

Governor Bullock's Phased Approach for Reopening Bars and Restaurants

Phase II Guidelines (Updated November 20, 2020) for alcoholic beverage licensees and agency liquor stores effective November 20, 2020.

In addition to the guidelines below, follow any additional restrictions set by local jurisdictions.

On-Premises Licenses

All On-Premises Licensees must follow these guidelines:

Service Spacing and Cleaning:

1. Follow a specific cleaning plan meeting the Department of Public Health and Human Services (DPHHS) Guidelines:
 - Cleaning all surfaces between customers, including:
 - Tables
 - Bar counters
 - Chairs
 - Bar stools
 - Booths
 - Condiments (including holders)
 - Napkin holders
 - Décor
 - Menus
 - Gaming machines
 - Remove any table items which cannot be adequately cleaned between customers.
 - Clean all growlers prior to refilling.
 - Do not refill drinks. Provide a new glass each time.
 - Do not provide self-service cups, straws, lids, condiments, beverages, or food.
 - Do not reuse drink coasters unless they can be disinfected between patrons.
 - Do not provide community peanuts or other foods. You may serve these in individual customer containers.
2. Keep operational gaming machines 6 feet apart. Gaming machines are considered tables for the purpose of serving food and drinks.

3. Limit your occupancy to 50% of your normal operational capacity to allow for adequate group spacing.
4. When customers are waiting in line, keep groups that are not from the same household separated by an appropriate distance. If your waiting area is not large enough to allow social distancing, close the waiting area to customers.
5. Limit all tables to 6 customers per table.
6. Limit gaming machines to one customer per machine.
7. Keep 6 feet of physical distance between groups or tables. You can accomplish this by:
 - Increasing table spacing, removing tables, or marking tables as closed;
 - Providing for a physical barrier between tables; or
 - Providing back-to-back seating with adequate separation.

Bar and Counter Service

1. Do not allow patrons to stand and mingle at the bar or elsewhere. All patrons should have a place to sit.
2. You may allow patrons to sit at bars or counters if:
 - Bar seating is following social distancing and sanitation protocols or other protective measures, such as a protective barrier;
 - Bar seating is approved by the local health department; and
 - Bar seating follows these requirements:
 - No bar seat may be within 6 feet of a well, taps, an area where drinks are passed to servers, ice machines, or other areas used to prepare or serve food or beverages;
 - Barstools are spaced 6 feet apart. If a group of six or fewer comes in and request to be seated together, a staff member may move seats to group them together, then separate the seats again once the group leaves;
 - If bars cannot keep 6 feet between bar seating and staff areas used for service preparation, a physical barrier or closing may be used to protect the staff.
3. Wells taken out of use are marked with a sign to remind staff. Keep a designated area at the bar to allow patrons to place and receive orders following these guidelines:
 - Only one patron may use this space at a time.
 - Keep 6 feet between all patrons from separate groups.
 - Patrons may receive their drink or order, then return to their seat.

On-Premises Hours

Brewery and Distillery Sample Rooms

Breweries and distilleries must close their sample rooms and all customers must be out of the establishment at the normal time and not reopen until the normal time the next day. However, takeout, curbside and delivery are all still allowed after the sample room closures.

No takeout, curbside or deliveries may occur between 2 a.m. and 8:00 a.m.

Winery Sample Rooms

Wineries sample rooms may be open 8:00 a.m. to 10:00 p.m. Businesses may reopen after 4 a.m.; however, the sale or consumption of alcohol may not occur until 8 a.m. All customers must be out of the establishment by the close of business at 10:00 p.m.; however, takeout, curbside and delivery are all still allowed after 10 p.m.

No takeout, curbside or deliveries of alcohol may occur between 2 a.m. and 8:00 a.m.

All-Beverage of Beer Licensees

Bars, restaurants, and casinos with all-beverage or beer licenses may be open 8:00 a.m. to 10:00 p.m. This includes catered events. All other catering requirements are still mandatory. Businesses may reopen after 4 a.m.; however, the sale or consumption of alcohol may not occur until 8 a.m. All customers must be out of the establishment by the close of business at 10:00 p.m.; however, takeout, curbside and delivery are all still allowed after 10 p.m.

No takeout, curbside or deliveries of alcohol may occur between 2 a.m. and 8:00 a.m.

Restaurant Beer and Wine Licenses

Restaurants with a Restaurant Beer and Wine License may be open 11:00 a.m. to 10:00 p.m. This includes catered events. All other catering requirements are still mandatory. Businesses may reopen after 4 a.m.; however, the sale or consumption of alcohol may not occur until 11 a.m. All customers must be out of the establishment by 10:00 p.m.; however, takeout, curbside and delivery are all still allowed after 10 p.m.

No takeout, curbside or deliveries of alcohol may occur between 11:00 p.m. and 11:00 a.m.

Additional Guidelines and Allowances

All licensees must follow all laws pertaining to the Responsible Alcohol Sales and Service Act (16-4-1001, MCA).

During Phase II, all licensees may:

- Take orders and payments on the phone or by computer.
- Sell for delivery, curbside pickup, drive-up or take-out for off-premises consumption prior to closing time.
 - Licensees and their employees (with no age limit, but must be server trained) may carry alcohol in original packaging¹ curbside or to a parking area. This includes growlers with beer and table wine.
 - Licensees and their employees (at least 21 and server trained) may deliver alcohol “off-site” in original packaging¹. This includes growlers with beer and table wine.

