

123.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Administrator*” means the administrator of the division, appointed pursuant to the provisions of this chapter, or the administrator’s designee.
2. “*Air common carrier*” means a person engaged in transporting passengers for hire in interstate or foreign commerce by aircraft and operating regularly scheduled flights under a certificate of public convenience issued by the civil aeronautics board.
3. “*Alcohol*” means the product of distillation of any fermented liquor rectified one or more times, whatever may be the origin thereof, and includes synthetic ethyl alcohol.
4. “*Alcoholic beverage*” means any beverage containing more than one-half of one percent of alcohol by volume including alcoholic liquor, wine, and beer.
5. “*Alcoholic liquor*” or “*intoxicating liquor*” means the varieties of liquor defined in subsections 3 and 33 which contain more than five percent of alcohol by weight, beverages made as described in subsection 7 which beverages contain more than five percent of alcohol by weight but which are not wine as defined in subsection 37 or high alcoholic content beer as defined in subsection 14A, and every other liquid or solid, patented or not, containing spirits and every beverage obtained by the process described in subsection 37 containing more than seventeen percent alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume, and susceptible of being consumed by a human being, for beverage purposes. Alcohol manufactured in this state for use as fuel pursuant to an experimental distilled spirits plant permit or its equivalent issued by the federal bureau of alcohol, tobacco and firearms is not an “*alcoholic liquor*”.
6. “*Application*” means a formal written request for the issuance of a permit or license supported by a verified statement of facts.
7. “*Beer*” means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than five percent of alcohol by weight but not including mixed drinks or cocktails mixed on the premises.
8. “*Brewer*” means any person who manufactures beer for the purpose of sale, barter, exchange, or transportation.
- 8A. “*Broker*” means a person who represents or promotes alcoholic liquor within the state on behalf of the holder of a distiller’s certificate of compliance through an agreement with the distiller, and whose name is disclosed on a distiller’s current certificate of compliance as its representative in the state. An employee of the holder of a distiller’s certificate of compliance is not a broker.
9. “*City*” means a municipal corporation but not including a county, township, school district, or any special purpose district or authority.
10. “*Club*” means any nonprofit corporation or association of individuals, which is the owner, lessee, or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.
11. “*Commercial establishment*” means a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five persons at one time, and the licensed premises of which conform to the standards and specifications of the division.
12. “*Commission*” means the alcoholic beverages commission established by this chapter.
- 12A. “*Designated security employee*” means an agent, contract employee, independent contractor, servant, or employee of a licensee or permittee who works in a security position in any capacity at a commercial establishment licensed or permitted under this chapter.
13. “*Distillery*”, “*winery*”, and “*brewery*” mean not only the premises where alcohol or spirits are distilled, wine is fermented, or beer is brewed, but in addition mean a person owning, representing, or in charge of such premises and the operations conducted there, including the blending and bottling or other handling and preparation of alcoholic liquor, wine, or beer in any form.

14. “*Division*” means the alcoholic beverages division of the department of commerce established by this chapter.

14A. “*High alcoholic content beer*” means beer which contains more than five percent of alcohol by weight, but not more than twelve percent of alcohol by weight, that is made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains.

15. “*Hotel*” or “*motel*” means premises licensed by the department of inspections and appeals and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty or more sleeping rooms.

16. “*Import*” means the transporting or ordering or arranging the transportation of alcoholic liquor, wine, or beer into this state whether by a resident of this state or not.

17. “*Importer*” means the person who transports or orders, authorizes, or arranges the transportation of alcoholic liquor, wine, or beer into this state whether the person is a resident of this state or not.

18. The terms “*in accordance with the provisions of this chapter*”, “*pursuant to the provisions of this title*”, or similar terms shall include all rules and regulations of the division adopted to aid in the administration or enforcement of those provisions.

19. “*Legal age*” means twenty-one years of age or more.

20. “*Licensed premises*” or “*premises*” means all rooms, enclosures, contiguous areas, or places susceptible of precise description satisfactory to the administrator where alcoholic beverages, wine, or beer is sold or consumed under authority of a liquor control license, wine permit, or beer permit. A single licensed premises may consist of multiple rooms, enclosures, areas or places if they are wholly within the confines of a single building or contiguous grounds.

21. “*Local authority*” means the city council of any incorporated city in this state, or the county board of supervisors of any county in this state, which is empowered by this chapter to approve or deny applications for retail beer or wine permits and liquor control licenses; empowered to recommend that such permits or licenses be granted and issued by the division; and empowered to take other actions reserved to them by this chapter.

