

Date: October 20, 2016

To: All LCLB Staff
All licensees
All industry associations
All local government, First Nations and police agencies

Re: Manufacturer licence and agent licence policy changes

Please note: These policy changes will come into effect on January 23, 2017

1. Changes to agent licences

Current Policy

A separate agent licence is required by licensed B.C. manufacturers to market and promote their products off-site. An agent licence is also required for anyone representing an out-of-province manufacturer.

New Policy

Manufacturer licensees:

Licensed B.C. manufacturers no longer require a separate agent licence as they are now permitted to promote and market their products off-site under their basic manufacturing licence. Manufacturers who hire others to market and promote their products on their behalf are responsible for providing them with identification, and for ensuring they follow the terms and conditions of the manufacturer licence.

If, as a B.C. manufacturer, you are using your associated agent licence to promote and market products made outside B.C. you must apply for a new agent licence for this purpose before March 31, 2017.

Agent licensees:

Any person representing only B.C. manufacturers no longer require a licence (they are no longer eligible for a licence). Anyone hired by B.C. manufacturers to promote their products requires identification provided by the manufacturer to verify the relationship. Manufacturers are responsible for ensuring that their representatives follow the terms and conditions of the manufacturer licence and have Serving It Right. An agent's licence is still required by anyone representing non-B.C. manufacturers.

2. New definition of production for wineries

Current Policy

To qualify for a winery licence, wineries must manufacture product and have enough equipment (fermentation tanks or barrels, filtering equipment and secure storage) to ferment at least 4,500 litres of wine each year. The regulations do not clearly state that 4,500 litres of wine must be produced on-site each year and some wineries have much of their product produced by other licensed manufacturers.

New Policy

New wording in the regulations is clear that wineries are required to produce at least 4,500 litres of their own wine on-site each year, and they must meet this on-site production requirement in order to renew their annual licence. Production for this purpose is defined as "fermentation and at least one other significant winemaking step from the following list: blending, crushing, filtering, aging the wine for at least three months, secondary fermentation or carbonation (sparkling), packaging."

Explanation

The production requirements for wineries are being tightened to prevent “shell” wineries that don’t produce on-site but receive endorsements.

3. Requirement for all manufacturers to have equipment

Current Policy

Wineries are required to have fermentation tanks or barrels and filtering equipment. There are no equipment requirements specified for breweries or distilleries.

New Policy

Manufacturers must demonstrate they have the equipment necessary to manufacture liquor on-site to be eligible for a licence. Manufacturers must maintain their equipment (either owned or leased) and continue to manufacture on-site each year in order to maintain the licence.

Explanation

This policy strengthens equipment requirements to prevent “shell” manufacturers and to maintain industry integrity.

4. Contract manufacturing

Current policy

Contract manufacturing, where one licensed manufacturer produces liquor for another licensed manufacturer, is only explicitly permitted at wineries. Contract manufacturing may also be when a licensee manufactures liquor in association with someone who may be the owner of a liquor trademark, but does not hold a liquor licence (in this case the manufacturer always owns the liquor).

New Policy

The Regulation has been clarified to explicitly permit breweries and distilleries to engage in contract manufacturing. Any manufacturer engaged in this activity must still manufacture on-site – it is not acceptable to have all product made elsewhere by this method. Wineries must produce their annual minimum and breweries must still brew (ferment) on-site. In some cases, breweries and distilleries may be restricted by the Liquor Distribution Branch’s manufacturing agreement. All conditions outlined in the Licensee terms and conditions must be met when engaging in this activity. See page 12 of the terms and conditions for more information.

5. Removal of tour area applications

Current Policy

Licensed manufacturers must apply for and be granted a tour area endorsement to sell or serve liquor as part of a tour of their establishment. Both guided and unguided tours are permitted.

New Policy

A tour area endorsement is no longer required. Any manufacturer can offer a tour of their establishment between 9 a.m. and 11 p.m., however, only guided tours are permitted. During a tour, patrons can only access liquor from the sampling room or an endorsement area. Outdoor tours are only permitted if there are manufacturing features outside.

6. Picnic areas

Current Policy

A picnic area is an endorsement on a manufacturer licence. A picnic area is an outdoor area that is open to the elements, where patrons can drink liquor they have purchased either at the on-site store or at an on-site service area. No sales or service may be conducted in picnic areas. Patrons are not permitted in the picnic area after dusk (half an hour after sunset). A picnic area has a maximum size of 1000m². The picnic area application is free.

