

## **STATE LIQUOR CONTROL FREQUENTLY ASKED QUESTIONS**

The below information pertains to some of the common inquiries that the Department of Business Regulation (DBR) receives. It is based solely on the laws under the DBR's jurisdiction under Title 3 of the Rhode Island General Laws and the regulations promulgated thereunder. It is recommended you consider any other applicable laws including, for example, local ordinances and tax implications, which a private attorney may be able to assist you with.

For more specific answers on these topics or other topics under the DBR's liquor jurisdiction, please contact Lee Ann Desilets at [LeeAnn.Desilets@dbr.ri.gov](mailto:LeeAnn.Desilets@dbr.ri.gov) or (401) 462-9544. You may find it helpful to first consult the statutes, regulations, and Bulletins/Notices linked on the DBR liquor control website and, if possible, please reference any specific laws you may have found to pertain to your inquiry. Please note that responses are highly dependent on the particular facts and circumstances of the inquiries, so the more factual details you can provide, the better, including details about the specific operation or practice at issue and identification of the Rhode Island business or prospective business.

### **What kind of liquor licenses does DBR issue?**

Manufacturers – Winery, Distillery, Brewery; Brewpub, Farmer-Winery

Wholesalers – Class A, B, and C

Limited types of retail licenses – Class P Caterer; Class G and Class GD Rail, Air, and Marine Transportation

All other licenses are issued by the municipality in which the licensed premises are located.

### **How does Rhode Island liquor law define and regulate different types of alcohol?**

R.I. Gen. Laws § 3-5-1 provides that a license is required for manufacture, sale, and importation of “beverages.” R.I. Gen. Laws § 3-1-1(3) defines “Beverage” 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.” Accordingly, the manufacturing, distribution, and consumer sale of liquid drinks with 0.5% alcohol by weight requires a license.<sup>1</sup>

Title 3 makes some distinctions based on different types of alcoholic beverages, starting with these definitions found in R.I. Gen. Laws § 3-1-1:

- (11) “Malt beverage” means any beverage that is usually produced at breweries, as distinguished from distilleries.
- (17) “Wines” means all fermented alcoholic beverages made from fruits, flowers, herbs, or vegetables and containing not more than twenty-four percent (24%) of alcohol by volume at sixty degrees Fahrenheit (60 degrees F)...
- (17) also distinguishes “Cider” from wine as follows: “cider obtained by the alcohol fermentation of the juice of apples ...containing not more than six percent (6%) of

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<sup>1</sup> Note that many alcoholic beverage labels use alcohol by volume (vs. alcohol by weight) and the conversion factor for these measures may depend on the recipe of the individual beverage at issue.

alcohol by weight at sixty degrees Fahrenheit (60 degrees F), including, but not limited to, flavored, sparkling, or carbonated cider.”

These definitions/distinctions determine which kind of Rhode Island alcohol manufacturer license to apply for and how a beverage is classified for purposes of the beer and wine limited wholesale and retail licenses. For example: Wine may be manufactured either by a licensed winery (§ 3-6-1) or a licensed farmer-winery (§ 3-6-1.1). Malt beverages may be manufactured either by a licensed brewery (§ 3-6-1) or a licensed brewpub (§§ 3-6-1.2, 3-7-7.2). Distilled spirits may be produced by a distillery licensed under § 3-6-1. A hard cider that is between 0.05% and 6% alcohol by weight at 60 F would be regulated under Rhode Island law as a “malt beverage,” requiring a brewery license or a brewpub license. A hard cider that is more than 6% alcohol by weight at 60 F would be regulated under Rhode Island law as “wine,” requiring either a winery license or a farmer-winery license.

*What about “intoxicating” and “non-intoxicating” beverages?* R.I. Gen. Laws §§ 3-1-1(10) and (12) and 3-1-2 define the differences between “intoxicating” and “non-intoxicating” based on a 3.2% alcohol by weight benchmark. However, a classification based on this benchmark does not affect state liquor licenses. R.I. Gen. Laws § 3-14-3 of the Rhode Island Liquor Liability Act makes this distinction as well; however, the Department does not enforce this statute for private civil remedies.

