

THE RESTAURANT BEER & WINE LICENSE



What is it?
How do I get one?
What can I do with it?



Liquor Control Division

WHAT IS A RESTAURANT BEER AND WINE (RBW) LICENSE?

An RBW license allows a restaurant to serve beer and wine to customers who order food. Gambling is not allowed in conjunction with an RBW license.

Restaurants with an RBW license can request a catering endorsement that allows the licensee to provide food, beer and wine at special events within 100 miles of the licensed premises.

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% 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 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.

WHERE DO I START?

The Department of Revenue issues a limited number (quota) of RBW licenses which is determined by the population of the city or town in which the license operates. An RBW license is issued inside or within five miles of the limits of an incorporated city or town. To see RBW licenses that are available, contact the Department of Revenue toll free at (866) 859-2254 or in Helena at (406) 444-6900 or visit <http://revenue.mt.gov/home/liquor/resources#Useful%20Links> to view the quota sheet.

If a license is available, you can begin the application process. If a license is not available, you may be able to purchase an existing license. Check with a local real estate agent or the Montana Tavern Association.

You can file your application electronically at <https://revenue.mt.gov/apply-electronically>.



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% or more interest in the business. Price subject to change.
- One-time seating fee for restaurants with seating for 60 people or less: \$5,000 (20% = \$1,000).
- One-time seating fee for restaurants with seating between 61 and 100 people: \$10,000 (20% = \$2,000).
- One-time seating fee for restaurants with seating for 101 people or more: \$20,000 (20% = \$4,000).

Applicants have to pay 20% of the seating fee at the time they submit an RBW application. The remaining balance is due before approval of the application. Seating 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.

HOW DO I APPLY?

When applying for an RBW license, you need to provide the following:

- A completed alcoholic beverage/gambling operator combined license application.
- A completed liquor authorization to disclose tax information form.

- A floor plan that includes the business name, physical address, areas where you intend to serve or store alcoholic beverages, seating areas, service bar, external dimensions, entry ways and any patio area. Do not send in the original blueprints, only a copy of the floor plan.
- A certified survey affidavit from the local county or city surveyor identifying the exact location, the address and quota area (city or county), of the premises.



Financial records showing the purchase of the license and/or building, including:

- Copies of loan agreements, contracts, notes and all related security agreements. If you didn't take out a loan, please provide copies of your bank statements.

Note: 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.

- Authorization for examination and release of information for each NIL.
- 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.
- Franchise agreement.
- Purchase/transfer documents for the license, (a buy/sell agreement, contract for deed, warranty deed, bill of sale).
- Copy of business's bank signature card.

Ownership information (if applicable), 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 and corporate minutes.
- Stock ledger or register.

- Copy of Certificate of Existence (for instate 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% or more interest in the business.
- Two fingerprint cards and fees for each individual with 10% or more interest in the business.



Management information, including:

- 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 restaurant's menu showing that the restaurant serves an evening meal.
- A document stating the restaurant's hours of operation.

WHAT ARE THE STEPS IN THE APPLICATION PROCESS?

- The application process takes about 90 days and begins when the Department of Justice, Gambling Control Division (GCD), receives a complete application package and all supporting documents.
- The applicaiton is reviewed by the Department of Revenue, Liquor Control Division (LCD).



- GCD sends a letter to the applicant requesting any additional documents needed.
- After GCD receives all documents, LCD publishes a legal notice in a newspaper circulated in the city, town or county in which the license would be issued. The notice informs readers of the applicant's intent to acquire a license and where readers can send any objections to the license issuance.
- LCD notifies local agencies with jurisdiction over the area (e.g. law enforcement, fire department, health department, etc.) of any deficiencies in the application.
- After the objection deadline and the completion of the audit review, LCD and GCD conduct a final review of the application. If necessary, any additional documents will be requested.
- If one or more people filed an objection, LCD schedules a hearing with the applicant and the person(s) who filed the objection.
- The application process is paused until the hearing examiner makes a ruling on the application.
- Once the hearing examiner makes a ruling, LCD promptly issues a final decision.

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 and the United States.
 - o county and city or town ordinances.

- o Indian alcohol beverage laws applicable within the areas of Indian country.
- o rules of the department.

An RBW license can:

- serve beer and wine on your patio, deck or lawn if:
 - o it was designated on the floor plan you submitted with your application.
 - o it is immediately accessible from the interior premises.
 - o building, health and fire approval is obtained.
 - o it has a perimeter barrier.

A perimeter barrier is a barricade that encloses the perimeter of a patio/deck. The barrier shall be constructed in a manner that impedes foot traffic and clearly defines the boundary of the exterior portion of the premises. The barrier shall be a solid structure that is at least three feet high. The barrier may 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.

- serve or provide samples, with or without charge, of beer and wine to customers who are seated for table service.
- 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.



- allow customers to consume beer and wine in a “smoking hut” if the hut is part of the approved premises on file with the department. Check local laws regarding open containers.

An RBW license cannot:

- 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 beer or wine onto the premises.
- cook with distilled spirits, since you can only receive, accept or store those alcoholic beverages for which your establishment is specifically licensed for.

An RBW license must:

- serve dinner four days a week for at least two hours, between 5 p.m. and 11 p.m.

- ensure that all employees serving alcoholic beverages are 18 years or older.
- include all beer and wine purchases on the food bill. Beer or wine may not be purchased separately.
- notify the department when there is a change in manager for the location.
- ensure that all employees who serve or sell alcoholic beverages and their immediate supervisors:
 - o obtain state-approved training within 60 days of hire.
 - o complete renewal training every three years.

You can find a list of approved training providers at www.AlcoholServerTraining.mt.gov.

Miscellaneous:

- If you decide to remodel your establishment, you will need to send an alteration request form to the department along with a copy of the existing floor plan and a proposed floor plan showing the alterations. Once the department reviews and approves the request, you may begin the alteration without it affecting your license.
- An establishment—such as a dude ranch, resort, park hotel, tourist facility or similar seasonal business, who would like to operate its license on a seasonal basis, must send a written request that includes the type of business, justification for operating seasonally and the general dates of operation.

If approved, the license closure is effective from the date of the authorization letter through the end of the specified period. Once approved, the licensee must notify the department before changing general dates of operation.



Department of Revenue

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