

## Part 2 Manufacturing Licensing General Provisions

### **32B-11-201 Commission's power to issue a manufacturing license -- Certificates of approval.**

- (1)
  - (a) Except as provided in Section 32B-11-202, before a person may manufacture an alcoholic product in this state, the person shall obtain an alcoholic product manufacturing license issued by the commission in accordance with this part.
  - (b) A separate license is required for each place of storage, sale, and manufacture of an alcoholic product.
  - (c) A violation of this Subsection (1) is a class B misdemeanor.
- (2) The commission may issue an alcoholic product manufacturing license to a manufacturer whose business is located in this state for the storage, sale, and manufacture of an alcoholic product for each type of manufacturing license provided by this chapter.
- (3) The types of manufacturing licenses issued under this chapter are known as:
  - (a) a winery manufacturing license;
  - (b) a distillery manufacturing license; and
  - (c) a brewery manufacturing license.
- (4)
  - (a) A brewer located outside the state is not required to be licensed under this chapter.
  - (b) A brewer described in Subsection (4)(a) shall obtain a certificate of approval from the department before selling or delivering:
    - (i) beer to a beer wholesaler licensee in this state;
    - (ii) a flavored malt beverage to:
      - (A) the department; or
      - (B) a military installation; or
    - (iii) if a small brewer, beer to one of the following in the state:
      - (A) a beer wholesaler licensee;
      - (B) a beer retailer; or
      - (C) an event permittee.
  - (c) To obtain a certificate of approval, a brewer shall submit to the department:
    - (i) a written application in a form prescribed by the department;
    - (ii) a nonrefundable \$75 application fee;
    - (iii) an initial certificate of approval fee of \$300 that is refundable if a certificate of approval is not issued;
    - (iv) evidence of authority from the federal Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury to brew beer, heavy beer, or a flavored malt beverage; and
    - (v) any other information the commission or department may require.
- (d)
  - (i) One of the following shall sign and verify a written application under this Subsection (4) by oath or affirmation:
    - (A) a partner if the brewer is a partnership; or
    - (B) an executive officer, manager, or person specifically authorized by a corporation or limited liability company to sign the application.

- (ii) A brewer filing an application shall attach to the application written evidence of the authority of the person described in Subsection (4)(d)(i) to sign the application.
- (e)
  - (i) A certificate of approval under this Subsection (4) expires on December 31 of each year.
  - (ii) A brewer desiring to renew its certificate of approval shall submit to the department by no later than November 30 of the year the certificate of approval expires:
    - (A) a completed renewal application in the form prescribed by the department; and
    - (B) a renewal fee of \$250.
  - (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the certificate of approval effective on the date the existing certificate of approval expires.
- (5)
  - (a) An importer or supplier of beer, heavy beer, or flavored malt beverages who is not required to be licensed under this title shall obtain a certificate of approval from the department before selling or delivering:
    - (i) beer to a beer wholesaler licensee in this state; or
    - (ii) heavy beer or a flavored malt beverage to:
      - (A) the department; or
      - (B) a military installation.
  - (b) To obtain a certificate of approval, an importer or supplier described in Subsection (5)(a) shall submit to the department:
    - (i) a written application in a form prescribed by the department;
    - (ii) a nonrefundable \$75 application fee;
    - (iii) an initial certificate of approval fee of \$300 that is refundable if a certificate of approval is not issued;
    - (iv) evidence of authority from the federal Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury to brew beer, heavy beer, or a flavored malt beverage; and
    - (v) any other information the commission or department may require.
  - (c)
    - (i) One of the following shall sign and verify a written application under this Subsection (5) by oath or affirmation:
      - (A) a partner if the importer or supplier is a partnership; or
      - (B) an executive officer, manager, or person specifically authorized by a corporation or limited liability company to sign the application.
    - (ii) An importer or supplier filing an application under this Subsection (5) shall attach to the application written evidence of the authority of the person described in Subsection (5)(c)(i) to sign the application.
  - (d)
    - (i) A certificate of approval under this Subsection (5) expires on December 31 of each year.
    - (ii) An importer or supplier desiring to renew its certificate of approval shall submit to the department by no later than November 30 of the year the certificate of approval expires:
      - (A) a completed renewal application in the form prescribed by the department; and
      - (B) a renewal fee of \$250.
    - (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the certificate of approval effective on the date the existing certificate of approval expires.
- (6)

