

Part 2

Liability

32B-15-201 Liability for injuries and damage resulting from distribution of alcoholic products -- Prima facie evidence.

- (1)
- (a) Except as provided in Subsections 32B-15-202(2) and (3), a person described in Subsection (1)(b) is liable for:
 - (i) any and all injury and damage, except punitive damages to:
 - (A) a third person; or
 - (B) the heir, as defined in Section 78B-3-105, of the third person; or
 - (ii) the death of a third person.
 - (b) A person is liable under Subsection (1)(a) if:
 - (i) the person directly gives, sells, or otherwise provides an alcoholic product:
 - (A) to a person described in Subsection (1)(b)(ii); and
 - (B) as part of the commercial sale, storage, service, manufacture, distribution, or consumption of an alcoholic product;
 - (ii) those actions cause the intoxication of:
 - (A) an individual under 21 years old;
 - (B) an individual who is apparently under the influence of an alcoholic product or drug;
 - (C) an individual whom the person furnishing the alcoholic product knew or should have known from the circumstances was under the influence of an alcoholic product or drug; or
 - (D) an individual who is a known interdicted person; and
 - (iii) the injury or death described in Subsection (1)(a) results from the intoxication of the individual who is provided the alcoholic product.
 - (c) It is prima facie evidence that a person is liable under Subsection (1)(a) for an injury or death that results from the intoxication of an individual described in Subsection (1)(b)(ii)(B) or (C) if:
 - (i) the person directly gives, sells, or otherwise provides the individual the last alcoholic product the individual consumes before the injury or death described in Subsection (1)(b)(iii);
 - (ii) the individual consumes the alcoholic product at the location where the person directly gives, sells, or otherwise provides the individual the alcoholic product;
 - (iii) the injury or death occurs within 30 minutes after the time at which the individual leaves, and within a 10 mile radius of, the location where the person gives, sells, or otherwise provides the individual the alcoholic product; and
 - (iv)
 - (A) the individual is charged with an offense described in Subsection 41-6a-501(2)(a); or
 - (B) if the individual dies as a result of the event that caused the injury or death, a subsequent chemical test shows that the individual had a blood alcohol concentration of .05 grams or greater at the time of the test.
- (2)
- (a) A person 21 years old or older who is described in Subsection (2)(b) is liable for:
 - (i) any and all injury and damage, except punitive damages to:
 - (A) a third person; or
 - (B) the heir, as defined in Section 78B-3-105, of the third person; or
 - (ii) the death of the third person.
 - (b) A person is liable under Subsection (2)(a) if:

- (i) the person directly gives or otherwise provides an alcoholic product to an individual who the person knows or should have known is under 21 years old;
 - (ii) those actions caused the intoxication of the individual provided the alcoholic product;
 - (iii) the injury or death described in Subsection (2)(a) results from the intoxication of the individual who is provided the alcoholic product; and
 - (iv) the person is not liable under Subsection (1), because the person did not directly give or provide the alcoholic product as part of the commercial sale, storage, service, manufacture, distribution, or consumption of an alcoholic product.
- (3) This section does not apply to a business licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act, to sell beer at retail only for off-premise consumption.

Amended by Chapter 94, 2024 General Session

32B-15-202 Liability for employees -- Employee protected in exercising judgment.

- (1)
- (a) Except for a violation of Subsection 32B-15-201(2), an employer is liable for the actions of its staff in violation of this chapter.
 - (b) This Subsection (1) does not apply to a business licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act, to sell beer at retail only for off-premise consumption.
- (2) An employer may not sanction or terminate the employment of individual staff of a retail licensee or other establishment serving an alcoholic product as a result of the staff having exercised the staff's independent judgment to refuse to sell an alcoholic product to a person the staff considers to meet one or more of the conditions described in Subsection 32B-15-201(1) (b).
- (3) An employer who terminates an employee or imposes sanctions on the employee contrary to this section is considered to have discriminated against that employee and is subject to the conditions and penalties set forth in Title 34A, Chapter 5, Utah Antidiscrimination Act.

Enacted by Chapter 276, 2010 General Session

32B-15-203 Governmental immunity.

This title does not create civil liability on the part of the following arising out of one of the following's actions in regulating, controlling, authorizing, or otherwise being involved in the sale or other distribution of an alcoholic product:

- (1) the state;
- (2) a state agency;
- (3) a state employee;
- (4) the commission;
- (5) the department; or
- (6) a political subdivision.

Enacted by Chapter 276, 2010 General Session