

TITLE 12 - ALCOHOLIC BEVERAGES

CHAPTER 1 - GENERAL PROVISIONS

**12-1-101. Definitions.**

(a) As used in this title:

(i) "Alcoholic liquor" means any spirituous or fermented fluid, substance or compound other than malt beverage intended for beverage purposes which contains at least one-half of one percent (.5%) of alcohol by volume. As used in this paragraph, "beverage" does not include liquid filled candies containing less than six and one-quarter percent (6.25%) of alcohol by volume;

(ii) "Building" means a roofed and walled structure built or set in place for permanent use;

(iii) "Club" means any of the following organizations:

(A) A post, charter, camp or other local unit composed only of veterans and its duly organized auxiliary, chartered by the Congress of the United States for patriotic, fraternal or benevolent purposes and, as the owner, lessee or occupant, operates an establishment for these purposes within the state;

(B) A chapter, lodge or other local unit of an American national fraternal organization and, as the owner, lessee or occupant, operates an establishment for fraternal purposes within the state. As used in this subparagraph, an American fraternal organization means an organization actively operating in not less than thirty-six (36) states or having been in active continuous existence for not less than twenty (20) years, but does not mean a college fraternity;

(C) A hall or building association of a local unit specified in subparagraphs (A) and (B) of this paragraph, of which all of the capital stock is owned by the local unit or its members, operating clubroom facilities for the local unit;

(D) A golf club having more than fifty (50) bona fide members and owning, maintaining or operating a bona fide golf course together with a clubhouse;

(E) A social club with more than one hundred (100) bona fide members who are residents of the county in which it is located, owning, maintaining or operating club quarters, incorporated and operating solely as a nonprofit corporation under the laws of this state and qualified as a tax exempt organization under the Internal Revenue Service Code and having been continuously operating for a period of not less than one (1) year. The club shall have had during this one (1) year period a bona fide membership paying dues of at least twenty-five dollars (\$25.00) per year as recorded by the secretary of the club, quarterly meetings and an actively engaged membership carrying out the objects of the club. A social club shall, upon applying for a license, file with the licensing authority and the division, a true copy of its bylaws and shall further, upon applying for a renewal of its license, file with the licensing authority and the division a detailed statement of its activities during the preceding year which were undertaken or furthered in pursuit of the objects of the club together with an itemized statement of amounts expended for such activities. Club members, at the time of application for a limited retail liquor license pursuant to W.S. 12-4-301, shall be in good standing by having paid at least one (1) full year in dues;

(F) Club does not mean college fraternities or labor unions;

(G) A political subdivision of this state owning, maintaining or operating a bona fide golf course together with a clubhouse.

(iv) "Division" means the Wyoming liquor division within the department of revenue created under W.S. 12-2-106;

(v) Repealed by Laws 1985, ch. 92, § 3;

(vi) "Industry representative" means and includes all wholesalers, manufacturers, rectifiers, distillers and breweries dealing in alcoholic liquor or malt beverage, and proscriptions upon their conduct shall include conduct by a subsidiary, affiliate, officer, director, employee, agent, broker or any firm member of such entity;

(vii) "Intoxicating liquor", "alcoholic liquor", "alcoholic beverage" and "spirituous liquor" are construed as synonymous in meaning and definition;

(viii) "Licensee" means a person holding any one (1) or more of the following:

- (A) Retail liquor license;
- (B) Limited retail liquor license;
- (C) Resort liquor license;
- (D) County retail malt beverage permit;
- (E) Twenty-four (24) hour malt beverage permit;
- (F) Restaurant liquor license;
- (G) Catering permit;
- (H) Bar and grill liquor license;
- (J) Malt beverage wholesale license;
- (K) Limited transportation liquor license;
- (M) Manufacturer's license;
- (N) Manufacturer's satellite permit;
- (O) Winery permit;
- (P) Winery satellite permit;
- (Q) Out-of-state shipper's license;
- (R) Microbrewery permit;
- (S) Malt beverage permit for the University of Wyoming;
- (T) Special malt beverage permit issued under W.S. 12-4-504;
- (U) Malt beverage permit for events conducted at rodeo arenas issued under W.S. 12-4-507;
- (W) Resort hotel liquor license.

(ix) "Licensing authority" means the governing body of an incorporated city, town or county in Wyoming with the responsibility to issue, control and administer a particular license, or the division;

(x) "Malt beverage" means any fluid, substance or compound intended for beverage purposes manufactured from malt, wholly or in part, or from any substitute therefor, containing at least one-half of one percent (.5%) of alcohol by volume;

(xi) "Original package" means any receptacle or container used or labeled by the manufacturer of the substance, containing any alcoholic liquors or malt beverages;

(xii) "Person" includes an individual person, partnership, corporation, limited liability company or any other association or entity, public or private;

(xiii) "Resident" means a domiciled resident and citizen of Wyoming for a period of not less than one (1) year who has not claimed residency elsewhere for any purpose within a one (1) year period immediately preceding the date of application for any license or permit authorized under this title;

(xiv) "Restaurant" means space in a building maintained, advertised and held out to the public as a place where individually priced meals are prepared and served primarily for on-premise consumption and where the primary source of revenue from the operation is from the sale of food and not from the sale of alcoholic or malt beverages;

(xv) Repealed by Laws 2017, ch. 63, § 2.

(xvi) "Sell" or "sale" includes offering for sale, trafficking in, bartering, delivering or dispensing and pouring for value, exchanging for goods, services or patronage or an exchange in any way other than purely gratuitously. Every delivery of any alcoholic liquor or malt beverage made otherwise than by gift constitutes a sale;

(xvii) "Wholesaler" means any person except the division, who sells any alcoholic or malt beverage to a retailer for resale;

(xviii) "Brewery" means a commercial enterprise at a single location producing more than fifty thousand (50,000) barrels per year of malt beverage;

(xix) "Microbrewery" means a commercial enterprise producing not more than fifty thousand (50,000) barrels per year and no less than fifty (50) barrels per year of malt beverage;

(xx) "Winery" means a commercial enterprise manufacturing wine at a single location in Wyoming;

(xxi) "Operational" means offering for sale on an ongoing weekly basis to the general public alcoholic liquor and malt beverages as authorized under a license or permit issued under this title;

(xxii) "Department" means the Wyoming department of revenue;

(xxiii) "Guest ranch" means a vacation resort offering accommodations for overnight stays and activities typical of western ranching;

(xxiv) Repealed by Laws 2020, ch. 87, § 3.

(xxv) "Out-of-state shipper" means any licensee outside this state who accepts orders for manufactured wine placed from this state and who ships, packages for shipment or facilitates in any way shipment of the wine by a third party or common carrier to any person, household or licensed retailer in this state.

(xxvi) "Contract brewing" means a commercial arrangement in which a client brewer or microbrewer contracts with a brewery or microbrewery to produce malt beverage for the client brewer or microbrewer and where the contract brewery or microbrewery is entirely responsible for:

(A) Producing the malt beverage;

(B) Packaging the malt beverage;

(C) Reporting and keeping appropriate brewery or microbrewery records, including crediting the malt beverage production toward the contract brewery's or microbrewery's production requirements for annual permit renewal;

(D) Labeling the malt beverage with the contract brewery's or microbrewery's name and address;

(E) Obtaining the necessary certificates of label approval;

(F) Retaining ownership of the malt beverage until removal of the malt beverage from the contract brewing facility;

(G) Obtaining any required territorial assignment;

(H) Distributing the malt beverage back to the client brewer or microbrewer through a wholesaler;

(J) Paying the appropriate rate of tax upon removal of the malt beverage from the contract brewing facility and reporting and remitting the tax to the appropriate tax authority.

(xxvii) "Entertainment" means any activity designed to provide diversion or amusement, regardless of the age required for the activity. "Entertainment" shall not include adult entertainment as defined by the local licensing authority or gambling.

#### **12-1-102. Application of provisions.**

(a) The general control and regulatory provisions of this title apply to all licenses and permits authorized under this title, unless otherwise provided.

(b) Nothing in this title prohibits a liquor supplier operating under a governmental permit or tax license from selling his product to the division or delivering products at points not within the state of Wyoming after licenses are secured as required by the division.

### **CHAPTER 2 - WYOMING LIQUOR DIVISION**

#### **ARTICLE 1 - IN GENERAL**

**12-2-101. Repealed By Laws 1996, ch. 74, § 3.**

**12-2-102. Repealed By Laws 1996, ch. 74, § 3.**

**12-2-103. Repealed By Laws 1996, ch. 74, § 3.**

**12-2-104. Repealed By Laws 1996, ch. 74, § 3.**

**12-2-105. Repealed By Laws 1996, ch. 74, § 3.**

**12-2-106. Wyoming liquor division; created; division administrator; duties.**

(a) As part of the reorganization of Wyoming state government, the Wyoming liquor division is created within the department of revenue. The division shall consist of the programs and functions specified under this title.

(b) The administrator of the division shall be appointed by the director of the department of revenue and shall in accordance with W.S. 9-2-1706(c) and (d), serve at the pleasure of and may be removed at any time by the director. Subject to the approval of the director, the administrator shall take final agency action with respect to all matters before the division pursuant to this title.

(c) The division shall administer all programs formerly administered by the Wyoming liquor commission.

## ARTICLE 2 - LICENSING AUTHORITY

**12-2-201. Wholesale license for sale of malt beverages only; fee.**

(a) Except as otherwise provided in paragraph (ii) of this subsection a wholesale license authorizing the sale of malt beverages only may be granted by the division to microbreweries and malt beverage wholesalers resident within this state. Wholesale licensees have the exclusive right to sell malt beverages at wholesale. Any qualified person desiring a wholesale license shall apply to the division on forms to be provided and pay a license fee of two hundred fifty dollars (\$250.00) annually in advance. A wholesale license issued under this subsection shall be subject to the following:

(i) Except as provided in paragraph (ii) of this section, no brewery or malt beverage importer may have any legal ownership interest, in whole or in part, in the license, business, assets or corporate stock of a licensee under this subsection;

(ii) The division may issue a temporary wholesale license under this subsection to a brewery or malt beverage importer if a current licensee who has been granted distribution rights for a brand in a designated sales territory is unable to service the territory as a result of the loss of his license, bankruptcy or insolvency, and the loss of license, bankruptcy or insolvency is not the result of action by the brewery or malt beverage importer that is prohibited under the franchise agreement. A temporary license under this paragraph may be issued for a period not to exceed one (1) year and shall be limited to the sale of products in the designated territory;

(iii) Nothing in this subsection shall be interpreted to impair any contract between a brewery, microbrewery, malt beverage manufacturer or malt beverage importer and a distributor.

(b) Each applicant shall submit to the division a statement under oath designating clearly the geographical territory within which the applicant will sell and deliver malt beverages to qualified retail liquor and malt beverage licensees or permittees only. The territory is to be that designated by the brewer or brewer's authorized agent whose product the applicant sells. The application shall state that malt beverages sold by the applicant may be purchased by all retail liquor licensees or malt beverage permittees, and that the applicant will maintain a warehouse and delivery facilities within the territory designated. This subsection does not apply to a licensed malt beverage wholesaler when there has been no territorial designation of a brand by a brewer or the brewer's authorized agent to another licensed wholesaler. The division may authorize a licensed wholesaler to annually purchase not more than one hundred fifteen (115) gallons of any unassigned brand. A retail liquor licensee or malt beverage permittee shall purchase all malt beverages for retail sale only from a Wyoming wholesale malt beverage licensee.

(c) A malt beverage wholesaler may sell to or purchase from another malt beverage wholesaler only those products the purchasing wholesaler is licensed to sell within his designated territory. A copy of the invoice of the transaction shall be submitted to the division by the seller. State excise tax shall be reported and paid by the licensed malt beverage wholesaler who has imported the products into the state.

(d) The division may grant the number of licenses it deems appropriate and at points within the state as it may select.

(e) All Wyoming breweries and all malt beverage wholesalers shall be under the direct supervision of the division and subject to all the provisions of this title and the rules and regulations of the department.

(f) Nothing in this section limits the division's exclusive authority to wholesale alcoholic liquors.

(g) The division:

(i) Repealed by Laws 2021, ch. 22, § 3.

(ii) Repealed by Laws 2021, ch. 22, § 3.

(iii) Shall not grant a license for a brewery and a microbrewery to the same producer.

**12-2-202. Sales by railroads and chartered transportation services; limited transportation liquor license; fees; chartered transportation services defined.**

(a) The division may authorize sales by railroads and by any charter transportation service. Under the authority of a limited transportation liquor license, railroads and chartered transportation services may sell alcoholic liquor or malt beverages when moved into and through the state in dining cars, club cars, observation cars and pullman cars attached to trains or in the passenger compartment of a chartered transportation vehicle. Upon application, the division may issue a limited transportation liquor license for each scheduled train or chartered transportation vehicle upon which alcoholic liquor or malt beverages are to be sold, subject to the following terms and maximum fees:

(i) A license valid for one (1) twenty-four (24) hour period at a fee of not to exceed one hundred dollars (\$100.00). Any applicant may be issued more than one (1) license under this paragraph during any one (1) calendar year;

(ii) A license valid for one (1) year at a fee not to exceed one thousand dollars (\$1,000.00).

(b) It is unlawful to sell alcoholic liquor or malt beverages on railroad cars or chartered transportation vehicles without a limited transportation liquor license required by this section.

(c) As used in this section, "chartered transportation service" means "contract motor carrier" as defined by W.S. 31-18-101(a)(x)(A).

**12-2-203. Manufacturing and rectifying; importing and industry representatives; licensing; fees.**

(a) The division shall grant a manufacturer's license authorizing the manufacture or rectification of alcoholic liquor or an importer's license authorizing the importation of alcoholic liquor to a qualified resident within this state who submits an application to the division on forms provided by the division and pays an annual license fee of two hundred fifty dollars (\$250.00) for each license. A person may be issued both a manufacturer's license and an importer's license. Applicants for a manufacturer's license shall submit with their application a copy of the applicant's federal basic permit issued by the United States department of the treasury alcohol and tobacco tax and trade bureau and shall be subject to on-site inspections by the division.

(b) The Wyoming liquor division shall grant a class A industry representative license for alcoholic liquor suppliers to a qualified individual who submits an application to the division on forms provided by the division accompanied by an annual license fee of not to exceed seven hundred fifty dollars (\$750.00). A class A industry representative shall have a written statement from any vendor whose products the applicant proposes to represent. The class A industry representative shall be published in the division's price catalog with the products from any vendor represented by him and shall be authorized to request that the division list or delist products from the vendor represented by him.

(c) The division shall grant a class B industry representative license for alcohol liquor suppliers to a qualified individual who submits an application to the division on forms provided by the division accompanied by an annual license fee of not to exceed two hundred fifty dollars (\$250.00). A class B industry representative shall be employed or managed by a class A industry representative. A class B industry representative shall have a written statement from the class A industry representative designating any vendor whose products he is authorized to represent.

(d) The division shall grant a class C temporary special event industry representative license to any individual twenty-one (21) years of age or older who submits an application on a form supplied by the division for a fee of not to exceed fifty dollars (\$50.00) per event.

(e) No class A industry representative shall be employed by a licensee as defined by W.S. 12-1-101(a)(viii), except that this subsection shall not apply to malt beverage wholesalers authorized under W.S. 12-2-201, manufacturers authorized under this section, microbrewery permit holders authorized under W.S. 12-4-415 or winery permit holders authorized under W.S. 12-4-414.

(f) A holder of a manufacturer's license under subsection (a) of this section who is a federally licensed distiller or rectifier may dispense free of charge at the site identified on the manufacturer's license samples in quantities not to exceed one and one-half (1.5) ounces of their product manufactured at the site identified on the manufacturer's license and no more than three (3) ounces of samples per consumer per day. The dispensing of samples shall be subject to the schedule of operating hours set pursuant to W.S. 12-5-101 and the licensed building provisions provided in W.S. 12-5-201.