- (a) Subject to Subsection (7), a brewer, importer, or supplier required to hold a certificate of approval under this section may not distribute beer in this state except under a written agreement with a beer wholesaler licensee in this state.
  - (b) An agreement described in Subsection (6)(a) shall:
    - (i) create a restricted exclusive sales territory that is mutually agreed upon by the persons entering into the agreement;
    - (ii) designate the one or more brands that may be distributed in the sales territory; and
    - (iii) set forth the exact geographical area of the sales territory.
  - (c) A brewer, importer of beer, or supplier of beer may have more than one agreement described in this Subsection (6) if each brand of the brewer, importer, or supplier distributed in the state is covered by one exclusive sales territory.
  - (d) A brewer, importer of beer, or supplier of beer may not enter into an agreement with more than one beer wholesaler licensee to distribute the same brand of beer in the same sales territory or any portion of the sales territory.
- (7) A small brewer is not subject to the requirements of Subsection (6).

Amended by Chapter 334, 2011 General Session

**32B-11-202 Exemption for manufacture of fermented beverage.**

- (1) As used in this section, "fermented alcoholic beverage" means:
  - (a) beer;
  - (b) heavy beer; or
  - (c) wine.
- (2) An individual may without being licensed under this chapter manufacture a fermented alcoholic beverage if:
  - (a) the individual ferments the alcoholic beverage:
    - (i) in the individual's personal residence; or
    - (ii)
      - (A) on the premises of a winery manufacturing license or brewery manufacturing license; and
      - (B) under the supervision of a winery manufacturing licensee or brewery manufacturing licensee;
  - (b) the individual is 21 years old or older;
  - (c) the individual manufactures no more than:
    - (i) 100 gallons in a calendar year, if there is one individual that is 21 years old or older residing in the household; or
    - (ii) 200 gallons in a calendar year, if there are two or more individuals who are 21 years old or older residing in the household;
  - (d) the fermented alcoholic beverage is manufactured and used for personal or family use and consumption, including use at an organized event where fermented alcoholic beverages are judged as to taste and quality; and
  - (e) the fermented alcoholic beverage is not for:
    - (i) sale or offering for sale; or
    - (ii) consumption on a licensed premise.
- (3) An individual may store a fermented alcoholic beverage manufactured as provided in Subsection (2) in the individual's personal residence.
- (4) A fermented alcoholic beverage manufactured in accordance with Subsection (2) may be removed from the premises where it is manufactured:

- (a) for personal or family use, including use at an organized event where fermented alcoholic beverages are judged as to taste and quality;
- (b) if the fermented alcoholic beverage is transported in compliance with Section 41-6a-526; and
- (c) if the fermented alcoholic beverage is removed only in the following quantities:
  - (i) for personal and family use that is unrelated to an organized event where fermented alcoholic beverages are judged as to taste and quality, the quantity that may be possessed at one time is:
    - (A) one liter of wine for each individual who is 21 years old or older residing in the household;
    - (B) 72 ounces of heavy beer for each individual who is 21 years old or older residing in the household; or
    - (C) 72 ounces of beer for each individual who is 21 years old or older residing in the household; and
  - (ii) for on-premise consumption at an organized event where fermented alcoholic beverages are judged as to taste and quality, the quantity that may be removed for each organized event is:
    - (A) one liter of wine for each wine category in which the individual enters, except that the individual may not remove wine for more than three categories for the same organized event;
    - (B) 72 ounces of heavy beer for each heavy beer category in which the individual enters, except that the individual may not remove heavy beer for more than three categories for the same organized event; or
    - (C) 72 ounces of beer for each beer category in which the individual enters, except that the individual may not remove beer for more than three categories for the same organized event.
- (5) A partnership, corporation, or association may not manufacture a fermented alcoholic beverage under this section for personal or family use and consumption without obtaining a license under this chapter, except that an individual who operates a brewery under this chapter as an individual owner or in partnership with others, may remove beer from the brewery for personal or family use in the amounts described in Subsection (2)(c).