Picnic areas are only permitted on large or agricultural sites and have no assigned person capacity. Picnic areas may include entertainment.

New Policy

New Picnic Areas

Any manufacturer, rural or urban, may now apply for a picnic area.

Picnic areas are now subject to capacity limitations. Applicants must identify a proposed person capacity and provide confirmation from the local government/First Nation that zoning allows for a picnic area at the proposed capacity and proposed location on the property. Licensees must post signs stating the maximum capacity.

Picnic areas may still have entertainment, however amplified sound is not permitted as the application process does not include comments from the local government/First Nation or the public. Manufacturers who want amplified sound outside may apply for a lounge patio or an outdoor special event area.

Picnic areas are not a substitute for, or an extension of, a lounge and must be located separate from any lounge area.

Existing Picnic Areas (and applications in progress)

Amplified sound is no longer permitted in picnic areas.

Existing picnic area endorsements now have a maximum capacity of 30 people, and licensees must post signage indicating this person capacity. If a licensee wants to host more than 30 people in a picnic area, they may apply for a structural change application – at no charge – to ensure zoning allows additional people, and that the increased capacity will not cause a disturbance to nearby residents.

Explanation

These changes will help to minimize disturbance to nearby residents

7. Person capacities required for new outdoor Special Event Areas

Current policy

A person capacity is set for indoor and patio Special Event Areas (SEA), but not for other outdoor SEAs.

New Policy

All new outdoor SEAs will have a person capacity. Capacities will be proposed by the applicant and subject to local government/First Nation and public consultation, as well as branch approval. Existing outdoor SEAs (and applications in progress) will not be subject to capacity limits if none were assigned at licensing. However, if there is a structural change to an existing SEA, a person capacity limit will be required by the branch.

Explanation

Establishing a person capacity for outdoor SEAs addresses public interest concerns regarding noise and community impact.

8. New record-keeping requirements

Current Policy

There are record keeping requirements for wineries, but no record keeping requirements for breweries or distilleries.

New Policy

Record-keeping requirements for wineries have been extended to all types of manufacturers. These requirements include keeping records of the inputs to liquor they manufacture and sales of bulk liquor manufactured for other licensed manufacturers. See page 12 in the Licensee terms and conditions for more details.

9. Allow agents and B.C. manufacturers to take unfinished bottles of liquor used for sampling

Current Policy

Unfinished bottles of liquor purchased from an authorized source for a tasting event must be destroyed, along with any unfinished poured samples, at the end of the event. Manufacturers may receive a refund for any unopened product after a tasting event.

New Policy

Unfinished and unopened bottles of liquor purchased from an authorized source for a tasting event at a retail store can now be taken by an agent or B.C. manufacturer to be used at another tasting event at a different retail store, or at the on-site store at the manufacturing site.

10. Authority for the general manager to suspend/cancel if Liquor Distribution Branch (LDB) agreement is suspended/cancelled**Current Policy**

It is a term and condition of a manufacturing licence that the licensee comply with their manufacturer's agreement with the LDB. The branch may issue a contravention notice for failure to comply with a term and condition of the manufacturing licence.

New Policy

The branch may suspend all or part of a manufacturer's licence if the LDB agreement is cancelled or suspended. For example, the branch could suspend all manufacturing endorsements (preventing on-site or online retail sales or sales by the glass at the manufacturing site) until the suspension of the agreement is lifted.

11. Certain manufacturers that don't sell are exempt from requiring a manufacturer licence in B.C.**Current Policy**

A manufacturing licence is required to produce liquor.

New Policy

Liquor equipment manufacturers and facilities that manufacture liquor for educational or scientific purposes may produce liquor without a licence or permit. Liquor produced by such manufacturers is not permitted to be sold.

12. Minors working at a manufacturing site**Current Policy**

Minors must not be employed to manufacture or serve liquor in any licensed area of the manufacturing site. Minors can only be employed as entertainers.

New Policy

Minors may be employed to manufacture liquor in any licensed area of the manufacturing site, under adult supervision. Minors must not sell or serve liquor. Minors can also be employed as entertainers.

13. Streamline requirements for promotional events**Current Policy**

Manufacturers and agents must have a theme night to promote their products at food primary and liquor primary establishments, and the events must have an educational component.

