

230-RICR-30-10-2

TITLE 230 – DEPARTMENT OF BUSINESS REGULATION

CHAPTER 30 – COMMERCIAL LICENSING

SUBCHAPTER 10 – LIQUOR

PART 2 – Alternating Proprietorships and Contract Production

2.1 Authority

This Part is promulgated in accordance with R.I. Gen. Laws §§ 3-2-2 and 3-6-1 et seq. to codify requirements pertaining to alternating proprietorship and contract production business models that are recognized by the TTB Federal regulatory authority.

2.2 Purpose

The purpose of this Part is to supplement the Liquor Control Administration Regulations promulgated by the Department of Business Regulation, Part 1 of this Subchapter.

2.3 Definitions

A. In addition to the terms defined in R.I. Gen. Laws § 3-1-1 and Part 1 of this Subchapter, for this Part 2 the following terms shall have the corresponding meanings:

1. "Alternating proprietorship" means an arrangement where two (2) or more manufacturers licensed under R.I. Gen. Laws Chapter 3-6 alternate the use of all or designated portions of the same equipment and licensed premises for the production of alcoholic beverages in compliance with this Part.
2. "Contract brand owner" means a brand owner that is party to a contract production agreement.
3. "Contract manufacturing" or "contract production" means an arrangement where a manufacturer licensed under R.I. Gen. Laws Chapter 3-6 manufactures alcoholic beverages for one (1) or more contract brand owners in compliance with this Part.
4. "Contract producer" means a licensed manufacturer that is party to a contract production agreement.

5. "Host proprietor" means the licensed manufacturer that is party to one (1) or more alternating proprietorship agreements.
6. "Manufacturer" means an alcoholic beverage manufacturer licensed under R.I. Gen. Laws Chapter 3-6 and includes a Rhode Island licensed brewery, distillery, winery or rectifier.
7. "Tenant proprietor" means a licensed manufacturer that is party to an alternating proprietorship agreement.
8. "TTB" means the Alcohol and Tobacco Tax and Trade Bureau, a bureau of the U.S. Department of Treasury.

2.4 Requirements Regarding Alternating Proprietorships

A. Alternating proprietorships shall comply with the following requirements:

1. The host proprietor and each tenant proprietor will maintain in good standing a manufacturing license under R.I. Gen. Laws Chapter 3-6, either brewery, distillery, winery or rectifier, and comply with R.I. Gen. Laws Title 3, the Regulations promulgated thereunder and all other applicable State laws;
2. The host proprietor and each tenant proprietor will maintain in good standing all required permits or notices from the TTB and comply with applicable Federal laws;
3. The host proprietor and each tenant proprietor will maintain control and responsibility over the respective beverages it produces including formula development, production quantity, quality control standards and independence of brands, trademarks, marketing and directed sales;
4. The host proprietor and each tenant proprietor will hold title to its respective manufacturing materials and the beverages it produces at all stages of production and until removal from the licensed premises;
5. The host proprietor and each tenant proprietor will separately maintain its respective manufacturing materials used for each production run and store products in a manner to ensure they are identifiable as that of the applicable proprietor or tenant at all times until removal from the licensed premises;
6. The host proprietor and each tenant proprietor will submit with their license applications all documents, attestations and information requested by the Department including:
 - a. The form of alternating proprietorship agreement;

- b. A description of the equipment and diagram of the room(s) or area(s) of the licensed premises, or combination thereof, that will alternate between proprietors;
 - c. A description of the method that the host proprietor will employ to separate the alternating areas of the premises from any areas that will not be alternated; and
 - d. Amendments of any of the foregoing items in §§ 2.4(A)(6)(a) through (c) of this Part.
- 7. The host proprietor and each tenant proprietor will maintain separate records and reporting and be subject to inspection as required by the Department and applicable Federal laws;
- 8. Receipts of manufacturing materials and transfers of materials and products will be reflected in the records of each proprietor;
- 9. Each proprietor will be responsible for compliance with applicable Federal and State labelling, label registration and tax requirements for the respective beverages it produces; and
- 10. The host proprietor will maintain and make available to the Department during inspection an up-to-date listing and copies of all alternating proprietorship agreements, premises diagrams, its manufacturing license and TTB permit or notice, and a copy of each tenant proprietor's manufacturing license and TTB permit or notice.

2.5 Requirements Regarding Contract Manufacturing

A. Contract productions shall comply with the following requirements:

- 1. The contract producer will maintain in good standing a manufacturing license of the applicable type under R.I. Gen. Laws Chapter 3-6, either brewery, distillery, rectifier or rectifier, and comply with R.I. Gen. Laws Title 3, the Regulations promulgated thereunder and all other applicable State laws;
- 2. The contract producer will maintain in good standing all required permits or notices from the TTB and comply with applicable Federal laws;
- 3. The contract brand owner will not hold any direct or indirect interest in the contract producer or in any license that would be contrary to R.I. Gen. Laws Title 3;
- 4. The contract producer will maintain operational and managerial control with respect to alcohol production at the licensed premises and the

contract brand owner will not engage in any alcohol production activity at the premises;

5. The contract producer will hold title to the manufacturing materials and beverages produced pursuant to the contract production agreement at all stages of production and until removal from the licensed premises;
6. The contract producer will separately maintain the beverages produced pursuant to each contract production agreement to ensure they are identifiable as the subject of the respective contract at all times until removal from the licensed premises;
7. The contract producer will submit with its license application all documents, attestations and information requested by the Department including:
 - a. The form of contract production agreement; and
 - b. Any amendments of the foregoing item in § 2.5(A)(7)(a) of this Part.
8. The contract producer will report to the Department if its total alcohol production volume, including contract production volume, increases such that it must pay a higher license fee pursuant to the relevant provisions of R.I. Gen. Laws Title 3 and/or Part 1 of this Subchapter;
- 9 All contract manufactured products must comply with applicable Federal and Rhode Island State labelling, label registration and tax requirements; and
10. The contract producer will make available to the Department during inspection an up-to-date listing and copies of all contract production agreements, production records, its manufacturing license and TTB permit.

2.6 Compliance with Applicable Laws

- A. Nothing herein shall alter the provisions of R.I. Gen. Laws Title 3 regarding any wholesale distribution and/or retail sales restrictions and requirements that are applicable to beverage sales within the State of Rhode Island.
- B. All parties to an alternating proprietorship or contract production must comply with R.I. Gen. Laws Title 3, the regulations promulgated thereunder and other applicable State and Federal laws.

2.7 Severability

If any section, term, or provision of this Regulation is adjudged invalid for any reason, all remaining sections, terms, and provisions shall remain in full force and effect.