

## Part 9 Beer-Only Restaurant License

### 32B-6-901 Title.

This part is known as "Beer-only Restaurant License."

Enacted by Chapter 334, 2011 General Session

### 32B-6-902 Definitions.

- (1)
  - (a) As used in this part, "grandfathered bar structure" means a bar structure in a licensed premises of a beer-only restaurant licensee that:
    - (i) was licensed as an on-premise beer retailer as of August 1, 2011, and as of August 1, 2011:
      - (A) is operational;
      - (B) has facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B-6-905(12)(a)(ii); and
      - (C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a beer-only restaurant; or
    - (ii) is a bar structure grandfathered under Section 32B-6-409.
  - (b) "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection (1)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.
- (2) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

Amended by Chapter 2, 2011 Special Session 2

Amended by Chapter 2, 2011 Special Session 2

### 32B-6-903 Commission's power to issue beer-only restaurant license.

- (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of beer on its premises as a beer-only restaurant, the person shall first obtain a beer-only restaurant license from the commission in accordance with this part.
- (2)
  - (a) The commission may issue a beer-only restaurant license to establish beer-only restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on premises operated as a beer-only restaurant.
  - (b) A person may not sell, offer for sale, furnish, or allow the consumption of liquor on the licensed premises of a beer-only restaurant licensee.
- (3)
  - (a) Only one beer-only restaurant license is required for each building or resort facility owned or leased by the same person.
  - (b) A separate license is not required for each beer-only restaurant license dispensing location in the same building or on the same resort premises owned or operated by the same person.
- (4)

- (a) Except as provided in Subsection (4)(b) or (c), the commission may not issue a beer-only restaurant license for premises that do not meet the proximity requirements of Section 32B-1-202.
- (b) With respect to the premises of a beer-only restaurant license issued by the commission that undergoes a change of ownership, the commission shall waive or vary the proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a beer-only restaurant license to the new owner of the premises if:
  - (i) when a beer-only restaurant license was issued to a previous owner, the premises met the proximity requirements of Subsection 32B-1-202(2);
  - (ii) the premises has had a beer-only restaurant license at all times since the beer-only restaurant license described in Subsection (4)(b)(i) was issued without a variance; and
  - (iii) the community location was located within the proximity requirements of Subsection 32B-1-202(2) after the day on which the beer-only restaurant license described in Subsection (4)(b)(i) was issued.
- (c) The location of the licensed premises of an on-premise beer retailer who is licensed as of July 1, 2011, is grandfathered and not required to meet the proximity requirements of Section 32B-1-202 if the on-premise beer retailer obtains a beer-only restaurant license by not later than March 1, 2012. A location grandfathered under this Subsection (4)(c) is considered grandfathered notwithstanding that the beer-only restaurant license undergoes a change of ownership.

Enacted by Chapter 334, 2011 General Session

**32B-6-904 Specific licensing requirements for beer-only restaurant license.**

- (1) To obtain a beer-only restaurant license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.
- (2)
  - (a) A beer-only restaurant license expires the last day of February of each year.
  - (b) To renew a person's beer-only restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than January 31.
- (3)
  - (a) The nonrefundable application fee for a beer-only restaurant license is \$330.
  - (b) The initial license fee for a beer-only restaurant license is \$825.
  - (c) The renewal fee for a beer-only restaurant license is \$605.
- (4) The bond amount required for a beer-only restaurant license is the penal sum of \$5,000.

Amended by Chapter 1, 2012 Special Session 4

Amended by Chapter 1, 2012 Special Session 4

**32B-6-905 Specific operational requirements for a beer-only restaurant license.**

- (1)
  - (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.
  - (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-only restaurant licensee;
    - (ii) individual staff of a beer-only restaurant licensee; or

- (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.
- (2)
  - (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.
  - (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:
    - (i) as a flavoring on a dessert; and
    - (ii) in the preparation of a flaming food dish, drink, or dessert.
- (3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee shall store beer in a storage area described in Subsection (12)(a).
- (4)
  - (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.
  - (b) A beverage tab required by this Subsection (4) shall list the type and amount of beer ordered or consumed.
- (5) A person's willingness to serve beer may not be made a condition of employment as a server with a beer-only restaurant licensee.
- (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer, except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before 11:30 a.m. on any day.
- (7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include a service charge.
- (8)
  - (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except after the beer-only restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.
  - (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.
- (9) A patron may not have more than two beers at a time before the patron.
- (10) A patron may consume a beer only:
  - (a) at:
    - (i) the patron's table;
    - (ii) a grandfathered bar structure; or
    - (iii) a counter; and
  - (b) where food is served.
- (11)
  - (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to a patron, and a patron may not consume an alcoholic product at a bar structure.
  - (b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who is 21 years of age or older may:
    - (i) sit;
    - (ii) be furnished a beer; and
    - (iii) consume a beer.
  - (c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a beer-only restaurant licensee may not permit a minor to, and a minor may not:
    - (i) sit; or
    - (ii) consume food or beverages.

- (d)
  - (i) A minor may be at a grandfathered bar structure if the minor is employed by a beer-only restaurant licensee:
    - (A) as provided in Subsection 32B-5-308(2); or
    - (B) to perform maintenance and cleaning services during an hour when the beer-only restaurant licensee is not open for business.
  - (ii) A minor may momentarily pass by a grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a beer-only restaurant licensee's premises in which the minor is permitted to be.
- (12) A beer-only restaurant licensee may dispense a beer only if:
  - (a) the beer is dispensed from an area that is:
    - (i) a grandfathered bar structure; or
    - (ii) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart from an area used for dining, for staging, or as a lobby or waiting area;
  - (b) the beer-only restaurant licensee uses a beer that is:
    - (i) stored in an area described in Subsection (12)(a); or
    - (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
      - (A) immediately before the beer is dispensed it is in an unopened container;
      - (B) the unopened container is taken to an area described in Subsection (12)(a) before it is opened; and
      - (C) once opened, the container is stored in an area described in Subsection (12)(a); and
  - (c) any instrument or equipment used to dispense the beer is located in an area described in Subsection (12)(a).

Amended by Chapter 353, 2013 General Session