

ALCOHOLIC BEVERAGE CODE
TITLE 3. LICENSES AND PERMITS
SUBTITLE B. LICENSES
CHAPTER 62. BREWER'S LICENSE

Sec. 62.01. AUTHORIZED ACTIVITIES. (a) The holder of a brewer's license may:

(1) brew malt beverages and distribute and sell the malt beverages in this state to the holders of general and branch distributor's licenses and to qualified persons outside the state;

(2) dispense malt beverages for consumption on the premises;

(3) bottle and can malt beverages and pack malt beverages into containers for resale in this state, regardless of whether the malt beverages are brewed in this state or in another state and imported into Texas;

(4) conduct samplings of malt beverages, including tastings, at a retailer's premises; and

(5) enter into an alternating brewery proprietorship or contract brewing arrangement as provided by Section [62.14](#).

(b) An agent or employee of the holder of a brewer's license may open, touch, or pour malt beverages, make a presentation, or answer questions at a sampling event.

Acts 1977, 65th Leg., p. 474, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 53, ch. 33, Sec. 1, eff. Aug. 27, 1979.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1073 (H.B. [2723](#)), Sec. 8, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. [3307](#)), Sec. 6, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 208, eff. September 1, 2021.

Sec. 62.015. IMPORTATION OF MALT BEVERAGES FOR MANUFACTURE.

(a) The holder of a brewer's license may:

(1) import for manufacturing purposes malt beverages

from the holder of a nonresident brewer's license; and

(2) mix and blend malt beverages imported under Subdivision (1) and bottle and sell the resultant product.

(b) The state tax on malt beverages imported for manufacturing purposes does not accrue until:

(1) the malt beverages have been used for manufacturing purposes; and

(2) the resultant product has been placed in containers for sale.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 209(b), eff. September 1, 2021.

Sec. 62.03. STATEMENT OF INTENTION. (a) Except as provided by Section 62.14, each applicant for a brewer's license shall file with an application a sworn statement that the applicant will be engaged in the business of brewing and packaging malt beverages in this state in quantities sufficient to make the applicant's operation a bona fide brewer within three years of the issuance of the original license. If the applicant is a corporation, the statement must be signed by one of its principal officers. The commission may not approve an application unless it is accompanied by the required sworn statement.

(b) This section does not apply to the holder of a license which was in effect on January 1, 1953, that authorized the license holder to manufacture a type of malt beverage.

Acts 1977, 65th Leg., p. 474, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2005, 79th Leg., Ch. 1182 (S.B. 1255), Sec. 5, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 763 (S.B. 1035), Sec. 12, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 210(a), eff. December 31, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 210(b), eff. September 1, 2021.

Sec. 62.04. RENEWAL OF LICENSE DURING PRELIMINARY STAGES OF

OPERATION. (a) A renewal of a brewer's license may not be denied during the two-year period following the issuance of the original license on the ground that the licensee has not brewed and packaged malt beverages in this state if the licensee is engaged in good faith in constructing a brewing plant on the licensed premises or is engaged in one of the following preparatory stages of construction:

- (1) preliminary engineering;
- (2) preparing drawings and specifications;
- (3) conducting engineering, architectural, or equipment studies; or
- (4) preparing for the taking of bids from contractors.

(b) During the three-year period following the issuance of a brewer's license, as long as the licensee is engaged in construction or in a preliminary stage of construction enumerated in Subsection (a), the commission shall issue each renewal license to take effect immediately on the expiration of the expiring license and shall not require the licensee to make an original application.

(c) After two years and 11 months has expired following the issuance of an original brewer's license, the commission may not issue a renewal license if it finds that the licensee has not complied with the licensee's sworn statement filed with the original application or that the licensee has not begun construction of a plant or initiated any of the preliminary stages of construction enumerated in Subsection (a) unless the commission also finds that the licensee has been prevented from doing so by causes beyond the licensee's reasonable control. If the commission finds that the licensee has been prevented from complying by causes beyond the licensee's reasonable control, it may grant one additional renewal for the licensee to comply with the terms of the licensee's sworn statement. Otherwise, the commission shall deny the renewal application and may not grant a subsequent original application by the licensee for a period of two years following the date of the denial.

(d) This section does not apply to the holder of a license that was in effect on January 1, 1953.

Acts 1977, 65th Leg., p. 475, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 211, eff. September 1, 2021.

