230-RICR-30-10-1

TITLE 230 – DEPARTMENT OF BUSINESS REGULATION

CHAPTER 30 – COMMERCIAL LICENSING

SUBCHAPTER 10 – LIQUOR

PART 1 – Liquor Control Administration

1.1 Authority

This regulation is promulgated by the Director of the Department of Business Regulation pursuant to R.I. Gen. Laws §§ 3-5-20, 3-2-2, 3-7-6.1 and 42-14-17.

1.2 Purpose

The purpose of this regulation is to clarify and set forth practices and procedures consistent with R.I. Gen. Laws Title 3 for the reasonable control of traffic in alcoholic beverages.

1.3 Severability

If any provision of this regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provision of this regulation are severable.

1.4 Regulatory Provisions

1.4.1 Class A (Package Store) License - Retail

A. Each holder of a retailer's Class A alcoholic beverage license shall post on the shelf, or at the place where the beverage is offered for sale, the current effective price of each such beverage.

B. A Retailer's Class A license (towns/cities of 10,000 or more population, except Newport pursuant to the provisions of R.I. Gen. Laws § 3-7-3) is authorized to keep for sale and sell at the place therein described alcoholic beverages provided that the licensee shall not, on the licensed premises, engage in any business, keep for sale or sell any goods, wares, merchandise or any other article or thing except the alcoholic beverages authorized under this license and non-alcoholic beverages; provided, however that this provision shall not apply to the sale or selling of items listed in R.I. Gen. Laws § 3-7-3, and/or the following:

1. Tobacco and tobacco related accessories.

2. Lottery products sold in accordance with all applicable Rhode Island statutes, rules and regulations, and any conditions of the Department of Revenue, Division of Lotteries.

C. A non-alcoholic beverage is hereby defined as soda; juices; iced tea; bottled water; and beer, wine or sprits which contains less than five-tenths of one percent (.5%) of alcohol by weight.

D. Goods, wares, merchandise and articles of like nature to those items specifically delineated in R.I. Gen. Laws § 3-7-3 may be offered for sale with alcoholic beverages as part of a gift set or gift package provided the retail value of such items offered does not exceed twice the value of the alcoholic beverage associated with the item. This rule shall not apply to promotions involving free goods, giveaways and/or sweepstakes, which shall be governed by §§ 1.4.13 and/or 1.4.29 of this Part.

1.4.2 Class A Issued to Class E License - Retail

A. A Class A alcoholic beverage license issued to the holder of a Class E alcoholic beverage license pursuant to R.I. Gen. Laws § 3-7-5 is not transferable except to another holder of a Class E license.

B. No alcoholic beverage may be sold on the premise where a Class A/E License is located unless a licensed pharmacist is on the premises and available to dispense prescription medicines.

C. Prior to the issuance or renewal of a Class A/E Liquor License to a premise licensed by the Department of Health, proof of a valid Department of Health license of the pharmacist must be presented to the licensing authority.

1.4.3 Advertising License Applications - Retail/Wholesale/Manufacturers

A. In advertising applications for, or transfer of, an alcoholic beverage license, notice must be given once a week for two weeks on days other than Sunday or legal holidays and at least fourteen (14) days must elapse between the first publication and the date or hearing on the application.

B. The advertisement must include the following:

1. Name of applicant (individual, corporation, limited liability company, or partnership) and the name of any person(s) owning more than 10% of the interest in the proposed license holder, if applicable;

2. D/B/A (name of business);

3. Address of proposed licensed premise; and

4. Date, time, and place of public hearing.

C. The licensing authority may bill the applicant for the cost of the advertisement.

D. No public notice or hearing shall be required for a licensee moving within the same plat and lot number.

1.4.4 Appeals/Stays to Liquor Control Administrator - Retail

A. The appealing party shall supply the original copy of the stenographer's transcript to the Department. No final decision shall be issued until such time as a transcript has been provided. Failure to comply with this rule may result in denial or dismissal of the appeal.

B. All appeals and requests for stays must be in writing with proper service to all parties of interest.

1.4.5 Class B (Victualer, Tavern) License - Retail

A. Tavern - In the granting of alcoholic beverage tavern licenses (also referred to as a Class B-T), the licensing authority must ascertain that the taverns are, in fact, operating or about to be operated with reasonable sleeping accommodations as well as kitchens properly equipped and in use, or ready to be put in use.

B. Victualer - An applicant for a Class B alcoholic beverage license (also referred to as a Class B-V) may be granted a license subject to, but not limited to, the following terms and conditions:

1. Demonstration to the satisfaction of the licensing board that a kitchen is established on the proposed premises as evidenced by a certificate of occupancy from the local building official and inspection and approval by the Department of Health.

2. Furnishing to the licensing authority a copy of the proposed menu and food services to be provided.

C. Pursuant to R.I. Gen. Laws § 3-1-1, a Class B Licensee is defined as "Any shop or place where a substantial part of the business is the furnishing of food for consumption at the place where it is furnished." In order to comply with the foregoing provision, the licensee must offer to the public, in conjunction with the sale of alcoholic beverages, the opportunity to purchase and consume food to be served on the premises in the same area designated for the sale and consumption of alcoholic beverages. These foods must be offered for sale during all times that alcoholic beverages are sold and consumed on the licensed premises.

D. All Class B licensees shall:

1. Publish and conspicuously post a menu from which all patrons of the licensed establishment can see and order food.

2. Ensure that food offered on the menu is prepared and stored on the licensed premises.

E. Licensees shall be presumed to meet the requirements of this provision by offering food at a sandwich level, as opposed to offering solely snack foods including but not limited to potato chips, pretzels, pickled eggs, pizza strips, stuffies and crackers and cheese.

1.4.6 Class B-M (Brewpub/Mfg.) License - Retail

A. Applicants for brewpub manufacturer's licenses shall be issued only to citizens who are residents of this State who are of good character and qualified, capable and willing to uphold the laws and regulations governing the manufacture and sale of alcoholic beverages.

