

Brewery Quick Reference

LICENSING

Do I need a brewer's license?

If you are manufacturing beer¹ in New York State for resale, you must be licensed by the State Liquor Authority (SLA) as well as have a brewer's notice through the federal Alcohol and Tobacco Tax and Trade Bureau (TTB).² <https://www.ttb.gov/beer/>

Can I be a licensed brewer in New York State?

Statutory Disqualifiers

The following are the five categories of person who cannot hold an SLA license:

- (1) persons who have been convicted of any felony, or promoting or permitting prostitution, or sale of liquor without an alcoholic beverage license;³
- (2) persons under the age of 21;
- (3) persons who are not a United State citizen, an alien admitted to the United State for permanent lawful residence, or a citizen of a reciprocal trade nation (see [SLA Advisory #2015-21](#));
- (4) persons whose alcoholic beverage license was revoked for cause within the past 2 years;
- (5) persons who are police officers/police officials.

Tied House

Additionally, the "tied house law" prohibits any person who holds a direct or indirect interest in any retail establishment selling alcoholic beverages (whether in New York State, another state, or abroad) from holding a brewer's license (or any other manufacturing or wholesaling license) in New York State.⁴

Must I have my own brewery to be licensed?

In order to be licensed as a brewer in New York State, you must actually produce beer (not just contract out production) and have your own facility or have a tenancy at the facility of another where such production occurs.

Tenant manufacturing and alternating proprietorships

¹ Note that for all purposes under the ABC Law, "braggot" is considered beer and may produced and sold as such.

² Beer manufactured for personal consumption (homebrew) and not sold commercially does not require licensure. Check with TTB for limits.

³ The ABC Law provides that a pardon, certificate of good conduct, or a certificate of relief from disabilities may be obtained to allow a person convicted of a disqualifying crime to hold a license.

⁴ Note that a restaurant brewer license is not a brewing license, it is a retail license, and cannot be held along with a brewer's license.

Tenant manufacturing otherwise known as alternating proprietorship is permissible in New York. In such an arrangement, two or more licensees share the same facility with all the same rights and responsibilities with regard to the premises. Each manufacturer must themselves produce the annual statutory minimum amount of product at the facility. Under such an arrangement, overhead can be reduced, as costs can be shared.

Unlicensed Brand Owners

An unlicensed person/entity in New York may not contract with a licensed brewer to have a product made that the unlicensed person/entity would own the brand of and/or participate in the resale of.

What type of license should I apply for?

Brewer's License – A brewer may produce beer, has no cap on production volume, and no New York State ingredient requirements as to its products. A brewer may sell from the brewery their own beer and any New York State labeled beer for consumption on the premises and to go. Initial application cost is \$6,200 for a 12-month license.

Micro Brewer's License – A micro brewer has all the same privileges/responsibilities as a brewer, but has a 75,000 barrel limit on annual production. Initial application cost is \$884 for a 12-month license.

Farm Brewery License – a farm brewer may produce beer and/or cider, has a 75,000 barrel limit on annual production, and must use 60% New York State hops and 60% other New York State ingredients in its beer, and 100% New York State apples/pome fruits in its cider. A farm brewer may sell its own and any other New York State labeled products (beer, cider, wine, mead, liquor) at the licensed premises and to go. A farm brewery need not be located on a farm. Initial application cost is \$884 for a 12-month license.

What steps should I take before applying?

If time is of the essence in beginning production and opening your doors (and we know it usually is), you should first check with SLA to understand processing times and to be able to plan accordingly. Email licensing.information@sla.ny.gov. Additionally, you should apply for your brewer's notice with TTB as soon as possible. Lastly, before applying you should get a filing receipt from the Secretary of State after registering your corporation or LLC, or obtain a business certificate from your county clerk for your sole proprietorship or partnership.

Where do I find the brewers application?

From our homepage: www.sla.gov, visit [Licenses -- Get a License](#). From there you will find the [Application Wizard](#), which will guide you to the correct application.

What must I submit with my license application?

Once you have downloaded (or emailed yourself) the correct application and instructions, you will also be given a checklist of all necessary items and a coversheet including the correct amount to submit along with the application.

When can I start brewing?

Once you've received approval of your application and your license certificate. A conditional approval is not sufficient – as you must meet the conditions set forth before final approval may be granted.

LICENSEES

PRIVILEGES

What products can I manufacture at my brewery?

A brewer and micro brewer may make beer.⁵

A farm brewer may make New York State labeled beer and New York State labeled cider.

Can I distribute my own products to licensed retailers?

All manufacturing licenses come with the right to self-distribution.

Can I distribute my own products out of state?

Terms of sales and distribution out of state are governed by the laws of the importing jurisdiction.

Can I sell my own products for consumption at my brewery? Other manufacturers' products?

A brewer and micro brewer may sell for consumption at the licensed premises: (1) any beer it makes as well as (2) any New York State labeled beer.

A farm brewer may sell for consumption at the licensed premises: (1) any beer or cider it makes as well as (2) any other New York State labeled product (beer, wine, cider, mead, liquor).

Must I serve food?

