

OVERVIEW OF ALCOHOL BEVERAGE CONTROL LICENSING 2017

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Discussion on this topic pertains to the process and permit types for the NJ Alcohol Beverage Control Board according to Title 33 Statutes. There are also Federal Statutes regulated by the Alcohol and Tobacco Tax Trade Bureau (TTB) whose requirements for licensure and reporting are much more easily laid out on the website, ttb.gov. When deciding to plan a business in a highly regulated industry it is highly advisable to seek the assistance of a licensed lawyer practicing in the intoxicating liquor law field. No information in this presentation should be deemed as legal advice and is purely information provided via various sources and personal experience in opening a brewery and working for several years on the Board of Directors for the Garden State Craft Brewer's Guild, and also assisting many start-up breweries with questions.

LICENSE TYPES (key details)

- Plenary Brewery License
 - Produce more than 300,000 barrels of beer
 - Sell to wholesalers (NO self-distribution)
- Limited Brewery License
 - Produce not more than 300,000 barrels of beer
 - Sell to wholesalers AND retailers (self-distribution)
 - Sell beer for on-site consumption as part of a tour, can also offer samples for free
 - Sell up to 15.5 gallons of beer (a half barrel keg) for off-site consumption
- Restricted Brewery License
 - Produce not more than 10,000 barrels of beer
 - Must have a Plenary Retail Consumption License ("liquor license")
 - Can only sell on-premise, to wholesales, and festivals (NO self-distribution)

Except restricted license holders no licensee can operate a kitchen or sell food in anyway. Only light snacks such as crackers and cheese can be made available, for free, to consumers.

There is possible future legislation for the introduction of new licenses including a possible farm brewery license.

APPLICATION PROCESS

To apply for a brewery license the ABC has a website entitled POSSE for all license applications and permits. The start of the licensing process begins here. There are several “rounds” to the licensing process. In the first round (initial application) you will need to provide the following as well as some other things but for time cannot all be covered here.

- Application and License Fee
- Beverage Tax Bond (surety bond to cover potential tax burdens)
- Affidavit of Qualification (each owner confirming their qualification to be an owner on a brewery license)
- Federal basic permit (also known as a brewer’s notice issued by the Alcohol and Tobacco Tax Trade Bureau – TTB)
- Public Notice (notarized proof of a public notice ran twice in a newspaper stating the applicants and their intention on requesting a license)
- Statement of Business Intention (an affidavit stating the nature of the business)
- Additional documents as noted throughout the lengthy application – some questions on the application will ask for documents to be attached i.e. your lease if you are renting

After the initial submission several months (6+ possibly) may pass and you will receive a notice from the ABC requesting more information. This will bring you into round 2. Typically round 2 deals a lot with the financial aspects of funding the new business. Often large amounts of bank statements showing the trail of the funding all the way to its origin will need to be provided. The ABC is looking for (among other things) any connections to organized crime, or other criminal activities, or anyone that is possibly linked to other liquor licenses where the person cannot be associated with the different licenses all at the same time (i.e. a wholesaler cannot also be on a limited brewery license). This round will also have any additional questions or request for documentation that may have come about from the review of your initial material.

The third round if round 1 and round 2 all went smoothly and all info provided was sufficient for the ABC’s evaluation is the inspection. The ABC will schedule a site inspection where they will evaluate your premises, its security, ability to assess tax, etc. The ABC will also want to see what your tour plan will be prior to a consumer consuming alcohol.

It cannot be stressed enough this is just a brief synopsis based on our experience in opening our brewery. You are strongly urged to talk to an attorney who is experienced in NJ Intoxicating Liquor Law and also speak with the ABC in advance. The ABC is more than happy to talk to people about their plans to help them avoid timely and costly pitfalls.

This entire process (if each round is completed without issue) would take not less than 6 months but very easily 9-12 months or longer. It is expected that by the time you are applying you can provide details of your brewery layout, a copy of a lease if you are

renting the space, etc. There is a lot of upfront cost on the applicant in order to be able to file for a license.

ADDITIONAL RESOURCES

Visit the Garden State Craft Brewer's Guild website, even as in very early planning stages you can join the Guild and gain immediate connections with brewers throughout NJ. The Guild also can provide a valuable document known as Tasting Room Best Practices. This document helps highlight and explain some expectations the ABC has in regards to the operation of a tasting room associated with a limited brewery. The Guild also has several law firms that are trade members who have experience in laws effecting breweries.