

Liquor Licensing and Regulation

Learn about types of liquor licenses and what each allows, as well as criteria that applicants and their establishments must meet for the various types of licenses. Outlines liquor licensing procedure, state and local regulations imposed on liquor license holders, and insurance and liability concerns. Discusses liquor election questions. Charts summarize fees and license numbers, as well as who issues and approves licenses.

RELEVANT LINKS:

[Minn. Stat. ch. 340A.](#)
See Section II-A, *Local option election.*
[Minn. Stat. § 340A.509.](#)

[Minn. R. ch. 7515.](#)

Contact the [Department of Public Safety's Alcohol and Gambling Enforcement Division](#) for more information. (651) 201-7500.

Contact [LMC Research and Information Service](#) at (651) 281-1200 or (800) 925-1122 or Paul Kaspzack of MMBA at (763) 572-0222 or (800) 848-4912, ext. 3925.
[MMBA web site.](#)

See Section II-A, *Local option election.*

[Minn. Stat. § 340A.401.](#)

[Minn. R. 7515.0400.](#)
See Appendix A and Appendix C.

I. State law and liquor sales

State law generally gives cities the authority to license and regulate the retail sale of intoxicating liquor unless the city is prohibited by previous local option election results. The state licenses and regulates wholesale sales by manufacturers and distributors. State law regulates many aspects of local liquor licensing; however, cities can sometimes impose stricter standards through a local ordinance. Cities and liquor licensees must also follow additional regulations found in Minn. R. 7515.

The Alcohol and Gambling Enforcement Division of the Department of Public Safety (“AGED” or “the state”) is responsible for interpreting the state laws and regulations related to liquor licensing and sales. License application forms and additional information are available from the AGED office and on their website.

State law permits the sale of liquor in municipal liquor stores. This memo only briefly addresses this topic. Contact the League’s Research Service or the Minnesota Municipal Beverage Association (MMBA) for additional information on municipal liquor stores.

A. Liquor licensing in general

Cities license and regulate retail liquor sales by ordinance. The ordinance should outline the types of retail liquor licenses available to potential licensees and establish procedures and criteria for issuing licenses and enforcing liquor regulations. No one can sell, barter, keep for sale, charge for possession, or otherwise dispose of alcoholic beverages as part of a commercial transaction without the required license or permit, unless a specific law allows it.

There are many different types of liquor licenses currently allowed by state law. Certain licenses are issued by cities and others by AGED. This memo includes a table that shows the licenses issued by cities and the AGED and whether approval from voters at a local option election is necessary.

RELEVANT LINKS:

See Section II-A, *Local option election*.

See Sections III through VII for discussion of various types of licenses.

[Minn. Stat. § 340A.101, subd. 20.](#) [Minn. Stat. § 340A.405, subd. 1.](#)
See Sections III through VII.

[Minn. Stat. § 340A.101, subd. 21.](#)
See Section III, *Intoxicating liquor licenses*.

See Section III-C, *Special authorizations*.

AGED and cities cannot issue licenses if prohibited by local option election results. A city must be “wet” in order to allow intoxicating liquor sales in the city. A “wet” city is a city that has received approval to issue intoxicating liquor licenses from voters at a local option election. On the other hand, a “dry” city is a city where the voters have not given permission to issue intoxicating liquor licenses.

This section describes the liquor sales that are allowed under each type of license and permit, and briefly describes when licenses are not required. Later sections of this memo discuss license eligibility for each type of license and describe the types of licenses in detail. Basically, the licenses are grouped as follows:

- Off-sale intoxicating liquor.
- On-sale intoxicating liquor.
- On-sale wine.
- Off-sale wine.
- 3.2% malt liquor, sales without additional license, and brew pub licenses.
- Distilleries.
- Situations where no license is required.
- Liquor permits.

B. Off-sale intoxicating liquor licenses

An off-sale license allows the sale of intoxicating liquor in its original container for consumption off the licensed premises only. A holder of this license can sell off-sale wine and 3.2% malt liquor without an additional license. The requirements for being issued an off-sale intoxicating liquor license are discussed in detail in a later section of this memo.

C. On-sale intoxicating liquor licenses

An on-sale license allows the sale of alcoholic beverages for consumption only on the licensed premises. The different on-sale licenses are discussed in detail in later sections of this memo. The various types of on-sale licenses include:

- On-sale intoxicating liquor license.
- On-sale Sunday intoxicating liquor license.
- Temporary on-sale intoxicating liquor license.
- On-sale club license.

There are also several circumstances that allow special uses of on-sale licenses. These special circumstances are discussed in a later part of this memo and include community festivals and sports or cultural facilities.

RELEVANT LINKS:

See Section IV, *Wine licenses*.

See Section V, *Malt liquor and brew pub licenses*.

See Section VI, *Distilleries*.

See Section II-C, *Split liquor elections*.
Stabs v. City of Tower, 229 Minn. 552, 40 N.W.2d 362 (1949).

See Section IV-E-1, *Certain bed & breakfasts*.

[Minn. Stat. § 340A.301, subd. 11.](#)

[Minn. Stat. § 340A.34.](#)
See Section IV-E-2, *Winemaking-on-premises stores* and Section V-C-6, *Brew-on-premises stores exemption*.

D. Wine licenses

On-sale wine licenses allow the on-sale of wine and wine-based products up to 14% alcohol by volume. There are also wine licenses for special circumstances like culinary classes, farm wineries, wine festivals, and county fairs. In most cases, wine cannot be sold off-sale without obtaining an off-sale intoxicating liquor license.

E. Malt liquor and brew pub licenses

These licenses authorize on- and off-sale of beer and other beverages produced from malted barley or a malt substitute. They include:

- Off-sale 3.2% malt liquor license.
- On-sale 3.2% malt liquor license.
- Temporary on-sale 3.2% malt liquor license.
- On-sale malt liquor license.
- Brewers or brew pub on-sale, off-sale, and temporary licenses.

F. Distilleries

Microdistilleries and distilled spirits manufacturers are small and large distilleries licensed by the state. Cities can issue them an on-sale license or off-sale license for products made on premises, as well as a temporary on-sale license.

G. No license required

The following are situations where liquor sales or manufacturers can be allowed without an actual license:

- Municipal liquor stores. These establishments are municipally owned and operated. A license is not required, but a city must be “wet” in order to open a municipal liquor store.
- Bed and breakfasts. A bed and breakfast that meets certain narrow criteria is exempt from the on-sale license requirements when serving wine or Minnesota-produced beer to guests.
- Home brewers. A person can make wine and beer in his or her own home for family consumption and use as well as for taking part in a “home-brew” exposition without a license.
- Brew-on-premises and winemaking-on-premises stores. While these types of stores that permit customers to make beer or wine with the store’s materials and equipment must comply with federal regulations, they are not subject to state or local licensing requirements.

RELEVANT LINKS:

[Minn. Stat. § 340A.707.](#)

See LMC information memo, [Lawful Gambling](#).

See [Liquor Licensing](#), LMC Model Ordinance.

See Section VII-A, *Consumption-and-display ('set-up') permits*.

See Section VII-B, *Temporary consumption-and-display permits*.

See Section VII-C, *Caterer's permit*.

See Section III-C-3, *2am On-sale intoxicating liquor permit*.

- Auction or raffle of wine, beer, or intoxicating liquor for charitable purposes. Non-profit organizations conducting a silent auction, raffle, or other fund-raising event can hold a limited number of live, on-premises auctions or raffles of wine, beer, or intoxicating liquors each year without a license. Only limited quantities of liquor, specified in the law, can be raffled or auctioned. As raffles are considered lawful gambling in Minnesota, an organization that wishes to conduct a raffle (but not an auction) under this provision will also need to comply with all applicable gambling laws and regulations. While state law now permits this activity as an unlicensed liquor transaction, cities may wish to amend their ordinance to require persons holding these events to provide notice to the city that the event is to occur, so that the city can monitor compliance with state law. Notice language can be found in the LMC Model Ordinance.

H. Liquor permits

The state issues a few kinds of liquor permits:

- Consumption-and-display (often called “set-up”) permit. Not an actual liquor license, a consumption-and-display permit issued by the state allows the permit holder to sell liquid to mix in intoxicating liquor brought to the premises and consumed by patrons.
- Temporary one-day consumption-and-display permit. This permit is issued by the city and allows certain organizations a consumption-and-display permit for specific kinds of events of limited duration.
- Caterer’s permit. This is a special permit that allows a restaurant with an on-sale intoxicating liquor license to sell intoxicating liquor off the licensed premises at an event for which it is also providing catered food services.
- Optional 2 a.m. permit. If a city has allowed for it in its ordinance, an establishment in the city can obtain a permit from the state that allows on-sale of intoxicating liquor to continue until 2 a.m. instead of the 1 a.m. default closing time set in state law.

II. Liquor elections

City councils must get the approval of the voters before issuing certain types of liquor licenses, including intoxicating liquor licenses. This section discusses the four different kinds of liquor elections and their procedure. The different liquor elections include:

- Local option.
- Sunday liquor.
- Split liquor.
- Increasing the maximum number of licenses.

RELEVANT LINKS:

[Minn. Stat. § 340A.416.](#)
See Appendix A. “Wet” or “Dry”?

A.G. Ops. 218c-1 (July 19, 1965). A.G. Ops. 218g-13 (July 28, 1965). A.G. Ops. 218c-1 (July 19, 1965). A.G. Ops. 218c-3 (July 20, 1965). A.G. Ops. 218c-3 (July 21, 1965).
See Appendix A. “Wet” or “Dry”?

[Minn. Stat. § 340A.416, subd. 1.](#)

[Minn. Stat. § 205.10, subd. 1.](#)
See also LMC information memo, [City Special Elections](#).

[Minn. Stat. § 340A.416, subd. 2.](#) See Appendix B. Sample ballot questions.

[Minn. Stat. § 340A.416, subd. 3.](#)

A. Local-option election

Cities where the voters have approved the issuance of liquor licenses are called “wet” cities. Cities where the voters either have refused to approve or have revoked approval for the issuance of liquor licenses are called “dry” cities. Dry cities cannot issue liquor licenses until the voters have approved the issuance of licenses at a referendum. This referendum election is commonly referred to as the “local-option election.”

In the past, counties were also allowed to hold elections to decide if they were wet or dry. At the same time, cities could hold their own local option elections to determine if the city would be wet or dry. In 1965, the laws for the county local-option elections were repealed and all counties became wet. Cities within these counties also became wet unless they had previously held a city local option election that provided otherwise. The attorney general has issued several opinions concluding that cities that have never held local option elections are automatically wet cities.

In short, if a city has never held a local-option election, it is a wet city. Cities that have held previous local-option elections, however, may need to hold another election before issuing licenses if the last election determined that the city was dry.

If it receives a valid petition, a city must hold an election to determine whether the city will issue intoxicating liquor licenses. The petition is valid if either:

- The petition is signed by 30% of the people who voted in the last election.
- The petition is signed by 200 registered voters residing in the city.

The liquor laws do not say whether the city council can hold a local-option election without receiving a petition from the voters. However, a separate election law suggests that the council does have the ability to put this question on the ballot without having received a petition.

Depending upon whether a referendum is called to make the city wet or dry, the referendum question must be either “Shall the city issue ... intoxicating liquor licenses?” or “Shall the city discontinue issuing intoxicating liquor licenses?” A sample ballot is included in this memo.

In the case of a referendum to turn a city dry, the city cannot issue intoxicating liquor licenses if a majority of the people voting on the question vote to discontinue issuing licenses. However, the council can issue licenses if another election is held on the question at a later date, and the voters approve issuing licenses.

RELEVANT LINKS:

[Minn. Stat. § 340A.416, subd. 4.](#)

See Section V, 3.2% malt liquor (beer) licenses.

[Minn. Stat. § 340A.504, subd. 3.](#)
See Section III-C-2, *Sunday intoxicating liquor licenses*.
[Minn. Stat. § 340A.404, subd. 10.](#)

See Appendix B. Sample ballot questions—1. Local option.

[Minn. Stat. § 340A.504, subd. 3\(b\).](#)

See Section V, 3.2% malt liquor (beer) licenses.

See Section III-C-2, *Sunday intoxicating liquor licenses*.

[Stabs v. City of Tower](#), 229 Minn. 552, 40 N.W.2d 362 (1949).

[Minn. Stat. § 340A.601, subd. 5.](#)

The city clerk must certify the election results within 10 days of the election. Before issuing any license, a city should adopt a liquor licensing ordinance. The ordinance can be adopted before or after the election. If adopted before the election, however, a license cannot be issued until after voters approve the local option question.

A local-option election is not needed for a city to issue 3.2% malt liquor (beer) licenses. This is because local option elections deal only with intoxicating liquor licenses. However, the city should have an ordinance that addresses 3.2% malt liquor licensing in order to issue such licenses.

B. Sunday liquor election

An establishment must obtain a Sunday liquor license from the city in order to sell intoxicating liquor on-sale on Sunday. Before a city can issue Sunday licenses, it must get approval from the voters at a general or special election. A later section of this memo contains a thorough discussion of who is eligible for Sunday liquor licenses and what restrictions exist for these types of licenses. According to AGED, temporary on-sale licenses can be issued for Sundays even if the city does not allow Sunday sales.

Although state law does not provide any wording for the ballot, it appears that the local-option liquor election ballot wording could be modified for the question on Sunday sales. A sample ballot question for Sunday liquor is included in this document.

After the voters have approved of Sunday liquor sales, the city council must pass an ordinance or amend its existing ordinance regarding Sunday licenses. Following this, the council can consider applications for Sunday licenses.

A Sunday liquor election is not necessary for the city council to issue 3.2% malt liquor licenses for Sunday sales pursuant to a local ordinance. A Sunday election is only needed to allow issuance of Sunday intoxicating liquor licenses.

State law is unclear as to whether a Sunday election is needed to allow a municipal liquor store to sell liquor on a Sunday. A municipal liquor store is not a “licensee,” and has the same authority whether Sunday licenses are authorized by voters or not. Cities that wish to allow their on-sale municipal liquor stores to sell liquor on Sundays should consult their city attorney.

C. Split liquor election

Cities with populations of 10,000 or less can establish, own, and operate municipal liquor stores.

RELEVANT LINKS:

[Minn. Stat. § 340A.601, subd. 5. Minn. Stat. § 340A.404, subd. 1\(a\)\(4\).](#)

See Section III-B-4, “*Split liquor.*”

[Minn. Stats. § 340A.601, subd. 5. Minn. Stat. § 340A.404, subd. 10.](#)

See Appendix B. Sample ballot questions—3. “*Split liquor.*”

[Minn. Stat. § 340A.413, subd. 3.](#)

See Appendix B. Sample ballot questions—4A. Increasing maximum number of licenses.

See Appendix B. Sample ballot questions—4B. Increasing maximum number of licenses.

The store can be on-sale, off-sale, or an on-sale and off-sale establishment. Often, a municipal liquor store will be the only liquor business in the city.

However, a city with a municipal liquor store can also license private on-sale liquor establishments if authorized by citywide election.

A city that issues private on-sale liquor licenses while maintaining a municipal liquor store is said to have “split liquor.” Like Sunday liquor sales, the voters must authorize split liquor. There is a limited exception from this election requirement for licenses issued to certain clubs and congressionally chartered veterans’ organizations. A city with a municipal liquor store can issue club on-sale intoxicating liquor licenses, as discussed below, without a split liquor election.

