

R82. Alcoholic Beverage Control, Administration.

R82-11. Manufacturing.

R82-11-101. Authority, Purpose, Definition.

(1) This rule is enacted pursuant to sections 32B-2-202, which authorizes the Commission to make rules governing criteria and procedures for licensure, 32B-11-208, which authorizes the Commission to make rules regarding the general operational requirements of a manufacturing licensee, and 32B-11-210, which authorizes the Commission to define "educational information."

(2) The purpose of this rule is to provide guidance to manufacturing licensees who wish to provide tastings.

(3) "Educational Information" means a presentation of information whose primary purpose is imparting knowledge related to the history, culture, significance, agriculture, manufacture, flavor profile, the effects of alcohol, or any combination of the foregoing.

R82-11-102. Application Guidelines.

(1) This rule is enacted pursuant to sections 32B-2-202, which authorizes the Commission to make rules governing criteria and procedures for licensure, and 32B-11-208, which authorizes the Commission to make rules regarding the general operational requirements of a manufacturing licensee.

(2) The purpose of this rule is to provide guidance to prospective manufacturing licensees.

(3) No license application will be included on the agenda of a monthly Commission meeting for consideration for issuance of a manufacturing license until:

(a) A complete application including all documents and supplemental materials listed on the Department's application checklist have been submitted to the Department.

(b) the Department has inspected the manufacturer premise; and

(c) an investigation is conducted and a recommendation can be made as required by section 32B-11-206.

(4)(a) All application requirements of subpart (2)(a) of this rule must be filed with the Department no later than the 10th day of the month in order for the application to be included on that month's Commission meeting agenda unless the 10th day of the month is a Saturday, Sunday, or state or federal holiday, in which case all application requirements of subpart (2)(a) must be filed on the next business day after the 10th day of the month.

(b) An incomplete application will be returned to the applicant.

(c) A completed application filed after the deadline in subpart (3)(a) of this rule will not be considered by the Commission that month, but will be included on the agenda of the Commission meeting the following month.

R82-11-103. Out of State Business.

(1)(a) Purpose. Pursuant to section 32B-11-201, brewers located outside the state must obtain a certificate of approval from the Department before selling or delivering beer containing an alcohol content of less than 4% alcohol by volume before November 1, 2019 and less than 5% alcohol by volume on or after November 1, 2019 to licensed beer wholesalers in this state, or if a small brewer, to licensed beer wholesalers or retailers in this state. These certificates must be renewed annually.

(b) In addition to issuing certificates of approval to brewers who actually produce the beer, the Department has also issued certificates to (1) importers that hold federal permits, and have the contractual rights to distribute and market beer for foreign breweries; and (2) marketing agents that distribute and market beer for domestic breweries. The Department has also allowed brewers with a certificate of approval to market the products on behalf of other brewers under that certificate. However, this has resulted in a loss of direct regulatory authority over the breweries that actually produce the beer.

(c) This rule ensures that each producer of beer obtain its own certificate of approval to allow its beer to be sold or delivered in this state.

(2) Application of Rule.

(a) A certificate of approval to sell or deliver beer in this state under section 32B-11-201 may be issued only to the company that is ultimately responsible for producing the beer. The company holding the certificate may not allow another brewery to sell or deliver beer to this state under the certificate holder's certificate. A certificate of approval may not be issued to any third party such as an importer or marketing agent that does not actually manufacture or produce alcoholic beverages.

(b)(i) This rule does not preclude the company that holds the certificate of approval from having its brand of beer produced by another brewery under contract under the brand name of the certificate holder's company.

(ii) A certificate holder is responsible to ensure that any beer produced by the contract-brewery complies with the alcoholic beverage laws of this state and any violations committed by the contract brewery will be the responsibility of the certificate holder.

(c)(i) A distillery or winery that has beer produced for it by a brewery under contract under the distillery's or winery's brand name is deemed to be a "brewery" for purposes of section 32B-11-201, and may be issued a certificate of approval.

(ii) A distillery or winery described in Subsection (2)(c)(i) is responsible to ensure that any beer produced by the contract-brewery complies with the alcoholic beverage laws of this state. Any violations committed by the contract brewery will be the responsibility of the distillery or winery that holds the certificate.

KEY: alcoholic beverages

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