

MANUFACTURING LICENSES / 32A-8 - VIOLATION GRID

(Wineries, Distilleries, and Breweries)

Descriptions

Code Citation

Rule Citation

Degree

I. GENERAL PROVISIONS

I - A. ADVERTISING

<p>1. Improper advertising:</p> <p>a. that contains any statement, design, device, or representation that is false or misleading;</p> <p>b. that contains any statement, design, device, or representation that is obscene or indecent;</p> <p>c. that refers to, portrays, or implies illegal conduct, illegal activity, abusive or violent relationships or situation, or anti-social behavior;</p> <p>d. that encourages over-consumption or intoxication, promotes the intoxicating effects of alcohol, or overtly promotes increased consumption;</p> <p>e. that offers any unlawful discounting practice such as “happy hour”, “two for the price of one”, or “all you can drink for \$.....”;</p> <p>f. that encourages or condones drunk driving;</p> <p>g. that depicts the act of drinking;</p> <p>h. that promotes or encourages the sale to or use of alcohol by minors;</p> <p>i. that is directed or appeals primarily to minors by: (1) using any symbol, language, music, gesture, cartoon character, or childhood figure such as Santa Clause;</p>	<p>32A-8-106(3) 32A-12-401(4)</p>	<p>R81-1-17(6)(b), (7)</p> <p>R81-1-17(6)(c), (7)</p> <p>R81-1-17(6)(d), (7)</p> <p>R81-1-17(6)(e), (7)</p> <p>R81-1-17(6)(f), (7)</p> <p>R81-1-17(6)(g), (7)</p> <p>R81-1-17(6)(h), (7)</p> <p>R81-1-17(6)(i), (7)</p> <p>R81-1-17(6)(j), (7)</p>	<p>MOD, *b</p>
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*a - Class "A" misdemeanor
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<p>(2) employing any entertainment figure or group that appeals primarily to minors;</p> <p>(3) placing advertising in magazines, newspapers, television programs, radio programs, or other media where most of the audience is reasonably expected to be minors, or placing advertising on the comic pages of magazines, newspapers, or other publications;</p> <p>(4) placing advertising in any school, college or university magazine, newspaper, program, television program, radio program, or other print media, or sponsoring any school, college or university activity;</p> <p>(5) using models or actors in the advertising that are or reasonably appear to be minors;</p> <p>(6) advertising at an event where most of the audience is reasonably expected to be minors;</p> <p>(7) using alcoholic beverage identification, including logos, trademarks, or names on clothing, toys, games or game equipment, or other materials intended for use by minors.</p>			
<p>j. that portrays use of alcohol by a person while that person is engaged in, or is immediately about to engage in, any activity that requires a high degree of alertness or physical coordination;</p>	<p>32A-8-106(3) 32A-12-401(4)</p>	<p>R81-1-17(6)(k), (7)</p>	<p>MOD, *b</p>
<p>k. that contains claims of representations that individuals can obtain social, professional, educational, athletic, or financial success or status or solve such problems as a result of consumption;</p>	<p>32A-8-106(3) 32A-12-401(4)</p>	<p>R81-1-17(6)(l), (7)</p>	<p>MOD, *b</p>
<p>l. that requires the purchase, sale, or consumption of an alcoholic beverage in order to participate in any promotion, program or other activity;</p>	<p>32A-8-106(3) 32A-12-401(4) 32A-12-606(2)</p>	<p>R81-1-17(6)(n), (7)</p>	<p>MOD, *b</p>
<p>m. that implies by use of appealing characters or life-enhancing images that consumption of the product will benefit the consumer's health, physical or sexual prowess, athletic ability, social welfare, or capacity to enjoy life's activities.</p>	<p>32A-8-106(3) 32A-12-401(4)</p>	<p>R81-1-17(6)(o), (7)</p>	<p>MOD, *b</p>

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2. Advertising or promotional scheme that offers alcoholic beverages to patrons or the general public without charge.	32A-8-106(3) 32A-12-401(4), (5)	R81-1-17(6)(m), (7)	MOD, *b

