

Non-licensed retailers and interested parties,

The Minnesota Department of Public Safety, Alcohol and Gambling Enforcement Division have dealt with an ever increasing number of inquiries and complaints regarding unlicensed businesses and venues dispensing alcoholic beverages to the public. In an effort to deal with the large volume of calls this division receives concerning such happenings, this notice is being provided to help clarify who may dispense alcoholic beverages.

A majority of the complaints are met with the response, "We're not charging the customer for the alcohol, and we are giving it away." However, simply having the alcohol at the business may be a violation of state law.

MN statute 340A.401 states, "*...no person may directly or indirectly, on any pretense or by any other device, sell, barter, keep for sale, charge for possession, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained the required license or permit.*" Furthermore, MN statute 340A.414 states, "*No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages, without first having obtained a permit from the commissioner.*"

By statute, liquor licenses are issued to a relatively small group of business types which meet the definition of a hotel, restaurant, bowling center, club or theater. Typically, facilities such as, but not limited to, spas, hair salons, jewelry stores, book stores and clothing stores would not qualify for an on-sale liquor license. Thus, the dispensing or display of alcoholic beverages in such a business setting, without the proper license or permit may subject the business owner and employees to criminal charges, as well as liability issues.

Copies of the regulations quoted in this memo are attached below. If you have questions as to your business qualifying for an on-sale liquor license you may review MN Liquor Chapter 340A by clicking on the following link, www.revisor.leg.state.mn.us/stats/340A , telephoning Alcohol and Gambling Enforcement at 651-296-6979 or contacting your local city or county issuing authority.



2012 Minnesota Statutes

340A.401 LICENSE REQUIRED.

Except as provided in this chapter, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained the required license or permit. Rental of or permission to use a public facility is not a commercial transaction for the purposes of this chapter.

History:

[1985 c 305 art 6 s 1](#); [1987 c 152 art 1 s 1](#); [1995 c 198 s 7](#); [1996 c 418 s 3](#); [2009 c 120 s 5](#)

340A.414 CONSUMPTION AND DISPLAY PERMITS.

Subdivision 1. **Permit required.**

No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the commissioner. Rental of a public facility does not make a subdivision or the facility a "business establishment" for the purposes of this chapter.

Subd. 1a. **Additional authorization.**

A holder of a consumption and display permit under this section who wishes to allow the consumption and display of intoxicating liquor between the hours of 1:00 a.m. and 2:00 a.m. must obtain authorization to do so from the commissioner. The authorization may be provided in a document issued to the permit holder by the commissioner, or by a notation on the permit holder's permit. Authorizations are valid for one year from the date of issuance. The annual fee for obtaining authorization is \$200. The commissioner shall deposit all fees received under this subdivision in the alcohol enforcement account in the special revenue fund. A person who holds a consumption and display permit and who also holds a license to sell alcoholic beverages at on-sale at the same location is not required to obtain an authorization under this subdivision.

Subd. 2. **Eligibility for permit.**

(a) The commissioner may issue a permit under this section only to:

- (1) an applicant who has not, within five years prior to the application, been convicted of a felony or of violating any provision of this chapter or rule adopted under this chapter;
- (2) a restaurant;
- (3) a hotel;
- (4) an establishment licensed for the sale of 3.2 percent malt liquor;
- (5) a resort as defined in section [157.15](#);
- (6) a club as defined in section [340A.101, subdivision 7](#), or an unincorporated club otherwise meeting that definition; and
- (7) a bed and breakfast facility as defined in section [340A.4011](#), subdivision 1.

(b) The commissioner may not issue a permit to a club holding an on-sale intoxicating liquor license.

Subd. 3. Only authorized to permit the consumption and display.

A permit issued under this section authorizes the establishment to permit the consumption and display of intoxicating liquor on the premises. The permit does not authorize the sale of intoxicating liquor.

Subd. 4. Permit expiration.

All permits issued under this section expire on March 31 of each year.

Subd. 5. Local consent required.

A permit issued under this section is not effective until approved by the governing body of the city or county where the establishment is located.

Subd. 6. Permit fees.

The annual fee for issuance of a permit under this section is \$250. The governing body of a city or county where the establishment is located may impose an additional fee of not more than \$300.

Subd. 7. Inspection.

An establishment holding a permit under this section is open for inspection by the commissioner and the commissioner's representative and by peace officers, who may enter and inspect during reasonable hours. Intoxicating liquor sold, served, or displayed in violation of law may be seized and may be disposed of under section [297G.20](#).

Subd. 8. Lockers.

A club issued a permit under this section may allow members to bring and keep a personal supply of intoxicating liquor in lockers on the club's premises. All bottles kept on the premises must have attached to it a label signed by the member. No person under 21 years of age may keep a supply of intoxicating liquor on club premises.

Subd. 9. One-day city permits.

A city may issue a one-day permit for the consumption and display of intoxicating liquor under this section to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization. The permit must be approved by the commissioner and is valid only for the day indicated on the permit. The fee for the permit may not exceed \$25. A city may not issue more than ten permits under this section in any one year.

History:

[1985 c 305 art 6 s 14](#); [1Sp1985 c 16 art 2 s 3 subd 1](#); [1987 c 152 art 1 s 1](#); [1989 c 209 art 1 s 34](#); [1991 c 249 s 17,18,31](#); [1995 c 198 s 11](#); [1995 c 207 art 9 s 60](#); [1997 c 179 art 2 s 4](#); [1Sp2003 c 19 art 2 s 58,79](#); [2005 c 136 art 8 s 17](#); [2006 c 210 s 12](#); [2007 c 13 art 3 s 24](#); [2009 c 120 s 10](#)