



MONTANA Alcoholic Beverage - Gambling Operator Combined License Application Guide

**This booklet contains all the forms and instructions for applying for an
Alcoholic Beverage and Gambling License.**

Also available on our websites:
www.doj.mt.gov/gaming and www.revenue.mt.gov

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Return to:

Montana Department of Justice
Gambling Control Division
2550 Prospect Ave. - P.O. Box 201424
Helena, MT 59620-1424

Phone (406) 444-1971
Fax (406) 444-9157
www.doj.mt.gov/gaming

Notice To Applicant

The information in this guide is meant to assist you in completing the Alcoholic Beverage – Gambling Operator Combined License Application. Delay, denial or the return of the application will result if it is not completed in its entirety. The information in this guide is not a substitute for a careful examination of the alcoholic beverage/gambling laws, rules and the rights or obligations arising out of applying for alcoholic beverage/gambling licensure, or for seeking, where individual circumstances warrant, the independent advice of professionals such as an accountant or attorney.

Once the application is completed, send the original application and all required documents to the above address.

This application is also available on the website at www.doj.mt.gov/gaming and www.revenue.mt.gov.

Processing an application generally takes three to four months based upon the Departments determination of receipt of a complete application and if no deficiencies or protests are received. You will be notified by the Gambling Control Division (DOJ) Licensing Section upon receipt of your application and given a contact name. It is important to understand that supplying the information requested does not guarantee approval of the license application. At this time, we are simply gathering information needed to continue processing the paperwork. Until a determination has been made, any expenses you may incur prior to receiving approval of your license application should be considered at your own risk. You will be notified when a decision regarding the application has been made.

Combined License Application Guide

This Guide is provided as a supplement to assist applicants in understanding the application and to answer commonly asked questions related to requirements for alcoholic beverages and gambling licenses.

Why the Combined Application?

Many of the requirements for alcoholic beverage and gambling licenses are very similar, and an alcoholic beverage license is a prerequisite to obtain some forms of gambling permits. The Gambling Control Division conducts the initial investigation of both alcoholic beverage and gambling licenses. Even though only a single application is submitted, the final decision to approve or deny the license application is made by the Department of Revenue/Liquor Control Division for alcoholic beverage licenses and the Department of Justice/Gambling Control Division for gambling licenses.

What if I only want an alcoholic beverage license?

The application form is designed so it can be used for an alcoholic beverage/gambling operator license application or just a gambling license. There is a separate Liquor Only Application form to use if you are only applying for a liquor license with no gaming. That form is available at www.revenue.mt.gov.

Who do I talk to about my application?

During the time your application is being processed, **all questions should be directed to the Gambling Control Division**. After an initial review of your application, you will be contacted by the Gambling Control Division and informed if additional information is needed or if the application is complete enough to proceed with processing. At this time you will also be provided with the contact name of the person in the Gambling Control Division assisting you. If for some reason you do not have the name of a contact for the gambling application, call the Gambling Control Division at 444-1971. Also, call the Liquor Control Division at 444-6900 for the contact person handling the alcoholic beverage license portion of your case.

Fingerprint Cards

Effective 10/01/03 two (2) properly completed fingerprint cards must be completed and returned with the application. The individual can take the card to a local law enforcement agency or to the Montana Department of Justice ID Bureau for fingerprinting. Please note some law enforcement agencies charge a fee for this service. Enclose the fingerprint card and attach a check payable to the Gambling Control Division. If you have any questions, please contact the Gambling Control Division, Licensing Section.

If you are applying for an alcoholic beverage license it is the applicant's responsibility to determine if federal laws may require the applicant to obtain a permit from a federal agency.

For further information contact:

Alcohol and Tobacco Tax and Trade Bureau

550 Main Street

Suite 8002

Cincinnati, OH 45202-5215

Phone (513) 684-2979 or (800) 937-8864

ttbtaxstamp@ttb.treas.gov

Fee Schedules (Page 1)

Which fees do I have to pay?

While there are a large number of fees, you will likely only pay one fee for the appropriate alcoholic beverage license, one alcoholic beverage processing fee and one processing fee for a gambling license. A catering endorsement, wine amendment and secured party fees may be required in addition to other alcoholic beverage fees.

The processing fees for alcoholic beverage and gambling licenses are collected in different ways. The alcoholic beverages license processing fee is a flat fee. But the fee for a gambling license is the actual processing cost for the application. Gambling collects an initial fee with the application, then collects any additional processing fees prior to any license and permit being issued, if any. If the fee is more than the actual cost of processing, the balance is refunded to you.

How do I calculate how much I will pay?

