

ALCOHOLIC BEVERAGE SERVER TRAINING

AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

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This act modifies the Alcoholic Beverage Code and the Human Services Code to amend provisions related to alcoholic beverage server training and to make technical changes. The act clarifies who is required to be trained and the responsibilities of persons related to the training.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

32A-1-401, as last amended by Chapter 13, Laws of Utah 1998

62A-8-103.5, as last amended by Chapter 334, Laws of Utah 2000

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **32A-1-401** is amended to read:

32A-1-401. Alcohol training and education -- Revocation or suspension of licenses.

(1) The commission may revoke, suspend, ~~[or]~~ withhold, or not renew the license of any new or renewing licensee ~~[whose employees]~~ if any of the following persons, as defined in Section 62A-8-103.5, fail to complete the seminar [provided for] required in Section 62A-8-103.5[-]:

(a) a person who manages operations at the premises of the licensee;

(b) a person who supervises the serving of alcoholic beverages to a customer for consumption on the premises of the licensee; or

(c) a person who serves alcoholic beverages to a customer for consumption on the premises of the licensee.

(2) A city, town, or county in which an establishment~~[, whose employees are required to complete the seminar provided for in Section 62A-8-103.5;]~~ conducts its business may revoke, suspend, ~~[or]~~ withhold, or not renew the business license of the establishment if ~~[its employees fail]~~ any person described in Subsection (1) fails to complete the seminar required in Section 62A-8-103.5.

Section 2. Section **62A-8-103.5** is amended to read:

62A-8-103.5. Alcohol training and education seminar.

~~[(1) Each new and renewing licensee under Title 32A who sells or furnishes alcoholic beverages to the public within the scope of his employment, and each employee of every other establishment who, within the scope of his employment, serves alcoholic beverages to the public for consumption on the premises shall:]~~

(1) As used in this section:

(a) "instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider;

(b) "licensee" means a person who is:

(i) a new or renewing licensee under Title 32A, Alcoholic Beverage Control Act; and

(ii) engaged in the retail sale of alcoholic beverages for consumption on the premises of the licensee; and

(c) "seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to a person who, as defined by the board by rule:

(i) manages operations at the premises of a licensee;

(ii) supervises the serving of alcoholic beverages to a customer for consumption on the premises of a licensee; or

(iii) serves alcoholic beverages to a customer for consumption on the premises of a licensee.

(b) A person described in Subsection (2)(a) shall:

~~[(a)]~~ (i) complete an alcohol training and education seminar within 30 days of [beginning employment; and]:

(A) if the person is an employee, the day the person begins employment;

(B) if the person is an independent contractor, the day the person is first hired;

(C) if the person holds an ownership interest in the licensee, the day that person first engages in an activity that would result in that person being required to complete an alcohol training and education seminar; and

~~[(b)]~~ (ii) pay a fee:

(A) to the seminar provider[-]; and

(B) that is equal to or greater than the amount established under Subsection (4)(h).

(c) Notwithstanding Subsection (2)(b)(i)(C), a person described in Subsection (2)(b)(i)(C) shall complete an alcohol training and education seminar by no later than July 31, 2001, if as of May 1, 2001 the person:

(i) holds an ownership interest in the licensee; and

(ii) has engaged in an activity that would result in that person being required to complete an alcohol training and education seminar.

(3) (a) A licensee may not permit a person who is not in compliance with Subsection (2) to:

(i) serve or supervise the serving of alcoholic beverages to a customer for consumption on the premises of the licensee; or

(ii) engage in any activity that would constitute managing operations at the premises of a licensee.

(b) A licensee that violates Subsection (3)(a), is subject to Section 32A-1-401.

~~[(2)]~~ (4) The division shall:

(a) (i) provide alcohol training and education seminars; or

(ii) certify one or more seminar providers;

(b) [~~include the following subjects in~~] establish the curriculum [~~and instruction~~] for an alcohol training and education seminar that includes the following subjects:

(i) (A) alcohol as a drug; and [its]

- (B) alcohol's effect on the body and behavior;
- (ii) recognizing the problem drinker;
- (iii) an overview of state alcohol laws related to responsible beverage service, as determined in consultation with the Department of Alcoholic Beverage Control;
- (iv) dealing with the problem customer, including ways to terminate service; and
- (v) alternative means of transportation to get the customer safely home; [and]
- (c) recertify each seminar provider every three years;
- (d) monitor compliance with the curriculum described in Subsection (4)(b);
- (e) maintain for at least three years a record of every person who has completed an alcohol training and education seminar;
- (f) provide the information described in Subsection (4)(e) on request to:
 - (i) the Department of Alcoholic Beverage Control; or
 - (ii) law enforcement;
- (g) provide the Department of Alcoholic Beverage Control on request a list of any seminar provider certified by the division; and
- ~~(e)~~ (h) establish a fee amount for each person attending [the] an alcohol training and education seminar [in an amount] that is sufficient to offset the division's cost of administering [the seminar] this section.

(5) The board shall by rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

- (a) define what constitutes under this section a person who:
 - (i) manages operations at the premises of a licensee;
 - (ii) supervises the serving of alcoholic beverages to a customer for consumption on the premises of a licensee; or
 - (iii) serves alcoholic beverages to a customer for consumption on the premises of a licensee;
- (b) establish criteria for certifying and recertifying a seminar provider; and
- (c) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.

~~[(3) The]~~ (6) A seminar provider shall ~~[collect the fee and forward it to the division.];~~

(a) obtain recertification by the division every three years;

(b) ensure that an instructor used by the seminar provider:

(i) follows the curriculum established under this section; and

(ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

(i) the curriculum established under this section; and

(ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(f) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h).

(7) (a) If after a hearing conducted in accordance with Title 63, Chapter 46b, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

(i) suspend the certification of the seminar provider for a period not to exceed 90 days;

(ii) revoke the certification of the seminar provider;

(iii) require the seminar provider to take corrective action regarding an instructor; or

(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days from the date the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar

provider will comply with this section.