existing licensee.

If a new license is available on a first-come, first-served basis, you may begin the application process. You may apply electronically through [TAP](#).

If the license is subject to the competitive bid process, check the DOR ABCD [here](#) for competitive bid availability.

You may 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 or visit ABCDs webpage at mtrevenue.gov. Click on Alcoholic Beverages License, and choose the competitive bid link to get to the [List of Available Licenses](#).

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 15% or more ownership interest in the business: **\$30 each**. *Price subject to change.*
- *One-time seating fee for restaurants with seating for 60 people or less: **\$5,000**.
- *One-time seating fee for restaurants with seating between 61 and 100 people: **\$10,000**.
- *One-time seating fee for restaurants with seating for 101 people or more: **\$20,000**.

*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 on-premises beer license, provide the following general information:

- A completed alcoholic beverage/gambling operator combined license application. There is the option to apply with a premises (if your premises will be ready to operate within 3 months) or without a premises (if your premises

will not be ready to operate within 3 months) (online applications only if applying without a premises).

- [Temporary Operating Authority \(TOA\) Form](#) for alcohol requesting to operate before approval (for a maximum of 180 days) (online applications only and some restrictions apply).
- A completed [ABCD Authorization to Disclose Tax Information Form](#) for each individual with ownership over 15% and the applying 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), areas where alcoholic beverages are intended to be served, alcohol storage area(s), drive-through window (if applicable), kitchen area, number of seats, drink preparation area, external dimensions, entryways, and any patio or deck area(s). Do not send in the original blueprints or architect drawings. Only submit an 8 ½" x 11" size copy of the floor plan. See the [Floor Plan Specifications Fact Sheet](#) for more details.



When applying for an RBW license, provide the following financial information showing the “intent to purchase” the alcoholic beverage license (if buying an existing license), inventory, and building, if applicable:

NOTE: DO NOT exchange funds for the alcoholic beverage license beyond earnest money of up to 5 percent of the license price without 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 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.
 - [Personal Criminal History Statement Form](#) 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(s) and income statements are acceptable.
- Franchise agreement, if applicable.
- 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, 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.
- 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 an RBW license, provide the following management information, including:

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



Miscellaneous information, including:

- A copy of the food menu.
- A copy of the restaurant's hours showing the restaurant serves an evening meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m.

What are the steps in the application process?

- The application process takes an average of 90 days and begins when a complete combined alcohol/gambling application package is received with 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 publishes a legal notice in a newspaper circulated in the city, town, or county where the license would be issued. The notice informs readers of the applicant's intent to acquire a license and where they may send any objections to the license issuance. The filing of an objection is

referred to as a protest. Click to read [16-4-207, MCA](#).

- ABCD notifies local agencies with jurisdiction over the premises area of the application in process.
- If one or more public protests are received, the DOR Office of Dispute Resolution (ODR) schedules a hearing with the applicant(s) and the person(s) who filed the protest(s). The application process is paused until the hearing examiner makes a ruling on the application.
- Once the ODR hearing examiner makes a ruling, either party (the applicant or protestor) may have the opportunity to appeal this ruling. For further information contact ABCD.
- Before final approval of any premises, it is the responsibility of the applicant(s) to contact local building, health, and fire code officials to schedule inspections. DOR may not approve an application until:
 - o Local officials give notice to ABCD that the licensed premises meet their requirements.
 - o A background check of the applicant(s) and a premises inspection is completed so ABCD can verify the location meets suitability requirements.
- After the protest period deadline, the completion of the audit, and the 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 licensing specialist receives all finalized documents, inspections, and any outstanding issues or violations (if any) have been resolved.

What are the rules for an RBW license?

- All licensees, their agents, and employees must conduct the licensed premises in compliance with all:
 - o Alcohol-related provisions of the laws of Montana

(Montana Code Annotated [MCA] Title 16 and the United States Code of Federal Regulations [CFR]).

- o County and city or town ordinances.
- o Indian alcohol beverage laws applicable within the areas of Indian Country.
- o Administrative Rules or 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.



An RBW licensee MAY:

- Sell and serve beer and wine from 11 a.m. to 11 p.m. only to patrons that order food.
 - o If the establishment operates in conjunction with a hotel, 24-hour restaurant, bus depot, railway terminal, grocery store, pharmacy, or other lawful

business that does not sell alcoholic beverages, the other business may remain open.

- Sell beer and wine for off-premises consumption.
 - Food must also be ordered.
 - The purchase price of the beer and wine with a to-go order may not exceed the purchase price of the food ordered.
 - The beer or wine must be stated on the food bill.
 - The sales must count toward the 65% food to 35% alcohol sales ratio limit.
- Possess and cook with distilled spirits in the kitchen of the licensed premises only for the preparation of food and as long as the alcohol content is cooked out of the food at the time of serving.
- Sell alcoholic beverages through a drive-up window.
- Sell and serve non-alcoholic (NA) type products if they are not over .5% abv.
- Be closed for up to 90 consecutive days without department approval. However, you must fill out a [Nonuse Form](#) and be approved by ABCD to be closed longer than 90 days. See the [Nonuse Fact Sheet](#). Also, you may not enjoy any benefits of the license including, but not limited to, ordering product or catering when on nonuse status.
- Serve alcoholic beverages on your patio, deck, or lawn if:
 - The outdoor area(s) are designated on the [floor plan \(click for specifics\)](#) approved by the Department.
 - It is immediately accessible from the interior of the premises.
 - Building, health, and fire approval has been obtained.
 - 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.

