

## **Liquor License FAQ's**

Information provided on this site comes from the Wisconsin Department of Revenue, the League of Wisconsin Municipalities, and Wisconsin State Statutes Chapter 125.

### **Who needs to have an alcohol beverage license?**

Anyone wishing to sell, deal, vend, or traffic in any and all types of alcohol beverages within the Village of Windsor, for consumption either on or off the premises, must obtain the appropriate alcohol beverage license(s).

### **What is the difference between a "Class B" intoxicating liquor license and a reserve "Class B" intoxicating liquor license?**

Reserve "Class B" licenses are those "Class B" licenses that (1) were held by the Village of Windsor on December 1, 1997, but had not been issued to any establishment, or (2) any additional "Class B" licenses afforded the Village by the State on or after December 1, 1997 as a result of population growth.

To obtain a reserve "Class B" license from the Village of Windsor, applicants are required to pay a one-time issuance fee of \$10,000 in addition to all other fees required of a regular "Class B" liquor license applicant.

### **What is the fee for an alcohol beverage license?**

Applications fees vary depending on the license type. In addition to the application fee, applicants are required to pay the cost of publication for the license notice in the local paper. State law requires that notice of all applications be posted, or published, in a local newspaper prior to granting of the license.

**How do I apply for an alcohol beverage license?** All persons wishing to apply for an alcohol beverage license, should arrange a meeting with the Village Clerk to review applications and legal requirements. Application forms are available from the [Department of Revenue](#) website. After you submit the application, the Clerk will publish the application once in the weekly newspaper, to see if there are objections in the community. The Village Board will vote on the application. The license may not be granted until at least fifteen days after the application is filed with the Clerk.

### **How do I qualify for an alcohol beverage license?**

To qualify for an alcohol beverage license in the Village of Windsor;

1. You must be of legal drinking age (21).
2. You must have resided continuously in Wisconsin for at least 90 days prior to the application date.
3. You must not be a habitual law offender or have felony convictions which substantially relate to the alcohol beverage licensing activity.
4. You must have a seller's permit issued by the Department of Revenue. Call (608) 266-2776.
5. You must have completed a responsible beverage server training course.

6. You must have the right to possession of the premises described in the application either by lease or deed.
7. The premises must meet all state and local government requirements for site location, sanitation, safety, and health.
8. You must not be delinquent in the payment of any taxes, assessments, forfeitures, or other financial claims of the Village of Windsor on either the premises or equipment.

### **Can I get a liquor license if I have a criminal record?**

A criminal record is not an automatic bar to getting a license. If the law offenses are determined by the Clerk to be habitual or substantially related to activities described in the license, the application may be rejected. If you have any questions concerning this point, please contact the Clerk on the web, or by phone at (608) 846-3854.

### **Are licensing qualifications different for corporations?**

A corporation must meet the seller's permit and criminal offense requirements. The officers must be of legal drinking age and may be affected by a criminal record as described above. The officers and directors need not be residents of Wisconsin, or attend server training, but the agent does. You must appoint an agent, and the agent must meet all the qualifications of an individual applicant. The agent has the authority of a licensee and, like an individual licensee, is in control of the premises and of the business conducted there.

### **Does a licensee or agent have to be on the premises at all times during open hours?**

No. However, there must be one or more licensed operators in charge of the premises. An operator's license, sometimes referred to as a "bartender's license," must be obtained for each person who will be placed in charge of the premises during hours of operation. If the premise is large, with several serving areas, bar areas, etc., licensed operators must be in charge of each discrete area.

### **Who needs an operator's license?**

All persons who are placed in charge of a licensed premise should have an operator's license. Persons who do not need an operator's license are:

1. The licensee.
2. Members of a licensee's immediate family: i.e., those persons at least 18 years of age who are related to and reside in the common household of the licensee (individual or partner in a partnership). See secs. 125.32(2) and 125.68(2), Stats.; 24 OAG 362 (1935); Intoxicating Liquor 862 (1986).
3. The approved agent of a corporation also has the privilege of an operator's license. This **privilege does not extend to the members of the agent's immediate family or to the officers/directors of the corporation.**

### **How do I apply for an operator's license?**

To apply for an operator's license submit it to the Windsor Municipal Building with the respective fee.