Split liquor cities can only issue on-sale liquor licenses to “hotels, clubs, and restaurants.” Criteria for these licenses are discussed in a separate section of this memo.

According to AGED, a city with a municipal liquor store can issue temporary on-sale intoxicating licenses without holding a split liquor election.

State law has no required language for the ballot question on split liquor. However, suggested language can be found in the sample ballot question in Appendix B of this memo.

D. Increasing maximum number of on-sale licenses election

State law places limits on the number of on-sale intoxicating liquor licenses cities can issue. These limits are based upon city population. Through its local ordinance, a city can issue fewer licenses than the maximum set in state law. On the other hand, a city can exceed these limits when authorized to do so by the city’s voters. At the same time, certain commonly issued licenses do not count toward the statutory limit. This alone may eliminate the need for many cities to pursue this type of election.

If the election is necessary, the city council can state the ballot question in either one of two ways. The first way is to ask for permission to issue intoxicating liquor licenses in excess of the number permitted by state law. If the majority of voters vote “yes” to this question, the council can issue an unlimited number of on-sale licenses.

The second way the council may frame the ballot question is to ask for a specific number of licenses beyond the statutory limit. If the majority of voters vote “yes” to this question, the council can issue the number of on-sale intoxicating liquor licenses stated in the question.

RELEVANT LINKS:

[Minn. Stat. § 340A.101, subd. 14.](#)
See Section I-B, *Off-sale licenses* and Section I-C, *On-sale licenses*.

[Minn. Stat. § 340A.405, subd. 1\(a\).](#)

See Section V-C-2, *Off-sale brew pub or brewers licenses*.

[Minn. Stat. § 340A.405, subd. 1\(b\).](#)

[Minn. Stat. § 340A.405.](#)
[Minn. R. 7515.0440.](#)
Contact the [Department of Public Safety's Alcohol and Gambling Enforcement Division](#) at (651) 201-7500 for the [appropriate form](#).

[Minn. Stat. § 340A.101, subd. 21.](#)

[Minn. Stat. § 340A.404, subd. 1.](#)

Many cities have obtained special legislation to increase the number or types of liquor licenses they can issue. Since special legislation is not uncommon, it may be an option for some cities.

III. Intoxicating liquor licenses

Intoxicating liquor is defined as ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2% alcohol by weight. There are two major categories of intoxicating liquor licenses: on-sale and off-sale. Wine is considered an intoxicating liquor that can be sold under a general intoxicating liquor license as well as a wine license. As mentioned previously, a city must be “wet” in order to allow the sale of intoxicating liquor within its boundaries. This section discusses the different types of intoxicating liquor licenses and who is eligible for them.

A. Off-sale intoxicating liquor licenses

With the approval of AGED, cities can issue off-sale intoxicating liquor licenses to:

- Exclusive liquor stores.
- Drug stores to which an off-sale license had been issued on or before May 1, 1994.
- Certain brewers.

A first-class city can also issue licenses to a general food store that had been issued an off-sale license on Aug. 1, 1989. Outside of this narrow exception, off-sale intoxicating liquor licenses cannot be issued to general food or grocery stores in Minnesota.

Once the city has approved an off-sale intoxicating liquor license, the license is not valid until the state approves it. The proper form for obtaining state approval can be obtained from AGED. In addition to the form, several pieces of information must be provided to the state according to Minnesota Rules. The same information is sent annually to the state 30 days before the city renews the license.

B. On-sale intoxicating liquor licenses

There are several different variations of the on-sale intoxicating liquor license.

1. General on-sale intoxicating liquor

A city without a municipal liquor store can issue an on-sale intoxicating liquor license to the following establishments:

RELEVANT LINKS:

[Minn. Stat. § 340A.101 subd. 13.](#)

[Minn. Stat. § 340A.101, subd. 25.](#) See also [Montella v. City of Ottertail](#), 633 N.W.2d 86 (Minn. Ct. App. 2001).

[Minn. Stat. § 340A.101, subd. 7.](#) See Section III-B-2, *On-sale intoxicating liquor club licenses*.

[Minn. Stat. § 340A.404, subd. 1.](#)

[Minn. Stat. § 340A.101, subd. 10.](#)

[Minn. Stat. § 340A.404, subd. 1.](#) See also [Minn. Stat. § 157.15, subd. 11.](#)

[Minn. Stat. § 340A.101, subd. 27a.](#)

[Minn. Stat. § 340A.404, subd. 1.](#)

- Hotels where food and lodging are regularly furnished to guests and which has:
 - A dining room serving the general public at tables and have facilities for seating at least 30 guests at one time.
- OR
- Guest rooms (in first class cities, 50 guest rooms; in second class cities, 15 guest rooms, and in all other cities and unincorporated areas, 10 guest rooms).
- Restaurants where meals are regularly prepared (as opposed to merely being assembled or reheated) on the premises and served at tables to the general public, and where there is a minimum seating capacity for guests as prescribed by city ordinance. According to AGED, the restaurant must have a restaurant license from the Department of Health in order to be deemed a restaurant for liquor licensing purposes.
- Bowling centers.
- Clubs or congressionally chartered veterans' organizations that meet certain criteria.
- Sports facilities, restaurants, clubs, or bars located on land owned or leased by the Minnesota Sports Facilities Authority.
- Sports facilities owned by the Metropolitan Sports Commission.
- Exclusive liquor stores.
- Resorts as defined by state law.
- Theaters where live performances are presented to ticket holders. An on-sale license granted under this law is valid for all days of the week, including Sundays, regardless of any other law, charter provision, or ordinance, for sales to people attending a theater performance.
- Convention centers in cities outside of the seven-county metropolitan area. Similar to the theater license, sales are allowed on all days of the week to individuals attending events at the convention center.
- Owners of a summer collegiate league baseball team or a baseball team competing in a league established by the Minnesota Baseball Association, or their concessions contractor, for sales at a ballpark or stadium within the city. Sales are allowed all days of the week to attendees of games and any other events at the location.

RELEVANT LINKS:

[Minn. Stat. § 340A.404, subd. 1a.](#)

[Minn. Stat. § 340A.404, subd. 14.](#)

See Section IV-B, *Special on-sale wine situations*.

See Section V-C-1, *On-sale brew pub licenses*.

[Minn. Stat. § 340A.404, subd. 3.](#)
Contact the [Department of Public Safety's Alcohol and Gambling Enforcement Division](#) at (651) 201-7500 for the [appropriate form](#).

[Minn. Stat. § 340A.404, subd. 3.](#)

[Minn. Stat. § 340A.404, subd. 1.](#)
See Appendix C. Who issues and who approves?

[Minn. Stat. § 340A.101, subd. 7.](#)

[Minn. Stat. § 340A.101, subd. 7.](#)
A.G. Op. 218-G-15 (June 17, 1954).

- Auto racing facilities within the city. Sales are authorized all days of the week and to attendees of the facility. Unlike virtually all other licensed situations, the licensed premises for racetracks are not required to be compact and contiguous.
- Private, nonprofit colleges within the city, or any entity holding the college's catering contract and a caterer's permit, for service of alcohol on the college premises, including spaces not compact and contiguous. The license authorizes sales all days of the week.
- Culinary classes (limited on-sale intoxicating liquor license).
- Certain brewers.

Cities must provide certain information to the state within 10 days after issuing most on-sale intoxicating liquor licenses. The proper form for reporting this information can be obtained from AGED.

The city must also inform AGED if any of the following events occur:

- A license transfer (NOTE: A new application must be submitted to AGED in order to transfer a license).
- A license cancellation.
- A license suspension.
- A license revocation.

2. On-sale intoxicating liquor club licenses

With the approval of AGED, a city can issue an on-sale intoxicating liquor license to a club or congressionally chartered veterans' organization. A club licensee can only make retail liquor sales to members and their bona fide guests.

Only establishments that meet the statutory definition of the term "club" are eligible for a club license. A "club" is defined as an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports or a congressionally chartered veterans' organization. In addition, the club must meet the following criteria:

- Have more than 30 members. According to one attorney general opinion, membership (for the purposes of determining persons who can purchase intoxicating liquor) should be stated in the club's articles of incorporation or by-laws.

RELEVANT LINKS:

A.G. OP. 218-G-15 (Aug. 2, 1947).
See Section XI-B, *Illegal Sales*. See also *Rambaum v. Swisher*, 435 N.W.2d 19 (Minn. 1989).

Minn. Stat. § 340A.410, subd. 6.

See Department of Public Safety's Alcohol and Gambling Enforcement Division for the appropriate form.

Minn. Stat. § 340A.406.

Minn. Stat. § 410.01.

- Own or rent a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members.
- Is directed by a board of directors, executive committee or other similar body chosen by the members at a meeting held for that purpose. Members, officers, agents, or employees cannot receive any profit from the distribution or sale of beverages to the members of the club or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.
- Is a bona fide membership organization and “not a scheme or device for supplying liquor to the members generally with little or no trouble about securing membership.” In order to meet this requirement, a club licensee should maintain a membership list and restrict sales to members and their guests as required by their limited license. Sales to the general public, who are not members or bona fide guests of members, may constitute an illegal sale for dram shop purposes under the Civil Damages Act.

Club liquor licenses cannot be issued or renewed by a municipality to a club that discriminates against members or applicants for membership or guests of members on the basis of race.

After the city has approved a club license, the state must approve the license, or it is not effective. In addition to obtaining approval, cities must provide certain information to the state within 10 days after issuing an on-sale intoxicating liquor license, including club licenses. The proper forms can be obtained from AGED.

3. On-sale/off-sale combination intoxicating liquor licenses

Certain cities can issue a combination on-sale/off-sale license or both an off-sale and an on-sale intoxicating liquor license to the same person. The following cities may issue such licenses:

- Fourth-class cities. (These are statutory or home rule charter cities with a population of 10,000 or fewer).
- Statutory cities of 10,000 or fewer. A city that issues a license under this provision can continue to do so if the population exceeds 10,000.

Given the language of the statute, it appears that only statutory cities can continue to issue combination licenses when their population exceeds 10,000.

4. “Split liquor” on-sale intoxicating liquor licenses

RELEVANT LINKS:

[Minn. Stat. § 340A.601, subd. 5.](#)
See Section II-C, *Split liquor election*.

See Section III-B-1, *hotel requirements*.
See Section III-B-2, *club requirements*.
See Section III-B-1, *restaurant requirements*.

See Section V-C-5, *Brewer taproom license*.

See Section V-C, *Brewers and brew pubs* and Section VI, *Distilleries*.

[Minn. Stat. § 340A.404, subd. 10.](#)

See Section V-C-4, *Temporary special event license*.
See Section VI-C, *Temporary special event license*.
See Section IV-B-2, *Farm wineries*.

[Minn. Stat. § 340A.404, subd. 10.](#)

See Section VII-C, *Caterer's permits*.

Cities that operate municipal liquor stores and also issue private licenses (“split liquor” cities) are limited in the kinds of businesses to which they can grant on-sale liquor licenses.

A split liquor city can issue private on-sale intoxicating liquor licenses to only the following limited types of establishments:

- Hotels that would qualify for an on-sale intoxicating liquor license.
- Clubs that meet the criteria for a “club” intoxicating liquor license.
- Restaurants that would qualify for an on-sale intoxicating liquor license.

Additionally, cities with municipal liquor stores can issue a “taproom license” to certain small brewers.

5. Brew pubs and distilleries

In addition to an on-sale license for a restaurant on the premises of a brewery, cities can issue special on-sale licenses to particular brew pubs and distilleries. These are discussed later in this memo.

6. Temporary on-sale intoxicating licenses

The city council can issue temporary on-sale intoxicating liquor licenses to only the following organizations:

- A club or charitable, religious, or other non-profit corporation that has existed for at least three years.
- A political committee registered under state law (subject to limits in Minn. Stat. § 340A.410, subd.10).
- Agricultural societies (for sales at a county fair).
- A state university.
- Certain brewers.
- Microdistilleries.
- Farm wineries (for sale at a county fair).

In most cases listed above, the temporary license can be issued to these organizations only for the on-sale of intoxicating liquor in connection with a social event sponsored by the licensee. The event must occur within city limits.

The license can authorize sales for up to four consecutive days, and on premises other than premises the licensee owns or permanently occupies. It can also provide that the licensee can contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by the city.

RELEVANT LINKS:

[Minn. Stat. § 340A.601, subd. 5. Minn. Stat. § 340A.404, subd. 10.](#)

[Minn. Stat. § 340A.410, subd. 10.](#)

See Section III-B-6, *Temporary on-sale intoxicating licenses*.

[Minn. Stat. § 340A.404, subd. 4\(a\).](#)

[Minn. Stat. § 340A.404, subd. 4\(b\).](#)

This type of situation is not the same as a caterer's permit, which is discussed in a later section of this memo.

Temporary on-sale intoxicating licenses are subject to the terms imposed by the city, including fees. Such licenses are not valid until approved by the state.

According to AGED, a city with a municipal liquor store can issue temporary on-sale intoxicating licenses without holding a split liquor election.

A city can issue a limited number of temporary licenses in a single year. Under the statute, a city cannot issue more than 12 days' worth of temporary licenses to a single organization or registered political committee, or for any one location, within a 12-month period. In addition to this limit, a city can annually issue one seven-day temporary license to a county agricultural society for sales at a county fair.

7. Entities that have obtained special legislation

Many cities contain cultural, charitable, and recreational facilities that would like to offer retail on-sale intoxicating liquor to the public in conjunction with their programs and events. Often, these entities do not meet the qualifications in state law to be licensed to sell liquor to their patrons on a permanent basis but may require more than the statutorily allowed number of temporary licenses in a 12-month period. These entities can seek special authorization in the form of special legislation from the state Legislature to be licensed to engage in on-sale intoxicating liquor sales. This special legislation must be approved by the local governing body in order to be effective.

C. Special authorizations and licenses for existing on-sale license holders

1. Authorization for off-premises sales of on-sale intoxicating liquor

A city can authorize a retail on-sale licensee (licensee within the city or an adjacent municipality) to dispense intoxicating liquor at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city.

A city can authorize an on-sale intoxicating liquor licensee (within the city) to dispense intoxicating liquor off the licensed premises at a community festival held within the city. The authorization must specify the area in which the intoxicating liquor must be dispensed and consumed.

RELEVANT LINKS:

[Minn. Stat. § 340A.409.](#)

[Minn. Stat. § 340A.409.](#)

See Section XI, *Liquor liability*.

See Section II–B, *Sunday liquor election*.

[Minn. Stat. § 340A.504, subd. 3\(a\).](#)

[Minn. Stat. § 340A.504, subd. 3\(b\).](#) [Minn. Stat. 340A.408, subd. 2.](#)
See Appendix E. License fees.

A.G. Op. 218g-19 (Aug. 7, 1967).

[Minn. Stat. § 340A.504, subd. 3\(a\).](#)

See Section III-B-1, *General on-sale intoxicating liquor*.

See Section III-B-2, *On-sale intoxicating liquor club licenses*.

See Section III-B-1, *General on-sale intoxicating liquor*.