An RBW licensee may NOT:

- Lock premises doors while there are still customers inside.
- Offer gambling under Title 23, chapter 5, part 3, 5, or 6.
- Allow anyone (licensee, employee, customer) to consume any alcoholic beverage on the licensed premises between 11 p.m. and 11 a.m.
- Allow customers to bring their own alcoholic beverages onto the licensed premises. **Exception:** You may allow a customer to bring their own wine onto the premises with your permission. See the [Bottle Club Fact Sheet](#) found on our website.
- Be considered a fast-food restaurant.
- Use throw-away containers for the majority of their service (excludes carry-out containers).
- Allow any alcoholic products you did not purchase from a beer wholesaler, table wine distributor, brewery, winery, or agency liquor store on the licensed premises. **Exceptions:**
 - See [Bottle Club Fact Sheet](#).
 - You may purchase beer and wine in original packaging from another licensed retailer up to 6 gallons per day.
- Allow your license to be concessioned (aka: let someone else run your restaurant and sell alcohol).
- Move product between locations if you own more than

one license. **Exception:** You may purchase beer and wine in original packaging from another licensed retailer up to 6 gallons per day.

- Sell or serve alcoholic beverages through vending machines or third-party deliveries.
- Own any interest in a manufacture license, agency liquor store or a wholesaler/distributor license.
- Manage a wholesaler/distributor license, agency liquor store or manufacturer license. See the [Managing Other Licenses Fact Sheet](#).

An RBW license issued through competitive bid may NOT:

- Stop using the license within the first five years.
- Offer gambling under Title 23, chapter 5, part 3, 5, or 6.
- 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 as the successful bidder or the bid amount and license are subject to forfeiture.

An RBW licensee must:

- Give law enforcement access to their licensed premises at all times.
- Serve dinner at least four days a week for at least two hours, between 5 p.m. and 11 p.m.
- Have individually priced meals that are prepared

at their premises.

- Show sales of food to be at least 65% of the restaurant's annual gross income and no more than 35% in alcoholic beverage sales.
- Have a kitchen and sufficient kind and number of employees to staff a full-service restaurant.
- Have a dining room that contains at least half of the total available seats.
- Include all beer and wine purchases on the food bill. Beer or wine may not be purchased separately.
- Pay for beer purchased from brewery and beer wholesaler within 7 days.
- Pay for table wine purchased from winery and table wine distributor within 7 days.
- Ensure all employees serving open-container alcoholic beverages are 18 years or older.
- Notify ABCD within 30 days of hire when there is a change in location manager for your alcoholic beverage business. See the [Location Manager Fact Sheet](#) on our website.
- Notify ABCD regarding most changes to the existing license BEFORE the change occurs. Contact your [ABCD Licensing Specialist](#) with questions.
- Ensure all employees and their immediate supervisors who serve or sell alcoholic beverages:
 - Have completed and passed the state-approved training Responsible Alcohol Sales and Service (RASS) training within 60 days of hire.
 - Complete RASS renewal training every three years.
 - [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:

- Additional fees for this type of license may be charged by local city and county agencies.
- All license renewal fees are due by June 30 every year whether the license is on nonuse status or active.
- **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 license. You may request to have your license placed on a [nonuse status](#) while under construction. 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.
 - Not sure if your “remodel” is considered an alteration, [Contact your Licensing Specialist](#).
- **Seasonal Status**
 - If you would like to operate a license on a seasonal basis, you must send a written request to the department that includes 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. Notify the department before changing general dates of operation.
 - Your license will reflect your general dates of operation.

- o You may NOT
 - Operate during your “off season”. This includes catering.
 - Order and receive deliveries during your “off season”. **Exception:** You may order product to restock for your season to start.
- **Delivery Endorsement** - Review the [Alcohol Delivery Fact Sheet](#)
 - o You must be approved before delivering beer and wine.
 - o To be approved you may apply online through TAP:
 - Log into your TAP account.
 - Select the license you want to add the delivery endorsement to. For example, choose your “on-premises license” option.
 - Select “More” on the right.
 - Select in Account Options “Request Changes to Account”.
 - Check “Add/Remove Alcohol Delivery Endorsement”
 - Follow the prompts for information and payment.
 - o Beer and wine in original packaging may be delivered by certain on-premises licensed alcoholic beverage establishments with food prepared by the licensee.
 - o The purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food.
- **Non-Contiguous Storage of Alcohol**
 - o A licensed retailer may apply for one noncontiguous alcoholic beverage storage area within 10 miles of their licensed premises.
 - o Apply for approval BEFORE using the new storage area.
 - o The noncontiguous alcoholic beverage storage area request form is found [here](#).
 - o When approved a new license will be issued with your non-contiguous storage information listed on the front.

Applicable Definitions:

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% alcohol content 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.
- the term does not include a caffeinated or stimulant-enhanced malt beverage.

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.

Hard Cider means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than 8.5% of alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider.

Liquor means an alcoholic beverage except beer and table wine. If beer and table wine deviate from their specific definition, then it defaults to the liquor definition. The term includes a caffeinated or stimulant-enhanced malt beverage.

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.

Restaurant means a public eating place where:

- The staff prepares and serves individually priced meals that customers eat on the premises.
- At least 65% 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.

Table Wine means wine that contains not more than 16% alcohol content by volume and includes hard ciders.

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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