

## WHY THE HECK DO THEY NEED MY FINGERPRINTS?!

*Why state regulators require fingerprints, personal questionnaires, and detailed financial disclosures before issuing alcohol beverage licenses*



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The alcohol beverage business is one of the most heavily regulated industries in the United States. A wide variety of enterprises engage in the retail sale of alcohol beverages, including hotels, restaurants, bars, nightclubs, golf courses, fraternal organizations, private clubs, supermarkets, gas stations, convenience stores, amusement parks, public sports arenas, theaters, entertainment venues, museums, and universities. Yet, these diverse enterprises all have one thing in common: from the smallest mom-and-pop grocery store to the largest publicly held hotel chain, each business must be licensed by the appropriate governmental agency before selling alcohol.

Alcohol licensing in the U.S. is especially complex as every state has different laws and regulations governing the production, marketing, distribution, sale, and consumption of alcohol within its borders. Consequently, licensing in Alabama is different from the licensing process in Wyoming.

To complicate matters further, alcohol regulators will only issue a license once a thorough investigation is complete. The investigatory process usually requires that each individual applicant seeking an alcohol license be fingerprinted and a notarized affidavit be executed that provides extensive information about the applicant's personal history, finances, and moral character.

For applicants other than individuals (i.e., a corporation or limited liability company), most states require fingerprints and personal questionnaires from each applicant's officers, directors, and shareholders/members. In some states, the disclosure obligations follow up the corporate ownership chain. For example, in California, the California Department of Alcoholic Beverage Control requires

new license applicants to file disclosures up the ownership chain to the ultimate parent, no matter how many levels up.

***Why do state governments impose these burdensome requirements, even on senior executives for established, legitimate corporations?***

THE answer comes from the history of alcohol in America. In the early years of the American Republic, the retail alcohol trade was conducted in taverns and inns. Vendors were independent of one another and never organized to promote alcohol sales collectively. After the Civil War, however, industrialization and large investors appeared on the scene to foster expansion within the alcohol industry. During the last half of the 19th century, many inns and taverns were replaced by saloons, reflecting a shift in emphasis; the business of selling alcohol superseded the business of selling food and hospitality. Competition became fierce among the large beer and liquor producers, and the independent retailer virtually disappeared from the American marketplace by the start of the 20th century; in its place was the notorious “tied-house.”

Under the tied-house system, the saloonkeeper became an agent of the manufacturer and/or the wholesaler, who selected the site, provided the license, advanced the capital, and held the mortgage. By 1900, approximately 75 percent of America’s saloons were owned or controlled by alcohol beverage manufacturers or wholesalers. Under pressure from large brewers and distillers to push products, retailers soon introduced billiards, pool tables, cards, and free lunches to attract patrons. Many unscrupulous retailers pursued other measures to gain business, such as extending credit to patrons and staying open at all hours. Across the U.S., saloons were accused of harboring and encouraging prostitution, as well as promoting corrupt politics, poverty, broken homes, and even insanity. Competition by new entrepreneurs was stifled.

Not surprisingly, the rise of saloons and tied-houses produced cries from social reformers for public temperance. Nationally recognized figures, such as Carrie A. Nation, targeted the alcohol industry as the bane of America and demanded that the country go dry. By 1917, Congress passed legislation authorizing an amendment to the U.S. Constitution prohibiting the sale of alcohol. Thirteen months later, the 18th Amendment – creating Prohibition – was approved by a greater number, and a larger percentage, of the states than any of the previous 17 amendments to the Constitution.

With the advent of the Great Depression, America and its government fell on extremely tough times. People began to look back with nostalgia to the days when the government collected significant taxes on the production and sale of alcohol beverages; the passage of Prohibition had ended that revenue stream. People were drinking as much as ever, perhaps more, but all the money was going into the pockets of the gangsters. The “Noble Experiment” gave rise to a network of criminals engaged in smuggling, rum running, hijacking, illegal distilling and brewing, and many other societal maladies. The federal government was widely perceived as squandering scarce resources, trying to enforce unenforceable laws.

Thus, Prohibition was repealed. In return for the states’ agreement to ratify the 21st Amendment to the U.S. Constitution, presidential candidate Franklin Roosevelt promised the federal government

would return much of the responsibility for regulating alcohol back to the states. Consequently, Roosevelt was elected by a landslide in 1932, and Prohibition ended in 1933.

State governments across America immediately created regulatory bureaucracies to control how alcohol beverages were produced, transported, marketed, sold, and consumed within their borders. To this day, every state has a government agency responsible for regulating the alcohol industry, which is why license applications and how they are processed differ from state to state.

***What about the fingerprints and personal questionnaires?***

State governments were determined to make sure the criminal elements who controlled the alcohol industry during Prohibition were purged entirely from the industry and not allowed to return. Every state instituted rigorous controls over who could qualify for an alcohol license. Additionally, each state legislated “tied-house evil” laws to prevent alcohol producers and wholesalers from gaining undue influence or control over the retail tier of the industry. These laws also aimed to create a fair and open marketplace where new businesses could compete with established companies. Tied-house laws opened the door for the vast array of alcoholic beverage products currently on the market. For example, the flourishing craft beer industry relies on tied-house regulations to break into the market and compete alongside old favorites.

Fingerprint cards, criminal background checks, notarized personal questionnaires, and similar application requirements are the tools that alcohol regulators use to make sure that convicted felons, recognized members of organized crime, and those of “inappropriate moral character” are excluded from the alcohol industry. Financial investigations ensure the true and sole owners are named on the license, preventing false or hidden ownership interests.

Regulators are adamant and vigorous in carrying out their responsibilities. From their perspective, it does not make any difference whether the applicant is the sole owner of a corner grocery or the CEO of a multinational corporation acquiring the finest hotel in town. In every instance, regulators obtain the necessary filings, disclosures, and information before they process an alcohol license application and allow license issuance.

If you are asked to submit fingerprints or provide detailed information about your personal background and financial history for a notarized questionnaire, do not blame the government employee or service provider asking for your assistance. These are unavoidable requirements imposed by the government as prerequisites to obtaining an alcohol license. For better or worse, these burdens are part of the price paid to participate in one of the most heavily regulated businesses in America – the alcohol industry.

To learn more about alcohol beverage licenses, contact the GrayRobinson national [Alcohol Law Team](#) at [alcohollaw@gray-robinson.com](mailto:alcohollaw@gray-robinson.com).

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in all core functions of alcoholic beverage control, including licensing, enforcement and trade practices, as well as government processes, administration and fiscal management. Beth specializes in beverage alcohol law, including tied-house regulations, public policy and regulatory affairs.

Prior to working with GrayRobinson, Beth served as assistant director for the California Department of Alcoholic Beverage Control (ABC), directing and overseeing the licensing, enforcement, and administrative functions of 12 field offices, as well as specialized units in the department's Southern California division. She began her career with the California ABC in 1988 as an investigator, and she has held various line positions within the department during her tenure.

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