[Minn. Stat. § 340A.504, subd. 3\(a\).](#)
[Minn. Stat. § 340A.101, subd. 25.](#)

Such authorization cannot be issued unless the licensee demonstrates it has liquor liability insurance as prescribed by state law to cover the event.

Cities may want to require insurance coverage in amounts higher than the dram-shop liability insurance statutes require for risk management purposes, regardless of whether the city is involved in the festival or event. There are suggestions on insurance and liability discussed in a later section of this memo.

2. Sunday on-sale intoxicating liquor licenses

Cities can adopt ordinances to issue licenses to establishments to sell intoxicating liquor on-sale on Sundays. However, voter approval is required before the city can issue Sunday licenses. An establishment must obtain a Sunday liquor license in order to sell intoxicating liquor on Sunday.

A Sunday license allows certain on-sale establishments to sell intoxicating liquor on the premises in conjunction with the sale of food between the hours of 8 a.m. on Sundays and 2 a.m. on Mondays.

The license is issued by the city council for a period of one year. The license fee cannot exceed \$200. This fee can be in addition to the maximum on-sale license fees that can be charged under state law.

The attorney general concluded that a patron is not required to actually be served a meal in order to be served liquor on a Sunday. Many city ordinances, however, contain provisions requiring a certain percentage of the licensee's sales to be attributed to food sales.

A city can issue a Sunday license only to those operating one of the following types of establishments:

- Restaurants that have an on-sale intoxicating liquor license and a minimum seating capacity of 30 persons.
- Clubs that have an on-sale intoxicating liquor license and a seating capacity of at least 30 persons.
- Bowling centers that have an on-sale intoxicating liquor license and a seating capacity of at least 30 persons.
- Hotels that have an on-sale intoxicating liquor license.

In addition to having a seating capacity of at least 30 persons, an establishment must have an on-sale intoxicating liquor license. Since state law allows cities to set the minimum seating requirements for the issuance of on-sale intoxicating liquor licenses to restaurants, not all restaurants that possess an on-sale intoxicating liquor license will qualify for Sunday sales under the state statute.

RELEVANT LINKS:

[Minn. Stat. § 340A.504, subd. 3\(a\).](#)

[Minn. Stat. § 340A.504, subd. 6.](#)

[Minn. Stat. § 340A.404, subd. 10.](#)
[Minn. Stat. § 340A.404, subds. 1\(b\)-\(d\), 1a.](#)

[Minn. Stat. § 340A.504, subd. 7.](#)
See [Department of Public Safety's Alcohol and Gambling Enforcement Division](#) for the appropriate form.

See Section VIII, *Tastings*.

[Minn. Stat. § 340A.419.](#)

[Minn. Stat. § 340A.509.](#)

[Minn. Stat. § 340A.101, subd. 29.](#)

Once a Sunday license is issued, an establishment can sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 8 a.m. on Sundays and 2 a.m. on Mondays.

The city can further restrict these hours through their local ordinance but must restrict the sale of intoxicating liquor and 3.2% malt liquor equally.

Some Sunday sales are permitted without a Sunday liquor election. Temporary on-sale licenses can be issued for a Sunday even if the city does not allow Sunday sales.

In addition, an on-sale intoxicating liquor license granted to a theater, convention center, summer collegiate baseball league owner, or raceway authorizes sales on all days of the week to persons attending events at their respective premises without a special liquor election to allow Sunday sales.

3. 2 a.m. On-sale intoxicating liquor permit

Typically, intoxicating liquor on-sale is not permitted after 1 a.m. However, cities can, by ordinance, choose to authorize the sale of on-sale intoxicating liquor at licensed establishments until 2 a.m. Once the city has amended its ordinance, liquor licensees must apply for a special permit from the state and pay a fee based on a sliding fee scale. This liquor permit is valid for 12 months from the date of approval by AGED.

4. Wine, malt liquor, and spirits tastings

Under certain circumstances, an exclusive liquor store can conduct a tasting event lasting up to four hours.

Additionally, exclusive liquor stores can conduct classes for a fee and allow tastings in the course of those classes, provided that the amount served is no more than allowed for culinary classes. State law does not require exclusive liquor stores to obtain a permit to conduct a tasting. However, a city can choose to require a permit for these activities by ordinance.

IV. Wine licenses

Wine is the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake.

RELEVANT LINKS:

[Minn. Stat. § 340A.404, subd. 5\(a\).](#)

[Minn. Stat. § 340A.404, subd. 5.](#) See Section III-B-1, *General on-sale intoxicating liquor*.

[Minn. Stat. § 340A.404, subd. 5\(c\).](#)

[Minn. Stat. § 340A.4011, subd. 1.](#)

[Minn. Stat. § 340A.404, subd. 1\(b\).](#)

[Minn. Stat. § 340A.404, subd. 1\(c\).](#)

[Minn. Stat. § 340A.404, subd. 1\(d\).](#)

[Minn. Stat. § 340A.4041.](#)

A. On-sale wine licenses

Cities can issue on-sale wine licenses that allow licensees to sell wine (but not other intoxicating liquors) in limited circumstances. A wine license permits the on-sale of wine up to 24% alcohol by volume. If a person wants to sell wine that has more than 24% alcohol by volume, they will need an intoxicating liquor license.

The AGED has said wine coolers that actually contain wine can be sold under a wine license as long as they do not contain wine that is more than 24% alcohol by volume. These days, however, most “coolers” are in fact low alcohol malt liquor.

A city must allow the sale of alcohol within its boundaries in order to issue wine licenses (in other words, the city must be “wet”). If the city is “dry” it cannot issue wine licenses without holding a local option election, because wine is considered an intoxicating liquor.

A city is not required to issue wine licenses merely because it provides intoxicating liquor licenses. However, if wine licenses are not available, a person would need an intoxicating liquor license in order to sell wine. A city will need to adopt an ordinance or amend its existing liquor ordinance in order to authorize wine licenses.

State law allows the following establishments to be issued wine licenses:

- Restaurants that would qualify for an on-sale intoxicating liquor license.
- A licensed bed and breakfast facility. Wine can only be provided to registered guests of the facility and, if the facility contains a licensed commercial kitchen, also to guests attending private events at the facility. (NOTE: There is a limited exemption from this license requirement for certain bed and breakfasts discussed below).
- Theaters within the city where live performances are presented to ticket holders. This license allows sales all days of the week.
- Convention centers in cities outside of the seven-county metropolitan area. This license allows sales all days of the week.
- An owner of a summer collegiate league baseball team, or the person holding a concessions or management contract with that owner, for beverage sales at a ballpark or stadium located within the city during summer collegiate league baseball games at the ballpark or stadium. This license allows sales all days of the week.
- Culinary classes under certain circumstances discussed below.
- Entities for which special authorizing legislation has been obtained from the state Legislature.

RELEVANT LINKS:

[Minn. Stat. § 340A.404, subd. 5\(a\).](#)

[Minn. Stat. § 340A.408, subd. 2\(c\).](#)

[Minn. Stat. § 340A.404, subd. 3.](#)

See [Department of Public Safety's Alcohol and Gambling Enforcement Division](#) for the appropriate form.

[Minn. Stat. § 340A.4041.](#)

[Minn. Stat. § 340A.509.](#)

[Minn. Stat. § 340A.315.](#)
[Minn. Stat. § 340A.101, subd. 11.](#)

A Sunday election is not required for a wine licensee to sell wine on a Sunday. But for restaurants seeking a wine license, cities can restrict sales to all days but Sunday by putting such a restriction in the license.

The fee for a wine license cannot exceed half of the license fee charged for an on-sale intoxicating license or \$2,000, whichever amount is less.

Cities must provide certain information within 10 days after issuing most on-sale wine licenses. The proper form for reporting this information can be obtained from AGED.

And although not specifically required by law in all instances, AGED requires cities to obtain approval on all wine licenses issued.

B. Special on-sale wine situations

1. Culinary class limited on-sale license

A city can issue a limited on-sale intoxicating liquor license to a business that conducts culinary or cooking classes if certain criteria are met. In order to be eligible for this license, the business must:

- Be otherwise ineligible for an on-sale intoxicating liquor license.
- Require attendees to make payment or advance registration for attendance at culinary or cooking classes offered by the business.

This license authorizes the licensee only to furnish each class participant, at no additional cost, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class for consumption on the licensed premises only.

State law does not require the licensee to carry insurance or provide proof of financial responsibility regarding claims under the Civil Damages Act. However, the city can require insurance via its local ordinance.

2. Farm wineries

Farm wineries are licensed by the state and do not require city approval unless they wish to sell at a county fair within the city. A farm winery is defined as a winery operated by the owner of a Minnesota farm and producing table, sparkling wines or fortified wines from grapes, grape juice, other fruit bases or honey, with a majority of the ingredients grown or produced in Minnesota.

RELEVANT LINKS:

[Minn. Stat. § 340A.315, subd. 2.](#)

See Section III-B-1, *General on-sale intoxicating liquor*.

[Minn. Stat. § 340A.404, subd. 10a.](#)

[Minn. Stat. § 340A.405, subd. 4.](#)

[Minn. Stat. § 340A.4175.](#)

The state-issued farm winery license allows the sale, on the farm winery premises, of table, sparkling, or fortified wines produced by that farm winery at on-sale or off-sale, in retail or wholesale lots in total quantities not in excess of 75,000 gallons in a calendar year.

Farm wineries are also authorized to sell glassware, wine literature and accessories, cheese and cheese spreads, and other wine related food items. Farm wineries can provide free samples of the wines offered for sale. Farm wineries can also offer samples of (but not sell) distilled spirits, such as cognac, manufactured on the premises.

Farm wineries are allowed to hold an on-sale intoxicating liquor license in addition to their farm winery license, provided that they meet all the other eligibility requirements for an on-sale intoxicating liquor license. Farm wineries, in addition to their regular winery operations, can operate business establishments (such as a restaurant or theater) that utilize an on-sale intoxicating liquor license.

Cities can issue state-licensed farm wineries temporary licenses for the on-sale of intoxicating liquor produced by the winery at a county fair located within the city. This license must be approved by the state.

C. Off-sale wine licenses

As discussed above, farm wineries can be issued a combination on-sale and off-sale license for the retail sale of their products. Under current law, only one other type of off-sale wine license can be issued: the temporary off-sale wine license for auctions.

The governing body of a city or county can issue a temporary wine license for the off-sale of wine at an auction with the approval of the state. This type of license authorizes the sale of vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. “Vintage wine” means bottled wine that is at least five years old. The license can authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction.

According to AGED, a list of wines that will be offered at the auction must accompany the application for the temporary off-sale wine license.

D. Wine festivals (temporary on-sale)

With state approval, a city can issue a temporary on-sale wine license to an association of winery owners and operators sponsoring an annual festival that showcases the wines of its members.

RELEVANT LINKS:

[Minn. Stat. § 340A.404, subd. 5\(c\).](#)

[Minn. Stat. § 340A.4011.](#)

[Minn. Stat. § 340A.34.](#)

[See 27 C.F.R. § 24.75.](#)

The license allows for the sale of up to two glasses per customer and off-sale by the bottle for up to six glasses per customer. It also authorizes dispensing free samples of wine that is available for purchase within the designated premises of the festival.

A “bona fide association of owners and operators of wineries” is defined by the law as an association of more than 10 wineries that has existed for more than two years at the time of application for the temporary license.

E. Wine license exemptions

1. Certain bed and breakfasts

As noted above, a city can issue an on-sale wine license to a licensed bed and breakfast facility with the AGED’s approval. The license allows a bed and breakfast facility to provide wine to registered guests of the facility, and if the facility contains a licensed commercial kitchen, to guests attending private events at the facility.

Certain bed and breakfast establishments can serve their guests a limited amount of wine or Minnesota-produced beer without obtaining a liquor license. To do so, a bed and breakfast facility must:

- Provide eight or fewer rooms for rent.
- Rent those rooms to 20 or fewer guests at a time.
- Be located on the same property as the owner’s personal residence.
- Provide no meals except breakfast served to persons who rent rooms.
- Be built and occupied or converted to a single-family residence before being used as a place of lodging.
- Serve two or fewer four-ounce glasses of wine per day, or no more than one twelve-ounce glass of Minnesota-produced beer per day, to each person renting a room.
- Allow the wine or beer to be consumed only on the premises.
- Charge no additional fee for the wine or beer.
- Register the bed and breakfast facility with AGED.

2. Winemaking-on-premises stores

A winemaking-on-premises store is a commercial establishment in which individuals make wine on the premises for personal and family use only and not for resale, using ingredients or materials or both supplied by the establishment. No license is required to operate a winemaking-on-premises store if the establishment is operated in accordance with Federal regulations.

RELEVANT LINKS:

[Minn. Stat. § 340A.403, subd. 1.](#)

[Minn. Stat. § 340A.101, subds. 14, 19. Minn. Stat. § 340A.416, subd. 1.](#)

[Minn. Stat. § 340A.504, subds. 1, 3.](#)

[Minn. Stat. § 340A.412, subd. 6.](#)
See Section III-B-3, *On-sale/off-sale combination licenses*.

[Minn. Stat. § 340A.411, subd. 1.](#)

[Minn. Stat. § 340A.101, subd. 25.](#)
[Minn. Stat. § 340A.101, subd. 13.](#)
[Minn. Stat. § 340A.101, subd. 7.](#)

Alcoholic beverages, other than those produced by a customer, cannot be sold or otherwise provided to customers, unless the establishment holds the appropriate license for such sale or provision. The tasting of wine that is made by a customer or employee at the winemaking-on-premises store is allowed by state law so long as that wine is not sold or offered for sale.

No person under the age of 21 years can participate in the making of wine in a winemaking-on-premises store.

V. Malt liquor and brew pub licenses

A. 3.2% malt liquor (beer)

Cities can issue 3.2% malt liquor licenses (often referred to as “3.2 beer licenses”) for the on-sale or off-sale of beer within their jurisdictions. However, if a city chooses not to issue 3.2% malt liquor licenses, beer can only be sold under an intoxicating liquor license.

A city that has not received approval from its voters for intoxicating liquor sales at a local option election (i.e., a “dry” city) could still issue licenses for the sale of 3.2% malt liquor. This is because 3.2% malt liquor is not included in the definition of “intoxicating liquor.” Since the local option election is required in order to allow sale of “intoxicating liquor,” 3.2% malt liquor sales would not need such an election.

The same would hold true for Sunday sales of 3.2% malt liquor. Sunday elections determine only a city’s ability to issue licenses for Sunday on-sale of intoxicating liquor.

1. Off-sale 3.2% malt liquor (beer) licenses

State law does not include any detailed requirements for establishments that can be issued off-sale 3.2% malt liquor licenses. However, an off-sale intoxicating liquor license cannot be issued to a place where 3.2% malt liquor is sold for consumption on the premises.

There is a limited exception from this restriction for establishments that have combination intoxicating liquor licenses.

2. On-sale 3.2% malt liquor (beer) licenses

On-sale 3.2% malt liquor licenses can only be issued to:

- Drugstores.
- Restaurants.
- Hotels.
- Clubs.

