

LCBO Board Policy

Consolidated Distribution (Ontario Beer, Wine, Cider and Spirits)

September 2017

This policy supersedes and replaces the LCBO's Ontario Small Brewer Distribution Policy dated October, 2015 and the Ontario Wine and Cider Distribution Policy dated March, 2017.

Objectives

- This policy expands the ability of Ontario brewers, wineries, cideries and small distillers to efficiently bring their products to market by allowing:
 - Eligible manufacturers to pool deliveries of their own products and eligible products made by other manufacturers to LCBO stores, licensees, grocery stores and wine boutiques authorized or licensed to sell these products, or to use third-party businesses to do so;
 - Eligible manufacturers and third-party service providers who are authorized to pool deliveries under this policy to warehouse eligible products from other manufacturers, for the purpose of facilitating deliveries; and
 - Large Ontario Brewers to deliver up to a maximum of 150,000 hectolitres per year of their own beer to licensees.
- To provide efficient distribution options while exercising the LCBO's power in the *Liquor Control Act* to control delivery and warehousing of liquor in Ontario.

Definitions

- **"Authorized Grocer"** refers to a grocery store that is authorized or licensed to sell beer and cider, or beer, cider and wine.
- **"Direct Delivery to Licensees Program"** refers to the program under which an Ontario winery may be authorized by the LCBO to sell its wine to licensees on behalf of the LCBO.
- **"Distillery Delivery to Licensees (Small Ontario Distillers) Program"** refers to the program under which certain Ontario distillers may be authorized by the LCBO to sell their spirits to licensees on behalf of the LCBO.
- **"Large Ontario Brewer"** refers to a manufacturer of beer holding a valid manufacturer's licence issued by the Registrar of Alcohol and Gaming that is not a Small Ontario Brewer.
- **"Ontario Winery"**, **"Ontario Cidery"** refer to a manufacturer of wine or cider (as applicable) holding a valid manufacturer's licence issued by the Registrar of Alcohol and Gaming.

- “**Program Participant**” means a person who is issued an Authorization under this policy.
- “**Small Ontario Brewer**” means a brewer in Ontario holding a valid manufacturer’s licence issued by the Registrar of Alcohol and Gaming whose worldwide production was less than 150,000 hectolitres of beer in the most recent calendar year, starting in 2015. A brewer who qualifies as a Small Ontario Brewer at any time will continue to be considered a Small Ontario Brewer under this policy for the remainder of the initial ten year term of the Master Framework Agreement between Brewers Retail Inc. and Labatt Brewing Company Ltd. and Molson Canada 2005 and Sleeman Breweries Ltd. and Her Majesty the Queen in Right of Ontario (the “**Master Framework Agreement**”, September 2015), unless it becomes an affiliate of a brewer that is not a Small Ontario Brewer.
- “**Small Ontario Distiller**” refers to a distiller defined as such under the LCBO Distillery Delivery to Licensees (Small Ontario Distillers) Program.
- “**Third-Party**” refers to a person who intends to provide distribution services to beverage alcohol manufacturers under this policy and who themselves do not have a manufacturer’s licence issued by the Registrar of Alcohol and Gaming.
- For the purpose of this policy:
 - “**worldwide production**” and “**affiliate**” have the same meanings as they do in the *Alcohol and Gaming Regulation and Public Protection Act, 1996*,
 - “**wine boutique**” has the same meaning as it does under *Ontario Regulation 232/16, Sales of Liquor in Government Stores*; and
 - “**wine**” excludes cider, but includes sake (unless otherwise specified).
 - Unless otherwise specified, all references to beer, wine and cider include both packaged and draught products.

Policy Requirements

General Principles

- Program Participants must comply with all the requirements outlined in this policy, and with all requirements set out in the authorization issued under this policy (the “**Authorization**”). In the event of a conflict between provisions in this policy and the Authorization, the policy takes precedence.
- Except as otherwise provided in this policy, this policy does not limit the ability of a manufacturer of beer, wine, cider or spirits holding a valid manufacturer’s licence issued by the Registrar of Alcohol and Gaming to warehouse or deliver its own products to LCBO stores, licensees, Authorized Grocers or wine boutiques, if the delivery of these products is permitted under a LCBO or AGCO policy, program, authorization or licence.