B. The holder of a brewpub manufacturer's license shall conform to the same laws and regulations pertaining to a Class BV alcoholic beverage license, including but not limited to, the following:

1. The license shall not be issued to any premise within two hundred feet (200') of any public, private, or parochial school or a place of public worship or where the owners of the greater part of the land within two hundred feet (200') of said premise file with the city or town or the Department their objection to the granting of such license.

2. The holder of a brewpub manufacturer's license may not import alcoholic beverages into this state.

3. The holder of a brewpub manufacturer's license shall sell alcoholic beverages only at the premise or through a licensed wholesaler.

4. The holder of a brewpub manufacturer's licensed premise shall conform to all local ordinances and state laws and regulations such as fire, police, zoning and health.

5. The holder of a brewpub manufacturer's license shall conform to all brewery manufacturing laws in this state.

6. All malt beverages sold by a brewpub manufacturer's license holder shall be sold and delivered in such manner and under such conditions and with such labels and other marks as to identify the producer as the Department may prescribe.

7. Every brewpub manufacturer's license holder shall keep such records as the Department and/or the Division of Taxation shall prescribe.

8. The Department may grant, but shall not issue, a brewpub manufacturer's license until the applicant has been granted a retail manufacturer's brewpub license or other license/approval that authorizes operation of a brewpub from the local liquor licensing authority.

C. Procedure for issuance

1. The Department shall conduct a public hearing for each completed application. The applicant shall provide a stenographer and shall bear the cost to have a transcript made of the proceedings. A free copy of the transcript shall be provided to the Department.

2. The Department shall give notice of public hearing by advertisement published once a week for at least two (2) weeks in a newspaper having general circulation in the city or town in which the license is located. Said advertisement shall be paid for by the applicant. The applicant shall also bear costs associated with giving proper notice to all parties of interest.

3. Every applicant for a brewpub manufacturer's license or for a transfer of such license shall, within fourteen (14) days after filing an application with the Department, send written notice of the application to owners of the land within two hundred feet (200') of the proposed licensed premise. Such notice form shall be available at the Department.

4. Every applicant shall, at the time of application, submit a floor plan and menu of the proposed business.

1.4.7 Bonds - Wholesale/Manufacturer

Effective with the repeal of R.I. Gen. Laws § 3-6-13 on July 2, 2018, wholesaler and manufacturer licensees are no longer required to give penal bonds.

1.4.8 Cover, Minimum or Door Charge - Retail

A “cover”, “minimum”, “door charge” or “admission” shall not be used to reduce the price of alcoholic beverages.

1.4.9 Class D (Club) License - Retail

A. A Class D alcoholic beverage license may only be issued to a club as defined in R.I. Gen. Laws §§ 3-1-1 and 3-7-11.

B. A Class D licensee must have a general meeting at least once a year to elect a board of directors, executive committee or similar body and general officers, and set any wages and/or salary of employees, officers or agents.

C. Any member, agent, officer, or employee shall not be paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages or any other item.

D. A Class D license holder must comply with kitchen requirements set forth for Class B licenses in § 1.4.5 of this Part.

E. "Club Member" shall mean any person who has been admitted by a voting membership in the manner set forth in the club's by-laws. There shall be no instant membership at the door. Auxiliary, honorary, limited or "social" members of an organization do not qualify as club members.

F. A Class D alcoholic beverage license permits the sale of beverages to members of the licensed club and their guests to be consumed solely on the premises.

G. Guests of a member are required to be accompanied by a member. Guests are required to sign a "guest book" which shall contain:

1. Printed name and signature of guest

2. Printed name and signature of member

3. Date

H. All guest books shall be available for inspection by the Department.

I. Upon application for issuance or renewal of a Class D alcoholic beverage license the applicant shall submit a valid copy of its "Articles of Incorporation" and the current annual "Non-profit Corporation" form (Form 631#N-13) that have been filed with the Secretary of State.

1.4.10 Deliveries - Retail

A. A Class A alcoholic beverage licensee may deliver alcoholic beverages to the residence of a customer. In making a permissible delivery, a licensee must be sure that the alcoholic beverage is not delivered into the possession of a person under the age of twenty-one (21). No identification documents shall be accepted unless they bear a photographic representation of the person accepting the delivery.

B. Sale and delivery shall be made only during the legal hours of business for a Class A license by an employee and/or owner of the licensed establishment.

C. Each delivery must be accompanied by an invoice which shall state at a minimum:

1. Name of licensed establishment or person making delivery;

2. Name and address of purchaser;

3. Date of delivery;

4. List of products being delivered; and

5. Signature of consignee.

1.4.11 Dispensing Alcoholic Beverages - Retail

Except Class B-H alcoholic beverage licensees, all alcoholic beverages must be served, dispensed or sold by an employee or owner of a licensed retail liquor establishment. Alcoholic beverages may not be served or dispensed by a patron, provided however, hotel service "mini bars" shall be permitted if said hotel holds a valid B-H alcoholic beverage license, but said "mini bars" shall only be allowed in the room of a registered hotel guest who is at least twenty-one (21) years of age.

1.4.12 Class F, F-1, and F-2 (19 Hour License) License - Retail

A. Class F & F-1 alcoholic beverage licenses are to be considered "special event" licenses which are not subject to issuance on a regular basis to the same party and/or premises.

B. "Special Event" shall be considered any occasion and/or event which shall occur at irregular intervals of time not subject to any permanent scheduling.

C. No person and/or entity otherwise qualified for issuance of such license shall be issued more than five (5) such licenses in any one calendar year, however the local licensing authority board may grant up to an additional seven (7) licenses to a proposed licensee whose event exceeds said five (5) licenses.

D. No such license shall be issued without satisfactory evidence that proper health and safety precautions have been taken with regard to the use of such license, including but not limited to evidence of:

1. Adequate police control or protection;

2. Satisfactory sanitary and health facilities on the premises;

3. Control procedures that will be in place to prevent under-age drinking and excessive drinking by any individual or individuals frequenting the "special event".