RELEVANT LINKS:

[Minn. Stat. § 340A.403, subd. 3.](#)

[Minn. Stat. § 340A.411, subd. 2.](#)

[Minn. Stat. § 340A.411, subd. 3.](#)

[Minn. Stat. § 340A.408, subd. 1.](#)
See Appendix E. License fees.

[Minn. Stat. § 340A.403, subd. 2.](#)

[Minn. Stat. § 340A.101, subd. 7.](#) See Section III-B-2, *On-sale intoxicating liquor club licenses*.

See [Minn. Stat. ch. 309](#).

See [Minn. Stat. ch. 315](#).

See [Minn. Stat. ch. 317A](#).

[Minn. Stat. § 340A.403, subd. 2.](#)

- Bowling centers.
- Golf courses.
- Establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks.

A person with an on-sale intoxicating license is not required to get an additional beer license to sell 3.2% malt beverages on-sale. Likewise, someone with an off-sale intoxicating liquor license is not required to get an additional license for the off-sale of 3.2% malt liquor.

All retail 3.2% malt liquor licenses are issued for one year. However, for the purpose of coordinating license expirations, the licenses can be issued for a shorter period of time. In this case, a pro rata (proportional) license fee must be charged.

Cities cannot issue a 3.2% malt liquor license that includes the term “non-intoxicating malt liquor.” Cities should use the term “3.2% malt liquor” instead.

The license fee for on-sale and off-sale 3.2% malt liquor licenses is set by the city. There is no specific limit on this license fee, but cities should not exceed reasonable amounts.

3. Temporary on-sale 3.2% malt liquor licenses

Cities can issue temporary 3.2% malt liquor licenses. These licenses are subject to the terms set by the issuing city. The following types of establishments can be issued temporary 3.2% malt liquor licenses:

- A club as described in the earlier discussion of “club licenses.”
- A charitable organization. No detailed definition of this type of organization is given in the liquor laws. However, charitable organizations are incorporated under state law.
- A religious organization. The liquor laws offer little guidance on what is a “religious organization.” Religious associations are incorporated under state law. It seems reasonable to assume that this provision would allow a temporary beer license to be issued to a church for a church function.
- A nonprofit organization. The liquor laws do not define this type of organization. However, nonprofit organizations are incorporated under state law.

A temporary 3.2% malt liquor license can authorize the sale of 3.2% malt liquor in any school or school buildings.

RELEVANT LINKS:

Minn. Stat. § 340A.404,
subd. 1(d).
See Section XI-A, *Insurance*.

Minn. Stat. § 340A.101,
subd. 16.

Minn. Stat. § 340A.404,
subd. 1.

See Section V-C-5, *Brewer
taproom license*.

See Section II, *Liquor
elections*.

Minn. Stat. § 340A.403,
subd. 3.

Minn. Stat. § 340A.404,
subd. 5(b).

As with other liquor licenses, the city council should define the premises clearly so everyone knows where the beer must be consumed.

Cities are sometimes asked to issue temporary on-sale beer licenses to sports teams that want to sell beer at their games. However, unless the sports team qualifies as one of the above listed organizations (i.e., a nonprofit organization), the city cannot issue the team a temporary beer license. (The one current exception related to this is a license for a summer collegiate baseball league). If the team qualifies, the city should make sure that the licensed premises are clearly defined, and that consumption is limited to these premises. The licensee must also meet insurance requirements.

B. Malt liquor

Malt liquor, including beer, is any beverage made by fermentation of malt or malt substitute (e.g., rice, grain, glucose, sugar, molasses, other non-distilled substances) that contains at least one-half of 1% alcohol by volume. In 1999, the Legislature created the very first “on-sale malt liquor license” for three establishments in Minneapolis. Since then, it has become an option for specific situations found throughout the state.

1. On-sale malt liquor licenses

Cities wishing to authorize on-sale of malt liquor, but not wine or distilled spirits, can issue on-sale malt liquor licenses to:

- Theaters within the city.
- Convention centers within cities located outside the seven-county metropolitan area.
- An owner of a summer collegiate league baseball team, or their concessions/management contractor for sales at games within the city.
- Certain state-licensed brewers discussed below.

Except for brewers, on-sale malt liquor licenses listed above authorize sales on all seven days of the week, according to state law. However, it is not likely that a city can issue such a license (allowing for Sunday on-sale of malt liquor greater than 3.2% alcohol by volume) without first having authorization from the necessary elections.

2. Sales allowed without a separate license

A person can sell “nonintoxicating malt beverages” without an additional license if the person has an intoxicating liquor license. Additionally, council can authorize, by ordinance, on-sale of intoxicating malt liquor beverages if the person has both of the following licenses:

RELEVANT LINKS:

See Section IV-B-1,
Culinary class limited on-sale license.

Minn. Stat. § 340A.24, subd. 1.
Minn. Stat. § 340A.101, subd. 3a.

Minn. Stat. § 340A.101, subd. 3a.

Minn. Stat. § 340A.24, subd. 4.

Minn. Stat. 340A.24, subd. 3.

Minn. Stat. § 340A.24, subd. 2.

Minn. Stat. 340A.24, subd. 3.

Minn. Stat. § 340A.285.

- On-sale wine license.
- On-sale 3.2% malt liquor license.

3. Culinary class license

The limited on-sale intoxicating liquor license for culinary classes discussed above allows dispensing up to 12 ounces of intoxicating malt liquor as an alternative to wine.

C. Brewers and brew pubs

1. On-sale brew pub licenses

A city can issue a restaurant operated on a brewer's premises of manufacture (or "brew pub") an on-sale intoxicating liquor or 3.2% malt liquor license if the brewery:

- Possesses a liquor brewer/manufacturer license issued by the state.
- Manufactures fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, for consumption on the premises or for off-sale from the premises.
- Does NOT have an ownership interest, in whole or in part, in any other licensed intoxicating liquor or malt liquor manufacturer, brewer, importer or wholesaler, except for a similarly licensed restaurant-based brew pub. In addition, the licensee cannot be an officer, director, agent, or employee of a licensed manufacturer, brewer, importer, or wholesaler.

Retail sales under this license at on-sale or off-sale (discussed below) cannot exceed 3,500 barrels per year, provided that off-sales cannot total more than 750 barrels.

2. Off-sale brew pub licenses

With the consent of the state, a city can issue a brew pub (described above) an off-sale intoxicating liquor or 3.2% malt liquor license, as well.

Retail sales under this license at on-sale or off-sale cannot exceed 3,500 barrels per year, provided that off-sales cannot total more than 750 barrels.

With a brew pub off-sale license, the brewer can only sell at off-sale malt liquor manufactured on the premises. Sales made under this license must be in 64-ounce "growlers" or 750 milliliter bottles that meet certain specific packaging requirements detailed in state statute.

Off-sale sales of malt liquor must be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located.

RELEVANT LINKS:

[Minn. Stat. § 340A.28.](#)

[Minn. Stat. § 340A.285.](#)

[Minn. Stat. 340A.28, subd. 1.](#)

[Minn. Stat. § 340A.29.](#)

[Minn. Stat. § 340A.404, subd. 10\(c\).](#)
See Section III-B-6,
*Temporary intoxicating
liquor licenses.*

[Minn. Stat. § 340A.26.](#)

At the same time, if Council sets hours of sale, malt liquor can be sold off-sale on Sundays and without holding a Sunday liquor election.

3. Small brewer licenses

For any state-licensed brewers producing fewer than 150,000 barrels of malt liquor, cities may issue an off-sale malt liquor license — the so-called “small brewer license” — for the brewery premises. Similar to the brew pub off-sale license above, the liquor must be sold in 64-ounce growlers or 750 milliliter bottles properly sealed and tagged, and the total sales at off-sale cannot exceed 750 barrels annually. No brewer may have more than one small brewer off-sale license, and this license must be approved by the state. As with the brew pub off-sale license above, without a Sunday liquor election, the small brewer license authorizes Sunday off-sales if the city sets hours for the Sunday sales.

Cities can also license certain small brewers for off-sale of their product in more typical retail packaging. In addition to existing growler authority, a state-licensed brewery that produces 7,500 barrels or less of malt liquor annually can be licensed by the city for off-sale at its licensed premises. This allows for the sale of up to 128 ounces per customer per day of malt liquor produced and packaged by the brewer. The packaging is subject to the same state and federal regulations governing other retail sales of malt liquor. The sales in “non-growler” packaging count against the 750 barrel off-sale limit imposed by the small brewer’s growler law above.

4. Temporary special event license

A city, with state approval, can issue a temporary on-sale liquor license to a brewer who produces fewer than 3,500 barrels of malt liquor annually for a social event within the city that is sponsored by the brewer.

This license is subject to the same restrictions as other temporary intoxicating liquor licenses but has its own insurance requirements.

5. Brewer taproom license

Cities can provide an on-sale malt liquor license to certain state-licensed brewers. The so-called “taproom license” allows on-sale of malt liquor produced by a brewer on the premises or adjacent to a brewery location owned by the brewer. Only relatively small, independent brewers are eligible for a taproom license, so cities interested in this license should consult the statute. A city must notify the state within 10 days of issuing a taproom license. Cities with municipal liquor stores can issue taproom licenses, and cities can allow the taproom to serve on-sale on Sundays regardless of whether Sunday sales have been authorized by election.

RELEVANT LINKS:

[Minn. Stat. § 340A.33.](#)

[27 C.F.R §§ 25.205, 25.206.](#)

[Minn. Stat. § 340A.22, subd. 2.](#)

[Minn. Stat. § 340A.22, subd. 4.](#)

6. Brew-on-premises stores exemption

A brew-on-premises store is a commercial establishment in which individuals make malt liquor on the premises for personal and family use only, and not for resale, using ingredients or materials or both supplied by the establishment. No license is required to operate a brew-on-premises store if the establishment is operated in accordance with federal regulations.

Alcoholic beverages cannot be sold or otherwise provided to customers of a brew on premises store, unless the owner of the brew on premises store holds the appropriate liquor license. The tasting of malt liquor that is brewed by a customer or employee at the brew-on-premises store is allowed by state law so long as that malt liquor is not sold or offered for sale.

Customers using the brew on premises store must be of the minimum age required to purchase intoxicating liquor.

VI. Distilleries

A. On-sale cocktail room

The state licenses distilled spirits manufacturers and microdistilleries to provide samples of distilled spirits manufactured on-site.

Additionally, cities can license a state-licensed distillery to operate a “cocktail room.” This is true regardless of whether a city has established municipal liquor. If the city allows it, the cocktail room can operate on Sundays without regard to a Sunday on-sale liquor election.

The cocktail room license authorizes the on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. No distiller is allowed more than one cocktail room license.

No single business is allowed to hold both a cocktail room license and a taproom license, nor can a single location hold both. In addition, a distillery cannot operate a cocktail room if less than 50% of the annual production of the licensee is processed and distilled on the premises of the distillery.

B. Off-sale

With the approval of the state, a city can issue an off-sale license to a state-licensed microdistillery for sales of distilled spirits produced on-site.

RELEVANT LINKS:

[Minn. Stat. § 340A.404, subd. 10\(c\).](#)

See Section III-B-6,
*Temporary intoxicating
liquor licenses.*

[Minn. Stat. § 340A.414, subds. 1, 3, 5.](#)

[Minn. Stat. § 340A.414, subd. 2.](#)

See also [Minn. Stat. § 157.15.](#)

To be eligible for this license, a microdistillery must process and distill at least 50% of the licensee's annual production on the premises of the microdistillery. The city's license authorizes sale of up to 750 milliliters per customer per day in any state-approved containers. The hours of off-sale must be the same as those for retail establishments within the city.

C. Temporary special event license

With the approval of the state, a city can issue to a microdistillery a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the microdistillery. This license is subject to the same restrictions as other temporary intoxicating liquor licenses but has its own insurance requirements.

VII. Special permits

State statutes allow a few special types of liquor permits or licenses which affect cities.

A. Consumption-and-display ("set-up") permits

Virtually all consumption-and-display permits (commonly called "set-up" or "bottle club" permits) are issued by the state. A consumption-and-display (set-up) permit from the state authorizes the establishment to allow the consumption and display of intoxicating liquor on the licensed premises. The permit does not authorize the sale of intoxicating liquor.

These permits are not effective until approved by the city council. Consumption and display permits allow the serving of liquids for the purpose of mixing with liquor that is brought by the customer.

The state can issue consumption-and-display permits to the following eligible individuals, provided the applicants meet the following criteria:

- A person who has NOT been convicted of a felony in the last five years.
- A person who has NOT been convicted of violating any liquor laws or rules in the last five years.

In addition to the above criteria, the establishment must be one of the following in order to be eligible for a consumption-and-display permit:

- A restaurant.
- A hotel.
- An establishment licensed for the sale of 3.2% malt liquor.
- A licensed resort.

RELEVANT LINKS:

See Section IV-E-1, *Certain bed and breakfasts*.

[Minn. R. 7515.1220, subp. 1.](#)

[Minn. R. 7515.1220, subps. 2, 3.](#)
[Minn. Stat. § 340A.504, subd. 5.](#)

[Minn. Stat. § 340A.414, subd. 4.](#)

[Minn. Stat. § 340A.414, subd. 9.](#)

[Minn. Stat. § 340A.404, subd. 12.](#)

- Certain bed and breakfast facilities. The bed and breakfast facility must meet the criteria for exemption from the wine licensing requirements discussed above.
- A club. A club that has issued a consumption-and-display permit can let members leave their alcohol on the premises after they leave. However, the bottle must be placed in an individual locker and cannot be left at the bar. The bottle must have a label attached to it that is signed by the member who owns the bottle. Sometimes these clubs are referred to as “bottle clubs.”

Except for bottle clubs, storage of alcohol that a person brings is not allowed, and the alcohol must be under its owner’s control at all times. No establishment operating with simply a consumption-and-display license can allow a person to consume or display intoxicating liquor — and no person can consume or display intoxicating liquor on their premises — during the following hours:

- Between the hours of 1 a.m. and 8 a.m., Monday through Saturday.
- Between the hours of 1 a.m. and noon on Sundays.

All consumption-and-display permits expire on March 31 of each year.

B. Temporary consumption-and-display permits

Cities can issue a one-day consumption-and-display permit to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

The permit must be approved by the state in order to be valid and is valid only for the day indicated on the permit. A city cannot issue more than 10 one-day permits in any year. The fee for such a permit cannot exceed \$25.

C. Caterer’s permit

The state can issue a caterer’s permit to a restaurant that holds an on-sale intoxicating liquor license issued by any municipality. A caterer’s permit allows the permit holder to sell intoxicating liquor as an incidental part of a food service that serves prepared meals at a place other than the premises for which the licensee’s intoxicating liquor license is issued.

AGED contends cities can by ordinance regulate caterers in many ways. Some cities define what minimum percentage of food sales are required to make liquor “incidental” to a food service. Some cities also specify that a caterer’s permit does not authorize one to operate beyond a brief period of time or otherwise function similarly to a typical on-sale business in the city without obtaining the proper license.

RELEVANT LINKS:

[Minn. Stat. § 340A.404, subd. 12.](#)

[Minn. Stat. § 340A.404, subd. 12.](#)

See Section III-C-3, *2am On-sale intoxicating liquor permit*.

