

# Winery Quick Reference

## LICENSING

### Do I need a wine maker's license?

If you are manufacturing wine in New York State for resale, you must be licensed by the State Liquor Authority (SLA) as well as have a winery permit through the federal Alcohol and Tobacco Tax and Trade Bureau (TTB).<sup>1</sup> <https://www.ttb.gov/beer/>

### Can I be a licensed wine maker 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;
- (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- (4) persons whose alcoholic beverage license was revoked for cause within the past 2 years;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 wine maker's license (or any other manufacturing or wholesaling license) in New York State.<sup>2</sup>

### Must I have my own winery to be licensed?

In order to be licensed as a wine maker in New York State, you must actually produce wine (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

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

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<sup>1</sup> Wine manufactured for personal consumption and not sold commercially does not require licensure. Check with TTB for limits.

<sup>2</sup> Note that a restaurant brewer license is not a brewing license, it is a retail license, and cannot be held along with a wine maker's license.

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 wine maker 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?**

Winery License – A winery may produce wine, wine products, and mead, has no cap on production volume, and no New York State ingredient requirements as to its products. A winery may sell their own wine and wine products, and any New York State labeled wine, any New York State labeled wine products, and any New York State labeled cider for consumption on the premises and to go. Initial application cost is \$3,025 for a 36-month license.

Farm Winery License – a farm winery may produce wine, wine product, cider, and mead, has a 250,000 gallon limit on annual production, and requires the licensee to use 75% New York State grapes or other fruits in its wine and wine products, 100% New York State apples/pome fruits in its cider, and 100% New York State honey in its mead. A farm winery may sell its own and any other New York State labeled products (e.g., beer, cider, wine, mead, braggot, liquor) at the licensed premises and to go. A farm winery must be located on farm. Initial application cost is \$524 for a 36-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](mailto:licensing.information@sla.ny.gov). Additionally, you should apply for your winery permit 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 wine maker's application?**

From our homepage: [www.sla.gov](http://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.

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## LICENSEES

### PRIVILEGES

#### **What products can I manufacture at my winery?**

A winery may make wine, wine products, and mead.

A farm winery may make New York State labeled wine, New York State labeled wine products, New York State labeled cider and New York State labeled mead.

#### **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 winery? Other manufacturer's products?**

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

A farm winery may sell for consumption at the licensed premises: (1) any wine, wine product, 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 winery?**

A winery and farm winery may sell other items such as food, wine supplies, souvenirs, etc. See §76 (11) and §76-a (4) of the ABC Law for a complete list.

#### **Can I obtain an on premises license at the winery 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 winery? Other manufacturer's products?**

A winery may sell for consumption off the licensed premises: (1) any wine and wine product it makes as well as (2) any New York State labeled wine, New York State labeled wine product, or New York State labeled cider.

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

### **Can I sell on the internet?**

Yes, wineries, unlike other types of alcoholic beverage manufacturers in New York State, have the right to direct to consumer shipping. See §79-D of the Alcoholic Beverage Control Law for relevant requirements.

### **What is a branch office?**

A branch office is a privilege of a farm winery 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 winery is entitled to up to 5 branch office permits. There is no fee required to obtain a branch office permit.

## **COMPLIANCE**

### **How much wine must I produce?**

At the licensed facility, you must produce at least 50 gallons of wine, and/or wine product, and/or cider, and/or mead 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.

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

Wine which is 7% or more requires only a TTB COLA, and does not require brand label registration with New York State.

For all other products (wine which is less than 7%, wine products, cider, and mead), you must register the brand labels before selling them – this is in addition to obtaining a TTB COLA.

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 winery and micro brewery.

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

Yes, see ABC Law See §76 (11) and §76-a (4) 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](#).

**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, if you are a winery (not a micro or farm winery), 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, if you are a winery (not a micro or farm winery), 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 25<sup>th</sup> 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