*What about Rhode Island tax implications for different types of beverages?* The Department of Business Regulation does not oversee the taxation of alcoholic beverages. Please contact the Division of Taxation. <http://www.tax.ri.gov/>

**What do I do if I have a question about a matter pending before the local licensing board or a matter that I anticipate may come before the local licensing board?**

Municipal liquor license decisions are appealable to DBR sitting as an appellate body. When such an appeal is filed, the case follows the normal course of being presented to a neutral hearing officer who presents a recommended decision to the Director. Accordingly, DBR staff and attorneys cannot provide any advice or legal opinions on questions that are pending before a municipal liquor licensing authority or that can be reasonably anticipated to be brought before such authority. To the extent that DBR staff and attorneys provide links or citations for any relevant statutes, regulations, or cases that may be helpful, such information is intended as a starting point reference only and not a comprehensive collection of all potentially relevant sources of law.

Municipal officials should consult with their respective solicitors. Licensees and applicants may wish to consult with a private attorney.

**Can alcohol be served with Sunday brunch?**

There is nothing under the statutes or regulations under DBR’s jurisdiction that prohibits serving alcohol with Sunday brunch. 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.

**Does DBR regulate restaurants where you can bring your own alcohol but not buy it from the establishment (commonly referred to as BYOBs)?**

DBR does not consider BYOBs subject to any state liquor licensing requirements under Title 3 if they are not selling alcoholic beverages. Bulletin CL-LC-2009-1 provides that an establishment whose retail liquor license has been revoked cannot thereafter operate on a BYOB basis. This is an area where it is especially important to check with the municipality where the BYOB is located.

**What are the Rhode Island restrictions in relationships and dealings between different tiers in the three-tier system?**

The Department receives a high volume of inquiries about relationships and dealings between different tiers in the three-tier system. The three tiers are manufacturers, wholesalers, and retailers. Inquiries about the permissibility of volume discounts, promotional products and displays, etc. are common. Such relationships and dealings have case by case variations, but in general, the below cited statutes are interpreted as being directed at financial and management interests such as ownership, financing, common business manager, etc.

R.I. Gen. Laws § 3-7-22(a) provides:

Except as otherwise provided, it shall be unlawful for any holder of a manufacturer's or wholesaler's license to have any direct or indirect interest in any retailer's license or in the business carried on under a retailer's license.

R.I. Gen. Laws § 3-6-15 provides:

No manufacturer of distilled spirits or wines whose principal place of manufacture is outside of this state shall hold a wholesaler's license issued under this title or shall have any interest in a wholesaler's license, either directly or indirectly, as an owner or part owner, or through a subsidiary or affiliate, or by any officers, directors, or employees of the manufacturer, or by stock ownership, interlocking directors, trusteeship, loan, mortgage or by being a guarantor, endorser or surety of any obligation of a wholesaler.

**Can a Class A liquor store deliver to a customer? What about liquor delivery apps?**

R.I. Gen. Laws § 3-7-3 provides “a retailer's Class A license authorizes the holder to keep for sale and to sell, at the place described, beverages at retail and to deliver the beverages in a sealed package or container, which package or container shall not be opened nor its contents consumed on the premises where sold.”

Rule 1.4.10 of 230-RICR-30-10-1 entitled “Deliveries – Retail” builds on § 3-7-3 as follows:

- 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.

There is no prohibition on a Class A liquor store accepting orders for alcohol beverages via a third-party website or smartphone application, provided the orders are delivered by an employee or owner of the licensee in compliance with the ID-checking requirements.

Please note that Class B restaurant/bars cannot deliver alcohol to consumers since the license issued to them under § 3-7-7 is a separate and distinct license from a Class A liquor store and only authorizes sale “for consumption on the premises.”

