

Senator Curtis S. Bramble proposes the following substitute bill:

ALCOHOLIC BEVERAGE CONTROL

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

- ▶ modifies definition provisions;
- ▶ addresses presentation of proof of age;
- ▶ enacts the Malted Beverage Act, including:
 - providing for the treatment of a flavored malt beverage as a liquor;
 - addressing approval of the label and packaging of a malt beverage; and
 - providing transition protections;
- ▶ enacts provisions related to criminal background checks;
- ▶ addresses proximity restrictions;
- ▶ addresses markups;
- ▶ adjusts quota requirements for licenses;
- ▶ addresses the dispensing of spirituous liquor;
- ▶ addresses the amount of spirituous liquor that may be before a patron or attendee;
- ▶ prohibits conduct related to controlled substances and drug paraphernalia;



- 26 ▶ modifies requirements related to price lists and private clubs;
- 27 ▶ establishes requirements related to the display of beer;
- 28 ▶ expands provisions prohibiting operation without a license or permit; and
- 29 ▶ makes technical and conforming amendments.

30 Monies Appropriated in this Bill:

31 This bill appropriates:

- 32 ▶ as an ongoing appropriation subject to future budget constraints, \$1,589,100 from
- 33 the Liquor Control Fund for fiscal year 2008-2009 to the Division of Substance
- 34 Abuse and Mental Health within the Department of Human Services.

35 Other Special Clauses:

36 None

37 Utah Code Sections Affected:

38 AMENDS:

- 39 **32A-1-105**, as last amended by Laws of Utah 2007, Chapter 284
- 40 **32A-1-116**, as last amended by Laws of Utah 2007, Chapter 284
- 41 **32A-1-119**, as last amended by Laws of Utah 2007, Chapter 284
- 42 **32A-1-122**, as last amended by Laws of Utah 2007, Chapter 284
- 43 **32A-1-302**, as last amended by Laws of Utah 2002, Chapter 161
- 44 **32A-1-304**, as last amended by Laws of Utah 2002, Chapter 161
- 45 **32A-2-101**, as last amended by Laws of Utah 2003, Chapters 292 and 314
- 46 **32A-3-101**, as last amended by Laws of Utah 2003, Chapters 292 and 314
- 47 **32A-3-102**, as last amended by Laws of Utah 2003, Chapter 314
- 48 **32A-4-101**, as last amended by Laws of Utah 2006, Chapter 162
- 49 **32A-4-102**, as last amended by Laws of Utah 2007, Chapter 284
- 50 **32A-4-104**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 51 **32A-4-106**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 52 **32A-4-206**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 53 **32A-4-302**, as last amended by Laws of Utah 2006, Chapter 162
- 54 **32A-4-303**, as last amended by Laws of Utah 2007, Chapter 284
- 55 **32A-4-305**, as enacted by Laws of Utah 2003, Chapter 314
- 56 **32A-4-307**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341

- 57 **32A-4-401**, as last amended by Laws of Utah 2007, Chapter 284
- 58 **32A-4-402**, as last amended by Laws of Utah 2007, Chapter 284
- 59 **32A-4-406**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 60 **32A-5-101**, as last amended by Laws of Utah 2006, Chapter 162
- 61 **32A-5-102**, as last amended by Laws of Utah 2007, Chapter 284
- 62 **32A-5-104**, as last amended by Laws of Utah 2003, Chapter 314
- 63 **32A-5-107**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 64 **32A-7-101**, as last amended by Laws of Utah 2004, Chapter 268
- 65 **32A-7-106**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 66 **32A-8-101**, as last amended by Laws of Utah 2003, Chapter 314
- 67 **32A-8-401**, as last amended by Laws of Utah 2004, Chapter 268
- 68 **32A-8-501**, as last amended by Laws of Utah 2003, Chapter 314
- 69 **32A-8-503**, as last amended by Laws of Utah 2004, Chapter 268
- 70 **32A-8-505**, as last amended by Laws of Utah 2007, Chapter 284
- 71 **32A-10-101**, as last amended by Laws of Utah 2007, Chapter 284
- 72 **32A-10-102**, as last amended by Laws of Utah 2007, Chapter 284
- 73 **32A-10-201**, as last amended by Laws of Utah 2006, Chapter 162
- 74 **32A-10-202**, as last amended by Laws of Utah 2007, Chapter 284
- 75 **32A-10-204**, as last amended by Laws of Utah 1991, Chapter 5
- 76 **32A-10-206**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 77 **32A-10-306**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 78 **32A-11-106**, as last amended by Laws of Utah 2004, Chapter 268
- 79 **32A-12-212**, as last amended by Laws of Utah 2005, Chapter 152
- 80 **32A-12-222**, as last amended by Laws of Utah 2004, Chapter 268
- 81 **32A-12-301**, as last amended by Laws of Utah 2006, Chapter 162
- 82 **32A-12-307**, as last amended by Laws of Utah 2003, Chapter 314
- 83 **32A-12-603**, as last amended by Laws of Utah 2004, Chapter 268
- 84 **53-10-102**, as last amended by Laws of Utah 2000, Chapter 1
- 85 **76-5-113**, as last amended by Laws of Utah 2004, Chapter 280
- 86 ENACTS:
- 87 **32A-1-701**, Utah Code Annotated 1953

- 88 **32A-1-702**, Utah Code Annotated 1953
- 89 **32A-1-703**, Utah Code Annotated 1953
- 90 **32A-1-704**, Utah Code Annotated 1953
- 91 **32A-1-801**, Utah Code Annotated 1953
- 92 **32A-1-802**, Utah Code Annotated 1953
- 93 **32A-1-803**, Utah Code Annotated 1953
- 94 **32A-1-804**, Utah Code Annotated 1953
- 95 **32A-1-805**, Utah Code Annotated 1953
- 96 **32A-1-806**, Utah Code Annotated 1953
- 97 **32A-1-807**, Utah Code Annotated 1953
- 98 **32A-1-808**, Utah Code Annotated 1953
- 99 **32A-1-809**, Utah Code Annotated 1953

100

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

102 Section 1. Section **32A-1-105** is amended to read:

103 **32A-1-105. Definitions.**

104 As used in this title:

105 (1) "Airport lounge" means a place of business licensed to sell an alcoholic [~~beverages~~]
106 beverage, at retail, for consumption on its premises located at an international airport with a
107 United States Customs office on the premises of the international airport.

108 (2) "Alcoholic [~~beverages~~ means "~~beer~~" and "~~liquor~~"] beverage" means the following
109 as the [~~terms are~~] term is defined in this section[-]:

110 (a) beer;

111 (b) flavored malt beverage; and

112 (c) liquor, which on or after October 1, 2008, includes a flavored malt beverage.

113 (3) (a) "Alcoholic [~~products~~] product" means [~~all products~~] a product that:

114 [~~(i) contain:~~]

115 [~~(A)~~] (i) contains at least [~~63/100 of 1%~~] .5% of alcohol by volume; [~~or~~] and

116 [~~(B) at least 1/2 of 1% by weight; and~~]

117 (ii) [~~are~~] is obtained by fermentation, infusion, decoction, brewing, distillation, or [~~any~~]
118 other process that uses [~~any~~] liquid or combinations of liquids, whether drinkable or not, to

- 119 create alcohol in an amount greater than the amount prescribed in Subsection (3)(a)(i).
- 120 (b) "Alcoholic [~~products~~] product" does not include any of the following common
- 121 items that otherwise come within the definition of an alcoholic [~~products~~] product:
- 122 (i) [~~extracts~~] except as provided in Subsection (3)(c), extract;
- 123 (ii) [~~vinegars~~] vinegar;
- 124 (iii) [~~ciders~~] cider;
- 125 (iv) [~~essences~~] essence;
- 126 (v) [~~tinctures~~] tincture;
- 127 (vi) food [~~preparations~~] preparation; or
- 128 (vii) an over-the-counter [~~drugs and medicines~~] drug or medicine.
- 129 (c) An extract containing alcohol obtained by distillation is regulated as an alcoholic
- 130 product when it is used as a flavoring in the manufacturing of an alcoholic product.
- 131 (4) "Bar" means a counter or similar structure:
- 132 (a) at which an alcoholic [~~beverages are~~] beverage is:
- 133 (i) stored; or
- 134 (ii) dispensed; or
- 135 (b) from which an alcoholic [~~beverages are~~] beverage is served.
- 136 (5) (a) [~~"Beer"~~] Subject to Subsection (5)(d), "beer" means [~~any~~] a product that:
- 137 (i) contains [~~63/100 of 1%~~] at least .5% of alcohol by volume [~~or 1/2 of 1% of alcohol~~
- 138 ~~by weight~~], but not more than 4% of alcohol by volume or 3.2% by weight; and
- 139 (ii) is obtained by fermentation, infusion, or decoction of [~~any~~] malted grain.
- 140 (b) Beer may or may not contain hops or other vegetable products.
- 141 (c) Beer includes a product that:
- 142 (i) contains alcohol in the percentages described in Subsection (5)(a); and
- 143 (ii) is referred to as:
- 144 [~~(A) malt liquor;~~]
- 145 [~~(B) malted beverages; or~~]
- 146 [~~(C) malt coolers.~~]
- 147 (A) beer;
- 148 (B) ale;
- 149 (C) porter;

- 150 (D) stout;
- 151 (E) lager; or
- 152 (F) a malt or malted beverage.
- 153 (d) On or after October 1, 2008, "beer" does not include a flavored malt beverage.
- 154 (6) (a) "Beer retailer" means a business that is:
 - 155 (i) engaged, primarily or incidentally, in the retail sale of beer to [~~patrons~~] a patron,
 - 156 whether for consumption on or off the business premises; and
 - 157 (ii) licensed to sell beer by:
 - 158 (A) the commission;
 - 159 (B) a local authority; or
 - 160 (C) both the commission and a local authority.
 - 161 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
 - 162 beer to [~~patrons~~] a patron for consumption off the beer retailer's premises.
 - 163 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.
 - 164 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to
 - 165 [~~patrons~~] a patron for consumption on the beer retailer's premises, regardless of whether the
 - 166 business sells beer for consumption off the beer retailer's premises.
 - 167 (7) "Billboard" means [~~any~~] a public display used to advertise including:
 - 168 (a) a light device;
 - 169 (b) a painting;
 - 170 (c) a drawing;
 - 171 (d) a poster;
 - 172 (e) a sign;
 - 173 (f) a signboard; or
 - 174 (g) a scoreboard.
 - 175 (8) "Brewer" means [~~any~~] a person engaged in manufacturing:
 - 176 (a) beer[-];
 - 177 (b) heavy beer; or
 - 178 (c) a flavored malt beverage.
 - 179 (9) "Cash bar" means the service of an alcoholic [~~beverages~~] beverage:
 - 180 (a) at:

- 181 (i) a banquet; or
- 182 (ii) a temporary event for which a permit is issued under this title; and
- 183 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
- 184 beverage.
- 185 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 186 a bus company to a group of persons pursuant to a common purpose:
- 187 (a) under a single contract;
- 188 (b) at a fixed charge in accordance with the bus company's tariff; and
- 189 (c) for the purpose of giving the group of persons the exclusive use of the passenger
- 190 bus, coach, or other motor vehicle and a driver to travel together to [a] one or more specified
- 191 [destination or] destinations.
- 192 (11) "Church" means a building:
- 193 (a) set apart for the purpose of worship;
- 194 (b) in which religious services are held;
- 195 (c) with which clergy is associated; and
- 196 (d) which is tax exempt under the laws of this state.
- 197 (12) "Club" and "private club" means any of the following organized primarily for the
- 198 benefit of its members:
- 199 (a) a social club;
- 200 (b) a recreational association;
- 201 (c) a fraternal association;
- 202 (d) an athletic association; or
- 203 (e) a kindred association.
- 204 (13) "Commission" means the Alcoholic Beverage Control Commission.
- 205 (14) (a) Subject to Subsection (14)(b), "community location" means:
- 206 (i) a public or private school;
- 207 (ii) a church;
- 208 (iii) a public library;
- 209 (iv) a public playground; or
- 210 (v) a public park.
- 211 (b) For purposes of a 200 feet proximity requirement under this title measured in a

212 straight line to the nearest property boundary of a public library, "community location" does not
213 include a public library that is:

214 (i) located in:

215 (A) a city and a county of the first class; and

216 (B) an area that is zoned for commercial use; and

217 (ii) as of May 5, 2008, listed in the National Register of Historic Places as provided for
218 in 16 U.S.C. Sec. 470a.

219 (15) "Community location governing authority" means:

220 (a) the governing body of the community location; or

221 (b) a person who appears to the commission to have been given on behalf of the
222 community location authority to prohibit an activity at the community location.

223 [~~14~~] (16) "Department" means the Department of Alcoholic Beverage Control.

224 (17) "Director," unless the context requires otherwise, means the director appointed
225 under Section 32A-1-108.

226 [~~15~~] (18) "Distressed merchandise" means ~~any~~ an alcoholic beverage in the
227 possession of the department that is saleable, but for some reason is unappealing to the public.

228 (19) "Flavored malt beverage" means a beverage:

229 (a) that contains at least .5% alcohol by volume;

230 (b) that is treated by processing, filtration, or another method of manufacture that is not
231 generally recognized as a traditional process in the production of a beer as described in 27
232 C.F.R. Sec. 25.55;

233 (c) to which is added a flavor or other ingredient containing alcohol, except for a hop
234 extract; and

235 (d) (i) for which the producer is required to file a formula for approval with the United
236 States Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec. 25.55; or

237 (ii) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

238 [~~16~~] (20) "Guest" means a person accompanied by an active member or visitor of a
239 club who enjoys only those privileges derived from the host for the duration of the visit to the
240 club.

241 [~~17~~] (21) (a) "Heavy beer" means ~~any~~ a product that:

242 (i) contains more than 4% alcohol by volume; and

243 (ii) is obtained by fermentation, infusion, or decoction of [~~any~~] malted grain.

244 (b) "Heavy beer" is considered "liquor" for the purposes of this title.

245 [~~(18)~~] (22) "Hosted bar" means the service of an alcoholic [~~beverages~~] beverage:

246 (a) without charge; and

247 (b) at a:

248 (i) banquet; or

249 (ii) privately hosted event.

250 [~~(19)~~] (23) "Identification card" means [~~the~~] an identification card issued under Title

251 53, Chapter 3, Part 8, Identification Card Act.

252 [~~(20)~~] (24) "Interdicted person" means a person to whom the sale, gift, or provision of

253 an alcoholic beverage is prohibited by:

254 (a) law; or

255 (b) court order.

