LEGISLATIVE GENERAL COUNSEL
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# ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS

2012 FOURTH SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: Gage Froerer

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**LONG TITLE**

**General Description:**

This bill amends provisions related to the Alcoholic Beverage Control Act.

**Highlighted Provisions:**

This bill:

- provides that four alcohol-related law enforcement officers have as a primary focus enforcement related to restaurants;
- increases the number of available licenses for full-service restaurant and limited-service restaurant licenses;
- increases certain retail license fees;
- extends the effective dates of provisions related to the transfer of retail licenses to July 1, 2013; and
- makes technical changes.

**Money Appropriated in this Bill:**

This bill appropriates in fiscal year 2013:

- to the Department of Public Safety - Programs and Operations - Highway Patrol - Special Enforcement Program as an ongoing appropriation:
  - from the General Fund, $280,000.

**Other Special Clauses:**

This bill provides an effective date.

This bill provides revisor instructions.

S.B. 4001

28 **Utah Code Sections Affected:**
29 AMENDS:
30 **32B-2-305 (Effective 07/01/12)**, as last amended by Laws of Utah 2012, Chapter 357
31 **32B-6-203**, as last amended by Laws of Utah 2011, Chapter 334
32 **32B-6-204**, as last amended by Laws of Utah 2011, Chapter 334
33 **32B-6-303**, as last amended by Laws of Utah 2011, Chapter 334
34 **32B-6-304**, as last amended by Laws of Utah 2011, Chapter 334
35 **32B-6-904**, as enacted by Laws of Utah 2011, Chapter 334
36 **Uncodified Material Affected:**
37 AMENDS UNCODIFIED MATERIAL:
38 **Uncodified Section 110, Laws of Utah 2011, Chapter 334**
39 Changes to this uncodified section affect Section 32B-5-309 and Title 32B, Chapter 8a,
40 Transfer of Retail License Act.
41 **Uncodified Section 24, Laws of Utah 2012, Chapter 365**
42 Changes to this uncodified section affect Sections 32B-8a-302 and 32B-8a-303.
43
44 *Be it enacted by the Legislature of the state of Utah:*
45 Section 1. Section **32B-2-305 (Effective 07/01/12)** is amended to read:
46 **32B-2-305 (Effective 07/01/12). Alcoholic Beverage Control Act Enforcement**
47 **Fund.**
48 (1) As used in this section:
49 (a) "Alcohol-related law enforcement officer" is as defined in Section 32B-1-201.
50 (b) "Enforcement ratio" is as defined in Section 32B-1-201.
51 (c) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in
52 this section.
53 (2) There is created a restricted special revenue fund known as the "Alcoholic
54 Beverage Control Act Enforcement Fund."
55 (3) (a) The fund consists of:
56 (i) deposits made under Subsection (4); and
57 (ii) interest earned on the fund.
58 (b) The fund shall earn interest. Interest on the fund shall be deposited into the fund.

59 (4) After the deposit made under Section 32B-2-304 for the school lunch program, the
60 department shall deposit 1% of the total gross revenue from the sale of liquor with the state
61 treasurer to be credited to the fund to be used by the Department of Public Safety as provided
62 in Subsection (5).
63 (5) (a) The Department of Public Safety shall expend money from the fund to
64 supplement appropriations by the Legislature so that the Department of Public Safety maintains
65 a sufficient number of alcohol-related law enforcement officers such that beginning on July 1,
66 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified
67 in Section 32B-1-201.
68 (b) Beginning July 1, 2012, four alcohol-related law enforcement officers shall have as
69 a primary focus the enforcement of this title in relationship to restaurants.
70 Section 2. Section **32B-6-203** is amended to read:
71 **32B-6-203. Commission's power to issue full-service restaurant license.**
72 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
73 an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a
74 full-service restaurant license from the commission in accordance with this part.
75 (2) The commission may issue a full-service restaurant license to establish full-service
76 restaurant licensed premises at places and in numbers the commission considers proper for the
77 storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises
78 operated as a full-service restaurant.
79 (3) Subject to Section 32B-1-201:
80 (a) The commission may not issue a total number of full-service restaurant licenses that
81 at any time exceeds the number determined by dividing the population of the state by [~~4,925~~]
82 4,534.
83 (b) The commission may issue a seasonal full-service restaurant license in accordance
84 with Section 32B-5-206.
85 (c) (i) If the location, design, and construction of a hotel may require more than one
86 full-service restaurant sales location within the hotel to serve the public convenience, the
87 commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as
88 many as three full-service restaurant locations within the hotel under one full-service restaurant
89 license if:

