

**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