If you are selling alcoholic beverages for on premises consumption, you must make food available. A diversified selection of finger foods, such as cheeses, fruits, and crackers is sufficient.

Can I sell other items at my brewery?

A brewer and micro brewer may not sell other items (aside from food – see above).

A farm brewer may sell other items such as food, beer supplies, souvenirs, etc. See §51-a (7) of the ABC Law for a complete list.

⁵ Beer includes "New York State labeled beer."

Can I obtain an on premises license at the brewery to sell all types of alcoholic beverages?

Yes, you may apply separately for an on premises license which permits the sale of any type of alcoholic beverage (i.e., not strictly New York State labeled products). Please note the food requirement at an on premises establishment is greater than that noted above and requires soups, sandwiches and the like for a tavern, a menu containing full entrees for a restaurant, etc.

Can I sell my products to go from the brewery? Other manufacturers' products?

A brewer and microbrewer may sell for consumption off the licensed premises: (1) any product it produces as well as (2) any New York State labeled beer.

A farm brewer may sell for consumption off the licensed premises: (1) any product it produces as well as (2) any New York State labeled product (beer, wine, cider, mead, liquor).

Can I sell on the internet?

Retail sales made under a manufacturing license must take place in person.

What is a branch office?

A branch office is a privilege of a farm brewery and is an off-site location at which all activities of the licensed premises may be carried out (production, product sale, on premises license, etc.). A farm brewery is entitled to up to 5 branch office permits. There is no fee required to obtain a branch office permit.

COMPLIANCE

How much beer must I produce?

At the licensed facility, you must produce at least 50 barrels⁶ of beer annually. You cannot rely on a contract manufacturer to produce the annual production minimum for you. If you are producing at a branch office as well as your licensed facility, you will still need to produce at least 50 barrels at the licensed facility.

Can I contract manufacture for another manufacturer?

Yes, you may contract to produce for another manufacturer any product that both you and the other manufacturer may produce. If in New York State, the other manufacturer must also be licensed. Any product you produce for another manufacturer will count against your production cap (if you have one) and any product purchased by another licensed New York State manufacturer will also count against its cap (if it has one).

Can I contract manufacture for an unlicensed entity?

Not if the other entity is in New York State.

⁶ A barrel is 31 gallons.

Must I register the brand labels for all of my products?

You must register the brand labels for all of your products before selling them – this is in addition to obtaining a TTB COLA. Many of the small production lines will be no fee,⁷ but still require registration.⁸

Selling product which is not labeled is a health and safety issue and is against the law.

Must I serve food if I am serving alcoholic beverages?

Yes, see above for standards.

Can I employ someone who has been convicted of a felony?

Not unless (1) that person has received a pardon or certificate of good conduct or other relief from disabilities or (2) specific approval has been granted by the SLA.

Can another business entity operate on my licensed premises, e.g. a food truck?

No. No other business may operate on your licensed premises, this includes food trucks, a food concessionaire, a gift shop, etc., if not run by you the licensee. However, note that a food truck (or any other business) may operate on any part of your property that is not licensed (e.g. a parking lot or field).

Is another manufacturer considered a second business?

No, multiple manufacturers may operate at the same premises – see alternating proprietorships/tenant manufacturing above.

One entity may also hold more than one license at a single premises – e.g., a farm brewery and micro brewery.

Can I sell other items at my brewery, e.g., t-shirts, foods, etc.?

Only a farm brewer may; see ABC Law §51-a (7) for what items are permissible.

Must I notify the Authority before making a change in ownership?

Yes, if you plan to take on or remove owners/investors, change shares of ownership, or appoint or remove officers/directors/members, *before* making those changes, you must submit and wait for the approval of a corporate change application. A corporate change application can be found [here](#).

⁷ Beer/cider produced in quantities of less than 1500 barrels per year has no registration fee, but must still be registered.

⁸ Vat to tap – a line direct from the production vat to a customer service tap at the licensed premises – products do not require brand label registration. Any product removed to another container (can, bottle, keg, etc.), must be registered.

Are there any exceptions?

Yes, where a corporation/LLC or has 10 or more stockholders/members and a change involves less than 10% of the stock holdings/ownership of the corporation/LLC and no stockholders/members total holdings/ownership are increased to 10% or more.

Must I notify the Authority before I make changes to the premises?

Yes, any significant change requires the filing of an alteration application *before* renovations begin. The form may be found [here](#). A significant change includes:

- Any enlargement or contraction of the premises
- Any physical change that reduces visibility
- Any other change that materially affects the character of the premises

Must I notify the Authority about minor changes?

Yes, you must file an affidavit request for any change costing less than \$10,000 which does not affect the character or structure of the premises. If the request is not denied within 20 days, it is deemed approved on the 25th day from after filing.

How do I notify the Authority of minor changes in the business?

An endorsement application is used for minor changes such as the following:

- Name or Address corrections on the license certificate
- Court appointments of representative
- Dissolution of partnership or addition of partner
- Principal name changes due to marriage or divorce
- Amendment to the corporate name of the licensed premises when there is no change in ownership or corporate entity