256 [~~(21)~~] (25) "Intoxicated" means that to a degree that is unlawful under Section

257 76-9-701 a person is under the influence of:

258 (a) an alcoholic beverage;

259 (b) a controlled substance;

260 (c) a substance having the property of releasing toxic vapors; or

261 (d) a combination of Subsections [~~(21)~~] (25)(a) through (c).

262 [~~(22)~~] (26) "Licensee" means [~~any~~] a person issued a license by the commission to sell,

263 manufacture, store, or allow consumption of an alcoholic [~~beverages~~] beverage on premises

264 owned or controlled by the person.

265 [~~(23)~~] (27) "Limousine" means [~~any~~] a motor vehicle licensed by the state or a local

266 authority, other than a bus or taxicab:

267 (a) in which the driver and [~~passengers~~] a passenger are separated by a partition, glass,

268 or other barrier; and

269 (b) that is provided by a company to [~~an individual or~~] one or more individuals at a

270 fixed charge in accordance with the company's tariff for the purpose of giving the [~~individual~~

271 ~~or~~] one or more individuals the exclusive use of the limousine and a driver to travel to [~~a~~] one

272 or more specified [~~destination or~~] destinations.

273 [~~(24)~~] (28) (a) (i) "Liquor" means alcohol, or [~~any~~] an alcoholic, spirituous, vinous,

274 fermented, malt, or other liquid, or combination of liquids, a part of which is spirituous,
275 vinous, or fermented, [~~and all other drinks~~] or other drink, or drinkable [~~liquids~~] liquid that
276 [~~contain more than 1/2 of 1% of~~];

277 (A) contains at least .5% alcohol by volume; and

278 (B) is suitable to use for beverage purposes.

279 (ii) On or after October 1, 2008, "liquor" includes a flavored malt beverage.

280 (b) "Liquor" does not include [~~any~~] a beverage defined as a beer[~~, malt liquor, or~~
281 ~~malted beverage that has an alcohol content of less than 4% alcohol by volume~~].

282 [~~(25)~~] (29) "Local authority" means:

283 (a) the governing body of the county if the premises are located in an unincorporated
284 area of a county; or

285 (b) the governing body of the city or town if the premises are located in an incorporated
286 city or a town.

287 [~~(26)~~] (30) "Manufacture" means to distill, brew, rectify, mix, compound, process,
288 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
289 others.

290 [~~(27)~~] (31) "Member" means a person who, after paying regular dues, has full
291 privileges of a club under this title.

292 [~~(28)~~] (32) (a) "Military installation" means a base, air field, camp, post, station, yard,
293 center, or homeport facility for [~~any~~] a ship:

294 (i) (A) under the control of the United States Department of Defense; or

295 (B) of the National Guard;

296 (ii) that is located within the state; and

297 (iii) including [~~any~~] a leased facility.

298 (b) "Military installation" does not include [~~any~~] a facility used primarily for:

299 (i) civil works;

300 (ii) rivers and harbors projects; or

301 (iii) flood control projects.

302 [~~(29)~~] (33) "Minor" means [~~any person~~] an individual under the age of 21 years.

303 [~~(30)~~] (34) "Nude," "nudity," or "state of nudity" means:

304 (a) the appearance of:

305 (i) the nipple or areola of a female human breast;

306 (ii) a human genital;

307 (iii) a human pubic area; or

308 (iv) a human anus; or

309 (b) a state of dress that fails to opaquely cover:

310 (i) the nipple or areola of a female human breast;

311 (ii) a human genital;

312 (iii) a human pubic area; or

313 (iv) a human anus.

314 [~~31~~] (35) "Outlet" means a location other than a state store or package agency where
315 an alcoholic [beverages are] beverage is sold pursuant to a license issued by the commission.

316 [~~32~~] (36) "Package" means any of the following containing liquor:

317 (a) a container;

318 (b) a bottle;

319 (c) a vessel; or

320 (d) other receptacle.

321 [~~33~~] (37) "Package agency" means a retail liquor location operated:

322 (a) under a contractual agreement with the department[;]; and

323 (b) by a person;

324 (i) other than the state[;]; and

325 (ii) who is authorized by the commission to sell package liquor for consumption off the
326 premises of the package agency.

327 [~~34~~] (38) "Package agent" means [~~any~~] a person permitted by the commission to
328 operate a package agency pursuant to a contractual agreement with the department to sell liquor
329 from premises that the package agent shall provide and maintain.

330 [~~35~~] (39) "Permittee" means [~~any~~] a person issued a permit by the commission to
331 perform [~~acts~~] an act or exercise [~~privileges~~] a privilege as specifically granted in the permit.

332 [~~36~~] (40) "Person" means [~~any~~] an individual, partnership, firm, corporation, limited
333 liability company, association, business trust, or other form of business enterprise, including a
334 receiver or trustee, and the plural as well as the singular number, unless the intent to give a
335 more limited meaning is disclosed by the context.

336 [~~(37)~~] (41) "Premises" means [~~any~~] a building, enclosure, room, or equipment used in
337 connection with the sale, storage, service, manufacture, distribution, or consumption of an
338 alcoholic [~~products~~] product, unless otherwise defined in this title or in the rules adopted by the
339 commission.

340 [~~(38)~~] (42) "Prescription" means a writing in legal form, signed by a physician or
341 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

342 [~~(39)~~] (43) (a) "Privately hosted event" or "private social function" means a specific
343 social, business, or recreational event;

344 (i) for which an entire room, area, or hall [~~has been~~] is leased or rented[;] in advance by
345 an identified group[;]; and [~~the event or function~~]

346 (ii) that is limited in attendance to people who [~~have been~~] are specifically designated
347 and their guests.

348 (b) "Privately hosted event" and "private social function" does not include [~~events or~~
349 ~~functions~~] an event to which the general public is invited, whether for an admission fee or not.

350 [~~(40)~~] (44) "Proof of age" means:

351 (a) an identification card;

352 (b) an identification that:

353 (i) is substantially similar to an identification card;

354 (ii) is issued in accordance with the laws of a state other than Utah in which the
355 identification is issued;

356 (iii) includes date of birth; and

357 (iv) has a picture affixed;

358 (c) a valid driver license certificate that:

359 (i) includes date of birth;

360 (ii) has a picture affixed; and

361 (iii) is issued:

362 (A) under Title 53, Chapter 3, Uniform Driver License Act; or

363 (B) in accordance with the laws of the state in which it is issued;

364 (d) a military identification card that:

365 (i) includes date of birth; and

366 (ii) has a picture affixed; or

367 (e) a valid passport.

368 [~~(41)~~] (45) (a) "Public building" means [~~any~~] a building or permanent structure owned
369 or leased by the state, a county, or local government entity that is used for:

370 (i) public education;

371 (ii) transacting public business; or

372 (iii) regularly conducting government activities.

373 (b) "Public building" does not mean or refer to [~~any~~] a building owned by the state or a
374 county or local government entity when the building is used by [~~anyone~~] a person, in whole or
375 in part, for a proprietary [~~functions~~] function.

376 [~~(42)~~] (46) "Representative" means an individual who is compensated by salary,
377 commission, or [~~any~~] other means for representing and selling [~~the~~] an alcoholic beverage
378 [~~products~~] product of a manufacturer, supplier, or importer of liquor[;] including:

379 (a) wine[~~, or~~];

380 (b) heavy beer; or

381 (c) on or after October 1, 2008, a flavored malt beverage.

382 [~~(43)~~] (47) "Residence" means [~~the~~] a person's principal place of abode within Utah.

383 [~~(44)~~] (48) "Restaurant" means [~~any~~] a business establishment:

384 (a) where a variety of foods is prepared and complete meals are served to the general
385 public;

386 (b) located on a premises having adequate culinary fixtures for food preparation and
387 dining accommodations; and

388 (c) that is engaged primarily in serving meals to the general public.

389 [~~(45)~~] (49) "Retailer" means [~~any~~] a person engaged in the sale or distribution of an
390 alcoholic [~~beverages~~] beverage to [~~the~~] a consumer.

391 [~~(46)~~] (50) (a) "Sample" includes:

392 (i) a department sample; and

393 (ii) an industry representative sample.

394 (b) "Department sample" means liquor[~~, wine, and heavy beer~~] that [~~has been~~] is placed
395 in the possession of the department for testing, analysis, and sampling including:

396 (i) wine;

397 (ii) heavy beer; or

398 (iii) on or after October 1, 2008, a flavored malt beverage.

399 (c) "Industry representative sample" means liquor~~[-, wine, and heavy beer]~~ that [has
400 ~~been~~] is placed in the possession of the department:

401 (i) for testing, analysis, and sampling by a local industry [representatives]
402 representative on the premises of the department to educate the local industry [representatives]
403 representative of the quality and characteristics of the product[-]; and

404 (ii) including:

405 (A) wine;

406 (B) heavy beer; or

407 (C) on or after October 1, 2008, a flavored malt beverage.

408 ~~[(47)]~~ (51) (a) "School" means ~~[any]~~ a building used primarily for the general
409 education of minors.

410 (b) "School" does not include:

411 (i) a nursery school;

412 (ii) an infant day care center; or

413 (iii) a trade or technical school.

414 ~~[(48)]~~ (52) "Sell," "sale," and "to sell" means ~~[any]~~ a transaction, exchange, or barter
415 whereby, for ~~[any]~~ consideration, an alcoholic beverage is either directly or indirectly
416 transferred, solicited, ordered, delivered for value, or by ~~[any]~~ a means or under ~~[any]~~ a pretext
417 is promised or obtained, whether done by a person as a principal, proprietor, or as an agent,
418 servant, or employee, unless otherwise defined in this title or the rules made by the
419 commission.

420 ~~[(49)]~~ (53) "Seminude," "seminudity," or "state of seminudity" means a state of dress in
421 which opaque clothing covers no more than:

422 (a) the nipple and areola of the female human breast in a shape and color other than the
423 natural shape and color of the nipple and areola; and

424 (b) the human genitals, pubic area, and anus:

425 (i) with no less than the following at its widest point:

426 (A) four inches coverage width in the front of the human body; and

427 (B) five inches coverage width in the back of the human body; and

428 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

429 [~~(50)~~] (54) "Sexually oriented entertainer" means a person who while in a state of
430 seminudity appears at or performs:

- 431 (a) for the entertainment of one or more patrons;
- 432 (b) on the premises of:
 - 433 (i) a class D private club as defined in Subsection 32A-5-101(3); or
 - 434 (ii) a tavern;
 - 435 (c) on behalf of or at the request of the licensee described in Subsection [~~(50)~~] (54)(b);
 - 436 (d) on a contractual or voluntary basis; and
 - 437 (e) whether or not the person is designated:
 - 438 (i) an employee of the licensee described in Subsection [~~(50)~~] (54)(b);
 - 439 (ii) an independent contractor of the licensee described in Subsection [~~(50)~~] (54)(b);
 - 440 (iii) an agent of the licensee described in Subsection [~~(50)~~] (54)(b); or
 - 441 (iv) otherwise of the licensee described in Subsection [~~(50)~~] (54)(b).

442 [~~(51)~~] (55) "Small brewer" means a brewer who manufactures less than 60,000 barrels
443 of beer [~~and~~], heavy beer, and flavored malt beverages per year.

444 [~~(52)~~] (56) (a) "Spirituous liquor" means liquor that is distilled.

445 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27
446 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.

447 [~~(53)~~] (57) (a) "State label" means the official label designated by the commission
448 affixed to [~~all~~] a liquor [~~containers~~] container sold in the state.

449 (b) "State label" includes the department identification mark and inventory control
450 number.

451 [~~(54)~~] (58) (a) "State store" means a facility for the sale of package liquor:

- 452 (i) located on premises owned or leased by the state; and
- 453 (ii) operated by state employees.
- 454 (b) "State store" does not apply to [~~any~~] a:
 - 455 (i) licensee;
 - 456 (ii) permittee; or
 - 457 (iii) package agency.

458 [~~(55)~~] (59) "Supplier" means [~~any~~] a person selling an alcoholic [~~beverages~~] beverage
459 to the department.

460 [~~56~~] (60) (a) "Tavern" means [~~any~~] a business establishment that is:

461 (i) engaged primarily in the retail sale of beer to a public [~~patrons~~] patron for

462 consumption on the establishment's premises; and

463 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.

464 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the

465 revenue of the sale of food, although food need not be sold in the establishment:

466 (i) a beer bar;

467 (ii) a parlor;

468 (iii) a lounge;

469 (iv) a cabaret; or

470 (v) a nightclub.

471 [~~57~~] (61) "Temporary domicile" means the principal place of abode within Utah of a

472 person who does not have a present intention to continue residency within Utah permanently or

473 indefinitely.

474 [~~58~~] (62) "Unsaleable liquor merchandise" means merchandise that:

475 (a) is unsaleable because the merchandise is:

476 (i) unlabeled;

477 (ii) leaky;

478 (iii) damaged;

479 (iv) difficult to open; or

480 (v) partly filled;

481 (b) is in a container:

482 (i) having faded labels or defective caps or corks;

483 (ii) in which the contents are:

484 (A) cloudy;

485 (B) spoiled; or

486 (C) chemically determined to be impure; or

487 (iii) that contains:

488 (A) sediment; or

489 (B) [~~any~~] a foreign substance; or

490 (c) is otherwise considered by the department as unfit for sale.

491 [(59)] (63) "Visitor" means an individual that in accordance with Section 32A-5-107
492 holds limited privileges in a private club by virtue of a visitor card.

493 [(60)] (64) "Warehouser" means [any] a person, other than a licensed manufacturer,
494 engaged in the importation for sale, storage, or distribution of liquor regardless of amount.

495 [(61)] (65) (a) "Wholesaler" means [any] a person engaged in the importation for sale,
496 or in the sale of beer in wholesale or jobbing quantities to one or more retailers[~~other than a~~].

497 (b) Notwithstanding Subsection (65)(a), "wholesaler" does not include a small brewer
498 selling beer manufactured by that brewer.

499 [(62)] (66) (a) "Wine" means [any] an alcoholic beverage obtained by the fermentation
500 of the natural sugar content of fruits, plants, honey, or milk, or [any] other like substance,
501 whether or not [~~other ingredients are~~] another ingredient is added.

502 (b) "Wine" is considered "liquor" for purposes of this title, except as otherwise
503 provided in this title.

504 Section 2. Section **32A-1-116** is amended to read:

505 **32A-1-116. Purchase of liquor.**

506 (1) The department may not purchase or stock spirituous liquor in [~~containers~~] a
507 container smaller than 200 milliliters except as otherwise allowed by the commission.

508 (2) (a) Each order by the department for the purchase of spirituous liquor, wine, [~~or~~]
509 heavy beer, or flavored malt beverage, or any cancellation by the department of an order for
510 spirituous liquor, wine, [~~or~~] heavy beer, or flavored malt beverage:

511 (i) shall be executed in writing by the department; and

512 (ii) is not valid or binding unless executed in writing.

