

Beyond
The
Barrel

Adding Spirits and Beer to Your
Winery Experience.

Kimberly Frost
Martin Frost & Hill
Austin, Texas

What can you do where?

	WINERY	BREWERY	DISTILLERY
Make it	YES!	YES!	YES!
Buy bulk and bottle it	YES!	Nope	Negative
Buy finished, packaged product and sell it	YES!	Not a chance	Yes, if you manufacture and bottle on site
Sell for on-premises consumption	YES!-Unlimited	YES!-5000 barrels*/year	YES!-3000 gallons/year
Sell for off-premises consumption	YES!-35,000 gallons/year**	YES!-5000 barrels/year @ 2 cases/person/day	YES! 3500 gallons/year @ 4 bottles/person/month
Ship/deliver	YES!-35,000 gallons/year**	Out of the question	Don't even think about it
Sell wine, beer, and distilled spirits in the tasting room	YES!	YES!	YES!
Sell and ship to consumers in other states	Yes, with the right permit.	Probably not.	Probably not.

*31 gallons in a barrel

** combined total

Local Option Requirements

- **Winery**—Not applicable. A winery can be located in a dry area where the sale of alcoholic beverages is otherwise prohibited.
- **Brewery**—Sale of malt beverages authorized for off and on premises consumption authorized, but not only for on premises with a food and beverage certificate.
- **Distillery**—Sale of distilled spirits for off and on premises consumption authorized.

State and Federal Excise Taxes

	State	Federal Current Lowest Rate
Beer	\$6/ barrel	\$3.50/ barrel
Distilled Spirits	\$2.40/ gallon	\$2.70/ proof gallon
Wine	\$0.20-\$0.52/ gallon	\$1.07-\$3.30/ gallon

Spirits Manufacturing

- Distilleries do not have to distill. They may receive bulk distilled spirits from a supplier for aging or further rectification.
- In 2023, the legislature passed a law allowing Texas distilleries to contract with another distillery for product and to engage in alternating proprietorships.
- TABC adopted rules in 2025 to implement the new law.

Types of Distillery-to-Distillery Agreements

	Alternating Proprietorship	Contract Manufacturing	Bottling
TTB Permits	Host and Tenant DSP registration and basic permit	Manufacturer: DSP registration and basic permit Customer: Wholesaler	Botter and Maker: DSP registration and basic permit
TTB Reports and Taxes	Tenant	Manufacturer	Both
TTB Formula and COLA	Tenant	Manufacturer	Bottler
TABC Permit	Host and Tenant Distiller's & Rectifier's permit	Manufacturer and Customer Distiller's & Rectifier's permit	Bottler and Maker: Distiller's & Rectifier's permit
TABC Reports and Taxes	Tenant	Customer	Maker
TABC Product Registration	Tenant	Customer	Maker
Who pays for supplies?	Tenant	Customer	Maker
Who sells to consumers?	No tasting room sales of Tenant's products	No tasting room sales of Customer's products unless qualified under Rule 41.65(f)	Maker
Who sells to wholesalers?	Tenant	Customer	Maker

What this means for a Texas Winery

- A winery can get the appropriate permits and make and bottle all its own spirits for sale on site and to wholesalers. Nothing new about that.
 - That can mean distillation or just processing.
- Now, a winery can get the appropriate permits, make and bottle at least one product, and contract with one or more Texas distilleries for additional finished bottled product to sell on site and to wholesalers.
 - Process and bottle a vodka. Contract for whiskey, rum, gin...

Beer Manufacturing

- Breweries cannot buy finished product from other suppliers for resale in the tasting room.
- They must manufacture and package what they sell on the premises.
- Breweries can contract with another brewery to make beer to be sold into distribution.

What this means for a Texas Winery

- A winery can get the appropriate permits and make and make beer from scratch—fermenting a wort—for resale in the tasting room.
- A winery can buy bulk unfinished beer from a brewery and further manufacture it, such as add flavorings or carbonation, for resale in the tasting room.
- A brewery cannot contract with another brewery for finished product to resell in the tasting room.
- There's nothing new about this.

If I haven't **scared** you off,
let's talk about the
application process.

Before we get to TTB and TABC:



Check on the local option status



Check on local zoning and use

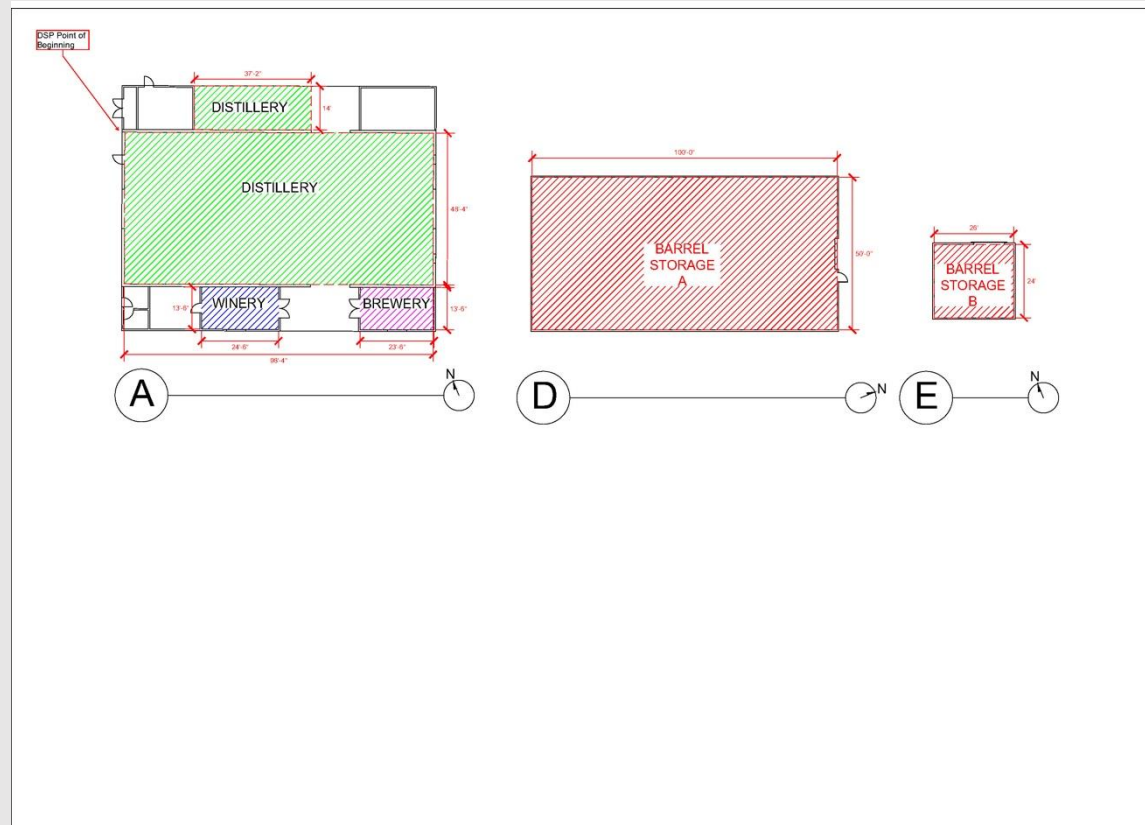
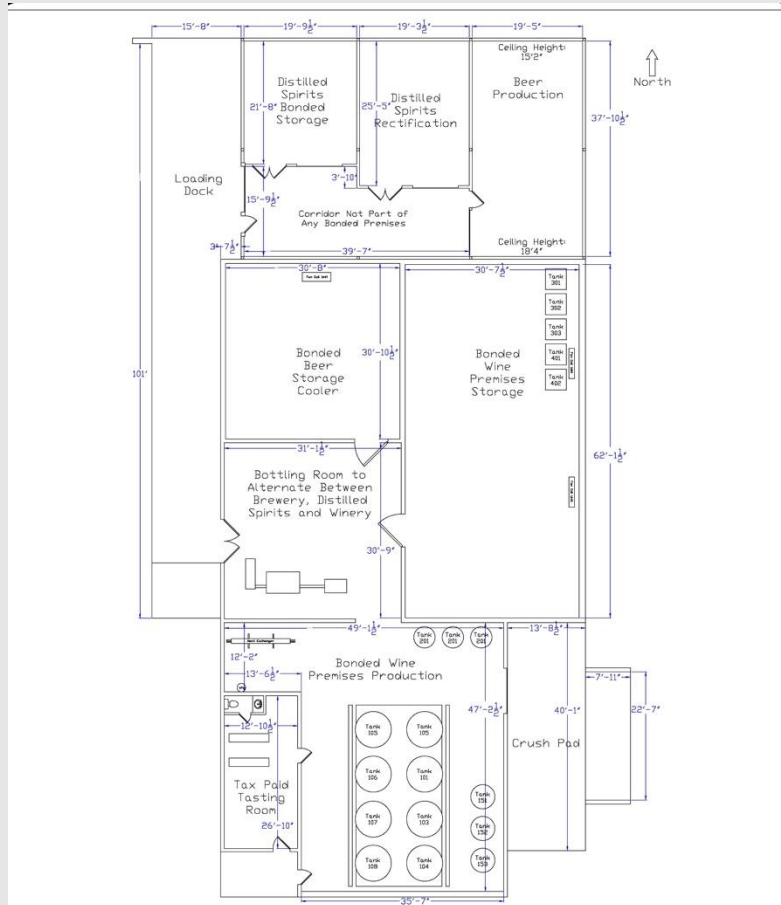


Check on proximity to schools, churches,
and public hospitals



Meet with the fire marshal *in person* to
discuss fire suppression requirements for
your distillery

Federal Permitting: To Alternate or Not to Alternate



What you'll need for TABC

- Post a notice sign.
- Publish notice in the newspaper.
- Get comptroller certification.
- Get city and county certification.
- Compile a complete application, reporting owner and officer changes, if any.
- Mail notice to residences 7-14 days before you file the TABC application.
- You do not need the TTB permits to get the TABC permits.

What you'll need for TTB

- Diagram.
- Lease, with authority to produce distilled spirits.
- List of distillery equipment-stills, tanks, and condensers with serial numbers, use, and capacity.
- Distilled spirits storage and production capacity.
- Beer production expectations.
- Will you be a TTB brewery or a brewpub?
- Have you made any owner or officer changes? Report those now, too.

Questions?

Kimberly A. Frost

3345 Bee Cave Rd., Ste. 105

Austin, Texas 78746

kfrost@mfhliquorlaw.com

512-614-2021



Martin Frost & Hill
Texas Liquor Lawyers