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Helping Members Succeed

Official Publication of the Minnesota Municipal Beverage Association Volume 81, Number 5, 2024/2025



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MUNICIPAL LIQUOR STORE

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Alcohol is controlled for a number of reasons: To deny access to minors, to limit over-consumption, to ensure public safety via a clean supply and to allow community control over the type and nature of alcohol venues.

Alcohol is also regulated as an industry, both to compel the industry to meet the public goals of the state and to ensure fair competition.

This issue contains some basic Minnesota alcohol law information created by Minnesota House of Representative Research.



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MMBA PRESIDENT'S MESSAGE



By Chris Arnold, Bagley

Well it's 2025!! Where did the year go?!

It was great seeing most of you at the MMBA Regional Meetings. I learned most facilities are seeing a shift in sales since consumers are buying differently. We're seeing them changing their habits and buying lesser priced items trying to get more bang for their buck.

We're also seeing a major change in our craft beer and wine sales. As a result, we need to get back to the basics. Stores still doing wine classes / wine clubs are doing well in that category.

But stores that stopped doing these events during Covid are down. The younger generation wants to learn, but are scared to ask. As Paul (and his late father) say, "We live in a world of cycles."

Randy Dobratz from Château St. Michelle says this is just a repeat of the time he first got in the industry and they had to build wine sales. So remember to utilize the resources around you to rebuild these departments.

There is a vast network of suppliers and distributors MMBA has developed over the years to help our members. Times like this is when they become the most valuable. For example, at the Regionals, Randy and Mike from Château St. Michelle explained how they are more than willing to come out and do in-store tastings wine clubs or wine classes.

Another source is your Wine Merchants representative. Be sure to contact Heidi Lyman if you need assistance.

Another major discussions was THC. To our surprise there were still many facilities not selling this product. However, most are and with huge profit margins!

Finally, overall the majority of members were experiencing lower sales but higher profits. Be sure to take this into consideration as you examine 2024 yearend financial reports.

If you missed the Regionals, our Annual Conference is coming up in April! There is going to be a new twist on Saturday, we are bringing back Boot Camp for one day!

Make sure you plan your budget to attend and maybe bring a employee as well. I know for me bringing my employees has been very beneficial.

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Minnesota's Three-Tier System of Liquor Regulation

October 2023

Liquor is controlled for a number of reasons: to deny access to minors, to limit overconsumption, to ensure public safety via a clean supply, and to allow community control over the type and nature of liquor venues. Liquor is also regulated as an industry, both to compel the industry to meet the public goals of the state and to ensure fair competition.

The three-tier system of regulation

The classic model of liquor regulation creates a three-tier system for supply and distribution. This structure was created after Prohibition in order to modulate the sometimes monopolistic and proconsumption system in place before Prohibition.

Minnesota has a much-modified version of the three-tier system. In a pure three-tier, manufacturers make spirits, beer, and wine; wholesalers distribute across and within the state to retailers; and retailers sell to the consuming public.

There are other models for regulating the sale of alcoholic beverages. Seventeen states are "control" states, where wholesalers or retailers are operated in whole or in part by the state. The remaining states, including Minnesota, are "license" states, allowing sales for the most part through independent licensed businesses. However, there may be elements of the control system in a license state. For instance, In Minnesota, municipal liquor stores may exist at the discretion of the municipality, while in Maryland, Montgomery County controls distribution and some retail outlets.

Exceptions to the three tiers

The three-tier system in Minnesota is not pure. The state has granted numerous exceptions, which has created a modified three-tier structure.

Some exceptions apply mostly to manufacturers:

 Brew- and winemaking-on-premises stores: These stores allow consumers to be manufacturers of beer (Minn. Stat. § 340A.33) or wine (Minn. Stat. § 340A.34) for private use

Some exceptions apply mostly to wholesalers:

Nonprimary source state: Minnesota is the only nonprimary source state, which means that a wholesaler does not have to purchase all product directly from a manufacturer, but can instead buy the manufacturer's product from third parties, essentially other wholesalers, on the global market (<u>Minn. Stat. § 340A.311</u>, para. (c))

Some exceptions apply mostly to retailers:

 Municipals and nonmunicipals: Minnesota allows municipal liquor stores to operate as a monopoly and also allows local governments to license multiple private stores, creating two different retail systems (<u>Minn. Stat. § 340A.601</u>)