513 (b) A copy of each order or cancellation shall be kept on file by the department for at
514 least three years.

515 (c) An electronic record satisfies Subsections (2)(a) and (b) pursuant to Title 46,
516 Chapter 4, Uniform Electronic Transactions Act.

517 Section 3. Section **32A-1-119** is amended to read:

518 **32A-1-119. Disciplinary proceedings -- Procedure.**

519 (1) (a) As used in this section and Section 32A-1-120, "disciplinary proceeding" means
520 an adjudicative proceeding permitted under this title:

521 (i) against:

- 522 (A) a permittee;
- 523 (B) a licensee;
- 524 (C) a manufacturer;
- 525 (D) a supplier;
- 526 (E) an importer;
- 527 (F) an out-of-state brewer holding a certificate of approval under Section 32A-8-101;

528 or

- 529 (G) an officer, employee, or agent of:
- 530 (I) a person listed in Subsections (1)(a)(i)(A) through (F); or
- 531 (II) a package agent; and
- 532 (ii) that is brought on the basis of a violation of this title.

533 (b) As used in Subsection (4), "final adjudication" means an adjudication for which a
534 final unappealable judgment or order has been issued.

535 (2) (a) The following may conduct adjudicative proceedings to inquire into any matter
536 necessary and proper for the administration of this title and rules adopted under this title:

- 537 (i) the commission;
- 538 (ii) a hearing examiner appointed by the commission for the purposes provided in
539 Subsection 32A-1-107(3);
- 540 (iii) the director; and
- 541 (iv) the department.

542 (b) Except as provided in this section or Section 32A-3-106, the following shall
543 comply with the procedures and requirements of Title 63, Chapter 46b, Administrative
544 Procedures Act, in adjudicative proceedings:

- 545 (i) the commission;
- 546 (ii) a hearing examiner appointed by the commission;
- 547 (iii) the director; and
- 548 (iv) the department.

549 (c) Except where otherwise provided by law, all adjudicative proceedings before the
550 commission or its appointed hearing examiner shall be:

- 551 (i) video or audio recorded; and
- 552 (ii) subject to Subsection (5)(e), conducted in accordance with Title 52, Chapter 4,

553 Open and Public Meetings Act.

554 (d) [~~All adjudicative proceedings~~] An adjudicative proceeding concerning departmental
555 personnel shall be conducted in accordance with Title 67, Chapter 19, Utah State Personnel
556 Management Act.

557 (e) [~~All hearings that are~~] A hearing that is informational, fact gathering, and
558 nonadversarial in nature shall be conducted in accordance with rules, policies, and procedures
559 promulgated by the commission, director, or department.

560 (3) (a) A disciplinary proceeding shall be conducted under the authority of the
561 commission, which is responsible for rendering a final decision and order on any disciplinary
562 matter.

563 (b) (i) Nothing in this section precludes the commission from appointing necessary
564 officers, including hearing examiners, from within or without the department, to administer the
565 disciplinary proceeding process.

566 (ii) A hearing examiner appointed by the commission:

567 (A) may conduct a disciplinary proceeding hearing on behalf of the commission; and

568 (B) shall submit to the commission a report including:

569 (I) findings of fact determined on the basis of a preponderance of the evidence
570 presented at the hearing;

571 (II) conclusions of law; and

572 (III) recommendations.

573 (c) Nothing in this section precludes the commission, after the commission has
574 rendered its final decision and order, from having the director prepare, issue, and cause to be
575 served on the parties the final written order on behalf of the commission.

576 (4) (a) The department may initiate a disciplinary proceeding described in Subsection
577 (4)(b) when the department receives:

578 (i) a report from any government agency, peace officer, examiner, or investigator
579 alleging that any person listed in Subsections (1)(a)(i)(A) through (G) has violated this title or
580 the rules of the commission;

581 (ii) a final adjudication of criminal liability against any person listed in Subsections
582 (1)(a)(i)(A) through (G) based on an alleged violation of this title; or

583 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage

584 Liability, against any person listed in Subsections (1)(a)(i)(A) through (G) based on an alleged
585 violation of this title.

586 (b) The department may initiate a disciplinary proceeding if the department receives an
587 item listed in Subsection (4)(a) to determine:

588 (i) whether any person listed in Subsections (1)(a)(i)(A) through (G) violated this title
589 or rules of the commission; and

590 (ii) if a violation is found, the appropriate sanction to be imposed.

591 (5) (a) Unless waived by the respondent, a disciplinary proceeding shall be held:

592 (i) if required by law;

593 (ii) before revoking or suspending any permit, license, or certificate of approval issued
594 under this title; or

595 (iii) before imposing a fine against any person listed in Subsections (1)(a)(i)(A)
596 through (G).

597 (b) Inexcusable failure of a respondent to appear at a scheduled disciplinary proceeding
598 hearing after receiving proper notice is an admission of the charged violation.

599 (c) The validity of a disciplinary proceeding is not affected by the failure of any person
600 to attend or remain in attendance.

601 (d) All disciplinary proceeding hearings shall be presided over by the commission or an
602 appointed hearing examiner.

603 (e) A disciplinary proceeding hearing may be closed only after the commission or
604 hearing examiner makes a written finding that the public interest in an open hearing is clearly
605 outweighed by factors enumerated in the closure order.

606 (f) (i) The commission or its hearing examiner as part of a disciplinary proceeding
607 hearing may:

608 (A) administer oaths or affirmations;

609 (B) take evidence;

610 (C) take depositions within or without this state; and

611 (D) require by subpoena from any place within this state:

612 (I) the testimony of any person at a hearing; and

613 (II) the production of any books, records, papers, contracts, agreements, documents, or
614 other evidence considered relevant to the inquiry.

615 (ii) A person subpoenaed in accordance with this Subsection (5)(f) shall testify and
616 produce any books, papers, documents, or tangible things as required in the subpoena.

617 (iii) Any witness subpoenaed or called to testify or produce evidence who claims a
618 privilege against self-incrimination may not be compelled to testify, but the commission or the
619 hearing examiner shall file a written report with the county attorney or district attorney in the
620 jurisdiction where the privilege was claimed or where the witness resides setting forth the
621 circumstance of the claimed privilege.

622 (iv) (A) A person is not excused from obeying a subpoena without just cause.

623 (B) Any district court within the judicial district in which a person alleged to be guilty
624 of willful contempt of court or refusal to obey a subpoena is found or resides, upon application
625 by the party issuing the subpoena, may issue an order requiring the person to:

626 (I) appear before the issuing party; and

627 (II) (Aa) produce documentary evidence if so ordered; or

628 (Bb) give evidence regarding the matter in question.

629 (C) Failure to obey an order of the court may be punished by the court as contempt.

630 (g) (i) In all disciplinary proceeding hearings heard by a hearing examiner, the hearing
631 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.

632 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not
633 recommend a penalty more severe than that initially sought by the department in the notice of
634 agency action.

635 (iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
636 shall be served upon the respective parties.

637 (iv) The respondent and the department shall be given reasonable opportunity to file
638 any written objections to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
639 before final commission action.

640 (h) In all cases heard by the commission, it shall issue its final decision and order in
641 accordance with Subsection (3).

642 (6) (a) The commission shall:

643 (i) render a final decision and order on any disciplinary action; and

644 (ii) cause its final order to be prepared in writing, issued, and served on all parties.

645 (b) ~~Any~~ An order of the commission is considered final on the date the order

646 becomes effective.

647 (c) If the commission is satisfied that a person listed in Subsections (1)(a)(i)(A)
648 through (G) has committed a violation of this title or the commission's rules, in accordance
649 with Title 63, Chapter 46b, Administrative Procedures Act, the commission may:

650 (i) suspend or revoke the permit, license, or certificate of approval;
651 (ii) impose a fine against a person listed in Subsections (1)(a)(i)(A) through (G);
652 (iii) assess the administrative costs of any disciplinary proceeding to the permittee, the
653 licensee, or certificate holder; or

654 (iv) any combination of Subsections (6)(c)(i) through (iii).

655 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections
656 32A-1-107(1)(p) and (4).

657 (e) (i) If a permit or license is suspended under this Subsection (6), a sign provided by
658 the department shall be prominently posted:

659 (A) during the suspension;

660 (B) by the permittee or licensee; and

661 (C) at the entrance of the premises of the permittee or licensee.

662 (ii) The sign required by this Subsection (6)(e) shall:

663 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the
664 alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be
665 sold, served, furnished, or consumed on these premises during the period of suspension."; and

666 (B) include the dates of the suspension period.

667 (iii) A permittee or licensee may not remove, alter, obscure, or destroy a sign required
668 to be posted under this Subsection (6)(e) during the suspension period.

669 (f) If a permit or license is revoked, the commission may order the revocation of any
670 compliance bond posted by the permittee or licensee.

671 (g) Any permittee or licensee whose permit or license is revoked may not reapply for a
672 permit or license under this title for three years from the date on which the permit or license is
673 revoked.

674 (h) All costs assessed by the commission shall be transferred into the General Fund in
675 accordance with Section 32A-1-113.

676 (7) (a) In addition to any action taken against a permittee, licensee, or certificate holder

677 under this section, the department may initiate disciplinary action against an officer, employee,
678 or agent of a permittee, licensee, or certificate holder.

679 (b) If any officer, employee, or agent is found to have violated this title, the
680 commission may prohibit the officer, employee, or agent from serving, selling, distributing,
681 manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of
682 employment with any permittee, licensee, or certificate holder under this title for a period
683 determined by the commission.

684 (8) (a) The department may initiate a disciplinary proceeding for an alleged violation of
685 this title or the rules of the commission against:

686 (i) a manufacturer, supplier, or importer of alcoholic beverages; or

687 (ii) an officer, employee, agent, or representative of a person listed in Subsection
688 (8)(a)(i).

689 (b) (i) If the commission makes the finding described in Subsection (8)(b)(ii), the
690 commission may, in addition to other penalties prescribed by this title, order:

691 (A) the removal of the manufacturer's, supplier's, or importer's products from the
692 department's sales list; and

693 (B) a suspension of the department's purchase of the products described in Subsection
694 (8)(b)(i)(A) for a period determined by the commission.

695 (ii) The commission may take the action described in Subsection (8)(b)(i) if:

696 (A) any manufacturer, supplier, or importer of liquor, wine, ~~or~~ heavy beer, or a
697 flavored malt beverage, or its officer, employee, agent, or representative violates any provision
698 of this title; and

699 (B) the manufacturer, supplier, or importer:

700 (I) directly committed the violation; or

701 (II) solicited, requested, commanded, encouraged, or intentionally aided another to
702 engage in the violation.

703 (9) (a) The department may initiate a disciplinary proceeding against a brewer holding
704 a certificate of approval under Section 32A-8-101 for an alleged violation of this title or the
705 rules of the commission.

706 (b) If the commission makes a finding that the brewer holding a certificate of approval
707 violates this title or rules of the commission, the commission may take any action against the

708 brewer holding a certificate of approval that the commission could take against a licensee
709 including:

710 (i) suspension or revocation of the certificate of approval; and

711 (ii) imposition of a fine.

712 (10) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by
713 the commission or a hearing examiner appointed by the commission shall proceed formally in
714 accordance with Sections 63-46b-6 through 63-46b-11 in any case where:

715 (i) the alleged violation poses, or potentially poses, a grave risk to public safety, health,
716 and welfare;

717 (ii) the alleged violation involves:

718 (A) selling, serving, or otherwise furnishing alcoholic products to a minor;

719 (B) attire, conduct, or entertainment prohibited by Part 6, Attire, Conduct, and

720 Entertainment Act;

721 (C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf
722 of the respondent;

723 (D) interfering or refusing to cooperate with:

724 (I) an authorized official of the department or the state in the discharge of the official's
725 duties in relation to the enforcement of this title; or

726 (II) a peace officer in the discharge of the peace officer's duties in relation to the
727 enforcement of this title;

728 (E) an unlawful trade practice under Sections 32A-12-601 through 32A-12-606;

729 (F) unlawful importation of alcoholic products; or

730 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection
731 32A-12-601(2), to any person other than the department or a military installation, except to the
732 extent permitted by this title; or

733 (iii) the department determines to seek in a disciplinary proceeding hearing:

734 (A) an administrative fine exceeding \$3,000;

735 (B) a suspension of a license, permit, or certificate of approval of more than ten days;

736 or

737 (C) a revocation of a license, permit, or certificate of approval.

738 (b) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah

739 Administrative Rulemaking Act, to provide a procedure to implement this Subsection (10).

740 Section 4. Section **32A-1-122** is amended to read:

741 **32A-1-122. Liquor prices -- School lunch program.**

742 (1) For purposes of this section:

743 (a) "Landed case cost" means:

744 (i) the cost of the product; and

745 (ii) inbound shipping costs incurred by the department.

746 (b) "Landed case cost" does not include the outbound shipping cost from a warehouse

747 of the department to a state store.

748 (2) (a) Except as provided in Subsections (2)(b) and (c), ~~[aH]~~ spirituous liquor and

749 wine sold by the department within the state shall be marked up in an amount not less than

750 86% above the landed case cost to the department.

751 (b) ~~[All spirituous]~~ Spirituous liquor and wine sold by the department to a military

752 ~~[installations]~~ installation in Utah shall be marked up in an amount not less than 15% above the

753 landed case cost to the department.

754 (c) If a wine manufacturer producing less than 20,000 gallons of wine in any calendar

755 year, as verified by the department pursuant to federal or other verifiable production reports,

756 first applies to the department for a reduced markup, all wine produced by the wine

757 manufacturer and sold to the department shall be marked up by the department in an amount

758 not less than 47% above the landed case cost to the department.

759 (3) (a) Except as provided in Subsection (3)(b), ~~[aH]~~ heavy beer sold by the department

760 within the state shall be marked up in an amount not less than 64.5% above the landed case

761 cost to the department.

762 (b) ~~[All heavy]~~ Heavy beer sold by the department to a military ~~[installations]~~

763 installation in Utah shall be marked up in an amount not less than 15% above the landed case

764 cost to the department.

765 (4) (a) Except as provided in Subsection (4)(b), a flavored malt beverage sold by the

766 department within the state shall be marked up in an amount not less than 86% above the

767 landed case cost to the department.

768 (b) A flavored malt beverage sold by the department to a military installation in Utah

769 shall be marked up in an amount not less than 15% above the landed case cost to the

770 department.

