



Opening a Distillery: Legal Details That Producers Need to Know

Maryland is known for many things: crabs, agriculture, lacrosse, and the Chesapeake Bay. But a lesser known, and until recently, long-forgotten tradition in Maryland history is the state’s connection to distilled spirits, particularly rye whiskey. Maryland’s deep tradition of whiskey production dates back to the late 1700s (Rasmussen 2011, *Baltimore Sun*). After the end of Prohibition, Maryland became the national leader in rye whiskey production (Unger 2015, *Baltimore Magazine*). After World War II, consumer tastes changed and Maryland’s whiskey industry floundered. Recent interest has opened a new chapter in Maryland spirits production as consumers have begun to place greater value on locally produced items. New distilleries are popping up around the state, leading to a revitalization of the industry (Unger 2015, *Baltimore Magazine*).

Like any new business venture, starting a distillery requires careful planning and a major investment of resources. Marylanders interested in opening a distillery should consider taking classes and talking to existing distillers before starting out on their own. This guide is intended to provide an overview of the legal process of getting the required licenses and permits needed to open a distillery.

There are many other resources available to Marylanders interested in starting a distillery. The Maryland Distillers Guild, an association of



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existing and soon-to-open distilleries in the state, may be a good place to find other like-minded business owners. Another excellent resource to use before and after you open your business is your county liquor board. The board will have the most accurate information about what you can and cannot do based on your location. The Alcohol and Tobacco Tax and Trade Bureau (TTB) website has helpful information about the permitting process. With a wealth of resources available, a growing

industry, the explosion of interest in local products, and Maryland's deep distilling history, this is an exciting time to venture into opening a distillery.

To Get a Maryland Alcohol License, You Must Comply with Federal Regulations and Local Laws

U.S. alcoholic beverage laws are complicated because of federal, state, and local (including county) laws, and each layer of the law has specific requirements. As of March 2016, there is no state-wide law specifically for small-scale distillers like there is for farm breweries or microbreweries. While Worcester County has a special license for small-scale distillers, it does not apply outside of the county.

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When starting a distilling business, it is best to begin at the local level of governance. The State of Maryland requires your business to meet all county and federal guidelines before issuing you the appropriate state permits. Perhaps the most careful decision you have to make is where to open your distillery. Make sure you look into the zoning and alcohol laws in the county where you want to locate your business. An excellent resource is the office of the liquor board in the county you are exploring. There may be restrictions on the production or sales of alcohol in certain places. You must have a county use and occupancy permit to open your distillery.

If you plan to serve alcohol on site, make sure you have the appropriate tavern license from the county liquor board. You should consult with the county's economic or business development office to see what experience they have with distilleries opening in that county. Some counties may have financing or funding programs to encourage new businesses.

In Addition to County Legal Restrictions, Consider Your Future Neighbors

Some businesses or organizations may oppose having an alcohol-related business open up near them. Perhaps the location you've selected is near a religious establishment which objects to alcohol on principle. In

fact, many zoning codes require that businesses with alcoholic beverage licenses must be a certain distance away from religious establishments and/or schools. Even in a situation where you may be legally within your rights to open a distillery in a location, opposition from your neighbors may drag out the process of opening your business due to negative press, potential legal action, or protests.

Try to learn as much as you can about the surrounding community before signing leases or contracts locking you into a location. Also be aware that some property managers or landlords may choose not to enter into an agreement with you due to personal or professional discomfort with an alcohol-related business. The best mitigation strategy against potential conflict is to develop personal relationships with the people with whom you are working. Ask for references and try to get a sense of how the person or business has dealt with conflict in the past. Building mutual trust and encouraging honest communication can help ward off costly and time-consuming conflicts.