Amended by Chapter 291, 2021 General Session

**32B-11-203 Application requirements for a manufacturing license.**

To obtain an alcoholic product manufacturing license, a person shall submit to the department:

- (1) a written application in a form prescribed by the department;
- (2) a nonrefundable application fee of \$300;
- (3) an initial license fee of \$3,800:
  - (a) unless otherwise provided in this chapter; and
  - (b) that is refundable if a license is not issued;
- (4) written consent of the local authority;
- (5) a statement of the purpose for which the person has applied for the manufacturing license;
- (6) evidence that the person is authorized by the United States to manufacture an alcoholic product;
- (7) a bond as specified by Section 32B-11-207;
- (8) evidence that the person is carrying public liability insurance in an amount and form satisfactory to the department;

- (9) a signed consent form stating that the manufacturing licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the licensed premises;
- (10) 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
- (11) any other information the commission or department may require.

Amended by Chapter 334, 2011 General Session

**32B-11-204 Renewal requirements for a manufacturing license.**

- (1) A manufacturing license expires on December 31 of each year.
- (2) To renew a manufacturing license, a person shall submit by no later than November 30 of the year the license expires:
  - (a) a completed renewal application to the department, in a form prescribed by the department; and
  - (b) a renewal fee in the following amount of:
    - (i) \$2,900, except for a wine manufacturing license described in Subsection (2)(b)(ii); or
    - (ii) \$1,400 for a winery manufacturing license if the winery manufacturing licensee produces less than 20,000 gallons of wine in the calendar year preceding the year in which the manufacturing licensee seeks renewal.
- (3) Failure to meet the renewal requirements results in an automatic forfeiture of a manufacturing license effective on the date the existing manufacturing license expires.

Amended by Chapter 334, 2011 General Session

**32B-11-205 Specific qualifications for a manufacturing license.**

- (1) The commission may not issue a manufacturing license to a person who:
  - (a) is disqualified under Section 32B-1-304; or
  - (b) has not met an applicable federal requirement for the operation of a winery, distillery, or brewery.
- (2) If a person to whom a manufacturing license is issued under this chapter no longer possesses the qualifications required by this title for obtaining that manufacturing license, the commission may suspend or revoke that manufacturing license.

Enacted by Chapter 276, 2010 General Session

**32B-11-206 Duties of commission and department before issuing manufacturing license.**

- (1)
  - (a) Before the commission may issue a manufacturing 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 manufacturing license should be issued.
  - (b) The department shall forward to the commission the information and recommendations under Subsection (1)(a) to aid in the commission's determination.
- (2) Before issuing a manufacturing license, the commission shall:
  - (a) determine that the person filed a complete application and is in compliance with:
    - (i) Sections 32B-11-203 and 32B-11-205; and
    - (ii) the relevant part under this chapter for the specific type of manufacturing license;
  - (b) determine that the person is not disqualified under Section 32B-1-304;

- (c) consider the physical characteristics of the premises where an alcoholic product is proposed to be stored, mixed, or manufactured such as:
  - (i) condition of the premises; and
  - (ii) safety and security considerations;
- (d) consider the person's ability to properly use the manufacturing license within the requirements of this title and the commission rules including:
  - (i) manufacturing capacity;
  - (ii) extent of product distribution; and
  - (iii) the nature and type of entity making use of the manufacturing license;
- (e) consider any special factor as provided in this chapter that may be unique to the specific type of manufacturing license sought by the person;
- (f) approve of the location and equipment used by the person to manufacture an alcoholic product; and
- (g) consider any other factor the commission considers necessary.