771 [~~(4)~~] (5) Ten percent of the total gross revenue from sales of [~~spiritous~~] spirituous
772 liquor, wine, [~~and~~] heavy beer, and flavored malt beverages shall be deposited by the
773 department with the state treasurer and credited to the Uniform School Fund to be used to
774 support the school lunch program administered by the State Board of Education under Section
775 53A-19-201.

776 [~~(5)~~] (6) Nothing in this section prohibits the department from selling discontinued
777 items at a discount.

778 Section 5. Section **32A-1-302** is amended to read:

779 **32A-1-302. Presentation of proof of age upon request.**

780 (1) To obtain one or more of the following, a person shall present proof of age at the
781 request of a person listed in Subsection (2):

782 (a) an alcoholic beverage or alcoholic product; [~~or~~]

783 (b) admittance that under this title may not be obtained by a minor to a premises where
784 an alcoholic beverage or alcoholic product is sold or consumed; or

785 [~~(b)~~] (c) employment that under this title may not be obtained by a minor.

786 (2) To determine whether the person described in Subsection (1) is 21 years of age, the
787 following may request a person described in Subsection (1) to present proof of age:

788 (a) a person authorized by law to sell or otherwise handle an alcoholic [~~beverages or~~
789 ~~products~~] beverage or alcoholic product;

790 (b) a peace officer;

791 (c) a representative of the State Bureau of Investigation of the Department of Public
792 Safety, established in Section 53-10-301; or

793 (d) an authorized employee of the department.

794 Section 6. Section **32A-1-304** is amended to read:

795 **32A-1-304. Acceptance of identification -- Evidence.**

796 (1) A person authorized by law to sell or otherwise handle an alcoholic [~~beverages or~~
797 ~~products~~] beverage or alcoholic product may accept as evidence of the legal age of the person
798 presenting the following:

799 (a) proof of age; or

800 (b) if a statement of age is required under Subsection 32A-1-303(1):

- 801 (i) proof of age; and
- 802 (ii) a statement of age obtained under Section 32A-1-303.

803 (2) A statement of age described in Section 32A-1-303, if properly completed, signed,
 804 and filed in accordance with Section 32A-1-303, may be offered as a defense in ~~[any]~~ a case
 805 where there is at issue the legality of:

806 (a) selling or otherwise furnishing an alcoholic beverage or product to the person who
 807 signed the statement of age; ~~[or]~~

808 (b) admitting a minor to a premises where an alcoholic beverage or alcoholic product is
 809 sold or consumed; or

810 ~~[(b)]~~ (c) allowing the person who signed the statement of age to be employed in any
 811 employment that under this title may not be obtained by a minor.

812 (3) A person may not be subject to a penalty for a violation of this part if it is proved to
 813 the commission or the court hearing the matter that the person charged with the violation acted
 814 in good faith.

815 Section 7. Section **32A-1-701** is enacted to read:

Part 7. Criminal Background Check Act

32A-1-701. Title.

818 This part is known as the "Criminal Background Check Act."

819 Section 8. Section **32A-1-702** is enacted to read:

32A-1-702. Requirement for a criminal background check.

821 (1) The department shall require an individual listed in Subsection (2) to, in accordance
 822 with this part:

823 (a) submit a fingerprint card in a form acceptable to the department; and

824 (b) consent to a fingerprint criminal background check by:

825 (i) the Utah Bureau of Criminal Identification; and

826 (ii) the Federal Bureau of Investigation.

827 (2) The following shall comply with Subsection (1):

828 (a) an individual applying for employment with the department;

829 (b) an individual applying to the commission to operate a package agency;

830 (c) an individual applying to the commission for a license;

831 (d) an individual who with regard to an entity that is applying to the commission to

832 operate a package agency or for a license is:

833 (i) a partner;

834 (ii) a managing agent;

835 (iii) a manager;

836 (iv) an officer;

837 (v) a director;

838 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a
839 corporation;

840 (vii) a member who owns at least 20% of a limited liability company; or

841 (viii) an individual employed to act in a supervisory or managerial capacity; or

842 (e) an individual who becomes involved in an entity listed in Subsection (2)(b) or (c) in
843 a capacity listed in Subsection (2)(d) on or after the day on which the entity:

844 (i) is approved to operate a package agency; or

845 (ii) is licensed by the commission.

846 (3) The department shall require compliance with Subsection (2)(e) as a condition of
847 an entity's:

848 (a) continued operation of a package agency; or

849 (b) renewal of a license.

850 (4) The department may require as a condition of continued employment that an
851 employee:

852 (a) submit a fingerprint card in a form acceptable to the department; and

853 (b) consent to a fingerprint criminal background check by:

854 (i) the Utah Bureau of Criminal Identification; and

855 (ii) the Federal Bureau of Investigation.

856 Section 9. Section **32A-1-703** is enacted to read:

857 **32A-1-703. Use of information from a criminal background check.**

858 The commission or department may use information obtained pursuant to Section
859 32A-1-702 only for one or more of the following purposes:

860 (1) enforcing this title;

861 (2) determining whether or not an individual is convicted of any of the following

862 offenses that disqualify the individual under this title from acting in a capacity described in

863 Subsection 32A-1-702(2):

864 (a) a felony under federal or state law;

865 (b) a violation of a federal law, state law, or local ordinance concerning the sale,

866 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic

867 beverage;

868 (c) a crime involving moral turpitude; or

869 (d) on two or more occasions within the previous five years, driving under the

870 influence of alcohol, a drug, or the combined influence of alcohol and a drug;

871 (3) determining whether or not an individual fails to accurately disclose the person's

872 criminal history on an application or document filed with the department or commission;

873 (4) approving or denying an application for employment with the department;

874 (5) taking disciplinary action against an employee of the department, including

875 possible termination of employment;

876 (6) granting or denying an application to operate a package agency;

877 (7) granting or denying an application for a license;

878 (8) granting or denying the renewal of a package agency contract;

879 (9) granting or denying the renewal of a license;

880 (10) suspending the operation of a package agency;

881 (11) terminating a package agency contract; or

882 (12) suspending or revoking a license.

883 Section 10. Section **32A-1-704** is enacted to read:

884 **32A-1-704. Criminal background check procedure.**

885 (1) (a) An individual described in Subsections 32A-1-702(2)(b) through (e) shall

886 provide a fingerprint card at the expense of the individual.

887 (b) The department shall pay the expense of obtaining a fingerprint card required of:

888 (i) an applicant for employment with the department; or

889 (ii) an employee of the department.

890 (2) (a) The department shall obtain information from a criminal history record

891 maintained by the Utah Bureau of Criminal Identification pursuant to Title 53, Chapter 10, Part

892 2, Bureau of Criminal Identification, for a purpose outlined in Section 32A-1-703.

893 (b) An individual described in Subsections 32A-1-702(2)(b) through (e) shall pay to

894 the department the expense of obtaining the criminal history record described in Subsection
895 (2)(a).

896 (c) The department shall pay the expense of obtaining the criminal history record
897 required for:

898 (i) an applicant for employment with the department; or

899 (ii) an employee of the department.

900 (3) (a) The department shall submit a fingerprint card obtained under Section
901 32A-1-702 of an individual who has not resided in the state for at least two years before the day
902 on which the fingerprint card is submitted to the Utah Bureau of Criminal Identification to be
903 forwarded to the Federal Bureau of Investigation for a nationwide criminal history record
904 check.

905 (b) An individual described in Subsections 32A-1-702(2)(b) through (e) shall pay to
906 the department the expense of obtaining the criminal history record described in Subsection
907 (3)(a).

908 (c) The department shall pay the expense of obtaining the criminal history record
909 required for:

910 (i) an applicant for employment with the department; or

911 (ii) an employee of the department.

912 (4) The department shall pay the Utah Bureau of Criminal Identification the costs
913 incurred in providing the department criminal background information.

914 (5) (a) The commission, the department, or an official or employee of the commission
915 or department may not disseminate a criminal history record obtained under this part to any
916 person except for a purpose described in Subsection 32A-1-703.

917 (b) (i) Notwithstanding Subsection (5)(a), a criminal history record obtained under this
918 part may be provided by the department to the individual who is the subject of the criminal
919 history record.

920 (ii) The department shall provide an individual who is the subject of a criminal history
921 record and who requests the criminal history record an opportunity to:

922 (A) review the criminal history record; and

923 (B) respond to information in the criminal history record.

924 (6) If an individual described in Subsection 32A-1-702(2) is determined to be

925 disqualified under Subsection 32A-1-703(2)(b), the department shall provide the individual
926 with:

927 (a) notice of the reason for the disqualification; and

928 (b) an opportunity to respond to the disqualification.

929 (7) The department shall maintain the following in one or more separate files so that
930 they may be accessed only for a purpose under Section 32A-1-703:

931 (a) a fingerprint card submitted under this part; and

932 (b) a criminal history record received from:

933 (i) the Utah Bureau of Criminal Identification; and

934 (ii) the Federal Bureau of Investigation.

935 Section 11. Section **32A-1-801** is enacted to read:

936 **Part 8. Malted Beverages Act**

937 **32A-1-801. Title.**

938 This part is known as the "Malted Beverages Act."

939 Section 12. Section **32A-1-802** is enacted to read:

940 **32A-1-802. Definitions.**

941 As used in this part:

942 (1) "Malted beverages means:

943 (a) beer;

944 (b) a flavored malt beverage; and

945 (c) heavy beer.

946 (2) "Packaging" means the outer packaging that is visible to a consumer such as a
947 carton, case, or other wrapper of a container.

948 Section 13. Section **32A-1-803** is enacted to read:

949 **32A-1-803. Power of the commission and department to classify flavored malted**
950 **beverages.**

951 (1) The commission and department shall beginning on October 1, 2008, regulate a
952 flavored malt beverage as liquor.

953 (2) (a) By no later than October 1, 2008, the department shall make available to the
954 public on the Internet a list of all flavored malt beverages authorized to be sold in this state as
955 liquor.

956 (b) The list described in Subsection (2)(a) shall be updated at least quarterly.
957 (3) (a) Beginning on August 1, 2008, a manufacturer shall file, under penalty of
958 perjury, a report with the department listing each flavored malt beverage manufactured by the
959 manufacturer that the manufacturer wants to distribute in this state on or after October 1, 2008,
960 subject to the manufacturer holding:
961 (i) a brewery license under Chapter 8, Part 4, Brewery Licenses; or
962 (ii) a certificate of approval issued by the department under Subsection 32A-8-101(4).
963 (b) On or after October 1, 2008, a manufacturer may not distribute or sell in this state a
964 flavored malt beverage if the manufacturer does not list the flavored malt beverage in a filing
965 with the department in accordance with this Subsection (3) before distributing or selling the
966 flavored malt beverage.
967 (4) The department may require a manufacturer of a flavored malt beverage to provide
968 the department with a copy of the following filed with the United States Alcohol and Tobacco
969 Trade and Tax Bureau, pursuant to 27 C.F.R. Sec. 25.55:
970 (a) a statement of process; or
971 (b) a formula.
972 (5) (a) A manufacturer of an alcoholic product that the department is classifying or
973 proposes to classify as a flavored malt beverage may submit evidence to the department that its
974 alcoholic product should not be treated as liquor under this section because the alcoholic
975 product:
976 (i) is obtained by fermentation, infusion, or decoction of a malted grain;
977 (ii) is produced by processing, filtration, or another method of manufacture that is
978 generally recognized as a traditional process in the production of beer as described in 27 C.F.R.
979 Sec. 25.55;
980 (iii) does not have added to it a flavor or other ingredient containing alcohol, except for
981 a hop extract; and
982 (iv) (A) is not one for which the producer is required to file a formula for approval with
983 the United States Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec.
984 25.55; or
985 (B) is exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.
986 (b) The department shall review the evidence submitted by the manufacturer under this

987 Subsection (5).

988 (c) The department shall make available to the public on the Internet a list of all
989 alcoholic beverages authorized under this Subsection (5) to be sold as beer in this state.

990 (d) A decision of the department under this Subsection (5) may be appealed to the
991 commission.

992 Section 14. Section **32A-1-804** is enacted to read:

993 **32A-1-804. Requirements for labeling and packaging -- Authority of the**
994 **commission and department.**

995 (1) On or after October 1, 2008, a manufacturer may not distribute or sell a malted
996 beverage:

997 (a) unless the label and packaging of the malted beverage:

998 (i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; and

999 (ii) clearly gives notice to the public that the malted beverage is an alcoholic beverage;

1000 and

1001 (b) until the day on which the department in accordance with this title and rules of the
1002 commission approves the label and packaging of the malted beverage.

1003 (2) The department shall review the label and packaging of a malted beverage to ensure
1004 that the label and packaging meets the requirements of Subsection (1)(a).

1005 (3) A manufacturer may comply with the requirement of Subsection (1)(a)(ii) by
1006 including on a label and packaging for a malted beverage any of the following terms:

1007 (a) beer;

1008 (b) ale;

1009 (c) porter;

1010 (d) stout;

1011 (e) lager;

1012 (f) lager beer; or

1013 (g) another class or type designation commonly applied to a malted beverage that
1014 conveys by a recognized term that the product contains alcohol.

1015 Section 15. Section **32A-1-805** is enacted to read:

1016 **32A-1-805. General procedure for approval.**

1017 (1) To obtain approval of the label and packaging of a malted beverage, the

1018 manufacturer of the malted beverage shall submit an application to the department for
1019 approval.

1020 (2) The application described in Subsection (1) shall be on a form approved by the
1021 department and include the following:

1022 (a) a copy of a federal certificate of label approval from the Department of Treasury,
1023 Tax and Trade Bureau, for each brand and label for which the manufacturer is seeking
1024 approval;

1025 (b) a complete set of original labels for each size of container of the malted beverage;

1026 (c) a description of the size of the container on which a label will be placed;

1027 (d) a description of each type of container of the malted beverage; and

1028 (e) a description of any packaging for the malted beverage.

1029 (3) The department may assess a reasonable fee for reviewing a label and packaging for
1030 approval.

1031 (4) (a) The department shall notify a manufacturer within 30 days after the day on
1032 which the manufacturer submits an application whether the label and packaging is approved or
1033 denied.

1034 (b) If the department determines that an unusual circumstance requires additional time,
1035 the department may extend the time period described in Subsection (4)(a).

1036 (5) A manufacturer shall obtain the approval of the department of a revision of a
1037 previously approved label and packaging before a malted beverage using the revised label and
1038 packaging may be distributed or sold in this state.

1039 (6) (a) The department may revoke a label and packaging previously approved upon a
1040 finding that the label and packaging is not in compliance with this title or rules of the
1041 commission.

1042 (b) The department shall notify the person that applies for the approval of a label and
1043 packaging at least five business days before the day on which a label and packaging approval is
1044 considered revoked.