(g) The local licensing authority may issue to the holder of a manufacturer's license granted under subsection (a) of this section who is a federally licensed distiller or rectifier:

(i) A satellite manufacturer's permit which allows the permittee to sell product manufactured at the site identified on the manufacturer's license at not more than two (2) satellite locations within Wyoming separate from its manufacturing site under the original permit. Products sold at a manufacturer's satellite location may be obtained through the division as provided by W.S. 12-2-303(a). If a satellite location is situated within the property boundary of the manufacturing site, the product may be distributed directly from the permit holder's manufacturing site subject to W.S. 12-2-303(d). The satellite manufacturer's permit may be issued on application to the appropriate licensing authority. The local licensing authority may require a public hearing and the payment of an additional permit fee not to exceed one hundred dollars (\$100.00) per satellite location. The satellite manufacturer's permit shall be subject to the terms and conditions of W.S. 12-4-106, the schedule of operating hours set pursuant to W.S. 12-

5-101 and the licensed building provisions pursuant to W.S. 12-5-201;

(ii) A manufacturer's off-premises permit authorizing the permittee to sell product manufactured at the site identified on the manufacturer's license only for sales at meetings, conventions, private parties, dinners and other similar gatherings to promote their product. No permittee holding a manufacturer's off-premises permit shall sell or permit consumption of any of their manufactured product off the premises described in the permit. An off-premises permit shall be issued for one (1) twenty-four (24) hour period, subject to the schedule of operating hours set pursuant to W.S. 12-5-101. No holder of a manufacturer's license shall receive more than twelve (12) off-premises permits in any one (1) calendar year. An off-premises permit may be issued on application to the appropriate licensing authority. The local licensing authority may require payment of an additional permit fee of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) per twenty-four (24) hour period.

(h) For purposes of subsections (a), (f) and (g) of this section:

(i) "Distiller" includes any person who:

(A) Produces distilled spirits from any source or substance;

(B) Brews or makes mash, wort or wash fit for distillation or for the production of distilled spirits, other than the making or using of mash, wort or wash in the authorized production of wine or beer, or the production of vinegar by fermentation;

(C) By any process separates alcoholic spirits from any fermented substance; or

(D) Making or keeping mash, wort or wash, has a still in operation at the site identified on the manufacturer's license.

(ii) "In operation" means is currently being operated or has been operated in the preceding twelve (12) months with all necessary permits;

(iii) "Manufacture" or "manufactured" means distilling or rectifying and bottling or packaging any spirituous fluid, substance or compound intended for beverage purposes which contains at least one-half of one percent (.5%) alcohol by volume;

(iv) "Rectifier" includes any person who colors, flavors or otherwise processes distilled spirits by distillation, blending, percolating or other processes.

**12-2-204. Out-of-state shipment of manufactured wine; license; fees; restrictions; conditions.**

(a) Notwithstanding any law, rule or regulation to the contrary, any person currently licensed in its state of domicile as an alcoholic liquor or malt beverage manufacturer, importer, wholesaler or retailer who obtains an out-of-state shipper's license, as provided in this section, may ship no more than a total of one hundred eight (108) liters of manufactured wine directly to any one (1) household in this state in any twelve (12) month period.

(b) Notwithstanding any law, rule or regulation to the contrary, any person currently licensed in its state of domicile as an alcoholic liquor or malt beverage manufacturer, importer, wholesaler or retailer who obtains an out-of-state shipper's license, as provided in this section, may ship to any Wyoming retail establishment which holds a liquor license in this state or any household in this state any manufactured wine which is not listed with the liquor division as part of its inventory and distribution operation.

(c) Before sending any shipment to a household or to a licensed retailer in this state, the out-of-state shipper shall:

(i) File an application with the liquor division of the department of revenue;

(ii) Pay a license fee of fifty dollars (\$50.00) to the liquor division;

(iii) Provide a true copy of its current alcoholic liquor or malt beverage license issued in its state of domicile to the liquor division;

(iv) Provide such other information as may be required by the liquor division; and

(v) Obtain from the liquor division an out-of-state shipper's license, after the division conducts such investigation as it deems necessary.

(d) Any out-of-state shippers licensed pursuant to this section shall:

(i) Not ship more than a total of one hundred eight (108) liters of manufactured wine to any one (1) household in this state during any twelve (12) month period. In the event any out-of-state shipper ships more than ninety (90) liters of any particular manufactured wine to any combination of households or licensed retailers in this state, the out-of-state shipper shall offer to sell the manufactured wine to the liquor division at wholesale prices;

(ii) Ship manufactured wine only to an individual who is at least twenty-one (21) years of age for such individual's personal use and not for resale. No out-of-state shipper shall ship any malt beverage or spirituous liquor to any person in this state. No out-of-state shipper shall ship any malt beverage or spirituous liquor to any retail establishment which holds a liquor license in this state;

(iii) Ensure that all shipping containers of manufactured wine shipped pursuant to this section are conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES. ADULT (OVER 21) SIGNATURE REQUIRED FOR DELIVERY";

(iv) Ensure that all shipments into this state are made by a duly licensed carrier and further ensure that such carriers comply with the requirement to obtain an adult signature;

(v) Remit a tax of twelve percent (12%) of the retail price for each shipment of manufactured wine to the liquor division. Each out-of-state shipper shall file a monthly report with the liquor division and include a copy of the invoice for each shipment of manufactured wine and remit any tax due. The report shall be filed with the liquor division not later than the tenth of the month following the month in which the shipment was made. Any report filed late with the liquor division shall be subject to a late filing fee of twenty-five dollars (\$25.00);

(vi) Maintain records for at least three (3) years as will permit the liquor division to ascertain the truthfulness of

the information filed and permit the division to perform an audit of the licensee's records upon reasonable request; and

(vii) Be deemed to have consented to the personal jurisdiction of the liquor division or any other state agency and the courts of this state concerning enforcement of this section and any related laws, rules or regulations.

(e) The out-of-state shipper shall annually renew its license with the liquor division by paying a renewal fee of fifty dollars (\$50.00), providing a true copy of its current alcoholic liquor or malt beverage license issued in its state of domicile, and further providing other information as may be required.

(f) Any person who makes, participates in, transports, imports or receives a shipment in violation of this section is guilty of a misdemeanor. Each shipment shall constitute a separate offense. Where the person holds an out-of-state shipper's license, license suspension or revocation may be in addition to or in lieu of the foregoing penalties.

### ARTICLE 3 - POWERS AND DUTIES

#### **12-2-301. Generally.**

(a) Except as provided in W.S. 12-2-203(g), the division is the exclusive wholesale distributor and seller of alcoholic liquor within Wyoming. It is granted the sole right to sell alcoholic liquors at wholesale, and no licensee or permittee who is granted the right to sell, distribute or receive alcoholic liquors at retail shall purchase any alcoholic liquors from any source other than the division, unless as authorized pursuant to W.S. 12-4-201(j) or as otherwise expressly authorized by state law. Any out-of-state shipment of alcoholic liquor or malt beverage into this state is prohibited unless otherwise expressly authorized by state law.

(b) The department shall make rules and regulations as it considers necessary to carry out this title which shall not be inconsistent with applicable laws and regulations of this state or of the United States.

(c) The director of the department shall direct inspections and other investigations as he considers necessary for the enforcement of the law and the rules and regulations of the department.

(d) Repealed By Laws 1996, ch. 74, § 3.

(e) Repealed By Laws 2008, Ch. 44, § 2.

**12-2-302. Collection of excise taxes; disposition of revenue and fees.**

(a) The division shall collect all excise taxes provided by this title relating to alcoholic and malt beverages for deposit into the general fund.

(b) All other revenue and fees collected by the division shall be deposited into the state treasury to the credit of the enterprise fund except as otherwise provided by law. The legislature shall authorize expenditures as necessary to defray the administrative expenses of the division, including salaries, office expenses and general expenses for the enforcement of their duties and sufficient funds to defray the cost of alcoholic liquor purchases and attendant expenses as provided by W.S. 9-4-205(d).

**12-2-303. Purchase and sale of alcoholic liquors; shortages.**

(a) The Wyoming liquor division shall purchase and sell alcoholic liquors to qualified licensees within the state including, at the discretion of the division, any retail distributors or permittees operating within any military post or national park located within the boundaries of the state of Wyoming. Except as provided in subsection (c) of this section, sales shall be made at prices sufficient to return the cost of merchandise and all expenses of operation together with a profit, not to exceed seventeen and six-tenths percent (17.6%) above the cost of the merchandise.

(b) In the case of a shortage in the supply of any alcoholic liquor, the division may apportion its available supply among the licensees in an equitable manner.

(c) The Wyoming liquor division may sell an alcoholic liquor at a price less than that provided in subsection (a) of this section if the alcoholic liquor has been designated by the division as overstocked or has been removed from the division's published listing of alcoholic liquors to be kept for sale to licensees. For purposes of this section "overstocked" means the

amount of the alcoholic liquor in the division's inventory is greater than would be sold in a twelve (12) month period.

(d) The holder of a manufacturer's license under W.S. 12-2-203(a) that sells alcoholic liquor not obtained through the division as provided in W.S. 12-2-203(g) shall, before the transfer of the product to a satellite location, remit to the division an assessment in an amount equal to the profit allowed under subsection (a) of this section and the associated excise tax assessed under W.S. 12-3-101 that would have been received by the division had the holder of a manufacturer's license first obtained the alcoholic liquor from the division as provided in subsection (a) of this section. The department shall by rule define the procedure under which a holder of a manufacturer's license shall report and remit the assessment under this subsection.

**12-2-304. Inspections and examinations; failure to permit entry.**

(a) The division, through its employees or agents, may enter and inspect at any time every place of business wherein malt or alcoholic beverages are being sold, stored or kept by any licensee or permittee.

(b) The division, through its employees or agents, may examine the records, books of account and stock of malt and alcoholic beverages of retailers, wholesalers and licensees.

(c) If any licensee refuses to permit the entry of an agent of the division to his place of business or storage place for the purpose of inspection, his license may be revoked as provided by law. Entry for purposes of inspection is authorized only during open business hours unless it is in the presence of the licensee or his duly authorized representative or unless the officer making entry does so under court order or has reasonable grounds to believe that evidence of any violation of this title is within the place to be entered.

**12-2-305. Sales to violators prohibited; hearing and review.**

Whenever any licensee is convicted of willfully violating any provision of this title, upon satisfactory proof of the conviction, the division may, after notice and hearing, refuse to sell alcoholic beverages to the licensee. The administrative proceeding shall be conducted as a contested case before a

hearing examiner of the office of administrative hearings, who shall recommend a decision to the division. Judicial review, if any, shall be from the decision of the division and in accordance with the provisions of the Wyoming Administrative Procedure Act.

**12-2-306. Sales to licensees failing to pay sales tax prohibited; hearing and review.**

Upon certification by the department of revenue that any licensee is sixty (60) or more days delinquent in paying sales taxes, the division shall not sell alcoholic beverages to the licensee or its operator until the department of revenue certifies that the licensee has paid all sales taxes owed. Upon receipt of certification, the division shall notify the issuing licensing authority of the delinquency. The licensee shall be allowed a hearing before the state board of equalization as provided by the Wyoming Administrative Procedure Act if the licensee feels aggrieved by any action taken under this section.

**ARTICLE 4 - ALCOHOL SERVER TRAINING PROGRAM**

**12-2-401. Definitions.**

(a) As used in this article:

(i) "Department" means the department of revenue;

(ii) "Program" means an alcohol server training program and examination administered to servers by providers under the provisions of this article;

(iii) "Provider" means an individual, independent contractor, partnership, corporation, public or private school or any other legal entity certified by the department to provide an alcohol server training program authorized by this article;

(iv) "Server" means a person who physically serves or delivers alcoholic liquor at retail on or off the premises of a business licensed by a local licensing authority under this title.

**12-2-402. Powers and duties of the department.**

(a) Not later than December 31, 2003, the department shall promulgate rules establishing an alcohol server training program

to train servers to help promote safe and responsible consumption of alcoholic liquor.

(b) The rules shall provide for the certification of providers who shall use curricula developed by the department. The department shall promulgate rules governing the manner in which providers make available program courses and examinations to servers.

(c) The department may suspend, revoke or not renew any certification issued to a provider if, after notice and opportunity for a hearing, the department finds the provider has violated this article or any rule promulgated under this article.

(d) The department may cooperate and enter into agreements with the department of health to implement the purposes of this section. The agreements may provide for the expenditure of funds appropriated to the department of health which are not otherwise restricted.

#### ARTICLE 5 - BEER KEG REGISTRATION

**12-2-501. Repealed by Laws 2021, ch. 22, § 3.**

**12-2-502. Repealed by Laws 2021, ch. 22, § 3.**

**12-2-503. Repealed by Laws 2021, ch. 22, § 3.**

**12-2-504. Repealed by Laws 2021, ch. 22, § 3.**

**12-2-505. Repealed by Laws 2021, ch. 22, § 3.**

#### CHAPTER 3 - TAXATION

**12-3-101. Excise tax to be paid; limitation on liquor or malt beverage importation; penalties.**

(a) An excise tax is assessed and shall be collected by the division equal to three-fourths of one cent (\$.0075) per one hundred (100) milliliters (3.4 ounces) or fraction thereof on wine, two and one-half cents (\$.025) per one hundred (100) milliliters (3.4 ounces) or fraction thereof on spirituous liquors and one-half cent (\$.005) per liter (33.8 ounces) or fraction thereof on malt beverages. The appropriate excise tax shall be collected on all alcoholic or malt beverages sold, offered for sale or use in this state.

(b) It is unlawful for any licensee to receive or possess any alcoholic or malt beverage upon which state excise taxes have not been paid.

(c) Any licensee or permittee who violates subsection (b) of this section is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00), imprisoned for not more than one (1) year, or both.

(d) No person shall, without authorization from the division or by law, personally transport alcoholic liquor or malt beverages into Wyoming for sale, use or consumption in the state when the applicable state excise tax has not been paid. No person shall import or transport at any given time more than three (3) liters of alcoholic liquor excluding wine, nine (9) liters of wine or five (5) gallons of malt beverage for the personal use of the possessor into Wyoming if the applicable state taxes have not been paid. This subsection shall not apply to a person importing manufactured wine in accordance with the provisions of W.S. 12-2-204.

(e) Any person importing or transporting alcoholic liquor in violation of subsection (d) of this section is guilty of a misdemeanor. All alcoholic liquor or malt beverages illegally imported or transported shall be forfeited and delivered to the division for disposition as inventory stock.

**12-3-102. Confiscation authorized; disposition; when seizure permitted.**

(a) When an authorized inspector discovers alcoholic liquors or malt beverages upon which excise taxes have not been paid in the possession of a licensee, he shall take possession of and hold the alcoholic liquors or malt beverages as evidence against the offender. If the offender is convicted of a violation of W.S. 12-3-101, the court shall order that the untaxed liquor or beverage be delivered to the division, if merchantable, where it will be added to its stock and sold in the usual course of business. If the liquors or beverages are determined to be nonmerchantable, the court shall order their destruction. This subsection shall not apply to homemade beverages that are provided in accordance with an event under W.S. 12-10-102, provided that the beverages shall be removed from the premises within twenty-four (24) hours following the end of the event.

(b) Whenever an inspector, agent or employee of the division or any peace officer of the state lawfully discovers alcoholic liquors or malt beverages which have been unlawfully imported or transported, he may seize the alcoholic liquor or malt beverage and packages in which they are contained for use as evidence and shall not be removed from state control upon writ of replevin or other like process. Nothing in this section shall apply to the transportation of homemade beverages to or from an event held pursuant to W.S. 12-10-102.

## CHAPTER 4 - LOCAL LICENSES

### ARTICLE 1 - APPLICATIONS

#### **12-4-101. Authority of cities, towns and counties; population figures; number of available licenses and permits; assessment of fees.**

(a) Incorporated cities, towns and counties within Wyoming shall license and regulate or prohibit the retail sale of alcoholic and malt beverages under this title. Nothing in this title prohibits a licensing authority of an incorporated city, town or county from issuing less than the total number of allowable liquor licenses or from refusing to issue any license or permit authorized by this title.

(b) Population figures are based upon the official ten (10) year federal census preceding the time of application. Population figures based upon the official census shall be periodically revised by a state population estimate no later than five (5) years after the federal census publication date.

(c) Population figures and estimates required by subsection (b) of this section shall be furnished to the appropriate licensing authorities within the state by the department of administration and information using population estimates from the United States bureau of the census. The maximum number of licenses and permits available for issuance by a licensing authority pursuant to the population formula provided by W.S. 12-4-201 and 12-4-413, shall be certified and distributed by the division.

(d) Unless otherwise provided, the licensing authority shall uniformly assess license or permit fees annually for each particular class of license or permit.