[Minn. Stat. § 340A.4042.](#)

A caterer's permit is auxiliary to the primary on-sale liquor license held by the licensee. The restrictions and regulations that apply to the sale of intoxicating liquor on the licensed premises also apply to those sales made under the caterer's permit. Revocation of the caterer's primary on-sale intoxicating liquor license results in revocation of their auxiliary caterer's permit.

The permittee must notify one of the following individuals prior to any catered event:

- The police chief of the city in which the event will occur.
- The county sheriff, if the event will take place outside the corporate limits of a city.

D. 2 a.m. On-sale intoxicating liquor permit

Cities can allow intoxicating liquor on-sale beyond 1 a.m. and up to 2 a.m. If a city allows it by ordinance, an establishment must acquire a permit from the state. This permit is discussed earlier in the memo.

E. Wine and malt liquor educators

The state licenses specially trained individuals to provide education on wine or malt liquor in any city in Minnesota, except for cities that have adopted an ordinance prohibiting it. Neither wine education nor malt liquor education is defined but would include the purchase at retail and serving of the given liquor for educational purposes.

The educator license does not authorize off-sale of liquor or orders taken for future sales. Wine and malt liquor educators must be insured in order to receive the license.

Prior to any class authorized under the license, the educators must notify the city's police chief — or clerk if there is no police department — of the location where the class will take place. The class can seemingly be conducted anywhere except "retail businesses that do not have a liquor license during business hours."

VIII. Tastings

There are three types of liquor tasting events addressed by statute. One is a paid event provided by an exclusive liquor store, another is a charitable fundraiser, and the last is a "home-brew" exhibition, which requires no license. These situations should not be confused with a licensed establishment providing free samples.

RELEVANT LINKS:

[Minn. Stat. § 340A.419.](#)

[Minn. Stat. § 340A.419,
subd. 2.](#)

[Minn. Stat. § 340A.509.](#)

[Minn. Stat. § 340A.418.](#)

[Minn. Stat. § 340A.404,
subd. 10.](#)

A. Wine, malt liquor, and spirits tasting in exclusive liquor stores

Outside of charitable fund raisers, a tasting is an event not more than four hours long for which persons pay a fee to participate and are allowed to consume wine, malt liquor, or spirits by the glass without paying a separate charge for each glass.

An exclusive liquor store can conduct a tasting of wine, malt liquor, or spirits on premises licensed for on-sale intoxicating liquor (not by temporary license) if the exclusive liquor store meets the following requirements:

- No wine, malt liquor, or spirits at the tasting can be sold for off-premises consumption. A participant in the tasting can fill out a form indicating preferences. The form can be held on the premises of the exclusive liquor store to assist the participant in making an off-sale purchase at a later date.
- Any fees collected from participants in the tasting can only be used to defray the cost of conducting the tasting.

Exclusive liquor stores may conduct classes for a fee and allow tastings in the course of those classes provided the amount served is no more than allowed for culinary classes.

State statute does not require exclusive liquor stores to obtain a permit to conduct a tasting. However, a city can choose to require a permit for these activities pursuant to its local ordinance.

B. Wine or malt liquor tasting fund raisers

A charitable, religious, or other nonprofit organization can conduct a wine or malt liquor tasting event if the organization obtains a temporary on-sale intoxicating liquor license and the tasting meets certain conditions. These events cannot allow tastings of spirits as permitted for exclusive liquor stores conducting tastings.

According to this law, the tasting must:

- Be conducted by a charitable, religious, or other nonprofit organization.
- Last no more than four hours (unless it is a large convention).
- Be conducted on premises the organization owns or leases or has been donated the use of, or on the licensed premises of a holder of an on-sale intoxicating liquor license that is not a temporary license.
- Not allow the sale or the taking of orders of wine for off-premises consumption.

RELEVANT LINKS:

[Minn. Stat. § 340A.301, subd. 11.](#)

[Minn. Stat. § 340A.510.](#)

[Country Liquors, Inc. v. City Council of City of Minneapolis](#), 264 N.W.2d 821(1978).
A.G. Ops. 218g-6 (Oct. 6, 1944).

A.G. Ops. 218g-11 (Mar 1, 1963).

[Country Liquors, Inc. v. City Council of City of Minneapolis](#), 264 N.W.2d 821(1978).

Proceeds from the wine tasting must be used for the organization's primary nonprofit purpose or donated to another nonprofit organization assisting in the wine tasting, if the other nonprofit organization uses the donation only for that organization's primary nonprofit purpose.

The four-hour time limitation does not apply to a wine tasting at a convention of fine wine and gourmet food exhibitors, provided the convention has at least 100 exhibitors and takes place over not more than three days.

Wine or malt liquor tastings occurring at "on-sale premises" where no charitable organization is participating or where the proceeds are for a designated charity, but the tasting is primarily for educational purposes are explicitly excluded from any restriction by this law.

C. Home-brewed tastings, exhibitions, and contests

Home-brewed beer or "fermented fruit juices" can be taken to organized affairs, exhibitions, or competitions, where the general public can sample these unlicensed products. There are some simple notice requirements to be made only at the tasting event itself. The unlicensed homemade products cannot themselves be sold or offered for sale.

D. Free samples vs. tastings

A tasting for a fee is different from the mere provision of free samples to potential customers. Under state law, an on-sale or off-sale retail licensee or municipal liquor store can provide samples of wine, liqueurs, cordials, and distilled spirits without an additional license.

The samples must be consumed on premises, reflect liquor currently for sale on the premises, and must meet certain size requirements. This is not considered a tasting.

IX. Licensing

Cities generally have broad discretion when it comes to making licensing decisions. The Minnesota Supreme Court and the attorney general have said that whether a liquor license should be issued or renewed rests in sound discretion of the council.

In another opinion, the attorney general concluded a city is not required to issue the full number of licenses it has available.

The Minnesota Supreme Court has concluded there is no right to a liquor license and that city councils have discretion when it comes to issuing licenses.

RELEVANT LINKS:

Sabes v. City of Minneapolis,
265 Minn. 166, 120 N.W.2d
871 (1963).

Cleveland v. Rice County,
238 Minn. 180, 56 N.W.2d
641 (1952).

*Wajda v. City of
Minneapolis*, 310 Minn. 339,
246 N.W.2d 455 (1976).
Paron v. City of Shakopee,
226 Minn. 222, 32 N.W.2d
603 (1948).

*George Benz Sons, Inc. v.
Ericson*, 227 Minn. 1, 34
N.W.2d 725 (1948).

*J.V.B. Enterprises, Inc. v.
City of Marshall*, C7-90-806
(Minn. Ct. App. 1990)
(unpublished decision).

[Minn. Stat. § 340A.402.](#)

In one case, the court held that a liquor license “is not a property right, but is in the nature of a privilege, and, as such, subject to reasonable regulation.”

The Minnesota Supreme Court has also stated, “no citizen has an inherent or vested right to sell intoxicating liquors, and municipal authorities have broad discretion within their geographical jurisdiction to determine the manner in which liquor licenses shall be issued, regulated, and revoked.”

In another decision, the Minnesota Supreme Court found that the granting of a license rests in the sound discretion of the council, but such discretion cannot be exercised arbitrarily. This means cities should have valid reasons to justify their denial of a license.

There is generally no right to renewal of a license. The Minnesota Supreme Court has held that once licensed, one cannot acquire a vested right to continue.

Likewise, in an unpublished decision, the court found there is no property interest in a license.

A. Applicant eligibility

State statute sets general criteria a person must meet in order to be eligible for a liquor license. State law prohibits issuing licenses to the following people:

- A person under 21-years-of-age.
- A person who has had an intoxicating or 3.2% malt liquor license revoked within five years of the license application.

A person who at the time of a liquor license violation:

- Owns any interest in the premises.
- Holds more than 5% of the capital stock of a corporation licensee.
- Was a partner in the business or firm where the violation occurred.
- A person not of good moral character and repute.
- A person with a direct or indirect interest in a liquor manufacturer, brewer or wholesaler.

In addition, no new retail license can be issued to, and cities can refuse to issue or renew a license to, a person who has been convicted of a felony or a willful violation of federal, state or local ordinance governing the manufacture, sale, distribution or possession for sale or distribution of an alcoholic beverage within five years of the license application. The city or AGED can require applicants to provide fingerprints that will be forwarded to the Federal Bureau of Investigation for purposes of a criminal history check.

RELEVANT LINKS:

[Minn. Stat. § 340A.402 subd. 2.](#)

[Minn. Stat. § 340A.412, subd. 2\(a\).](#)

[Minn. Stat. § 340A.412, subd. 2\(a\).](#)

[Minn. Stat. § 340A.412, subd. 2\(b\).](#)

[Minn. Stat. § 340A.413.](#)

State law makes a city's police chief responsible for background checks performed prior to a city issuing a liquor license. If the city has no police chief, the county sheriff is responsible. The background check has additional requirements, including a requirement to obtain written consent from the applicant to perform the background check on them.

The establishment must also meet certain criteria, depending on the type of liquor license. These criteria are discussed in detail under the various sections of this memo that deal with specific types of licenses. Cities often apply additional standards for applicants and premises in their ordinances.

B. Background checks

The city must conduct a preliminary background and financial investigation of all applicants and transfer applicants for on-sale intoxicating licenses. The city also can conduct a background check upon a request for renewal of a license. The application must be in the form prescribed by the state with any additional information the city may require.

If questions arise as a result of the preliminary background check, cities may want to do a more thorough investigation. If the city or AGED determines that a comprehensive background check and investigation of an applicant is necessary, the city can conduct the investigation or contract with the state for the investigation.

An investigation fee can be charged as follows:

- The fee cannot exceed \$500 if the investigation is conducted within the state.
- The fee cannot exceed the actual cost of the investigation, but not more than \$10,000, if the investigation is required outside the state.

No license can be issued, transferred or renewed if the results of the investigation show that the issuance, transfer or renewal would not be in the public interest.

C. Number of licenses

Virtually all cities can issue as many off-sale licenses as their ordinances allow. But for the following licenses, state statute limits the number of licenses a city can issue based on its population:

- On-sale intoxicating.
- Temporary on-sale intoxicating.
- Temporary consumption-and-display permits.

RELEVANT LINKS:

See Appendix D. Number of licenses.

See Section II-D, *Increasing maximum number of on-sale licenses election*.

[Minn. Stat. § 340A.413, subd. 4.](#)

[Polman v. City of Royalton](#), 311 Minn. 555, 249 N.W.2d 466 (1977).

[Polman v. City of Royalton](#), 311 Minn. 555, 249 N.W.2d 466 (1977).

A later section of this memo contains a table that provides the specific limits on the number of these licenses that can be issued. Fortunately, cities can exclude certain common licenses from their count toward the limit set in state law, and for most cities, this eliminates concerns about license limits. A city can exceed the limit with permission from the voters.

On-sale intoxicating liquor licenses issued to restaurants, theaters, hotels, and bowling centers will not count against the total number of on-sale licenses that a city may issue. Although the statutes are silent regarding on-sale/off-sale combination licenses, these licenses are probably counted as both an on-sale and an off-sale license.

For many types of licenses, there are no specific limits, and the city may determine the maximum number of licenses it will issue or allow. The following are examples of such types of licenses:

- On-sale intoxicating club licenses.
- On-sale intoxicating liquor licenses issued to restaurants, theaters, hotels, and bowling centers.
- Wine licenses.
- Sunday liquor licenses.
- On-sale 3.2% malt liquor licenses.
- Off-sale 3.2% malt liquor licenses.
- Consumption-and-display permits.

It is important to note that cities are not required to issue all of the licenses available to a city under state law. Many cities choose to set the allowed number of licenses at a reasonable number below the state maximum in their local ordinance.

The Minnesota Supreme Court has noted “a city council has the power to refuse a license or to limit the number of licenses to be granted, when, in the judgment of the council, the welfare of the city suggests such action.”

A city that chooses to limit the number of licenses in its local ordinance, can later revise its ordinance to accommodate new licensees whose establishments will promote the welfare of the city.

For example, a city might not want to have numerous exclusive on-sale liquor establishments located along the short length of its main street. As a result, the city can choose to limit the number of licenses available to a smaller number than allowed by state law. Later, the same city can determine that it would prefer to allow an additional license for a potential lodging establishment or restaurant, because the establishment will attract tourists, provide employment, and improve the quality of life in the community. The decision to revise the ordinance to provide for an additional license is considered a legislative decision.

RELEVANT LINKS:

[Minn. Stat. § 340A.408.](#)
See Appendix E. License fees.

Dunham's Food & Drink v. City of West St. Paul, 526 N.W.2d 413 (Minn. Ct. App. 1995).

[Minn. Stat. § 340A.408, subd. 3a.](#)

[Minn. Stat. § 340A.408, subd. 3\(c\).](#)

A court will only overturn a city council's legislative decision when it determines that "the city council has acted arbitrarily, capriciously, or unreasonably." This standard of review provides cities with the greatest deference available under law.

D. Fees

State law sets the limits on what fees can be charged for certain types of liquor licenses. Where there is no state restriction, the city can set the fee. The fee amount is intended to reflect the cost of issuing the license and other costs directly related to the enforcement. License fees cannot be used as a means of raising revenues.

A 1995 Minnesota Court of Appeals decision found that a city's costs of issuing, inspecting, and enforcing liquor licenses justified the fee for an intoxicating liquor license being raised from \$2,500 to \$2,750.

In order to raise the amounts of most liquor license fees, the city must first hold a hearing. The city must give mailed notice of the hearing to all affected licensees at least 30 days before the hearing. This requirement applies to the following types of liquor licenses:

- On-sale intoxicating liquor licenses.
- Off-sale intoxicating liquor licenses.
- 3.2% malt liquor licenses.

1. Mandatory fee reduction for certain off-sale liquor licensees

Cities must reduce the fee for off-sale intoxicating liquor licenses for licensees who agree to participate in programs that reduce underage drinking. Off-sale liquor licensees are entitled to a mandatory \$100.00 fee reduction if they do all of the following at the time of application and before any renewal:

- Agree to have a private vendor train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors.
- Post a policy requiring identification checks for all persons appearing to be 30 years old or less.
- Establish a cash award and incentive program to award employees who catch underage drinkers, and a penalty program to punish employees in the event of a failed compliance check before the license is issued or renewed.

RELEVANT LINKS:

See [Liquor Licensing](#), LMC Model Ordinance.

[Minn. Stat. § 340A.412, subd. 4\(a\).](#)

[Minn. Stat. § 340A.412, subd. 4\(a\)\(1\).](#)

[Minn. Stat. § 340A.412, subd. 4\(a\)\(5\).](#)

[Minn. Stat. § 340A.412, subd. 4\(a\)\(6\).](#)

[Minn. Stat. § 340A.412, subd. 4\(a\)\(7\).](#)

[Minn. Stat. § 340A.412, subd. 4\(b\).](#)

The fee reduction is mandatory when licensees can establish that they have complied with the requirements in state law. As a result, the city may need to revise its ordinance to provide for the fee reduction and establish criteria for awarding the fee reduction.

Off-sale intoxicating liquor licensees can opt not to take advantage of the provisions of the law and not request the fee reduction.

Ordinance language regarding this provision can be found in the model liquor ordinance.

