

## Broad Overview of Selected State Alcohol Laws

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# SELECTED STATE ALCOHOL LAWS

## BROAD OVERVIEW: DIFFERING APPROACHES TO ALCOHOL REGULATION

### Repeal of Prohibition and State Regulation

Section 1 of the 21<sup>st</sup> Amendment to the U.S. Constitution, passed by Congress in 1933, repealed the 18<sup>th</sup> Amendment, effectively ending federal alcohol prohibition. Section 2 then reserved power to each state to provide for its own alcohol regulatory laws:

**Section 2.** The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Through the enactment of the 21<sup>st</sup> Amendment, the federal government generally gave each state complete control over alcohol. While some states remained alcohol-free well after the passage of the 21<sup>st</sup> Amendment, all states were free to create varying forms of alcohol regulatory schemes. The result of which is manifested in a myriad of state laws with differing practical application of similar terms.

### Three-Tier System

Notwithstanding varying state approaches to alcohol regulation, state laws generally focused on governing the three tiers of the system: alcohol manufacturing/importation (first tier), wholesale/distribution (second tier), and retail sales (third tier). Put simply, manufacturers produce the alcoholic beverages; distributors buy alcoholic beverages from manufacturers, store them, and then distribute the beverages to retailers; retailers buy the alcoholic beverages from distributors and sell directly to consumers. Indeed, Montana's regulatory scheme, largely passed in 1933, expressly identifies the three-tiered system and seeks to regulate the "manufacture, sale, importation, and distribution of alcoholic beverages".

**16-1-101. Citation — declaration of policy — subject matters of regulation.** (1) Chapters 1 through 4 and 6 of this title may be cited as the "Montana Alcoholic Beverage Code".

(2) It is the policy of the state of Montana to effectuate and ensure the entire control of the manufacture, sale, importation, and distribution of alcoholic beverages within the state subject to the authority of the state acting through the department.

(3) This code is an exercise of the police power of the state for the protection of the welfare, health, peace, morals, and safety of the people of the state and of the state's power under the 21<sup>st</sup> amendment to the United States constitution to control the transportation and importation of alcoholic beverages into the state. The overall purposes of this code under the 21<sup>st</sup> amendment to the United States constitution are to promote temperance, create orderly markets, and aid in the collection of taxes. The provisions of this code must be broadly construed to accomplish these purposes.

## Broad Overview of Selected State Alcohol Laws

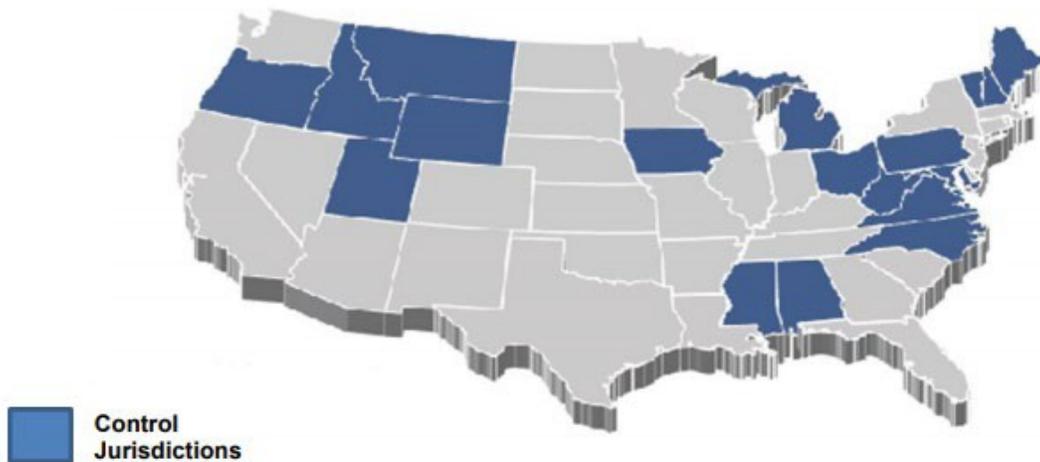
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### License States and Control States

Although each state is free to create its own regulatory scheme, two major distinctions exist: license states (or open states) and control states.

