



Craft Distiller's License (Type-74) Frequently Asked Questions

Effective January 1, 2017, several sections of the Craft Distillers Act of 2015, which created the Type 74 – Craft Distiller's license, have been amended and a separate revised Industry Advisory on this subject has been issued by the Department. The following FAQ's have been updated to reflect these changes.

1. Can mixers made by other people be used in tastes of distilled spirits?

Yes. Section 23363.1 allows both distilled spirits manufacturers (Type 04) and craft distillers (Type 74) to "conduct tastings of distilled spirits produced or bottled by, or produced or bottled for, the licensee", subject to certain limitations. With respect to tastings conducted at the distillery, this provision was amended in two ways: (1) the limitation on six ¼ oz. tastes was changed to allow for a total of 1.5 oz. of distilled spirits per person per day; and (2) the prohibition on tastes being served in the form of a mixed drink or cocktail was removed. Tastings "shall only include the products that are authorized to be produced or bottled by or for the licensee." With respect specifically to the Type 74 (craft distiller) license, this does mean that only distilled spirits that are manufactured by the licensee may be tasted. However, the restriction is only to the distilled spirits tasted and not to other (non-alcoholic) products used to offer the tastes by way of mixed drinks or cocktails.

2. Can a Type 74 licensee taste, bottle, mix, blend and ship product for someone else without distilling at all or selling its own product?

No. The Type 74 requires the holder to engage in the commercial manufacture of distilled spirits. This means that the licensee must actually manufacture or produce distilled spirits. Manufacture means the actual distillation of distilled spirits from naturally fermented materials or the re-distillation of distilled spirits obtained from another manufacturer of distilled spirits. Produce means to mix, color, flavor, or blend distilled spirits, whether manufactured by the craft distiller or by another manufacturer of distilled spirits.

3. Can a licensee obtain a Type 74 without obtaining Type 06 license?

No. Separate and apart from the Type 74 license, a distilled spirits manufacturer (Type 04 or Type 74) must also hold a Type 06 (still) license in order to own and/or operate a still to produce the distilled spirits.

4. Can you hold a Type 18 and a Type 74 together?

Business and Professions Code section 23771 specifically allows only the issuance of a Type 04 (distilled spirits manufacturer), a Type 74 (craft distiller), or a Type 05 (distilled spirits manufacturer's agent) to any person engaged in the manufacture of distilled spirits (either within or without California). Because the Type 18 (distilled spirits wholesaler) license is a "distilled spirits" license, this provision prohibits the holder of a Type 74 from holding a Type-18 license. In addition, beyond the prohibition in section 23771, the holder of a Type 74 license is prohibited from engaging in activities permitted under the Type 18 license.

5. Can you hold a Type 12 and a Type 74 license together?

Yes. Business and Professions Code section 23771.5 allows a licensed craft distiller to hold a distilled spirits license authorizing the importation of distilled spirits, provided, however that any distilled spirits imported by the licensee shall only be used by the licensee to manufacture or produce distilled spirits pursuant to section 23502.

6. Will an applicant for a Type 74 license need to get CUP?

Whether or not a Conditional Use Permit ("CUP"), or other type of use permit or business license, is required (and whether it is necessary for a new business or an existing business that now has expanded privileges under this new license) is determined by the local jurisdiction in which the business is located. It is recommended that you contact the appropriate local government agency to determine this.

7. Can a person hold interest in both a Type 04 and a Type 74?

No. Pursuant to Business and Professions Code section 23772, a distilled spirits manufacturer (Type 04) is prohibited from holding any ownership or interest, directly or indirectly, in a craft distiller's license.

8. Does the Type 74 license have the same sales privileges as the Type 07 license?

No. The Type 07 (rectifier) license authorizes, among other things, sales of distilled spirits "to persons holding licenses authorizing the sale of distilled spirits" (see Business and Professions Code section 23368). Except for sales to Type 18 (distilled spirits wholesaler), this is specifically prohibited under the Type 74 license. A Type 07 cannot manufacture distilled spirits. In addition, because the license privileges of these two license types are incompatible, they cannot be held together.

9. Do Type 74 licenses authorize the use of distilled spirits manufactured by other distillers for infusions or similar purposes without them having to be re-distilled?

Yes. A Type 74 license authorizes the production of distilled spirits whether manufactured by the licensee or by another manufacturer of distilled spirits. For purposes of the Type 74 license, produce means to mix, color, flavor, or blend distilled spirits.

10. Does the Type 74 license authorize the sale of distilled spirits manufactured by the licensee to consumers for off-sale consumption at a restaurant operated at the distillery?

Craft distillers may operate restaurants (“bona fide eating place”) in two ways: (1) at the licensed premises of production under the authority of Type 74 license; or (2) by obtaining a separate on-sale license (pursuant to section 23506). To be clear, a craft distiller licensee may operate **both** a restaurant at the premises of production **and** up to two (2) restaurants under on-sale licenses. It should also be noted that the on-sale licensed businesses need not be restaurants, but may be bars (which are “public premises” required to operate under the same laws and rules as other licensed bars).

Section 23504 provides that “a licensed craft distiller may sell up to the equivalent of 2.25 liters in any combination of prepackaged containers per day per consumer of distilled spirits manufactured or produced by the licensee at its premises to a consumer attending an instructional tasting conducted by the licensee on its licensed premises pursuant to subdivision (c) of Section 23363.1.” This off-sale privilege would apply to sales from a restaurant operated by the licensee on the licensed premises of production under the Type 74 license (subject to the other requirements). On-sale licensees are not authorized to sell any distilled spirits off-sale (Business and Professions Code section 23401). As such, if the restaurant is operated under an on-sale license, the Type 74 licensee may not sell any distilled spirits to consumers for off-sale consumption.

11. Can a craft distiller that manufactures or produces distilled spirits at more than one licensed location transfer distilled spirits from one location to the other for sales or service to consumers?

A licensed craft distiller that holds Type 74 licenses at multiple locations under the same licensed entity may transfer distilled spirits from one location to another location for sale or service to consumers only under limited circumstances.

Business and Professions Code section 23508 permits a licensed craft distiller to sell distilled spirits manufactured or produced by the craft distiller to guests during private events or private functions upon the premises or to consumers at a bona fide eating place that is operated by and for the licensee upon, or contiguous to, the licensed premises. This provision is not location specific. As such, the licensed craft distiller could sell and serve any distilled spirits manufactured or produced by the craft distiller to consumers at a private event or private function or at a bona fide eating place as detailed in section 23508, regardless of the premises at which the distilled spirits were manufactured or produced. In this limited circumstance, the licensed craft distiller could transfer distilled spirits from premises to premises for sales or service to consumers as detailed in section 23508.

Business and Professions Code section 23504 permits a licensed craft distiller to sell up to the equivalent of 2.25 liters in any combination of prepackaged containers per day per consumer of distilled spirits that are manufactured or produced by the licensee at its premises to a consumer attending an instructional tasting conducted by the licensee on its licensed premises pursuant to subdivision (c) of Section 23363.1. This provision is location specific and, as such, the sale of distilled spirits for consumption off the premises is limited to distilled spirits manufactured or produced at that specific licensed premises. For example, in exercising this off-sale privilege, if a licensed craft distiller holds two licenses at two separate locations and makes rum at one licensed premises and makes vodka at the other licensed premises, only the rum can be sold at the licensed premises where it was manufactured or produced and only the vodka may be sold at the licensed premises where it was manufactured or produced.