**LIQUOR FAQ CONTINUES ON NEXT PAGE**

## **What are the rules regarding discounts and promotions that can be offered by liquor stores and restaurant/bars?**

The Department receives many inquiries about the discounts and promotions that liquor stores and restaurant/bars may offer. Licensees should consult the following statutes and regulations and consult with legal or compliance professionals when in doubt. Reference: R.I. Gen. Laws § 3-7-26;<sup>2</sup> Rule 1.4.1(D);<sup>3</sup> Rule 1.4.13;<sup>4</sup> Rule 1.4.28(A);<sup>5</sup> Rule 1.4.28 (B);<sup>6</sup> and Rule 1.4.29.<sup>7</sup>

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### <sup>2</sup> **R.I. Gen. Laws § 3-7-26**

(a) No licensee, employee or agent of any licensee who operates under a license to sell alcoholic beverages shall:

(1) Cause or require any person or persons to buy more than one drink at a time by reducing the price of that drink;  
(2) Increase the volume of alcohol contained in any alcoholic beverage without proportionately increasing the price;  
(3) Sell, propose to sell or deliver to any person or persons an unlimited number of drinks during a certain period of time for a fixed price; or

(4) Allow or encourage any game or promotion on the premises which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as prizes for consumption on the premises.

(b)(1) No licensee shall advertise or promote in any manner, or in any medium, happy hours, open bars, two-for-one nights and/or free drink specials.

(2) Any licensee is prohibited from knowingly allowing the use of its premises as part of an organized pub crawl, so-called. A pub crawl shall be defined as an organized event intended to promote the organized, commercial travel of significantly large groups of individuals between licensed premises for the primary purpose of consuming alcoholic beverages at more than one premise...

(c) Nothing in this section shall be construed to prohibit a licensee from offering free food or entertainment at any time; or to prohibit licensees from including an alcoholic beverage as part of a meal package; or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person; or to prohibit free wine tastings. Except as otherwise limited by this section, nothing contained in this section shall limit or may restrict the price which may be charged by any licensee for any size alcoholic beverage to be consumed on the licensed premises.

(d) Adherence to this section is deemed to be a condition attached to the issuance and/or continuation of every license to sell alcoholic beverages for consumption on the licensed premises, and this section shall be enforced by the applicable local licensing authority, its agents, and the department.

<sup>3</sup> **RULE 1.4.1(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.

<sup>4</sup> **RULE 1.4.13** - 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.

<sup>5</sup> **RULE 1.4.28 (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.

<sup>6</sup> **RULE 1.4.28 (B)** - The serving of a complimentary drink (one drink) with a meal is an exception to this rule.

### <sup>7</sup> **RULE 1.4.29**

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

Some liquor stores are interested in offering non-alcohol gifts or discounted non-alcohol items. Liquor stores in R.I. have limitations on what non-alcohol products they can sell and there are specific rules governing gifts of non-alcohol products at a liquor store. See R.I. Gen. Laws § 3-7-3,<sup>8</sup> Rules 1.4.13 and 1.4.1(D).

Some liquor stores ask about discounts on the price of alcohol products that consumers purchase at their stores. Manufacturers' discounts are generally considered permissible if they are redeemed by manufacturers, clearinghouses, or their agents. See Rule 1.4.29. There is no comprehensive rule or statute that expressly addresses the scope of discounts on liquor that a liquor store itself may be able to offer (as opposed to the manufacturer or clearing house) while also assuring compliance with any and all applicable provisions that restrict certain pricing practices that encourage overconsumption of alcohol found in R.I. Gen. Laws § 3-7-26. As such, liquor stores should consult their compliance/legal advisors and may also contact the Department with specific program questions. Here are some examples of common programs that appear to be permissible:

- Mail-in rebates or instant rebates are generally permitted if redeemed / funded / paid for by the manufacturer or clearing house.