1.4.13 Gifts and Novelties - Retail

No licensee authorized to sell alcoholic beverages at retail for off-premise consumption shall offer, furnish or deliver, or give away any free goods, gratuities

or other article or thing of value in connection with the sale of any alcoholic beverage if the free good, gratuity or other article or thing of value exceeds twice the retail value of the alcoholic beverage sold in each transaction; provided, however, that Class A licensees may sell alcoholic beverages which are pre-packaged by the manufacturer or the wholesaler to include certain "free" goods. This regulation shall not prohibit prepackaged free goods or other promotions which are governed by § 1.4.29 of this Part.

1.4.14 [Deleted]

1.4.15 Hearings - Retail/Wholesale/Manufacturing

The Department may initiate a hearing on its own motion to fine, revoke or suspend any type of alcoholic beverage license for any violation of R.I. Gen. Laws Title 3 or this Part.

1.4.16 On-Premise Retail Drink Specials

Happy hour and any similar type activities are prohibited under R.I. Gen. Laws § 3-7-26(b)(1); however, "daily specials" are not expressly prohibited thereunder. For purposes of § 1.4.16 of this Part, "daily specials" means a special fixed price charged for a drink purchased during any time in a single calendar day.

1.4.17 Holiday and Sunday Hours - Retail

Holiday and Sunday alcohol sales and hours for such sales are governed by R.I. Gen. Laws § 3-8-1 and the particular statutory sections establishing each license type as well as any applicable ordinances or specific conditions imposed on the license by the licensing authority.

1.4.18 Hours of Business - Retail

A. All patrons shall leave the licensed premises not later than 1:20 a.m. where the licensee is permitted to remain open until 1:00 a.m. Last call shall be at 12:45 a.m. Where licensee is permitted by local ordinance or permit to remain open until 2:00 a.m. all patrons must leave the licensed establishment by 2:00 am. All employees shall leave the licensed premises within one-half hour after the required closing time; provided the owner or employees may enter or be in a licensed establishment at any time for a legitimate business purpose with approval from the local police department. This paragraph shall not apply to a Class B-C license.

B. The owner or employees may not consume alcoholic beverages on the premises after the legal closing time or before the legal opening time.

C. No employee shall be allowed on the premises for maintenance purposes earlier than two hours before the legal opening time. The local licensing authority may authorize additional hours for maintenance purposes upon written application

and after hearing by the local licensing authority. In the event of emergency, the licensee may request an extension of time for cleaning and/or maintenance purposes from the local police department. Such extension, if granted, shall be for a specific time. This paragraph shall not apply to a Class B-C license.

D. No one, other than the owner, employees, or law enforcement personnel, shall be admitted to the premises after the required closing time or before legal opening time.

1.4.19 Imports of Alcoholic Beverages - Wholesale, Manufacturer, Importer

A. Wholesaler. All licensed wholesalers are subject to the following provisions:

1. Each delivery of alcoholic beverages to a licensee shall be accompanied by an invoice of sale or delivery slip which shall bear as its date the date of delivery of such alcoholic beverages.

2. Imports of distilled spirits into this state by wholesalers shall be made in standard cases, the content of each of which shall be uniform as to size, type and brand, except with prior written permission of the Department.

B. Importer or Manufacturer

1. At Rest: All alcoholic beverages brought into the State of Rhode Island for resale shall be consigned and delivered to a licensed Rhode Island wholesaler.

2. At the time of each shipment, a copy of the shipper's invoice bearing the date of delivery must be delivered to the Department.

3. Any change in the appointment (designation) of a Rhode Island wholesaler must be forwarded to the Department at the time of change.

1.4.20 Invoices - Wholesale/To Retailer

All wholesaler deliveries of alcoholic beverages to a retail licensee shall be accompanied by an invoice of sale and/or delivery slip which shall bear as its date the date of delivery of such alcoholic beverages.

1.4.21 Kitchen - Retail

A "kitchen" is hereby defined as a room or area in which food is cooked or prepared which shall at all times meets the minimum requirements of the Department of Health. Where a kitchen is required by law, the local licensing authority shall approve an adequate menu.

1.4.22 Line Cleaning Requirements

A. The following rules shall apply to beer and wine line cleaning activities:

1. Solutions used to clean beer and wine lines must be FDA/USDA approved.

2. Wholesale alcoholic beverage licensees, employees or agents shall not perform line cleaning duties on company time, however, wholesale licensees are allowed to set up beer and wine systems.

3. Maintenance Cards must be conspicuously posted adjacent to the draft system. Said cards may be distributed by the Department for a fee determined by the Department or may be produced or reproduced by the licensee or cleaner, provided they contain the following information: Name and Class of Licensee, Licensed Address, License Number, Date Cleaned, Method Used, Number of Lines, Faucets, or Tapping Devices, Signature of Cleaner, and Countersignature of Licensee.

1.4.23 Lotteries (Gambling) - Retail

Alcoholic beverage licensees may be permitted to sell, and/or offer various types of lottery products sold in accordance with all applicable Rhode Island statutes, rules and regulations, and any conditions of the Department of Revenue, Division of Lotteries; however, at no time shall any licensee be permitted to violate the alcoholic beverage license laws and/or rules and regulations as a result of the distribution, sale, or participation in any activities governed by the Department of Revenue, Division of Lotteries.

1.4.24 Malt Beverage Draught System - Retail

No malt beverage shall be sold on draught from a tap, faucet, or other draughting device unless there shall plainly appear on or attached to such a device, in legible letters, the brand or trade name of the malt beverages so sold therefrom.

1.4.25 Management Company - Retail

A. The holder of an alcoholic beverage license may not lease, assign, rent, or let the licensee or give management operational rights or control of the licensed premises to a third party.