Sec. 62.05. RECORDS. (a) The holder of a brewer's license shall make and keep a record of each day's production or receipt of malt beverages and of every sale of malt beverages, including the name of each purchaser. Each transaction shall be recorded on the day it occurs. The licensee shall make and keep any other records that the commission or administrator requires.

(b) All required records shall be kept available for inspection by the commission or its authorized representative during reasonable office hours for at least two years.

(c) The failure to make or keep a record as required by this section, the making of a false entry in the record, or the failure to make an entry as required by this section is a violation of this code.

Acts 1977, 65th Leg., p. 475, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 212, eff. September 1, 2021.

Sec. 62.07. IMPORTATION OF MALT BEVERAGES. The holder of a brewer's license may import malt beverages into this state in barrels or other containers in accordance with the provisions of this code.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 213(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 213(b), eff. September 1, 2021.

Sec. 62.08. WAREHOUSES; DELIVERY TRUCKS. (a) The holder of a brewer's or distributor's license may maintain or engage necessary warehouses for storage purposes in areas where the sale of malt beverages is lawful and may make deliveries from the

warehouses without obtaining licenses for them. The licensee may not import malt beverages from outside the state directly or indirectly to an unlicensed warehouse.

(b) A warehouse or railway car in which malt beverages are served, orders for the sale of malt beverages are taken, or money from the sale of malt beverages is collected is a separate place of business for which a license is required.

(c) A truck operated by a licensed distributor for the sale and delivery of malt beverages to a licensed retail dealer at the dealer's place of business is not a separate place of business for which a license is required.

(d) The commission shall promulgate rules governing the transportation of malt beverages, the sale of which is to be consummated at a licensed retailer's place of business.

(e) The holder of a brewer's or distributor's license shall register with the commission each warehouse used by the brewer or distributor to store malt beverages. The commission by rule shall determine the information that is required to register a warehouse under this subsection.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1979, 66th Leg., p. 53, ch. 33, Sec. 2, eff. Aug. 27, 1979.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 214(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 214(b), eff. September 1, 2021.

Sec. 62.09. MALT BEVERAGES FOR EXPORT. Regardless of any other provision of this code, a holder of a brewer's license may brew and package malt beverages or import them from outside the state, for shipment out of the state, even though the alcohol content, containers, packages, or labels make the beverages illegal to sell within the state. The licensee may export the beverages out of state or deliver them at the licensee's premises for shipment out of the state without being liable for any state tax on malt beverages sold for resale in the state.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 215, eff. September 1, 2021.

Sec. 62.11. CONTINUANCE OF OPERATION AFTER LOCAL OPTION ELECTION. The right of a brewer's licensee to continue operation after a prohibitory local option election is covered by Section 251.75.

Acts 1977, 65th Leg., p. 476, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 216, eff. September 1, 2021.

Sec. 62.122. SALES BY CERTAIN BREWERS TO CONSUMERS. (a) A brewer's licensee whose annual production of malt beverages at all premises wholly or partly owned, directly or indirectly, by the license holder or an affiliate or subsidiary of the license holder, does not exceed 225,000 barrels may sell malt beverages produced on the brewer's premises under the license to ultimate consumers on the brewer's premises:

(1) for responsible consumption on the brewer's premises; or

(2) subject to Subsection (a-1), for off-premises consumption.

(a-1) Sales to a consumer on the brewer's premises for off-premises consumption are limited to 288 fluid ounces of malt beverages per calendar day.

(b) The total sales of malt beverages to ultimate consumers under this section at the same premises may not exceed 5,000 barrels annually.

(c) Subject to Subsections (b), (d), and (e), the holder of a brewer's license may sell malt beverages produced on the brewer's premises under the license to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises even if the annual production limit prescribed by Subsection (a) is exceeded if:

(1) the license holder:

(A) was legally operating a manufacturing facility with on-premise sales under Subsection (a) on February 1, 2017; or

(B) purchased an ownership interest in, or was purchased by the holder of, a permit or license issued under Chapter 12, 13, 62, or 63; and

(2) the license holder has annual production that does not exceed 175,000 barrels at the brewer's premises.

(d) For purposes of Subsection (c)(1)(B), a license holder may not sell to a permit or license holder whose annual production exceeds the limit prescribed by Subsection (a) an ownership interest:

(1) of more than 25 percent in the permitted location; or

(2) that provides the purchaser with the ability to control the operations at the permitted location.