- Bed and breakfast establishments can sell up to two glasses of wine with a stay at their . establishment without a license (Minn. Stat. § 340A.4011)
- . 3.2 percent malt liquor has separate sales provisions, including allowing sales at grocery stores, convenience stores, etc. (Minn. Stat. § 340A.403)
- Culinary classes are allowed to serve a limited amount of alcohol (Minn. Stat. § 340A.4041)

Some exceptions apply to more than one tier:

- Brew pubs: These retail outlets are allowed to manufacture their own beer (Minn. Stat. § 301, subd. 6, para. (d)), obtain a full, on-sale intoxicating liquor license and make off-sales of growlers (Minn. Stat. § 340A.24, subds. 1 and 2)
- Wineries
 - Wineries of any size may make on- and off-sales of their own production from the premises (Minn. Stat. § 340A.301, subd. 10)
 - Farm wineries (Minn. Stat. § 340A.315) may make on- and off-sales of their own production from their premises, operate a restaurant and obtain a full, on-sale intoxicating liquor license, and self-distribute¹
 - Small cideries (2,500 gallons or fewer) may self-distribute
- Brewers
 - Brewers brewing 150,000 barrels or fewer may make off-sales in growlers (Minn. Stat. § 340A.28, subd. 2)
 - Brewers brewing 20,000 barrels or fewer may self-distribute (Minn. Stat. § 340A.301, subd. 9, para. (g)
 - Brewers brewing 7,500 barrels or fewer may make off-sales of up to 128 ounces per \circ customer per day in any approved container size, in addition to growler sales
 - Brewers brewing 250,000 barrels or fewer may be issued a license for on-sale of their 0 own product at a brewer taproom
- **Direct ship wine** (Minn. Stat. § 340A.417): Both in- and out-of-state wineries may ship, for personal use, up to two cases of wine to a Minnesota resident
- Distilleries (Minn. Stat. § 340A.22, subd. 1 and 2): Minnesota distilleries of any size may sell . cocktails to the public at a cocktail room, and microdistilleries may make off-sales of distilled spirits from their premises (Minn. Stat. § 340A.22, subd. 4)

Modifications of the three-tier system

The creation of a three-tier system over 75 years ago acted as a "regulatory channel" — directing investment into businesses that thrived within the regulatory tiers that were created. The weakening of the three-tier system has allowed new businesses to come into being. The modification of a regulatory scheme can create business, channel business, and in some instances, weaken business investment.



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¹ Due to the federal district court decision in *Alexis Bailly Vineyard, Inc. v. Harrington*, 482 F. Supp. 3d 820 (D. Minn. 2020), the Minnesota-grown requirement for farm wine and commercial winery on- and off-sales is unenforceable under the commerce clause

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For more information, contact Steven Kelly at 612.221.3031





Minnesota's Laws on Tastings and Samples of Alcohol

November 2024

Tastings and sampling of alcoholic beverages are regulated by law in Minnesota. Minnesota Statutes make a distinction between events for the tasting of alcoholic beverages and the provision by vendors of free samples of wine, beer, and liquor.

Alcohol tastings are allowed with certain restrictions

On-sale licensees, nonprofits or charities, and exclusive liquor stores may conduct tastings, but the latter two may do so only as provided by law.

Licensed establishments: A bar, restaurant, taproom, or other holder of an on-sale intoxicating liquor license can hold a tasting as part of the normal operation of the establishment and would presumably charge a fee for either the event or each glass of wine, distilled spirits, or beer served.

Nonprofits or charities: A nonprofit or charity may conduct a tasting of wine or beer only under <u>Minnesota Statutes, section 340A.418</u>, and must either hold a temporary on-sale license or conduct the tasting on the premises of the holder of an existing on-sale license. Further statutes regulate these tasting events.

Exclusive liquor stores: A broader range of tastings and classes may be held by an exclusive liquor store under <u>Minnesota Statutes</u>, <u>section 340A.419</u>. These include tastings of beer, wine, and distilled spirits.

A liquor store may conduct a tasting off-site, provided it is held on the premises of a holder of an on-sale license and otherwise conforms to statutory requirements. Liquor stores may also conduct tastings on-site pursuant to classes offered by the liquor store.

These tastings may not be accompanied by sales of the items, but may include the use of order forms where such items can be later purchased.

