



Brewers Brief: AB 1825 Allows Overlapping Manufacturing Licenses for Production and Storage

NEW LAW EFFECTIVE JANUARY 2020 ALLOWS OVERLAPPING LICENSES FOR MANUFACTURING & STORAGE PURPOSES

Overview

Assembly Bill 1825 amends the Business and Professions Code as of January 1, 2020 to allow manufacturers of alcoholic beverages to overlap or “stack” licenses to cover the same premises for the purpose of production and storage. This allowance is now available to any combination of beer manufacturing (type 01/23), wine makers (type 02) or a variety of distilling licenses (including type 04/74).

AB 1825 did not change other privileges associated with each license type. For example, the sale of each beverage can only occur on the appropriate and applicable license and these “sales” areas cannot be on overlapping licensed areas. Additionally, AB 1825 did not make any changes to consumption of alcoholic beverages on overlapping licenses. Previous code changes do allow for adjacent or overlapping manufacturing licenses to create a “common consumption area.” Details on this included below.

AB 1825 Amended Section 25607 of the Business and Professions Code to read:

“(d) The holder of a beer manufacturer’s license, winegrower’s license, brandy manufacturer’s license, distilled spirits manufacturer’s license, craft distiller’s license, any rectifier’s license, any importer’s license, or any wholesaler’s license, that holds more than one of those licenses for a single premises, may have alcoholic beverages that are authorized under those licenses at the same time anywhere within the premises for purposes of production and storage, if the holder of the licenses maintains records of production and storage that identify the specific location of each alcoholic beverage product within the premises. Nothing in this subdivision is intended to allow a licensee to hold licenses, alone or in combination, or to exercise any license privileges, not otherwise provided for or authorized by this division.”



What AB 1825 Means for the Production and Storage of Alcoholic Beverages

As of January 1, 2020, a type 23 or O1 license holder will be able to apply for a wine or distilling manufacturing license, which overlaps the same footprint as their type 23/O1 for the purposes of production and storage.

What AB 1825 allows:

- Production of wine, beer and spirits within the same licensed footprint, with appropriate licenses held by same licensee (identical ownership group) and the shared use of manufacturing equipment, packaging lines and other equipment and materials as applicable.
- Storage of wine, beer and spirits with appropriate licenses on the same premise. The new law does outline specific requirements for storage, including distinct records and clear identification of the different alcoholic beverages. Additional guidance will be provided on storage by the ABC.

What AB 1825 does NOT allow:

- AB 1825 is not applicable to duplicate licenses.
- It does not allow the overlapping of a “sales” area on each license. Manufacturers are only allowed the sale of beer on a designated portion of the type 23/O1 which is not overlapping with any other license and the sale of wine on a designated portion of the type O2 which is not overlapping with any other license. The sale area for each alcoholic beverage must be carved out from the overlapping area on form 257 to show where each beverage will be individually sold. As an example: If you are pouring draft cider, that keg of cider must be sold from the portion of the type O2 premise not an overlapping area with the type 23 or O1. Please see example of form 257 “carve out” below.
- It does not allow overlapping licenses owned by separate licensees. The ABC requires the ownership of each license be identical. For example: If you plan on brewing beer and wine at your facility the owners of the Type 23 must be identical to the owners of the Type O2.

AB 1825 Did Not Change Privileges Associated with the Sale of Manufactured Beverages

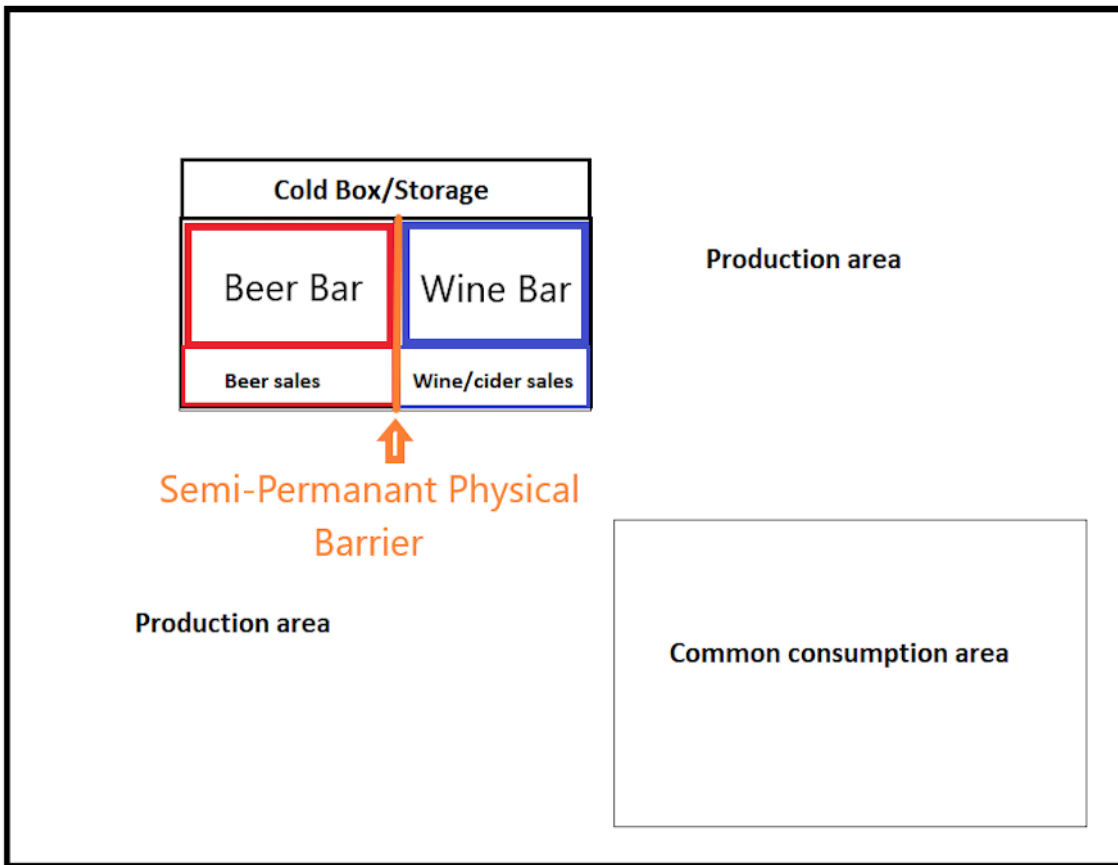
AB 1825 only changed the ability for manufacturers to overlap licenses for production and storage, not sales. To sell beverages produced under each manufacturing license, there must be an area that is not overlapped with the



