

Part 4 Club License

32B-6-401 Title.

This part is known as "Club License."

Enacted by Chapter 276, 2010 General Session

32B-6-402 Definitions.

Reserved

Enacted by Chapter 276, 2010 General Session

32B-6-403 Commission's power to issue club license.

- (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as a club licensee, the person shall first obtain a club license from the commission in accordance with this part.
- (2) The commission may issue a club license to establish club licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated by a club licensee.
- (3) Subject to Section 32B-1-201:
 - (a) The commission may not issue a total number of club licenses that at any time exceeds the number determined by dividing the population of the state by 7,850.
 - (b) The commission may issue a seasonal club license in accordance with Section 32B-5-206 to:
 - (i) a dining club licensee; or
 - (ii) a social club licensee.
 - (c)
 - (i) If the location, design, and construction of a hotel may require more than one dining club license or social club license location within the hotel to serve the public convenience, the commission may authorize as many as three club license locations within the hotel under one club license if:
 - (A) the hotel has a minimum of 150 guest rooms;
 - (B) all locations under the club license are:
 - (I) within the same hotel; and
 - (II) on premises that are managed or operated, and owned or leased, by the club licensee; and
 - (C) the locations under the club license operate under the same type of club license.
 - (ii) A facility other than a hotel shall have a separate club license for each club license location where an alcoholic product is sold, offered for sale, or furnished.
 - (d) When a business establishment undergoes a change of ownership, the commission may issue a club license to the new owner of the business establishment notwithstanding that there is no club license available under Subsection (3)(a) if:
 - (i) the primary business activity at the business establishment before and after the change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;
 - (ii) before the change of ownership there are two or more licensed premises on the business establishment that operate under a retail license, with at least one of the retail licenses being a club license;

- (iii) subject to Subsection (3)(e), the licensed premises of the club license issued under this Subsection (3)(d) is at the same location where the club license licensed premises was located before the change of ownership; and
- (iv) the person who is the new owner of the business establishment qualifies for the club license, except for there being no club license available under Subsection (3)(a).
- (e) If a club licensee of a club license issued under Subsection (3)(d) requests a change of location, the club licensee may retain the club license after the change of location only if on the day on which the club licensee seeks a change of location a club license is available under Subsection (3)(a).

Amended by Chapter 80, 2016 General Session

32B-6-404 Types of club license.

- (1) To obtain an equity club license, in addition to meeting the other requirements of this part, a person shall:
 - (a) whether incorporated or unincorporated:
 - (i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;
 - (ii) have members;
 - (iii) limit access to its licensed premises to a member or a guest of the member; and
 - (iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;
 - (b) own, maintain, or operate a substantial recreational facility in conjunction with a club house such as:
 - (i) a golf course; or
 - (ii) a tennis facility;
 - (c) have at least 50% of the total membership having:
 - (i) full voting rights; and
 - (ii) an equal share of the equity of the club; and
 - (d) if there is more than one class of membership, have at least one class of membership that entitles each member in that class to:
 - (i) full voting rights; and
 - (ii) an equal share of the equity of the club.
- (2) To obtain a fraternal club license, in addition to meeting the other requirements of this part, a person shall:
 - (a) whether incorporated or unincorporated:
 - (i) be organized and operated solely for a social, recreational, patriotic, or fraternal purpose;
 - (ii) have members;
 - (iii) limit access to its licensed premises to a member or a guest of the member; and
 - (iv) desire to maintain premises upon which an alcoholic product may be stored, sold to, offered for sale to, furnished to, and consumed by a member or a guest of a member;
 - (b) have no capital stock;
 - (c) exist solely for:
 - (i) the benefit of its members and their beneficiaries; and
 - (ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on through voluntary activity of its members in their local lodges;
 - (d) have a representative form of government;
 - (e) have a lodge system in which:

- (i) there is a supreme governing body;
 - (ii) subordinate to the supreme governing body are local lodges, however designated, into which individuals are admitted as members in accordance with the laws of the fraternal;
 - (iii) the local lodges are required by the laws of the fraternal to hold regular meetings at least monthly; and
 - (iv) the local lodges regularly engage in one or more programs involving member participation to implement the purposes of Subsection (2)(c); and
 - (f) own or lease a building or space in a building used for lodge activities.
- (3) To obtain a dining club license, in addition to meeting the other requirements of this part, a person shall:
- (a) maintain at least the following percentages of its total club business from the sale of food, not including mix for alcoholic products, or service charges:
 - (i) for a dining club license that is issued as an original license on or after July 1, 2011, 60%; and
 - (ii) for a dining club license that is issued on or before June 30, 2011:
 - (A) 50% on or before June 30, 2012; and
 - (B) 60% on and after July 1, 2012; and
 - (b) obtain a determination by the commission that the person will operate as a dining club licensee, as part of which the commission may consider:
 - (i) the square footage and seating capacity of the premises;
 - (ii) what portion of the square footage and seating capacity will be used for a dining area in comparison to the portion that will be used as a lounge or bar area;
 - (iii) whether full meals including appetizers, main courses, and desserts are served;
 - (iv) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person who is located on the premise of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;
 - (v) whether the entertainment provided at the club is suitable for minors; and
 - (vi) the club management's ability to manage and operate a dining club license including:
 - (A) management experience;
 - (B) past dining club licensee or restaurant management experience; and
 - (C) the type of management scheme used by the dining club license.
- (4) To obtain a social club license, a person is required to meet the requirements of this part except those listed in Subsection (1), (2), or (3).
- (5)
- (a) At the time that the commission issues a club license, the commission shall designate the type of club license for which the person qualifies.
 - (b) If requested by a club licensee, the commission may approve a change in the type of club license in accordance with rules made by the commission.
- (6) To the extent not prohibited by law, this part does not prevent a dining club licensee or social club licensee from restricting access to the club's licensed premises on the basis of an individual:
- (a) paying a fee; or
 - (b) agreeing to being on a list of individuals who have access to the club's licensed premises.

Amended by Chapter 348, 2016 General Session

32B-6-405 Specific licensing requirements for club license.

- (1) To obtain a club license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the written application:
 - (a)
 - (i) a statement as to whether the person is seeking to qualify as:
 - (A) an equity club licensee;
 - (B) a fraternal club licensee;
 - (C) a dining club licensee; or
 - (D) a social club licensee; and
 - (ii) evidence that the person meets the requirements for the type of club license for which the person is applying;
 - (b) evidence that the person operates club premises where a variety of food is prepared and served in connection with dining accommodations; and
 - (c) if the person is applying for an equity club license or fraternal club license, a copy of the club's bylaws or house rules, and an amendment to those records.
- (2) The commission may refuse to issue a club license to a person for an equity club license or fraternal club license if the commission determines that a provision of the person's bylaws or house rules, or amendments to those records is not:
 - (a) reasonable; and
 - (b) consistent with:
 - (i) the declared nature and purpose of the club licensee; and
 - (ii) the purposes of this part.
- (3)
 - (a) A club license expires on June 30 of each year.
 - (b) To renew a club license, a person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than May 31.
- (4)
 - (a) The nonrefundable application fee for a club license is \$300.
 - (b) The initial license fee for a club license is \$2,750.
 - (c) The renewal fee for a club license is \$2,000.
- (5) The bond amount required for a club license is the penal sum of \$10,000.

Amended by Chapter 307, 2011 General Session

Amended by Chapter 334, 2011 General Session

32B-6-406 Specific operational requirements for a club license.

- (1)
 - (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a club licensee and staff of the club licensee shall comply with this section.
 - (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
 - (i) a club licensee;
 - (ii) individual staff of a club licensee; or
 - (iii) both a club licensee and staff of the club licensee.
- (2) In addition to complying with Subsection 32B-5-301(3), a club licensee shall display in a prominent place in the club licensed premises a list of the types and brand names of liquor being furnished through the club licensee's calibrated metered dispensing system.
- (3)