Entities licensed to sell alcohol can offer samples

<u>Minnesota Statutes, section 340A.510</u>, allows on- or off-sale licensees to either offer free samples directly or to allow a licensed manufacturer or wholesaler to provide samples on their premises. Sample sizes are limited to 100 milliliters for malt liquors, 50 milliliters for wine, 25 milliliters of liqueur or cordial, and 15 milliliters of distilled spirits. Samples must be of beverages that are otherwise for sale.

A farm winery may also give free samples of its products, including distilled spirits, and may hold other licenses, including on-sale licenses to operate bars or restaurants. Microdistilleries may also provide samples of 15 milliliters per beverage, not to exceed 45 milliliters per visit.

Those with educational-related licenses can offer a limited amount of alcohol

A limited on-sale liquor license may be issued to establishments that conduct culinary classes under <u>Minnesota Statutes, section 340A.4041</u>, and under this license, participants may be served up to six ounces of wine or 12 ounces of intoxicating malt liquor, for consumption on the premises. Wine or malt liquor educators are also allowed to conduct classes and serve alcohol at these classes under statutory requirements provided in <u>section 340A.4042</u>.

The Department of Public Safety regulates alcohol samples

The various laws regarding tastings and samples may cause confusion due to differences in the types of alcoholic beverages allowed to be sampled or tasted, the establishments and organizations that are allowed to conduct these activities in any given set of circumstances, and the rules for conducting these various activities. Persons seeking to offer a tasting or provide samples of alcoholic beverages should contact their local licensing jurisdiction and the Alcohol and Gambling Enforcement Division of the Department of Public Safety to ensure compliance with all local and state regulations.

AGED ENSURES CITIZENS CAN ENJOY A COLD BEER OR FRIENDLY WAGER SAFELY



Minnesota Alcohol & Gambling Enforcement Division

Having a cold drink at a bar or playing some rounds on the slot machines at the casino can be a fun way to relax and have a good time. Minnesotans can enjoy either one confidently and safely thanks to our Alcohol and Gambling Enforcement Division (AGED).

AGED oversees two highly regulated industries, both of which evolve constantly. The team balances providing service to the industry with protecting the public to make sure everyone in Minnesota can enjoy a friendly wager or alcoholic beverage responsibly.

AGED is here to make sure that when you go to a bar or restaurant and order a drink, you get exactly what you're paying for. Among other responsibilities, AGED inspects retail establishments that sell alcohol to make sure they're compliant with the law and dealing honestly with their patrons.

AGED inspectors make sure businesses have valid licenses. They examine tap lines to make sure that the name of the beer on the tap matches the name of the beer on the barrel the tap is connected to. In the past they've found people selling a cheaper beer but charging for a more expensive one, which is illegal. Patrons have to know what they're getting. Our team also makes sure that the liquor you order is the liquor you get. They test to make sure bars aren't watering down alcohol or refilling the bottles of highend liquor with cheaper products. They also check the bottles for debris, such as bugs.

AGED is also here to protect Minnesotans from gambling that turns out to be no gamble at all for the organizers. In other words, our team enforces gambling laws to prevent scammers from stealing your hard-earned money through fraudulent wagers.

Our division includes sworn law enforcement officers who provide education, investigation and enforcement services to local governments, the Gambling Control Board, the Minnesota Racing Commission, the State Lottery and the 11 tribal governments that own and operate 18 tribal casinos in Minnesota.

It's tempting to ramp up the excitement of sports games by betting on the outcome; however, organized sports gambling is illegal in Minnesota, and there are no guarantees that you'll get paid if you win.

It's not just about making sure people follow the law; it's about consumer protection. Without AGED, there's no way to know if the betting will be run fairly. And there are no processes in place to identify and assist with problem gambling.

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Importation of Liquor for Personal Use

November 2024

State law regulates the importation of liquor

Whether an individual may import alcoholic beverages into the state for personal use is a question of state law, which is supported by well-established federal policy in this area. In Minnesota, the importation, distribution, and retail sale of liquor is tightly regulated, which prohibits most direct shipments of alcoholic beverages for personal use, although some exceptions exist.

States have broad constitutional authority to regulate liquor

Federal law grants states significant authority to regulate the importation of liquor. The 21st amendment both repealed prohibition and prohibited any person from shipping alcohol into a state in violation of that state's laws. Other federal laws such as the Wilson Act, Webb-Kenyon Act, and the Twenty-First Amendment Enforcement Act all reinforce state authority in this area.