License State (Open State): Generally, license states regulate the three tiers through licensure. Distinctions within the tiers generally exist, an example being the distinctions between a beer brewer, distiller, or wine producer.

Control State: Conceived as a public monopoly, control states generally, and with many exceptions, operate the distribution tier and may participate in the retail tier through state-run liquor stores. In addition, control states may also license alcohol sales, consumption, manufacturing, and distribution. Alabama, Idaho, Iowa, Maine, Michigan, Mississippi, Montana, New Hampshire, North Carolina, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, West Virginia, and Wyoming are widely considered to be control states.



## LISTING OF SELECTED STATE ALCOHOL LAWS

Having established the legal underpinnings to varying approaches of state alcohol regulation, the table below provides a broad sampling of state alcohol licenses. This table focuses on the three-tier system in selected states, providing the license types in each state.

The table, however, it is not intended to serve as an apples-to-apples comparison of each license type. For example, while Montana and Nebraska both license "breweries," the rights and privileges afforded by each state varies widely. Montana allows certain breweries to produce up to 60,000 barrels, self-distribute (wholesale) up to 10,000 barrels to retailers, serve on-premises (retail) up to 2,000 barrels annually, provide no more than 48 ounces of beer per day per customer, and sell unlimited amounts for off-premises consumption. On the other hand, Nebraska has two distinctions between a "brewery" and a "brewpub," with latter being a "brewery" with catering privileges.

Additionally, Nebraska "breweries" are capped at 20,000 barrels of annual production. Thus, while two states may use the same licensing term, the practical application differs markedly.

Finally, please note that some overlap between classification of a license exists. An example of this would be that Montana distilleries, wineries, and breweries could be listed in all three tiers because the license carries manufacturing (alcohol production), retail (sample rooms), and distribution (self-distribution) privileges.

## Broad Overview of Selected State Alcohol Laws

Economic Affairs Interim Committee

State	Manufacturing Licenses	Retail Licenses	Distributor/Wholesale Licenses	Miscellaneous License Notes
Arizona	<p>In-state producer</p> <p>Out-of-state producer</p> <p>Out-of-state craft distiller</p> <p>Limited out-of-state winery</p> <p>Out-of-state farm winery</p> <p>Out-of-state microbrewery</p> <p>In-state microbrewery</p> <p>In-state craft distiller</p>	<p>Government license (county city, town, state university, stadium) Bar</p> <p>Beer and wine</p> <p>Conveyance (airline, railroad, or boat)</p> <p>Liquor store</p> <p>Beer and wine store</p> <p>Hotel/motel</p> <p>Restaurant</p> <p>Private club</p> <p>Special event</p> <p>Festival/fair (farm winery or craft distillery)</p> <p>Remote tasting room (wineries and distilleries)</p> <p>Alternating proprietorship (two or more farm winery licenses to operate in one licensed premises)</p> <p>Custom crush (agreement between a "host" farm winery and a "tenant" farm winery to produce wine on behalf of the tenant)</p>	<p>Wholesaler</p> <p>Direct-to-consumer wine shipment</p>	<p>Arizona allows multiple licenses to operate at one location.</p>
Colorado	<p>Manufacturer's license (brewery, distillery &amp; rectifier)</p>	<p>Art gallery permit</p> <p>Arts license</p> <p>Bed and breakfast permit</p> <p>Beer and wine</p> <p>Brew pub license</p> <p>Club license Distillery</p> <p>pub license</p>	<p>Wholesaler's license</p>	<p>Colorado allows for a brewpub license. The license generally allows entities to furnish manufactured malt liquors or fermented malt beverages to consumers on its premises. The license requires entities to have a full kitchen with meals provided between 8 a.m. and 8 p.m. and a certain percent of all sales must be for food.</p>