E. Establishment location

In addition to the criteria an applicant and the establishment must meet to be eligible for a particular liquor license, the establishment must also meet certain criteria. These criteria are discussed in further detail under the different sections of this memo that address specific types of licenses. State law prohibits issuing intoxicating liquor licenses in the following areas:

- Areas restricted against commercial use through zoning ordinances and other proceedings, or legal processes regularly had for that purpose. Licenses can continue to be issued to restaurants in areas that were restricted against commercial uses after the establishment of the restaurant.
- Within 1,000 feet of a state hospital, training school, reformatory, prison or other institution under the supervision or control of the Direct Care and Treatment executive board or the commissioner of corrections. This limitation applies whether the institution is entirely or partly under the control or supervision of these persons.
- In a town or city in which a majority of votes at the last election at which the question of license was voted upon were not in favor of license under section 340A.416, or within one-half mile of any such town or municipality, except that intoxicating liquor manufactured within this radius may be sold to be consumed outside it.
- Within 1,500 feet of any public school that is not within a city.

The above limitations do not apply to manufacturers and wholesalers. Likewise, they do not apply to a drugstore or to a person who had a license originally issued lawfully prior to July 1, 1967.

There are other specific locations that are prohibited such as the Capitol grounds, state fairgrounds, and the University of Minnesota, although there are some limited exceptions under certain circumstances. Contact the League if you have questions regarding other specific locations.

RELEVANT LINKS:

[Minn. R. 7515.0430, subp. 5.](#)

[Minn. Stat. § 340A.101, subd. 15.](#)

[Minn. Stat. § 340A.410, subd. 7.](#)

[Polman v. City of Royalton](#), 249 N.W.2d 466 (Minn. 1977).

[Gar-Dar, Inc. v. City of Minneapolis](#), C5-97-715 (Minn. Ct App. 1997) (unpublished decision).

[Knudtson v. City of Coates](#), 519 N.W.2d 166 (Minn. 1994).

[Bergmann v. City of Melrose](#), 420 N.W.2d 663 (Minn. Ct. App. 1988).

[Godfather, Inc. v. City of Bloomington](#), 375 N.W.2d 68 (Minn. Ct. App. 1985).

[Anton's, Inc. v. City of Minneapolis](#), 375 N.W.2d 504 (Minn. Ct. App. 1985).

F. License applications and penalties

As stated earlier, a city council has wide discretion in making licensing decisions. But the council must not act arbitrarily or capriciously. It is suggested that cities document reasons for denials, suspensions, and revocations of license applications or renewals.

If the license is for the spouse or relative of a council member, the council member cannot participate in the licensing decision. This probably includes the discussion as well as the voting on the license application.

All licenses should clearly define the premises that are being licensed for the sale of liquor. Parking lots should normally be excluded from the premises as it might lead people to think they can consume beverages in their cars. For the purpose of golf courses, state law prohibits including in the licensed premises areas where motor vehicles are driven.

Cities can issue licenses only to those areas that are compact and contiguous.

1. Renewal and denial

The following situations have been held to be valid reasons for denying license applications or renewals:

- Council finding that existing three liquor establishments fulfill needs of community, and another establishment would overtax city's limited traffic and law enforcement facilities.
- Documentation of several liquor law violations.
- Allowing nude dancing on the licensed premises when the city's ordinance prohibited this activity in licensed liquor establishments.
- Unpaid taxes of establishment.
- The applicant's prior problems in another location.
- Denial based upon specific objections raised by the community's residents whose lives would be directly affected.

The Minnesota Supreme Court found that the denial of a liquor license was arbitrary and capricious in the following cases:

RELEVANT LINKS:

[*Wajda v. City of Minneapolis*, 246 N.W.2d 455 \(Minn. 1976\).](#)

[*Tamarac Inn, Inc. v. City of Long Lake*, 310 N.W.2d 474 \(Minn. 1981\).](#)

[Minn. Stat. § 340A.415.](#)
[Minn. Stat. §§ 14.57-14.69.](#)
A.G. Op. 218g-14 (Nov. 5, 1976).

[Minn. Stat. § 340A.415.](#)

- Denial on the grounds that the premises were unsuitable. In this instance, the previous owner had operated a tavern at the premises for the previous 20 years.
- Denial for failure to complete the restaurant facility and several ordinance violations. The restaurant was within days of completion and the ordinance violations were no more severe than those of other establishments that were not denied licenses.

2. Suspension and revocation

Once a license has been issued, the license holder has a right to due process before the license can be taken away either by suspension or revocation.

Suspension or revocation of a liquor license cannot take effect until the licensee has been given an opportunity for a hearing under the Administrative Procedure Act. The attorney general has concluded it is not necessary for a city to use a state hearing examiner to conduct the hearing.

AGED or the city can suspend a license if the licensee has done any of the following:

- Sold alcoholic beverages to another retail licensee for the purpose of resale.
- Purchased alcoholic beverages from another retail licensee for the purpose of resale.
- Conducted or allowed gambling on the licensed premises in violation of the law.
- Failed to remove or dispose of alcoholic beverages when ordered by AGED to do so under section 340A.508, subd. 3.
- Failed to comply with an applicable statute, rule, or ordinance relating to alcoholic beverages or the operation of the licensed establishment.
- Failed to comply with a lawful license condition duly imposed by the licensing authority or agreed to by the license or permit holder.

The city or AGED may do any of the following to enforce the above restrictions:

- Revoke the license or permit.
- Suspend the license or permit for up to 60 days.
- Impose a civil penalty of up to \$2,000 for each violation.
- Any combination of these sanctions.

RELEVANT LINKS:

[C.L. Hinze, Inc. v. City of St. Paul](#), C8-95-1398 (Minn. Ct. App. 1996) unpublished decision. [DRJ, INC., d/b/a Diva's Overtime Lounge, v. City of St. Paul](#), No. A07-1599 (Minn. Ct. App. 2008) (unpublished decision).

[Minn. Stat. § 340A.415.](#)

Contact [Department of Public Safety's Alcohol and Gambling Enforcement Division](#) at (651) 201-7500 for further information.

[Minn. Stat. § 340A.401.](#)

[Minn. Stat. § 340A.504, subd. 6.](#)

City councils that are considering license suspension or revocation should consult with their city attorneys before beginning the process to ensure the due process rights of the licensee are considered.

3. Civil penalties

Both AGED and cities have the power to impose a civil penalty against a licensee who violates liquor regulations. Although a hearing under the Administrative Procedure Act is required before a license can be suspended or revoked, there is no similar requirement when imposing a civil penalty. Cities can use a less formal hearing to give the licensee due process. The maximum penalty that can be imposed is \$2,000.

Imposition of a penalty or suspension by AGED or the city does not preclude the other from imposing an additional penalty as long as the total penalty or suspension does not exceed the maximum set in state law.

Some cities have adopted penalty fees that increase if a violation is repeated by a license holder within the same year.

X. Regulation of liquor sales

Liquor is regulated at several different levels. Federal regulation exists for manufacture, shipment, and sales.

The state regulates wholesale and retail sales through AGED. Local governments, such as cities, counties, and towns, also regulate retail sales through their licensing ordinances.

Wholesale liquor operations are generally regulated at the state level. AGED is responsible for licensing these liquor vendors.

Retail liquor operations are regulated at both the state and local levels. Except in a few limited circumstances, all persons who sell liquor at retail must have the appropriate liquor license or permit. This section of the memo discusses some of the ways liquor sales are regulated by the state, as well as several ways cities have regulated sales.

A. Days of sales

Although state law sets the days of sale, a municipality can further limit the days or hours of on and off sales of alcoholic beverages, provided that further restricted on-sale hours for intoxicating liquor applies equally to on-sale hours of 3.2% malt liquor. State law prohibits the on-sale of intoxicating liquor only on the following days:

RELEVANT LINKS:

[Minn. Stat. § 340A.504, subd. 4.](#)

- On any day during hours when the sale of liquor is illegal. For example, in a city that has set more restrictive hours for sales, sales outside of these hours are prohibited.
- On Sundays (unless approved at an election).

State law only prohibits off-sale licensees from selling intoxicating liquor, and only on the following days:

- On any day during hours when the sale of liquor is illegal. For example, in a city that has set more restrictive hours, sales would be prohibited outside of these hours.
- Thanksgiving Day.
- Christmas.
- Christmas Eve (after 8 p.m.).

People are often unsure about whether liquor sales are permitted on certain days. Liquor sales on many of these days were at one time prohibited, but these restrictions have since been eliminated. Off-sale is not prohibited on the following days:

- Election Day.
- New Year's Day.
- Fourth of July.
- Labor Day.
- Memorial Day.

Generally speaking, on-sale is permitted on the above days unless they happen to fall on a Sunday and the city has not received approval of Sunday liquor.

B. Hours

Although state law sets the hours of sale, a municipality can further limit the days or hours of on and off sales of alcoholic beverages, provided that further restricted on-sale hours for intoxicating liquor apply equally to on-sale hours of 3.2% malt liquor. Cities can restrict the hours of sale beyond those in the statutes via local ordinance. They cannot, however, expand the hours beyond those provided in statute.

According to state law, no on-sale of liquor can be made at the following times:

- Between 2 a.m. and 8 a.m., Mondays through Saturdays.
- On Sunday, unless the city has adopted Sunday liquor.

State law prohibits the off-sale of liquor at the following times:

[Minn. Stat. § 340A.504, subd. 6.](#)

[Minn. Stat. § 340A.504.](#)

[Minn. Stat. § 340A.504, subd. 4.](#)

RELEVANT LINKS:

The [LMC Research and Information Service](#) can be reached at (651) 281-1200 or 1-800-925-1122.

[Minn. Stat. § 340A.410, subd. 5\(a\).](#)
[Minn. Stat. § 349.30.](#) [Minn. Stat. § 609.761, subd. 4.](#)

[Minn. Stat. § 340A.410, subd. 5\(b\).](#)

[Minn. Stat. ch. 349.](#)

See [Public Law Number 100-497](#).

[Minn. Stat. § 3.9221.](#)

[Minn. Stat. § 340A.410, subd. 5\(c\).](#)
[Minn. Stat. ch. 349A.](#)

[Minn. Stat. § 340A.410, subd. 5\(d\).](#)
[Minn. Stat. § 609.761, subd. 4.](#)

[Minn. Stat. § 609.761, subd. 3.](#)

- On Sundays, except between the hours of 11:00 a.m. and 6:00 p.m.
- Before 8 a.m. or after 10 p.m., Monday through Saturday.

Again, cities can be more restrictive than these hours.

Many cities have ordinances that require customers to leave the licensed premises within a certain amount of time after the sale of liquor has stopped. Some ordinances also apply these limits upon the employees in such establishments. These “evacuation” clauses can help to eliminate excessive beverage sales at last call and continued drinking after the hours for selling liquor on-sale are past. Contact the League to request sample ordinances with such provisions.

C. Gambling

Generally, no retail establishment licensed to sell alcoholic beverages can keep, possess, operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in state law or permit gambling. There are certain limited exceptions.

Certain types of gambling equipment can be kept or operated on licensed premises. Such equipment and raffles can be conducted on licensed premises and adjoining rooms when specifically authorized by the following:

- State gambling statutes.
- A tribal ordinance in conformity with the Indian Gaming Regulatory Act.
- A tribal-state compact negotiated and authorized by the Minnesota Legislature under the Indian Gaming Regulatory Act.
- A tribal-state compact negotiated and authorized by the Minnesota Legislature under the Indian Gaming Regulatory Act.
- Lottery tickets can be sold within the licensed premises when authorized by the director of the lottery.
- Dice can be kept and used on the licensed premises and adjoining rooms in limited circumstances. These circumstances are limited to board games played with dice or commonly known social dice games such as the following: “shake-a-day”, “3-2-1”, “who buys”, “last chance”, “liar’s poker”, “6-5-4”, “horse” and “aces.”

In addition, the wagers or prizes for these dice games must be limited to food or beverages and the establishment cannot organize or participate financially in the games.

Tournaments or contests for “social skill” games can be conducted for the following games: “cribbage”, “skat”, “sheephead”, “bridge”, “euchre”, “pinochle”, “gin”, “500”, “smear”, “Texas hold’em”, and “whist.”

RELEVANT LINKS:

Knudson v. City of Coates,
519 N.W.2d 166 (Minn.
1994).

Social skill game tournaments or contests can only be conducted if they do not provide any direct financial benefit to the promoter or organizer. The value of all prizes awarded for each tournament or contest cannot exceed \$200.

Special additional rules apply to “Texas hold’em” tournaments. In these tournaments or contests:

- No person under 18 years of age can participate.
- The payment of an entry fee or other consideration for participating is prohibited.
- The value of all prizes awarded to an individual winner of a tournament or contest at a single location cannot exceed \$200 each day.
- The organizer or promoter must ensure that reasonable accommodations are made for players with disabilities. Accommodations to the table and the cards must include the announcement of the cards visible to the entire table and the use of Braille cards for players who are blind.

D. Adult entertainment

There appear to be no restrictions in state law regarding adult entertainment and liquor license eligibility. However, in a recent decision, the Minnesota Supreme Court found that a city’s ordinance prohibiting nudity in bars did not violate the free speech provision of the Minnesota Constitution.

In this decision, the city’s liquor ordinance prohibited nudity in licensed liquor establishments. The city denied renewal of the liquor license because the owner had allowed nude dancing in the establishment.

The court found that the city’s regulation of nudity in bars could be accomplished if the following factors were met:

- The regulation only had incidental impact on freedom of expression.
- The regulation concerning expressive conduct is reasonable as to time, place, and manner of expression.

As a result, the city’s denial of the license renewal was found to be proper.

E. Liquor and underage persons

The legal drinking age in Minnesota is 21. State laws are strict regarding underage people and liquor, and many city police departments perform regular compliance checks in licensed establishments to ensure sales to underage people are not made.

RELEVANT LINKS:

[Minn. Stat. § 340A.503.](#)

[Minn. Stat. § 340A.412, subd. 10. Minn. Stat. § 181A.115.](#)

See Section IX-D-1,
*Mandatory fee reduction for
certain off-sale liquor
licenses.*

1. Underage drinkers

It is unlawful for a person under 21 to consume, purchase or possess any alcoholic beverage. It is unlawful for anyone under 21 to enter a liquor establishment with the intent of being served alcohol. However, a person who is 18, 19 or 20 can enter an establishment for the following purposes:

- To perform work for the establishment, including the serving of alcoholic beverages. A city cannot adopt an ordinance that prohibits this.
- To consume meals.
- To attend social functions that are held in a portion of the establishment where liquor is not sold.

People under 18 cannot serve or sell intoxicating liquor in a retail intoxicating establishment. Generally, the Minnesota Child Labor Standards Act prohibits the employment of persons under 18 in rooms or areas in which intoxicating liquor or 3.2 malt liquor is sold or consumed. Lawful work by minors can be performed elsewhere on the premises of a liquor licensee, provided that the minor does not enter or work in a room in which liquor is sold or consumed.

However, unless restricted by local ordinance, minors who have reached the age of 16 can be employed to provide musical entertainment or perform busing, dishwashing or hosting services in rooms or areas of a restaurant, hotel, motel or resort where the presence of intoxicating liquor or 3.2 malt liquor is incidental to food service or preparation.

