

**LIQUOR PACKAGE AGENCY CONTRACTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Michael R. Styler**

**This act modifies the Alcoholic Beverage Code to modify language regarding certain package agency agreements to make technical changes. The act appropriates \$129,200 from the Liquor Control Fund for fiscal year 2001-02 to provide a one time adjustment in the amounts paid certain package agencies.**

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

AMENDS:

**32A-3-101**, as last amended by Chapter 132, Laws of Utah 1991

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

Section 1. Section **32A-3-101** is amended to read:

**32A-3-101. Commission's power to establish package agencies -- Limitations.**

(1) (a) The commission may, when considered necessary, create package agencies by entering into contractual relationships with persons to sell liquor in sealed packages from premises other than those owned or leased by the state. [~~Authorization~~]

(b) The commission shall authorize a person to operate a package agency [~~is made~~] by [~~the issuance of~~] issuing a certificate from the commission that designates the person in charge of the agency as a "package agent" as defined under Section 32A-1-105.

(2) (a) Subject to this [~~subsection~~] Subsection (2), the total number of package agencies may not at any time aggregate more than that number determined by dividing the population of the state by 18,000. [~~Population~~]

(b) For purposes of Subsection (2)(a), population shall be determined by:

(i) the most recent United States decennial or special census; or [~~by~~]

(ii) any other population determination made by the United States or state governments.

[~~(a)~~] (c) The commission may establish seasonal package agencies established in areas and for periods it considers necessary. A seasonal package agency may not be operated for a period longer than nine consecutive months subject to the [~~following~~] restrictions[?]; stated in Subsections

(2)(c)(i) through (iii).

(i) [~~Package agencies~~] A package agency established for operation during a summer time [~~periods are~~] period is known as a "Seasonal A" package [~~agencies~~] agency. The period of operation for a "Seasonal A" agency may begin as early as February 1 and may continue until October 31.

(ii) [~~Package agencies~~] A package agency established for operation during a winter time [~~periods are~~] period is known as a "Seasonal B" package [~~agencies~~] agency. The period of operation for a "Seasonal B" agency may begin as early as September 1 and may continue until May 31.

(iii) In determining the number of package agencies that the commission may establish under this section[;]:

(A) a seasonal package [~~agencies are~~] agency is counted as one half of one package agency[~~-~~ Each];

(B) each "Seasonal A" agency shall be paired with a "Seasonal B" agency; and

(C) the total number of months that each combined pair may be established for operation may not exceed 12 months for each calendar year.

[~~(b)~~] (d) (i) If the location, design, and construction of a hotel may require more than one package agency sales location to serve the public convenience, the commission may authorize a single package agent to sell liquor at as many as three locations within the hotel under one package agency if:

(A) the hotel has a minimum of 150 guest rooms; and [if]

(B) all locations under the agency are:

(I) within the same hotel facility; and

(II) on premises that are managed or operated and owned or leased by the package agent.

(ii) Facilities other than hotels may not have more than one sales location under a single package agency.

(3) (a) [~~A~~] As measured by the method in Subsection (4), a package agency may not be established within 600 feet of any:

(i) public or private school[;];

(ii) church[;];

(iii) public library[;];

(iv) public playground[;]; or

(v) park[, as measured by the method in Subsection (4)].

(b) A package agency may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed package agency to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(c) The restrictions contained in Subsections (3)(a) and (b) govern unless ~~[one of the following exemptions]~~ Subsection (3)(c)(i) or (ii) applies[;].

(i) ~~[The]~~ If the commission finds after full investigation that the premises are located within a city of the third class or a town, and compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the establishment of a package agency~~[- In that event]~~, the commission may[;] authorize a variance from the distance requirement to relieve the difficulties or hardships:

(A) after giving full consideration to all of the attending circumstances[;];

(B) following a public hearing in:

(I) the city or town[;] concerned; and

(II) where practical, in the neighborhood concerned~~[- authorize a variance from the distance requirements to relieve the difficulties or hardships]; and~~

(C) if the variance may be granted without:

(I) substantial detriment to the public good; and ~~[without]~~

(II) substantially impairing the intent and purpose of this title.

(ii) With respect to the establishment of a package agency in any location, the commission may[;] reduce the proximity requirements in relation to a church:

(A) after giving full consideration to all of the attending circumstances[;];

(B) following a public hearing in:

(I) the county[;] concerned; and

(II) where practical, in the neighborhood concerned~~[- reduce the proximity requirements in~~

~~relation to a church]; and~~

(C) if the local governing body of the church in question gives its written approval.

(4) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the package agency by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

(5) (a) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location.

(b) For purposes of ~~[this]~~ Subsection (5)(a), "educational facility" includes:

(i) a nursery ~~[schools,]~~ school;

(ii) an infant day care ~~[centers,]~~ center; and

(iii) a trade and technical ~~[schools]~~ school.

(6) (a) The package agent, under the direction of the department, shall be responsible for implementing and enforcing this title and the rules adopted under this title to the extent they relate to the conduct of the agency and its sale of liquor.

(b) A package agent may not be, or construed to be, a state employee nor be otherwise entitled to any benefits of employment from the state ~~[of Utah]~~.

(c) A package agent, when selling liquor from a package agency, is considered an agent of the state ~~[of Utah]~~ only to the extent specifically expressed in the package agency agreement.

(7) The commission may prescribe by policy, directive, or rule, consistent with this title, general operational requirements of all package agencies relating to ~~[the]~~:

(a) physical facilities~~[-];~~

(b) conditions of operation~~[-];~~

(c) hours of operation~~[-];~~

(d) inventory levels~~[-];~~

(e) payment schedules~~[-];~~

(f) methods of payment[;];

(g) premises security[;]; and

(h) any other matters considered appropriate by the commission.

**Section 2. Appropriation.**

There is appropriated for fiscal year 2001-02 \$129,200 from the Liquor Control Fund, created in Section 32A-1-113, to fund an increase of 11.57% in the amount paid each level of a Type 3 liquor package agency, as defined by the Alcoholic Beverage Control Commission, under a contract entered into in accordance with Title 32A, Chapter 3, Package Agencies.