While Getting County Permits and Purchasing Equipment and Land, Keep Federal Approval Process in Mind

The TTB grants federal approval to manufacture alcohol to sell and/or serve. The federal process can be completed online or through mail. TTB has an [excellent tutorial](#) that clearly lays out where to start and what information you'll need to provide. Expect a few months of back and forth correspondence with the TTB, as the agency will have specific questions about your recipe, your equipment, the layout and floorplan of your distillery, and other factors before granting approval. The federal process has a waiting period of 90-150 days.

Once your federal and county paperwork is in order, you will need state-issued licenses. To operate a distillery in Maryland, you must have both the Class 1 and Class 2 licenses. The applications can be found [online](#). The Class 1 distilling license allows the permit holder to distill brandy, rum, whiskey, alcohol, and neutral spirits. In order to rectify, blend and/or bottle your distilled spirits, you must also hold a Class 2 rectifying license. Other than that, the two licenses grant the same powers. The Class 1 and Class 2 licenses allow you to sell and deliver your product in bulk, manufacture for another company, and acquire bulk alcoholic beverages from another producer with a winery, distilling, or rectifying license.



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Distillers and/or rectifiers are allowed to conduct guided tours and provide samples to visitors who have completed the tour. Each person may have no more than three, half-ounce samples of a single product. Of course, samples may only be provided to visitors who are 21 or older, the legal drinking age. If you make no more than 27,500 gallons a year, you may also sell up to three 750 ml bottles of your product to each person who attends a guided tour and has reached the legal drinking age.

If you make more than 27,500 gallons a year, you may conduct guided tours and provide samples, but you cannot sell bottles to people who come to your facility. Limiting the number of gallons produced is the state's way of determining whether the distillery is a small operation or a large-scale commercial operation. Smaller operations are usually unable to work with distributors and marketers due to fewer resources. In addition, smaller operations often do not qualify for certain licenses that allow them to sell their product through large distributors. The limitation protects the ability of small operations to sell directly to their consumers.

Language of Distillery Laws Are Inconsistent So Be Sure to Consult An Attorney

The state laws also specify certain times of business for different activities. You can manufacture at any time, with no restrictions other than any county or local laws that may enforce quiet hours or a zoning code. You may sell your product for offsite consumption, in sealed

bottles, from 10 am to 10 pm, seven days a week. You may also conduct tours and provide samples from 10 am to 10 pm, seven days a week. There is an exception to this in Garrett County, where you can conduct guided tours and provide samples on Sundays only in election districts where the voters have approved Sunday sales at rectifying and/or distilling facilities by referendum. Additionally, you may hold promotional events, such as a festival or an organized activity, like a large tour group for a corporate event. If conducting an event, you must notify the State Comptroller at least 14 days in advance. Getting a distilling and/or rectifying license does not exempt you from any relevant health and safety guidelines for events open to the public.

Another legal complication is inconsistency in the distillery law language. The state laws are unclear when it comes to allowing the sale of alcohol for consumption on the premises—that is, selling by the glass rather than in a sealed bottle. When these distillery laws were written, language was left out of the law during the drafting process. As a result, there is no specific authorization for a distillery to sell their product for on-site consumption.

The law alludes to restricting sales for onsite consumption to 10 am to 6 pm. It also mentions that selling for on-site consumption may only occur between 6 pm and 10 pm during a promotional activity, which requires that you notify the State Comptroller as previously described. This portion of the law is confusing as there is currently no clear answer to the question of



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whether or not a distillery can sell by the glass. Consult with an attorney if you have specific questions about this aspect of the law. ■

Sources:

Rasmussen, Frederick N. “Rye whiskey was once synonymous with Maryland.” *Baltimore Sun* (2011).

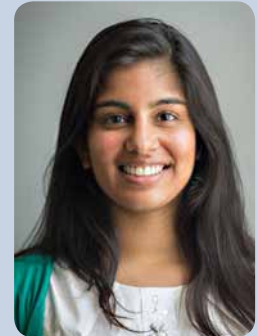
Unger, Mike. “That’s the spirit.” *Baltimore Magazine* (2015).

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