90 (A) the hotel has a minimum of 150 guest rooms; and
91 (B) the locations under the full-service restaurant license are:
92 (I) within the same hotel; and
93 (II) on premises that are managed or operated, and owned or leased, by the full-service
94 restaurant licensee.
95 (ii) A facility other than a hotel shall have a separate full-service restaurant license for
96 each full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.
97 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a
98 full-service restaurant license for premises that do not meet the proximity requirements of
99 Section 32B-1-202.
100 (b) With respect to the premises of a full-service restaurant license issued by the
101 commission that undergoes a change of ownership, the commission shall waive or vary the
102 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
103 full-service restaurant license to the new owner of the premises if:
104 (i) when a full-service restaurant license was issued to a previous owner, the premises
105 met the proximity requirements of Subsection 32B-1-202(2);
106 (ii) the premises has had a full-service restaurant license at all times since the
107 full-service restaurant license described in Subsection (4)(b)(i) was issued without a variance;
108 and
109 (iii) the community location was located within the proximity requirements of
110 Subsection 32B-1-202(2) after the day on which the full-service restaurant license described in
111 Subsection (4)(b)(i) was issued.
112 Section 3. Section **32B-6-204** is amended to read:
113 **32B-6-204. Specific licensing requirements for full-service restaurant license.**
114 (1) To obtain a full-service restaurant license a person shall comply with Chapter 5,
115 Part 2, Retail Licensing Process.
116 (2) (a) A full-service restaurant license expires on October 31 of each year.
117 (b) To renew a person's full-service restaurant license, a person shall comply with the
118 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
119 September 30.
120 (3) (a) The nonrefundable application fee for a full-service restaurant license is [~~$300~~]

121 $330.
122 (b) The initial license fee for a full-service restaurant license is [~~$2,000~~] $2,200.
123 (c) The renewal fee for a full-service restaurant license is in the following amount:

| Gross Cost of Liquor in Previous License Year for the Licensee | Renewal Fee |
|---|---|
| under $5,000 | [~~$850~~] $935 |
| equals or exceeds $5,000 but less than $10,000 | [~~$1,050~~] $1,155 |
| equals or exceeds $10,000 but less than $25,000 | [~~$1,500~~] $1,650 |
| equals or exceeds $25,000 | [~~$1,750~~] $1,925 |

129 (4) The bond amount required for a full-service restaurant license is the penal sum of
130 $10,000.
131 Section 4. Section **32B-6-303** is amended to read:
132 **32B-6-303. Commission's power to issue limited-service restaurant license.**
133 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
134 wine, heavy beer, or beer on its premises as a limited-service restaurant, the person shall first
135 obtain a limited-service restaurant license from the commission in accordance with this part.
136 (2) (a) The commission may issue a limited-service restaurant license to establish
137 limited-service restaurant licensed premises at places and in numbers the commission considers
138 proper for the storage, sale, offer for sale, furnishing, and consumption of wine, heavy beer, or
139 beer on premises operated as a limited-service restaurant.
140 (b) A person may not sell, offer for sale, furnish, or allow the consumption of the
141 following on the licensed premises of a limited-service restaurant licensee:
142 (i) spirituous liquor; or
143 (ii) a flavored malt beverage.
144 (3) Subject to Section 32B-1-201:
145 (a) The commission may not issue a total number of limited-service restaurant licenses
146 that at any time exceeds the number determined by dividing the population of the state by
147 [~~8,373~~] 7,493.
148 (b) The commission may issue a seasonal limited-service restaurant license in
149 accordance with Section 32B-5-206.
150 (c) (i) If the location, design, and construction of a hotel may require more than one

151 limited-service restaurant sales location within the hotel to serve the public convenience, the
152 commission may authorize the sale of wine, heavy beer, and beer at as many as three
153 limited-service restaurant locations within the hotel under one limited-service restaurant license
154 if:
155 (A) the hotel has a minimum of 150 guest rooms; and
156 (B) the locations under the limited-service restaurant license are:
157 (I) within the same hotel; and
158 (II) on premises that are managed or operated, and owned or leased, by the
159 limited-service restaurant licensee.
160 (ii) A facility other than a hotel shall have a separate limited-service restaurant license
161 for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or
162 furnished.
163 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a
164 limited-service restaurant license for premises that do not meet the proximity requirements of
165 Section 32B-1-202.
166 (b) With respect to the premises of a limited-service restaurant license issued by the
167 commission that undergoes a change of ownership, the commission shall waive or vary the
168 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
169 limited-service restaurant license to the new owner of the premises if:
170 (i) when a limited-service restaurant license was issued to a previous owner, the
171 premises met the proximity requirements of Subsection 32B-1-202(2);
172 (ii) the premises has had a limited-service restaurant license at all times since the
173 limited-service restaurant license described in Subsection (4)(b)(i) was issued without a
174 variance; and
175 (iii) the community location was located within the proximity requirements of
176 Subsection 32B-1-202(2) after the day on which the limited-service restaurant license
177 described in Subsection (4)(b)(i) was issued.
178 Section 5. Section **32B-6-304** is amended to read:
179 **32B-6-304. Specific licensing requirements for limited-service restaurant license.**
180 (1) To obtain a limited-service restaurant license a person shall comply with Chapter 5,
181 Part 2, Retail Licensing Process.