Enacted by Chapter 276, 2010 General Session

**32B-11-207 Bond for manufacturing license.**

- (1)
  - (a) A manufacturing licensee shall post a cash bond or surety bond in the penal sum of \$10,000 payable to the department.
  - (b) A manufacturing licensee shall procure and maintain a bond required by this section for as long as the manufacturing licensee continues to operate as a manufacturing licensee.
- (2) A bond posted under this section shall be:
  - (a) in a form approved by the attorney general; and
  - (b) conditioned upon a manufacturing licensee's faithful compliance with this title and the rules of the commission.
- (3) If a surety bond posted by a manufacturing licensee under this section is cancelled due to a manufacturing 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 manufacturing license is in effect.
- (5)
  - (a) A bond posted by a manufacturing licensee under this section may be forfeited if the manufacturing license is revoked.
  - (b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a manufacturing licensee for money owed the department under this title without the commission first revoking the manufacturing license.

Enacted by Chapter 276, 2010 General Session

**32B-11-208 General operational requirements for manufacturing license.**

- (1)
  - (a) A manufacturing licensee and staff of the manufacturing licensee shall comply with this title and the rules of the commission, including the relevant part of this chapter applicable to the type of manufacturing license held by the manufacturing licensee.
  - (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 manufacturing licensee;

- (ii) individual staff of a manufacturing licensee; or
- (iii) a manufacturing licensee and staff of the manufacturing licensee.
- (2) A manufacturing licensee shall prominently display the manufacturing license on the licensed premises.
- (3)
  - (a) A manufacturing 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 (3).
- (4) A manufacturing licensee may not sell liquor within the state except to:
  - (a) the department; or
  - (b) a military installation.
- (5) A manufacturing license may not be transferred from one location to another location, except as provided in Chapter 18, Part 3, Alcohol License Change of Location.
- (6)
  - (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not, except as provided in Chapter 18, Part 2, Alcohol License Changes of Ownership.
  - (b) A manufacturing license has no monetary value for any type of disposition.
- (7) A manufacturing licensee may not advertise the manufacturing licensee's product in violation of this title or any other federal or state law, except that nothing in this title prohibits the advertising or solicitation of an order for industrial alcohol from a holder of a special use permit.
- (8) A manufacturing licensee shall from time to time, on request of the department, furnish for analytical purposes a sample of the alcoholic product that the manufacturing licensee has:
  - (a) for sale; or
  - (b) in the course of manufacture for sale in this state.
- (9) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of a manufacturing licensee relating to:
  - (a) physical facilities;
  - (b) conditions of storage, sale, or manufacture of an alcoholic product;
  - (c) storage and sales quantity limitations; and
  - (d) other matters considered appropriate by the commission.

Amended by Chapter 447, 2022 General Session

**32B-11-209 Notifying department of change in ownership.**

The commission may suspend, revoke, or deem forfeited a manufacturing license if the manufacturing licensee does not immediately notify the department of a change in:

- (1) ownership of the manufacturing 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.

