

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

What is a domestic brewery license?

A domestic brewery license allows the licensee to brew, sell, and deliver its beer to any licensed 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 to deliver beer to any licensed wholesaler, licensed retailers, and the public.

Montana recognizes three types of domestic breweries:

- 1** Breweries that produce less than 100 barrels annually
- 2** *Small Brewery*: Breweries that produce between 100 and 60,000 barrels annually
- 3** Breweries that produce more than 60,000 barrels annually

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 beer, but may not use the brewery storage depots for manufacturing. Additionally, consumption cannot occur at the storage depots.

Where do I start?

A brewery license may be applied for directly from the ABCD (Alcoholic Beverage Control Division) and does not need to be purchased from an existing licensee unless you are buying the business and the beer inventory.

You may file your domestic brewery license application electronically through our TransAction Portal (TAP) at <https://tap.dor.mt.gov>

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

Domestic brewery storage depot license (per storage depot):
\$500

- Fingerprint card fee for each individual with 15 percent or more ownership interest in the business. Price is subject to change.

How do I get a domestic brewery license?

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
- 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. A Montana brewery that has an annual nationwide production of less than 10,000 barrels is exempt from the ABCD label approval process; however, ABCD label approval is required if the beer is more than 8.75 percent alcohol by volume (ABV) but not more than 14 percent ABV, even if it will only be sold in a sample room.

Label approvals must be filed online after approval of your application. More information regarding TTB COLA may be found at www.TTB.gov. Note: Beer over 8.75 percent ABV may be considered liquor depending on how the beer is produced, and beer over 14 percent ABV is considered liquor in Montana and must follow the distilled spirits product and labeling approval process. Liquor may not be sold in the sample room and must go through the state liquor warehouse.

- a. A completed ABCD authorization to disclose tax information form for each individual with ownership over 15 percent and each entity for the purchaser of the license and the seller of the license, if applicable. The form can be found on our website at <https://MTRevenue.gov>.
- b. A letter-sized floorplan which includes:
 - Business name,
 - Physical address,
 - Storage area,
 - Manufacturing area,
 - External dimensions,
 - Entry ways, and
 - When applicable patio and deck areas, drive-through windows, and sample room

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

(Note: you may not exchange funds for the alcohol beverage license beyond earnest money of 5 percent of the license price without prior ABCD approval.)

1. Copies of any loan agreements, contracts, notes, and all related security agreements, guarantees and trust indentures
2. You used funds other than from a loan, you must 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.
3. Other sources of funding: you must file the Non-Institutional Loan (NIL) form with the application if any of the 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://www.mtrevenue.gov)
 - a. Authorization for examination and release of information for each NIL.
 - b. Personal criminal history statement form for each NIL. The form is available at [MTRevenue.gov](https://www.mtrevenue.gov).
 - c. Two fingerprint cards and fees for each NIL.

4. Copies of lease, rent, purchase options, financing agreements, or other evidence showing possessory interest in the building.
5. 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.
6. Copy of business's bank signature card.
7. Purchase or 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, you must provide the following ownership information (based on entity type applying), including:

1. Copy of partnership agreement documentation.
2. Copy of Articles of Incorporation and amendments or addenda.
3. Copy of Bylaws and amendments or addenda.
4. Copy of Certificate of Fact (for LLCs and LLPs).
5. LLC organizational information.
6. Copy of stock certificates, corporate minutes and attachments.
7. Stock ledger or register.

When applying for a domestic brewery license, you must provide the following ownership information (based on entity type applying), including:

1. Copy of Certificate of Existence (for in-state corporations).
2. Copy of authority to conduct business in Montana (for out-of-state corporations).
3. Copy of documentation from the Secretary of State, verifying that the assumed business name (ABN) has been approved.
4. Copy of Federal Employer Identification Number (FEIN) verification from IRS.
5. Completed personal history statement form for each individual with 15 percent or more ownership interest in the business. This form is available at [MTRevenue.gov](https://mtrevenue.gov).
6. Two fingerprint cards and fees for each individual with 15 percent or more ownership interest in the business.

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

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

Review of the steps in the application process:

1. The application process takes on average 90 days and begins when DOR receives a complete application package and all supporting documents.
2. Application is reviewed by the DOR ABCD.
3. ABCD sends a letter to the applicant requesting any additional documents needed.
4. ABCD notifies local agencies with jurisdiction over the area (e.g., law enforcement, building department, fire department, health department, etc.) of the application in process. The local agencies have 14 days to advise the department if the applicant and the premises meet all laws and ordinances.
5. 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:
 - a. Local officials have given notice that the licensed premises meet their requirements.
 - b. DOJ has conducted a background check of the applicant(s) and verified the location meets suitability requirements.
 - c. After the completion of the audit and investigation, ABCD conducts a final review of the application. If necessary, any additional documents will be requested.

