

**R81. Alcoholic Beverage Control, Administration.**

**R81-4C. Limited Restaurant Licenses.**

**R81-4C-1. Licensing.**

(1) Limited restaurant licenses are issued to persons as defined in Section [~~32A-1-105(44)~~] 32B-1-102(74). Any contemplated action or transaction that may alter the organizational structure or ownership interest of the person to whom the license is issued must be submitted to the department for approval prior to consummation of any such action to ensure there is no violation of Sections [~~32A-4-303(3), 32A-4-304, and 32A-4-307(25)~~] 32B-5-310.

(2) A limited restaurant license that wishes to operate the same licensed premises under the operational restrictions of [~~an~~] a recreational amenity on-premise beer retailer during certain designated periods of the day or night, must apply for and be issued a separate recreational amenity on-premise beer retailer license subject to the following:

(a) The same limited restaurant licensee must separately apply for a state on-premise beer retailer license pursuant to the requirements of Sections [~~32A-10-202, 203 and 205~~] 32B-5-201, -202 and 32B-6-702 to -705.

(b) Licensees applying for dually licensed premises must notify the department of the time periods under which each license will be operational at the time application is made. Changes must be requested in writing and approved in advance by the department. Licensees may operate sequentially under either license, but not concurrently.

(c) Limited restaurant licensees holding a separate recreational amenity on-premise beer retailer license must operate in accordance with [~~32A-10-206~~] 32B-6-706 and R81-10A during the hours the on-premise beer retailer license is active.

(d) Liquor storage areas on the limited restaurant premises shall be deemed to remain on the floor plan of the limited restaurant premises and shall be kept locked during the hours the recreational amenity on-premise beer retailer license is active.

**R81-4C-2. Application.**

(1) Except as provided in Subsection (2), a license application shall be included in the agenda of the monthly commission meeting for consideration for issuance of a limited restaurant license when the requirements of Sections [~~32A-4-303, 304, and 306~~] 32B-1-304, 32B-5-201, -204, and 32B-6-304 have been met, a completed application has been received by the department, and the limited restaurant premises have been inspected by the department.

(2) Subsection (1) does not preclude the commission from considering an application for a conditional limited restaurant license under the terms and conditions of [~~32A-1-107(5)~~] 32B-5-205.

**R81-4C-3. Bonds.**

No part of any corporate or cash bond required by Section [~~32A-4-306~~] 32B-5-204 and 32B-6-304(4), may be withdrawn during the time the license is in effect. If the licensee fails to maintain a valid corporate or cash bond, the license shall be immediately suspended until a valid bond is obtained. Failure to obtain a bond within 30 days of notification by the department of the delinquency

shall result in the automatic revocation of the license.

**R81-4C-4. Insurance.**

Public liability and dram shop insurance coverage required in Section ~~[32A-4-303(1)(h) and (i)]~~ 32B-5-201(2)(j) must remain in force during the time the license is in effect. Failure of the licensee to maintain the required insurance coverage may result in a suspension or revocation of the license by the commission.

**R81-4C-6. Limited Restaurant Licensee Operating Hours.**

Allowable hours of wine and heavy beer sales shall be in accordance with Section ~~[32A-4-307(9)(a)]~~ 32B-6-305(6). However, the licensee may open the wine and heavy beer storage area during hours otherwise prohibited for the limited purpose of inventory, restocking, repair, and cleaning.

**R81-4C-7. Sale and Purchase of Alcoholic Beverages.**

(1) Alcoholic beverages (including beer) must be sold in connection with an order for food placed and paid for by a patron.

An order for food may not include food items gratuitously provided by the limited restaurant to patrons. A patron may pay for an alcoholic beverage at the time of purchase, or, at the discretion of both the licensee and the patron, the price charged may be added to the patron's tab, provided that a written beverage tab, as provided in Section ~~[32A-4-307(26)]~~ 32B-6-305(4), shall be commenced upon the patron's first purchase and shall be maintained by the limited restaurant during the course of the patron's stay at the limited restaurant regardless of where the patron orders and consumes an alcoholic beverage.