State authority to regulate the importation of liquor under federal law is not, however, absolute; the U.S. Supreme Court has held that a state may not use this regulatory authority in a manner that discriminates against out-of-state liquor producers.

Importation is an exception to the three-tier system

Minnesota has a modified three-tier system of liquor regulation that requires separate licenses for the importation, manufacturing, wholesaling, and retailing of liquor, and, with some exceptions, prohibits manufacturers and wholesalers from having a business interest in a liquor retailer.

Importers are required to obtain a license to ship liquor into the state under this system, even if the importation is for personal use. Once imported, alcoholic beverages shipped into the state must be delivered to a licensed wholesaler. Wholesalers may then only sell alcoholic beverages to licensed retailers.

A person seeking to import liquor into the state must do so within the existing three-tier system or under one of the exceptions described below. This system of liquor regulation generally prohibits the direct importation of liquor into the state for personal use.

There are personal exceptions to Minnesota's importation regulations

Under <u>Minnesota Statutes, section 340A.417</u>, a winery may directly ship up to two cases of wine per winery, per year to a resident of the state for personal use.

In addition, persons entering the state from another state or foreign country may bring certain amounts of alcoholic beverages with them. For people entering Minnesota from another state, this limit is one liter of intoxicating liquor (spirits and wine) or 288 ounces of beer, in addition to up to 12 commemorative bottles, which are specifically defined in statute. For foreign travelers, the limit is up to four liters of intoxicating liquor or 320 ounces of beer. Generally, foreign travelers also have to pay federal excise taxes and duties on amounts over one liter.

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People who want to bring in more than the limited quantities should contact the Minnesota Department of Revenue and the Alcohol and Gambling Enforcement Division to ensure that such importation is done lawfully.

Local delivery of liquor is allowed

State rules authorize licensed liquor stores to deliver alcoholic beverages to purchasers for personal use, except in municipalities where the delivery of liquor has been prohibited.

No state law prohibits online liquor sales

In recent years, some online marketplaces have partnered with local licensed liquor retailers to provide for the online sale and delivery of liquor. While there is no state law that expressly prohibits the sale of alcoholic beverages over the Internet, any retailer making such a sale must still comply with all applicable state and local laws related to importation, distribution, retail sale, and delivery.

State and federal law are silent on intrastate shipments

State and federal law do not address the intrastate shipment of liquor by individuals for personal use after it has been purchased from a licensed retailer. Shipments made from Minnesota to another state would be subject to the laws of the receiving state.

Federal law expressly prohibits the shipment of liquor through the U.S. mail, but common carriers, such as UPS or FedEx, set their own policies regarding the shipment of liquor.

The Department of Public Safety enforces state liquor laws

The federal government plays no role in enforcing state liquor importation laws for personal use; enforcement of state liquor laws therefore falls to the states. The Department of Public Safety is empowered to enforce all of the state's liquor laws through the Alcohol and Gambling Enforcement Division. The attorney general may also bring an action in federal court to enforce state liquor laws under the Twenty-First Amendment Enforcement Act.

For more information: See the Minnesota House Research publication <u>Minnesota's Three-Tier System of</u> <u>Liquor Regulation</u>, October 2023.



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WHAT IS MMBA?



The Minnesota Municipal Beverage Association (MMBA) is a professional organization that supports and advocates for municipal liquor operations in the state of Minnesota.

Here are key points about the MMBA:

Mission and Objectives

- **1. Support and Advocacy:** The MMBA provides support to municipal liquor stores, ensuring they have the resources and knowledge needed to operate successfully.
- 2. Legislative Advocacy: The organization represents the interests of municipal liquor stores in legislative matters, advocating for policies that benefit these establishments.
- **3. Training and Education:** MMBA offers training programs, workshops, and seminars to educate store managers and staff on best practices, regulatory compliance, and responsible alcohol service.

Services and Programs

- **1. Educational Resources:** MMBA provides various educational resources, including seminars on management practices, marketing strategies, and regulatory compliance.
- 2. Networking Opportunities: The association facilitates networking among municipal liquor stores, allowing them to share best practices, challenges, and solutions.
- **3. Community Involvement:** MMBA emphasizes the role of municipal liquor stores in supporting local communities through responsible sales practices and contributions to local economies.



Leadership

• The MMBA is led by an Executive Director and a board of directors composed of members from various municipal liquor operations. Paul Kaspszak has been a notable Executive Director, recognized for his contributions to the industry.

