

Chapter 12

Liquor Warehousing License Act

Part 1

General Provisions

32B-12-101 Title.

This chapter is known as the "Liquor Warehousing License Act."

Enacted by Chapter 276, 2010 General Session

32B-12-102 Definitions.

Reserved

Enacted by Chapter 276, 2010 General Session

Part 2

Liquor Warehousing License Process

32B-12-201 Commission's power to issue liquor warehousing license.

- (1)
 - (a) Before a person may warehouse, distribute, or transport liquor for resale to a wholesale or retail customer, the person shall first obtain a liquor warehousing license issued by the commission in accordance with this chapter.
 - (b) A separate liquor warehousing license is required for each warehousing facility.
 - (c) A violation of this Subsection (1) is a class B misdemeanor.
- (2) The commission may issue a liquor warehousing license in accordance with this chapter for the warehousing, distribution, and transportation of liquor.

Enacted by Chapter 276, 2010 General Session

32B-12-202 Application requirements for liquor warehousing license.

To obtain a liquor warehousing 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 \$850, which is refundable if a liquor warehousing 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 by Section 32B-12-206;
- (7) a floor plan of the person's warehouse, including the area in which the person proposes that liquor be stored;
- (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 liquor warehousing 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-12-203 Renewal requirements for liquor warehousing license.

- (1) A liquor warehousing license expires on December 31 of each year.
- (2) To renew a liquor warehousing 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 of \$1,200.
- (3) Failure to meet the renewal requirements results in an automatic forfeiture of the liquor warehousing license effective on the date the existing liquor warehousing license expires.

Amended by Chapter 334, 2011 General Session

32B-12-204 Specific qualifications for liquor warehousing license.

- (1) The commission may not issue a liquor warehousing license to a person who is disqualified under Section 32B-1-304.
- (2) A person, through its staff, or otherwise, either directly or indirectly, may not hold at the same time both a liquor warehousing license and another kind of package agency, license, or permit issued under this title except:
 - (a) a temporary beer event permit;
 - (b) a manufacturing license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act; or
 - (c) a beer wholesaling license issued in accordance with this chapter.
- (3) If a person to whom a liquor warehousing license is issued under this chapter no longer possesses the qualifications required by this title for obtaining that liquor warehousing license, the commission may suspend or revoke that liquor warehousing license.

Enacted by Chapter 276, 2010 General Session

32B-12-205 Duties of commission and department before issuing liquor warehousing license.

- (1)
 - (a) Before the commission may issue a warehousing 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 liquor warehousing 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 liquor warehousing license, the commission shall:
 - (a) determine that the person filed a complete application and has complied with Sections 32B-12-202 and 32B-12-204;
 - (b) determine that the person is not disqualified under Section 32B-1-304;
 - (c) consider the physical characteristics of the premises where it is proposed that liquor be warehoused, 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 properly use the liquor warehousing license within the requirements of this title and the commission rules including:
 - (i) the types of products other than liquor that the person is warehousing;
 - (ii) the brands of liquor the person intends to warehouse; and
 - (iii) the means the person intends to use to distribute the liquor; and
- (e) consider any other factor the commission considers necessary.

Enacted by Chapter 276, 2010 General Session

32B-12-206 Bond for liquor warehousing license.

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

Enacted by Chapter 276, 2010 General Session

Part 3
Operational Requirements for Liquor Warehousing License

32B-12-301 General operational requirements for liquor warehousing license.

- (1)
 - (a) A liquor warehouser licensee and staff of the liquor warehouser 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 liquor warehouser licensee;
 - (ii) individual staff of a liquor warehouser licensee; or

- (iii) both a liquor warehouser licensee and staff of the liquor warehouser licensee.
- (2)
 - (a) A liquor warehouser licensee shall make and maintain 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 liquor warehousing license may not be transferred from one location to another location, without prior written approval of the commission.
- (4)
 - (a) A liquor warehouser 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.
 - (b) A liquor warehousing license has no monetary value for any type of disposition.
- (5) A liquor warehouser licensee may not employ a minor to handle an alcoholic product.
- (6) Liquor that is warehoused in this state and sold to an out-of-state consignee, may be transported out of the state only by a motor carrier regulated under Title 72, Chapter 9, Motor Carrier Safety Act.
- (7) Liquor that is warehoused in this state and sold to the department may be transported only by a motor carrier approved by the department.
- (8) Liquor transported to or from a liquor warehouser licensee's licensed premises shall be carried in a sealed conveyance that is made available for inspection by the department while en route within the state.
- (9) A liquor warehouser licensee may not ship, convey, distribute, or remove liquor from a warehouse in less than a full case lot.
- (10) A liquor warehouser licensee may not ship, convey, distribute, or remove liquor from a warehouse to a consignee outside the state that is not licensed as a liquor wholesaler or retailer by the state in which the consignee is domiciled.
- (11) A liquor warehouser licensee may not receive, warehouse, distribute, transport, ship, or convey liquor that the commission has not authorized the liquor warehouser licensee to handle through its warehouse.
- (12) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of licensees relating to:
 - (a) physical facilities;
 - (b) conditions of storage, distribution, or transport of liquor; and
 - (c) other matters considered appropriate by the commission.

Enacted by Chapter 276, 2010 General Session

32B-12-302 Notifying the department of change in ownership.

The commission may suspend or revoke a liquor warehousing license if a liquor warehouser licensee does not immediately notify the department of a change in:

- (1) ownership of the liquor warehouser 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