### **How do I qualify for an operator's license?**

To qualify for an operator's license,

1. You must be at least 18 years old,
2. You must meet criminal record requirements, and
3. You must have completed a responsible beverage server course.

The beverage-server training course requirement can be waived for persons who:

1. Are renewing a license,
2. Have held an alcohol beverage license, including an operator's license, within the State of Wisconsin within the past two years.

### **What is a beverage-server training course and what is it for?**

These courses are required to hold alcohol beverage licenses, with some exceptions. They cover alcohol beverage laws, signs of intoxication, safe serving of alcohol beverages, etc. These courses are most often offered by local technical colleges. For further information, contact your local Vocational, Technical and Adult Education (VTAE) School. Or visit the **Department of Revenue** website for a list of approved providers.

Not all responsible beverage server courses are taught by technical colleges, but most are. Other courses (TIPS, CARE, ServSafe Alcohol (formerly "Bar Code"), Responsible Serving Course, Learn2Serve, Bartending College LLC) may be substituted for those taught at VTAE schools, as long as they have been approved by the Department of Revenue or the educational approval board. For a list of certified courses click [here](#). Make sure of this approval before enrolling in a responsible server course not offered at a VTAE school.

Learn2Serve and the Northeast Technical College offer online courses.

### **Are there exceptions to the beverage-server training course requirement?**

Yes. The exceptions to this requirement are:

1. If you are renewing a Wisconsin retail or an operator's license,
2. If you were the agent of a corporation that held a Wisconsin retail license within the past two years,
3. If you held a Wisconsin retail or operator's license within the past two years, or
4. If you completed a Wisconsin approved server training course within the past two years.

### **Do temporary operator's license applicants have to take the beverage-server training course?**

No. The responsible beverage server training course requirement does not apply to applicants for temporary operators' licenses. The training course requirement only applies to applicants for regular operators' licenses.

The temporary operator's license may only be issued to persons employed by or donating their services to nonprofit corporations. A temporary operator's license is only valid from one to 14 days. A person is limited to only one such license per year.

### **When I buy or sell my establishment, is the liquor license transferred automatically to the new owner?**

No. Licenses can only be transferred from one person to another in certain specific situations. Ordinarily, the prospective buyer of a licensed establishment must apply for a new license. If a municipality is "at quota" and has issued all of its available "Class B" liquor licenses, then the seller usually surrenders his or her license, so that a license is available, with the surrender contingent on the governing body's granting the license to the prospective buyer.

The prospective buyer must file a license application form and complete the entire application process. The prospective buyer must also pay a prorated fee for the license.

### **When can a license be transferred from one person to another?**

The only time when liquor licenses can be transferred from one person to another is if one of the following situations exists.

1. If a licensee dies, becomes bankrupt or makes an assignment for the benefit of creditors, the license may be transferred to the personal representative or, if there is none, to the surviving spouse or to the trustee in bankruptcy or receiver. The personal representative, surviving spouse or receiver may continue or sell the business. If the business is sold or assigned, the license may be transferred to the new owner or assignee at no charge if the person qualifies for an alcohol beverage license and obtains the governing body's consent.
2. If a licensee becomes disabled during the license year, the license may be transferred to his/her spouse if the spouse applies to the municipality and is qualified to hold an alcohol beverage license. The spouse is exempt from paying the license fee.
3. Finally, an alcohol beverage license may be transferred to the receiver in a foreclosure action if the transfer is ordered by a court. State statutes do not provide for the automatic transfer of a license to a court-appointed receiver in the case of foreclosure. The receiver may not operate under the license in effect at the time of the foreclosure action unless permitted to do so by the court order.

### **Can I surrender my license under the condition that it be granted to a particular applicant?**

Yes. Although ch. 125 of the Wisconsin statutes does not address conditional surrenders, they are commonly used where a municipality is at quota for "Class B" licenses and has no licenses or only reserve "Class B" licenses available.

