

Second Round: Brewpub Basics and the Difference Between a Brewpub Permit and a Brewer's Permit

Article #2 of Hopping on the Brewery Bandwagon Series

While federal law does not distinguish between a brewer's permit and a brewpub permit, and both fall under the category of "brewery" for federal law purposes, Wisconsin law allows a brewer to operate under either a brewer's permit or a brewpub permit. In the [first article](#) of this [series](#), we discussed brewer's permit requirements and restrictions. This article provides an overview of the state requirements for a brewpub permit and highlights the key differences between a brewer's permit and a brewpub permit in Wisconsin. Depending on the type of operation you have in mind, these differences will determine the type of permit you should seek.

In order to obtain a brewpub permit, an applicant must meet the following requirements:

1. The applicant and its brewpub group produce 10,000 or fewer barrels of beer per year.
2. The applicant's entire manufacturing process occurs on the premises covered by the brewpub permit (with certain exceptions for applicants holding more than one brewpub permit).
3. The applicant operates, or will operate, a restaurant on the brewpub premises and hold a Class "B" (beer, tavern) license for the restaurant.
4. The applicant offers for sale in its restaurant, or will offer for sale, beer made by a brewer other than the applicant or its brewpub group.
5. The applicant (including its brewpub group) does not hold or have an interest in any of the following:
 - o Class "A" (beer) license;
 - o Class "B" (beer) license (except for any Class "B" license issued for the restaurant on the brewpub premises);
 - o A beer wholesaler's permit;
 - o A brewer's permit;
 - o A "Class B" (liquor) or "Class C" (wine) retail license (except for any such licenses issued for the restaurant on the brewpub premises); or

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- An alcohol beverage warehouse permit.

In addition to allowing the permit holder and the brewpub group to collectively brew up to 10,000 barrels of beer each calendar year (which is equivalent to about 310,000 gallons of beer, or 3.3 million twelve-ounce cans of beer), the permit authorizes the transportation of beer made on the brewpub premises between the permit holder and any other member of the brewpub group.

A brewpub may sell its beer to wholesalers. Subject to certain restrictions, a brewpub (collectively with its brewpub group) may also sell up to 1,000 barrels of its beer to retailers in a calendar year (equivalent to about 330,000 12-ounce cans of beer). Note, however, that this 1,000-barrel cap does not apply to beer provided between members of the brewpub group.

Brewer's Permit v. Brewpub Permit

The key differences between a brewer's permit and a brewpub permit include the amount of beer the establishment can produce, restaurant requirements and restrictions and limitations on to whom you can sell.

Specifically, whereas a brewer's permit authorizes the production of an infinite amount of beer, a brewpub permit restricts production to 10,000 barrels in a calendar year. A brewer's permit allows a brewer to have a restaurant on its premises, but does not mandate it; by contrast, a brewpub permit requires the brewer to operate a restaurant on its brewpub premises. Finally, a brewery may not sell directly to retailers under a brewer's permit unless the brewery makes less than 300,000 barrels of beer per year (with some additional limited exceptions). A brewpub permit authorizes the sale of up to 1,000 barrels of beer to retailers per year. The table below summarizes some of the main differences between a brewer's permit and a brewpub permit.

Permit	Brewer's Permit	Brewpub Permit
Beer Cap	No cap	10,000 barrels per year
Restaurant	Permitted on the premises or at an off-site retail outlet	Required on the brewpub premises

Permit	Brewer's Permit	Brewpub Permit
Closing Hours	None (subject to additional municipal regulations)	Statutory closing hours and operator's license requirements (subject to additional municipal regulations)
Class "B" Beer License	Prohibited from holding a Class "B" license (with limited exceptions for indirect interests in other Class "B" licensed premises)	Class "B" license is required for the restaurant on the brewpub premises; otherwise prohibited
"Class B" Liquor License	Prohibited unless the brewer held a license or permit authorizing the retail sale of intoxicating liquor as of June 1, 2011 and the brewer purchased the intoxicating liquor from a wholesaler	Permitted only for the brewpub's restaurant

Be aware that local regulations may further restrict your operations. For example, local regulations may impose stricter closing hours than state requirements. We will explore these considerations later in this series in our article on choosing a location.

Don't let the permitting process sour your plans. If you have questions about which type of permit suits your needs, contact your Reinhart attorney or any member of the Real Estate Entitlements Group or Food and Beverage team.

Stay tuned for the series' next article on choosing a business structure.

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