Impact

- Economic Contribution: Municipal liquor stores contribute significantly to the local economies in Minnesota, with profits often used to fund community projects and services.
- Regulatory Compliance: The MMBA ensures that member stores adhere to state regulations, promoting responsible alcohol sales and reducing the risk of alcohol-related issues.

History

- Establishment: The MMBA was established to support the unique model of municipal liquor operations in Minnesota, which is somewhat uncommon in the United States.
- Evolution: Over the years, the MMBA has evolved to address the changing needs of the industry, adapting to new regulations, market trends, and consumer behaviors.

Significance

- Community Support: The profits generated by municipal liquor stores often go back into the community, funding public services such as parks, emergency services, and community events.
- Market Stability: By supporting municipal liquor stores, the MMBA helps maintain a stable market environment, ensuring that these establishments remain viable and competitive.

The MMBA plays a crucial role in supporting municipal liquor operations, advocating for their interests, and promoting responsible and profitable business practices.

SAVE THE DATES!

2025 Legislative Day February 10, 2025

2025 MMBA Annual Conference April 26 – 29, 2025







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EXCUSE #1-FEAR

"Inaction breeds doubt and fear. Action breeds confidence and courage. If you want to conquer fear, do not sit home and think about it. Go out and get busy."

-DALE CARNEGIE, author

... it's time to face your fears and stop bullshitting yourself!

- 1. Think incrementally-Break it down!
- 2. Assess the risk—Ask yourself, is my fear rational?
- 3. Take corrective action—Have a plan B!
- 4. Check-in with yourself—Postmortems are essential!

EXCUSE #3-TIME

"So what do we do? Anything. Something. So long as we just don't sit there. If we screw it up, start over. Try something else. If we wait until we've satisfied all the uncertainties, it may be too late." —LEE IACOCCA, American automobile executive

... stop bullshitting yourself!

- 1. Value your time properly—Respect the limited time that you have by giving it the importance it deserves.
- 2. Delegate—Trust those around you to do the things that you dislike or don't have time for.
- 3. Stop procrastinating—Remember the 5-step plan to get things done!
- 4. Evaluate yourself on output, not activity—What have you accomplished today?
- 5. Manage priorities—Look at what you need to do to meet your goals strategically.
- Family time is NOT a time suck—Time with family is never a waste; make it meaningful.

EXCUSE #5-EGO

"Avoid having your ego so close to your position that when your position falls, your ego goes with it." —COLIN POWELL, former U.S. Secretary of State

- _____
- Get past thinking you're "too" anything.
 Be who you are, and let that shine.
- Be who you are,
 Flip your script!
- 4. Stop the self-pity! It's just a trap!
- 5. Help yourself.
- 6. Be accountable for your own behavior.

EXCUSE #2-KNOWLEDGE

"All men who have turned out worth anything have had the chief hand in their own education."

... stop bullshitting yourself!

- 1. Expand your job whenever possible—Learn new skills and broaden your horizon.
- 2. Learn for longevity—Continual learning is an investment in your future success.
- 3. Don't wait!-Start now and learn as you go.
- 4. Access what's available—Devote the right time and resources to learning.
- 5. Learn from those you serve—Pay attention to your constituents & stakeholders.

EXCUSE #4-CIRCUMSTANCES

"People are always blaming their circumstances for what they are. I don't believe in circumstances. The people who get on in this world are the people who get up and look for the circumstances they want, and, if they can't find them, make them."

-GEORGE BERNARD SHAW, Irish playwright and critic

Excuses based around external factors that cannot be changed . . . it's time to face your circumstance excuses and stop bullshitting yourself!

- 1. Take a second—Or third look.
- 2. Adapt to your existing environment—Work with what you have!
- 3. Come on—BE HAPPY!
- 4. Be optimistic and stop putting stock in what other people think.—Learn from the past, but don't live there.
- 5. Deal with existing conditions—don't be defined by them.

EXCUSE #6-SCARCITY

¢)

"For those who do not live in fear of scarcity, life is unlimited." —JONATHAN LOCKWOOD HUIE, author, trainer, and personal coach

Excuses based on lack of funds or resources, or not having "enough" are just an excuse . . . stop bullshitting yourself!

- 1. Just try it.
- 2. Do what you love and the money will follow.
- 3. Create a plan of action and then systematically implement it.
- 4. Be ready for hard work and be creative.
- 5. Get in the trenches and make it happen!

 $\left(\right)$



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