2. Compliance checks

Some cities conduct regular compliance checks to help ensure sales are not made to underage people. Generally, such programs are set up through the police department. A young person will enter a licensed premise and attempt to buy alcohol and report the results of the attempt to an officer who witnesses the transaction from a distance.

3. Incentive program for off-sale intoxicating liquor licensees

Cities must reduce the fee for off-sale intoxicating liquor licenses for licensees who agree to participate in programs that reduce underage drinking. Off-sale liquor licensees are entitled to a mandatory \$100.00 fee reduction if they do all of the following at the time of application and before any renewal:

RELEVANT LINKS:

[Minn. Stat. § 340A.513, subd. 2.](#)

[Minn. Stat. § 340A.513, subd. 2.](#)

[Minn. Stat. § 340A.513, subd. 4.](#)

[Minn. Stat. § 340A.513, subd. 5.](#)

- Agree to have a private vendor train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors.
- Post a policy requiring identification checks for all persons appearing to be 30 years old or less.
- Establish a cash award and incentive program to award employees who catch underage drinkers, and a penalty program to punish employees in the event of a failed compliance check before the license is issued or renewed.

F. Beer keg sales

No off-sale retailer can sell beer kegs unless the retailer affixes an identification label or tag to each beer keg. Identification labels must consist of a durable material that is not easily damaged or destroyed. Identification tags must be attached to the keg by a durable means. Both labels and tags must be attached at the time of sale.

The identification information must include the following:

- The retailer's name, address and telephone number.
- A unique beer keg number assigned by the retailer.
- A prominent visible warning that the intentional removal or defacement of the label is a criminal offense.

Upon return of the keg, the retailer is responsible for removal of the tag or label. The label or tag must be kept on file with the retailer for at least 90 days from the date of return.

At the time of sale, a retailer that sells a keg must record the following information:

- The number of the purchaser's driver's license, Minnesota identification card, military identification card, or valid U.S. or foreign passport.
- The date and time of the purchase.
- The beer keg identification number.
- The purchaser's signature.

This record must also be retained for not less than 90 days. The retailer must make these records available during regular business hours for inspection by a peace officer or an agent of AGED.

RELEVANT LINKS:

[Minn. Stat. § 340A.509.](#)

[Bergmann v. City of Melrose](#),
420 N.W.2d 663 (Minn. Ct.
App. 1988).

See Section XI-A, *Insurance*.

G. Common local restrictions

A local authority can adopt an ordinance to impose further restrictions and regulations on the sale and possession of alcoholic beverages within its limits. Some of the more common types of local regulations include the following:

- **Taxes and fees.** It is common to find requirements that all property taxes, special assessments, charges, and fees are kept current. Delinquent accounts must be paid.
- **Insurance.** Some cities require additional insurance coverage beyond the minimum requirements in statute.
- **Limiting the number of licenses issued.** Some cities choose to issue fewer licenses than the maximum number of licenses allowed under state law.
- **Adult entertainment.** Many cities prohibit nudity in licensed establishments.
- **Security.** Some cities require that a security person (police or bouncer) be present.
- **Zoning.** Many cities prohibit liquor establishments from being located within a certain distance of schools or churches or in non-commercially zoned areas of the city. If a city chooses to impose a distance restriction, it should clearly define how the distance would be measured. For example, will it be measured from property line to property line? From the main entrance of each building? In a direct line between the entrances of each building or following the sidewalk?
- **Server training.** Some cities have required that a licensee provide training to its bartenders regarding serving liquor to customers. This can help a server learn to recognize an intoxicated person or a false identification card.
- **Enforcement schedules.** Some cities have provided schedules that impose increasingly strict penalties for violations that occur within the same year.
- **Evacuation clauses.** Many cities require that customers must leave the licensed premises within a certain period of time after liquor sales have stopped. Some also require employees to be off the premises within a certain time after closing.
- **Inactive licenses.** Some cities will have licenses expire if they have not been used for a certain time period.

RELEVANT LINKS:

[Minn. Stat. § 340A.501.](#)
[Minn. Stat. § 340A.701.](#)
[Minn. Stat. § 340A.702.](#)
[Minn. Stat. § 340A.703.](#)

[Minn. Stat. § 340A.801.](#)
[Minn. Stat. § 340A.409.](#)
[Minn. Stat. § 340A.509.](#)

[Minn. Stat. § 60A.07, subd. 4.](#)
[Minn. Stat. § 60A.206.](#)

[Minn. Stat. § 340A.409, subd. 4.](#)

XI. Liquor liability

Every licensee is responsible for the conduct in their licensed establishment. Any sale of alcoholic beverage by any employee authorized to sell alcoholic beverages in the establishment is the act of the licensee for the purposes of all provisions of this chapter except for certain felonies, gross misdemeanors, and misdemeanors.

A. Insurance

Retail licenses cannot be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility with regard to civil liability or dram shop actions. This applies to all types of retail liquor licenses, with a couple of limited exceptions. The city must submit to the state the applicant's proof of financial responsibility. A local government can require higher insurance or bond coverages or a larger deposit of cash or securities. The minimum requirement for proof of financial responsibility is:

- A certificate that there is in effect for the license period an insurance policy issued by an insurer providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, \$100,000 for loss of means of support of two or more persons in any one occurrence, \$50,000 for other pecuniary loss of any one person in any one occurrence, and \$100,000 for other pecuniary loss of two or more persons in any one occurrence.
- A bond of a surety company with minimum coverages as provided in the previous bulleted paragraph.
- A certificate of the state treasurer that the licensee has deposited with the state treasurer \$100,000 in cash or securities, which can legally be purchased by savings banks or for trust funds having a market value of \$100,000.

An insurer may provide the above coverage in combination with other insurance coverage.

The above insurance requirements do not apply to licensees who establish by affidavit any one of the following:

- They are on-sale 3.2% malt liquor licensees with sales of less than \$25,000 in the preceding year.
- They are off-sale 3.2% malt liquor licensees with sales of less than \$50,000 in the preceding year.

RELEVANT LINKS:

[Minn. Stat. § 340A.409.](#)

[Minn. Stat. §§ 340A.801-340A.802.](#)

[DRJ, INC., d/b/a Diva's Overtime Lounge, v City of St. Paul](#), No. A07-1599 (Minn. Ct. App. 2008) (unpublished decision).

[Minn. Stat. § 340A.502.](#)

[Minn. Stat. § 340A.504.](#)

[Minn. Stat. § 340A.702. Clark v. Peterson](#), 741 N.W.2d 136 (Minn. Ct. App. 2007).

[Minn. Stat. § 340A.503. Minn. Stat. § 340A.412, subd. 10.](#) See Section X-E, *Underage drinkers*.

- They are on-sale wine licensees with sales of less than \$25,000 in the preceding year.
- They are temporary wine licensees.
- They are wholesalers who donate wine to an organization for a wine tasting conducted under Minn. Stat. §§ 340A.418 or 340A.419.

Insurance is required for temporary 3.2% malt liquor licenses since there is no specific exclusion from the insurance requirement. For risk management purposes, cities should consider requiring proof of insurance from all liquor licenses regardless of whether it is required by state law.

Insurance requirements for liquor licensees serve two important functions:

- They help to protect the public in that any damages or injuries that occur will be covered by insurance.
- They help to protect the licensee from the cost of defending a lawsuit or paying a valid claim for injuries or damages.

State law requires the insurance company to notify the city when a liquor licensee's insurance is canceled.

B. Illegal sales

State law gives the right to pursue a civil action to any person injured in person, property or means of support by an intoxicated person. The civil action can include whoever caused the intoxication of the person by illegally selling them alcoholic beverages.

Cities can pursue criminal actions against licensees who violate state statutes and local ordinances. Civil penalties, license suspension, and license revocation are other possibilities for licensees who break laws.

Illegal sales include the following:

- Sales to intoxicated people. People cannot sell, give, furnish, or in any way procure alcoholic beverages for the use of an obviously intoxicated person.
- Sales during prohibited hours or days
- Sales without the proper license. It is a gross misdemeanor for a person to sell an alcoholic beverage without a proper license.
- Sales to underage people. This is discussed in detail in another section of this memo.

RELEVANT LINKS:

[Minn. Stat. § 340A.505.](#)

[Minn. Stat. § 340A.501.](#)

[Englund v. MN CA Partners/MN Joint Ventures](#), 555 N.W.2d 328 (Minn. Ct. App. 1996) *aff'd*, 565 N.W.2d 433 (Minn. 1997).

See LMC information memo, [Police Department Management and Liability Issues](#), and Section IV-B, *Off-duty employment (moonlighting)*.

Contact LMC [Research and Information Service](#) at (800) 925-1122 or 651-281-1200.

- Sales for resale. A retail licensee cannot sell alcoholic beverages to any person for the purpose of resale or to any person whom the licensee has reason to believe intends to resell the alcoholic beverage without written approval of the state.

In addition to the above, a licensee is responsible for the conduct in the establishment. The licensee should ensure the business has policies in place that will help to prevent illegal sales.

In a 1997 decision, the Minnesota Supreme Court upheld the decision of the Minnesota Court of Appeals where a licensee was found responsible for an illegal sale when he did not reasonably control his licensed premises. In this case, an on-sale establishment served its beverages in plastic cups and did not take action to ensure customers consumed their drinks before leaving. A patron bought drinks, carried them off the premises, and consumed them in her car. Subsequently, she was involved in an auto accident. The courts held this was an illegal sale because the retailer did not reasonably act to ensure liquor was consumed on the premises.

C. Police moonlighting

Liability issues can arise when a city police officer moonlights as a bouncer for a bar. A city can be held liable for actions that an off-duty police officer takes while moonlighting as a bouncer.

Sometimes police officers seek outside employment to supplement their incomes.

However, there is the potential for some liability exposure. This can occur under a variety of circumstances. For example, if the individual needs to respond as a police officer because a crime is being committed, they may be working as a city police officer instead of as an employee of the establishment. Likewise, if the individual is wearing a city police officer's uniform or using city equipment, such as their weapon, the city can sometimes be held responsible for the actions of the officer because the impression exists that the officer is on-duty.

Many cities adopt guidelines for outside employment to make it clear to customers that the officer is not "on-duty." These guidelines can include not using city equipment or wearing city uniforms while performing outside work. Some cities have required the establishments to contract with the city for an officer so that the city can create policies and retain some control over the individual's actions. Contact the League for additional information on police moonlighting.

RELEVANT LINKS:

See Section XI-A, *Insurance*.

[Minn. Stat. § 340A.909.](#)

D. Alcohol on city property and at city functions

Whenever an event is held on city property, a city faces the potential for liability exposure. This risk is increased when liquor sales are involved. There are three possible scenarios:

- A liquor license is issued to an organization for an event that is to be held on city property. An example of this would be renting out the community center for wedding receptions or issuing licenses for events in the city park.
- The city is running an event at which liquor will be served by another organization. An example of this would be a city-sponsored festival where someone wants a license to set up a beer garden.
- The city owns and operates a municipal liquor store.

Cities will need to get their own insurance policies for municipal liquor store operation. For the other situations, cities should have a written agreement that requires the following before a license is granted:

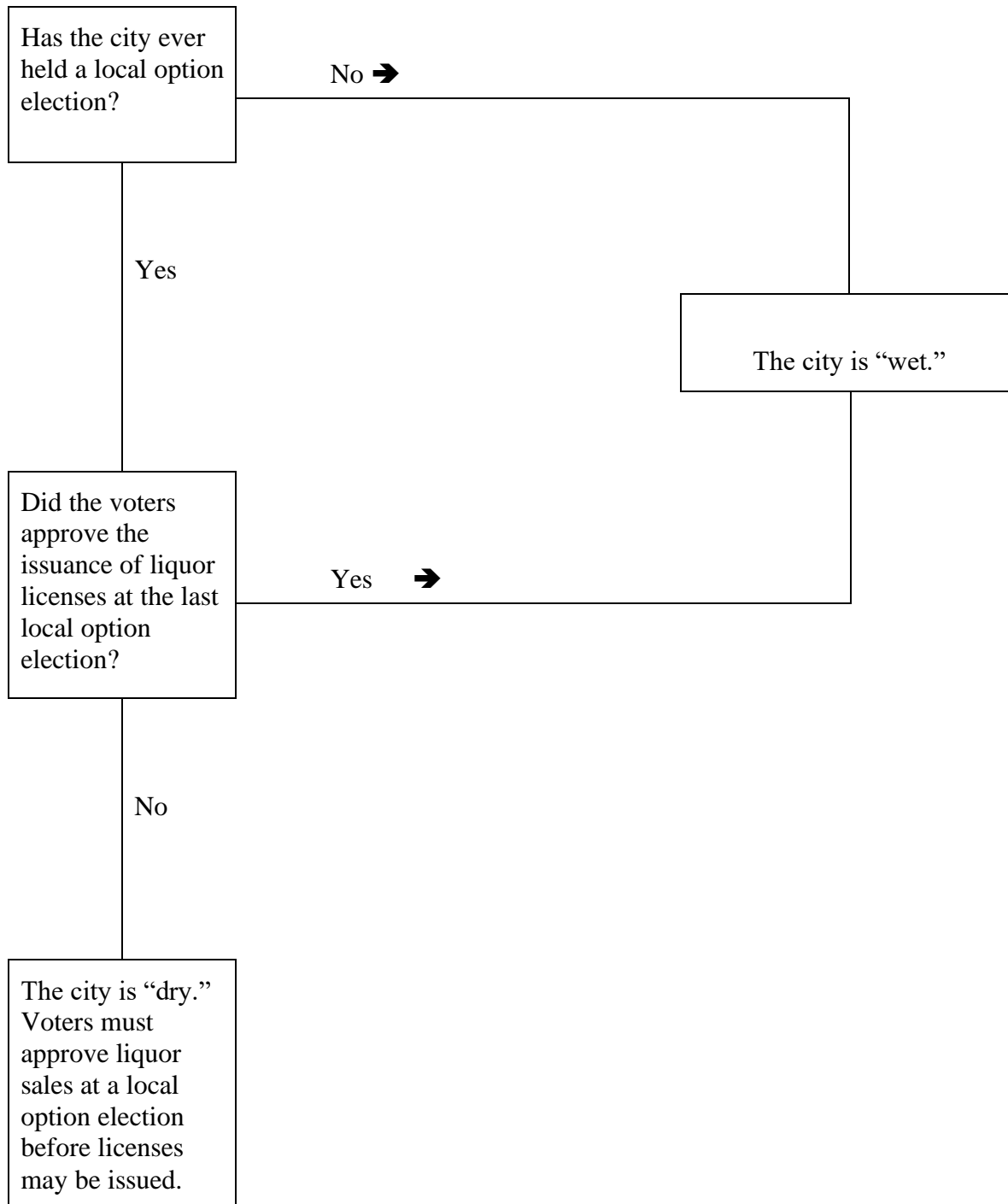
- Proof of insurance.
- That the city is named as an additional insured on the policy.
- That the licensee agrees to defend and indemnify the city for any claims that arise as a result of the event.
- That the licensee agrees to hold the city harmless.

Cities often ask how much insurance should be required when liquor sales will be made on city property. While state law gives some guidelines, it indicates only the minimum amount of insurance required. Cities can require amounts higher than the minimum amounts in the statutes and should consider doing this since cities have no tort liability limits for dram shop actions. Cities should consult with their insurance agents to determine the best amount of insurance coverage to require for the different types of events. These amounts should be reviewed regularly.