I - B. AUDIT

1. Failure to maintain liability insurance.	32A-8-102(1)(f) 32A-8-103(7)		*f
2. Failure to maintain federal license.	32A-8-102(1)(g) 32A-8-103(7)		*f
3. Failure to maintain bond.	32A-8-102(1)(e) 32A-8-105 32A-8-103(7)		*f
4. Failure to maintain records and accounts as required.	32A-8-106(1)(d)		MOD
5. Falsification/tampering with records.	32A-8-106(4)(b) 32A-8-401(5)(c)(iii) <i>(small breweries)</i> 32A-12-303(2) 32A-12-304		GR, *b, *d
6. Change of ownership or organizational structure without notifying the department.	32A-8-102(3) 32A-8-106(6)(a)		*f
7. Obstructing or failing to allow an officer or department representative from making a search or investigation.	32A-8-102(1)(h) 32A-12-305 32A-13-109		GR, *b
8. Failure to comply with state & federal laws pertaining to payment of taxes, unemployment funds, etc.	32A-1-123 32A-8-103(7) 32A-8-401(5)(c) <i>(small breweries)</i>		*f
9. Failure to comply with state and federal laws pertaining to payment of taxes, unemployment funds, etc.	32A-1-123		*f
10. Failure to maintain applicable federal requirements.	32A-8-103(6), (7)		*f

I - C. EMPLOYEE:

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1. Minor employed to handle alcoholic beverages.	32A-8-103(5)(a)(ii)		SER
2. Supervisor or manager convicted of (or arrested for) designated offense.	32A-8-103(2), (3), (7)		*f

I - D. LICENSE:

1. Operating without a license (or on a suspended license).	32A-8-101(3)(a) 32A-12-201(7)		GR, *b
2. Operating multiple manufacturing, storage, or sales locations without obtaining a license for each location.	32A-8-101(3)(b)		GR
3. License not displayed.	32A-8-106(2)		MIN
4. Unapproved transfer of license to another location.	32A-8-106(5)		GR
5. Attempt to sell, transfer, barter, give, etc. license to another entity.	32A-8-106(6)		GR

I - E. LICENSEE:

1. After the day the manufacturing license is granted a partner, managing agent, manager, officer, director, 20% stockholder, 20% LLC member, or employee in a supervisory or managerial capacity is found to have <u>been convicted</u> of any of the following offenses <u>prior</u> to the license being granted: a. a felony; b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; or c. a crime of moral turpitude. d. driving under the influence of alcohol, any drug, or the combination of the two – twice within 5 years.	32A-8-103(2)(a) 32A-8-103(7)	R81-1-16	*f
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<u>Descriptions</u>	<u>Code Citation</u>	<u>Rule Citation</u>	<u>Degree</u>
2. On or after the day the manufacturing license is granted, a partner, managing agent, manager, officer, director, 20% stockholder, 20% LLC member, or employee in a supervisory or managerial capacity is <u>convicted of</u> : a. a felony; b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; c. a crime of moral turpitude; or d. driving under the influence of alcohol, any drug, or the combination of the two for a second time within 5 years.	32A-8-103(2)(b) 32A-8-103(7)	R81-1-16	*f
3. On or after the day the manufacturing license is granted, a partner, managing agent, manager, officer, director, 20% stockholder, 20% LLC member, or employee in a supervisory or managerial capacity is <u>arrested for</u> : a. a felony; b. a violation concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; c. a crime of moral turpitude; or d. driving under the influence of alcohol, any drug, or the combination of the two for a second time within 5 years.	32A-8-103(3) 32A-8-103(7)	R81-1-16	*f
4. Falsification/tampering with records.	32A-8-106(4)(b) 32A-12-303(2) 32A-12--304		GR, *b, *d
5. False statement.	32A-12-304		GR, *d
6. A minor is found to be serving as a partner, managing agent, manager, officer, director, 20% stockholder, or 20% member of an LLC.	32A-8-103(5)		*f
7. Failure to notify department of any change in ownership.	32A-8-102(3) 32A-8-106(6)		*f

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8. Licensee no longer possesses qualifications required for obtaining the license.	32A-8-103(7)		*f, *g

I - F. OPERATIONS:

1. Operating without a license (or on a suspended license).	32A-8-101(3)(a) 32A-12-201(7)		GR, *b
2. Minor handling alcoholic beverages.	32A-8-103(5)(a)(ii)		SER
3. Refusing proper entry to the department, commission, or law enforcement officers.	32A-8-102(1)(h) 32A-12-305 32A-13-109		GR, *b
4. Bad checks tendered to department.	32A-1-113(5)	R81-1-3(6)	*e, *g
5. Commercial bribery.	32A-12-604		GR, *b
6. Failure to furnish samples of manufactured alcoholic products upon request of the department for analytical purposes.	32A-8-106(7)		GR
7. Sponsoring or underwriting an event that (1) overtly promotes the consumption of alcoholic products, (2) offers free alcoholic products to the general public, or (3) takes place at a school, college, or university.	32A-12-606(4)		SER, *b
8. Giving away, or offering to give away, any alcoholic products to any person except as authorized by law.	32A-12-606(1)		SER, *b
9. Paying, giving, or delivering to any person any thing of value, including rebates, refunds, or prizes based upon the purchase, display, use, sale, or consumption of alcoholic beverages.	32A-12-606(3)		GR, *b