B. Transfer of a license by a licensee to a “management company” or third party is prohibited.

C. All requests to assign interests, including but not limited to a percentage of profits, are prohibited.

1.4.26 Open Bar - Retail

A. An “open bar” shall not be permitted in any licensed establishment except under the following circumstances:

1. The event is a private party (by invitation only, not sponsored by and for the benefit of the licensee) for which tickets or other admissions are not sold at the door, and

2. The event has not been advertised to the general public in any manner.

3. An “open bar” shall not be permitted for an event sponsored in any fashion by the licensee (i.e., open house, New Year’s Eve party, etc.).

B. An “open bar” may be included in a package furnished by the licensee in accompaniment with the leasing of the premises such as a wedding, graduation party, religious event, political fundraiser, or other event approved by the Department.

C. The licensee shall retain and preserve as part of his or her records the itemized bills (invoice) for the private party which invoice shall contain, at a minimum, the name and address of the person representing and contracting for the party, the date of the party, the date of payment, the services rendered and the total cost of those services. These records shall be kept on the licensed premises for a period of not less than one (1) year from the date of the event.

1.4.27 Premises - Retail

A. All licenses granted or issued must identify a premise for operation under the license. The licensed premises is that portion of the licensee’s property owned, leased or controlled by the licensee, on which or from which alcoholic beverage may be sold, served or stored. It shall be defined by the licensee at the time the application (new or renewal) is filed and finally determined by the approval of the local licensing board.

B. In addition, every applicant is required to submit to the local licensing board and keep current an accurate drawing of the licensed premises outlining and giving dimensions of the area which is actually the subject of the license. Any sale, service or storage of alcoholic beverages outside the licensed premises is a violation.

C. Once the licensed premise is established, any expansion thereafter shall require a hearing as prescribed in R.I. Gen. Laws § 3-5-17 and the approval of the local licensing board. A decrease in the area of the licensed premises requires notification to the local licensing board and filing of a revised drawing. Any notice of a decrease in the area shall not require a public hearing.

1.4.28 Price - Retail

A. Price (cost) of the retail licensee's alcoholic beverage is determined by the actual total price shown on the invoice from the wholesaler, including all taxes and fees. The cost of a bottle or drink is then determined by dividing the total price by the number of bottles or single drinks included in the total figure. If the "price" figure works out to a fractional cent, the lowest amount at which the bottle or drink may be sold by the retailer is the next highest cent.

B. The serving of a complimentary drink (one drink) with a meal is an exception to this rule.

1.4.29 Promotions and Coupon Policy - Wholesale/Importer

A. The purpose of this rule is the promotion of temperance and control of the traffic in alcoholic beverages.

B. Coupon programs with regard to alcoholic beverages are permissible upon the following terms and conditions:

1. The coupon in question must be rendered by the distiller, brewer, winery or a clearing house used by the manufacturer or their agent. The redemption must be made by the manufacturer of the product itself or its duly designated agent(s).

2. Coupon programs which involve the giving of prizes with a value in excess of $500 must be registered with the Rhode Island Secretary of State.

1.4.30 Records Retention - Retail

A. Retail Licensee Retention of Records of its Wholesale Purchases. All retail liquor licensees will preserve, as part of their records, the consignor's bills or sales slips showing each purchase of alcoholic beverages made by the licensee to be retained for one (1) year from the date of each bill of sale or sales slip. Class A licensees shall make these records available to the Department on demand; other license holders shall have one (1) day to produce such records.

B. Record Retention Requirements for All Liquor Licenses Upon Inspection by the Department. When the Department conducts an inspection of any liquor establishment, the Department may request that photocopies or electronic copies of required records be produced by the licensee for submission to the Department. The Department will consider the establishment in compliance with the Department's record keeping requirements if the records are stored electronically so long as they can be readily retrieved in compliance with the remainder of this rule.

1.4.31 Sales License - Wholesale/Manufacturer

Holders of manufacturers' and wholesalers' licenses shall file with the Department the names and addresses of all salespersons employed by them,

whether paid a salary, commission, or any other basis of compensation. They shall also file with the Department such means of identification of such salespersons as the Department shall, from time to time, require. No person shall solicit orders for alcoholic beverages without first receiving a sales license from the Department. The fee for said license shall be fifty ($50.00) dollars per year.

1.4.32 Size of Containers - Retail

Holders of retail alcoholic beverage licenses shall not have in their possession either on the licensed premises or elsewhere distilled spirits in a container or containers holding more than 3 liters.

1.4.33 Stock Transfers - Retail/Wholesale/Manufacturer

A. Holders of alcoholic beverage licenses issued by the Department must notify it within thirty (30) days of any of the following changes occurring in the business of the licensee:

1. If a partnership – Any change in the partnership agreement, oral or written, whereby any interest, financial, or otherwise, in the business is sold, given or in any manner transferred to any person, firm or corporation not mentioned in the license application.

2. If a corporation having less than twenty-five (25) stockholders—

a. Any pledge, transfer or contract to pledge or transfer stock of the licensed corporation to a person, firm or corporation not mentioned in the application for a license.

b. All newly elected officers or directors.

c. Any acquisition by any person of more than ten percent (10%) of any class of corporate stock.

B. Any transfer of fifty percent (50%) or more of any class of corporate stock can be made only by written application to the board, body, or official issuing the license, subject to the procedures for a transfer of a license.

1.4.34 Storage - Wholesale/Manufacturer

It is prohibited to store beverages off the licensed premises without permission in writing of the Department.

1.4.35 Suspension or Revocation of License - Retail/Wholesale

A. An order of suspension or revocation (wholesale or retail license) prohibits the licensee from engaging in any alcoholic beverage activity in or upon the licensed

premises, except the storage of alcoholic beverages on hand. In the event of a suspension or revocation:

1. The licensee shall not sell, serve, deliver or permit the consumption of any alcoholic beverages on the licensed premises.

2. The licensee shall not receive delivery of any alcoholic beverage.

3. A wholesale licensee may apply (in writing) to the Department for permission to return alcoholic beverages to the appropriate manufacturer.

4. A retail licensee may apply (in writing) to the board, body or official suspending the license for permission to return alcoholic beverages to the appropriate Rhode Island wholesaler.