Finally, if beer will be sold on-sale at a permanent or temporary publicly owned building or structure, the city or agency must ensure a Minnesota-produced beer is available for purchase at each station where beer is sold. This does not apply to municipal liquor stores, nor does it apply to events authorized by temporary permit in which liquor is provided at no additional cost to the attendees. Cities may wish to include this requirement as a term of facility use.

Appendix A. “Wet” or “Dry”?

This flowchart can be used to determine whether a city is “wet” (may allow intoxicating liquor sales) or “dry” (may not allow intoxicating liquor sales). See **Part II - A - Local option** for a further discussion of local option elections.



Appendix B. Sample Ballot Questions

1. Local option

Shall the city issue intoxicating liquor licenses? [**Or:** Shall the city discontinue issuing intoxicating liquor licenses?]

Yes_____ No_____

2. Sunday Liquor

Shall the city council be allowed to issue on-sale licenses to restaurants, clubs, bowling centers, and hotels for the sale of intoxicating liquor at retail on Sundays?

Yes_____ No_____

Note: Cities with municipal liquor stores should remove bowling centers from the list above since those cities cannot issue liquor licenses of any sort to bowling centers.

3. Split Liquor

The city currently owns and operates a municipal liquor store. Shall the city council be allowed to issue private on-sale licenses for the sale of intoxicating liquor to hotels and restaurants, as well as to clubs?

Yes_____ No_____

4. Increasing maximum number of licenses

Note: There are two ways a city may word this question. The first (see A) generally allows the city to exceed the statutory number of licenses. The second (see B) allows the city to exceed the statutory number of licenses by a specific number of licenses.

a. Question to generally exceed the statutory number of licenses.

Shall the city council be allowed to issue on-sale licenses for the sale of intoxicating liquor at retail in excess of the number permitted by law?

Yes_____ No_____

b. Question to exceed the statutory number of licenses by a specific number.

Shall the city council be allowed to issue (*insert specific number here*) on-sale licenses for the sale of intoxicating liquor at retail in excess of the number now permitted by law?

Yes_____

No_____

Appendix C. Who issues and who approves?

| License/permit type | Issued by | Approved by | Statute |
|---|--|---------------------------------------|--|
| Off-sale intoxicating liquor license | City | Commissioner of Public Safety | Minn. Stat. § 340A.405, subd. 1. |
| On-sale intoxicating liquor license (except for clubs) | City | * | Minn. Stat. § 340A.404, subds. 1, 1a. |
| Club on-sale intoxicating liquor license | City | Commissioner of Public Safety | Minn. Stat. § 340A.404, subd. 1(a)(4). |
| Sunday on-sale intoxicating liquor license (must get voters to authorize sales on Sunday) | City | | Minn. Stat. § 340A.504, subd. 3(c). |
| Combination on-sale/off-sale intoxicating liquor license | City | Commissioner approves <i>off-sale</i> | Minn. Stat. § 340A.406. |
| Temporary on-sale intoxicating liquor license | City | Commissioner of Public Safety | Minn. Stat. § 340A.404, subd. 10. |
| Wine on-sale | City | Commissioner of Public Safety** | Minn. Stat. § 340A.404, subds. 1(b)-(d), 5(c). |
| Wine festival (limited temp. on-sale wine license) | City | Commissioner of Public Safety | Minn. Stat. § 340A.404, subd. 5(a). |
| Temporary off-sale wine license (for wine auctions) | City | Commissioner of Public Safety | Minn. Stat. § 340A.405, subd. 4. |
| Culinary class limited on-sale wine and malt liquor | City | | Minn. Stat. § 340A.4041. |
| Farm winery license | Commissioner of Public Safety | | Minn. Stat. § 340A.315. |
| Farm winery temporary on-sale intoxicating liquor license (for sales at county fair) | City | Commissioner of Public Safety | Minn. Stat. § 340A.404, subd. 10(a). |
| Bed-and-breakfast wine license | City | Commissioner of Public Safety | Minn. Stat. § 340A.404, subd. 5(c). |
| Bed-and-breakfast wine/beer license exemption | Must register with Commissioner of Public Safety | | Minn. Stat. § 340A.4011, subd. 2. |
| 3.2 percent malt liquor licenses - both year-long and temporary | City | | Minn. Stat. § 340A.403, subd. 1. |
| On-sale malt liquor | City | | Minn. Stat. § 340A.404, subds. 1, 5(b). |
| On-sale brew pub license | City | | Minn. Stat. § 340A.24, subd. 1. |
| Off-sale brew pub or micro-brewer's license | City | Commissioner of Public Safety | Minn. Stat. § 340A.24, subd. 2. |

| | | | |
|--|-------------------------------|---|--|
| Temporary on-sale intoxicating liquor license for micro-brewers or microdistilleries | City | Commissioner of Public Safety | Minn. Stat. § 340A.404, subd. 10(c). |
| Brewer taproom license (on-sale malt liquor) | City | | Minn. Stat. § 340A.26. |
| Small brewer license (off-sale malt liquor-growler) | City | Commissioner of Public Safety | Minn. Stat. § 340A.28. |
| Small brewer license (off-sale malt liquor-other packaging) | City | Commissioner of Public Safety | Minn. Stat. § 340A.29. |
| Consumption-and-display (set-ups) permit | Commissioner of Public Safety | City | Minn. Stat. § 340A.414, subds. 2, 5. |
| One day consumption-and-display permit | City | Commissioner of Public Safety | Minn. Stat. § 340A.414, subd. 9. |
| Caterer's permit | Commissioner of Public Safety | | Minn. Stat. § 340A.404, subd. 12. |
| Wine or malt liquor educator license | Commissioner of Public Safety | (City may have ordinance prohibiting wine or malt liquor education) | Minn. Stat. § 340A.4042. |
| Microdistillery or distilled spirits manufacturer (cocktail room) on-sale | City | Notice to Commissioner of Public Safety | Minn. Stat. § 340A.22, subd. 2. |
| Microdistillery off-sale | City | Commissioner of Public Safety | Minn. Stat. § 340A.22, subd. 4. |
| Wine educator/Malt Liquor Educator | Commissioner of Public Safety | | Minn. Stat. § 340A.4042. |

* AGED has indicated that they grant approval of on-sale intoxicating liquor licenses for third class cities in St. Louis County under [Minn. Stat. § 340A.413, subd. 2](#). This would include the following cities: Aurora, Biwabik, Chisholm, Ely, Eveleth, Gilbert, and Virginia. These cities should contact the AGED at (651) 201-7500 with any questions they have regarding this interpretation.

** Though approval is not always required by statute, the state reserves the right to approve on-sale wine licenses issued by cities.

*** This is authorization by ordinance, not a license.

Appendix D. Number of licenses

| Type of license | Maximum number of licenses | Statute |
|--|--|---|
| Off-sale intoxicating liquor licenses | <p>The maximum number of licenses varies depending upon the size and location of the city:</p> <ul style="list-style-type: none"> ♦ First-class cities--not more than one license for each 5,000 of population. ♦ All other cities--set by city. | Minn. Stat. § 340A.413, subd. 5. |
| On-sale intoxicating liquor licenses | <p>The maximum number of licenses varies depending upon the size and location of the city:</p> <p>First-class cities (home rule charter or statutory)--one license for every 1,500 of population up to 200 licenses.</p> <p>Second-class cities (home rule charter or statutory)--not more than 18 licenses plus one for every 2,500 population over 45,000 (second class cities).</p> <p>Third-class cities (home rule charter or statutory)--up to 12 licenses.</p> <p>Fourth-class cities (home rule charter or statutory)--not more than 7 licenses.</p> <p>Statutory cities of 5,000-10,000--not more than 6 licenses.</p> <p>Statutory cities of 2,500-5,000--not more than 5 licenses.</p> <p>Statutory cities of 500-2,500--not more than four licenses.</p> <p>Statutory cities under 500--not more than 3 licenses.</p> <p>(Certain on-sale licenses issued to restaurants, theaters, hotels and bowling centers do not count towards the total limit of licenses for the City).</p> | <p>Minn. Stat. § 340A.413, subd. 1.</p> <p>(Note: The statutes are unclear as to whether the general limit for fourth class cities or the more specific amounts for statutory cities will apply to statutory cities. Cities should consult with their city attorney when approaching these limits.)</p> |
| On-sale intoxicating (only cities in St. Louis County) | <p>Third-class cities--15 licenses.</p> <p>Fourth-class cities--9 licenses.</p> <p>Statutory cities of 2,500-6,000--6 licenses.</p> | Minn. Stat. § 340A.413, subd. 2. |
| On-sale club intoxicating liquor licenses | Statute does not provide limit. Total licenses set by city. These licenses are not counted for purpose of determining the number of on-sale intoxicating licenses. | Minn. Stat. § 340A.413, subd. 4. |
| Combination on-sale/off-sale intoxicating liquor licenses | Statute does not provide limit. Total licenses set by city. | Minn. Stat. § 340A.413, subd. 4. |
| Split-liquor private on-sale intoxicating liquor licenses* | See under “on-sale intoxicating.” | Minn. Stat. § 340A.601, subd. 5 and Minn. Stat. § 340A.413. |
| Wine licenses | Statute does not provide limit. Total licenses set by city. These licenses are not counted for purpose of determining the number of on-sale intoxicating licenses. | Minn. Stat. § 340A.413, subd. 4(3). |
| Sunday on-sale intoxicating liquor licenses | Statute does not provide limit. Total licenses set by city. | Minn. Stat. § 340.504, subd. 3. |

| Type of license | Maximum number of licenses | Statute |
|---|--|---|
| On-sale 3.2 percent malt liquor (beer) | Statute does not provide limit. Total licenses set by city. | Minn. Stat. § 340A.403, subd. 1. |
| Off-sale 3.2 percent malt liquor (beer) | Statute does not provide limit. Total licenses set by city. | Minn. Stat. § 340A.403, subd. 1. |
| Temporary on-sale intoxicating liquor licenses | Not more than 12 days' worth of temporary licenses per year, per organization or location. | Minn. Stat. § 340A.410, subd. 10. |
| Consumption-and-display permits | Issued by Commissioner. Statute does not provide limit. | Minn. Stat. § 340.414. |
| Temporary consumption and display permits (set-ups) | Not more than 10 one-day permits per year per organization. | Minn. Stat. § 340A.414, subd. 9. |
| Small brewer off-sale | No brewer may have more than one small brewer license. | Minn. Stat. § 340A.28, subd. 1. |
| Distiller Cocktail Room | A distiller may only have one cocktail room license. | Minn. Stat. § 340A.22, subd. 2. |

Appendix E. License fees

Cities generally have discretion when setting license fee amounts. Such fees must be reasonable, however. The following table outlines the limits on liquor license fees established by state law. Note that in addition to these license fees, a city can charge an applicant a fee for doing the applicant's background investigation. This fee can be up to \$500 for investigations done within the state or the actual cost of doing the investigation (but not more than \$10,000) for investigations done outside of the state.

| Type of license | Maximum fee amount | Statute |
|---|---|---|
| Annual off-sale intoxicating | <p>Set by city. Amount varies depending upon size of city. Fee for license cannot exceed the following when combined with any occupation tax imposed by city:</p> <ul style="list-style-type: none"> ◆ First class cities--\$1,500. ◆ Cities over 10,000 population located outside of the seven-county metro area other than cities of the first class--\$560. ◆ Cities over 10,000 that are not first class cities or cities over 10,000 population outside of the seven-county metro area other than cities of the first class--\$380. ◆ Cities between 5,000 and 10,000--\$310. ◆ Cities with less than 5,000--\$240. <p>This fee is subject to a mandatory \$100 reduction if the licensee adopts programs specified in the state statute to reduce under-age drinking.</p> | Minn. Stat. § 340A.408, subd. 3. |
| Annual on-sale intoxicating (other than club license) | Set by the city. Statute does not specify amount. But fee is intended to cover costs of issuing and inspecting and other directly related costs of inspection. | Minn. Stat. § 340A.408, subd. 2. |
| Annual on-sale club license | <p>Set by city. Amount varies depending upon number of members in club:</p> <ul style="list-style-type: none"> ◆ Under 200 members--\$300. ◆ 201-500 members--\$500. ◆ 501-1,000 members--\$650. ◆ 1,001-2,000 members--\$800. ◆ 2,001-4,000 members--\$1,000. ◆ 4,001-6,000 members--\$2,000. ◆ Over 6,000 members--\$3,000. | Minn. Stat. § 340A.408, subd. 2(b). |
| Annual Sunday on-sale intoxicating | Set by city. Can't exceed \$200. | Minn. Stat. § 340A.504, subd. 3. |
| Annual combination on-sale/off-sale | Set by city. Statutes do not specify amount. But consider limits for individual on-sale and off-sale. | Minn. Stat. § 340A.406. |
| Temporary on-sale intoxicating | Set by city. | Minn. Stat. § 340A.404, subd. 10. |

| Type of license | Maximum fee amount | Statute |
|---|---|--|
| Annual on-sale wine license | Half of fee for on-sale liquor license or \$2,000, whichever is less. | Minn. Stat. § 340A.408, subd. 2(c). |
| Culinary class limited on-sale wine and malt liquor | Set by the city. Statute does not specify amount. But fee is intended to cover costs of issuing and inspecting and other directly related costs of inspection. | Minn. Stat. § 340A.4041. |
| Temporary off-sale wine license | Set by city. Statutes do not set a limit. | Minn. Stat. § 340A.405, subd. 4. |
| Annual 3.2 beer license (on-sale or off-sale) | Set by city. Statutes do not set a limit. But consider limits of intoxicating licenses. | Minn. Stat. § 340A.403. |
| Temporary 3.2 beer license | Set by city. Statutes do not set a limit. | Minn. Stat. § 340A.403. |
| On-sale brew pub license | Set by city. Statutes do not specify amount. But consider limits for general on-sale intoxicating liquor or 3.2 license. | Minn. Stat. § 340A.301, subd. 7. |
| Off-sale brew pub or micro-brewer's license | Set by city. Statutes do not specify amount. But consider limits for individual off-sale license. Statute is unclear whether the limits for off-sale apply to this license as well. | Minn. Stat. § 340A.301, subd. 7. |
| Temporary on-sale intoxicating liquor license for micro-brewers | Set by city. | Minn. Stat. § 340A.404, subd. 10(c). |
| One day consumption and display permit | Set by city. Can't exceed \$25. | Minn. Stat. § 340A.414, subd. 9. |
| Consumption and display permit | State fee is \$250. City may impose up to \$300 additional fee. | Minn. Stat. § 340A.414, subd. 6. |
| Caterers permit | State fee is \$300. | Minn. Stat. § 340A.404, subd. 12(g). |
| Common carriers | State fee is: <ul style="list-style-type: none"> • 3.2 beer--\$50. • Intoxicating--\$250. • Tour boats (intoxicating)--\$1,500. (Note: Half of tour boat intoxicating license fee will be forwarded to city that is home port of tour boat.) | Minn. Stat. § 340A.408, subd. 4. |
| Farm Winery | State fee is \$50.00. | Minn. Stat. § 340A.315. |