(e) A holder of a brewer's license who under Subsection (c) sells malt beverages produced on the brewer's premises under the license to ultimate consumers on the brewer's premises for responsible consumption on the brewer's premises:

(1) shall file a territorial agreement with the commission under Subchapters C and D, Chapter 102;

(2) must purchase any malt beverages the license holder sells on the brewer's premises from the holder of a license issued under Chapter 64 or 66; and

(3) with respect to those purchases, must comply with the requirements of this code governing dealings between a distributor and a member of the retail tier, including Sections 61.73 and 102.31.

(e-1) The commission:

(1) may require the holder of a brewer's license who sells malt beverages to ultimate consumers under this section to report to the commission each month, in the manner prescribed by the commission, the total amounts of malt beverages sold by the license holder under this section during the preceding month for:

(A) responsible consumption on the brewer's

premises; and

(B) off-premises consumption, as authorized by Subsection (a);

(2) by rule shall adopt a simple form for a report required under Subdivision (1); and

(3) shall maintain reports received under this subsection for public review.

(f) The commission by rule or order shall annually adjust the production limit prescribed by Subsection (c)(2) in an amount that is equal to the percentage of the state's population growth for the previous year as determined by the state demographer under Chapter 468, Government Code.

(g) The commission may impose an administrative penalty against a license holder who violates Subsection (a-1) or fails to comply with a requirement established by the commission under Subsection (e-1). The commission shall adopt rules establishing:

(1) the amount of an administrative penalty under this subsection; and

(2) the procedures for imposing an administrative penalty under this subsection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 535 (S.B. 518), Sec. 3, eff. June 14, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1129 (H.B. 3287), Sec. 4, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 217, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 218(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 218(b), eff. September 1, 2021.

Sec. 62.14. USE OF FACILITIES. (a) The holder of a brewer's or nonresident brewer's license may contract with the holder of a brewer's license:

(1) to provide manufacturing services; or

(2) for the use of the license holder's manufacturing

facilities under an alternating brewery proprietorship if each party to the proprietorship:

(A) has filed the appropriate Brewer's Notice and Brewer's Bond as required by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury; and

(B) if applicable, has posted with the commission a bond in an amount determined by the commission under Subsection (d) or (e).

(b) An entity is not required to own its brewing facilities if the entity operates under an alternating brewery proprietorship as provided by Subsection (a).

(b-1) Each entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must hold a license at the location where brewing services are conducted under the arrangement.

(c) This section does not authorize a person acting as an agent for a brewer located outside of this state to contract with the holder of a brewer's license to brew malt beverages on the person's behalf. A contract described by this subsection may only be entered into by the holder of a brewer's license and another person holding a license under this code.

(d) Subject to Subsection (e), the commission by rule may require an entity that is a party to an alternating brewery proprietorship or contract brewing arrangement to post with the commission a bond in an amount determined by the commission not to exceed \$200,000.

(e) An entity that is a party to an alternating brewery proprietorship or contract brewing arrangement must post with the commission a bond in an amount determined by the commission of not less than \$30,000 if the entity does not own a fee interest in a brewing facility.

Added by Acts 2005, 79th Leg., Ch. 1182 (S.B. [1255](#)), Sec. 6, eff. June 18, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1074 (H.B. [3307](#)), Sec. 7, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 219,

eff. September 1, 2021.

Sec. 62.15. IMPORTING MALT BEVERAGES. (a) In this subtitle, "importer" means a person who imports malt beverages into the state in quantities in excess of 288 fluid ounces in any one day.

(b) The holder of a brewer's license may import malt beverages into this state only from the holder of a nonresident brewer's license and may transport those beverages into this state only:

(1) in a motor vehicle that is:

(A) owned or leased in good faith by the license holder; and

(B) printed or painted with the designation required by the commission; or

(2) by a railway carrier or by a motor carrier registered under Chapter 643, Transportation Code, or with the Federal Motor Carrier Safety Administration.

(c) The holder of a brewer's license transporting malt beverages under Subsection (b)(1) shall provide to the commission:

(1) a full description of each motor vehicle used by the license holder for transporting malt beverages; and

(2) any other information the commission requires.

(d) A carrier transporting malt beverages as authorized by Subsection (b)(2) must hold a carrier permit issued under Chapter 41 and the provisions of Chapter 41 relating to the transportation of liquor apply to the transportation of the malt beverages. A carrier may not transport malt beverages into the state unless it is consigned to an importer.

Added by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 220, eff. September 1, 2021.