**12-4-102. Application for licenses and permits; contents; signature and verification.**

(a) Any person desiring a license or permit authorized by this title shall apply to the appropriate licensing authority. The application shall be made under oath upon a form to be prepared by the attorney general and furnished to the licensing authority. The application shall be filed in the office of the clerk of the appropriate licensing authority and shall contain the following provisions:

(i) The location of the licensed building in which the applicant will sell under the license if the building is in existence at the time of application. If the building is not in existence, the location and an architect's drawing or suitable plans of the licensed building and premises to be licensed;

(ii) The age and residence of the applicant, and of each applicant or partner if the application is made by more than one (1) individual or by a partnership;

(iii) A disclosure of any criminal record of the applicant or any partner equal to a felony conviction under Wyoming law and of any conviction for a violation of Wyoming law relating to the sale or manufacture of alcoholic liquor or malt beverages within ten (10) years prior to the filing of the application;

(iv) If the applicant is a corporation:

(A) The name, age and residence of each officer, director and stockholder holding, either jointly or severally, ten percent (10%) or more of the outstanding and issued capital stock of the corporation; and

(B) Whether any officer, director or stockholder with ten percent (10%) or more ownership has been convicted of a violation of law as provided in paragraph (iii) of this subsection.

(v) If the applicant is a limited liability company:

(A) The name, age and residence of each officer, manager and member holding, either jointly or severally, ten percent (10%) or more of the outstanding ownership of the limited liability company; and

(B) If any officer, manager or member with ten percent (10%) or more ownership has been convicted of a violation of law as provided under paragraph (a)(iii) of this subsection.

(vi) A statement indicating the financial condition and financial stability of a new applicant;

(vii) Repealed by Laws 2021, ch. 22, § 3.

(viii) Repealed by Laws 2021, ch. 22, § 3.

(b) No person or partner shall have any interest, directly or indirectly, in a license or permit unless he signs and verifies the application for the license or permit. No corporation shall be granted a license or permit unless two (2) or more of the officers or directors sign and verify the application on behalf of the corporation and also verify upon their oath as individuals that the statements and provisions contained therein are true, except that if all the stock of the corporation is owned by one (1) individual then that individual may sign and verify the application and verify upon his oath that the statements and provisions contained therein are true. No limited liability company shall be granted a license or permit unless at least one (1) of the officers, managers, or if there are no officers or managers, at least one (1) of the members who is duly authorized to act on behalf of the limited liability company signs and verifies the application on behalf of the company and also verifies upon his oath that the statements and provisions contained therein are true.

(c) Corporate and limited liability company licensees and permittees shall advise the licensing authority within thirty (30) days in writing of any change in the information in the application required by paragraph (a)(iv) or (v) of this section. The licensing authority shall provide the division a copy of a notification of change.

**12-4-103. Restrictions upon license or permit applicants and holders; license limitation per person.**

(a) A license or permit authorized by this title shall not be held by, issued or transferred to:

(i) Repealed by Laws 2017, ch. 50, § 2.

(ii) Repealed by Laws 2017, ch. 50, § 2.

(iii) Any person who does not own the building or hold a written lease for the period for which the license will be effective containing an agreement by the lessor that alcoholic or malt beverages may be sold upon the leased premises, except as provided by paragraph (iv) of this subsection. This paragraph shall not be interpreted to prevent the use of a resort liquor license or a resort hotel liquor license by a contractor or subcontractor as permitted by W.S. 12-4-403(b);

(iv) Any licensee who fails to demonstrate that his licensed alcoholic or malt beverage enterprise will be operational in a planned but not physically functional building within one (1) year after a license or permit has been issued or transferred, or if holding a license, fails to open his business in a functional building within one (1) year after license issuance or transfer and remain operational thereafter. Upon a showing of good cause by the licensee and for an additional period of not to exceed one (1) year, the local licensing authority may extend the time period in which the business or enterprise of the licensee is required to become operational or open for business pursuant to this paragraph. Any license or permit in violation of this paragraph shall not be renewed by the local licensing authority and once the enterprise is operational or open for business, no licensee shall be eligible to repeat the grace periods made available by this paragraph without the consent of the local licensing authority due to extraordinary circumstances. For purposes of this paragraph "remain operational" means operational consecutively, in any license term year, for twelve (12) months or for not less than three (3) months if determined by the local licensing authority to be a seasonal operation;

(v) Repealed By Laws 1996, ch. 122, § 3.

(vi) A manufacturer of alcoholic beverages or wholesaler of malt beverages, except as authorized under W.S. 12-2-203(g) or as otherwise provided by law;

(vii) A person under eighteen (18) years of age;

(viii) A college fraternity or organization created by one (1) or more college fraternities;

(ix) A chamber of commerce, except for twenty-four (24) hour malt beverage permits issued pursuant to W.S. 12-4-502;

(x) A corporation, limited liability company, limited partnership, or limited liability partnership which has not qualified to do business in Wyoming;

(xi) An individual who is not a resident; or

(xii) Any general partnership or group of two (2) or more persons unless each person interested, directly or indirectly, is a resident or qualified to do business in this state.

(b) Repealed by Laws 2021, ch. 22, § 3.

(c) Repealed by Laws 2021, ch. 22, § 3.

(d) Repealed by Laws 2021, ch. 22, § 3.

**12-4-104. Publication of notice; grant or denial; renewal preference; copy of application and notice to division; judicial review.**

(a) When an application for a license, permit, renewal or any transfer of location or ownership thereof has been filed with a licensing authority, the clerk shall promptly prepare a notice of application and publish the notice in a newspaper of local circulation once a week for two (2) consecutive weeks. When a county is the licensing authority, the county clerk shall also post the notice on the official website of the county in the manner provided in W.S 18-3-516(f). When a city or town is the licensing authority, the city clerk shall also post the notice on the city or town's official website if one exists. The notice shall state that a named applicant has applied for a license, permit, renewal or transfer thereof, and that protests against the issuance, renewal or transfer of the license or permit will be heard at a designated meeting of the licensing authority. Each applicant shall, at the time of filing his application, pay the clerk an amount sufficient to cover the costs of publishing notice. Notices may be substantially in the following form:

NOTICE OF APPLICATION FOR A ....

Notice is hereby given that on the .... day of .... (year) (name of applicant) filed an application for a .... license (permit), in the office of the clerk of the city (or town or county) of .... for the following building (insert address) and protests, if any there be, against the issuance (transfer or renewal) of the license (permit) will be heard at the hour of ....M., on the .... day of .... (year), in the (meeting place of the governing body).

Dated ....

Signed ....

(b) Any license or permit authorized under this title shall not be issued, renewed or transferred until on or after the date set in the notice for hearing protests. If a renewal or transfer hearing, the hearing shall be held no later than thirty (30) days preceding the expiration date of the license or permit. A license or permit shall not be issued, renewed or transferred if the licensing authority finds from evidence presented at the hearing:

(i) The welfare of the people residing in the vicinity of the proposed license or permit premises shall be adversely and seriously affected;

(ii) The purpose of this title shall not be carried out by the issuance, renewal or transfer of the license or permit;

(iii) The number, type and location of existing licenses or permits meet the needs of the vicinity under consideration;

(iv) The desires of the residents of the county, city or town will not be met or satisfied by the issuance, renewal or transfer of the license or permit; or

(v) Any other reasonable restrictions or standards which may be imposed by the licensing authority shall not be carried out by the issuance, renewal or transfer of the license or permit.

(c) Repealed by Laws 2017, ch. 50, § 2.

(d) When any application is filed with a licensing authority, the licensing authority shall immediately forward a copy of the application to the division. No licensing authority shall approve or deny an application until the division has

certified the application is complete pursuant to this subsection. All applications shall be deemed to be certified unless objection is made by the division within ten (10) working days after receipt of the application. Upon approval or denial of an application, the licensing authority shall promptly notify the division.

(e) An applicant for a renewal license or permit may appeal to the district court from an adverse decision by the licensing authority. No applicant for a new license shall have a right of appeal from the decision of the licensing authority denying an application.

(f) Upon an appeal the person applying for renewal of a license shall be named as plaintiff, with the licensing authority named as defendant. During the pendency of an appeal, a renewal license denied by a licensing authority shall not be granted to any other applicant. Upon notice of appeal the clerk shall transmit to the clerk of the district court a certified copy of the application, of each protest if any, and of the minutes recording the decision appealed from. The appeal shall be heard as a trial de novo with evidence taken and other proceedings had as in the trial of civil actions. The court may accept and consider as part of the record certified documents forwarded to the court by the clerk of the licensing authority. The case shall be heard promptly and the procedure shall conform to the Wyoming Rules of Civil Procedure unless other procedures are provided for or required.

#### **12-4-105. Disposition of license fees; refunds prohibited.**

All fees for licenses and permits issued by a licensing authority paid under this title shall be deposited into the treasury of the licensing authority. No refund of all or any part of a license fee shall be made at any time following issuance.

#### **12-4-106. Term of license and permit; exception.**

(a) A license or permit is considered a personal privilege to the holder and the term of the license or permit is for one (1) year unless sooner revoked. When a valid license or permit is determined to be part of the estate of a deceased holder, the administrator or executor of the estate may exercise the privilege of the deceased under the license or permit until the expiration of the license or permit.

(b) The term of a license or permit may be less than one (1) year if specified by the licensing authority to coincide with the annual date or dates set by the authority for consideration of license and permit issuance, renewals and transfers. A licensing authority issuing a license or permit for a term less than one (1) year shall pro-rate the annual fee accordingly. Any licensee not attempting to renew a newly issued pro-rated license or permit valid for one (1) year shall not be eligible for any license or permit authorized under this title for a period of two (2) years after the expiration date of the pro-rated license or permit.

## ARTICLE 2 - RETAIL LICENSES AND PERMITS

### **12-4-201. Retail liquor licenses and malt beverage permits; population formulas; fees.**

(a) A retail liquor license is the authority under which a licensee is permitted to sell alcoholic liquor or malt beverages for use or consumption but not for resale, except as otherwise provided for by this section.

(b) A malt beverage permit is the authority under which the licensee is permitted to sell malt beverages only.

(c) Repealed by Laws 1979, ch. 156, § 4.

(d) The number of retail liquor licenses issued shall be based on the following population formula:

(i) Not more than two (2) licenses in incorporated towns of five hundred (500) population or less;

(ii) Not more than one (1) additional license for each additional five hundred (500) population or major fraction thereof in incorporated cities or towns up to a population of nine thousand five hundred (9,500);

(iii) Not more than one (1) additional license for each additional full three thousand (3,000) population over nine thousand five hundred (9,500); and

(iv) Retail liquor licenses issued to commercial service airports in incorporated cities or towns shall be exempt from the number restrictions in paragraphs (i) through (iii) of this subsection.

(e) The license fee to be assessed for a retail liquor license shall be not less than three hundred dollars (\$300.00) nor more than one thousand five hundred dollars (\$1,500.00) payable annually in advance.

(f) Retail liquor licenses and malt beverage permits may be granted by the county commissioners as the appropriate licensing authority in a county outside of incorporated cities and towns as follows:

(i) One (1) retail liquor license issued for each five hundred (500) population residing outside cities and towns; but

(ii) No more than three (3) retail liquor licenses issued for locations within five (5) miles of the corporate limits of a city or town. Retail liquor licenses issued to commercial service airports in a county shall be exempt from this paragraph; and

(iii) Malt beverage permits may be issued for county locations without regard to population.

(g) Repealed by Laws 2021, ch. 22, § 3.

(h) The license fee assessed by a county for malt beverage permits shall be not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00).

(j) Licensees authorized to sell alcoholic liquors at retail may purchase for resale not more than nine (9) liters of alcoholic liquors per week from a retail licensee authorized pursuant to this section or from the holder of a satellite manufacturer's permit under W.S. 12-2-203(g)(i). Purchases of alcoholic liquors authorized pursuant to this subsection shall be conducted in accordance with the following:

(i) The seller shall record on a form furnished by the division all of the following:

(A) The name and signature of the licensee making the purchase;

(B) The date and time of the purchase;

(C) The purchaser's Wyoming state tax resale number.

(ii) The form collected pursuant to paragraph (i) of this subsection shall be provided to the Wyoming state liquor division within thirty (30) days of the sale and shall be maintained by the seller of the alcoholic liquor for not less than one (1) year after the date of the sale. The form shall be available upon request for the division to inspect.

(k) A retail liquor licensee may ship not more than a total of one hundred eight (108) liters of manufactured wine directly to any one (1) household in this state in any twelve (12) month period provided the licensee:

(i) Ships the manufactured wine only to individuals who are at least twenty-one (21) years of age for such individual's personal use and not for resale;

(ii) Ensures that all shipping containers of manufactured wine shipped pursuant to this subsection are conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES. ADULT (OVER 21) SIGNATURE REQUIRED FOR DELIVERY"; and

(iii) Ensures that all of its shipments within this state are made by a duly licensed carrier and further ensure that the carriers comply with the requirement to obtain an adult signature.

(m) A commercial service airport holding a retail liquor license may contract for or otherwise subcontract any food and beverage services provided at the airport to another individual or entity without transferring the retail liquor license held by the airport under this section. Sales of alcoholic liquor or malt beverages shall only be made in the terminal building and connected concourses of the airport where persons engaged in commercial air travel transfer on and off aircraft.

**12-4-202. Repealed by Laws 2017, ch. 50, § 2.**

**12-4-203. Repealed by Laws 1985, ch. 92, § 3.**

#### ARTICLE 3 - SPECIAL CLUB LICENSES

**12-4-301. Sales by clubs; license fees; petition; license restrictions.**

(a) Bona fide clubs as defined by W.S. 12-1-101(a)(iii) may be licensed by the appropriate licensing authority under a

limited retail liquor license for which the licensee shall pay a license fee of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00) annually in advance.

(b) At least fifty-one percent (51%) of the membership of a social club as defined by W.S. 12-1-101(a)(iii)(E) shall sign a petition indicating a desire to secure a limited retail liquor license. The form of the petition shall be prescribed by the division and shall include the residence address of each member signing the petition.

(c) Except as otherwise provided by W.S. 12-5-201(f), a club holding a limited retail license may sell alcoholic or malt beverages for consumption anywhere on the licensed premises for consumption by its members and their accompanied guests only as approved by the local licensing authority.

(d) Repealed by Laws 1985, ch. 92, § 3.

(e) A political subdivision of the state may hold no more than two (2) club limited retail liquor licenses for golf courses owned, maintained or operated by that political subdivision in addition to any other license held by that political subdivision. For purposes of this subsection, a political subdivision may contract for or otherwise subcontract the operations of a golf course or any food and beverage service associated with the golf course to another individual or entity without transferring the club limited retail liquor license held under this subsection.

**12-4-302. Repealed By Laws 2001, Ch. 103, § 2.**

**12-4-303. Repealed By Laws 2001, Ch. 103, § 2.**

#### ARTICLE 4 - RESORT AND RESTAURANT LIQUOR LICENSES

**12-4-401. Resort retail liquor licenses; authorized; qualifications; provision for licenses issued prior to January 1, 1980.**

(a) The appropriate licensing authority in a county, city or town may issue resort retail liquor licenses to applicants who are owners or lessees of a resort complex where the resort complex satisfies the requirements of subsection (b) of this section.

(b) To qualify for a resort retail liquor license, the appropriate licensing authority shall require the resort complex to:

(i) Have an actual valuation of, or the applicant shall have committed or expended on the complex, not less than one million dollars (\$1,000,000.00), excluding the value of the land;

(ii) Include a restaurant and a convention facility, which convention facility shall seat no less than one hundred (100) persons; and

(iii) Include motel, hotel or privately owned condominium, town house or home accommodations approved for short term occupancy with a minimum of one hundred (100) sleeping rooms; or

(A) Repealed by Laws 2015, ch. 49, § 2.

(B) Repealed by Laws 2015, ch. 49, § 2.

(iv) Without being required to meet the standards of paragraph (iii) of this subsection, be a ski resort facility open to the general public in which the applicant shall have committed or expended on the facility not less than ten million dollars (\$10,000,000.00).

(c) Nothing contained within this section shall have any effect on resort liquor licenses issued prior to January 1, 1980, or to the right or renewal of a resort liquor license.

**12-4-402. Repealed by Laws 1979, ch. 156, § 3.**

**12-4-403. Population formula not applicable; contracting for services.**

(a) The provisions authorizing resort liquor licenses and resort hotel liquor licenses shall have no application to the population formula limiting retail liquor licenses as provided by W.S. 12-4-201.

(b) A resort liquor licensee or a resort hotel liquor licensee may contract or subcontract for the provision of food and beverage services on the licensed premises. However, the licensee shall remain subject to all applicable laws, rules,

regulations and penalties including the provisions of W.S. 12-2-306 and 12-7-103.