other manufacturing license(s) and is within the licensed premise footprint of only that license on which the products were produced. Both on and off-sales are allowed in this area.

The example below shows separate and distinct point-of-sale locations outlined on diagram 257 of your license application and covered by only one license. All sales/purchases from each license must be conducted within that defined area which is unique to that license and not overlapping a second manufacturing license.

The “bar” or sales area must also be physically differentiated for each individual product sold. This “semi-permanent physical barrier” must be an actual demarcation between the areas that is recognizable to customers (and ABC agents) to ensure sales are separate.





Additional Section of Code Allows Common Consumption Area with Overlapping Licenses

AB 1825 only changed the ability for manufacturers to overlap licenses for production and storage, not for sales OR consumption. In order for visitors to consume alcoholic beverages from both manufacturing licenses in the same area on your premises, you will have to carve out the distinct sales areas (explained above) and adhere with the regulations as described in Section 25607 of the code to create a “common consumption area” for both alcoholic beverages covered by all licenses. The section of the code related to Common Consumption Area included below:

Section 25607 of the Business and Professions Code:

“(a) Except as provided in subdivisions (b) and (c), it is unlawful for any person or licensee to have upon any premises for which a license has been issued any alcoholic beverages other than the alcoholic beverage which the licensee is authorized to sell at the premises under his or her license. It shall be presumed that all alcoholic beverages found or located upon premises for which licenses have been issued belong to the person or persons to whom the licenses were issued. Every person violating the provisions of this section is guilty of a misdemeanor. The department may seize any alcoholic beverages found in violation of this section.

(b) Except as provided in subdivision (c), a bona fide public eating place for which an on-sale beer and wine license has been issued may have upon the premises brandy, rum, or liqueurs for use solely for cooking purposes.

(c)(1) A licensed winegrower, licensed beer manufacturer that holds a small beer manufacturer's license, and a licensed craft distiller, in any combination, whose licensed premises of production are immediately adjacent to each other and which are not branch offices, may, with the approval of the department and under such conditions as the department may require, share a common licensed area in which the consumption of alcoholic beverages is permitted, only under all of the following circumstances:

(A) The shared common licensed area is adjacent and contiguous to the licensed premises of the licensees.

(B) The licensed premises of the licensees are not branch offices.



(C) The shared common licensed area shall be readily accessible from the premises of the licensees without the necessity of using a public street, alley, or sidewalk.

(D) Except as otherwise authorized by this division, the alcoholic beverages that may be consumed in the shared common licensed area shall be purchased by the consumer only from the licensed winegrower, the licensed beer manufacturer, or the licensed craft distiller.

(E) The licensed winegrower, the licensed beer manufacturer, and the licensed craft distiller shall be jointly responsible for compliance with the provisions of this division and for any violations that may occur within the shared common licensed area.

(2) Nothing in this subdivision is intended to authorize the licensed winegrower, the licensed beer manufacturer, or the licensed craft distiller to sell, furnish, give, or have upon their respective licensed premises any alcoholic beverages, or to engage in any other activity, not otherwise authorized by this division, including, without limitation, the consumption on the premises of any distilled spirits purchased by consumers for consumption off the premises pursuant to Section 23504 or the consumption of distilled spirits other than as permitted by Section 23363.1.”

What is Allowed in “Common Consumption Area”

A consumer may bring an alcoholic beverage that was purchased at the designated sales area on the appropriate license into the “Common Consumption Area” for on-site consumption.

What is NOT Allowed in “Common Consumption Area”

A brewery is not allowed to provide table service, sell an alcoholic beverage or deliver an alcoholic beverage into the common consumption area. These privileges must only occur in the defined point-of-sale area on the appropriate license type.

DISCLAIMER: The CCBA provides information to help California brewers comply with ABC regulations and is intended only as general guidance. The consultation is not legal advice and does not replace the advice or representation of a licensed attorney. The CCBA highly recommends that all licensed beer manufacturers have an attorney or consultant review matters pertaining to ABC compliance.