For February 2020

**Broad Overview of Selected State Alcohol Laws**

Economic Affairs Interim Committee

		<p>Hotel and restaurant license</p> <p>Importer’s license</p> <p>Limited winery license</p> <p>Liquor–licensed drugstore license</p> <p>Liquor–licensed drugstore manager’s permit</p> <p>Lodging and entertainment license</p> <p>Nonresident manufacturers and importers of malt liquor</p> <p>Optional premises license</p> <p>Public transportation system license</p> <p>Racetrack license</p> <p>Removal of vinous liquor from licensed premises</p> <p>Retail gaming tavern license</p> <p>Retail liquor store license</p> <p>Tavern license</p> <p>Vintner’s restaurant license</p> <p>Wine festival permit</p> <p>Wine packaging permit</p> <p>3.2% beer license</p>		
Indiana	<p>Brewer Small brewer</p> <p>Distiller</p> <p>Rectifier</p> <p>Farm winery brandy distiller</p> <p>Farm winery (in-state)</p>	<p>Beer retailer - restaurant, racetrack, social club, fraternal club, stadium, seasonal resort hotel, civic center</p> <p>Beer dealer - grocery, drug store</p> <p>Beer &amp; wine retailer - race track, restaurant, social club, fraternal club, resort hotel, civic center</p> <p>Beer &amp; wine dealer - grocery, drug store</p> <p>Liquor dealer - drug store</p> <p>Liquor &amp; beer dealer - drug store</p>	<p>Beer wholesaler</p> <p>Liquor wholesaler</p> <p>Wine wholesaler</p> <p>Micro wine wholesaler</p> <p>Malt wholesaler</p> <p>Malt dealer</p> <p>Type II gaming distributor</p> <p>Carrier - trucks</p>	<p>The Indiana Alcohol Code Revision Commission was charged with making recommendations for the 2018 and 2019 sessions of the General Assembly. Among many things, the commission recommended revising alcohol beverage permit fees, penalties, sales clerk</p>

**Broad Overview of Selected State Alcohol Laws**

Economic Affairs Interim Committee

	<p>Farm winery (out-of-state)</p> <p>Farm winery satellite dealer</p> <p>Wine vintner</p> <p>Wine bottler</p> <p>Beer primary source</p> <p>Wine primary source</p> <p>Liquor primary source</p> <p>Malt manufacturer</p> <p>Type II gaming manufacturer</p>	<p>Liquor &amp; wine dealer - drug store, package store</p> <p>Liquor, beer &amp; wine dealer - drug store, package store</p> <p>Liquor, beer &amp; wine retailer - restaurant, restaurant with no carry out, social club, fraternal club, resort hotel, dining car, hotel, package store, economic redevelopment, civic center, airport, historic river vessel, supplemental catering, excursion boat, horsetrack, satellite facility, gaming boat, gaming boat adjacent landsite, Indiana state fairgrounds, gaming site, catering hall, historic district.</p> <p>Liquor &amp; wine dealer - package store</p> <p>Restricted employee permit - waiter, waitress</p> <p>Wine retailer - restaurant, dining car, resort hotel</p> <p>Direct wine seller</p> <p>Type II gaming endorsement</p> <p>Salesman</p> <p>Volunteer employee permit -- bartender, waiter, waitress</p> <p>Employee permit - bartender, waiter, waitress, clerk</p>		<p>requirements, alcoholic beverage excise taxes, Sunday carryout sales, phasing out of the auctioning of permits, allowing patrons to carry wine into a restaurant with a corking fee, increase the availability and use of permits, and amend the permit transfer process.</p> <p>Indiana allows certain manufacturers to hold retail licenses.</p>
Nebraska	<p>Manufacturer of alcohol and spirits</p> <p>Manufacturer of wine</p> <p>Manufacturer beer - tier 1 (1 to 100 barrel daily capacity)</p> <p>Manufacturer beer - tier 2 (100 to 150 barrel daily capacity)</p> <p>Manufacturer beer - tier 3 (150 to 200 barrel daily capacity)</p>	<p>Beer - on sale only</p> <p>Beer - off sale only</p> <p>Beer, wine &amp; distilled spirits - on &amp; off sale</p> <p>Beer, wine, &amp; distilled spirits, off sale only</p> <p>Beer, wine &amp; distilled spirits, on sale only</p> <p>Limited alcoholic liquor - off sale business</p> <p>Craft brewery</p> <p>Bottle club</p> <p>Boat</p> <p>Beer on/off sale</p>	<p>Wholesale beer</p> <p>Wholesale liquor</p> <p>Liquor shipper</p> <p>Direct alcohol</p> <p>Beer shipper</p>	<p>Nebraska allows a craft brewery to operate a brewpub.</p>