**12-4-404. Sale of beverages for off-premises consumption prohibited.**

Resort liquor licensees and resort hotel liquor licensees shall not sell alcoholic or malt beverages for consumption off the premises owned or leased by the licensee, except pursuant to a catering permit. The dispensing of alcoholic or malt beverages licensed to be sold hereunder shall be controlled by W.S. 12-5-201 and, if a catering permit has been issued, by W.S. 12-4-502(b).

**12-4-405. Annual fee.**

The annual fee for a resort liquor license and a resort hotel liquor license shall be not less than five hundred dollars (\$500.00) nor more than three thousand dollars (\$3,000.00).

**12-4-406. Repealed by Laws 1979, ch. 156, § 3.**

**12-4-407. Restaurant liquor license; authorized.**

(a) Restaurants as defined by W.S. 12-1-101(a)(xiv) may be licensed by the appropriate licensing authority in counties, cities and towns under a restaurant liquor license. In addition to the application requirements required by this title, the license applicant shall submit a valid food service permit upon application. Population formulas have no application to issuance of restaurant liquor licenses within the county.

(b) Repealed by Laws 1985, ch. 92, § 3.

(c) Repealed by Laws 2017, ch. 50, § 2.

(d) Repealed by Laws 2021, ch. 22, § 3.

**12-4-408. Revenues of licensee to be derived primarily from food services and not the sale of alcoholic beverages; annual report.**

(a) An applicant for a restaurant liquor license shall satisfy the appropriate licensing authority that the primary source of revenue from the operation of the restaurant to be licensed will be derived from food services and not from the sale of alcoholic or malt beverages.

(b) When renewing a restaurant liquor license, the appropriate licensing authority shall condition renewal upon a requirement that not less than sixty percent (60%) of gross sales from the preceding twelve (12) months operation of a licensed restaurant be derived from food services.

(c) Upon application for license renewal, a license holder shall submit an annual report to the licensing authority on the sales of the licensed restaurant. The report shall contain the annual gross sales figures of the restaurant and shall separate the gross sales figures into two (2) categories:

(i) Food service sales; and

(ii) Alcoholic and malt beverage sales.

**12-4-409. Repealed by Laws 2021, ch. 22, § 3.**

**12-4-410. Sale of alcoholic beverages for off-premises consumption prohibited; location, regulation and restrictions on dispensing of liquor; prohibiting certain activities.**

(a) Except as provided in subsection (e) of this section, restaurant liquor licensees shall not sell alcoholic or malt beverages for off-premises consumption from the licensed building owned or leased by the licensee. Except as provided in subsections (b) and (e) of this section, alcoholic or malt beverages shall be served for on-premises consumption only in dining areas which are adequately staffed and equipped for all food services offered by the restaurant.

(b) Alcoholic liquor and malt beverages shall be dispensed and prepared for consumption in the licensed building in areas approved by the local licensing authority. No consumption of alcoholic or malt beverages shall be permitted within the dispensing areas nor shall any person other than employees over eighteen (18) years of age be permitted to enter the dispensing areas.

(c) All sales of alcoholic and malt beverages authorized by a restaurant liquor license shall cease at the time food sales and services cease or at the hours set pursuant to W.S. 12-5-101 if food sales and services extend beyond those hours.

(d) No restaurant liquor licensee shall promote or operate the restaurant as a bar and lounge.

(e) A restaurant liquor licensee may permit a patron to remove one (1) unsealed bottle of wine for off-premises consumption provided that the patron has purchased a full course meal and consumed a portion of the bottle of wine with the meal on the restaurant premises. For purposes of this subsection the term "full course meal" shall mean a diversified selection of food which is ordinarily consumed with the use of tableware and cannot conveniently be consumed while standing or walking. A partially consumed bottle of wine that is to be removed from the premises pursuant to this subsection shall be securely sealed by the licensee or an agent of the licensee and placed in a tamper-proof transparent bag which shall also be securely sealed prior to removal from the premises, so that it is visibly apparent that the resealed bottle of wine has not been tampered with. The licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. Wine which is resealed in accordance with the provisions of this subsection shall not be deemed an open container for purposes of W.S. 31-5-235.

(f) Repealed by Laws 2021, ch. 22, § 3.

**12-4-411. License fee.**

The annual fee for a restaurant liquor license shall be no more than three thousand dollars (\$3,000.00) and no less than five hundred dollars (\$500.00).

**12-4-412. Repealed by Laws 2021, ch. 22, § 3.**

**12-4-413. Bar and grill liquor license; authorized; requirements.**

(a) Restaurants as defined by W.S. 12-1-101(a)(xiv) may be licensed by the appropriate licensing authority in counties, cities and towns under a bar and grill liquor license. In addition to the application requirements required by this title, the license applicant shall submit a valid food service permit upon application.

(b) Bar and grill liquor licenses shall be issued as follows:

(i) Repealed by Laws 2023, ch. 20, § 2.

(ii) Repealed by Laws 2023, ch. 20, § 2.

(iii) Repealed by Laws 2023, ch. 20, § 2.

(iv) Repealed by Laws 2023, ch. 20, § 2.

(v) Beginning July 1, 2023, the number of bar and grill liquor licenses for cities and towns shall be based on the following population formula:

(A) Not more than four (4) licenses in incorporated cities or towns with populations of seven thousand five hundred (7,500) or less;

(B) Not more than ten (10) licenses in incorporated cities with populations between seven thousand five hundred one (7,501) and twenty thousand (20,000);

(C) Not more than fourteen (14) licenses in incorporated cities with populations between twenty thousand one (20,001) and thirty thousand (30,000); and

(D) Not more than one (1) additional license for each additional five thousand (5,000) persons residing in incorporated cities over thirty thousand (30,000);

(E) This paragraph is repealed effective June 30, 2028.

(vi) Beginning July 1, 2028, the number of bar and grill liquor licenses for cities and towns shall be based on the following population formula:

(A) Not more than six (6) licenses in incorporated cities or towns with populations of seven thousand five hundred (7,500) or less;

(B) Not more than fourteen (14) licenses in incorporated cities with populations between seven thousand five hundred one (7,501) and twenty thousand (20,000);

(C) Not more than eighteen (18) licenses in incorporated cities with populations between twenty thousand one (20,001) and thirty thousand (30,000); and

(D) Not more than one (1) additional license for each additional three thousand (3,000) persons residing in incorporated cities over thirty thousand (30,000).

(c) Bar and grill liquor licenses may be granted by the county commissioners as the appropriate licensing authority in a county outside of incorporated cities and towns as follows:

(i) Repealed by Laws 2023, ch. 20, § 2.

(ii) Beginning July 1, 2023, four (4) licenses for each seven thousand five hundred (7,500) persons residing outside incorporated cities and towns. This paragraph is repealed effective June 30, 2028;

(iii) Beginning July 1, 2028, six (6) licenses for each seven thousand five hundred (7,500) persons residing outside incorporated cities and towns.

(d) The license fee assessed for a bar and grill liquor license shall be not less than one thousand five hundred dollars (\$1,500.00) nor more than ten thousand five hundred dollars (\$10,500.00).

(e) A bar and grill liquor license shall not be sold, transferred or assigned by the holder.

(f) Bar and grill liquor licensees shall not sell alcoholic or malt beverages for off-premises consumption from the licensed building owned or leased by the licensee except as allowed under this subsection. The following shall apply to sales of alcoholic and malt beverages:

(i) All sales of alcoholic and malt beverages authorized by a bar and grill liquor license shall cease at the time food sales and services cease or at the hours specified by W.S. 12-5-101(a) if food sales and services extend beyond the hours specified therein;

(ii) A bar and grill liquor licensee may permit a patron to remove one (1) partially consumed bottle of wine for off-premises consumption provided that the patron has purchased a full course meal and consumed a portion of the bottle of wine with the meal on the bar and grill premises. For purposes of this paragraph the term "full course meal" shall mean food which cannot conveniently be consumed while standing or walking. A partially consumed bottle of wine that is to be removed from the premises pursuant to this paragraph shall be securely sealed by the licensee or an agent of the licensee and placed in a tamper-proof transparent bag which shall also be securely sealed prior

to removal from the premises, so that it is visibly apparent that the resealed bottle of wine has not been tampered with. The licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. Wine which is resealed in accordance with the provisions of this paragraph shall not be deemed an open container for purposes of W.S. 31-5-235.

(g) An applicant for a bar and grill liquor license shall satisfy the appropriate licensing authority that not less than sixty percent (60%) of revenue from the operation of the bar and grill to be licensed will be derived from food services, entertainment or a combination of food services and entertainment and not from the sale of alcoholic or malt beverages.

(h) When renewing a bar and grill liquor license, the appropriate licensing authority shall condition renewal upon a requirement that not less than sixty percent (60%) of gross sales from the preceding twelve (12) months operation of a licensed bar and grill be derived from food services, entertainment or a combination of food services and entertainment.

(j) The appropriate licensing authority shall consider the type, level and appropriateness of food services and entertainment sales proposed in each application when determining whether to issue or renew a bar and grill license.

(k) Upon application for license renewal, a license holder shall submit an annual report to the licensing authority on the sales of the licensed bar and grill. The report shall contain the annual gross sales figures of the bar and grill and shall separate the gross sales figures into the following three (3) categories:

- (i) Food service sales;
- (ii) Alcoholic and malt beverage sales;
- (iii) Entertainment sales.

**12-4-414. Winery permits; authorized; conditions; satellite winery permits; direct shipment of wine; fees; off-premises permits.**

(a) Subject to restrictions imposed under W.S. 12-4-103 excluding W.S. 12-4-103(a)(vi), a local licensing authority may issue a winery permit authorizing a permit holder to manufacture wine and dispense the manufactured wine for on-premises and limited off-premises personal consumption.

(b) The local licensing authority:

(i) May allow the sale of other wines under a winery permit for on-premises consumption when obtained from the division;

(ii) May allow the winery to sell its manufactured wine on site for off-premises personal consumption, not for retail sale, in packaging of bottles of an aggregate volume not to exceed two thousand twenty-eight (2,028) ounces per sale;

(iii) In accordance with the process established under article 1 of this chapter, may allow the transfer of a winery permit to another location and ownership of the winery may be transferred upon approval by the local licensing authority;

(iv) Shall assess a fee of not less than three hundred dollars (\$300.00) nor more than five hundred dollars (\$500.00) payable annually in advance for each winery permit. When dual ownership of a winery permit and a liquor license exists, no additional fee shall be assessed other than the retail, restaurant, bar and grill, resort hotel or resort license fee.

(c) W.S. 12-4-410 shall apply to any person holding a winery permit and a restaurant liquor license and W.S. 12-4-413 shall apply to any person holding a winery permit and a bar and grill liquor license, except that either dual holder:

(i) May sell the manufactured wine for limited off-premises personal consumption pursuant to paragraph (b)(ii) of this section;

(ii) May upon cessation of full service restaurant operations, serve a limited menu and continue to serve wines authorized under the winery permit;

(iii) Shall not include sales of wines authorized under the winery permit, or sales other than food service and

alcoholic beverages, in the annual gross sales report required under W.S. 12-4-408(c).

(d) A local licensing authority may issue to the holder of a winery permit under this section a satellite winery permit which allows the permittee to sell wine manufactured at the site identified on the manufacturer's license at up to three (3) satellite locations within Wyoming separate from its licensed manufacturing site under the original permit fee. The satellite winery permit may be issued on application to the appropriate licensing authority. The local licensing authority may require a public hearing and the payment of an additional permit fee not to exceed one hundred dollars (\$100.00) regardless of the number of satellite locations. The satellite winery permit shall be subject to the terms and conditions of W.S. 12-4-106, the schedule of operating hours set pursuant to W.S. 12-5-101 and the licensed building provisions of W.S. 12-5-201.

(e) Notwithstanding paragraph (b)(ii) of this section and W.S. 12-5-201, any person holding a winery permit as provided by this section, may sell and ship its manufactured wine which is not listed with the liquor division as part of its inventory and distribution operation to any Wyoming retail establishment which holds a liquor license in this state.

(f) Any licensed winery holding a winery permit pursuant to this section shall:

(i) Not ship more than a total of one hundred eight (108) liters of its manufactured wine to any one (1) household in this state during any twelve (12) month period;

(ii) Offer to sell its manufactured wine to the liquor division at wholesale prices if the winery ships more than ninety (90) liters total of any of its manufactured wine to any combination of households or licensed retailers in this state;

(iii) Ship its manufactured wine only to individuals who are at least twenty-one (21) years of age for such individual's personal use and not for resale;

(iv) Ensure that all shipping containers of manufactured wine shipped pursuant to this section are conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES. ADULT (OVER 21) SIGNATURE REQUIRED FOR DELIVERY";

(v) Ensure that all of its shipments within this state are made by a duly licensed carrier and further ensure that such carriers comply with the requirement to obtain an adult signature;

(vi) File a monthly report of wines shipped out of state on a form provided by the liquor division and include a copy of the invoice for each shipment of their own manufactured wine subject to the following:

(A) The report shall be filed with the liquor division not later than the tenth day of each month following the month in which the shipment was made;

(B) Any report filed late with the liquor division shall be subject to a late filing fee of twenty-five dollars (\$25.00).

(vii) Maintain records for at least three (3) years that will permit the liquor division to ascertain the truthfulness of the information filed and permit the division to perform an audit of the licensee's records upon reasonable request.

(g) The local licensing authority may issue to a winery permit holder an off-premises wine permit for the purpose of selling its own manufactured wine at meetings, conventions, private parties, dinners and other similar gatherings to promote the holder's product. No permittee holding an off-premises wine permit shall sell or permit consumption of any of their manufactured product off the premises described in the permit. An off-premises wine permit shall be issued for one (1) twenty-four (24) hour period, subject to the schedule of operating hours set pursuant to W.S. 12-5-101. No holder of a wine permit shall receive more than twelve (12) off-premises wine permits in any one (1) calendar year. An off-premises wine permit may be issued on application to the appropriate licensing authority. The local licensing authority may require payment of an additional permit fee of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) per twenty-four (24) hour period.

(h) The holder of a winery permit under this section may also hold a manufacturer's license under W.S. 12-2-203(a).

**12-4-415. Microbrewery permits; authorized; conditions; fees.**

(a) Subject to restrictions imposed under W.S. 12-4-103 excluding W.S. 12-4-103(a)(vi), a local licensing authority may issue a microbrewery permit authorizing a permit holder to brew a malt beverage and dispense the brewed malt beverage for on-premises and limited off-premises personal consumption. Notwithstanding W.S. 12-5-201 and for the purposes of this subsection, "on-premises" may include a fenced or enclosed area immediately adjacent to the licensed brewing site as approved by the local licensing authority. The dispensing of malt beverages in an immediately adjacent area authorized by this paragraph shall be subject to the schedule of operating hours set pursuant to W.S. 12-5-101. Any microbrewery permit holder shall:

(i) File a monthly report of brewed malt beverage the permit holder produced on a form provided by the liquor division. The report shall be filed with the liquor division not later than the tenth day of each month following the month in which the brewed malt beverage was produced. Any report filed late with the liquor division shall be subject to a late filing fee of twenty-five dollars (\$25.00);

(ii) Maintain records for at least three (3) years that will permit the liquor division to ascertain the truthfulness of the information filed and permit the division to perform an audit of the licensee's records upon reasonable request.

(b) The local licensing authority:

(i) May allow the sale of malt beverage obtained through a contract brewing arrangement and other malt beverages under a microbrewery permit for on-premises consumption when obtained through licensed wholesale malt beverage distributors;

(ii) May allow the microbrewery to sell on site its brewed product and its malt beverage obtained through a contract brewing arrangement for off-premises personal consumption, not for retail sale, in packaging of bottles, cans or packs of an aggregate volume not to exceed two thousand (2,000) ounces per sale;

(iii) In accordance with the process established under article 1 of this chapter, may allow the transfer of a microbrewery permit to another location and ownership of the microbrewery may be transferred upon approval by the local licensing authority; and

(iv) Shall assess a fee of not less than three hundred dollars (\$300.00) nor more than five hundred dollars (\$500.00) payable annually in advance for each microbrewery permit. When dual ownership of a microbrewery permit and a liquor license exists, no additional fee shall be assessed other than the retail, restaurant, bar and grill, resort hotel or resort license fee.

(c) W.S. 12-4-410 shall apply to any person holding a microbrewery permit and a restaurant liquor license and W.S. 12-4-413 shall apply to any person holding a microbrewery permit and a bar and grill liquor license, except that either dual holder:

(i) May sell the brewed malt beverage for limited off-premises personal consumption pursuant to paragraph (b)(ii) of this section;

(ii) May upon cessation of full service restaurant operations, serve a limited menu and continue to serve malt beverages authorized under the microbrewery permit;

(iii) Shall not include sales of malt beverages authorized under the microbrewery permit, or sales other than food service and alcoholic beverages, in the annual gross sales report required under W.S. 12-4-408(c).