- (a) In addition to complying with Section 32B-5-302, a club licensee shall maintain for a minimum of three years:
 - (i) a record required by Section 32B-5-302; and
 - (ii) a record maintained or used by the club licensee, as the department requires.
 - (b) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (3).
 - (c) The department shall audit the records of a club licensee at least once annually.
- (4)
- (a) A club licensee may not sell, offer for sale, or furnish liquor on the licensed premises on any day during a period that:
 - (i) begins at 1 a.m.; and
 - (ii) ends at 9:59 a.m.
 - (b) A club licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer license.
 - (c)
 - (i) Notwithstanding Subsections (4)(a) and (b), a club licensee shall keep its licensed premises open for one hour after the club licensee ceases the sale and furnishing of an alcoholic product during which time a patron of the club licensee may finish consuming:
 - (A) a single drink containing spirituous liquor;
 - (B) a single serving of wine not exceeding five ounces;
 - (C) a single serving of heavy beer;
 - (D) a single serving of beer not exceeding 26 ounces; or
 - (E) a single serving of a flavored malt beverage.
 - (ii) A club licensee is not required to remain open:
 - (A) after all patrons have vacated the premises; or
 - (B) during an emergency.
- (5)
- (a) A minor may not be admitted into, use, or be in:
 - (i) a lounge or bar area of the premises of:
 - (A) an equity club licensee;
 - (B) a fraternal club licensee; or
 - (C) a dining club licensee; or
 - (ii) the premises of:
 - (A) a dining club licensee unless accompanied by an individual who is 21 years of age or older; or
 - (B) a social club licensee, except to the extent provided for under Section 32B-6-406.1.
 - (b) Notwithstanding Section 32B-5-308, a club licensee may not employ a minor to:
 - (i) work in a lounge or bar area of an equity club licensee, fraternal club licensee, or dining club licensee; or
 - (ii) handle an alcoholic product.
 - (c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed premises of a social club licensee.
 - (d) Nothing in this part or Section 32B-5-308 precludes a local authority from being more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a club licensee.
- (6) A club licensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the licensed premises.
- (7)

- (a) Subject to the other provisions of this Subsection (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.
 - (b) A patron may not have two spirituous liquor drinks before the club licensee patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.
 - (c) An individual portion of wine is considered to be one alcoholic product under Subsection (7) (a).
- (8) A club licensee shall have available on the premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold, offered for sale, or furnished by the club licensee including:
- (a) a set-up charge;
 - (b) a service charge; or
 - (c) a chilling fee.
- (9) Subject to Section 32B-5-309, a club licensee may not temporarily rent or otherwise temporarily lease its premises to a person unless:
- (a) the person to whom the club licensee rents or leases the premises agrees in writing to comply with this title as if the person is the club licensee, except for a requirement related to making or maintaining a record; and
 - (b) the club licensee takes reasonable steps to ensure that the person complies with this section as provided in Subsection (9)(a).
- (10) If a club licensee is an equity club licensee or fraternal club licensee, the club licensee shall comply with Section 32B-6-407.
- (11) If a club licensee is a dining club licensee or social club licensee, the club licensee shall comply with Section 32B-1-407.
- (12)
- (a) A club licensee shall own or lease premises suitable for the club licensee's activities.
 - (b) A club licensee may not maintain licensed premises in a manner that barricades or conceals the club licensee's operation.

Amended by Chapter 334, 2011 General Session

32B-6-406.1 Specific operational restrictions related to dance or concert hall.

- (1) A minor who is at least 18 years of age may be admitted into, use, or be on the premises of a dance or concert hall if:
- (a) the dance or concert hall is located:
 - (i) on the licensed premises of a social club licensee; or
 - (ii) on the property that immediately adjoins the licensed premises of and is operated by a social club licensee; and
 - (b) the social club licensee holds a permit to operate a dance or concert hall that was issued on or before May 11, 2009:
 - (i) on the basis of the operational requirements described in Subsection (2); and
 - (ii) when the social club licensee was licensed as a class D private club.
- (2) A social club licensee that holds a dance or concert hall permit shall operate in such a way that:
- (a) the social club licensee's lounge, bar, or other area for alcoholic product consumption is:
 - (i) not accessible to a minor;
 - (ii) clearly defined; and
 - (iii) separated from the dance or concert hall area by one or more walls, multiple floor levels, or other substantial physical barriers;