5. Patrons cannot bring to and/or consume their own alcoholic beverages on the premises. No activity is permitted which would be prohibited on a licensed premises if the license were active. Other business activities which can lawfully be conducted on a licensed retail premises may continue.

1.4.36 Taste Test/Sampling - Retail

A. Consumers may sample or be offered tastings of beer, wine and spirits brands on a licensed premises under controlled circumstances which assure the beverages would not be served to underage persons.

B. Samples of the product may not be given to the consumer to be taken off the licensed premise.

C. All alcoholic beverages must be purchased from a licensed Rhode Island wholesaler.

D. All applicable taxes must be paid in full on the alcoholic beverages to be offered in the taste testing or sampling program.

E. A fee may be paid by the one conducting the tasting to the owner of the licensed premises on which the tasting is conducted.

1.4.37 Trade Names (D/B/A) - Retail/Wholesale/Manufacturer

Nothing in this Part should be construed to prohibit the use of a trade name by liquor licensees, provided that licensees who choose to do so are responsible for assuring compliance with any and all applicable business registration requirements including, for example, those of the Rhode Island Secretary of State and of the municipality in which the licensed premises is located.

1.4.38 Unlawful Beverages - Retail

Possession of unauthorized alcoholic beverages in a licensed premises by the licensee or any of his employees shall be presumptive evidence that said beverages are for sale by the licensee and may result in suspension or revocation of the license.

1.4.39 Unlawful Pouring

It shall be cause for suspension or revocation of a license if any licensee or its agent shall sell, offer for sale, or keep on the licensed premise wine or distilled spirits in any package or container which has been refilled or partly refilled.

1.4.40 Wholesale/Manufacturer License Applications

A. The applicant must:

1. File an application on a form or forms supplied by the Department.

2. Provide a secure premise for the storage of alcoholic beverages. Said premises shall have a proper repository for invoices and other documents which shall be available for inspection by the Department during normal operating hours.

3. Provide suitable truck transportation for delivery of alcoholic beverages if the applicant intends on transporting beverages in the course of business. Any truck used for such deliveries shall have a cab separated from the body by a permanent partition.

4. Provide specific information as to commitment from suppliers or manufacturers regarding product line to be sold.

5. Submit a copy of the Federal Basic Permit for the premises.

6. Identify hours of operation at the time of the hearing.

B. For purposes of R.I. Gen. Laws § 3-7-22, as to any person holding a minority noncontrolling interest in a manufacturer or wholesaler licensee applicant, such person's membership and/or minority noncontrolling interest in a private club that holds a Class D license under R.I. Gen. Laws § 3-7-11 shall not constitute a prohibited interest in a retailer's license or business.

1.4.41 Two Hundred Foot Rule - Retail

The area within two-hundred feet (200') of a proposed licensed premise as referred to in R.I. Gen. Laws § 3-7-19 shall be measured from the closest point of the building constituting the proposed licensed premises to the premises of the property owner entitled to object, including the building or land or appurtenances. The licensed premise shall not be altered or expanded except with the written approval of the licensing authority issuing the license.

1.4.42 Class P (Caterer) License - Retail

A. An application for a Class P License ("License") must be on a form provided by the Department, accompanied by proof of licensure from both the Department of Health and the Division of Taxation, the annual fee of Five Hundred ($500.00) Dollars and a certificate of insurance in accordance with R.I. Gen. Laws § 3-7-29.

B. Class P Licensees shall purchase all alcoholic beverages for resale in accordance with R.I. Gen. Laws § 3-7-14.2(c).

C. A Class P License shall be issued for use in connection with intermittent functions and special events at varying locations at which the Licensee provides catering and shall be subject to all requirements and restrictions set forth in R.I. Gen. Laws § 3-7-14.2 and this Part.

D. Recurring use of a Class P License at a nightclub or after-hours club type venue is prohibited.

E. For Class P Licensees, the "licensed premises" shall be the property that is identified by the Licensee as the "principal business premises" in its application and all alcohol shall be stored at this principal business premises and transported therefrom by the Licensee to the varying locations where the catered functions and events will be held, provided, however, that a Class P Licensee may have alcohol it has purchased for a specific event delivered by the retail seller to the event location so long as the Class P Licensee is present at the location to take custody and control of the alcohol. The Class P License only authorizes the sale and service of alcohol at the locations where the catered functions and events are held.

F. All Class P Licensees, their agents and/or employees must comply with the requirements set forth in R.I. Gen. Laws § 3-7-14.2, including, without limitation, all requirements with respect to checking identification, service amount and time restrictions, delivery and removal of alcoholic beverages and alcoholic beverage server training certifications required for the service of alcohol.

G. The host of a function or event who has retained the catering services of a Class P Licensee is subject to compliance with all local entertainment licensing requirements.

H. Applications for a Class P License are not required to be advertised.

I. The serving of alcoholic beverages not purchased by the Licensee for a service fee and at no cost to the customer at a private nonrecurring function is not an activity necessitating a Class P License.

1.4.43 Alcohol Server Training Program Certification

A. The Department is authorized by R.I. Gen. Laws § 3-7-6.1 to certify all Alcohol Server Training Programs in the state of Rhode Island.

B. Definitions applicable to § 1.4.43 of this Part.

1. "Applicant" means an Alcohol Server Training Program applying for Program Certification pursuant to R.I. Gen. Laws § 3-7-6.1 and § 1.4.43 of this Part.

2. "Certified program" means an Alcohol Server Training Program that has a current valid Program Certification issued pursuant to R.I. Gen. Laws § 3-7-6.1.

3. "Fraudulent identification" means any cancelled, revoked, suspended, fictitious, or fraudulently altered official Rhode Island identification card, as further delineated by R.I. Gen. Laws § 3-8-6.2.

4. "Intoxicated person" means any person whose mental or physical functioning is substantially impaired as a result of the use of alcohol, as defined in R.I. Gen. Laws § 23-1.10-2.