I - G. SALES

1. Sale of liquor manufactured by licensee to anyone other than the DABC or military installations.	32A-8-106(1) 32A-12-201(7)		GR, *b
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I - H. <u>OTHER</u>			
1. Unlawful importations.	32A-12-201(1), (2), & (7), -214		GR, *h

I - I. TRADE PRACTICES

See violation grid - Industry Trade Practices.

II. SPECIFIC MANUFACTURER PROVISIONS

II - A WINERY LICENSES

1. <u>Tasting Room</u> : a. Food not available. b. Allowing a minor to sample wines. c. Tasting room not approved by the department. d. Relocating the storage area without department approval. e. Conducting tastings off the winery premises. f. Samples exceeding two ounces per glass. g. Allowing samples to be removed from premises. h. Failure to keep tasting records as required. i. Tasting room being operated/supervised by other than the winery licensee.	32A-8-201(4)(c) 32A-12-203(1) 32A-8-201(4) 32A-8-201(4)(c)	R81-8-3(1) & (2)(b) R81-8-3(2) R81-8-3(2)(d) R81-8-3(2)(g) R81-8-3(2)(e) R81-8-3(2)(f) R81-8-3(2)(c)	SER SER MOD MOD SER MOD SER MOD MOD
2. Selling wines to others than the department or out-of-state customers.	32A-8-201(1)(b) 32A-12-201(3)(a)		GR, *b
3. Purchase liquor for fortifying wine without first notifying the department.	32A-8-201(1)(c)		SER

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4. Failure to comply with any changes required by the Commission or department.	32A-8-201(3)(a-e)		GR
5. Failure to furnish records upon request to the Commission or department.	32A-8-201(3)(f)		GR

II - B DISTILLERY LICENSES

1. Selling liquor to other than the department or out-of-state customers.	32A-8-301(1)(b) 32A-12-201(3)(a)		GR, *b
2. Purchase alcoholic products for blending/manufacturing without first notifying the department.	32A-8-301(1)(c)		SER
3. Selling alcoholic products to someone who does not hold a valid special use permit.	32A-8-301(2) 32A-12-201(3)(a)(iii)		GR, *b
4. Failure to comply with any changes required by the Commission or department.	32A-8-301(3)(a-c)		GR
5. Failure to provide records as requested by Commission or department.	32A-8-301(3)(d)		GR
6. Allowing those other than employees or persons who can lawfully buy alcoholic beverages for wholesale or retail distribution to consume on the premises.	32A-8-301(4)		SER

II - C BREWERY LICENSES

1. Selling heavy beer to other than the department military installations.	32A-8-401(3) 32A-12-201(4)(a)		GR, *b
2. Failure to comply with any changes required by the Commission or department.	32A-8-401(2)(a-c)		GR
3. Failure to provide records as requested by Commission or department.	32A-8-401(2)(d)		GR
4. Large breweries (<i>more than 60,000 barrels a year</i>): Selling beer to other than the department, military installations, licensed wholesalers, or out-of-state customers.	32A-8-401(1)(b) 32A-12-201(4)(a)		GR, *b

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5. Small breweries (<i>less than 60,000 barrels a year</i>) who sell directly to retail licensees or permittees:			
a. Failure to maintain a warehouse in the state.	32A-8-401(5)(a & b)		GR
b. Failure to keep warehouse records and other documents as required by DABC and the State Tax Commission.	32A-8-401(5)(c)		MOD
c. Falsification or destruction of required warehouse records.	32A-8-401(5)(c)(iii) 32A-12-303(2), -304		GR, *b
6. Allowing those other than employees or persons who can lawfully buy alcoholic beverages for wholesale or retail distribution to consume on the premises.	32A-8-401(4)(a & b)		SER
7. Public retail facility:			
a. No food available.	32A-8-401(4)(c)(i)		SER
b. Not operated/supervised by licensee.	32A-8-401(4)(c)(ii)		MOD
c. Selling beer in containers exceeding 2 liters.	32A-8-401(4)(c)(iii) 32A-10-102(2)(a)		SER
8. Failure to obtain Certificate of Approval from DABC for out-of-state brewers.		R81-8-2	SER

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