22. “*Manufacture*” means to distill, rectify, ferment, brew, make, mix, concoct, or process any substance capable of producing a beverage containing more than one-half of one percent of alcohol by volume and includes blending, bottling, or the preparation for sale.

22A. “*Native wine*” means wine manufactured in this state.

23. “*Package*” means any container or receptacle used for holding alcoholic liquor.

24. “*Permit*” or “*license*” means an express written authorization issued by the division for the manufacture or sale, or both, of alcoholic liquor, wine, or beer.

25. “*Person*” means any individual, association, partnership, corporation, club, hotel or motel, or municipal corporation owning or operating a bona fide airport, marina, park, coliseum, auditorium, or recreational facility in or at which the sale of alcoholic liquor, wine, or beer is only an incidental part of the ownership or operation.

26. “*Person of good moral character*” means any person who meets all of the following requirements:

a. The person has such financial standing and good reputation as will satisfy the administrator that the person will comply with this chapter and all laws, ordinances, and regulations applicable to the person’s operations under this chapter. However, the administrator shall not require the person to post a bond to meet the requirements of this paragraph.

b. The person is not prohibited by section 123.40 from obtaining a liquor control license or a wine or beer permit.

c. Notwithstanding paragraph “e”, the applicant is a citizen of the United States and a resident of this state, or licensed to do business in this state in the case of a corporation. Notwithstanding paragraph “e”, in the case of a partnership, only one general partner need be a resident of this state.

d. The person has not been convicted of a felony. However, if the person’s conviction of a felony occurred more than five years before the date of the application for a license or permit,

and if the person's rights of citizenship have been restored by the governor, the administrator may determine that the person is of good moral character notwithstanding such conviction.

e. The requirements of this subsection apply to the following:

(1) Each of the officers, directors, and partners of such person.

(2) A person who directly or indirectly owns or controls ten percent or more of any class of stock of such person.

(3) A person who directly or indirectly has an interest of ten percent or more in the ownership or profits of such person.

27. "*Public place*" means any place, building, or conveyance to which the public has or is permitted access.

28. "*Residence*" means the place where a person resides, permanently or temporarily.

29. "*Retail beer permit*" means a class "B" or class "C" beer permit issued under the provisions of this chapter.

30. "*Retail wine permit*" means a class "B" wine permit, class "B" native wine permit, or class "C" native wine permit issued under this chapter.

31. "*Retailer*" means any person who shall sell, barter, exchange, offer for sale, or have in possession with intent to sell any alcoholic liquor, wine, or beer for consumption either on or off the premises where sold.

32. The prohibited "*sale*" of alcoholic liquor, wine, or beer under this chapter includes soliciting for sales, taking orders for sales, keeping or exposing for sale, delivery or other trafficking for a valuable consideration promised or obtained, and procuring or allowing procurement for any other person.

33. "*Spirits*" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, but not limited to, brandy, rum, whisky, and gin.

34. "*Unincorporated town*" means a compactly populated area recognized as a distinct place with a distinct place-name which is not itself incorporated or within the corporate limits of a city.

35. "*Warehouse*" means any premises or place primarily constructed or used or provided with facilities for the storage in transit or other temporary storage of perishable goods or for the conduct of normal warehousing business.

36. "*Wholesaler*" means any person, other than a vintner, brewer or bottler of beer or wine, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in alcoholic liquor, wine, or beer. A wholesaler shall not sell for consumption upon the premises.

37. "*Wine*" means any beverage containing more than five percent of alcohol by weight but not more than seventeen percent of alcohol by weight or twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contents of fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.

[C35, §1921-f5, 1921-f97; C39, §1921.005, 1921.096; C46, 50, 54, 58, 62, 66, 71, §123.5, 124.2; C73, 75, 77, 79, 81, §123.3; 81 Acts, ch 55, §1]

85 Acts, ch 32, §5 – 8; 86 Acts, ch 1122, §2 – 4; 86 Acts, ch 1246, §724, 725; 88 Acts, ch 1088, §1; 88 Acts, ch 1241, §1; 89 Acts, ch 161, §1; 93 Acts, ch 91, §1; 94 Acts, ch 1017, §1; 97 Acts, ch 126, §1; 2000 Acts, ch 1201, §1; 2003 Acts, ch 143, §1, 2, 17; 2005 Acts, ch 13, §1; 2006 Acts, ch 1032, §1; 2006 Acts, ch 1185, §118; 2010 Acts, ch 1031, §87, 88, 96

Subsection 5 amended
NEW subsection 14A