5. "Liquor licensee" is a Liquor License holder in the state of Rhode Island, issued by the state or any municipality pursuant to R.I. Gen. Laws Title 3 and this Part.

6. "Program" means a planned, structured course with specific components to educate alcohol servers on the sale, service and consumption of alcoholic beverages that qualifies as an Alcohol Server Training Program.

7. "Program certificate" or "Program certification" means a Certificate issued by the Department to an Alcohol Server Training Program that meets the requirements of R.I. Gen. Laws § 3-7-6.1 and § 1.4.43 of this Part.

8. "Responsible beverage service" means the practice of identifying and refusing service to underage and intoxicated patrons.

9. "Server" means any person who sells or serves alcoholic beverages; anyone serving in a supervisory capacity over those who sell or serve alcoholic beverages; anyone whose job description entails the checking of identification for the purchase of alcoholic beverages; and valet parking staff.

10. "Server permit" means written documentation stating an individual's successful completion of a Certified Program valid for a specified period of time.

11. “Standard drink” means: 12 ounces of beer (approximately 5% alcohol by volume); 4.5 ounces of wine (approximately 12% alcohol by volume); and 1.25 ounces of 80 proof liquor (approximately 40% alcohol by volume).

12. “Test integrity” means a practice is in place to ensure that only the instructor and those scoring the test know the content of the test and its correct responses.

13. “Trainer” means a person who teaches Alcohol Server Training Programs for a Certified Program.

C. Application for Initial Program Certification and Renewals

1. A Program shall file a complete application with the Department.

2. The application must include the following:

a. Completed application form adopted by the Department;

b. The proposed curriculum;

c. All audio, video, and instructional materials that will be used in the Program;

d. All printed materials that will be disseminated to Program participants;

e. All examination materials to be administered in the Program;

f. Written descriptions of testing procedures, grading procedures, and methods for safeguarding test integrity in accordance with § 1.4.43(H) of this Part;

g. A sample Server Permit in accordance with § 1.4.43(I) of this Part;

h. An index identifying where the required program elements set forth in § 1.4.43(G) of this Part can be found in the above application materials; and

i. Programs using an online testing module must also submit a detailed explanation of how the online testing module will be implemented to satisfy the standards set forth in § 1.4.43(H)(3) of this Part.

3. Only complete applications will be reviewed by the Department.

4. Upon review and finding of the application to be satisfactory, the Department shall issue a Program Certificate. The term of a Program Certificate shall be for a period of no more than three (3) years.

5. Certified Programs are required to maintain compliance with the requirements of § 1.4.43 of this Part for the duration of the term of their Program Certificate.

6. The Program must receive prior written approval from the Department before making any changes to a Certified Program that has been approved by the Department.

7. Programs designed for use in multiple states will be considered if the materials include a state specific supplement on applicable Rhode Island laws, as set forth in § 1.4.43(G) of this Part.

8. Incomplete or Deficient Applications

   a. If the application is not approved as submitted, the Department shall provide the Applicant with a deficiency notice.

   b. If the missing materials are not submitted to the Department within thirty (30) days of the date of the deficiency notice, the application shall be considered withdrawn.

D. Grounds for Suspension, Revocation, or Denial of a Program Certification, Server Permit or Liquor License.

1. The Department may deny an application, or suspend or revoke a Program Certification, Server Permit or Liquor License for any of the following reasons:

   a. Failure to comply with any applicable statutes, rules or regulations;

   b. Failure to meet the conditions and stipulations placed upon a Program Certification by the Director, including plans of correction as set forth in § 1.4.43(E)(2) of this Part;

   c. Failure by of Certified Programs or Liquor Licensees to adhere to Server Permit requirements;

   d. Making a false or misleading statement on an application;

   e. Operating after a Program Certification has expired or been suspended;

   f. Failure to cooperate with a Department investigation or audit; or

   g. Falsifying, altering or tampering with Server Permits or any other Program records.

E. Enforcement Actions

1. In addition to the graduated penalties set forth in R.I. Gen. Laws § 3-7-6.1, if the Department determines that a Program, Server or Licensee has violated any applicable statute or provision of this Part, the Director may take any of the following actions:

    a. Issue a notice of deficiencies;

    b. Issue a written warning letter;

    c. Issue an order to take corrective action to come into compliance;

    d. Suspend or revoke a Program Certification, Server Permit or Liquor License;

    e. Issue an order to cease and desist activities requiring Program Certification and training under § 1.4.43 of this Part; and

    f. Issue an order imposing administrative penalties.

2. Plans of Correction. The Department, in its discretion, may request a Plan of Correction from a Program, prior to proceeding with other enforcement actions. If the Department requests a Plan of Correction, it may proceed in the following manner:

    a. A Program that receives a notice of deficiencies must submit a plan of correction, which shall include the time frames for completion, to the Department within thirty (30) days of the date the Program receives notice of the deficiencies.

    b. The Department may request an amended plan of correction. The amended plan of correction must be submitted to the Department within ten (10) business days of the date of the Program's receipt of the request for an amended plan of correction.

    c. If the Department rejects the plan of correction, or if the Program does not provide a plan of correction within the stipulated period, or if the Program whose plan of correction has been approved by the Department fails to execute its plan within a reasonable time, as determined by the Department, the Department may proceed with any appropriate enforcement action.

3. All enforcement actions shall be conducted in accordance with R.I. Gen. Laws § 42-35-1 *et seq.* and the Department's Rules of Procedure for Administrative Hearings, Part 10-00-2 of this Title.

F. Monitoring and Auditing.

1. Authorized persons from the Department shall have free access to all instructional and exam materials and records relating to any Program, Program Certification or Server Permit issuance.

2. The Department may attend any training provided by Certified Programs at no charge to evaluate compliance.

3. No Program, person, or trainer shall prohibit or interfere with on-site inspections by Department or its staff, or fail to assist the Department or its staff in scheduling these inspections.

