

Chapter 13
Beer Wholesaling License Act

Part 1
General Provisions

32B-13-101 Title.

This chapter is known as the "Beer Wholesaling License Act."

Enacted by Chapter 276, 2010 General Session

32B-13-102 Definitions.

Reserved

Enacted by Chapter 276, 2010 General Session

Part 2
Beer Wholesaling License Process

32B-13-201 Commission's power to issue beer wholesaling license.

- (1)
- (a) Before a person may purchase, store, sell, offer for sale, distribute, or import beer to a person who sells at retail or acts in any way as a beer wholesaler, the person shall first obtain a beer wholesaling license issued by the commission in accordance with this chapter.
 - (b) A violation of Subsection (1)(a) is a class A misdemeanor.
- (2)
- (a) The commission may issue a beer wholesaling license for the purchase, storage, sale, distribution, transportation, and import of beer.
 - (b) A beer wholesaling license entitles the beer wholesaler licensee to:
 - (i) purchase and import beer into the state;
 - (ii) store beer in an approved warehouse; and
 - (iii) sell and distribute beer directly to:
 - (A) a beer retailer; or
 - (B) an event permittee.
- (3) Nothing in this section precludes a small brewer from selling beer the small brewer manufactures directly to:
- (a) a retail licensee;
 - (b) an off-premise beer retailer; or
 - (c) an event permittee.

Amended by Chapter 334, 2011 General Session

32B-13-202 Application requirements for beer wholesaling license.

To obtain a beer wholesaling license, a person shall submit to the department:

- (1) a written application in a form prescribed by the department;
- (2) a nonrefundable \$300 application fee;

- (3) an initial license fee of \$2,300 that is refundable if a beer wholesaling license is not issued;
- (4) written consent of the local authority;
- (5) a copy of the person's current business license;
- (6) a bond as specified in Section 32B-13-206;
- (7) a statement of the brands of beer the person is authorized to sell and distribute;
- (8) a statement of the one or more sales territories in which the person is authorized to sell and distribute beer under an agreement required by Section 32B-11-201 or 32B-11-503;
- (9) evidence that the person is carrying public liability insurance in an amount and form satisfactory to the department;
- (10) a signed consent form stating that the beer wholesaling licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the licensed premises;
- (11) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and
- (12) any other information that the commission or department may require.

Amended by Chapter 334, 2011 General Session

32B-13-203 Renewal requirements for beer wholesaling license.

- (1) A beer wholesaling license expires on December 31 of each year.
- (2) To renew a beer wholesaling license, a person shall submit to the department by no later than November 30 of the year the license expires:
 - (a) a completed renewal application in a form prescribed by the department; and
 - (b) a renewal fee in the following amount:

Case Sales in Previous License Year for the Licensee		Renewal Fee
	under 500,000 cases	\$1,200
	equals or exceeds 500,000 cases but less than 1,000,000 cases	\$2,350
	equals or exceeds 1,000,000 cases	\$3,500.

- (3) Failure to meet the renewal requirements results in an automatic forfeiture of the beer wholesaling license effective on the date the existing beer wholesaling license expires.

Amended by Chapter 334, 2011 General Session

32B-13-204 Specific qualifications for beer wholesaling license.

- (1) The commission may not issue a beer wholesaling license to a person who:
 - (a) is disqualified under Section 32B-1-304; or
 - (b) does not meet any applicable federal requirement for beer wholesaling.
- (2)
 - (a) The commission may not issue one of the following licenses to a beer wholesaler licensee simultaneously with the beer wholesaling license, and a beer wholesaler licensee may not, directly or indirectly, hold, through a wholly or partially owned subsidiary or otherwise, one of the following licenses:
 - (i) a brewery manufacturing license; or
 - (ii) a beer retailer license.

- (b) The commission may not issue to a beer retailer, and a beer retailer, directly or indirectly, may not hold, through a wholly or partially owned subsidiary or otherwise, a beer wholesaling license.
- (3) If a person to whom a beer wholesaling license is issued under this chapter no longer possesses the qualifications required by this title for obtaining that beer wholesaling license, the commission may suspend or revoke that beer wholesaling license.

Enacted by Chapter 276, 2010 General Session

32B-13-205 Commission and department duties before issuing beer wholesaling license.

- (1)
 - (a) Before the commission may issue a beer wholesaling license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a beer wholesaling license should be issued.
 - (b) The department shall forward the information and recommendations described in Subsection (1)(a) to the commission to aid in the commission's determination.
- (2) Before issuing a beer wholesaling license, the commission shall:
 - (a) determine that the person filed a complete application and is in compliance with Sections 32B-13-202 and 32B-13-204;
 - (b) determine that the person is not disqualified under Section 32B-1-304;
 - (c) consider the physical characteristics of the licensed premises where it is proposed that beer be stored by the person, such as:
 - (i) location;
 - (ii) proximity to transportation; and
 - (iii) condition, size, and security of the licensed premises;
 - (d) consider the person's ability to manage and operate a beer wholesaling operation, including:
 - (i) management experience;
 - (ii) past wholesaling experience;
 - (iii) the brands the person intends to wholesale; and
 - (iv) the means the person intends to use to distribute beer; and
 - (e) consider any other factor that the commission considers necessary.

