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The Landscape of Liquor License Options for the Hospitality Entrepreneur

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The last couple of years have brought about lots of change for many business owners, not the least of which being owners in the hospitality industry. While this cycle of change has regrettably caused some to close their doors, leaving the industry altogether, we have also seen an unprecedented number of new business entrepreneurs curious about the various options to sell alcohol in Pennsylvania as a manufacturer, retailer or distributor. To even consider entry into this heavily regulated and competitive landscape, prospective entrepreneurs need a working knowledge of the available options, and a sense of the costs and challenges associated with each.

What is the 'Quota System'

Certain classes of liquor license are bought and sold subject to what is known as the "quota system." The quota system restricts these classes of licenses ("R" Restaurant licenses, "C" Club licenses and "D" Distributor licenses), so that only a finite number can be issued per county, based on the population. Generally speaking, this number is one license per every 3000 inhabitants, but it can vary by license. Since most Pennsylvania counties already have more retail liquor licenses than the quota currently allows, a new business owner seeking to acquire an "R" license, would need to purchase that license from an existing license owner in the desired county.

As a result of the quota system, retail license prices, specifically "R" licenses, are extremely susceptible to supply and demand. By way of example, in Philadelphia County, which has a large population and therefore many licenses in operation, the average cost of an R license is about $180,000. By comparison, a liquor license in Montgomery County, having less population than Philadelphia County but still a vibrant demand for liquor licenses, this price can exceed $390,000. Recently, "R" licenses in Cumberland County were selling for as high as $700,000.

The Classic 'R' License

An "R" license, or "restaurant" license, is the most common liquor license that individuals typically encounter day-to-day. Sometimes called the "Appleby's" license, it enables the owner to sell beer, wine and liquor regardless of where those products are manufactured. While these licenses are typically associated with alcohol service at restaurants, they are increasingly used to enable the sale of beer and wine to-go from grocery stores and gas stations. A recent change in the Liquor Code now enables "R" licensees to sell wine to-go, in addition to beer, which has fueled their popularity among convenience stores and grocery stores. An "R" license provides the broadest ability for a proprietor to sell many different varieties of alcohol, but there are many other license types that can be considered for viable business opportunities.

Distributor 'D' Licenses

The traditional beer distributor or "D" license allows for the sale of malt and brewed beverages for off premises consumption only. Beer distributors can sell a wide variety of malt and brewed products, including a number of non-alcohol related products provided they relate to or compliment the sale of beer (i.e. cups, snacks, sodas), without the added requirement of having to make a product for an end consumer. The term malt or brewed beverages has been traditionally understood as beer and beer related products but has been expanding to include new products like seltzers, fermented fruit beverages, malt beverages that mimic traditional wine, slushies sold to-go, and reduced-alcohol "shooters" that mimic whisky or rum drinks (but are malted beverages not distilled spirits). “D” licensees may not sell wine or distilled spirits.

Although a beer distributor is likely to be a profitable venture for an investor, there is a high cost to buy into a distributor license and the distributors have been losing their historical share of the market as gas stations and grocery stores begin selling beer and wine. “D” licenses regularly sell for prices in excess of $500,000 and are typically sold as part of an already operating business, rather than the license alone. Moreover, as more grocery stores and gas stations purchase “R” licenses to enable sales of beer and wine to-go, competition will continue to grow for all “D” license owners.

Hotel ‘H’ Licenses

Hotel or “H” licenses are not subject to the quota system and new licenses can be applied for directly from the PLCB. A hotel license enables the sale of beer, wine and liquor to guests at the hotel and enables many of the same permissions as an “R” license. In order to qualify for a hotel license, the owner is required to offer a certain number of rooms to the public. The number is dependent on the county where the hotel will be located. The hotel must also have a functioning kitchen, a minimum square footage and seating. However, these requirements are easily met for any bona-fide restaurant that one might plan to be attached to a new hotel.