G. Instructional Requirements.

1. Programs shall provide all basic information relevant to servers, including but not limited to:

a. The physiological effects of alcohol, including:

(1) Alcohol as a legal drug;

(2) Calculating standard drink measurement;

(3) Alcohol absorption;

(4) Effects of alcohol on the ability to operate a motor vehicle;

(5) Effects of alcohol when combined with prescription, and nonprescription drugs; and

(6) Health problems associated with heavy alcohol use.

b. Alcohol's association with social problems.

c. Coverage of legal requirements related to alcohol service set forth in R.I. Gen. Laws Title 3 and this Part, specifically including, but not limited to:

(1) Types of retail licenses and hours of operation, R.I. Gen. Laws § 3-7-1 *et seq.*;

(2) Drinking by underage persons, R.I. Gen. Laws § 3-8-1 *et seq*.;

(3) Acceptable forms of identification, R.I. Gen. Laws §§ 3-8-6, 3-8-6.1, and 3-8-6.2;

(4) Alcohol server training requirements, R.I. Gen. Laws § 3-7-6.1; and

(5) Happy hour and open bar requirements, R.I. Gen. Laws § 3-7-26.

d. Liability, criminal and administrative penalties for the server, owner, manager, and Licensee in the State of Rhode Island.

e. How to identify patrons who are impaired, including but not limited to:

(1) Assessing customer size to determine possible effects of alcohol in the first hour of drinking,

(2) Circumstances affecting ability to judge signs of intoxication (e.g., disability).

f. Techniques in refusing service to intoxicated patrons.

g. Preventing sales to underage drinkers and detection of fraudulent identification, including but not limited to:

(1) Strategies underage drinkers use to gain access;

(2) Signs that a person may be underage; and

(3) Steps to take when an individual has refused to provide ID or has provided fraudulent identification.

h. Training on the importance of maintaining a current list of the contact numbers for the applicable municipal liquor control board and the Department.

2. Programs shall be provided in at least two of the following categories:

a. Video or interactive computer programs;

b. Training manual;

c. Role-playing for at least one half (1/2) hour, including role-playing in refusal of service to intoxicated drinkers; and/or

d. Lecture.

H. Test Content, Procedures, and Grading

1. Each of the following mandatory content areas must be covered in at least ten percent (10%) of the test questions, comprising a total of 60% of the test questions:

a. The physiological effects of alcohol;

b. Alcohol's association with social problems;

c. Coverage of legal requirements related to alcohol service;

d. How to identify patrons who are impaired;

e. Techniques in refusing service to intoxicated patrons; and

f. Preventing sales to underage drinkers including training in detection of fraudulent identification.

2. Testing procedures shall include the following:

a. All testing must be completed in one sitting.

b. If the use of an interpreter is required, such use shall be approved by the instructor.

c. During the examination, trainees shall not have a discussion with another person. Nothing in this paragraph shall be construed to prohibit appropriate use of an interpreter under § 1.4.43(H)(2)(b) of this Part.

d. During the examination, trainees shall not refer to any written or video material or have a discussion with another person.

e. Testing:

(1) All testing shall be completed in the presence of acertified trainer unless an exception is made for an online testing module.

(2) The Department may make an exception for an online testing module, provided that test integrity and security standards set forth in § 1.4.43(H)(3) of this Part are fully satisfied. The program must include in its application a detailed description of how the online testing module will be implemented, in accordance with § 1.4.43(C)(2)(i) of this Part.

3. Test Integrity and Security.

a. Programs must implement methods for safeguarding test integrity and ensuring test security that are acceptable to the Department, including, but not limited to:

(1) Methods for preventing cheating;

(2) A policy prohibiting release of advance test copies;

(3) Methods to ensure that grades cannot be changed once a grade has been assigned; and

(4) Procedures for scoring, including that tests shall not be scored in the presence of the test takers.

I. Server Permits

1. Server Permits shall include, at a minimum:

a. The full name of the server;

b. The date of issuance and expiration; and

c. The name of the Program.

2. Server Permits shall be approximately wallet sized (2'' X 3 ½'').

3. Server Permits shall not be issued until the server has achieved a passing grade on the test.

4. Server Permits shall be issued no later than fourteen (14) business days after the server has completed the training and passed the test.

1.4.44 Certificate of Good Standing Compliance

A. In order to ensure compliance with R.I. Gen. Laws § 3-7-24, the following procedures will apply to the renewal and transfer of alcoholic beverage licenses:

1. Renewals: Every licensee must provide the local licensing authority with a Certificate of Good Standing from the Division of Taxation by November 30 of each calendar year. If the Certificate of Good Standing is not provided by November 30 the licensee shall be closed on December 1 and thereafter until said Certificate is so provided. The local authority should inform licensees upon commencement of the renewal process that the Division of Taxation requires a minimum of fifteen (15) days to process and issue requests for a Certificate of Good Standing.

2. Transfers: ~~A local authority may approve a transfer application on a "granted but not issued" basis for only one (1) thirty (30) day period, calculated from the date that the local authority gave said approval. If a Certificate of Good Standing from the Division of Taxation is not provided to the local authority in the thirty (30) day time period, the transfer application shall be considered null and void and a new application must be submitted and a new hearing date scheduled in accordance with the requirements of R.I. Gen. Laws § 3-5-17.~~ If in connection with a transfer application, a Certificate of Good Standing from the Division of Taxation is not provided to the local authority, the local authority may provide the

applicant with a thirty (30) day extension period, calculated from the date that the local authority gave said extension, within which the applicant shall provide the Certificate of Good Standing from the Division of Taxation. If a hearing was scheduled prior to the local authority's grant of the thirty (30) day extension period, a new hearing shall be scheduled in accordance with the requirements of R.I. Gen. Laws §§ 3-5-17 and 3-5-19.

1.4.45 Fees

A. General Provisions. The following is a schedule of license application and renewal fees as of the effective date of this regulation. These license fees are imposed pursuant to the referenced statute. If any of the referenced statutes are amended to modify the fees referenced herein, the statutory amendment shall supersede this regulation.

