



INDUSTRY ADVISORY

The Craft Distillers Act of 2015

Effective January 1, 2016, the Department may issue a new Craft Distiller's license to qualified businesses. AB 1295 (Levine) amends Sections 23363.1, 23508, 23771 and 23772, and adds Article 6 ("Craft Distiller's Licenses"; Sections 23500, 23501, 23502, 23504, 23506 and 23508) to the Business and Professions Code.

This new license will be designated a Type-74 by the Department. In addition to creating the Craft Distiller's license, which provides for a number of expanded license privileges and tied-house exceptions, the new law also amends several provisions of the ABC Act that apply to both holders of Craft Distiller's and Distilled Spirits Manufacturers (Type-04) licenses. This Advisory summarizes the key provisions of the new and amended laws.

(Note: This is intended to be a summary only. Licensees are cautioned to review the new and amended provisions in their entirety for a complete understanding of the privileges and restrictions of this new license.)

1. A Craft Distiller's license may be issued to a person who has facilities and equipment for the purpose of, and is engaged in, the commercial manufacture of distilled spirits.
2. The Craft Distiller's license authorizes the licensee to, among other things:
 - a. Manufacturer up to 100,000 gallons of distilled spirits per fiscal year (July 1 through June 30). "Gallon" is defined in Section 23031 as "that liquid measure containing 231 cubic inches." For clarification, the amount to be reported is the actual liquid volume manufactured **not** proof gallons. The point in the production process at which the measurement of gallons occurs is the volume of distilled spirits (excluding waste product) drawn off the still. The calculation of the 100,000 gallon limit excludes brandy that the craft distiller manufactures or has manufactured for them under a brandy manufacturer license.
 - b. Package, rectify, mix, flavor, color, label, and export **only** those distilled spirits manufactured by the licensee.
 - i. This means that if a distiller packages, rectifies, mixes, flavors, colors, labels, or exports distilled spirits manufactured by any other person (distilled spirits manufacturer, craft distiller, or rectifier) they may not hold a Craft Distiller's license.
 - ii. In consulting with the sponsors of AB 1295, the Department has determined that this provision is not intended to preclude the use of grain neutral spirits manufactured by another distiller in the manufacture of distilled spirits by a craft distiller licensee. This requires the actual re-distillation of grain neutral spirits.
 - iii. Because the Craft Distiller's license specifically prohibits the rectification, etc., of distilled spirits manufactured or produced by any other person,

any person holding a rectifier's license (Type-07 or Type-24) is not eligible to hold a Craft Distiller's license and will be required to cancel the rectifier license upon issuance of the Craft Distiller's license.

- c. Only sell distilled spirits that are manufactured and packaged by the licensee solely to a wholesaler, manufacturer, winegrowers, manufacturer's agent, or rectifier that holds a license authorizing the sale of distilled spirits or to persons that take delivery of those distilled spirits within this state for delivery or use without the state.
- d. Sell up to the equivalent of 2.25 liters (in any combination of prepackaged containers) per day per consumer of distilled spirits manufactured 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 (detailed below).
- e. Hold the ownership of any interest in up to two (2) on-sale licenses. Such on-sale licenses shall be issued pursuant to all of the normal requirements that apply to on-sale licenses. In addition, this tied-house exception is subject to the following limitations:
 - i. Except for distilled spirits produced or bottled by, or produced and packaged for, the craft distiller that holds the interest in the on-sale license, the on-sale licensee shall purchase all alcoholic beverages sold and served only from California wholesale licensees. In addition to distilled spirits, this restriction also applies to wine and beer that may otherwise be sold directly to retailers by the winegrower or brewer.
 - ii. The number of distilled spirits items by brand offered for sale by the on-sale licensee that are manufactured, produced, bottled, processed, imported, or sold by the craft distiller shall not exceed 15 percent (15%) of the total distilled spirits items by brand listed and offered for sale by the on-sale licensee.
- f. May sell all beers, wines, brandies, or distilled spirits to consumers for consumption on the premises in a bona fide eating place as defined in Section 23038, which is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and which is operated by and for the licensee, provided that any alcoholic beverages not manufactured or produced by the licensee must be purchased from a licensed wholesaler. Because this is a privilege of the Craft Distiller's license, a separate license is not required for the operation of this bona fide eating place. However, the licensee must comply with all state and local requirements pertaining to the operation of such a facility. In addition, if not already included as part of the original licensure of the premises, the licensee is required to notify the Department and obtain consent for such changes to the physical arrangements or usage of the premises (Rule 64.2(b)).
- g. May have upon its licensed premises all beers, wines, and distilled spirits, regardless of source, for sale or service only to guests during private events or private functions not open to the general public. All alcoholic beverages sold at

the premises that are not manufactured or produced and bottled by, or manufactured or produced and packaged for, the licensed craft distiller shall be purchased only from a licensed wholesaler. "Private events" and "private functions" do not include events, activities, or functions for which anyone (the general public) can purchase or obtain tickets, or otherwise gain entry. For example, the Department would not consider a cocktail-making class that anyone could attend to be a "private event or private function".

3. A Craft Distiller's license may not be issued to any person, any officer, director, employee, or agent of such person, or any person who is affiliated with, directly or indirectly, a person that manufactures or has manufactured for them more than 100,000 gallons of distilled spirits per year within or without the state, excluding brandy it manufactures or has manufactured for them pursuant to a brandy manufacturer license, or to any person that is affiliated with, directly or indirectly, a wholesaler.
4. The original license fee and annual renewal fee for the Craft Distiller's license shall be consistent with such fees established for the distilled spirits manufacturer's license (Type-04).
5. At the time of annual license renewal, licensed Craft Distillers shall report to the Department the amount of distilled spirits (excluding brandy produced by or for the licensee pursuant to a brandy manufacturer license) produced during the previous fiscal year. This will be done on form that will be provided by the Department. If the licensee no longer qualifies to hold a Craft Distiller's license the Department shall automatically renew the license as a distilled spirits manufacturer's license (Type-04).
6. In the event that a licensee holding a Craft Distiller's license no longer qualifies as a craft distiller they may continue to hold the interests in up to two (2) on-sale licenses authorized by Section 23506 as long as the interests was first obtained at a time when the licensee did hold a Craft Distiller's license. Any bona fide eating place operated at the Craft Distiller's licensed premises that is not separately licensed with an on-sale license **is not** currently included in this "grandfather" provision.
7. Because the Craft Distiller's license is a new license, anyone wishing to obtain this license, including existing holders of distilled spirits manufacturer's licenses, must apply with the Department and meet regular licensing requirements.
8. Section 23363.1, related to tastings of distilled spirits at the premises of production for both Type-04 (distilled spirits manufacturer) and Type-74 (Craft Distiller's) licensees has also been amended. This section now allows for a total of one and one-half ounces (previously no more than six one-quarter ounce tastes) of distilled spirits per individual per day to be provided as tastes. In addition, the restriction that tastes of distilled spirits may not be served by way of cocktail or mixed drink has now been removed.