- Without limiting the previous paragraph, an Authorization under this policy is not required in the following circumstances:
 - (a) A Small Ontario Brewer is not required to obtain an Authorization from the LCBO (i) to deliver beer that it has manufactured to LCBO stores or licensees; (ii) to deliver its own beer to Authorized Grocers, or (iii) to warehouse its own beer.
 - (b) A Large Ontario Brewer is not required to obtain an Authorization from the LCBO (i) to deliver to licensees up to 150,000 hectolitres of beer that it has manufactured, during each calendar year (however, pooled deliveries to licensees that include beer manufactured by a Large Ontario Brewer are not permitted unless performed by a Third-Party service provider or a Small Ontario Brewer); (ii) to deliver its own beer (without limit) to Authorized Grocers, or (iii) to warehouse its own beer.
- Program Participants may warehouse the eligible products they are permitted to deliver under this policy.
- Program Participants may charge fees for warehousing and delivery to the manufacturer of the eligible products that are warehoused and delivered.
- All beer, wine, and cider delivered to Authorized Grocers and wine boutiques are LCBO sales (except for wine and cider supplied to a wine boutique by the owner of the wine boutique).
- The requirements of this policy are in addition to the terms and conditions of the LCBO Direct Delivery to Licensees Policy, the Winery Off-site Warehousing Policy, the Distillery Delivery to Licensees (Small Ontario Distillers) Policy and any other applicable LCBO policy, appointment, authorization, or agreement herein not explicitly indicated.
- The Board may reject an application for an Authorization under this policy if the past or present conduct of the applicant or of any key individuals associated with the applicant affords reasonable grounds to believe that the applicant will not carry on business in accordance with the law and with integrity and honesty.
- Nothing in this policy prevents (i) an Ontario beer manufacturer from using the LCBO or The Beer Store distribution systems, or (ii) an Ontario wine, cider or spirits manufacturer from using the LCBO distribution system.

Eligible Manufacturers

- The following manufacturers may deliver eligible products to LCBO stores, licensees, Authorized Grocers and wine boutiques, if the manufacturer holds an Authorization under this policy:
 - Small Ontario Brewers;

- Ontario Wineries;
- Ontario Cideries;
- Small Ontario Distillers;
- Large Ontario Brewers, subject to the following restrictions: Large Ontario Brewers (i) cannot warehouse or deliver the beer products of other manufacturers, and (ii) cannot make any deliveries to LCBO stores.
 - For greater certainty, a Large Ontario Brewer holding an Authorization under this policy may make pooled deliveries of its own cider or wine products with other eligible products.
 - Large Ontario Brewers are permitted to use Third-Party service providers as well as Small Ontario Brewers to pool their beer for delivery with other manufacturers' products.

Third-Party Businesses

- A Third-Party that is authorized under this policy is eligible to make deliveries of eligible products to LCBO stores, licensees, Authorized Grocers or wine boutiques authorized or licensed to sell such products.
- The Beer Store is not eligible to be authorized under this policy. This policy does not restrict or alter the provisions outlined in the Keg Cider Distribution Agreement between Brewers Retail Inc. and the LCBO.

Eligible Products

- A person who is authorized to deliver products made by another manufacturer under this policy may only deliver the following products (subject to the conditions of any other LCBO or AGCO policy, program, authorization or licence):
 - beer brewed by a Small Ontario Brewer;
 - beer brewed by a Large Ontario Brewer, subject to the following restriction: the authorized person is either (i) a Third-Party service provider or (ii) a Small Ontario Brewer;
 - wine or cider made by an Ontario Winery or an Ontario Cidery, subject to the following restrictions: (i) the wine or cider can only be delivered to a licensee if the manufacturer of the wine or cider is authorized under the LCBO Direct Delivery to Licensees Program; and (ii) the wine or cider cannot be delivered to an LCBO store unless the manufacturer of the wine or cider is permitted by LCBO operational policy to deliver such product to the LCBO store;
 - spirits distilled by a Small Ontario Distiller, subject to the following restrictions: (i) the spirits can only be delivered to a licensee if the manufacturer of the spirits is authorized under the Distillery Delivery to

Licensees (Small Ontario Distillers) Program, and (ii) shipments to Authorized Grocers or wine boutiques cannot include spirits.

Term of the Authorization

- An Authorization issued to an eligible Ontario beverage alcohol manufacturer will expire on December 31st, 2025, or the expiration of the initial ten year term of the Master Framework Agreement, whichever occurs first.
- An Authorization issued to a Third-Party will expire on the next scheduled expiry date, or the expiration of the initial ten year term of the Master Framework Agreement, whichever occurs first. The first scheduled expiry date for Third-Party Authorizations will be December 31st, 2019, and each subsequent expiry date will be on the same day every three years thereafter.
- LCBO will review the terms of this policy before the end of the initial ten year term of the Master Framework Agreement and will advise Program Participants as to the renewal, termination or other adjustment to the policy as required.