

What is a concession agreement?

A concession agreement is an agreement between certain licensees and an unlicensed entity to be able to sell alcoholic beverages at their business. This does not include extending gambling activities to the unlicensed business.

Licenses allowed to have concession agreements:

- On-premises consumption beer and wine licenses, allowed for under [16-4-105](#), MCA, may apply for and have up to three active concession agreements (excludes veteran/fraternal licenses issued on or after January 1, 2021).
- All-beverage licenses, allowed for under [16-4-201](#), MCA, may apply for and have up to three active concession agreements (excludes veteran/fraternal licenses issued on or after January 1, 2021).
- Resort licenses, allowed for, under [16-4-213](#), MCA, that are located outside a quota area as defined in [16-4-201](#)(1) or (2), MCA may apply for and have up to one active concession agreement.

How to apply to get approval for a concession agreement:

- The licensee and concessionaire must fill out a concession agreement request form for each concession agreement.
- For each concession agreement request the form must be sent to the Department for approval before commencing.
- The concessionaire must pay a \$500 application fee for each concession agreement.
- The concessionaire must pay a \$100 processing fee for each concession agreement.

A concession agreement MUST:

- Demonstrate that the licensed premises is a contiguous premises that includes the space utilized by the concessionaire. An alteration of the existing licensed premises may be needed to incorporate the space used by the proposed concessionaire.
- Stipulate that the licensee retains ultimate control over and responsibility for operating the license including:
 - ordering, purchasing, sale, and service of alcoholic beverages;
 - the right to discipline or otherwise sanction any employee in relation to the service of alcoholic beverages;
 - reconciling the proceeds of alcoholic beverage sales at least monthly;
 - terminating the concession agreement with cause where cause includes but is not limited to any violation of Title 16, and the sale or transfer of the license; and
 - the exclusive operation of all gaming activities if the licensee offers any gaming.

A licensee may:

- Share employees with the concessionaire.
- Enter into a management agreement.
- Compensate the concessionaire for the sale of alcoholic beverages based on one or a combination of the following considerations:

- A percent of gross alcoholic beverage sales.
- A percent of employee overhead.
- A fixed dollar amount.

NOT Allowed:

Concessionaires may not sponsor catered events. **EXCEPTION:** Licensees with a Guest Ranch Designation.

Modifications to existing concession agreements:

- Other than changes to the compensation within an existing concession agreement, the licensee shall submit any proposed modifications to the Department for review and approval.
- Changes can include, but are not limited to:
 - License ownership.
 - Parties of an existing concession agreement choosing to operate under the provisions of [16-4-418](#), MCA.
- \$500 application fee does not apply to modification of existing concession agreements that do not elect to operate under the provisions of [16-4-418](#), MCA.

Cancelations of existing concession agreements:

- Licensees must notify the Department when a concession has been canceled.
- The Department will review the notification and determine if an alteration form will be required.

Annual Concession Renewal

Concessionaires with new agreements received or approved after January 1, 2021, must pay an annual renewal fee of \$100.

- Annual renewals are due June 30th.
- Does not apply to concession agreements in effect or submitted to the department for approval before January 1, 2021, unless the licensee and concessionaire have elected to operate under the provisions of [16-4-418](#), MCA.

Grandfather Clause

Licensees with approved concession agreements in effect or concession agreements submitted to the department for approval before January 1, 2021:

- May have more than 3 existing concession agreements if they were previously approved or applied for unless they choose to elect to comply with [16-4-418](#), MCA.
- Concessionaires are not required to pay the \$100 renewal fee as long as they continue operating under the original concession agreement.
- May submit an updated concession agreement to change the structure of the compensation agreement to be able to operate under the new provisions.
- May remain in effect until a licensee applies for and receives department approval to change ownership or location of the license.

- May have the terms of the concession agreement extended indefinitely.
- May be assigned to new concessionaires operating in the same premises as long as the provisions of the concession agreements are otherwise unmodified with Department review and approval.

Allows veteran and fraternal organizations that had a license under [16-4-201](#)(8), MCA and concession agreement in place on or after January 1, 2016, to use or obtain a veteran or fraternal license and enter into concession agreements.

All licensees must comply with all Federal and Montana alcoholic beverage laws and rules.

[16-4-418](#) and [16-4-213](#), [16-4-406](#), [16-6-306](#), MCA. and ARM, [42.12.133](#).

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