Enacted by Chapter 276, 2010 General Session

32B-13-206 Bond for a beer wholesaling license.

- (1)
 - (a) A beer wholesaler licensee shall post a cash bond or surety bond in the penal sum of \$10,000 payable to the department.
 - (b) A beer wholesaler licensee shall procure and maintain a bond required by this section for as long as the beer wholesaler licensee continues to operate as a beer wholesaler licensee.
- (2) A bond posted under this section shall be:
 - (a) in a form approved by the attorney general; and
 - (b) conditioned upon a beer wholesaler licensee's faithful compliance with this title and the rules of the commission.
- (3) If a surety bond posted by a beer wholesaler licensee under this section is canceled due to a beer wholesaler licensee's negligence, the department may assess a \$300 reinstatement fee.

- (4) No part of a bond posted under this section may be withdrawn during the period the beer wholesaling license is in effect.
- (5)
 - (a) A bond posted under this section by a beer wholesaler licensee may be forfeited if the beer wholesaling license is revoked.
 - (b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a beer wholesaler licensee for money owed the department under this title without the commission first revoking the beer wholesaling license.

Enacted by Chapter 276, 2010 General Session

Part 3

Operational Requirements for Beer Wholesaling License

32B-13-301 General operational requirements for beer wholesaling license.

- (1)
 - (a) A beer wholesaler licensee and staff of the beer wholesaler licensee shall comply with this title and the rules of the commission.
 - (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
 - (i) a beer wholesaler licensee;
 - (ii) individual staff of a beer wholesaler licensee; or
 - (iii) both a beer wholesaler licensee and staff of the beer wholesaler licensee.
- (2)
 - (a) A beer wholesaler licensee shall make and maintain the records required by the department.
 - (b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (2).
- (3) A beer wholesaler licensee may not employ a minor to handle an alcoholic product.
- (4) A beer wholesaler licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the beer wholesaling license to a person, whether for monetary gain or not, unless it is done:
 - (a) in accordance with the commission rules; and
 - (b) after written consent is given by the commission.
- (5) A beer wholesaler licensee may not wholesale a beer manufactured within the state by a brewer who is not licensed by the commission as a brewery manufacturing licensee.
- (6) A beer wholesaler licensee may not wholesale a beer manufactured out of state by a brewer who has not obtained a certificate of approval from the department.
- (7)
 - (a) A beer wholesaler licensee may not sell or distribute beer to a person within the state except to:
 - (i) a retail licensee;
 - (ii) an off-premise beer retailer; or
 - (iii) an event permittee.
 - (b) A violation of this Subsection (7) is a class A misdemeanor.
- (8)

- (a) A beer wholesaler licensee may not sell or distribute a beer to a person who sells the beer at retail outside of a sales territory designated on its application and authorized by an agreement described in Subsection 32B-13-202(8), except that if a beer wholesaler licensee is temporarily unable to supply a person within the beer wholesaler licensee's authorized sales territory, the department may grant temporary authority to another beer wholesaler licensee who distributes the same brand in another sales territory to supply:
 - (i) a retail licensee; or
 - (ii) an off-premise beer retailer.
 - (b) A violation of this Subsection (8) is a class B misdemeanor.
- (9)
- (a) A beer wholesaler licensee shall own, lease, or otherwise control and maintain a warehouse facility located in this state for the receipt, storage, and further distribution of beer sold by the beer wholesaler licensee to a person within the state.
 - (b) A beer wholesaler licensee may not sell beer to a person in this state, other than the department, unless the beer is first:
 - (i) physically removed from the vehicle used to transport the beer from the supplier to the beer wholesaler licensee; and
 - (ii) delivered into the actual possession and control of the beer wholesaler licensee in its warehouse or other facility.
- (10) A beer wholesaler licensee may not sell or distribute an alcoholic product that has not had its label and packaging approved by the department in accordance with Chapter 1, Part 6, Malted Beverage Act.
- (11) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of a beer wholesaling licensee relating to:
- (a) physical facilities; and
 - (b) the conditions of importation, purchase, storage, sale, offering for sale, distribution, or transportation of beer within the state.

Amended by Chapter 334, 2011 General Session

32B-13-302 Notifying the department of a change of ownership.

The commission may suspend or revoke a beer wholesaling license if a beer wholesaler licensee does not immediately notify the department of change in:

- (1) ownership of the beer wholesaler licensee;
- (2) for a corporate owner, the:
 - (a) corporate officers or directors; or
 - (b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation;or
- (3) for a limited liability company:
 - (a) managers; or
 - (b) members owning at least 20% of the limited liability company.

Enacted by Chapter 276, 2010 General Session