Amended by Chapter 371, 2023 General Session

**32B-11-210 Tasting provided by manufacturing licensee.**

- (1) As used in this section:
  - (a) "Parcel" means the same identifiable contiguous unit of property that is treated as separate for valuation or zoning purposes and includes an improvement on that unit of property.
  - (b) "Taste" means an amount of an alcoholic product provided by a manufacturing licensee for consumption under this section.
- (2) A manufacturing licensee may provide for a tasting in accordance with this section.
- (3) Before conducting a tasting, the manufacturing licensee shall provide the department:
  - (a) evidence of proximity to any community location, with proximity requirements being governed by Section 32B-1-202 as if the manufacturing licensee were a retail licensee;
  - (b) a floor plan, and boundary map where applicable, of the premises of the manufacturing licensee, including any:
    - (i) consumption area; and
    - (ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic product to be tasted;
  - (c) evidence that the manufacturing licensee is carrying public liability insurance in an amount and form satisfactory to the department;
  - (d) evidence that the manufacturing licensee is carrying dramshop insurance coverage in an amount and form satisfactory to the department; and
  - (e) any other information the commission or department may require.
- (4) A manufacturing licensee may not sell, offer for sale, or furnish a taste on any day during the period that:
  - (a) begins at midnight; and
  - (b) ends at 10:59 a.m.
- (5) A person who serves a taste on behalf of the manufacturing licensee shall complete an alcohol training and education seminar as if the person were employed by a retail licensee.
- (6)
  - (a) A manufacturing licensee shall establish a distinct area for consumption of a taste outside the view of minors on the licensed premises and in which minors are not allowed during the time period when tasting occurs.
  - (b) The distinct area for consumption for a taste established under this Subsection (6) shall be in the same building as where the manufacturing licensee produces alcoholic product, in a building on the same parcel as the building where the manufacturing licensee produces alcoholic product, or in a patio or similar area immediately adjacent to a building described in this Subsection (6)(b).
- (7)
  - (a) A manufacturing licensee shall have substantial food available that is served on the licensed premises to an individual consuming a taste.
  - (b) The commission may define what constitutes "substantial food" by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the rule may not require culinary facilities for food preparation that are equivalent to a restaurant or dining club.
- (8) A manufacturing licensee shall charge an individual for a taste and may not sell, offer for sale, or furnish a taste at less than the cost of the taste to a retail licensee.
- (9)
  - (a) A manufacturing licensee may provide a taste in more than one container except that the aggregate total of the taste in all of the containers may not exceed:
    - (i) for a winery manufacturing licensee:
      - (A) except as provided in Subsection (9)(a)(i)(B), five ounces of wine; or



- (B) 16 ounces of hard cider that is furnished in a sealed container and contains no more than 5% of alcohol by volume;
- (ii) for a distillery manufacturing licensee, 2.5 ounces of spirituous liquor; or
- (iii) for a brewery manufacturing licensee, 16 ounces of beer, heavy beer, or flavored malt beverages.
- (b) A manufacturing licensee may not allow an individual to participate in more than one tasting within a calendar day.
- (10) A manufacturing licensee may provide a taste of alcoholic product that is:
  - (a) manufactured by the manufacturing licensee; and
  - (b) purchased by the manufacturing licensee from:
    - (i) a state store or package agency; or
    - (ii) for beer, the off-premise retail licensee described in Subsection 32B-11-503(4)(c).
- (11)
  - (a) A manufacturing licensee shall display in a prominent place in the location where tastes are consumed a sign in large letters that consists of text in the following order:
    - (i) a header that reads: "WARNING";
    - (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";
    - (iii) a statement in smaller font that reads: "Call the Utah Department of Health and Human Services at [insert most current toll-free number] with questions or for more information.";
    - (iv) a header that reads: "WARNING"; and
    - (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."
  - (b)
    - (i) The text described in Subsections (11)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (11)(a)(iv) and (v).
    - (ii) The warning statements in the sign described in Subsection (11)(a) shall be in the same font size.
  - (c) The Department of Health and Human Services shall work with the commission and department to facilitate consistency in the format of a sign required under this Subsection (11).
- (12) A manufacturing licensee shall provide educational information as defined by rule by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as part of the tasting.
- (13) A manufacturing licensee that conducts tastings under a scientific or educational use permit issued by the commission as of May 10, 2016, shall comply with this section by no later than December 31, 2016, in conducting a tasting. In accordance with Subsection 32B-10-206(1)(c), effective no later than January 1, 2017, the commission shall take action on a scientific or educational use permit used by a manufacturing licensee to conduct tastings.

Amended by Chapter 371, 2023 General Session