B. Electronic Licensing. The Department may contract with third parties to implement the electronic submission and processing of license applications, renewal applications, or any other statutorily mandated administrative procedure. The reasonable processing fee related such electronic licensing shall be paid by the licensee or applicant.

C. Late Fees. Any licensee submitting a renewal application or an incomplete application after the expiration of the reference license shall pay a late fee of ten percent (10%) of the respective license fee, but not less than $25. All licenses (except Class G licenses) expire on December 1st of each year. Class G licenses expire on the anniversary date of the issuance of the original license. Any applicant who submits an application after the expiration date of the application shall not be issued a license until such time that the late fee is paid.

D. Schedule of Fees

Manufacturer's License – Annual (R.I. Gen. Laws § 3-6-1(c))	
Distillery producing more than 50,000 gallons	$3,000.00
Distillery producing less than 50,000 gallons	$500.00
Brewery	$500.00
Winery producing more than 50,000 gallons	$1,500.00
Winery producing less than 50,000 gallons	$500.00

Brewpub Manufacturer's License – Annual (R.I. Gen. Laws § 3-6-1.2(d))	
If producing more than 50,000 gallons	$1,000.00
If producing less than 50,000 gallons	$500.00
Brew on Premises – Annual (R.I. Gen. Laws § 3-7-7.4)	
If producing less than 50,000 gallons	$100.00
If producing more than 50,000 gallons	$1,000.00
Rectifier's License -- Annual (R.I. Gen. Laws § 3-6-7)	$500.00
Class A – Wholesaler License – Annual (R.I. Gen. Laws § 3-6-9)	$2,000.00
Class B – Wholesaler License – Annual (R.I. Gen. Laws § 3-6-10)	$4,000.00
Class G – Railroad, Airplane, Marine Vessel – Annual (R.I. Gen. Laws § 3-7-15)	$250.00
Class P Caterer Selling Liquor-Annual (R.I. Gen. Laws § 3-7-14.2(a))	$500.00
Agents License – Annual (R.I. Gen. Laws § 3-6-12)	$50.00
Certificate of Compliance – Annual (R.I. Gen. Laws § 3-6-14(f))	$40.00

Sales Licenses – Annual (R.I. Gen. Laws § 3-6-12) (employed by Wholesalers)	$50.00

1.4.46 Brew on Premises

A. Brew on Premises ("BOP") Licenses issued pursuant to R.I. Gen. Laws § 3-7-7.4 shall be issued under the following conditions and/or limitations:

1. A BOP license shall authorize only the production of malt beverages on the licensed premises.

2. A BOP license shall be issued only to applicants who are Rhode Island residents.

3. A BOP license shall not be transferable.

4. A BOP license shall not be issued to any applicant who retains any other direct or indirect interest in the business of brewing malt beverages or manufactures alcoholic beverages.

5. A BOP licensee, or any producer of alcoholic beverage on the premises, shall not keep for sale, nor sell, alcoholic beverages on or off the premises. Beverages produced are for private consumption only. A BOP licensee shall clearly post the prohibition against the use of the beverage for anything other than personal use in a manner sufficient to give the public reasonable notice.

6. A BOP licensee shall abide by all relevant alcoholic beverage manufacturing laws as set forth in R.I. Gen. Laws Title 3 as well as any and all other applicable federal, state and local laws, rules and regulations.

7. There shall be no consumption of alcoholic beverages on the premises.

8. The brewing, bottling, transporting, and all other production processes necessary in the brewing processes must be done by the same individual.

9. A BOP license only authorizes the licensee to provide the equipment and maintenance to the facility used by the public to manufacture alcoholic beverages on the premises. The BOP facility shall not provide physical assistance to, or on behalf of, customers in the production of bottling of beer, but may provide advice.

10. A BOP licensee shall conform to all local ordinances and state laws, including but not limited to fire, police, zoning, and all relevant Rhode Island Department of Health and Environmental Management statutes, rules and regulations.

11. No individual under the age of twenty-one (21) shall be allowed to brew alcoholic beverages on the premises; excepting students at the premises of an institution of higher learning where the institution uses its BOP license as part of the institution's curriculum and the students do so as part of their education in the presence and under the tutelage of a member of the institutions faculty who shall be over the age of twenty-one (21) years. In this instance, the alcoholic beverages brewed shall at all times be maintained within a secure facility that shall be locked at all times with the exception of scheduled classes and guided tours and demonstrations. Access to the facility shall be limited to facility management, who shall in turn provide access to the facility to instructors for classes. Alcoholic beverages brewed shall be disposed of by faculty and staff of the institution who shall be over the age of twenty-one (21) years.

12. The BOP licensee shall keep accurate and current records of the individual(s) brewing on the premises including but not limited to the individual(s) name and home address and the amount brewed by each individual and in total for the licensed premises. These records shall be produced upon request by the Department.

B. Application Process

1. There shall be seven (7) BOP licenses.

2. Upon the receipt of completed applications for an available BOP license, the Department shall hold a public hearing for each completed application.

3. Notice of the hearing shall comply with R.I. Gen. Laws § 3-5-17.

4. Criteria for issuance of a license shall include but not be limited to financial stability, good character, consideration of the proposed location of the business and prior brewing experience. Concerning the experience requirement, the application shall demonstrate that he/she, or the manager of the premises to be employed by the applicant, possesses a fundamental understanding of the operation and maintenance of the equipment to be used to brew at the BOP premises. The applicant shall also offer proof that he/she, or the manager of the premises to be employed by the applicant, has attended or will attend an educational course/program regarding malt beverage brewing. The Department may issue a license upon the condition that said course be taken and passed within a certain reasonable time period, however, the Department may order the applicant/licensee to cease and desist said operation if said course is not completed within said time period;

5. A BOP applicant shall, at the time of the application, submit a floor plan to the Department. Said floor plan may be amended from time to time, with the approval of the Department.

C. Enforcement. The enforcement provisions of R.I. Gen. Laws §§ 3-5-21 and 3-5-23 apply.