(d) A local licensing authority may authorize a microbrewery to operate at more than one (1) location. The local licensing authority may require the payment of an additional permit fee not to exceed one hundred dollars (\$100.00) regardless of the number of locations authorized for the microbrewery. All locations shall be subject to all provisions of this title related to the operation of a microbrewery.

(e) The holder of a microbrewery permit under this section may also hold a manufacturer's license under W.S. 12-2-203(a).

**12-4-416. Resort hotel liquor licenses; authorized; requirements.**

(a) The appropriate licensing authority in a county, city or town may issue resort hotel liquor licenses to applicants who are owners or lessees of a resort hotel that satisfies all requirements specified in subsection (b) of this section.

(b) To qualify for a resort hotel liquor license under this section, the appropriate licensing authority shall require the resort hotel to:

(i) Have an actual valuation of, or the applicant shall commit to expend or have actually expended on the resort hotel, not less than five million dollars (\$5,000,000.00). Any valuation under this paragraph shall include the value of the land on which the resort hotel is located;

(ii) Include a full-service restaurant that shall be open during regular business hours. At the discretion of the appropriate licensing authority, variances to this time requirement may be granted on a seasonal basis. As used in this paragraph, "full-service restaurant" means a restaurant where waiters deliver food and drink offered from a printed food menu to patrons at tables or booths and that has a dining room or rooms, kitchen and the number and kind of employees necessary for the preparing, cooking and serving of meals;

(iii) Include within the resort hotel not less than twenty (20) sleeping rooms for short-term occupancy;

(iv) Provide dining services to guest rooms for not less than twelve (12) hours each day; and

(v) Provide facilities for business meetings that can accommodate not less than fifty (50) participants.

#### ARTICLE 5 - SPECIAL PERMITS

##### **12-4-501. Malt beverage permit for University of Wyoming; fee; rules and regulations.**

(a) Upon an application to the city of Laramie for a malt beverage permit, the city shall issue a special malt beverage permit to the board of trustees of the University of Wyoming for sale of malt beverages drawn only from kegs at the student union on the campus of the University of Wyoming. The issuance of a malt beverage permit shall not be considered an alcoholic beverage permit issued on the basis of population as provided in W.S. 12-4-201.

(b) The fee for the permit provided by subsection (a) of this section is one hundred dollars (\$100.00).

(c) The board of trustees of the University of Wyoming shall provide rules and regulations for the following:

(i) Locations in which malt beverages may be sold;

(ii) Repealed by Laws 2017, ch. 63, § 2.

(iii) The hours and days of the operation of the licensed building, which shall be within the following limits:

(A) Monday through Thursday, 3:00 p.m. to 10:00 p.m.;

(B) Friday, 3:00 p.m. to 12:00 midnight;

(C) Saturday, 10:00 a.m. to 12:00 midnight.

(iv) Whether food may be sold in the licensed building;

(v) A uniform procedure of age identification for all purchasers;

(vi) Locations within the student union where malt beverages may be consumed; and

(vii) Such other rules and regulations necessary to carry out the purposes of this section.

(d) Repealed By Laws 2001, Ch. 105, § 2.

(e) The board of trustees may prohibit dispensing malt beverages by any seller designated under paragraph (c)(iv) of this section, for any period less than ninety (90) days, upon information that violations of state law have occurred.

**12-4-502. Twenty-four hour malt beverage permit and catering permit; restrictions; application procedure; fees.**

(a) A malt beverage permit authorizing the sale of malt beverages only may be issued by the appropriate licensing authority to any responsible person or organization for sales at a picnic, bazaar, fair, rodeo, special holiday or similar public gathering. No person or organization holding the special permit shall sell any alcoholic liquor other than malt beverages on the premises described on the permit, nor shall any malt beverage be sold or consumed off the premises authorized by the permit. Malt

beverage permits under this subsection shall not be used to operate a continuing business.

(b) A catering permit authorizing the sale of alcoholic and malt beverages may be issued by the appropriate licensing authority to any person holding a retail or resort retail liquor license authorizing the off-premises sale of both alcoholic and malt beverages, for sales at events not capable of being held within the licensee's licensed premises. No licensee holding a catering permit shall sell or permit consumption of any alcoholic or malt beverage off the premises described in the permit. Notwithstanding any other provision of this subsection, closed-container items sold at auction for the benefit of a nonprofit organization may be taken off-premises. Catering permits under this subsection shall not be used to operate a continuing business.

(c) The permits authorized by this section shall be issued for one (1) twenty-four (24) hour period, subject to the schedule of operating hours set pursuant to W.S. 12-5-101. No person or organization shall receive more than a total of twelve (12) malt beverage and thirty-six (36) catering permits for sales at the same premises in any one (1) year.

(d) The malt beverage permit and the catering permit shall be issued on application to the appropriate licensing authority without public notice or hearing. An application for a malt beverage permit or catering permit under this section shall be accompanied by a designation of the event for which the application is sought specifying the type of event and the name of the sponsor. Any applicant applying for a permit authorized by this section and having licensed premises located within a jurisdiction other than that jurisdiction to which application is made, shall secure the written approval of the licensing authority of that jurisdiction in which the licensed premises are located prior to filing an application for a permit.

(e) The fee for the malt beverage permit and the catering permit shall be not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) per twenty-four (24) hour period, payable to the appropriate licensing authority.

**12-4-503. Repealed by Laws 1979, ch. 156, § 3.**

**12-4-504. Special malt beverage permit for public auditoriums, civic centers or events centers.**

(a) The appropriate licensing authority in a county, city or town may issue a special malt beverage permit to any responsible person or organization for sales of malt beverages at public auditoriums, civic centers or events centers. The licensing authority shall establish an appropriate fee for the permit. Additionally, the licensing authority shall specify the duration of the permit and where malt beverages may be sold and consumed under the permit. The issuing body may provide rules to implement this section.

(b) Repealed by Laws 2017, ch. 50, § 2.

(c) Repealed by Laws 2017, ch. 50, § 2.

(d) Repealed by Laws 2017, ch. 50, § 2.

(e) Repealed by Laws 2017, ch. 50, § 2; ch. 63, § 2.

**12-4-505. Malt beverage permit for annual state fair.**

(a) Repealed by Laws 2021, ch. 22, § 3.

(b) Repealed by Laws 2021, ch. 22, § 3.

(c) Repealed by Laws 2017, ch. 63, § 2.

**12-4-506. Repealed by Laws 2004, Ch. 73, §2.**

**12-4-507. Malt beverage permit for events conducted at rodeo arenas.**

(a) Upon application and upon submission of a reasonable malt beverage sales and control plan mutually agreeable to the applicant and the licensing authority, the appropriate licensing authority shall issue a special malt beverage permit for the sale of malt beverages only at events conducted on the grounds of an indoor or outdoor rodeo with a total seating capacity of over seven thousand five hundred (7,500). The permit may be issued without public notice or hearing. An application for a permit under this section shall be accompanied by a designation of the event for which the application is sought specifying the type of event and the name of the sponsor. The malt beverages shall be served only on grounds contiguous or immediately adjacent to the arena in areas specifically designated by the permittee and approved by the licensing authority. Contiguous or adjacent grounds shall be fenced or otherwise enclosed as approved by the licensing authority. The issuance of a malt

beverage permit under this subsection shall not be considered an alcoholic beverage permit issued on the basis of population as provided in W.S. 12-4-201. Malt beverages shall only be sold for consumption under a permit issued under this section during the dates of an event. W.S. 12-5-201 shall not apply to this section.

(b) The fee for a permit issued under subsection (a) of this section shall be established by rule of the licensing authority but shall not exceed two (2) times the maximum fee provided for twenty-four (24) hour permits under W.S. 12-4-502(e) for each day of the event.

(c) A licensing authority may adopt rules to implement this section provided:

(i) Permit fees may be graduated based upon expected attendance at the event;

(ii) No permittee shall be assessed any additional fee by a licensing authority for the issuance of a special malt beverage permit under this section. Nothing in this paragraph shall prohibit a licensing authority from:

(A) Negotiating with a permittee for the voluntary payment of costs incurred by the licensing authority related to the permitted event; or

(B) Recouping costs incurred by the licensing authority related to the permitted event to which the licensing authority is otherwise entitled under Wyoming law.

#### ARTICLE 6 - SALE, ASSIGNMENT AND TRANSFER

##### **12-4-601. Transfer of license location; transfer of ownership; fee.**

(a) After public hearing and with the approval of the licensing authority, a license or permit may be transferred to or renewed on different premises on the same basis as the original application. An additional license fee of not more than one hundred dollars (\$100.00) is required for the remaining term of the license or permit. A transferred license or permit shall expire on the same date as the original license or permit.

(b) A licensee, or the executor or administrator of the estate of a deceased licensee, may assign and transfer the

license or permit by a sale made in good faith. The assignment and transfer shall first have the approval of the licensing authority, which consideration shall be based in part upon a public hearing and an application filed under oath by the assignee or transferee showing the person or entity to be qualified to hold a license or permit under Wyoming law. The approval of the transfer shall not be given by the licensing authority if the transferring licensee is certified by the department as sixty (60) or more days delinquent in paying sales taxes pursuant to W.S. 12-2-306, or if proceedings are pending to suspend, revoke or otherwise penalize the original license or permit holder. A transfer of a license or permit shall require the payment of an additional license fee to the appropriate licensing authority of not more than one hundred dollars (\$100.00) for the transfer, and upon assignment the assignee may exercise the privilege of continuing the business authorized by the license or permit.

**12-4-602. Annexations; transfer of licensing jurisdiction; licenses transferred exempt from population formula.**

(a) The licensed premises of a license issued by a county which is located within an area annexed into the corporate limits of a city or town shall be transferred to the licensing jurisdiction of that city or town.

(b) Any transfer of jurisdiction provided within this section shall not require the payment of any additional fee for the transfer.

(c) Repealed by Laws 2021, ch. 22, § 3.

(d) A license transferred pursuant to annexation shall be exempt from the population formula restrictions provided by W.S. 12-4-201 and 12-4-413.

(e) As used in this section, "license" includes a county malt beverage permit. A city or town shall charge the same fee for a county malt beverage permit as the county.

**12-4-603. Annexation of retail liquor license or malt beverage permit into 5-mile zone; renewal.**

(a) A county retail liquor license having licensed premises located within a five (5) mile zone around an incorporated city or town because of annexation of property

shall not be denied an application for renewal by reason of annexation alone.

(b) Repealed by Laws 2021, ch. 22, § 3.

**12-4-604. Transfer or sale of license or permit; attachment, garnishment or execution.**

No license or permit shall be transferred or sold except as provided by W.S. 12-4-601 and 12-4-602, used for any place not described in the license or permit at the time of issuance or subject to attachment, garnishment or execution.

ARTICLE 7 - FORMS

**12-4-701. Duty to prepare and furnish.**

The Wyoming attorney general shall prepare and furnish to each city, town and county a form for liquor licenses and malt beverage permits. A license on a form other than as prescribed by the attorney general is invalid.

**12-4-702. Signature and attestation; contents; display required.**

(a) Each license issued by a city or town shall be signed by the mayor and attested by the clerk. Each license issued by a county shall be signed by the chairman of the board of county commissioners and attested by the county clerk.

(b) The following shall be shown in each license:

- (i) The name of the licensee;
- (ii) An address of the licensed building in which alcoholic or malt beverages may be sold;
- (iii) The date of issuance;
- (iv) The amount of the fee; and
- (v) That the fee has been paid.

(c) Each licensee shall display his license in a conspicuous place in the licensed building.

CHAPTER 5 - RESTRICTIONS UPON LICENSEES

## ARTICLE 1 - HOURS OF OPERATION

### **12-5-101. Hours of sale generally.**

(a) Repealed by Laws 2017, ch. 50, § 2.

(b) Repealed by Laws 2017, ch. 50, § 2.

(c) Repealed by Laws 2017, ch. 50, § 2.

(d) Local licensing authorities may set hours of operation for alcohol sales provided that the hours of operation are uniformly applied to establishments similarly situated.

## ARTICLE 2 - LICENSED BUILDING

### **12-5-201. Location, regulation and restrictions as to place of sale; inspections.**

(a) Except as otherwise provided in this section, the principal place in which alcoholic liquor and malt beverages are sold under a license shall be located in the licensed building for which the license is issued and as approved by the licensing authority. Alcoholic beverages may be served only in the licensed building and in an immediately adjacent fenced or enclosed area as approved by the local licensing authority. This adjacent area shall not be in another building. The licensing authority shall, as often as necessary, inspect the licensed building and adjacent areas where alcoholic beverages are served to insure that the licensee is in compliance with sanitation and fire hazard requirements and other applicable laws.

(b) Repealed by Laws 2017, ch. 63, § 2.

(c) Repealed by Laws 2017, ch. 63, § 2.

(d) Repealed by Laws 2017, ch. 63, § 2.

(e) Notwithstanding subsection (a) of this section, a licensee who holds a license other than a club license issued under W.S. 12-4-301 or restaurant license issued under W.S. 12-4-407, and who is engaged in a business operation with motel or hotel sleeping room accommodations at the same premises may sell alcoholic liquor and malt beverages in sealed containers from a minibar located in any sleeping room of the licensee's

motel or hotel operation occupied by a registered guest twenty-one (21) years of age or older. Sales under this subsection shall be only to registered guests age twenty-one (21) years or more, are not subject to hours of operation set pursuant to W.S. 12-5-101 and shall be only for consumption within the motel or hotel sleeping room premises occupied by the guest. Restrictions imposed upon minors under W.S. 12-6-101 apply to sales authorized under this subsection. The price imposed upon alcoholic liquor, malt beverages and all other items available for sale from the minibar shall be clearly posted. A minibar used for purposes of this subsection shall be a closed container, refrigerated or nonrefrigerated, access to the interior of which is restricted by means of a locking device requiring the use of a key, magnetic card or similar device. The appropriate licensing authority may impose additional reasonable restrictions on the operation of a minibar licensed under this subsection.

(f) A holder of a resort hotel liquor license, a resort retail liquor license, a golf club that holds a retail liquor license, a restaurant liquor license or a club limited retail liquor license or a holder of a retail liquor license or restaurant liquor license operating on a guest ranch may dispense alcoholic beverages from any location within the boundaries of the licensee's premises. Any holder of a resort hotel liquor license may sell an unopened bottle of liquor or wine to a registered guest not less than twenty-one (21) years of age for consumption on the holder's premises. The premises shall be a single property within a contiguous boundary upon which the licensee is located and which shall be identified in the license. Any location on the premises where alcoholic beverages are dispensed as approved by the licensing authority shall comply with applicable sanitation and fire hazard requirements and other applicable laws. The licensing authority shall, as often as necessary, inspect the licensed location where alcoholic beverages are dispensed to ensure that the licensee is in compliance with sanitation and fire hazard requirements.

(g) Repealed by Laws 2021, ch. 22, § 3.

(h) Repealed by Laws 2021, ch. 22, § 3.

(j) Repealed by Laws 2021, ch. 22, § 3.

(k) A licensing authority may authorize a licensee holding a retail liquor license issued under W.S. 12-4-201 to hold an

event in the licensed building at which persons under the age of twenty-one (21) are permitted if:

(i) No alcoholic liquor or malt beverages are sold, served, consumed or possessed by any person attending the event;

(ii) No alcoholic liquor or malt beverages are accessible to persons attending the event;

(iii) The licensee otherwise complies with any additional conditions which may be imposed by rule and regulation of the appropriate licensing authority, including revocation of the authorization to hold the youth event.

(m) Nothing under this act shall prohibit more than one (1) liquor license holder to operate within the same building provided that each licensee maintains distinct areas within the building.

**12-5-202. Storage outside licensed premises prohibited; exception.**

A retail licensee shall not store alcoholic liquor or malt beverages outside of the licensed building unless he files with the division a written statement that he stores alcoholic liquors or malt beverages in a place other than his place of business and states the exact location of the storage place.

**12-5-203. Repealed by Laws 2017, ch. 63, § 2.**

**12-5-204. Repealed by Laws 2017, ch. 50, § 2.**

#### ARTICLE 3 - DRIVE-IN AREAS

**12-5-301. Conditions for operation.**

(a) Upon approval of the licensing authority, a drive-in area adjacent or contiguous to the licensed building may be used by the holder of a retail liquor license for taking orders, making delivery of and receiving payment for alcoholic liquor or malt beverages under the following conditions:

(i) The holder of the retail liquor license shall own the area or hold a written lease for the period for which the license was issued;

(ii) Repealed by Laws 2017, ch. 63, § 2.

