

Concise Explanatory Statement

Rhode Island Government Register

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, the following is a concise explanatory statement:

AGENCY: Rhode Island Department of Business Regulation
("Department")

DIVISION: Division of Commercial Licensing

RULE IDENTIFIER: 230-RICR-30-10-2

REGULATION TITLE: Alternating Proprietorships and Contract Production

RULEMAKING ACTION: Adoption

PUBLIC COMMENT PERIOD: January 24, 2022, to February 23, 2022

A. Statement of Purpose of the Adoption.

The Department proposes this new regulation to codify requirements regarding alternating proprietorship and contract production business models recognized by federal Alcohol and Tobacco Tax and Trade Bureau (TTB) regulatory authority. This regulation provides clarity to RI alcoholic beverage licensees that already operate under these models. This regulation would also streamline the application process because it would eliminate the need for the supplement to application that is used presently

B. Summary of the Regulatory Analysis.

This regulation supports RI small business liquor manufacturers, our craft industry. Codifying the requirements consistent with TTB business models streamlines DBR's license application. Also, by clarifying alternation requirements, the regulation supports existing manufacturers' ability to maximize the use of their manufacturing premises and equipment, which is costly, and it provides a cost-effective market entry option for new manufacturers. Supporting our craft industry drives tourism and provides a variety of unique product options for consumers.

This regulation does not create new burdens or costs. There are no new or increased application or license fees. In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

C. Summary of Comments Not Resulting in Regulatory Language Changes.

Four comments were received and none of them resulted in changes to the text of the proposed rule. Therefore, the final rule is the same as what was proposed.

Below is a summary of public comments received (only written public comments were received) and a brief description of the Department's reasons for not making any such changes after due consideration.

1. Commentary was received asking which industries this applied to. Does it apply to both beer and distilled spirits?

This regulation applies to manufacturers licensed under R.I. Gen. Laws Chapter 3-6, including breweries and distilleries, that utilize these business models.

2. Commentary was received asking what the specific changes are as a result of this regulation and how will this affect the liquor industry in RI.

This regulation codifies the requirements regarding alternating proprietorship and contract production business models that are already recognized by the federal Alcohol and Tobacco Tax and Trade Bureau (TTB) regulatory authority. By incorporating the requirements into state law, this regulation provides clarity to RI alcoholic beverage licensees that operate under these models.

3. Commentary was received regarding whether this regulation would apply to the product of wine into vinegar.

This regulation applies to manufacturers licensed under R.I. Gen. Laws Chapter 3-6 who manufacture "beverages", which are defined in R.I. Gen. Laws § 3-1-1(3) as "any liquid that either by itself or by mixture with any other liquid or liquids, is, or may become, fit for human consumption as a drink and that contains five-tenths of one per cent (.5%) or more of alcohol by weight."

4. Commentary was received regarding whether each brewery (both the host and the tenant) need to prove ownership of both the brewing equipment and ingredients. Can the host brewer rent out their equipment to another brewer under this regulation?

Pursuant to Section 2.4(A)(4) of this regulation, the "host proprietor" and the "tenant proprietor" must each maintain ownership of their *respective* manufacturing materials and the beverages they produce throughout production. The regulation permits a business model where the host proprietor owns both the manufacturing equipment and the ingredients for the beverages the host produces and owns, while the tenant proprietor owns its own ingredients and is permitted to use the host's equipment for manufacturing the tenant owned beverages.