1045 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written
1046 argument or evidence to the department on why the revocation should not occur.

1047 (7) A manufacturer that applies for approval of a label and packaging may appeal a
1048 denial or revocation of a label and packaging approval to the commission.

1049 Section 16. Section **32A-1-806** is enacted to read:

1050 **32A-1-806. Special procedure for flavored malted beverages.**

1051 (1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a
1052 label or package used for a nonalcoholic beverage, beginning October 1, 2008, a manufacturer
1053 of the flavored malt beverage may not distribute or sell the flavored malt beverage in this state
1054 until the day on which the manufacturer receives approval of the labeling and packaging from
1055 the department in accordance with:

1056 (a) Sections 32A-1-804 and 32A-1-805; and

1057 (b) this section.

1058 (2) The department may not approve the labeling and packaging of a flavored malt
1059 beverage described in Subsection (1) unless in addition to the requirements of Section
1060 32A-1-804 the labeling and packaging complies with the following:

1061 (a) The label on the flavored malt beverage shall bear a prominently displayed label or
1062 a firmly affixed sticker that provides the following information:

1063 (i) the statement:

1064 (A) "alcoholic beverage"; or

1065 (B) "contains alcohol"; and

1066 (ii) the alcohol content of the flavored malt beverage.

1067 (b) Any packaging of the flavored malt beverage shall prominently include, either
1068 imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging, the
1069 statement:

1070 (i) "alcoholic beverage"; or

1071 (ii) "contains alcohol".

1072 (c) A statement required by Subsection (2)(a) or (b) shall appear in a format required
1073 by rule made by the commission in accordance with Title 63, Chapter 46a, Utah Administrative
1074 Rulemaking Act.

1075 (d) A statement of alcohol content required by Subsection (2)(a)(ii):

1076 (i) shall state the alcohol content as a percentage of alcohol by volume or by weight;

1077 (ii) may not use an abbreviation, but shall use the complete words "alcohol," "volume,"
1078 or "weight"; and

1079 (iii) shall be in a format required by rule made by the commission:

1080 (3) The department may reject a label or packaging that appears designed to obscure
1081 the information required by Subsection (2).

1082 (4) To determine whether or not a flavored malt beverage is described in Subsection
1083 (1) and subject to this section, the department may consider in addition to other factors one or
1084 more of the following factors:

1085 (a) whether the coloring, carbonation, and packaging of the flavored malt beverage:

1086 (i) is similar to those of a nonalcoholic beverage or product; or

1087 (ii) can be confused with a nonalcoholic beverage;

1088 (b) whether the flavored malt beverage possesses a character and flavor distinctive
1089 from a traditional malted beverage;

1090 (c) whether the flavored malt beverage is:

1091 (i) prepackaged;

1092 (ii) contains high levels of caffeine and other additives; and

1093 (iii) is marketed as a beverage that is specifically designed to provide energy;

1094 (d) whether the flavored malt beverage contains added sweetener or sugar substitutes;

1095 or

1096 (e) whether the flavored malt beverage contains an added fruit flavor or other flavor
1097 that masks the taste of a traditional malted beverage.

1098 Section 17. Section **32A-1-807** is enacted to read:

1099 **32A-1-807. Rulemaking authority.**

1100 The commission may adopt rules necessary to implement this part.

1101 Section 18. Section **32A-1-808** is enacted to read:

1102 **32A-1-808. Disciplinary proceeding for violation.**

1103 A person who violates this part is subject to a disciplinary proceeding under Section
1104 32A-1-119.

1105 Section 19. Section **32A-1-809** is enacted to read:

1106 **32A-1-809. Transition protections.**

1107 (1) Except as provided in Subsection (3), a manufacturer of a flavored malt beverage
1108 may not be held liable under this title for distributing or selling a flavored malt beverage as a
1109 beer if:

1110 (a) the flavored malt beverage is distributed or sold on or before September 30, 2008;

1111 and

1112 (b) the manufacturer when distributing or selling the flavored malt beverage complies
1113 with the requirements of this title for distributing or selling a beer including holding:

1114 (i) a brewery license under Chapter 8, Part 4, Brewery Licenses; or

1115 (ii) a certificate of approval issued by the department under Subsection 32A-8-101(4).

1116 (2) Except as provided in Subsection (3), a licensee or permittee may not be held liable
1117 for the sale, offering, or furnishing of a flavored malt beverage as a beer if:

1118 (a) the flavored malt beverage is sold, offered, or furnished on or before September 30,
1119 2008; and

1120 (b) the licensee or permittee when selling, offering, or furnishing the flavored malt
1121 beverage complies with the requirements of this title for selling, offering, or furnishing a beer
1122 under the license or permit held by the licensee or permittee.

1123 (3) This section does not apply to liability under Chapter 14a, Alcoholic Beverage
1124 Liability.

1125 Section 20. Section **32A-2-101** is amended to read:

1126 **32A-2-101. Commission's power to establish state stores -- Limitations.**

1127 (1) (a) The commission may establish state stores in numbers and at places, owned or
1128 leased by the department, [it] the commission considers proper for the sale of liquor, by
1129 employees of the state, in accordance with this title and the rules made under this title.

1130 (b) [~~Employees of state stores are~~] An employee of a state store is considered
1131 [~~employees~~] an employee of the department and shall meet all qualification requirements for
1132 employment [~~outlined~~] in Section 32A-1-111.

1133 (2) (a) The total number of state stores may not at any time aggregate more than that
1134 number determined by dividing the population of the state by 48,000.

1135 (b) For purposes of this Subsection (2), population shall be determined by:

1136 (i) the most recent United States decennial or special census; or

1137 (ii) [~~any other~~] another population determination made by the United States or state
1138 governments.

1139 (3) (a) [~~A~~] Except as provided in Subsection (3)(b), a state store may not be
1140 established;

1141 (i) within 600 feet of [any public or private school, church, public library, public

1142 ~~playground, or park] a community location, as measured by the method in Subsection [(4):]~~
 1143 ~~(3)(c); or~~

1144 ~~[(b) A state store may not be established]~~

1145 ~~(ii) within 200 feet of [any public or private school, church, public library, public~~
 1146 ~~playground, or park] a community location, measured in a straight line from the nearest~~
 1147 ~~entrance of the proposed state store to the nearest property boundary of the [public or private~~
 1148 ~~school, church, public library, public playground, or park] community location.~~

1149 ~~[(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the~~
 1150 ~~following exceptions applies:]~~

1151 ~~[(i) with] (b) With respect to the establishment of a state store [within a city of the~~
 1152 ~~third, fourth, or fifth class, a town, or the unincorporated area of a county], the commission~~
 1153 ~~may authorize a variance that reduces the proximity [requirements] requirement of Subsection~~
 1154 ~~(3)(a)(i) [or (b)] if:~~

1155 ~~[(A)] (i) the commission finds that alternative locations for establishing a state store in~~
 1156 ~~the community are limited;~~

1157 ~~[(B)] (ii) a public hearing [has been] is held in the city, town, or county, and where~~
 1158 ~~practical in the neighborhood concerned; [and]~~

1159 ~~[(C)] (iii) after giving full consideration to all of the attending circumstances and the~~
 1160 ~~policies stated in Subsections 32A-1-104(3) and (4), the commission determines that~~
 1161 ~~establishing the state store would not be detrimental to the public health, peace, safety, and~~
 1162 ~~welfare of the community; [or] and~~

1163 ~~[(ii) with respect to the establishment of a state store in any location, the commission~~
 1164 ~~may authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) in~~
 1165 ~~relation to a church:]~~

1166 ~~[(A) if the local governing body of the church in question gives its written consent to~~
 1167 ~~the variance;]~~

1168 ~~[(B) following a public hearing in the county, and where practical in the neighborhood~~
 1169 ~~concerned; and]~~

1170 ~~[(C) after giving full consideration to all of the attending circumstances and the~~
 1171 ~~policies stated in Subsections 32A-1-104(3) and (4):]~~

1172 ~~[(4) With respect to any public or private school, church, public library, public~~

1173 ~~playground, or park, the]~~

1174 (iv) (A) the community location governing authority gives its written consent to the
1175 variance; or

1176 (B) when written consent is not given by the community location governing authority,
1177 the commission finds that:

1178 (I) there is substantial unmet public demand to consume alcohol within the geographic
1179 boundary of the local authority in which the state store is to be located;

1180 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1181 described in Subsection (3)(b)(iv)(B)(I) other than through the establishment of a state store;
1182 and

1183 (III) there is no reasonably viable alternative location within the geographic boundary
1184 of the local authority in which the state store is to be located for establishing a state store to
1185 satisfy the unmet demand described in Subsection (3)(b)(iv)(B)(I).

1186 (c) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the
1187 nearest entrance of the state store by following the shortest route of ordinary pedestrian travel
1188 to the property boundary of the [~~public or private school, church, public library, public~~
1189 ~~playground, school playground, or park] community location.~~

1190 ~~[(5)]~~ (4) (a) Nothing in this section prevents the commission from considering the
1191 proximity of any educational, religious, and recreational facility, or any other relevant factor in
1192 reaching a decision on a proposed location.

1193 (b) For purposes of this Subsection ~~[(5)]~~ (4), "educational facility" includes:

1194 (i) a nursery school;

1195 (ii) an infant day care center; and

1196 (iii) a trade and technical school.

1197 Section 21. Section **32A-3-101** is amended to read:

1198 **32A-3-101. Commission's power to establish package agencies -- Limitations.**

1199 (1) (a) The commission may, when ~~[considered]~~ it considers necessary, create a
1200 package ~~[agencies]~~ agency by entering into a contractual ~~[relationships with persons]~~
1201 relationship with a person to sell liquor in sealed packages from premises other than those
1202 owned or leased by the state.

1203 (b) The commission shall authorize a person to operate a package agency by issuing a

1204 certificate from the commission that designates the person in charge of the agency as a
1205 "package agent" as defined under Section 32A-1-105.

1206 (2) (a) Subject to this Subsection (2), the total number of package agencies may not at
1207 any time aggregate more than that number determined by dividing the population of the state
1208 by 18,000.

1209 (b) For purposes of Subsection (2)(a), population shall be determined by:

1210 (i) the most recent United States decennial or special census; or

1211 (ii) [~~any other~~] another population determination made by the United States or state
1212 governments.

1213 (c) (i) The commission may establish seasonal package agencies established in areas
1214 the commission considers necessary.

1215 (ii) A seasonal package agency shall be for a period of six consecutive months.

1216 (iii) A package agency established for operation during a summer time period is known
1217 as a "Seasonal A" package agency. The period of operation for a "Seasonal A" agency shall:

1218 (A) begin on May 1; and

1219 (B) end on October 31.

1220 (iv) A package agency established for operation during a winter time period is known as
1221 a "Seasonal B" package agency. The period of operation for a "Seasonal B" agency shall:

1222 (A) begin on November 1; and

1223 (B) end on April 30.

1224 (v) In determining the number of package agencies that the commission may establish
1225 under this section:

1226 (A) a seasonal package agency is counted as 1/2 of one package agency; and

1227 (B) each "Seasonal A" agency shall be paired with a "Seasonal B" agency.

1228 (d) (i) If the location, design, and construction of a hotel may require more than one
1229 package agency sales location to serve the public convenience, the commission may authorize a
1230 single package agent to sell liquor at as many as three locations within the hotel under one
1231 package agency if:

1232 (A) the hotel has a minimum of 150 guest rooms; and

1233 (B) all locations under the agency are:

1234 (I) within the same hotel facility; and

1235 (II) on premises that are managed or operated and owned or leased by the package
1236 agent.

1237 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel may not have more than one sales
1238 location under a single package agency.

1239 (3) (a) ~~[As measured by the method in Subsection (4), the]~~ Except as provided in
1240 Subsection (3)(b) or (c), the premises of a package agency may not be established:

1241 (i) within 600 feet of ~~[any public or private school, church, public library, public~~
1242 ~~playground, or park.] a community location, as measured by the method described in~~
1243 Subsection (3)(d); or

1244 ~~[(b) The premises of a package agency may not be established]~~

1245 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~
1246 ~~playground, or park] a community location,~~ measured in a straight line from the nearest
1247 entrance of the proposed package agency to the nearest property boundary of the ~~[public or~~
1248 ~~private school, church, public library, public playground, or park]~~ community location.

1249 ~~[(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the~~
1250 ~~following exemptions applies:]~~

1251 ~~[(i) with]~~ (b) With respect to the establishment of a package agency ~~[within a city of~~
1252 ~~the third, fourth, or fifth class, a town, or the unincorporated area of a county],~~ the commission
1253 may authorize a variance to reduce the proximity ~~[requirements]~~ requirement of Subsection
1254 (3)(a)~~(i)~~ [or (b)] if:

1255 ~~[(A)]~~ (i) the local governing authority ~~[has granted]~~ grants its written consent to the
1256 variance;

1257 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a package
1258 agency in the community are limited;

1259 ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where
1260 practical in the neighborhood concerned; ~~[and]~~

1261 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the
1262 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
1263 establishing the package agency would not be detrimental to the public health, peace, safety,
1264 and welfare of the community; and

1265 ~~[(ii) with respect to the establishment of a package agency in any location, the~~

1266 commission may authorize a variance to reduce the proximity requirements of Subsection
1267 (3)(a) or (b) in relation to a church:]

1268 [~~(A) if the local governing body of the church in question gives its written consent to~~
1269 ~~the variance;~~]

1270 [~~(B) following a public hearing in the city, town, or county and where practical in the~~
1271 ~~neighborhood concerned; and]~~

1272 [~~(C) after giving full consideration to all of the attending circumstances and the~~
1273 ~~policies stated in Subsections 32A-1-104(3) and (4); or]~~

1274 (v) (A) the community location governing authority gives its written consent to the
1275 variance; or

1276 (B) when written consent is not given by the community location governing authority,
1277 the commission finds that the applicant has established that:

1278 (I) there is substantial unmet public demand to consume alcohol within the geographic
1279 boundary of the local authority in which the package agency is to be located;

1280 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1281 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of a package
1282 agency; and

1283 (III) there is no reasonably viable alternative location within the geographic boundary
1284 of the local authority in which the package agency is to be located for establishing a package
1285 agency to satisfy the unmet demand described in Subsection (3)(b)(v)(B)(I).

1286 [~~(iii) with~~] (c) With respect to the premises of a package agency issued by the
1287 commission that undergoes a change of ownership, the commission may waive or vary the
1288 proximity requirements of Subsection (3)(a) [~~or (b)~~] in considering whether to grant a package
1289 agency to the new owner of the premises if:

1290 (i) (A) the premises previously received a variance reducing the proximity
1291 [requirements] requirement of Subsection (3)(a)(i) [~~or (b)~~]; or

1292 (B) the premises received a variance reducing the proximity requirement of Subsection
1293 (3)(a)(ii) on or before May 4, 2008; or

1294 [~~(B)~~] (ii) a variance from proximity [~~or distance~~] requirements was otherwise allowed
1295 under this title.