(iii) The area shall be well lighted and subject to inspection by the licensing authority at any and all times;

(iv) No walls or screens shall interfere with observing and checking the part of the area used for orders, delivery and payment;

(v) No order shall be received from nor delivery made to a person under twenty-one (21) years of age or an intoxicated person in the area;

(vi) No part of a publicly owned sidewalk, highway, street or alley shall be used for taking orders or conducting sales; and

(vii) Alcoholic liquor or malt beverages shall be sold and delivered in the drive-in area only in the original, unopened package and consumption of alcoholic liquor or malt beverages in the drive-in area shall not be permitted.

#### **12-5-302. Determination to forbid or restrict.**

The agents and officers of the licensing authority administering the retail liquor license shall determine whether traffic conditions or physical circumstances hindering law enforcement should require a decision forbidding or restricting sales and delivery in any drive-in area. If by resolution of the licensing authority the right of a licensee to use certain drive-in areas is forbidden or restricted that resolution shall be complied with by the licensee.

### **ARTICLE 4 - INDUSTRY REPRESENTATIVES**

#### **12-5-401. Interests in licenses or permits to sell.**

(a) No industry representative shall hold any interest, stock or ownership directly or indirectly, in any license to sell products of the industry at retail under privileges of a license or permit to sell any beverage or liquor in Wyoming or in any premises so licensed. This section shall not apply to any person holding a microbrewery permit pursuant to W.S. 12-4-415 or a winery permit pursuant to W.S. 12-4-414. This section shall also not apply to a person holding a manufacturer's license under W.S. 12-2-203(a) when the license is held under the complete ownership of a retail business and to the extent he may be permitted two (2) satellite manufacturer's permits pursuant

to W.S. 12-2-203(g) (i) or an off-premises permit pursuant to W.S. 12-2-203(g) (ii).

(b) As used in subsection (a) of this section:

(i) "Complete ownership" means that all officers, owners or members are identical for all licenses and permits held;

(ii) "Retail business" means the holder of a microbrewery or winery permit.

**12-5-402. Furnishing of money and products; payment in full for malt beverages; credit for alcoholic liquor; credit deficiencies.**

(a) Except as otherwise authorized in this section or W.S. 12-5-403, industry representatives shall not furnish, give or lend money or other things of value, directly or indirectly, to any person engaged in selling products of the industry at retail under privileges of a license or permit to sell any beverage or liquor in Wyoming. The prohibition shall extend to the giving to any person for the use, benefit or relief of the person engaged in selling the industry's products and to prohibit guaranty by the industry of a loan or other financial obligation of persons engaged at retail in selling these products. With prior approval of the applicable licensing authority, malt beverage industry representatives may furnish, give or lend money or other things of value to a licensee to support annual community events open to the public if the licensee:

(i) Is a nonprofit corporation organized under the laws of this state;

(ii) Is qualified as a tax exempt organization under the Internal Revenue Code; and

(iii) Has been in continuous operation for a period of not less than two (2) years.

(b) No sale or delivery of malt beverages shall be made by a wholesaler to any licensee except for payment in full made at the time of or prior to delivery, and a licensee shall not accept or receive delivery of malt beverages except when payment is made at or prior to delivery.

(c) The division may grant credit to retailers when purchasing alcoholic liquor for a period not to exceed four (4) days from date of shipment. Payments by mail for credit shipments shall be postmarked within twenty-four (24) hours of the receipt of the shipment by the retailer. The division may seize and sell all stocks of liquor of the retailer to satisfy any credit balance. Any deficiency constitutes a lien on any proceeds received through transfer of the license or permit. If a retailer defaults in payment for a shipment under this section, no further shipments shall be made to him for a period of one (1) year except on a C.O.D. basis.

**12-5-403. Furnishing of equipment; advertising materials; records to be kept.**

(a) Industry representatives shall not furnish, give, rent, lend or sell at cost or below, either directly or indirectly, any equipment, fixtures or supplies to any person engaged in selling products of the industry under the privileges of a retail liquor license or limited retail liquor license. No person licensed to sell products of the industry shall receive or be the beneficiary of any of the prohibited benefits.

(b) The following materials when furnished free of charge to the wholesaler or an alcoholic beverage supplies representative, are exempt from subsection (a) of this section and may be furnished, given or loaned to any retail liquor licensee or limited retail liquor licensee:

(i) National advertising and promotional materials bearing advertising matter and having no value to the retailer except as advertisements;

(ii) Consumer advertising specialties bearing advertising matter;

(iii) Retailer's advertising specialties bearing advertising matter; and

(iv) Standard brewery or manufacturer's signs.

(c) Repealed by Laws 1995, ch. 99, § 2.

**12-5-404. Repealed by Laws 1995, ch. 99, § 2.**

**12-5-405. Sale of alcoholic liquor.**

Industry representatives shall not sell or attempt to sell any alcoholic liquor within Wyoming, except to the division. Any violation of this section is a misdemeanor.

ARTICLE 5 - HABITUAL DRUNKARDS AND MINORS

**12-5-501. Repealed by Laws 1979, ch. 156, § 3.**

**12-5-502. Repealed By Laws 2014, Ch. 110, § 104.**

ARTICLE 6 - DELIVERY

**12-5-601. Delivery of alcoholic liquors and malt beverages.**

(a) Retail liquor licensees, microbrewery permit holders, winery permit holders, winery satellite permit holders and manufacturer licensees with a satellite location may deliver or contract to have delivered alcoholic liquors and malt beverages to customers provided:

(i) All sales of alcoholic liquors and malt beverages under this subsection shall take place in the licensed building. Orders of alcoholic liquors and malt beverages may be placed by phone, online or through a mobile application. All deliveries under this subsection shall be completed during the licensee's remaining operating hours on the same day the alcoholic liquors or malt beverages are removed from the inventory of the licensed premise;

(ii) No order shall be received nor shall any delivery be made to or by a person under the age of twenty-one (21) years. All deliveries shall require the purchaser to provide to the deliverer a valid government issued identification demonstrating the purchaser is twenty-one (21) years of age or older;

(iii) All package sales and deliveries of alcoholic liquors and malt beverages for off-premises consumption shall be sealed. For purposes of this paragraph, "sealed" means a product enclosed:

(A) In its original package and unopened;

(B) In a plastic bag and heat sealed closed; or

(C) In a container that has a breakable seal incorporated in the container cap.

(iv) Any contract delivery service shall adhere to the requirements of this subsection when delivering alcoholic liquors and malt beverages; and

(v) Microbrewery permit holders, winery permit holders, winery satellite permit holders and manufacturer licensees with a satellite location shall only deliver or contract to have delivered their respective manufactured products.

## CHAPTER 6 - MINORS

**12-6-101. Sale or possession prohibited; when possession unlawful; public drunkenness; falsification of identification; penalty; prima facie identification as defense.**

(a) Any person who sells, furnishes, gives or causes to be sold, furnished or given away any alcoholic liquor or malt beverage to any person under the age of twenty-one (21) years, who is not his legal ward, medical patient or member of his own immediate family, is guilty of a misdemeanor. This subsection does not apply to sales by the division or a wholesaler to a licensee under this title.

(b) Repealed By Laws 2010, Ch. 6, § 2.

(c) Except as otherwise provided in this title, no person under the age of twenty-one (21) years shall:

(i) Purchase or attempt to purchase any alcoholic liquor or malt beverage;

(ii) Solicit another person to purchase alcoholic liquor or malt beverage;

(iii) Possess any alcoholic liquor or malt beverage;

(iv) Consume any ethyl alcohol;

(v) Have measurable blood, breath or urine alcohol concentration in his body;

(vi) Enter or remain in designated sales areas approved by the local licensing authority that is primarily for

off-premise sales of alcoholic liquor or malt beverages unless accompanied by a parent, spouse or legal guardian who is twenty-one (21) years of age or older; or

(vii) Dispense or sell any alcoholic liquor or malt beverage. The term "dispensing" means mixing or pouring alcoholic liquors or malt beverages.

(d) This section shall not apply to possession of alcoholic liquor or malt beverages or consumption of ethyl alcohol by a person under the age of twenty-one (21) years in accordance with this title:

(i) Who is in the physical presence of his parent, spouse or legal guardian who is twenty-one (21) years of age or older;

(ii) As part of a church's or religious organization's religious services; or

(iii) For medicinal purposes if the alcoholic liquor, malt beverage or ethyl alcohol is furnished:

(A) By the person's parent, spouse or legal guardian who is twenty-one (21) years of age or older; or

(B) Pursuant to a lawful prescription.

(e) The prohibitions against possession of alcoholic liquor or malt beverages by a person under the age of twenty-one (21) years specified in this section shall not apply:

(i) When the person is making a delivery of alcoholic liquor or malt beverages pursuant to his employment;

(ii) When the person is serving alcoholic liquor or malt beverages pursuant to his employment in a restaurant which holds a license to serve alcoholic liquor or malt beverages, if the person is at least eighteen (18) years of age. The term "serving" in this paragraph does not include the mixing or dispensing of alcoholic beverages; or

(iii) To a person who is a licensee under this title.

(f) Any person under the age of twenty-one (21) years who attempts in any manner to purchase alcoholic or malt beverages or who falsifies any identification or uses any false

identification in order to obtain alcoholic or malt beverages is guilty of a misdemeanor.

(g) Any person who violates this section, or aids, abets or incites any violation hereof, is guilty of a misdemeanor.

(h) A motor vehicle driver's license or valid picture identification card issued by any state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico, a permanent resident card issued by the United States citizenship and immigration services, a valid picture identification card issued to a member of the armed forces or an internationally accepted passport document with a discernible date of birth and photograph is prima facie evidence of the age and identity of a person. Proof that a licensee or his employee or agent demanded, was shown and acted in reasonable reliance upon the information contained in any one (1) of the above documents as identification is a defense to any criminal prosecution or action for the suspension or revocation of a license.

(j) For purposes of this section, "ethyl alcohol" means any substance which is or contains ethyl alcohol.

**12-6-102. Transporting or possessing in motor vehicle with intent to furnish to person under 21; penalties.**

(a) No person who is at least twenty-one (21) years of age shall transport, or have in his possession or control, any alcoholic liquor or malt beverage, with the intent of furnishing the same to any person under the age of twenty-one (21) years, while operating or occupying a motor vehicle.

(b) Any person who violates subsection (a) of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), imprisonment in the county jail for not more than one (1) year, or both. Upon a second or any subsequent conviction under this subsection the person is guilty of a felony and shall be punished by imprisonment in the state penitentiary for a term not exceeding five (5) years.

(c) In addition to the penalty provided in subsection (b) of this section the division of motor vehicles shall suspend, for a period of one (1) year, the driver's license and automobile registration of any person convicted of operating a

motor vehicle in violation of this section. The license suspension shall not run concurrent with any term of imprisonment, if imposed, but shall commence on the last day of incarceration.

### **12-6-103. Compliance.**

(a) The department of health, working with local law enforcement agencies and other local individuals and organizations shall be the lead agency in the administration of this article. Nothing contained in this section shall be construed to limit or otherwise alter the authority granted to the department of revenue under any other provision of title 12.

(b) The department of health shall develop strategies to coordinate and support local law enforcement efforts in the enforcement of all state statutes relating to the prohibition of the sale of alcohol products to minors.

(c) The department of health shall have discretion to work with local agencies and individuals in the coordination of local education, prevention and enforcement efforts that appropriately reflect the needs of the community.

(d) For purposes of this section, the term "compliance check" shall mean an inspection conducted pursuant to the provisions of this section for purposes of education or enforcement of laws prohibiting the sale of alcohol to minors. The use of persons age eighteen (18) to twenty-one (21) during compliance checks is authorized subject to the following:

(i) A person participating in a compliance check shall, if questioned, state his true age and that he is less than twenty-one (21) years of age;

(ii) The person's appearance shall not be altered to make him appear to be twenty-one (21) years of age or older;

(iii) Neither a person age eighteen (18) to twenty-one (21) nor his parents or guardians shall be coerced into participating in such inspections;

(iv) In the event that a citation may result the person conducting the compliance check shall photograph the participant immediately before the compliance check and any photographs taken of the participant shall be retained by the person conducting the compliance check;

(v) Any participant or adult aiding a participant in a compliance check under this section shall be granted immunity from prosecution under W.S. 12-6-101.

(e) The person conducting a compliance check under this section shall:

(i) Remain within sight or sound of the participant attempting to make the purchase;

(ii) Immediately inform in writing a representative or agent of the business establishment that a compliance check has been performed and the results of the compliance check;

(iii) If the compliance check may result in a citation, within two (2) days, prepare a report of the compliance check containing:

(A) The name of the person who supervised the compliance check;

(B) The age and date of birth of the participant who assisted in the compliance check;

(C) The name and position of the person from whom the participant attempted to purchase alcoholic beverages;

(D) The name and address of the establishment checked;

(E) The date and time of the compliance check;  
and

(F) The results of the compliance check, including whether the compliance check resulted in the sale or distribution of, or offering for sale, alcoholic beverages to the minor.

(iv) Immediately upon completion of the report required under this subsection, provide a copy of the report to a representative or agent of the business establishment that was checked;

(v) Request a law enforcement officer to issue a citation for any illegal acts relating to providing alcoholic beverages to minors during the compliance check.

## CHAPTER 7 - SUSPENSIONS AND REVOCATIONS OF LICENSES AND PERMITS

### ARTICLE 1 - IN GENERAL

#### **12-7-101. Causes generally.**

Any violation of this title by any manufacturer, rectifier, wholesaler, licensee, employee or agent thereof is sufficient cause for the suspension and in the case of gross violation the revocation of the license of the licensee.

#### **12-7-102. Suspension of license when revocation inadvisable.**

In a proceeding for revocation of a liquor license and when a licensee is found guilty of violating W.S. 12-1-101 through 12-8-301, the district court or the division may, if it appears inadvisable to revoke the license, suspend the license for a period not to exceed the balance of the term for which the license was issued and the suspension shall not, of itself, disqualify the license holder for renewal at the end of the license term.

#### **12-7-103. Suspension of license by licensing authorities for failure to pay sales tax.**

A local licensing authority may suspend any license issued under this title if the licensee fails to pay sales taxes and the division has ceased sales of alcoholic liquor to the licensee pursuant to W.S. 12-2-306. The licensee may appeal license suspension to the district court in the manner specified under W.S. 12-4-104(f) and the appeal proceedings shall be in accordance with the Wyoming Rules of Appellate Procedure. The suspension shall remain in effect pending a decision by the appellate court.

### ARTICLE 2 - REVOCATION PROCEDURE

#### **12-7-201. Civil action; administrative and judicial proceedings; disposition of liquors.**

(a) An action to revoke any Wyoming liquor license or permit may be brought in the name of the state of Wyoming by the attorney general, any county attorney or the licensing authority for the reason that the licensee or permittee has violated this title.

(b) Actions to revoke licenses are civil actions and shall be tried before the court without a jury. The revocation proceedings shall be in accordance with the Wyoming Rules of Civil Procedure, and the trial and all other matters to come before the court shall have a priority upon the court calendar. If, upon trial, it appears that the license or permit of the licensee should be revoked, the court shall enter its order accordingly. The court may revoke the license or permit upon proof that the intent and purpose of this title has been violated. The fact that no criminal proceeding has been instituted or that no law with sanctions has been violated is not a defense to the action. Upon the application of the state and upon a showing to the satisfaction of the court that there are probable grounds for believing the license holder's license should be revoked, the court may issue an order suspending a license during the pendency of an action for its revocation and no bond shall be required as a condition to the issuance of the suspension order. Appeal from the final district court decision may be taken according to the Wyoming Rules of Appellate Procedure, but the order of revocation shall remain in effect pending a decision by the appellate court.

(c) The provisions of this section are cumulative and shall not be construed as preventing the division from revoking a liquor license in any case authorized by law.