For February 2020

**Broad Overview of Selected State Alcohol Laws**

Economic Affairs Interim Committee

Manufacturer beer - tier 4 (200 to 300 barrel daily capacity)	Beer on/off sale/catering		
Manufacturer beer - tier 5 (300 to 400 barrel daily capacity)	Beer on sale/alcohol liquor off sale		
Manufacturer beer - tier 6 (400 to 500 barrel daily capacity)	Beer on sale/alcohol liquor off sale/catering Beer on sale only/catering		
Manufacturer beer - tier 7 (500 barrel or more daily capacity)	Beer off sale only/catering		
Farm winery	Alcohol liquor on/off sale/catering		
Micro distillery	Alcohol liquor on/off sale/cigar shop		
	Alcohol liquor on/off sale/cigar shop/growler		
	Alcohol Liquor on/off sale/growler		
	Alcohol liquor on/off sale/catering/cigar shop		
	Alcohol liquor on/off sale/catering/cigar shop/growler		
	Alcoholic liquor on/off sale/catering/growler		
	Alcohol liquor off sale/catering		
	Alcohol liquor on sale/beer off sale		
	Alcohol liquor on sale/beer off sale/ catering		
	Alcohol liquor on/off sale		
	Alcohol liquor on/off sale/catering		
	Alcohol liquor on sale/catering Brew pub/catering		
	Farm winery/catering		
	Micro distillery/catering		

**Broad Overview of Selected State Alcohol Laws**

Economic Affairs Interim Committee

<p>New Hampshire</p>	<p>Liquor manufacturer license                  Rectifier license                  Wine manufacturer license                  Beverage manufacturer license                  Nanobrewery license (less than 2,000 barrels annually)                  Tenant brewer license                  Brew pub license</p>	<p>Liquor and wine representative license                  Off-premises special license (public television station, public radio station, or nonprofit corporation to auction wine and liquor to the public for annual fundraising)                  Combination conditional license                  Combination license                  Retail wine license                  Beer specialty license                  On-premises beverage and wine license                  On-premises cigar, beverage, and liquor license                  On-premises beverage and liquor license                  On-premises cocktail lounge license                  Seasonal and multiple year license Beer festival license                  Wine and liquor festival license</p>	<p>Liquor and wine vendor license                  Liquor/wine/beverage warehouse license                  Carrier license                  Beverage vendor license (represents manufacturers to sell to wholesale distributor licensees)                  Wholesale distributor license                  Direct shippers</p>	<p>New Hampshire has a nanobrewery license that allows a brewery to sell limited amounts of beer on premises and a brew pub license.                  New Hampshire has a license for an alcohol consultant. A consultant educates consumers and solicits orders for the sale of beverages tasted during an educational event. A consultant may not deliver or provide alcoholic beverages for sale during an educational event.</p>
<p>Montana</p>	<p>Domestic distiller license                  Foreign brewery/importer license                  Brewery storage depot license                  Domestic brewery license</p>	<p>All-alcoholic beverages license                  All-alcoholic beverages with catering endorsement license All-alcoholic beverages gaming restricted license                  All-alcoholic beverages non-transferable veterans license                  All-alcoholic beverages non-transferable fraternal license                  All-alcoholic beverages airport license                  All-alcoholic beverages transferable veterans license All-alcoholic beverages transferable fraternal license                  All-alcoholic beverages resort license</p>	<p>Wholesale beer license                  Wholesale beer sub-warehouse license                  Wine distributor license                  Wine distributor sub-warehouse license                  Wholesale beer and wine distributor license</p>	<p>Montana recently increased the annual production limit of microdistilleries from 20,000 gallons to 200,000 proof gallons.</p>