New Policy

The rules for manufacturers and agents hosting promotional events at food primary and liquor primaries have been streamlined. Manufacturers and agents are no longer required to have a theme night or an educational component to promote their products at these establishments. See page 31 of the terms and conditions for more information.

14. Streamline the application process for a manufacturer lounge and Special Event Area

Current Policy

An applicant for a manufacturer lounge or a Special Event Area is not permitted to seek input from the local government/First Nation. The branch seeks input from the local government/First Nation during the application process.

New Policy

An applicant for a manufacturer lounge or Special Event Area must take their completed application to the local government/First Nation for sign off just prior to submitting it to the branch. Applicants should ensure they meet all local government/First Nations and branch requirements before submitting their application. Applications will be considered by the local government/First Nation and the branch at the same time.

Explanation

This policy change was made to shorten the processing time.

15. Serving up to 20% of other manufacturers liquor in a lounge or SEA

The interim ability to sell other manufacturers' liquor at your manufacturer lounge or SEA (introduced in July 2015) has now been made permanent. See page 21 in the terms and conditions for more details.

16. Permit the service of liquor associated with a second manufacturer licence at the same site

Current Policy

If a manufacturer with a lounge or a Special Event Area (SEA) obtains a second manufacturing licence at the same site and wants to serve the liquor associated with the second licence in the existing lounge/SEA, an application is required including local government/First Nations and public consultation.

New Policy

If a manufacturer with a lounge or SEA obtains a second manufacturing licence at the same site and wants to serve the liquor associated with the second licence in the existing lounge/SEA, the application is not subject to local government/First Nations and public consultation, as long as the manufacturing licences have the same licensee, service area and hours. In this case, the licensee is still permitted to purchase up to 20% of their liquor stock from other manufacturers. The products associated with the two on-site licences must make up at least 80% of sales in the lounge/SEA.

17. Require licensees, not manufacturers, to apply for a tied house exemption

Current Policy

Small and medium-volume manufacturers may apply to have a tied house association with up to three licensed establishments that are not located on the same site as the manufacturer, and where the manufacturer's products may be sold.

New Policy

Licensees of an off-site establishment (i.e. liquor primary, food primary, caterer, special wine store licence, LRS or wine store) must now submit applications for tied house exemptions, rather than the manufacturer. However, the manufacturer is required to sign the application to show they support it. Existing tied house exemptions are not affected by this policy change. Each manufacturing licence is still limited to a maximum of three off-site establishment tied house exemptions. Manufacturers may still apply to remove a tied house exemption.

Explanation

This change better aligns the process with the requirements of the new Act.

18. Remove requirement for licensees to state where unfinished wine must be stored in a vehicle

Current Policy

Before allowing a patron to remove an unfinished bottle of wine, a licensee must instruct the patron about where the liquor must be stored in a vehicle.

New Policy

Licensees are no longer required to instruct patrons about where unfinished wine must be stored in a vehicle.

19. Streamline the comment criteria for local governments/First Nations

Current Policy

Local governments/First Nations must follow a list of prescribed criteria for comment when assessing the community impact of a proposed establishment.

New Policy

In consultation with local governments/First Nations, the list of criteria for comment has been reduced for liquor primaries, manufacturer lounges and special event areas.

Local governments/First Nations are no longer required to comment on:

- The proximity of the establishment to other social or recreational facilities and public buildings
- The number and market focus or clientele of liquor primary licence establishments within a reasonable distance of the proposed location

Local governments/First Nations must continue to comment on:

- The impact of noise on the community in the immediate vicinity of the establishment
- The impact on the community if the application is approved
- A food primary application that includes closing hours past midnight, or a food primary application that includes patron-participation entertainment. The comments must address whether either amendment may result in the food primary being operated contrary to its primary purpose

In providing comments, the local government/First Nation must take into account the following attributes of the establishment (or proposed establishment):

- The location
- The person capacity and hours of liquor service

Additional policy changes

Please see the General Policy Directive and the Compliance and Enforcement Policy Directive for additional policy changes that apply to manufacturers and agents.

Further Information

Further information regarding liquor control and licensing in British Columbia is available on the Liquor Control and Licensing Branch website at <http://www.pssg.gov.bc.ca/lclb/>. If you have any questions regarding these changes, please contact the Liquor Control and Licensing Branch toll free in Canada at 1-866-209-2111 or 250 952-5787 if calling from the Victoria area.

Original signed by

Douglas Scott
Assistant Deputy Minister and General Manager