182 (2) (a) A limited-service restaurant license expires on October 31 of each year.
183 (b) To renew a person's limited-service restaurant license, a person shall comply with
184 the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
185 September 30.
186 (3) (a) The nonrefundable application fee for a limited-service restaurant license is
187 [~~$300~~] $330.
188 (b) The initial license fee for a limited-service restaurant license is [~~$750~~] $825.
189 (c) The renewal fee for a limited-service restaurant license is [~~$550~~] $605.
190 (4) The bond amount required for a limited-service restaurant license is the penal sum
191 of $5,000.
192 Section 6. Section **32B-6-904** is amended to read:
193 **32B-6-904. Specific licensing requirements for beer-only restaurant license.**
194 (1) To obtain a beer-only restaurant license a person shall comply with Chapter 5, Part
195 2, Retail Licensing Process.
196 (2) (a) A beer-only restaurant license expires the last day of February of each year.
197 (b) To renew a person's beer-only restaurant license, a person shall comply with the
198 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than January
199 31.
200 (3) (a) The nonrefundable application fee for a beer-only restaurant license is [~~$300~~]
201 $330.
202 (b) The initial license fee for a beer-only restaurant license is [~~$750~~] $825.
203 (c) The renewal fee for a beer-only restaurant license is [~~$550~~] $605.
204 (4) The bond amount required for a beer-only restaurant license is the penal sum of
205 $5,000.
206 Section 7. **Uncodified Section 110, Laws of Utah 2011, Chapter 334** is amended to
207 read:
208 Section 110. **Effective date.**
209 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2011.
210 (2) (a) The repeal of Subsection 32B-6-603(4) (Effective 07/01/11) in this bill takes
211 effect on November 1, 2011.
212 (b) Title 32B, Chapter 6, Part 8, Reception Center License, enacted by this bill takes

213 effect on November 1, 2011.
214 (c) Title 32B, Chapter 6, Part 9, Beer-only Restaurant License, enacted by this bill
215 takes effect on March 1, 2012.
216 (d) The following take effect on July 1, [~~2012~~] 2013:
217 (i) Section 32B-5-309 (Effective 07/01/11) as amended by this bill; and
218 (ii) Title 32B, Chapter 8a, Transfer of Retail License Act, enacted by this bill.
219 Section 8. **Uncodified Section 24, Laws of Utah 2012, Chapter 365** is amended to
220 read:
221 Section 24. **Effective date.**
222 This bill takes effect on July 1, 2012[~~.~~], except that the amendments made to Section
223 32B-8a-302 (Effective 07/01/12), and Section 32B-8a-303 (Effective 07/01/12), in this bill take
224 effect on July 1, 2013.
225 Section 9. **Appropriation.**
226 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
227 following sums of money are appropriated from resources not otherwise appropriated, or
228 reduced from amounts previously appropriated, out of the funds or fund accounts indicated for
229 the fiscal year beginning July 1, 2012 and ending June 30, 2013. These are additions to
230 amounts previously appropriated for fiscal year 2013.
231 To the Department of Public Safety - Programs and Operations - Highway Patrol
232 From General Fund $280,000
233 Schedule of Programs:
234 Special Enforcement $280,000
235 Section 10. **Effective date.**
236 If approved by two-thirds of all the members elected to each house, this bill takes effect
237 upon approval by the governor, or the day following the constitutional time limit of Utah
238 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
239 the date of veto override, except that the amendments to Section 32B-2-305 (Effective
240 07/01/12) and Section 9, Appropriation, take effect on July 1, 2012.
241 Section 11. **Revisor instructions.**
242 The Legislature intends that the Office of Legislative Research and General Counsel, in
243 preparing the Utah Code database for publication, change the effective date in Section

244 32B-5-309 and Title 32B, Chapter 8a, Transfer of Retail License Act, from July 1, 2012 to July
245 1, 2013.

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**Legislative Review Note**
**as of 6-18-12 4:29 PM**

**Office of Legislative Research and General Counsel**