Selling Alcohol for Off-Premises Consumption

All licensees may sell alcohol for off-premises consumption prior to closing time.

All-Beverage and Beer Licensees

All-beverage and beer licensees must:

- Sell alcoholic beverages in individual servings² for take-out only. The buyer assumes liability for local or state regulations regarding open container laws.
- Licensees employees must be at least 18 and server trained.

Breweries

Breweries must:

- Sell only in original packaging¹, including growlers with beer or individual servings² if they meet the consumption guidelines³.

Wineries

Wineries must:

- Sell only in original packaging¹, including growlers with wine or individual servings² if they meet the consumption guidelines³.

Distilleries

Distilleries must:

- Sell only up to 1.75 liters per person per day.
- Sell only in original packaging¹ or individual servings² if they meet the consumption guidelines³.

Restaurant Beer and Wine Licensees

Restaurant beer and wine licensees must:

- Sell only in original packaging¹ or individual servings² if they meet the consumption guidelines³.
- Sell beer and wine only to a patron who orders food, with that beer and wine stated on the food bill.

Off-Premises Licensees and Agency Liquor Stores

Off premises licensees and agency liquor stores may only sell products in original packaging¹.

Beer Wholesalers and Table Wine Distributors

Beer wholesalers and table wine distributors may coordinate with retail licensees and with agency liquor stores for pickup of beer or table wine for any quantity of product that is agreed upon.

EXPIRED September 30, 2020 TTB Circular 2020-3: Wholesalers and distributors may no longer extend more than 7 days credit to a retailer.

Continued Prohibitions Under Phase II

No licensee or agency liquor store may:

- Sell to a person under 21.
- Sell to any person actually, apparently, or obviously intoxicated.
- Have a third-party service such as Grubhub order, pickup, or deliver alcohol.
- Canvass for, or solicit, orders for alcohol. Customers must initiate the sale of alcohol either on the phone, in person, or online. Normal advertising rules apply.

Virtual Special Events and Catered Events NOT allowed.

Temporary Process for Modifying a License During Phase II

Financing

As a reminder, institutional loans (bank loans) do not require prior approval. Notification that a licensee has obtained a bank loan is only required with the license renewal submission.

Non-institutional loans (non-bank loans) must have prior approval. In order to speed up the review process, please follow these guidelines:

- Submit online through our TransAction Portal (TAP.DOR.mt.gov) and submit your request, or
- Send documents to Stacy Rogstad (SRogstad@mt.gov) via the ePass Montana File Transfer Service (Transfer.MT.gov).

Fax or mail may not be processed as quickly as online submissions.

Be sure to supply all required documents. Before we can conduct our review, an application must be complete.

The following documents are required:

- Non-institutional loan (Form 13).
- Personal/criminal history statement (Form 10 or Form 10A) for each person providing funding.
- Loan agreement and/or promissory note.
- Amortization schedule and/or other applicable contracts or documents.
- Source of funding for the loan (e.g., 6 months of bank statements).
- As noted in the above section, the requirements for fingerprint cards will temporarily be waived.

Financing application submissions will be given priority.

Additional Accommodations

During this time, we will allow debt holders (landlords, lenders, etc.) to provide temporary reprieve from payments normally required by law and rule. Bone fide emergency loan or lease agreement modifications will not be considered an improper NIL or undisclosed ownership interest.

Any agreement between the licensee and the debt holder to defer or forgive payments or change terms must be documented. The documentation should include details of the modification such as:

- Interest rate adjustment.
- Monthly payment adjustment.
- Monthly payment “holidays” or forgiveness.
- Change in loan terms.
- Timeframe for the modification (e.g., temporary or through the term).
- Other accommodations.

Documents should be submitted to the Department no later than with the licensee’s annual license renewal application, due June 30.

Key Personnel Changes

The license renewal form (due June 30) requires disclosure of any changes to managers, officers, or directors. Please ensure all changes are reported at that time (or before).

Alterations to Licensed Premises

On premises retailers and manufacturers may want to alter their licensed premises to add additional outdoor space. As an accommodation during this time:

- You may work with your local officials to get their approvals prior to applying with the Department.
- Work with the Department to update your floorplan.
 - If you can't immediately meet suitability but have local official approval, the Department will grant temporary approval and will work with you to meet suitability and gain full approval.

Adequate cleaning and distancing must be maintained in outdoor space as well.

¹ **Original packaging** means the sealed container in which a manufacturer packages its products for retail sale. This includes bottles, cans, kegs, and growlers, but does not include lines or piping for carrying product from a manufacturer's premises to a retailer's premises.

² **Individual serving** means not more than 16 ounces of beer, not more than 2 ounces of liquor, not more than 7 ounces of wine, or a proportional combination thereof. *For example, 1 ounce of liquor mixed with 8 ounces of beer.*

³ **Consumption guidelines** means all-beverage licensees, on-premises beer licensees, restaurant beer and wine licensees, breweries, wineries, and distilleries may serve alcohol in individual servings for consumption off-premises if the consumption occurs in an area adjacent to the licensee's approved premise, and the licensee has received written approval from the governing local government. The written approval must be retained at their place of business. For breweries and distilleries, individual servings are restricted to the sample room limits for the combined on-premise and off-premise consumption. This provision does not restrict off-premises sales made by on-premises retailers or manufacturers that are otherwise authorized by Montana law.