You will write one check made payable to the "Gambling Control Division". Follow these steps:

- Enter on line "1" the appropriate Gambling Operator License processing fee.
- Enter on line "2" the appropriate Alcoholic Beverage License processing fee.
- Enter on line "3" the appropriate Alcoholic Beverage License fee.
- Enter on line "4" the appropriate Nationally Chartered Veterans Organization reduced license fee (if applicable).
- Enter on line "5" any catering endorsement fees.
- Enter on line "6" any Restaurant Beer and Wine annual license and seating fees.
- Enter on line "7" any fees to add or terminate a secured party.
- Enter on line "8" any fees for a Resort License annual fee and application fee.
- Enter on line "9" any fees for a Golf Course Beer and Wine annual fee and application fee.
- Enter on line "10" Fingerprint card fees.
- Total the amounts you have entered, double check the total.

Write a check to the Gambling Control Division for the total and staple it to the front page of the application when completed.

How much do new all-beverage licenses cost?

1. For establishments located at least 5 miles outside of incorporated cities and towns - \$400.
2. For establishments located in an incorporated city/town:
 - a) of less than 2,000 population and within a distance of 5 miles - \$400
 - b) population between 2,000-5,000 and within a distance of 5 miles- \$500
 - c) population between 5,001-10,000 and within a distance of 5 miles- \$650
 - d) population of more than 10,000 and within a distance of 5 miles- \$800
3. Nationally recognized Fraternal Organization, fee same as 1) and 2), depending on population
4. Nationally Chartered Veterans Organization \$250 - \$650. The fee depends on population and is assessed at \$150 less than fees 1 through 2.
5. Original Resort License \$20,000 one-time fee

What if I am unsure of the exact type of new alcoholic beverage license that I need and license fees?

Call the Department of Revenue in Helena at 406-444-6900 or use the toll free line by calling 1-866-859-2254 to find out about the availability of licenses in your area and the appropriate license for your plans.

Section I Purpose of Application and General Information (Page 2)

There are two **SHORTER** application forms available for licensees that are making certain changes.

A **Combined Short Form (Form 37)** may be used when:

1. There is a change among existing shareholders, LLC/LLP members, or partners who already hold 10% or greater ownership interest.
2. Increasing or decreasing shares owned by a shareholder who already holds a 10% or greater ownership interest.
3. There is a divorce and one of the owners no longer has an ownership interest and has to be removed.
4. There is a death of the licensee or shareholder, LLC/LLP member, or partner and an appointment of a personal representative of the estate.
5. Gifting of an ownership interest to an existing owner who already holds 10% or greater ownership interest.
6. There is a foreclosure and the party foreclosing has had no change in ownership since last licensed, is the licensee's immediate predecessor, is suitable for licensure, all applicable permit fees are paid, notified the department of the foreclosure at the time the foreclosure is executed and is within five working days of execution and the foreclosure takes place within two years following the sale.

A **Combined Short Form (Form 39)** may be used when:

1. There is a change in the type of business entity, for example sole proprietor to a corporation.
2. There is an increase in current ownership parties from under 10% to over 10% interest, but no other changes to the licensee or licensed entity are made.
3. There is a transfer of a license from one location to another, but no other changes to the licensee or licensed entity are made.

What is the difference between a trade name and an applicant name?

The "trade name" is the "DBA" (doing-business-as assumed business name as it is filed with the Secretary of State) or name you call your business. Your trade name is also the name that normally appears on the sign advertising your establishment. The applicant name represents the legal holder of the license (i.e. corporation name, individuals name, partnership name, etc.).

What address should I use?

The address is the physical address where the business is located. For the premise, list the actual street address for the business and for the mailing address, list where you want the mail from both divisions to be sent.

Federal Tax ID Number?

You must provide verification from the IRS of your federal tax ID number. If this is not provided, the application will not be processed.

What is conditional approval?

Conditional approval means the investigation has been completed, and the applicant and the proposed location for the premises meet all requirements for licensing; but there are outstanding issues - usually the premise is not ready for occupancy. The conditional approval letter is sent by Liquor Control Division and gives the applicant a time frame, in which the situation must be resolved, or the premises must be done, a final inspection completed, and approval of health, building and fire code officials are obtained. **Conditional approval does not constitute the issuance of a license.**

Section II & III

Ownership Information and Management Information (Page 3)

If I am the sole proprietor, shareholder, member, partner, etc. - do I need to be reported as the manager and still file a management agreement?

No. You already have the authority to run your own business. However, if you have an "entity" owned license (i.e. corporation, partnership, LLC), a reference must be made in your organizational documents or minutes who will function as the manager.

What will this information be used for?

This is to ensure all ownership interests are correctly reported to the divisions. This will help the divisions to determine if all ownership interests and liabilities have been reported to us about your business. It also allows us to know who is authorized to sign documents for the business.

Who would be considered a manager?

A person employed or authorized by the licensee to supervise personnel and oversee the day to day business functions of the licensed operation.

Section IV

Financial Information (Pages 4-8)

Can I own more than one liquor license?