(d) The division may revoke any license or permit issued under this title for violation of any of the rules and regulations promulgated by the department pursuant to this title or for violation of any of the provisions of this title. Prior to suspension or final revocation of a license or permit under this chapter the division shall issue at least two (2) written notices of the intent to revoke or suspend the license or permit to the licensee. The notices shall be provided at least one (1) week apart and the final notice shall be provided at least thirty (30) days prior to any suspension or revocation. The notice shall identify the violation warranting revocation or suspension of the license or permit, the date when it will be suspended or revoked and the ability to appeal and to continue to operate as provided in this subsection. Unless the division orders otherwise, a licensee may continue to operate under the license or permit pending an appeal of a license suspension or revocation to the state board of equalization made under this subsection. Any appeal shall be filed with the state board of equalization not more than thirty (30) days following the suspension or revocation of the license or permit. Appeals

before the state board shall be conducted as a contested case under the Wyoming Administrative Procedure Act and the state board shall either affirm or deny the action taken by the division. The state board may affirm an order of immediate suspension of a license or permit if the division demonstrates that the licensee should not be permitted to operate pending the outcome of an appeal made under this subsection. The decision of the state board shall be subject to judicial review under W.S. 16-3-114 except that the review shall not operate to stay a revocation or suspension order of the division during the pendency of the district court proceeding or during a later appeal to the supreme court. Should the license or permit of a licensee expire during the pendency of an appeal before the state board or in any of the courts of this state, no new or renewal license shall be granted by the licensing authority to the licensee or any other person pending the outcome of the appeal.

(e) Upon the final revocation of a liquor license or permit, all alcoholic liquors in the possession of the license holder and which are in merchantable condition shall be delivered to the division which shall reimburse the license holder for the value thereof at its then regular wholesale prices. All malt beverages and nonmerchantable alcoholic liquors shall be disposed of at the direction of the division.

## CHAPTER 8 - PENALTIES

### ARTICLE 1 - IN GENERAL

#### **12-8-101. General penalty for violations.**

Any person who violates any provision of this title for which no specific penalty is provided is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both.

#### **12-8-102. Manufacturing, rectifying or sale without license or permit; penalties.**

(a) Any person who manufactures or rectifies any alcoholic beverage without holding a manufacturer's license or who possesses a still without holding a manufacturer's license is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00), imprisonment for not more than one (1) year, or both. Any equipment possessed and used in an

illegal manner shall be confiscated by the state and disposed of as directed by the court. Nothing in this subsection shall apply to the manufacture of homemade beer, mead, wine and fermented fruit juice if the total of beer, mead, wine and fermented fruit juice produced during a calendar year does not exceed:

(i) One hundred (100) gallons in a household having one (1) person who is twenty-one (21) years of age or older; or

(ii) Two hundred (200) gallons in a household having two (2) or more persons who are twenty-one (21) years of age or older.

(b) Except as otherwise provided in W.S. 12-10-102, any person who sells any alcoholic liquor or malt beverage without holding a license or permit authorizing the sale is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00), imprisonment for not more than one (1) year, or both.

## ARTICLE 2 - EVIDENCE

**12-8-201. Repealed by Laws 2017, ch. 50, § 2.**

## ARTICLE 3 - DAMAGES

**12-8-301. Limitation of liability.**

(a) No person who has legally provided alcoholic liquor or malt beverage to any other person is liable for damages caused by the intoxication of the other person.

(b) This section does not affect the liability of the intoxicated person for damages.

(c) This section does not affect the liability of the licensee or person if the alcoholic liquor or malt beverage was sold or provided in violation of title 12 of the Wyoming statutes.

(d) For purposes of this section "licensee" is as defined in W.S. 12-1-101(a)(viii) and includes the licensee's employee or employees.

## CHAPTER 9 - MALT BEVERAGES

### ARTICLE 1 - RELATIONS BETWEEN MALT BEVERAGE

## DISTRIBUTORS AND MANUFACTURERS

### **12-9-101. Legislative findings and intent.**

(a) Regulation of business relations between malt beverage distributors and manufacturers serves a significant and legitimate public purpose.

(b) This act is intended to control and stabilize the distribution of malt beverages in the state and comprises an integral part of a comprehensive legislative regulation.

(c) This act is enacted pursuant to authority of the state under the provisions of the twenty-first amendment to the United States constitution to promote the public's interest in fair, efficient and competitive distribution of malt beverage products by regulation and encouragement of manufacturers and distributors to conduct their business relations toward these ends by:

(i) Assuring that the malt beverage distributor is free to manage its business enterprise, including the distributor's right to independently establish its selling prices;

(ii) Assuring the manufacturer and the public of service from a distributor who will devote reasonable efforts and resources to sales, distribution of the manufacturer's products which distributor has been granted the right to sell and distribute and to maintain a satisfactory sales level; and

(iii) Establishing and maintaining an orderly system of distribution of malt beverages to the public.

### **12-9-102. Definitions.**

(a) As used in this act:

(i) "Brand" means any word, name, group of letters, symbol, trademark or combination thereof but not including the name of the supplier adopted and used by a supplier on a label to identify a specific beer or malt beverage and to distinguish that product from the label of another beer or malt beverage produced or marketed by that or another manufacturer;

(ii) "Brand extension" means any brand which incorporates all or a substantial part of the unique features of

the label of a preexisting brand of the same manufacturer. A brand extension is not considered a new or different brand. Except for good cause a manufacturer shall assign a brand extension to the wholesaler which was granted the exclusive sales territory to the brand from which the brand extension resulted;

(iii) "Designated member" means the spouse, child, grandchild, parent, brother or sister of a deceased individual who owned an interest in a distributor's business, who is entitled to inherit the deceased individual's ownership interest in the distributor under the terms of the deceased individual's will, or who has otherwise been designated in a valid testamentary instrument by the deceased individual to succeed the deceased individual in the distributor's business, or who is entitled to inherit such ownership interest under the laws of intestate succession of this state. With respect to an incapacitated individual owning an ownership interest in a distributor, "designated member" means the person appointed by a court as the conservator of the individual's property. The term also includes the appointed and qualified personal representative and the testamentary trustee of a deceased individual owning an ownership interest in a distributor's business;

(iv) "Distributor" or "wholesaler" means any person licensed in the state to sell and distribute malt beverages at wholesale to persons who are licensed to sell malt beverages at retail in Wyoming;

(v) "Franchise" means a contract or agreement either expressed or implied, whether oral or written, for a definite or indefinite period of time in which a manufacturer grants to a malt beverage distributor the right to purchase, resell and distribute any brand or brands offered by the manufacturer;

(vi) "Franchisee" means a malt beverage distributor to whom a franchise is offered or granted;

(vii) "Franchisor" means a malt beverage manufacturer who grants a franchise to a malt beverage distributor;

(viii) "Fraud" means:

(A) A misrepresentation in any manner, whether intentionally false or arising from gross negligence, of a material fact;

(B) An intentional failure to disclose a material fact;

(C) Any artifice employed to deceive another.

(ix) "Good cause" means:

(A) Insolvency of the distributor, the filing of any petition by or against the distributor under any bankruptcy or receivership law, or the dissolution or liquidation of the wholesaler which materially affects the distributor's ability to remain in business;

(B) Revocation or suspension of the distributor's license whereby the distributor cannot distribute malt beverages for more than sixty (60) days;

(C) The distributor or an individual who owns more than ten percent (10%) of the stock of a corporate distributor has been convicted of a felony. As used in this paragraph, "felony" means a felony under the United States Code or laws of this state;

(D) The distributor intentionally sells the supplier's products to a retailer or retailers outside that distributor's assigned territory;

(E) There is a failure by the distributor to comply with a provision of the agreement with a manufacturer which is both reasonable and of material significance to the business relationship between the distributor and the manufacturer and which failure has not been cured by the distributor pursuant to the provisions of this act.

(x) "Good faith" means honesty in fact in the conduct of the transaction involved and the observance of reasonable commercial standards of fair dealing in the trade;

(xi) "Manufacturer" means any person licensed to manufacture or import malt beverages for distribution to distributors licensed in Wyoming;

(xii) "Person" means a natural person, corporation, association, partnership, trust or other business entity and, in case of a business entity, shall include any other entity in which it has a majority interest or it effectively controls, as

well as the individual officers, directors, and other persons in active control of the activities of each entity. "Person" also includes heirs, assignees, personal representatives and guardians;

(xiii) "Reasonable qualifications" means the average standard of the criteria used by the respective manufacturer for similarly situated distributors that entered into or renewed an agreement with the manufacturer during a period of twenty-four (24) months prior to the proposed transfer of the distributor's business;

(xiv) "Retaliatory action" includes, but is not limited to, the refusal to continue an agreement, or a material reduction in the quality of service or quantity of products available to a distributor under an agreement, which is not made in good faith as defined in this act;

(xv) "Sale" includes the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation or mortgage in any manner or form, whether by transfer in trust or otherwise, of malt beverages or of any franchise related thereto for consideration and any option, subscription or other contract for consideration;

(xvi) "Similarly situated distributors" means distributors of a manufacturer that are of a generally comparable size, and operate in markets with similar demographic characteristics, including population, size, density, distribution and economic conditions;

(xvii) "Transfer of a distributor's business" means the voluntary sale, assignment or other transfer, including the sale or other transfer of stock or assets by merger, consolidation or dissolution of:

(A) The business;

(B) Control of the business of the distributor;

or

(C) An ownership interest of ten percent (10%) or more of the business of the distributor.

(xviii) "This act" means W.S. 12-9-101 through 12-9-119.

### **12-9-103. Application of act.**

Any person who engages directly or indirectly in purposeful agreements or contracts in connection with the purchase of malt beverages from manufacturers or the sale of malt beverages to malt beverage distributors within this state shall be subject to the provisions of this act and shall be subject to the jurisdiction of the courts of this state for violations of this act in accordance with the provisions of the laws of this state.

### **12-9-104. Unfair and prohibited acts.**

(a) It shall be a violation of this act for a manufacturer or manufacturer's officer, agent or other representative thereof:

(i) To coerce or compel, or attempt to coerce or compel, any malt beverage distributor to order or accept delivery of any malt beverage or any other commodity which the distributor has not voluntarily ordered;

(ii) To refuse to deliver in reasonable quantities and within a reasonable time after receipt of the distributor's order to any distributor having a franchise for the distribution and sale of malt beverages by such manufacturer, malt beverages covered by the franchise or contract. However, the refusal to deliver malt beverages shall not be considered a violation of this section if the refusal is due to failure of the distributor to pay the manufacturer pursuant to the contract, the distributor's insolvency, an act of God, work stoppage or delay due to a strike or labor difficulty, a bona fide shortage of materials, freight embargo or other cause over which the manufacturer, or any agent thereof, shall have no control;

(iii) To coerce or compel, or attempt to coerce or compel, a malt beverage distributor to enter into any agreement, whether written or oral, supplementary to an existing franchise with the manufacturer or officer, agent or other representative thereof, by threatening to cancel any franchise or any contractual agreement existing between the manufacturer and distributor. However, notice in good faith by a manufacturer to a malt beverage distributor of the distributor's violation or breach of any terms or provisions of a franchise or contractual agreement shall not constitute a violation of this act if the notice is in writing, is mailed by registered or certified mail to the distributor at his current business address, and contains

the specific facts of the distributor's alleged violation or breach of the franchise or contractual agreement;

(iv) Except as provided in W.S. 12-9-120, to terminate, cancel, fail to renew or refuse to continue the franchise of any distributor without good cause, as defined in this act. The nonrenewal of a franchise or selling agreement without good cause shall constitute an unfair termination or cancellation, regardless of the specified time period of the franchise or selling agreement;

(v) To discriminate, either directly or indirectly, in price, programs or terms of sale offered to franchisees, where the effect of the discrimination may be to substantially lessen competition among distributors or to give to one (1) holder of a franchise any competitive advantage over other holders of the same or similar franchise;

(vi) To prevent or attempt to prevent, by contract or otherwise, any malt beverage distributor from changing the capital structure of his distributorship or the means by or through which he finances the operation of his distributorship;

(vii) To require a malt beverage distributor to assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability imposed by this act. However, nothing in this section shall be construed to limit or prohibit good faith dispute settlements entered into by the parties;

(viii) To restrict or inhibit, directly or indirectly, the right of free association among manufacturers or distributors of malt beverage for any lawful purpose;

(ix) To fix or maintain the price at which a distributor may resell malt beverages;

(x) To coerce, or attempt to coerce, any distributor to accept delivery of any malt beverage or other commodity ordered by a distributor if the order was properly canceled by the distributor in accordance with the reasonable procedures of the manufacturer;

(xi) To change a distributor's quota of a brand or brands, if the change is not made in good faith;

(xii) To require a distributor, by any means, to participate in or contribute to any local or national advertising fund controlled directly or indirectly by a manufacturer;

(xiii) To take any retaliatory action against a distributor that files a complaint regarding an alleged violation by the manufacturer of state or federal law or an administrative rule;

(xiv) To require or prohibit without good cause any change in the manager or successor manager of any distributor who has been approved by the manufacturer as of the effective date of this act. Should a distributor change an approved manager or successor manager, a manufacturer shall not require or prohibit the change unless the person fails to meet the reasonable standards for similarly situated distributors of the manufacturer;

(xv) To sell or supply any brand or brand extension of malt beverages in this state to a licensed wholesaler other than the licensed wholesaler designated as the exclusive wholesaler for a specific territory for such brand or brand extension by the supplier in a written agreement, except that nothing in this paragraph shall prohibit a supplier from providing malt beverages to consumers in an area on such supplier's premises designated as a hospitality area, or from participating in consumer sampling or taste testing programs of brands of malt beverages not sold to licensed wholesalers in this state, or from otherwise operating as permitted by law;

(xvi) To require for any reason that a wholesaler purchase one (1) or more brands of malt beverages in order for the wholesaler to purchase another brand or brands of malt beverages.

(b) It shall be a violation of this act for a distributor, partner, shareholder or officer or agent thereof to have the right to sell, transfer or assign the management or control ownership of greater than ten percent (10%) of a distributorship without the written consent of the manufacturer, except that the consent shall not be unreasonably withheld. No manufacturer shall unreasonably withhold or delay its approval of any assignment, sale or transfer of the stock of a distributor or of all or any portion of a distributor's assets, distributor's voting stock, the voting stock of any parent corporation or the beneficial ownership or control of any other entity owning or

controlling a distributor, including the distributor's rights and obligations under the terms of an agreement, whenever the person to be substituted meets reasonable qualifications. For purposes of this subsection, "unreasonably withhold or delay" means a period in excess of ninety (90) days after receipt by the manufacturer of all information reasonably required from the wholesaler and purchaser. Upon the death or disability of one (1) of the officers, partners or stockholder of greater than ten percent (10%) ownership of a corporate distributorship operating the business of a distributor, no manufacturer shall deny the surviving officers, partners of the partnership or stockholders of the distributorship, the right to become a successor-in-interest to the agreement between the manufacturer and the distributorship, provided that the survivor has been active in the management of the distributor's business and is otherwise capable of carrying on the business of the distributorship. However, upon the death of a distributor, no manufacturer shall deny approval for any transfer of ownership to a designated member of the family of an owner of a distributorship, provided, that the subsequent transfer of ownership by the designated member shall thereafter be subject to the provisions of this subsection.

**12-9-105. Distributor's resignation; cancellation; termination; failure to renew; refusal to continue.**

(a) Notwithstanding any agreement and except as provided in W.S. 12-9-120 or as otherwise provided in this act, a manufacturer shall not cause a distributor to resign from an agreement, or cancel, terminate, fail to renew or refuse to continue under an agreement unless the manufacturer has:

(i) Satisfied the applicable notice requirements of W.S. 12-9-108;

(ii) Acted in good faith; and

(iii) Good cause for the cancellation, termination, nonrenewal, discontinuance or forced resignation.

**12-9-106. Good cause for terminating agreement; rights to cure.**

(a) Notwithstanding any agreement, good cause shall exist for the purposes of a termination, cancellation, nonrenewal or discontinuance under W.S. 12-9-105(a)(iii) when all of the following occur:

(i) There is a failure by the distributor to comply with a provision of the agreement which is both reasonable and of material significance to the business relationship between the distributor and the manufacturer;

(ii) The manufacturer first acquired knowledge of the failure described in paragraph (i) of this subsection not more than two (2) years before the date notification was given pursuant to W.S. 12-9-105(a)(i);

(iii) The distributor was given written notice by the manufacturer of failure to comply with the agreement;

(iv) The distributor was afforded a reasonable opportunity to assert good faith efforts to comply with the agreement within the time limits provided for in paragraph (v) of this subsection; and

(v) The distributor has been afforded thirty (30) days in which to submit a plan of corrective action to comply with the agreement and an additional ninety (90) days to cure the noncompliance in accordance with the plan and has not cured the noncompliance within that time in accordance with the plan.