Conditional surrenders are most frequently used where a business with an existing license is being sold and the seller wants to ensure that the license will go to the buyer and the buyer wants to ensure that he or she will have a license. A liquor license is usually an important part of selling an ongoing business but only the governing body has the discretion to grant or not grant a license to a particular applicant. The owner has no way of guaranteeing that the buyer will get the license, but usually the sale won't go through if the buyer cannot be assured that he or she will get a license. Therefore, owners commonly surrender their license on the condition that the license be granted to the buyer.

If the governing body denies the buyer's application for the license (e.g., if the applicant does not meet all of the necessary qualifications), then the surrender of the license does not take place because the condition precedent never occurs. Thus the licensee retains his or her license.

**When a regular "Class B" liquor license is not renewed or is surrendered in the middle of a license year, does it become a reserve license?**

No. The rule is that all regular "Class B" licenses remain regular "Class B" licenses and all reserve "Class B" licenses remain reserve "Class B" licenses forever. In the example above, the municipality would be able to grant the non-renewed or surrendered regular "Class B" license to a qualified applicant if it so chooses. Incidentally, a holder of a reserve "Class B" liquor license may apply for an available regular "Class B" license upon surrendering the reserve license.

**Do all partners in a business need to be listed on the alcohol beverage application?**

Yes.

**Do all partners in a business need to complete an auxiliary questionnaire (form AT-103)?**

Yes.

**Can a partnership renew its license if partners have been added or dropped during the license year?**

No. The remaining partners constitute a new partnership and must apply as a new partnership for the following license year.

**Do you have to be a United States citizen to qualify for a license?**

No. Citizenship is not a requirement for obtaining a beer or liquor license. However, individuals, all natural persons in a partnership and the agents of corporations and limited liability companies must, in order to qualify for a beer or liquor license, have resided 90 days continuously in Wisconsin before applying for a license.

**Can I hold a "Class A" liquor license and a "Class B" liquor, Class "B" beer, or "Class C" wine license for the same or connecting premises at the same time?**

No. A person may not obtain a "Class A" liquor and a Class "B" beer, "Class B" liquor or "Class C" wine license for the same or connecting premises unless the operation qualifies as a hotel. Secs. 125.51(8) and 125.02(7), Stats.

**If my restaurant delivers or caters meals off the premises, can I deliver or cater beer and/or wine with the meals?**

Yes. **However**, the sale of beer and wine must take place on the licensed premise. To be considered a valid, on premises sale, **both the buyer and seller must be physically present at the time of sale** and in the presence of either the licensee, the agent of the corporation if the licensee is corporate, or the holder of a valid operator's license.

**Can the Village refuse to issue an alcohol beverage license to people who are delinquent on taxes, or other fees?**

Yes. Wisconsin statute §66.0115(1), specifically authorizes a municipality to "refuse to issue any license [except those listed in §66.0115(2)] or permit to a person who has not paid an overdue forfeiture resulting from a violation of an ordinance of the municipality." However, the municipality may not refuse to issue a license for nonpayment of a forfeiture if the license applicant is appealing the imposition of the forfeiture. Wis. Stat. §66.0115(1).

In addition, Wis. Stat. §125.10(1), provides sufficient authority for a municipality to enact an ordinance that prohibits the issuance of an alcohol beverage license (retail or operator) where the applicant owes municipal taxes, assessments or other fees. However, this local ordinance must apply to all municipal licenses, not just alcohol beverage licenses. Moreover, licenses cannot be withheld for failure to pay taxes or other debts owed to the state or federal government. *Tavern League v. Madison*, 131 Wis. 2d 477, 389 N.W.2d 54 (Ct. App. 1986).

When an initial license is withheld for failure to pay municipal taxes, an outstanding forfeiture or similar grounds, the municipality should give the applicant notice and an opportunity to rebut the charge. If a renewal license is withheld, then the procedures for the non-renewal of the license set forth in chapter 125 would apparently have to be followed. See *Tavern League v. Madison*, *supra*.

**Can a licensee allow people to bring their own alcohol onto the premise for consumption or other use?**

No. Such action is prohibited under Wisconsin's alcohol beverage laws. The only alcohol beverages that may be possessed in a bar, nightclub, restaurant or other establishment covered by a retail or wholesale fermented malt beverage license are those that have been purchased by the licensee from a licensed wholesaler. The idea of "bring your own" is not allowed for beer or alcohol on such premises.