1296 [~~(4) With respect to any public or private school, church, public library, public~~

1297 ~~playground, or park, the]~~

1298 (d) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the
1299 nearest entrance of the package agency by following the shortest route of ordinary pedestrian
1300 travel to the property boundary of the [~~public or private school, church, public library, public~~
1301 ~~playground, school playground, or park~~] community location.

1302 [~~(5)~~] (4) (a) Nothing in this section prevents the commission from considering the
1303 proximity of any educational, religious, and recreational facility, or any other relevant factor in
1304 reaching a decision on a proposed location.

1305 (b) For purposes of Subsection [~~(5)~~] (4)(a), "educational facility" includes:

- 1306 (i) a nursery school;
1307 (ii) an infant day care center; and
1308 (iii) a trade and technical school.

1309 [~~(6)~~] (5) (a) The package agent, under the direction of the department, [~~shall be~~] is
1310 responsible for implementing and enforcing this title and the rules adopted under this title to
1311 the extent they relate to the conduct of the package agency and its sale of liquor.

1312 (b) A package agent may not be, or construed to be, a state employee nor be otherwise
1313 entitled to any benefits of employment from the state.

1314 (c) A package agent, when selling liquor from a package agency, is considered an agent
1315 of the state only to the extent specifically expressed in the package agency agreement.

1316 [~~(7)~~] (6) The commission may prescribe by policy, directive, or rule, consistent with
1317 this title, general operational requirements of all package agencies relating to:

- 1318 (a) physical facilities;
1319 (b) conditions of operation;
1320 (c) hours of operation;
1321 (d) inventory levels;
1322 (e) payment schedules;
1323 (f) methods of payment;
1324 (g) premises security; and
1325 (h) any other matters considered appropriate by the commission.

1326 Section 22. Section **32A-3-102** is amended to read:

1327 **32A-3-102. Application requirements.**

1328 (1) A person seeking to operate a package agency as a package agent under this chapter
1329 shall file a written application with the department in a form prescribed by the department.

1330 (2) The application shall be accompanied by:

1331 (a) a nonrefundable application fee of \$100;

1332 (b) written consent of the local authority;

1333 (c) evidence of proximity to any [~~public or private school, church, public library,~~
1334 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of~~
1335 ~~Subsections 32A-3-101(3) and (4), the application shall be processed in accordance with those~~
1336 ~~subsections]~~ community location, with proximity requirements being governed by Section
1337 32A-3-101;

1338 (d) a bond as specified by Section 32A-3-105;

1339 (e) a floor plan of the premises, including a description and highlighting of that part of
1340 the premises in which the applicant proposes that the package agency be established;

1341 (f) evidence that the package agency is carrying public liability insurance in an amount
1342 and form satisfactory to the department;

1343 (g) a signed consent form stating that the package agent will permit any authorized
1344 representative of the commission, department, or any law enforcement officer to have
1345 unrestricted right to enter the package agency;

1346 (h) in the case of an applicant that is a partnership, corporation, or limited liability
1347 company, proper verification evidencing that the person or persons signing the package agency
1348 application are authorized to so act on behalf of the partnership, corporation, or limited liability
1349 company; and

1350 (i) any other information as the commission or department may direct.

1351 Section 23. Section **32A-4-101** is amended to read:

1352 **32A-4-101. Commission's power to grant licenses -- Limitations.**

1353 (1) Before a restaurant may sell or allow the consumption of liquor on its premises, it
1354 shall first obtain a license from the commission as provided in this part.

1355 (2) The commission may issue restaurant liquor licenses for the purpose of establishing
1356 restaurant liquor outlets at places and in numbers it considers proper for the storage, sale, and
1357 consumption of liquor on premises operated as public restaurants.

1358 (3) (a) Subject to the other provisions of this Subsection (3), the total number of

1359 restaurant liquor licenses may not at any time aggregate more than that number determined by
1360 dividing the population of the state by 5,200.

1361 (b) For purposes of this Subsection (3), population shall be determined by:

1362 (i) the most recent United States decennial or special census; or

1363 (ii) [~~any other~~] another population determination made by the United States or state
1364 governments.

1365 (c) (i) The commission may issue seasonal restaurant liquor licenses established in
1366 areas the commission considers necessary.

1367 (ii) A seasonal restaurant liquor license shall be for a period of six consecutive months.

1368 (iii) A restaurant liquor license issued for operation during a summer time period is
1369 known as a "Seasonal A" restaurant liquor license. The period of operation for a "Seasonal A"
1370 restaurant liquor license shall:

1371 (A) begin on May 1; and

1372 (B) end on October 31.

1373 (iv) A restaurant liquor license issued for operation during a winter time period is
1374 known as a "Seasonal B" restaurant liquor license. The period of operation for a "Seasonal B"
1375 restaurant liquor license shall:

1376 (A) begin on November 1; and

1377 (B) end on April 30.

1378 (v) In determining the number of restaurant liquor licenses that the commission may
1379 issue under this section:

1380 (A) a seasonal license is counted as 1/2 of one restaurant liquor license; and

1381 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

1382 (d) (i) If the location, design, and construction of a hotel may require more than one
1383 restaurant liquor sales location within the hotel to serve the public convenience, the
1384 commission may authorize the sale of liquor at as many as three restaurant locations within the
1385 hotel under one license if:

1386 (A) the hotel has a minimum of 150 guest rooms; and

1387 (B) all locations under the license are:

1388 (I) within the same hotel facility; and

1389 (II) on premises that are managed or operated and owned or leased by the licensee.

1390 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel shall have a separate restaurant
1391 liquor license for each restaurant where liquor is sold.

1392 (4) (a) ~~[The]~~ Except as provided in Subsection (4)(b) or (c), the premises of a
1393 restaurant liquor license may not be established:

1394 (i) within 600 feet of ~~[any public or private school, church, public library, public~~
1395 ~~playground, or park,]~~ a community location, as measured by the method in Subsection ~~[(5):]~~
1396 ~~(4)(d):~~

1397 ~~[(b) The premises of a restaurant liquor license may not be established]~~

1398 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~
1399 ~~playground, or park]~~ a community location, measured in a straight line from the nearest
1400 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~
1401 ~~school, church, public library, public playground, or park]~~ community location.

1402 ~~[(c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the~~
1403 ~~following exemptions applies:]~~

1404 ~~[(i) with]~~ (b) With respect to the establishment of a restaurant liquor license ~~[in any~~
1405 ~~location]~~, the commission may authorize a variance to reduce the proximity ~~[requirements]~~
1406 requirement of Subsection (4)(a)(i) ~~[or (b)]~~ if:

1407 ~~[(A)]~~ (i) the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the
1408 variance;

1409 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a restaurant
1410 liquor license in the community are limited;

1411 ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where
1412 practical in the neighborhood concerned; ~~[and]~~

1413 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the
1414 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
1415 establishing the restaurant liquor license would not be detrimental to the public health, peace,
1416 safety, and welfare of the community; ~~[or]~~ and

1417 (v) (A) the community location governing authority gives its written consent to the
1418 variance; or

1419 (B) when written consent is not given by the community location governing authority,
1420 the commission finds that the applicant has established that:

1421 (I) there is substantial unmet public demand to consume alcohol in a public setting
1422 within the geographic boundary of the local authority in which the restaurant is to be located;

1423 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1424 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a restaurant
1425 liquor license; and

1426 (III) there is no reasonably viable alternative location within the geographic boundary
1427 of the local authority in which the restaurant is to be located for establishing a restaurant liquor
1428 license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

1429 ~~[(ii) with]~~ (c) With respect to the premises of a restaurant liquor license issued by the
1430 commission that undergoes a change of ownership, the commission may waive or vary the
1431 proximity requirements of Subsection (4)(a) ~~[or (b)]~~ in considering whether to grant a
1432 restaurant liquor license to the new owner of the premises if:

1433 (i) (A) the premises previously received a variance reducing the proximity
1434 [requirements] requirement of Subsection (4)(a)(i) ~~[or (b)]~~; or

1435 (B) the premises received a variance reducing the proximity requirement of Subsection
1436 (4)(a)(ii) on or before May 4, 2008; or

1437 ~~[(B)]~~ (ii) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed
1438 under this title.

1439 ~~[(5) With respect to any public or private school, church, public library, public~~
1440 ~~playground, or park, the]~~

1441 (d) The 600 foot limitation described in Subsection (4)(a)(i) is measured from the
1442 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
1443 ~~[property boundary of the public or private school, church, public library, public playground,~~
1444 ~~school playground, or park] community location.~~

1445 ~~[(6)]~~ (5) (a) Nothing in this section prevents the commission from considering the
1446 proximity of any educational, religious, and recreational facility, or any other relevant factor in
1447 reaching a decision on a proposed location.

1448 (b) For purposes of this Subsection ~~[(6)]~~ (5), "educational facility" includes:

1449 (i) a nursery school;

1450 (ii) an infant day care center; and

1451 (iii) a trade and technical school.

1452 Section 24. Section **32A-4-102** is amended to read:

1453 **32A-4-102. Application and renewal requirements.**

1454 (1) A person seeking a restaurant liquor license under this part shall file a written
1455 application with the department, in a form prescribed by the department. It shall be
1456 accompanied by:

1457 (a) a nonrefundable \$250 application fee;

1458 (b) an initial license fee of \$1,750, which is refundable if a license is not granted;

1459 (c) written consent of the local authority;

1460 (d) a copy of the applicant's current business license;

1461 (e) evidence of proximity to any [~~public or private school, church, public library,
1462 public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
1463 Subsections 32A-4-101(4) and (5), the application shall be processed in accordance with those
1464 subsections]~~ community location, with proximity requirements being governed by Section
1465 32A-4-101;

1466 (f) a bond as specified by Section 32A-4-105;

1467 (g) a floor plan of the restaurant, including consumption areas and the area where the
1468 applicant proposes to keep, store, and sell liquor;

1469 (h) evidence that the restaurant is carrying public liability insurance in an amount and
1470 form satisfactory to the department;

1471 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
1472 \$500,000 per occurrence and \$1,000,000 in the aggregate;

1473 (j) a signed consent form stating that the restaurant will permit any authorized
1474 representative of the commission, department, or any law enforcement officer unrestricted right
1475 to enter the restaurant;

1476 (k) in the case of an applicant that is a partnership, corporation, or limited liability
1477 company, proper verification evidencing that the person or persons signing the restaurant
1478 application are authorized to so act on behalf of the partnership, corporation, or limited liability
1479 company; and

1480 (l) any other information the commission or department may require.

1481 (2) (a) All restaurant liquor licenses expire on October 31 of each year.

1482 (b) [~~Persons~~] A person desiring to renew [~~their~~] the person's restaurant liquor license

1483 shall by no later than September 30 submit:

1484 (i) a completed renewal application to the department; and

1485 (ii) a renewal fee in the following amount:

1486	Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
1487	under \$5,000	\$750
1488	equals or exceeds \$5,000 but less than \$10,000	\$900
1489	equals or exceeds \$10,000 but less than \$25,000	\$1,250
1490	equals or exceeds \$25,000	\$1,500

1491 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1492 the license effective on the date the existing license expires.

1493 (d) ~~[Renewal applications]~~ A renewal application shall be in a form as prescribed by
1494 the department.

1495 (3) To ensure compliance with Subsection 32A-4-106(25), the commission may
1496 suspend or revoke ~~[any]~~ a restaurant liquor license if the restaurant liquor licensee does not
1497 immediately notify the department of any change in:

1498 (a) ownership of the restaurant;

1499 (b) for a corporate owner, the:

1500 (i) corporate officers or directors; or

1501 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
1502 corporation; or

1503 (c) for a limited liability company:

1504 (i) managers; or

1505 (ii) members owning at least 20% of the limited liability company.

1506 Section 25. Section ~~32A-4-104~~ is amended to read:

1507 **32A-4-104. Commission and department duties before granting licenses.**

1508 (1) (a) Before a restaurant liquor license may be granted by the commission, the
1509 department shall conduct an investigation and may hold public hearings for the purpose of
1510 gathering information and making recommendations to the commission as to whether or not a
1511 license should be granted. ~~[This]~~

1512 (b) The department shall forward the information ~~[shall be forwarded]~~ and
1513 recommendations described in Subsection (1)(a) to the commission to aid in ~~[its]~~ the

1514 commission's determination.

1515 (2) Before issuing [~~any~~] a restaurant liquor license, the commission shall:

1516 (a) determine that:

1517 (i) the applicant has complied with all basic qualifications and requirements for making
1518 application for a license as provided by Sections 32A-4-102 and 32A-4-103[;]; and [~~that~~]

1519 (ii) the application is complete;

1520 (b) consider the locality within which the proposed restaurant liquor outlet is located,
1521 including [~~but not limited to~~]:

1522 (i) physical characteristics such as:

1523 (A) condition of the premises[;];

1524 (B) square footage[;]; and

1525 (C) parking availability; and

1526 (ii) operational factors such as:

1527 (A) tourist traffic[;];

1528 (B) proximity to and density of other state stores, package agencies, and outlets[;];

1529 (C) demographics[;];

1530 (D) population to be served[;]; and

1531 (E) the extent of and proximity to any [~~school, church, public library, public
1532 playground, or park~~] community location;

1533 (c) consider the applicant's ability to manage and operate a restaurant liquor license,
1534 including [~~but not limited to~~]:

1535 (i) management experience[;];

1536 (ii) past retail liquor experience[;]; and

1537 (iii) the type of management scheme employed by the restaurant;

1538 (d) consider the nature or type of restaurant operation of the proposed liquor licensee,
1539 including [~~but not limited to~~];

1540 (i) the type of menu items offered and emphasized[;];

1541 (ii) whether the restaurant emphasizes service to an adult clientele or to minors[;];

1542 (iii) the hours of operation[;];

1543 (iv) the seating capacity of the facility[;]; and

1544 (v) the gross sales of food items; and

1545 (e) consider any other factors or circumstances [it] the commission considers
1546 necessary.

1547 Section 26. Section **32A-4-106** is amended to read:

1548 **32A-4-106. Operational restrictions.**

1549 [~~Each~~] A person granted a restaurant liquor license and the employees and management
1550 personnel of the restaurant shall comply with the following conditions and requirements.
1551 Failure to comply may result in a suspension or revocation of the restaurant liquor license or
1552 other disciplinary action taken against individual employees or management personnel.

1553 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state
1554 [~~stores~~] store or package [~~agencies~~] agency.