Since an “H” license can be granted new from the PLCB (Pennsylvania Liquor Control Board), and not necessary to purchase from an existing owner, the license cost for a new “H” license is far less than an “R” license. However, the inescapable cost with an “H” license is the cost to purchase or construct a hotel building that can accommodate the minimum number of rooms required.

Club/Catering Club Licenses

Club “C” and Catering Club “CC” licensed establishments are typically reserved for non-profit organizations that must be organized and run for the benefit of the club’s membership, with the sale of alcohol being secondary to the purpose of the club. Club licensees are also generally not permitted to sell alcohol to anyone other than club members. However, Catering Clubs may offer “catered events” at which members of the public can attend and purchase alcohol. The “C” and “CC” license are best suited for private use and are not optimal if the purpose is to serve the public at large, but depending on the desires of the incorporators, the club license may provide a viable and cost-effective solution to other licenses.

Manufacturing Licenses

Over the past few years, the popularity of manufacturing licenses has exploded, creating hundreds of new breweries (“G” license), limited wineries (“LK”), and limited distilleries (“AL”) across the Commonwealth.

Each of these manufacturing licenses not only enables owners to manufacture beer, wine or distilled spirits for sale to the public, but also enables a retail taproom environment and a limited number of satellite locations where retail sales may occur. One other advantage to these manufacturing licenses, likely causing a boost in their popularity, is the ability for one manufacturer to sell other Pennsylvania made alcohol products in their tap rooms. This rule effectively allows a Pennsylvania licensed brewery to also sell wine and spirits if those products are also made by Pennsylvania licensed manufacturers. In addition, that same brewery could sell beer made by other Pennsylvania breweries, as long as those other sales do not exceed 50% of their own product. These regulations enable a manufacturer of distilled spirits, for example, to satisfy a broader audience of customers for on-premises consumption only.

Since manufacturing licenses are also not subject to the quota system, they are not as subject to the same price fluctuations and disparities seen with “R” licenses. For this reason, they tend to be a fraction of the cost to capitalize initially. However, there are other costs and challenges to consider with a manufacturing license that are unique to manufacturing and cannot be overlooked.

First, and perhaps most obviously, the manufacturing business will need to know how to manufacture beer, wine or distilled spirits. If you do not already know how to brew or distill your product and do it well (you already have a lot of competition so you have to do it right), you will either need to learn or hire existing talent. Having to hire the necessary talent, to stand apart in this crowded industry, can be costly and fraught with risk at the start-up phase of a business. Brewers and other key employees increasingly realize they may be integral to the success of the business, often requesting ownership equity in the company, in addition to financial compensation.

Besides the intellectual capital required to create the product, the next most daunting and expensive aspect of the manufacturing start-up operation is the cost of the equipment. Small to mid-sized systems can range in price drastically from between $10,000 to several hundred thousand dollars. Although businesses can start small and slowly increase their manufacturing systems over time, this equipment is costly, sophisticated, and unlike the types of equipment that non-manufacturer licensees must be competent to operate.

In addition, manufacturing licenses have an additional regulatory overlay that non-manufacturing licensees do not have. All manufacturing licensees, whether a brewery, winery or distillery, must also apply to the United States Alcohol and Tobacco Tax and Trade Bureau (“TTB”) for a license and be subject to additional regulatory scrutiny and investigation. With the appropriate professional guidance, this process can be straightforward and efficient, but still another nuance to be mindful of with manufacturing licenses.

These equipment and employment related costs can quickly offset the low initial application cost with a manufacturing license, but the potential for profits and brand popularity continue to fuel significant interest in this sector.

In addition to the license options mentioned above, there are still others that are too numerous to elaborate on in this article, but among them are the:

- Airport Restaurant License
- Casino Liquor License
- Commercial Mixed-Use Overly Project License
- Economic Development Licenses
- Farmer’s Market Permits, Municipal Golf Course License
- And the Performing Arts Facility License

The sale of alcohol is a highly regulated industry; however this article hopefully helps highlight the endless possibilities that exist with the right guidance and planning.