(2) The limited restaurant shall maintain at least 70% of its total business from the sale of food pursuant to Section ~~[32A-4-307(23)]~~ 32B-6-305(7).

(a) The limited restaurant shall maintain records separately showing quarterly expenditures and sales for beer, heavy beer, wine, and food. These shall be available for inspection and audit by representatives of the department, and maintained for a period of three years.

(b) (b) If any inspection or audit discloses that the sales of food are less than 70% for any quarterly period, ~~[an order to show cause shall be issued by the department to determine why the license should not be immediately suspended by the commission. Any suspension shall remain in effect until the licensee is able to prove to the satisfaction of the commission that in the future, the sales of food will meet or exceed 70%]~~ the department shall immediately put the licensee on a probationary status and closely monitor the licensee's food sales during the next quarterly period to determine that the licensee is able to prove to the satisfaction of the department that the sales of food meet or exceed 70%. Failure of the licensee to provide satisfactory proof of the required food percentage within ~~[three months of the date the license was suspended,]~~ the probationary period shall result in [the revocation of the license] issuance of an order to show cause by the department to determine why the license should not be revoked by the commission.

(3) Wine dispensing shall be in accordance with Section ~~[32A-4-307]~~ 32B-5-304(2); and R81-1-11 (Multiple-Licensed Facility Storage and Service) of these rules.

**R81-4C-8. Alcoholic Product Flavoring.**

(1) Limited restaurant licensees may use alcoholic product flavorings including spirituous liquor products in the preparation of food items and desserts at any time if plainly and conspicuously labeled "cooking flavoring".

(2) No limited restaurant employee under the age of 21 years may handle alcoholic product flavorings.

**R81-4C-9. Table, Counter, and "Grandfathered Bar Structure" Service.**

(1) A wine service may be performed by the server at the patron's table, counter, or "grandfathered bar structure" for wine either purchased at the limited restaurant or carried in by a patron. The wine may be opened and poured by the server.

(2) Beer and heavy beer, if in sealed containers, may be opened and poured by the server at the patron's table, counter, or "grandfathered bar structure".

**R81-4C-10. Consumption at Patron's Table, Counter, and Grandfathered Bar Structure".**

(1) A patron's table, counter, or "grandfathered bar structure" may be located in waiting, patio, garden and dining areas previously approved by the department.

(2) Consumption of any alcoholic beverage must be within a reasonable proximity of a patron's table, counter, or "grandfathered bar structure" so as to ensure that the server can maintain a written beverage tab on the amount of alcoholic beverages consumed.

**R81-4C-11. Menus; Price Lists.**

(1) Contents of Alcoholic Beverage Menu.

(a) Each limited restaurant licensee shall have readily available for its patrons a printed alcoholic beverage price list, or menu containing current prices of all wine, heavy beer, and beer. This list shall include any charges for the service of packaged wines or heavy beer.

(b) Any printed menu, master beverage price list or other printed list is sufficient as long as the prices are current and it meets the requirements of this rule.

(c) Customers shall be notified of the price charged for any packaged wine or heavy beer and any service charges for the supply of glasses, chilling, or wine service.

(d) A licensee or his employee may not misrepresent the price of any alcoholic beverage that is sold or offered for sale on the licensed premises.

**R81-4C-12. Identification Badge.**

Each employee of the licensee who sells, dispenses or provides alcoholic beverages shall wear a unique identification badge visible above the waist, bearing the employee's first name, initials, or a unique number in letters or numbers not less than 3/8 inch high. The identification badge must be worn on the front portion of the employee's

body. The licensee shall maintain a record of all employee badges assigned, which shall be available for inspection by any peace officer, or representative of the department. The record shall include the employee's full name and address and a driver's license or similar identification number.