- (b) a bar or dispensing area is not visible to a minor;
 - (c) consumption of an alcoholic product may not occur in:
 - (i) the dance or concert hall area; or
 - (ii) an area of the social club license premises accessible to a minor;
 - (d) the social club licensee maintains sufficient security personnel to prevent the passing of beverages from the social club licensee's lounge, bar, or other area for alcoholic product consumption to:
 - (i) the dance or concert hall area; or
 - (ii) an area of the social club licensee premises accessible to a minor;
 - (e) there are one or more separate entrances, exits, and restroom facilities from the social club licensee's lounge, bar, or other area for alcoholic product consumption than for:
 - (i) the dance or concert hall area; or
 - (ii) an area accessible to a minor; and
 - (f) the social club licensee complies with any other requirements imposed by the commission by rule.
- (3)
- (a) A minor under 18 years of age who is accompanied at all times by a parent or legal guardian may be admitted into, use, or be on the premises of a concert hall described in Subsection (1) if:
 - (i) the requirements of Subsection (2) are met; and
 - (ii) signage, product, and dispensing equipment containing recognition of an alcoholic product is not visible to the minor.
 - (b) A minor under 18 years of age but who is 14 years of age or older who is not accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of a concert hall described in Subsection (1) if:
 - (i) the requirements of Subsections (2) and (3)(a) are met; and
 - (ii) there is no alcoholic product, sales, furnishing, or consumption on the premises of the social club licensee.
- (4) The commission may suspend or revoke a dance or concert permit issued to a social club licensee and suspend or revoke the license of the social club licensee if:
- (a) the social club licensee fails to comply with the requirements in this section;
 - (b) the social club licensee sells, offers for sale, or furnishes an alcoholic product to a minor;
 - (c) the social club licensee or a supervisory or managerial level staff of the social club licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of an activity that occurs on:
 - (i) the licensed premises; or
 - (ii) the dance or concert hall that is located on property that immediately adjoins the licensed premises of and is operated by the social club licensee;
 - (d) there are three or more convictions of patrons of the social club licensee under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities that occur on:
 - (i) the licensed premises; or
 - (ii) the dance or concert hall that is located on property that immediately adjoins the licensed premises of and is operated by the social club licensee;
 - (iii) there is more than one conviction:
 - (A) of:
 - (I) the social club licensee;
 - (II) staff of the social club licensee;
 - (III) an entertainer contracted by the social club licensee; or

- (IV) a patron of the social club licensee; and
- (B) made on the basis of a lewd act or lewd entertainment prohibited by this title that occurs on:
 - (I) the licensed premises; or
 - (II) the dance or concert hall that is located on property that immediately adjoins the licensed premises of and is operated by the social club licensee; or
- (e) the commission finds acts or conduct contrary to the public welfare and morals involving lewd acts or lewd entertainment prohibited by this title that occurs on:
 - (i) the licensed premises; or
 - (ii) the dance or concert hall that is located on property that immediately adjoins the licensed premises of and is operated by the social club licensee.
- (5) Nothing in this section prohibits a social club licensee from selling, offering for sale, or furnishing an alcoholic product in a dance or concert area located on the social club licensed premises on days and times when the social club licensee does not allow a minor into those areas.

Enacted by Chapter 276, 2010 General Session

32B-6-407 Specific operational requirements for equity club license or fraternal club license.

- (1) For purposes of this section only:
 - (a) "Club licensee" means an equity club licensee or fraternal club licensee.
 - (b) "Club licensee" does not include a dining club licensee or social club licensee.
- (2)
 - (a) A club licensee shall have a governing body that:
 - (i) consists of three or more members of the club; and
 - (ii) holds regular meetings to:
 - (A) review membership applications; and
 - (B) conduct other business as required by the bylaws or house rules of the club.
 - (b)
 - (i) A club licensee shall maintain a minute book that is posted currently by the club licensee.
 - (ii) The minute book required by this Subsection (2) shall contain the minutes of a regular or special meeting of the governing body.
- (3) A club licensee may admit an individual as a member only on written application signed by the person, subject to:
 - (a) the person paying an application fee; and
 - (b) investigation, vote, and approval of a quorum of the governing body.
- (4) A club licensee shall:
 - (a) record an admission of a member in the official minutes of a regular meeting of the governing body; and
 - (b) whether approved or disapproved, file an application as a part of the official records of the club licensee.
- (5) The spouse of a member of a club licensee has the rights and privileges of the member:
 - (a) to the extent permitted by the bylaws or house rules of the club licensee; and
 - (b) except to the extent restricted by this title.
- (6) A minor child of a member of a club licensee has the rights and privileges of the member:
 - (a) to the extent permitted by the bylaws or house rules of the club licensee; and
 - (b) except to the extent restricted by this title.
- (7) A club licensee shall maintain:

- (a) a current and complete membership record showing:
 - (i) the date of application of a proposed member;
 - (ii) a member's address;
 - (iii) the date the governing body approved a member's admission;
 - (iv) the date initiation fees and dues are assessed and paid; and
 - (v) the serial number of the membership card issued to a member;
 - (b) a membership list; and
 - (c) a current record indicating when a member is removed as a member or resigns.
- (8)
- (a) A club licensee shall have bylaws or house rules that include provisions respecting the following:
 - (i) standards of eligibility for members;
 - (ii) limitation of members, consistent with the nature and purpose of the club;
 - (iii) the period for which dues are paid, and the date upon which the period expires;
 - (iv) provisions for removing a member from the club membership for the nonpayment of dues or other cause;
 - (v) provisions for guests; and
 - (vi) application fees and membership dues.
 - (b) A club licensee shall maintain a current copy of the club licensee's current bylaws and current house rules.
 - (c) A club licensee shall maintain its bylaws or house rules, and any amendments to those records, on file with the department at all times.
- (9) A club licensee may, in its discretion, allow an individual to be admitted to or use the club licensed premises as a guest subject to the following conditions:
- (a) the individual is allowed to use the club licensee premises only to the extent permitted by the club licensee's bylaws or house rules;
 - (b) the individual shall be previously authorized by a member of the club who agrees to host the individual as a guest into the club;
 - (c) the individual has only those privileges derived from the individual's host for the duration of the individual's visit to the club licensee premises; and
 - (d) a club licensee or staff of the club licensee may not enter into an agreement or arrangement with a club member to indiscriminately host a member of the general public into the club licensee premises as a guest.
- (10) Notwithstanding Subsection (9), an individual may be allowed as a guest in a club licensed premises without a host if:
- (a)
 - (i) the club licensee is an equity club licensee; and
 - (ii) the individual is a member of an equity club licensee that has reciprocal guest privileges with the equity club licensee for which the individual is a guest;
 - (b)
 - (i) the club licensee is a fraternal club licensee; and
 - (ii) the individual is a member of the same fraternal organization as the fraternal club licensee for which the individual is a guest; or
 - (c)
 - (i) the club licensee is a fraternal club licensee that holds the fraternal club license on July 1, 2013;
 - (ii) the club licensee's bylaws permit guests in the club licensed premises without a host except that a minor may not be admitted as a guest without a host; and

- (iii) the club licensee maintains 60% of its total club business from the sale of food, not including mix for alcoholic products, or service charges.
- (11) Unless the patron is a member or guest, a club licensee may not:
 - (a) sell, offer for sale, or furnish an alcoholic product to the patron; or
 - (b) allow the patron to be admitted to or use the licensed premises.
- (12) A minor may not be a member, officer, director, or trustee of a club licensee.

Amended by Chapter 349, 2013 General Session

32B-6-408 Information obtained by investigator.

- (1) Subject to Subsection (2), if an investigator is permitted by another provision of this title to inspect a record of a club licensee, in addition to any other rights under this title, the investigator may inspect, have a copy of, or otherwise review any record of the club licensee that is a visual recording of the operations of the club licensee.
- (2) An investigator who is a peace officer may not inspect, have a copy of, or otherwise review a visual recording described in Subsection (1) without probable cause.

Enacted by Chapter 276, 2010 General Session

32B-6-409 Conversion from dining club license to different type of retail license.

- (1) In accordance with this section, a dining club licensee may convert its dining club license to a different type of retail license, including a different type of club license during the time period:
 - (a) beginning on July 1, 2011; and
 - (b) ending on June 30, 2013.
- (2) A dining club licensee may convert its dining license only to a retail license for which the dining club licensee qualifies.
- (3) The commission shall provide a procedure for a dining club to convert to a different type of retail license as provided in this section by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) After a dining club license is converted to another type of retail license, the retail licensee shall operate under the provisions relevant to the type of retail license held by the retail licensee, except that, in accordance with Section 32B-1-201, the retail license is not considered in determining the total number of licenses available for that type of retail license.
- (5) If a dining club license is converted to full-service restaurant license, limited-service restaurant license, or beer-only restaurant license, the bar structure of the dining club is considered:
 - (a) a seating grandfathered bar structure for purposes of a full-service restaurant license or a limited-service restaurant license; or
 - (b) a grandfathered bar structure for purposes of a beer-only restaurant license.

Enacted by Chapter 334, 2011 General Session