(b) Good cause shall exist for the purposes of termination, cancellation, nonrenewal or discontinuance under W.S. 12-9-105(a)(iii) when there occurs a violation of W.S. 12-9-109(a).

#### **12-9-107. Burden of proof.**

For each termination, cancellation, nonrenewal or discontinuance, the manufacturer shall have the burden of showing that it has acted in good faith, that the notice requirements and rights to cure under this act have been complied with and that there was good cause for the termination, cancellation, nonrenewal or discontinuance.

#### **12-9-108. Notice for terminating an agreement.**

(a) Notwithstanding any agreement and except as otherwise provided in this act, the manufacturer shall furnish written notice of the termination, cancellation, nonrenewal or discontinuance of an agreement to the distributor not less than thirty (30) days before the effective date of the termination, cancellation, nonrenewal or discontinuance. In no event shall

the contractual term of any agreement expire, without the written consent of the malt beverage distributor involved, prior to the expiration of at least thirty (30) days following the written notice. The notice shall be by certified mail and shall contain the following:

(i) A statement of intention to terminate, cancel, not renew or discontinue the agreement;

(ii) A statement of the reason for the termination, cancellation, nonrenewal or discontinuance; and

(iii) The date on which the termination, cancellation, nonrenewal or discontinuance takes effect.

**12-9-109. Conditions and notice required.**

(a) Notwithstanding W.S. 12-9-105 and 12-9-106, a manufacturer may immediately terminate, cancel, fail to renew, or discontinue an agreement if any of the following occur:

(i) Insolvency of the distributor, the filing of any petition by or against the distributor under any bankruptcy or receivership law, or the dissolution or liquidation of the wholesaler which materially affects the distributor's ability to remain in business;

(ii) Revocation of the distributor's license whereby the distributor cannot distribute malt beverages for more than sixty (60) days;

(iii) The distributor or an individual who owns more than ten percent (10%) of the stock of a corporate distributor has been convicted of a felony. As used in this paragraph, "felony" means a felony under the United States Code or laws of this state. However, an existing stockholder shall have the right to purchase the stock of the offending stockholder, and, if the sale is completed within the thirty (30) day period, the provisions of this paragraph shall not apply. Any such purchase shall be subject to W.S. 12-9-104(a)(viii);

(iv) The distributor intentionally sells the supplier's products to a retailer or retailers outside that distributor's assigned territory;

(v) The distributor commits fraud as defined by W.S. 12-9-102(a)(viii) in his dealings with the manufacturer.

**12-9-110. Discontinuance of production or distribution.**

Notwithstanding W.S. 12-9-105, 12-9-108 and 12-9-109, a manufacturer may terminate, cancel, not renew or discontinue an agreement upon not less than thirty (30) days prior written notice if the supplier discontinues production or discontinues distribution throughout this state of all the brands sold by the manufacturer to the distributor. Nothing in this act shall prohibit a manufacturer, upon not less than thirty (30) days notice, to completely discontinue the distribution throughout this state of any particular brand or package of malt beverage. This section does not prohibit a manufacturer from conducting test marketing of a new brand of malt beverage or from conducting the test marketing of a brand of malt beverage which is not currently being sold in this state, provided that the manufacturer has notified the division in writing of its plans to test market. The notice shall describe the market area in which the test shall be conducted, the name or names of the distributors who will be selling the malt beverage, the name or names of the brand of malt beverage being tested, and the period of time during which the testing will take place. A market testing period shall not exceed eighteen (18) months.

**12-9-111. Effort required by distributor.**

The distributor shall devote such efforts and resources to sales and distribution of all the manufacturer's products which the distributor has been granted the right to sell and distribute as reasonably required by the agreement between the manufacturer and distributor.

**12-9-112. Waiver prohibited.**

A distributor shall not waive any of the rights granted in any provision of this act. Nothing in this act shall be construed to limit or prohibit good faith dispute settlements voluntarily entered into by the parties.

**12-9-113. Agreement subject to act.**

The provisions of this act shall apply to all agreements between a manufacturer and distributor entered into on or after the effective date of this act.

**12-9-114. Agreements binding on successor.**

A successor to a manufacturer that continues in business as a manufacturer shall be bound by all terms and conditions of each agreement of the manufacturer in effect on the date of succession.

**12-9-115. Reasonable compensation.**

(a) In the event that a distributor is terminated by a manufacturer in bad faith or for other than good cause, the distributor shall be entitled to additional compensation from the manufacturer for:

(i) The fair market value of any and all assets, including ancillary business assets of the distributor used in distributing the manufacturer's products;

(ii) The good will of the business.

(b) The total compensation to be paid by the manufacturer to the distributor shall be reduced by any sum received by the distributor from sale of assets of the business used in distribution of the manufacturer's products as well as by whatever value such assets may have to the distributor that are unrelated to the manufacturer's products.

(c) As used in this section, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy when each possesses all information relevant to the transaction.

(d) In the event the manufacturer and the malt beverage distributor are unable to mutually agree on the reasonable compensation to be paid for the value of the distributor's business, as defined herein, the matter may by agreement of the parties be submitted to arbitration. If so submitted, the following shall apply:

(i) Arbitration shall proceed only if all parties agree in advance and submit the dispute to arbitration, and the decision of the arbitrators shall be final and binding if so agreed upon by the parties in advance of the arbitrator's proceedings;

(ii) The dispute shall be submitted to a panel of three (3) arbitrators, one (1) of which shall be selected by the supplier within thirty (30) days after the parties have agreed to arbitrate, one (1) of which shall be selected by the

wholesaler within thirty (30) days after the parties have agreed to arbitrate, and one (1) of which shall be selected from a list of five (5) candidates supplied by the American Arbitration Association at the request of the parties within ten (10) days after the parties have agreed to submit the dispute to arbitration;

(iii) Within ten (10) days after receipt of the list supplied pursuant to paragraph (ii) of this subsection, the wholesaler and the supplier each may disqualify up to two (2) candidates from the list. The American Arbitration Association shall select the third arbitrator from the candidates not disqualified by the parties;

(iv) The arbitration shall proceed in accordance with the rules of the American Arbitration Association within thirty (30) days after the selection of the arbitration panel has been completed;

(v) The cost of the arbitration shall be borne equally by the parties. The award of a majority of the arbitrators shall be final and binding on the parties if so agreed upon in advance by the parties. The arbitrators shall not be permitted to award punitive damages and are bound to apply the terms and provisions of the agreement not in conflict with this act.

#### **12-9-116. Remedies.**

(a) During the thirty (30) day period provided in W.S. 12-9-108, either party, in appropriate circumstances, may bring an action in the appropriate court of this state pending a final determination of the proceedings on the merits.

(b) In any action brought under this act, the court shall have authority to grant temporary, preliminary and final injunctive relief.

(c) In addition to temporary, preliminary or final injunctive relief, any manufacturer or distributor who shall be aggrieved or injured in his business or property by reason of anything forbidden in this act may bring an action in the appropriate court of this state and may recover the damages sustained and the costs of the action, including a reasonable attorney's fee.

(d) In addition to any other remedy or relief to which a person is entitled, a distributor or manufacturer aggrieved by a violation of this act may bring an action to obtain a declaratory judgment that an act, action or practice violates this act and to enjoin a manufacturer or distributor who has violated, is violating or is otherwise likely to violate this act.

(e) In an action for money damages, if a judge or jury finds that the defendant acted maliciously, the judge or jury may award punitive damages as permitted by Wyoming law.

(f) The remedies provided in this section shall be in addition to any other remedies provided by law or in equity.

#### **12-9-117. Contracts and the validity thereof.**

No manufacturer shall effect any sale to a distributor in Wyoming except pursuant to a written contract between the manufacturer and the distributor.

#### **12-9-118. Repurchase of inventory upon termination.**

(a) Except as otherwise provided in W.S. 12-9-120, whenever any malt beverage distributor enters into a franchise agreement with a manufacturer in which the distributor agrees to maintain an inventory of malt beverages and the franchise is subsequently terminated, the manufacturer shall repurchase the inventory as provided in this section. If the distributor has any outstanding debts to the manufacturer, then the repurchase amount may be credited to the distributor's account.

(b) The manufacturer shall repurchase that inventory previously purchased from him and held by the distributor on the date of termination of the contract. The manufacturer shall pay one hundred percent (100%) of the distributor's laid-in cost, payable when the product is returned to the manufacturer free and clear of all liens, claims and charges created or permitted by the distributor.

(c) Upon payment of the repurchase amount to the distributor, the title and right of possession to the repurchased inventory shall be transferred to the manufacturer.

(d) A distributor shall not keep any inventory except with the consent of the manufacturer and the distributor's agreement

that such product will be maintained and sold in accordance with the manufacturer's product handling standards.

(e) If any manufacturer shall fail or refuse to repurchase any inventory covered under the provisions of this section within sixty (60) days after termination of a distributor's contract, he shall be civilly liable for one hundred percent (100%) of the current wholesale price of the inventory plus any freight charges paid by the distributor, the distributor's reasonable attorney's fees, court costs and interest on the current wholesale price computed at the legal interest rate.

#### **12-9-119. Indemnification.**

A manufacturer shall fully indemnify and hold harmless its distributor against any losses, including, but not limited to, court costs and reasonable attorney's fees or damages arising out of complaints, claims or lawsuits, including, but not limited to, strict liability, negligence, misrepresentation or express or implied warranty if the complaint, claim or lawsuit relates to a product liability claim pertaining to the manufacturing of a malt beverage product.

#### **12-9-120. Terminating a franchise agreement without cause; compensation; arbitration; applicability.**

(a) This section shall only apply to a franchise in which the franchisor annually produces twenty-five thousand (25,000) barrels of malt beverages in aggregate or less, including the production of malt beverages by any affiliate. For purposes of this section, malt beverages produced for a franchisor under a brand owned or controlled by the franchisor shall be attributed to the franchisor and not to the brewer producing the malt beverages for the franchisor.

(b) Notwithstanding any agreement or other provision of law, a franchise governed by this section may be terminated, not renewed, canceled or discontinued by the franchisor for any reason or no reason upon not less than forty-five (45) days written notice of the effective date of the termination, cancellation, nonrenewal or discontinuance of the franchise. Upon the effective date of any termination, cancellation, nonrenewal or discontinuance by a franchisor under this section, the franchisee shall be entitled to the following compensation:

(i) The fair market value, as defined in W.S. 12-9-115(c), of the terminated, cancelled, not renewed or discontinued franchise; and

(ii) The repurchase of all the franchisor's merchantable product at an amount equal to the laid-in cost of the franchisee's inventory of the franchisor's products that are in the franchisee's warehouse or in transit to the franchisee. Unmerchantable products shall be disposed of in accordance with the preexisting agreement of the parties or, if no agreement exists, shall be disposed of with the franchisor and franchisee sharing equally in the costs of disposal.

(c) If the franchisor and franchisee have not agreed to the reasonable compensation as provided under subsection (b) of this section upon the effective date of the termination, cancellation, nonrenewal or discontinuance of the franchise, then on or before the termination date the franchisor shall pay the franchisee a good faith estimate of compensation due under this section, including a good faith estimate of fair market value. The franchisee shall make merchantable inventory available for pickup by the franchisor or its designee.

(d) If the franchisee believes that the payment made by the franchisor under subsection (c) of this section was less than the compensation due under subsection (b) or (e) of this section or if no payment is made, the franchisee may, within forty-five (45) days of the effective date of the termination, cancellation, nonrenewal or discontinuance of the franchise, submit the question of compensation due to final and binding arbitration in accordance with the following:

(i) The manner of arbitration under this section shall be the manner agreed upon by the parties or, in the absence of an agreement, the arbitration shall proceed before a panel of three (3) arbitrators selected in accordance with the commercial rules of the American Arbitration Association;

(ii) If the arbitration concludes that the payment made by the franchisor to the franchisee upon termination was less than the compensation due under subsection (b) of this section, the franchisor shall pay the franchisee any additional amount of determined compensation, plus interest. If the arbitration concludes that the payment made by the franchisor to the franchisee upon termination was more than the compensation due by reason of the termination, the franchisee shall repay any determined overpayment to the franchisor, plus interest;

(iii) All arbitration fees and expenses shall be equally divided among the parties to the arbitration unless the arbitration determines that the franchisor's payment under subsection (c) of this section was not a good faith estimate of the compensation due in which event the arbitration may award up to one hundred percent (100%) of the arbitration costs to the franchisee;

(iv) The arbitration shall be final and binding and shall fully resolve the issue of compensation due to the franchisee from the franchisor under this section.

(e) Notwithstanding any other provision of this section, by written mutual agreement, regardless of whether the agreement existed before or after the termination, cancelation, nonrenewal or discontinuance of a franchise under this section, the franchisor and the franchisee may establish a method or formula for compensating a franchisee under this section.

(f) This section shall be effective on July 1, 2024. This section shall apply to:

(i) All franchise agreements entered on or after July 1, 2024;

(ii) Any franchise in existence on July 1, 2024 upon the amendment or renewal of the franchise. For purposes of this paragraph, if a franchise has an indefinite duration or has a duration of one (1) year or more after July 1, 2024 the franchise shall be deemed to be renewed on July 1, 2025.

## CHAPTER 10 - MISCELLANEOUS

**12-10-101. Possessing, purchasing or selling an alcohol without liquid device prohibited; exception; definition; penalties.**

(a) Except as provided in subsection (b) of this section, no person shall possess, purchase, sell or offer to sell an alcohol without liquid device.

(b) This section shall not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research or

to a pharmaceutical company or biotechnology company conducting bona fide research.

(c) Any person who violates subsection (a) of this section is guilty of a misdemeanor punishable by a fine of up to two hundred fifty dollars (\$250.00) for the first offense and not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both, for second and subsequent offenses.

(d) Except as provided in subsection (b) of this section, any alcohol without liquid device found in Wyoming shall be confiscated and, after an opportunity for a hearing in a court of competent jurisdiction on the issue of whether the device is an alcohol without liquid device, shall be destroyed. The destruction of the device may be delayed if the device is needed for evidence in a criminal case.

(e) As used in this section "alcohol without liquid device" means a device, machine, apparatus or appliance that mixes alcoholic liquor with pure or diluted oxygen to produce an alcohol vapor that an individual can inhale. An alcohol without liquid device does not include an inhaler, nebulizer, atomizer or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication.

#### **12-10-102. Homemade beverage tastings.**

(a) In addition to any other privilege granted to a licensee under this title, a licensee may conduct an organized judging, tasting, exhibition, contest or competition of homemade beers, meads, wines or fermented fruit juices, or related events, at the premises or location where the licensee may legally serve alcoholic beverages. Nothing in this subsection shall be deemed to authorize any homemade beer, mead, wine or fermented fruit juice to be packaged or otherwise provided for consumption outside of the premises where the judging, tasting, exhibition, contest, competition or related event is occurring. The local licensing authority may restrict the portion of the premises that may be used for the judging, tasting, exhibition, contest, competition or related event. Homemade beers, meads, wines or fermented fruit juices provided at an event under this subsection shall not be provided for financial consideration.

(b) A licensee shall not acquire any ownership interest in homemade beers, meads, wines or fermented fruit juices stored

for any period to be provided at an event under this section. The homemade beers, meads, wines and fermented fruit juices stored for the event shall be clearly identified and shall be kept separate from the alcoholic and malt beverage stock of the licensee. Nothing in this subsection shall prohibit a licensee from using homemade beers, meads, wines and fermented juices in conducting an organized event under subsection (a) of this section.

(c) As used in this section:

(i) "Financial consideration" means value that is given or received directly or indirectly through sales, fees, charges, dues, contributions or donations. "Financial consideration" shall not include:

(A) A tax deduction or credit for donating beer, mead, wine or fermented fruit juice to a nonprofit organization;

(B) An event admission charge, cover charge or club or organization dues, if the amount of the charge or dues is independent of the amount of beer, mead, wine or fermented fruit juice to be provided or consumed at the event or through club or organization activities;

(C) A prize awarded at a state or county fair or other organized judging, tasting, exhibition, contest or competition event at which consumption of a submitted beer, mead, wine or fermented fruit juice is offered without charge and only by the entrants, judges, exhibitors, contestants or competitors;

(D) The receipt of homemade beer, mead, wine or fermented fruit juice manufactured by another person;

(E) The receipt of beer, mead, wine or fermented fruit juice ingredients;

(F) Wages and salaries paid by an educational organization for teaching brewing, winemaking, fermentation science or fermentation processes.

(ii) "Homemade" means made for noncommercial purposes;

(iii) "Noncommercial" means not sold, offered for sale or otherwise conditioned upon the provision or receipt of financial consideration.