1555 (b) Liquor purchased from a state store or package agency may be transported by the
1556 restaurant liquor licensee from the place of purchase to the licensed premises.

1557 (c) Payment for liquor shall be made in accordance with rules established by the
1558 commission.

1559 (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in
1560 a quantity not to exceed [~~one ounce~~] 1.5 ounces per beverage dispensed through a calibrated
1561 metered dispensing system approved by the department in accordance with commission rules
1562 adopted under this title, except that:

1563 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1564 system if used as a secondary flavoring ingredient in a beverage subject to the following
1565 restrictions:

1566 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1567 a primary spirituous liquor;

1568 (ii) the secondary ingredient [~~is~~] may not be the only spirituous liquor in the beverage;

1569 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored
1570 on the floor plan provided to the department; and

1571 (iv) [~~all~~] a flavoring [~~containers~~] container shall be plainly and conspicuously labeled
1572 "flavorings";

1573 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1574 system if used:

1575 (i) as a flavoring on [~~desserts~~] a dessert; and

1576 (ii) in the preparation of a flaming food [~~dishes, drinks, and desserts~~] dish, drink, or
1577 dessert;

1578 (c) [~~each~~] a restaurant patron may have no more than [~~2.75~~] 2.5 ounces of spirituous
1579 liquor at a time; and

1580 (d) [~~each~~] a restaurant patron may have no more than one spirituous liquor drink at a
1581 time before the patron.

1582 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to
1583 exceed five ounces per glass or individual portion.

1584 (ii) An individual portion of wine may be served to a patron in more than one glass as
1585 long as the total amount of wine does not exceed five ounces.

1586 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1587 Subsection (7)(e).

1588 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters
1589 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

1590 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
1591 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
1592 persons.

1593 (c) A wine service may be performed and a service charge assessed by [~~the~~] a
1594 restaurant liquor licensee as authorized by commission rule for wine purchased at the
1595 restaurant.

1596 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
1597 one liter at [~~prices~~] a price fixed by the commission.

1598 (b) A flavored malt beverage may be served in an original container not exceeding one
1599 liter at a price fixed by the commission.

1600 [~~(b)~~] (c) A service charge may be assessed by [~~the~~] a restaurant liquor licensee as
1601 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the
1602 restaurant.

1603 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant [~~licensed to sell~~] liquor licensee
1604 may sell beer for on-premise consumption:

1605 (A) in an open container; and

1606 (B) on draft.

1607 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1608 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1609 container that exceeds one liter.

1610 (b) A restaurant [~~licensed under this chapter~~] liquor licensee that sells beer pursuant to
1611 Subsection (5)(a):

1612 (i) may do so without obtaining a separate on-premise beer retailer license from the
1613 commission; and

1614 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1615 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those
1616 restrictions are inconsistent with or less restrictive than the operational restrictions under this
1617 part.

1618 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1619 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
1620 restaurant's:

1621 (i) state liquor license; and

1622 (ii) alcoholic beverage license issued by the local authority.

1623 (6) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in
1624 [~~any~~] a place other than as designated in the restaurant liquor licensee's application, unless the
1625 restaurant liquor licensee first applies for and receives approval from the department for a
1626 change of location within the restaurant.

1627 (7) (a) (i) A patron may only make an alcoholic beverage [~~purchases~~] purchase in the
1628 restaurant from and be served by a person employed, designated, and trained by the restaurant
1629 liquor licensee to sell and serve an alcoholic [~~beverages~~] beverage.

1630 (ii) Notwithstanding Subsection (7)(a)(i), a patron who [~~has purchased~~] purchases
1631 bottled wine from an employee of the restaurant or [~~has carried~~] carries bottled wine onto the
1632 premises of the restaurant pursuant to Subsection (14) may thereafter serve wine from the
1633 bottle to the patron or others at the patron's table.

1634 (b) [~~Alcoholic beverages~~] An alcoholic beverage shall be delivered by a server to the
1635 patron.

1636 (c) [~~Any~~] An alcoholic beverage may only be consumed at the patron's table or counter.

1637 (d) [~~Alcoholic beverages~~] An alcoholic beverage may not be served to or consumed by

1638 a patron at a bar.

1639 (e) ~~[Each]~~ A restaurant patron may have no more than two alcoholic beverages of any
1640 kind at a time before the patron, subject to the limitation in Subsection (2)(d).

1641 (8) The liquor storage area shall remain locked at all times other than those hours and
1642 days when liquor sales are authorized by law.

1643 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
1644 restaurant of a restaurant liquor licensee during the following days or hours:

1645 (i) until after the polls are closed on the day of ~~[any]~~ a:

1646 (A) regular general election;

1647 (B) regular primary election; or

1648 (C) statewide special election;

1649 (ii) until after the polls are closed on the day of ~~[any]~~ a municipal, local district, special
1650 service district, or school election, but only:

1651 (A) within the boundaries of the municipality, local district, special service district, or
1652 school district; and

1653 (B) if required by local ordinance; and

1654 (iii) on any other day after 12 midnight and before 12 noon.

1655 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1656 Licenses, for on-premise beer licensees.

1657 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold except in
1658 connection with an order for food prepared, sold, and served at the restaurant.

1659 (11) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or
1660 otherwise furnished to ~~[any]~~ a:

1661 (a) minor;

1662 (b) person actually, apparently, or obviously intoxicated;

1663 (c) known habitual drunkard; or

1664 (d) known interdicted person.

1665 (12) (a) (i) Liquor may be sold only at ~~[prices]~~ a price fixed by the commission.

1666 (ii) Liquor may not be sold at a discount ~~[prices]~~ price on any date or at any time.

1667 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
1668 beverage to the restaurant liquor licensee.

1669 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1670 over consumption or intoxication.

1671 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1672 hours of ~~[the restaurant's]~~ a restaurant liquor licensee's business day such as a "happy hour."

1673 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
1674 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

1675 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages
1676 during ~~[any]~~ a set period may not be sold or served for a fixed price ~~[is prohibited]~~.

1677 (g) A restaurant liquor licensee may not engage in a public promotion involving or
1678 offering free an alcoholic ~~[beverages]~~ beverage to the general public.

1679 (13) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of
1680 a restaurant by:

1681 (a) the restaurant liquor licensee; or

1682 (b) ~~[any]~~ an employee or agent of the restaurant liquor licensee.

1683 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee ~~[any]~~
1684 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1685 discretion of the restaurant liquor licensee, bottled wine onto the premises of ~~[any]~~ a restaurant
1686 liquor licensee for on-premise consumption.

1687 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or ~~[its~~
1688 ~~officers, managers, employees, or agents]~~ an officer, manager, employee, or agent of the
1689 restaurant liquor licensee may not allow:

1690 (i) a person to bring onto the restaurant premises ~~[any]~~ an alcoholic beverage for
1691 on-premise consumption; or

1692 (ii) consumption of ~~[any such]~~ an alcoholic beverage ~~[on its]~~ described in this
1693 Subsection (14) on the restaurant liquor licensee's premises.

1694 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1695 or other representative of the restaurant liquor licensee upon entering the restaurant.

1696 (d) A wine service may be performed and a service charge assessed by ~~[the]~~ a
1697 restaurant liquor licensee as authorized by commission rule for wine carried in by a patron.

1698 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee ~~[and its~~
1699 ~~employees]~~ or an employee of the restaurant liquor licensee may not permit a restaurant patron

1700 to carry from the restaurant premises an open container that:

1701 (i) is used primarily for drinking purposes; and

1702 (ii) contains ~~[any]~~ an alcoholic beverage.

1703 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the
1704 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought
1705 onto the premises of the restaurant in accordance with Subsection (14), ~~[provided]~~ only if the
1706 bottle ~~[has been]~~ is recorked or recapped before removal.

1707 (16) (a) A restaurant liquor licensee may not employ a minor ~~[may not be employed by~~
1708 ~~a restaurant licensee]~~ to sell or dispense an alcoholic ~~[beverages]~~ beverage.

1709 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
1710 employed to enter the sale at a cash register or other sales recording device.

1711 (17) An employee of a restaurant liquor licensee, while on duty, may not:

1712 (a) consume an alcoholic beverage; or

1713 (b) be intoxicated.

1714 (18) ~~[Any]~~ A charge or fee made in connection with the sale, service, or consumption
1715 of liquor may be stated in food or alcoholic beverage menus including:

1716 (a) a set-up charge;

1717 (b) a service charge; or

1718 (c) a chilling fee.

1719 (19) ~~[Each]~~ A restaurant liquor licensee shall display in a prominent place in the
1720 restaurant:

1721 (a) the liquor license that is issued by the department;

1722 (b) a list of the types and brand names of liquor being served through its calibrated
1723 metered dispensing system; and

1724 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1725 drugs is a serious crime that is prosecuted aggressively in Utah."

1726 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor
1727 licensee:

1728 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1729 Chapter 10, Part 11, Gambling;

1730 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,

1731 Part 11, Gambling; or

1732 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
 1733 the risking of something of value for a return or for an outcome when the return or outcome is
 1734 based upon an element of chance, excluding the playing of an amusement device that confers
 1735 only an immediate and unrecorded right of replay not exchangeable for value.

1736 (21) (a) [~~Each~~] A restaurant liquor licensee shall maintain an expense ledger or record
 1737 showing in detail:

1738 (i) quarterly expenditures made separately for:

1739 (A) malt or brewed beverages;

1740 (B) set-ups;

1741 (C) liquor;

1742 (D) food; and

1743 (E) all other items required by the department; and

1744 (ii) sales made separately for:

1745 (A) malt or brewed beverages;

1746 (B) set-ups;

1747 (C) food; and

1748 (D) all other items required by the department.

1749 (b) [~~The~~] A restaurant liquor licensee shall keep a record required by Subsection

1750 (21)(a) [~~shall be kept~~]:

1751 (i) in a form approved by the department; and

1752 (ii) current for each three-month period.

1753 (c) [~~Each~~] An expenditure shall be supported by:

1754 (i) a delivery [~~tickets~~] ticket;

1755 (ii) [~~invoices~~] an invoice;

1756 (iii) a receipted [~~bills~~] bill;

1757 (iv) a canceled [~~checks~~] check;

1758 (v) a petty cash [~~vouchers~~] voucher; or

1759 (vi) other sustaining [~~data or memoranda~~] datum or memorandum.

1760 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant

1761 liquor licensee shall maintain accounting and other records and documents as the department

1762 may require.

1763 (e) ~~[Any]~~ A restaurant liquor licensee or person acting for the restaurant, who
1764 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of~~
1765 ~~the books]~~ an entry in a book of account or other ~~[documents]~~ document of the restaurant that
1766 is required to be made, maintained, or preserved by this title or the rules of the commission for
1767 the purpose of deceiving the commission or the department, or ~~[any of their officials or~~
1768 ~~employees]~~ an official or employee of the commission or department, is subject to:

1769 (i) the suspension or revocation of the restaurant's liquor license; and

1770 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1771 (22) (a) A restaurant liquor licensee may not close or cease operation for a period
1772 longer than 240 hours, unless:

1773 (i) the restaurant liquor licensee notifies the department in writing at least seven days
1774 before the ~~[closing]~~ day on which the restaurant liquor licensee closes or ceases operation; and

1775 (ii) the closure or cessation of operation is first approved by the department.

1776 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, ~~[immediate~~
1777 ~~notice of closure shall be made to]~~ the restaurant liquor licensee shall immediately notify the
1778 department by telephone.

1779 (c) (i) The department may authorize a closure or cessation of operation for a period
1780 not to exceed 60 days.

1781 (ii) The department may extend the initial period an additional 30 days upon:

1782 (A) written request of the restaurant liquor licensee; and ~~[upon]~~

1783 (B) a showing of good cause.

1784 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1785 commission approval.

1786 (d) ~~[Any]~~ A notice shall include:

1787 (i) the dates of closure or cessation of operation;

1788 (ii) the reason for the closure or cessation of operation; and

1789 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.

1790 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department
1791 authorization ~~[prior to]~~ before closure or cessation of operation ~~[shall result]~~ results in an
1792 automatic forfeiture of:

- 1793 (i) the license; and
- 1794 (ii) the unused portion of the license fee for the remainder of the license year effective
1795 immediately.
- 1796 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the
1797 approved date [~~shall result~~] results in an automatic forfeiture of:
- 1798 (i) the license; and
- 1799 (ii) the unused portion of the license fee for the remainder of the license year.
- 1800 (23) [~~Each~~] A restaurant liquor licensee shall maintain at least 70% of its total
1801 restaurant business from the sale of food, which does not include mix for an alcoholic
1802 [~~beverages~~] beverage or service charges.
- 1803 (24) A restaurant liquor license may not be transferred from one location to another,
1804 without prior written approval of the commission.
- 1805 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,
1806 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license
1807 to [~~any other~~] another person whether for monetary gain or not.
- 1808 (b) A restaurant liquor license has no monetary value for the purpose of any type of
1809 disposition.
- 1810 (26) [~~Each~~] A server of an alcoholic [~~beverages~~] beverage in a restaurant liquor
1811 licensee's establishment shall keep a written beverage tab for each table or group that orders or
1812 consumes an alcoholic [~~beverages~~] beverage on the premises. The beverage tab shall list the
1813 type and amount of an alcoholic [~~beverages~~] beverage ordered or consumed.
- 1814 (27) A person's willingness to serve an alcoholic [~~beverages~~] beverage may not be
1815 made a condition of employment as a server with a restaurant that has a restaurant liquor
1816 license.
- 1817 (28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may
1818 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
1819 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:
- 1820 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1821 58-37-2; or
- 1822 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1823 Section 58-37a-3.

1824 Section 27. Section **32A-4-206** is amended to read:

1825 **32A-4-206. Operational restrictions.**

1826 [Each] A person granted an airport lounge liquor license and the employees and
1827 management personnel of the airport lounge shall comply with the following conditions and
1828 requirements. Failure to comply may result in a suspension or revocation of the airport lounge
1829 liquor license or other disciplinary action taken against individual employees or management
1830 personnel.

1831 (1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from a
1832 state ~~[stores]~~ store or package ~~[agencies]~~ agency.

1833 (b) Liquor purchased from a state store or package agency may be transported by the
1834 airport lounge liquor licensee from the place of purchase to the licensed premises.

1835 (c) Payment for liquor shall be made in accordance with the rules established by the
1836 commission.