You can own three all-beverage alcoholic beverage licenses. However, you may not own an interest in more than half the total number of allowable all-beverage licenses in any quota area; or if two or more individuals, through business or family relationship, share in the profits or liabilities of all-beverage licenses, the aggregate number of licenses in which they share profits or liabilities may not exceed half the total number of allowable all-beverage licenses in the specific quota area. You can own "as many" available beer and wine licenses for which you are qualified.

What is a financial or ownership interest?

You have a financial or ownership interest in a business if you share in the profits, losses and liabilities of the business. This includes co-borrowers on applicant loans, persons whose assets are cross collateralized with those of the applicant (they let the applicant use their assets to secure a loan and lose those assets if the applicant defaults), persons who may be found in default under an obligation if the applicant defaults under a related agreement and vice versa (cross defaults). It also includes franchise fee recipients or any other person with an interest in a percentage of the applicant's sales or income. This is not an all inclusive list just an example of a few. This does not include gambling machine route operators who by statute may receive a percentage of gross video gambling machine income or a fixed fee for leasing machines to the gambling operator.

What is a NIL form (Form 13) and why do I need one?

A Non-institutional Loan (NIL) form (Form 13) is used to report loans from someone other than a state or federally regulated financial institution. It is also used to report deferred payment agreements, gifts, or the transfer of a security interest. (i.e. A relative wants to lend money to a licensee that owns the license.)

Why do I have to report funds that I loaned to the licensed business when I am a shareholder/member/partner?

The Divisions are careful to examine "all" liabilities/sources of funding of the licensee in order to safeguard the integrity of the alcoholic beverage and/or gambling licenses.

What does "Gifting" mean?

"Gifting" is defined as a licensee receiving funds from a non-institutional source of financing who does not require those funds to be repaid, and does not expect anything of value in return. The non-institutional source of financing must also provide a signed "Gifting Statement" declaring the above agreement.

Section V Premises Information (Page 9)

What are the general restrictions on premises?

Generally speaking a premises needs to have permanently installed walls extending from floor to ceiling, an address unique to the establishment, and a public external entrance that is not shared with another premise for which a gambling operator license has been issued, and may not be within 150 feet of another gambling establishment owned by a related party, or within 600 feet of a church or school. If applying for a new license or a transfer of location of an existing license, a certified survey affidavit from the city surveyor or private land surveyor attesting to the suitability of the proposed premises also needs to be included with the application documents.

Section VI Alcoholic Beverage License Information (Page 10)

What is the difference between a beer license with wine amendment, and a restaurant beer and wine license?

A **beer license with wine amendment** does not have the food, service and hours requirement that a restaurant beer and wine license does. This license must meet the standards for an establishment operated **either** as a prepared food business **or** a restaurant.

A **restaurant beer and wine license (RBW)** is a license created **specifically** for a restaurant business. There are several restrictions that do not apply to a regular beer license, such as an RBW cannot have gambling, there can be no sales of alcohol for off-premise consumption, alcohol can only be sold to patrons who order food, the hours of operation are restricted to 11:00 a.m. to 11:00 p.m., must be open at least 4 nights a week for 2 hours each between 5pm and 11pm, and the majority of food is not sold in throw-away containers that are not reused in the restaurant.

How can my restaurant qualify for a wine amendment?

If you currently hold an on-premises consumption beer license, you will need to show the division the sale of wine for on-premises consumption would be supplementary to a restaurant or prepared-food business. You will also need to have seating for 12 customers at tables and/or booths.

What can I do with a catering endorsement?

A catering endorsement allows a licensee to cater and sell alcoholic beverages to persons attending a special event upon premises that are not otherwise licensed for on-premise consumption. The licensee may not cater an event in which the licensee is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business.

Section VII Alcohol Beverage Temporary Authority (Page 11)

What is temporary authority?

Temporary authority (TA) allows an applicant to operate the proposed business while the alcoholic beverage license application is being processed. TA may only be issued to an applicant who requests a transfer of ownership. However TA may not be issued for a transfer of location or issuance of a new license. The granting of TA **does not** guarantee the division will eventually approve the application. TA does not mean the current licensee is absolved from any liability of the liquor operation. If the applicant violates any portion of the Montana Code Annotated, TA will be revoked and the licensee must continue operation. The licensee may be subject to an Administrative action and penalties if TA is revoked.

There is no temporary authority for a gambling operator license. If the establishment is currently licensed for gambling, all gambling needs to cease once TA is issued to the applicant, until the Gambling Control Division has received, processed and is ready to approve a gambling operator license to the applicant. Final approval of a gambling license can be granted while the applicant is still on temporary authority issued by the Liquor Control Division.

Section VIII Declaration and Affidavit (Page 12)

Who can sign?

Depending on how you are applying (i.e. individual, corporation, partnership, LLC, LLP, or nonprofit), the person(s) listed under Section II, are considered authorized representatives and need to sign the application in the presence of a notary.