**R81-4C-13. Brownbagging.**

When private events, as defined in 32B-1-102(77), are held on the premises of a licensed limited restaurant, the proprietor may, in his or her discretion, allow members of the private group to bring onto the restaurant premises, their own wine, heavy beer or beer under the following circumstances:

(1) When the entire limited restaurant is closed to the general public for the private event, or

(2) When an entire room or area within the limited restaurant such as a private banquet room is closed to the general public for the private event, and members of the private group are restricted to that area, and are not allowed to co-mingle with public patrons of the restaurant.

**~~[R81-4C-13]~~ R81-4C-14. Grandfathered Bar Structures.**

(1) Authority and Purpose.

(a) This rule is pursuant to ~~[32A-4-307(7)(a)(i)]~~ 32B-6-302 which provides that:

(i) a bar structure, as defined in ~~[32A-1-105(4)]~~ 32B-1-102(7), located in a currently licensed limited restaurant as of May 11, 2009, may be "grandfathered" to allow alcoholic beverages to continue to be stored or dispensed at the bar structure, and in some instances to be served to an adult patron seated at the bar structure;

(ii) a bar structure in a limited restaurant that is not operational as of May 12, 2009, may be similarly "grandfathered" if, as of May 12, 2009:

(A) a person has applied for a limited restaurant license from the commission;

(B) the person is "actively engaged in the construction of the restaurant" as defined by commission rule; and

(C) the person is granted a limited restaurant liquor license by the commission no later than December 31, 2009.

(b) This rule is also pursuant to ~~[32A-4-307(7)(a)(ii)]~~ 32B-6-302 which provides that:

(i) a "grandfathered bar structure" is no longer "grandfathered" once the limited restaurant "remodels the grandfathered bar structure"; and

(ii) the commission shall define by rule what is meant by "remodels the grandfathered bar structure".

(2) Application of Rule.

(a) "Actively engaged in the construction of the restaurant" for purposes of ~~[32A-4-307(7)(a)(i)(B)(I)(Bb) and 32A-4-307(7)(a)(ii)]~~ 32B-6-302(1)(a)(ii)(A)(I) means that:

(i) a building permit has been obtained to build the restaurant; and

(ii) a construction contract has been executed and the contract includes an estimated date that the restaurant will be completed; or

(iii) work has commenced by the applicant on the construction of the restaurant and a good faith effort is made to complete the construction in a timely manner.

(b) "remodels the grandfathered bar structure" for purposes of ~~[32A-4-307(7)(a)(ii)]~~ 32B-6-302(1)(b) means that:

(i) the grandfathered bar structure has been altered or reconfigured to:

(A) extend the length of the existing structure to increase its seating capacity; or

(B) increase the visibility of the storage or dispensing area to restaurant patrons.

(c) "remodels the grandfathered bar structure" does not:

(i) preclude making cosmetic changes or enhancements to the existing structure such as painting, staining, tiling, or otherwise refinishing the bar structure;

(ii) preclude locating coolers, sinks, plumbing, cooling or electrical equipment to an existing structure; or

(iii) preclude utilizing existing space at the existing bar structure to add additional seating.

(d) Pursuant to ~~[32A-4-307(6)]~~ 32B-5-303(3), the licensee must first apply for and receive approval from the department for a change of location where alcohol is stored, served, and sold other than what was originally designated in the licensee's application for the license. Thus, any modification of the alcoholic beverage storage and dispensing area at a "grandfathered bar structure" must first be reviewed and approved by the department to determine whether it is:

(i) an acceptable use of an existing bar structure; or

(ii) a remodel of a "grandfathered bar structure".

**KEY: alcoholic beverages**

**Date of Enactment or Last Substantive Amendment: September 1, 2010**

**Notice of Continuation: July 31, 2008**

**Authorizing, and Implemented or Interpreted Law: 32B-2-202; 32B-5-303(3); 32B-6-202**