January 1, 2020

**Broad Overview of Selected State Alcohol Laws**

Economic Affairs Interim Committee

<p>Academic brewer license</p> <p>Foreign winery/importer registration</p> <p>Out of state winery license</p> <p>Domestic winery license</p>	<p>All-alcoholic beverages floater license</p> <p>All-alcoholic beverages airlines carrier license All-alcoholic beverages railroad carrier license</p> <p>All-alcoholic beverages floater gaming restricted license All-alcoholic beverages officers club license</p> <p>Vendor &amp; vendor representative license</p> <p>Retail On-premises consumption beer license</p> <p>Retail on-premises consumption beer with catering endorsement license (restaurant only)</p> <p>Retail off-premises consumption beer license</p> <p>Retail on-premises consumption beer veterans license Retail on-premises consumption beer fraternal license</p> <p>Retail on-premises consumption beer gaming restricted license</p> <p>Retail on-premises consumption beer gaming restricted with catering endorsement license</p> <p>Retail on-premises consumption beer officers club license</p> <p>Retail on-premises consumption census beer gaming restricted license</p> <p>Retail off-premises consumption wine license</p> <p>Retail off-premises consumption sacramental wine license Retail on-premises consumption beer and wine license</p> <p>Retail on-premises consumption beer and wine with catering endorsement license</p> <p>Retail off-premises consumption beer and wine license Retail on-premises veterans beer and wine license</p>	<p>Wholesale beer and wine distributor sub-warehouse license</p> <p>Connoisseur beer license</p>	
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January 1, 2020

**Broad Overview of Selected State Alcohol Laws**

Economic Affairs Interim Committee

		<p>retail on-premises fraternal beer and wine license</p> <p>retail on-premises consumption airport beer and wine license</p> <p>Retail on-premises consumption beer and wine gaming restricted license</p> <p>Retail on-premises consumption beer and wine with catering endorsement gaming restricted license</p> <p>Retail on-premises consumption golf course beer and wine license</p> <p>Retail on-premises consumption officers club beer and wine license</p> <p>Retail on-premises consumption census beer and wine gaming restricted license</p> <p>Retail on-premises consumption arts organization beer and wine license</p> <p>Retail on-premises consumption golf course beer and wine gaming restricted license</p> <p>Retail on-premises consumption restaurant beer and wine license</p> <p>Retail on-premises consumption restaurant beer and wine with catering endorsement license</p> <p>Retail on-premises consumption beer gaming restricted fairgrounds license</p> <p>Retail on-premises consumption beer w/catering endorsement gaming restricted fairgrounds license</p> <p>Retail on-premises consumption beer and wine gaming restricted fairgrounds license</p> <p>Retail on-premises consumption beer and wine w/catering endorsement gaming restricted fairgrounds license</p>		
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For February 2020

**Broad Overview of Selected State Alcohol Laws**

Economic Affairs Interim Committee

Oregon	<p>Brewery</p> <p>Distillery Winery</p> <p>Distillery tasting</p> <p>Brewery/public house</p> <p>Certificate of approval (for beer, wine, and cider)</p> <p>Certificate of approval (for distilled spirits)</p>	<p>Full on-premises sales caterer</p> <p>Full on-premises sales, for-profit private club Full on-premises sales nonprofit private club Full on-premises sales, other public location Full on-premises sales public passenger carrier Growler sales privilege</p> <p>Limited on-premises sales</p> <p>Off-premises sales</p> <p>Temporary sales license (nonprofit)</p> <p>Temporary use of an annual license</p> <p>Special event winery</p> <p>Special event growler</p> <p>Special event brewery public house</p> <p>Special event distillery</p> <p>Special event brewery</p>	<p>Direct shipper permit</p> <p>Warehouse</p> <p>Wholesale malt beverage and wine</p> <p>Wine self-distribution permit</p>	<p>The brewery-public house license generally allows an entity to manufacturer, store, transport, sell to wholesale, and export malt beverages. It allows the licensee to sell malt beverages manufactured on the premises to retail for consumption on or off the premises.</p>
Texas	<p>Brewer's permit</p> <p>Distiller's and rectifier's permit</p> <p>Nonresident brewer's permit</p> <p>Nonresident seller's permit</p> <p>Winery permit</p>	<p>Airline beverage permit</p> <p>Caterer's permit</p> <p>Daily temporary mixed beverage permit</p> <p>Daily temporary private club permit Food and beverage certificate</p> <p>Minibar permit</p> <p>Mixed beverage permit</p> <p>Mixed beverage restaurant permit with food and beverage certificate Mixed beverage late hours permit</p>	<p>Beverage cartage permit</p> <p>Bonded warehouse permit</p> <p>Bonded warehouse permit (wine)</p> <p>Brewer's self-distribution permit</p> <p>Carrier's permit Consumer delivery permit</p> <p>Forwarding center authority</p>	<p>Texas recently passed a law allowing consumers buy beer to go from breweries.</p> <p>Texas recently passed Senate Bill 1450, which created the Consumer Delivery Permit (CD). This permit allows third- party entities to make alcohol deliveries.</p>