Frequently Asked Questions

What taxes does a domestic brewery pay?

Breweries are required to electronically file, on or before the 15th of each month, a beer excise tax (BET) return for all sales to retailers and sales out of their sample room during the preceding month.

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.

| Barrels Produced | Tax Rate Per Barrel |
|-------------------------|----------------------------|
| 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 10,000 barrels of beer or less in the preceding year will begin the next year at the \$1.30 per barrel tax rate. The month after the brewer exceeds a production increment, the per barrel tax rate will increase to the next production increment amount.

For example:

If the 5,001st barrel is produced on May 20, the tax rate will be \$1.30 for all of the month of May. The per barrel tax rate will increase to \$2.30 beginning with the month of June and will continue at that rate for the remainder of the year or until the month after the next production increment is exceeded.

A brewer who 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 brewers who produce more than 10,000 barrels in the first month of the year. All of the brewers production will be taxed at the \$4.30 per barrel tax rate for the year.

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

You must file your return electronically at <https://tap.dor.mt.gov>.

If you need help filing any of these forms, call the ABCD Liquor Auditor at (406) 444-2909.

What are the rules for a domestic brewery license?

All licensees, their agents, and employees must conduct the licensed premises in compliance with the following:

- a. All alcohol-related provisions of the laws of Montana and the United States.
- b. Any county or municipal ordinances where the licensed premises is located.
- c. Any tribal laws related to alcoholic beverages applicable within the areas of Indian Country.
- d. Any associated rules as found in the Administrative Rules of Montana.

What can I do with a domestic brewery license?

Licensed breweries producing less than 100 barrels annually may:

- Provide free samples between 8 a.m. and 2 a.m. at the premises in an approved sample room.
- Sell prepared servings for off-premises consumption between 10 a.m. and 8 p.m. (prepared servings count towards sample room limits).
- Sell for off-premises consumption at the premises in an approved sample room, at an approved curbside area or a drive through window.
- Sell and deliver beer to wholesalers, licensed retailers and the public using their own trucks, equipment and employees.
- Not use a common carrier or a 3rd party delivery company to deliver to the public or retailers.

Licensed breweries producing between 101 and 60,000 barrels annually (the 60,000 barrel limit is calculated according to the state's fiscal year, July 1 through June 30) may:

- Provide samples, with or without charge (up to ounces per customer per day) for on-premises consumption between 10 a.m. and 8 p.m. in an approved sample room. Customers may stay on the premises and consume until 9 p.m.
- Sell prepared servings for off-premises consumption between 10 a.m. and 8 p.m. (prepared servings count towards sample room limits).
- Sell for off-premises consumption at the premises in an approved sample room, at an approved curbside area or a drive through window.

- Sell and deliver beer to wholesalers and the public using their own trucks, equipment and employees.
- Not use a common carrier or a 3rd party delivery company to deliver to the public or retailers.

Licensed breweries producing more than 60,000 barrels or more annually may:

- Sell and deliver only to licensed beer wholesalers.
- Not allow for on-premises consumption.
- Not provide samples.
- Not sell for off-premises consumption from the brewery location.
- Not use a common carrier or a 3rd party delivery company to deliver to the public or retailers.

A domestic brewery licensee may not:

- Allow customers to bring their own alcoholic beverages onto the licensed premises.
- Sell or serve alcoholic beverages from vending machines.
- Possess a financial or ownership interest in a Montana retail license, agency liquor store, or a wholesale distributor license.
- Manage a wholesaler or distributor license.

All licensed breweries who produce less than 60,000 barrels annually may:

- Provide product samples only in an approved sample room shown on the floor plan submitted to and approved by the department.

- Provide no more than 2,000 barrels annually for on-premises consumption including all affiliated manufacturers in approved sample rooms.
- Have an approved patio or deck. The deck or patio must be immediately adjacent to the brewery sample room and only accessed from the approved sample room.
- Deliver directly to an event held under a catering endorsement or special permit. The licensee or permit holder may also pick up the product directly at the brewery by producing a copy of the license or special permit.

A domestic brewery licensee must:

- Give law enforcement, DOJ, and DOR ABCD 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 the ABCD Licensing Specialist for your county for more information.
- ensure that all employees who serve or sell alcoholic beverages and their immediate supervisors:
 - obtain state-approved training (responsible sales and service training [RASS]) within 60 days of hire
 - complete renewal training every three years

A list of approved training providers is available at:
www.AlcoholServerTraining.mt.gov





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Montana Department of Revenue
(406) 444-6900
TDD Relay 711
MTRevenue.gov