Some restaurant/bars are interested in offering non-alcohol gifts or discounted non-alcohol items. There are specific guidelines for rewards points programs that seek to offer the accumulation or redemption of points for alcoholic products. See Bulletin CL-LC-2010-4. The Department does not regulate free or discounted food or other non-alcoholic products (manufacturer-branded glassware, etc.) offered at a restaurant/bar or any venues that do not hold liquor licenses.

Some restaurant/bars are interested in offering discounts on the price of alcohol products. Discounts are generally considered permissible if they are redeemed by manufacturers, clearinghouses, or their agents (Rule 1.4.29) and so long as they do not violate any and all applicable provisions of R.I. Gen. Laws § 3-7-26 that restrict certain pricing practices that encourage overconsumption of alcohol found. There is no comprehensive rule or statute that expressly addresses the scope of discounts on liquor that a liquor store itself may be able to offer (as opposed to the manufacturer or clearing house) while also assuring compliance with R.I. Gen. Laws § 3-7-26. As such, restaurant/bars should consult their compliance/legal advisors and

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- 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.

<sup>8</sup> For example, R.I. Gen. Laws § 3-7-3 authorizes liquor stores to sell the following non-alcohol products: cigarettes, newspapers, cigars, cigarette lighters, gift bags, prepackaged peanuts, pretzels, chips, olives, onions, cherries, hot stuffed cherry peppers, Slim Jims and similar pre-packaged dried meat products, pickled eggs, popcorn, pre-packaged candy, styrofoam cooler, lemons, limes, and ice, home bar accessories such as pourers, glasses, cork screws, stirrers, flasks, jiggers, wine racks, ice crushers, bottle openers, can openers.

may also contact the Department with specific program questions. Here are some examples of common programs that appear to be permissible:

- A coupon for 15% off of a full course meal package that includes an alcoholic beverage would be permissible under Rule 1.4.28(B) and § 3-7-26(c) which allow for service of a complimentary drink with a meal.
- A token for a free beer at a restaurant/bar that is paid for by the beer manufacturer and is served by an employee with alcohol server training would be permissible under Rule 1.4.29.

### **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.

### **What other government entities regulate liquor other than RI DBR?**

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- Restaurant/bar and liquor store licenses are issued by the municipalities and the municipalities also have jurisdiction over zoning ordinances which may affect the location of any type of liquor license and associated issues such as parking and noise.
- The Rhode Island Division of Taxation is responsible for the collection of state taxes of alcohol in Rhode Island.
- The federal Alcohol and Tobacco Tax and Trade Bureau (“TTB”) enforces laws pertaining to federal taxation of alcohol, the federal permitting of alcohol manufacturer and wholesaler businesses, and certain rules pertaining to “trade practices” between manufacturers/wholesalers and retailers.
- You must contact each of these government entities directly regarding any questions within their jurisdiction as outlined above. This is not an exhaustive list and you are encouraged to consult an attorney and/or compliance professional.

### **What type of business entities may apply for a liquor license in Rhode Island?**

R.I. Gen. Laws § 3-5-10(a)(1) provides that “licenses are issued only to citizens who are residents of this state.” For a business entity, whether it be a corporation, LLC, or other permitted form of business entity, this means that the business entity must be organized in Rhode Island or authorized to do business in Rhode Island through the Office of the RI Secretary of State. When the business entity is the license holder, the residence of the individual owners/directors/other principals is not relevant to qualification for licensure, although those individuals may be subject to other licensing requirements (such as background checks).

## **Holidays, Sales and Hours**

### **Can a Class A licensee (liquor store), be open on Christmas Day, Thanksgiving Day, or New Year’s Day?**

During the holiday season we receive many inquiries regarding which holidays a Class A licensee (liquor store) may be open for business.

Rhode Island General Law § 3-8-1. Sales on Sundays and holidays, states:

Places operating under a retail Class A license are not authorized to be open for the sale of alcoholic beverages upon Christmas Day, Thanksgiving Day and New Year’s Day.