**Broad Overview of Selected State Alcohol Laws**

Economic Affairs Interim Committee

<p>Winery festival permit</p> <p>Beer manufacturer's license</p> <p>Beer manufacturer's nonresident license</p>	<p>Package store permit Package store tasting permit</p> <p>Package store permit (wine only)</p> <p>Passenger train beverage permit</p> <p>Passenger bus permit</p> <p>Private club exemption certificate permit</p> <p>Private club registration permit</p> <p>Private club beer and wine permit Private club late hours permit Promotional permit</p> <p>Wine and beer retailer's permit (excursion boat)</p> <p>Brewpub license</p> <p>Beer retail dealer's off-premise license</p> <p>Beer retail dealer's on-premise license</p> <p>Beer retail dealer's on-premise late hours license</p> <p>Beer temporary license</p> <p>Temporary wine and beer retailer's permit Temporary special three-day wine and beer permit Temporary permit (auction permit)</p> <p>Water park permit</p> <p>Wine and beer retailer's permit</p> <p>Wine and beer retailer's off-premise permit</p>	<p>Local cartage permit</p> <p>Local distributor's permit</p> <p>Manufacturer's agent's warehousing permit</p> <p>Private carrier's permit (applies to holder of a brewer, distiller, rectifier, winery, wholesaler)</p> <p>Private storage permit</p> <p>Public storage permit</p> <p>Out-of-state winery direct shipper's permit</p> <p>Wholesaler's permit</p> <p>Wholesaler (general) permit</p> <p>Winery storage permit</p> <p>Beer branch distributor's license</p> <p>Beer general distributor's license</p> <p>Beer importer's license</p> <p>Beer importer's carrier's license</p> <p>Beer manufacturer's self-distribution license</p>	
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**Broad Overview of Selected State Alcohol Laws**

Economic Affairs Interim Committee

Utah	<p>Brewery</p> <p>Distillery</p> <p>Winery</p>	<p>Airport lounge</p> <p>On-premise banquet &amp; catering (hotel, resort facility, sports center, convention center)</p> <p>Bar establishment (including country club, fraternal, bar)</p> <p>On-premise beer retailer - beer recreational (tied to recreational activities, i.e. billiard parlor, pool parlor, bowling facility, golf course, miniature golf, golf driving range, tennis club, sports facility, concert venue, certain government-owned facilities, amusement park, ski resort, venue for live entertainment, or concessions operated within the boundary of a state and national parks)</p> <p>Hotel license (minimum of 40 guest rooms and capable of hosting private banquets)</p> <p>Master license (created for full and limited restaurants with common ownership of five or more locations)</p> <p>Off-premise license</p> <p>Package agency (entities contracted with the state to offer a modest selection of products)</p> <p>Reception center</p> <p>Resort</p> <p>Restaurant - beer only</p> <p>Restaurant - limited (storage, sale, service, and consumption of wine, heavy beer, and beer on the premises of a restaurant)</p> <p>Restaurant - full</p> <p>On-premise beer retailer license - tavern Single event permit</p> <p>Temporary beer event permit</p> <p>Special use permits (religious wine, industrial or manufacturing use, scientific or educational use, public service permits to operators of airlines, railroads, or other public conveyances)</p>	<p>Beer wholesaler</p> <p>Liquor transport</p> <p>Liquor warehouse</p> <p>Local industry representative</p> <p>Certificate of approval (out-of-state brewers and importers or suppliers of beer, heavy beer, and flavored malt beverages)</p>	<p>Recently, Utah increased the state cap on alcohol content of beer from 3.2% to 4%.</p> <p>Previously, Utah defined "beer" and "light beer" as a traditionally brewed beer that contains 3.2% or less of alcohol by weight (4.0% by volume) and is sold by beer distributors throughout the state to retail licensees and permit holders. Previously, the definition of liquor included distilled spirits, wine, flavored malt beverages, and "strong" or "heavy" beer containing more than 3.2% alcohol by weight.</p>
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