

## Part 5 Enforcement

### **32B-8-501 Enforcement of qualifications for resort license or sublicense.**

- (1) The commission or department may not take an action described in Subsection (2) with regard to a resort license unless the person who is found not to meet the qualifications of Section 32B-8-203 is one of the following who is engaged in the management of the resort:
  - (a) a partner;
  - (b) a managing agent;
  - (c) a manager;
  - (d) an officer;
  - (e) a director;
  - (f) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation;
  - (g) a member who owns at least 20% of the limited liability company; or
  - (h) a person employed to act in a supervisory or managerial capacity for the resort licensee.
- (2) Subsection (1) applies to:
  - (a) the commission immediately suspending or revoking a resort license, if after the day on which the resort license is issued, a person described in Subsection 32B-8-203(1):
    - (i) is found to have been convicted of an offense described in Subsection 32B-1-304(1)(a) before the resort license is issued; or
    - (ii) on or after the day on which the resort license is issued:
      - (A) is convicted of an offense described in Subsection 32B-1-304(1)(a)(i), (ii), or (iii); or
      - (B)
        - (I) is convicted of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug; and
        - (II) was convicted of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A);
  - (b) the director taking an emergency action by immediately suspending the operation of a resort license in accordance with Title 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated if a person described in Subsection 32B-8-203(1):
    - (i) is arrested on a charge for an offense described in Subsection 32B-1-304(1)(a)(i), (ii), or (iii); or
    - (ii)
      - (A) is arrested on a charge for the offense of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug; and
      - (B) was convicted of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug within five years before the day on which the person is arrested on a charge described in Subsection (2)(b)(ii)(A); and
  - (c) the commission suspending or revoking a resort license because a person to whom a resort license is issued under this chapter no longer possesses the qualifications required by this title for obtaining the resort license.
- (3) This section does not prevent the commission from suspending or revoking a sublicense that is part of a resort license if a person employed to act in a supervisory or managerial capacity for

a sublicense no longer meets the qualification requirements in the provisions applicable to the sublicense.

Enacted by Chapter 276, 2010 General Session

**32B-8-502 Enforcement of operational requirements for resort license or sublicense.**

- (1)
- (a) Except as provided in Subsection (2) and in addition to Subsection (3), failure by a person described in Subsection (1)(b) to comply with this chapter or an operational requirement under a provision applicable to a sublicense may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
    - (i) a resort licensee;
    - (ii) individual staff of a resort licensee;
    - (iii) a person otherwise operating under a sublicense;
    - (iv) individual staff of a person otherwise operating under a sublicense; or
    - (v) any combination of the persons listed in this Subsection (1)(a).
  - (b) This Subsection (1) applies to:
    - (i) a resort licensee;
    - (ii) a person operating under a sublicense; or
    - (iii) staff of a resort licensee or other person operating under a sublicense.
- (2)
- (a) Notwithstanding the other provisions of this title, if the failure to comply with this chapter described in Subsection (1) relates to a sale, offer for sale, or furnishing of an alcoholic product on a sublicense premises, a resort licensee or an individual member of the resort licensee's management personnel is subject to a sanction described in Subsection (1), only if the commission finds that:
    - (i) during the three years before the day on which the commission makes the finding, there are three or more disciplinary proceedings against any person operating under a sublicense of the resort licensee for failure to comply with an operational requirement applicable to the sublicense; and
    - (ii) the resort licensee has not taken reasonable steps to prevent persons operating under a sublicense of the resort licensee from failing to comply with operational requirements applicable to the sublicense.
  - (b) This Subsection (2) applies if the three or more disciplinary proceedings described in Subsection (2)(a) are against:
    - (i) the same person operating under a sublicense of the resort licensee; or
    - (ii) two or more different persons operating under a sublicense of the resort licensee.
- (3) An operational requirement applicable to a person operating under a sublicense is enforced as provided by the provisions applicable to the sublicense.

Enacted by Chapter 276, 2010 General Session

**32B-8-503 Enforcement of Nuisance Retail Licensee Act.**

Chapter 3, Part 3, Nuisance Retail Licensee Act, applies to a resort license only if three or more of the sublicenses of the resort license have not been renewed in accordance with Chapter 3, Part 3, Nuisance Retail Licensee Act, within three years from the day on which a resort licensee applies for the renewal of its resort license.

Enacted by Chapter 276, 2010 General Session