1837 (2) An airport lounge liquor licensee may sell or provide a primary spirituous liquor
1838 only in a quantity not to exceed ~~[one ounce]~~ 1.5 ounces per beverage dispensed through a
1839 calibrated metered dispensing system approved by the department in accordance with
1840 commission rules adopted under this title, except that:

1841 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1842 system if used as a secondary flavoring ingredient in a beverage subject to the following
1843 restrictions:

1844 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1845 a spirituous primary liquor;

1846 (ii) the secondary ingredient ~~[is]~~ may not be the only spirituous liquor in the beverage;

1847 (iii) the airport lounge liquor licensee shall designate a location where flavorings are
1848 stored on the floor plan provided to the department; and

1849 (iv) ~~[a]~~ a flavoring ~~[containers]~~ container shall be plainly and conspicuously labeled
1850 "flavorings";

1851 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1852 system if used:

1853 (i) as a flavoring on ~~[desserts]~~ a dessert; and

1854 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or

1855 dessert; [and]

1856 (c) [~~each~~] an airport lounge patron may have no more than [~~2.75~~] 2.5 ounces of
1857 spirituous liquor at a time before the patron; and

1858 (d) an airport lounge patron may have no more than one spirituous liquor drink at a
1859 time before the patron.

1860 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
1861 exceed five ounces per glass or individual portion.

1862 (ii) An individual portion may be served to a patron in more than one glass as long as
1863 the total amount of wine does not exceed five ounces.

1864 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1865 Subsection (7)(c).

1866 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters
1867 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

1868 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
1869 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
1870 persons.

1871 (c) A wine service may be performed and a service charge assessed by the airport
1872 lounge liquor licensee as authorized by commission rule for wine purchased at the airport
1873 lounge.

1874 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
1875 one liter at [~~prices~~] a price fixed by the commission.

1876 (b) A flavored malt beverage may be served in an original container not exceeding one
1877 liter at a price fixed by the commission.

1878 [~~(b)~~] (c) A service charge may be assessed by the airport lounge liquor licensee as
1879 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the
1880 airport lounge.

1881 (5) (a) (i) Subject to Subsection (5)(a)(ii), an airport lounge [~~licensed to sell~~] liquor
1882 licensee may sell beer for on-premise consumption:

1883 (A) in an open container; and

1884 (B) on draft.

1885 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does

1886 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1887 container that exceeds one liter.

1888 (b) An airport lounge liquor licensee that sells beer pursuant to Subsection (5)(a):

1889 (i) may do so without obtaining a separate on-premise beer retailer license from the
1890 commission; and

1891 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1892 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those
1893 restrictions are inconsistent with or less restrictive than the operational restrictions under this
1894 part.

1895 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1896 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the airport
1897 lounge's:

1898 (i) state liquor license; and

1899 (ii) alcoholic beverage license issued by the local authority.

1900 (6) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in
1901 [~~any~~] a place other than as designated in the airport lounge liquor licensee's application, unless
1902 the airport lounge liquor licensee first applies for and receives approval from the department
1903 for a change of location within the airport lounge.

1904 (7) (a) A patron may only make [~~purchases~~] a purchase in the airport lounge from and
1905 be served by a person employed, designated, and trained by the airport lounge liquor licensee to
1906 sell, dispense, and serve an alcoholic [~~beverages~~] beverage.

1907 (b) Notwithstanding Subsection (7)(a), a patron who [~~has purchased~~] purchases bottled
1908 wine from an employee of the airport lounge may serve wine from the bottle to the patron or
1909 others at the patron's table.

1910 (c) [~~Each~~] An airport lounge patron may have no more than two alcoholic beverages of
1911 any kind at a time before the patron, subject to the limitation in Subsection (2)(d).

1912 (8) The liquor storage area shall remain locked at all times other than those hours and
1913 days when liquor sales and service are authorized by law.

1914 (9) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, offered for sale,
1915 served, or otherwise furnished at an airport lounge on any day after 12 midnight and before 8
1916 a.m.

- 1917 (10) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or
 1918 otherwise furnished to [~~any~~] a:
- 1919 (a) minor;
- 1920 (b) person actually, apparently, or obviously intoxicated;
- 1921 (c) known habitual drunkard; or
- 1922 (d) known interdicted person.
- 1923 (11) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.
- 1924 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.
- 1925 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost
 1926 of the alcoholic beverage to the airport lounge liquor licensee.
- 1927 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
 1928 over consumption or intoxication.
- 1929 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
 1930 hours of the airport [~~lounge's~~] lounge liquor licensee's business day such as a "happy hour."
- 1931 (e) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
 1932 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 1933 (f) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic beverages
 1934 during [~~any~~] a set period may not be sold or served for a fixed price [~~is prohibited~~].
- 1935 (g) An airport lounge liquor licensee may not engage in a public promotion involving
 1936 or offering free an alcoholic [~~beverages~~] beverage to the general public.
- 1937 (12) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for a patron of
 1938 an airport lounge by:
- 1939 (a) the airport lounge liquor licensee; or
- 1940 (b) [~~any~~] an employee or agent of the airport lounge liquor licensee.
- 1941 (13) (a) A person may not bring onto the premises of an airport lounge liquor licensee
 1942 [~~any~~] an alcoholic beverage for on-premise consumption.
- 1943 (b) An airport lounge [~~or its officers, managers, employees, or agents~~] liquor licensee
 1944 or an officer, manager, employee, or agent of the airport lounge liquor licensee may not allow a
 1945 person to bring onto the airport lounge premises [~~any~~] an alcoholic beverage for on-premise
 1946 consumption or allow consumption of [~~any such~~] the alcoholic beverage on [~~its~~] the airport
 1947 lounge liquor licensee's premises.

1948 (14) An airport lounge liquor licensee and ~~[its employees]~~ an employee of the airport
1949 lounge liquor licensee may not permit a patron to remove ~~[any]~~ an alcoholic ~~[beverages]~~
1950 beverage from the airport lounge premises.

1951 (15) (a) ~~[A minor may not be employed by an]~~ An airport lounge liquor licensee may
1952 not employ a minor to sell or dispense an alcoholic ~~[beverages]~~ beverage.

1953 (b) Notwithstanding Subsection (15)(a), a minor who is at least 16 years of age may be
1954 employed to enter the sale at a cash register or other sales recording device.

1955 (16) An employee of an airport lounge liquor licensee, while on duty, may not:

1956 (a) consume an alcoholic beverage; or

1957 (b) be intoxicated.

1958 (17) ~~[Any]~~ A charge or fee made in connection with the sale, service, or consumption
1959 of liquor may be stated in a food or alcoholic beverage menu including:

1960 (a) a set-up charge;

1961 (b) a service charge; or

1962 (c) a chilling fee.

1963 (18) ~~[Each]~~ An airport lounge liquor licensee shall display in a prominent place in the
1964 airport lounge:

1965 (a) the liquor license that is issued by the department;

1966 (b) a list of the types and brand names of liquor being served through its calibrated
1967 metered dispensing system; and

1968 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1969 drugs is a serious crime that is prosecuted aggressively in Utah."

1970 (19) (a) ~~[Each]~~ An airport lounge liquor licensee shall maintain an expense ledger or
1971 record showing in detail:

1972 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all
1973 other items required by the department; and

1974 (ii) sales made separately for malt or brewed beverages, food, and all other items
1975 required by the department.

1976 ~~[(b) This record shall be kept:]~~

1977 (b) An airport lounge liquor licensee shall keep a record required by Subsection

1978 (19)(a):

- 1979 (i) in a form approved by the department; and
 1980 (ii) current for each three-month period.
 1981 (c) ~~[Each]~~ An expenditure shall be supported by:
 1982 (i) a delivery ~~[tickets]~~ ticket;
 1983 (ii) ~~[invoices]~~ an invoice;
 1984 (iii) a receipted ~~[bills]~~ bill;
 1985 (iv) a canceled ~~[checks]~~ check;
 1986 (v) a petty cash ~~[vouchers]~~ voucher; or
 1987 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.
 1988 (d) In addition to a ledger or record required by Subsection (19)(a), ~~[each]~~ an airport
 1989 lounge liquor licensee shall maintain accounting and other records and documents as the
 1990 department may require.
 1991 (e) ~~[Any]~~ An airport lounge liquor licensee or person acting for the airport lounge, who
 1992 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of~~
 1993 ~~the books]~~ an entry in a book of account or other ~~[documents]~~ document of the airport lounge
 1994 required to be made, maintained, or preserved by this title or the rules of the commission for
 1995 the purpose of deceiving the commission ~~[or]~~, the department, or ~~[any of their officials or~~
 1996 ~~employees]~~ an official or employee of the commission or department, is subject to:
 1997 (i) the immediate suspension or revocation of the airport lounge's liquor license; and
 1998 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
 1999 (20) An airport lounge liquor license may not be transferred from one location to
 2000 another, without prior written approval of the commission.
 2001 (21) (a) An airport lounge liquor licensee may not sell, transfer, assign, exchange,
 2002 barter, give, or attempt in any way to dispose of the airport lounge liquor license to ~~[any other]~~
 2003 another person, whether for monetary gain or not.
 2004 (b) An airport lounge liquor license has no monetary value for the purpose of any type
 2005 of disposition.
 2006 (22) ~~[Each]~~ A server of an alcoholic ~~[beverages]~~ beverage in ~~[a]~~ an airport lounge
 2007 liquor licensee's establishment shall keep a written beverage tab for each table or group that
 2008 orders or consumes an alcoholic ~~[beverages]~~ beverage on the premises. The beverage tab shall
 2009 list the type and amount of an alcoholic ~~[beverages]~~ beverage ordered or consumed.

2010 (23) An airport lounge liquor licensee's premises may not be leased for a private
2011 [functions] function.

2012 (24) An airport lounge liquor licensee may not on the premises of the airport lounge
2013 liquor licensee:

2014 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
2015 Chapter 10, Part 11, Gambling;

2016 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2017 Part 11, Gambling; or

2018 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2019 the risking of something of value for a return or for an outcome when the return or outcome is
2020 based upon an element of chance, excluding the playing of an amusement device that confers
2021 only an immediate and unrecorded right of replay not exchangeable for value.

2022 (25) An airport lounge liquor licensee or an employee of the airport lounge liquor
2023 licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58,
2024 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2025 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2026 58-37-2; or

2027 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2028 Section 58-37a-3.

2029 Section 28. Section **32A-4-302** is amended to read:

2030 **32A-4-302. Commission's power to grant licenses -- Limitations.**

2031 (1) A restaurant wanting to sell and allow the consumption of only wine, heavy beer,
2032 and beer on its premises, but not spirituous liquor[;] or, on or after October 1, 2008, a flavored
2033 malt beverage, shall obtain a limited restaurant license from the commission as provided in this
2034 part before selling or allowing the consumption of wine, heavy beer, or beer on its premises.

2035 (2) (a) Subject to the other provisions of this section, the commission may issue limited
2036 restaurant licenses for the purpose of establishing limited restaurant outlets at places and in
2037 numbers the commission considers proper for the storage, sale, and consumption of wine,
2038 heavy beer, and beer on premises operated as public restaurants.

2039 (b) The total number of limited restaurant licenses issued under this part may not at any
2040 time aggregate more than that number determined by dividing the population of the state by

2041 [~~11,000~~] 9,300.

2042 (c) For purposes of this Subsection (2), population shall be determined by:

2043 (i) the most recent United States decennial or special census; or

2044 (ii) [~~any other~~] another population determination made by the United States or state
2045 governments.

2046 (3) (a) (i) The commission may issue seasonal limited restaurant licenses established in
2047 areas the commission considers necessary.

2048 (ii) A seasonal limited restaurant license shall be for a period of six consecutive
2049 months.

2050 (b) (i) A limited restaurant license issued for operation during a summer time period is
2051 known as a "Seasonal A" limited restaurant license. The period of operation for a "Seasonal A"
2052 limited restaurant license shall:

2053 (A) begin on May 1; and

2054 (B) end on October 31.

2055 (ii) A limited restaurant license issued for operation during a winter time period is
2056 known as a "Seasonal B" limited restaurant license. The period of operation for a "Seasonal B"
2057 limited restaurant license shall:

2058 (A) begin on November 1; and

2059 (B) end on April 30.

2060 (iii) In determining the number of limited restaurant licenses that the commission may
2061 issue under this section:

2062 (A) a seasonal limited restaurant license is counted as 1/2 of one limited restaurant
2063 license; and

2064 (B) each "Seasonal A" limited restaurant license shall be paired with a "Seasonal B"
2065 limited restaurant license.

2066 (c) If the location, design, and construction of a hotel may require more than one
2067 limited restaurant sales location within the hotel to serve the public convenience, the
2068 commission may authorize the sale of wine, heavy beer, and beer at as many as three limited
2069 restaurant locations within the hotel under one license if:

2070 (i) the hotel has a minimum of 150 guest rooms; and

2071 (ii) all locations under the license are:

2072 (A) within the same hotel facility; and

2073 (B) on premises that are:

2074 (I) managed or operated by the licensee; and

2075 (II) owned or leased by the licensee.

2076 (d) ~~[Facilities]~~ A facility other than [hotels] a hotel shall have a separate limited
2077 restaurant license for each restaurant where wine, heavy beer, and beer are sold.

2078 (4) (a) ~~[The]~~ Except as provided in Subsection (4)(b) or (c), the premises of a limited
2079 restaurant license may not be established:

2080 (i) within 600 feet of ~~[any public or private school, church, public library, public~~
2081 ~~playground, or park]~~ a community location, as measured by the method in Subsection ~~[(5):]~~
2082 (4)(d); or

2083 ~~[(b) The premises of a limited restaurant license may not be established]~~

2084 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~
2085 ~~playground, or park]~~ a community location, measured in a straight line from the nearest
2086 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~
2087 ~~school, church, public library, public playground, or park]~~ community location.

2088 ~~[(c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the~~
2089 ~~following exemptions applies:]~~

2090 ~~[(i) with]~~ (b) With respect to the establishment of a limited restaurant license ~~[in any~~
2091 ~~location]~~, the commission may authorize a variance to reduce the proximity ~~[requirements]~~
2092 requirement of Subsection (4)(a)(i) ~~[or (b)]~~ if:

2093 ~~[(A)]~~ (i) the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the
2094 variance;

2095 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a limited
2096 restaurant license in the community are limited;

2097 ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where
2098 practical in the neighborhood concerned; ~~[and]~~

2099 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the
2100 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
2101 establishing the license would not be detrimental to the public health, peace, safety, and
2102 welfare of the community; ~~[or]~~ and

2103 (v) (A) the community location governing authority gives its written consent to the
 2104 variance; or

2105 (B) when written consent is not given by the community location governing authority,
 2106 the commission finds that the applicant has established that:

2107 (I) there is substantial unmet public demand to consume alcohol in a public setting
 2108 within the geographic boundary of the local authority in which the limited restaurant licensee is
 2109 to be located;

2110 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
 2111 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a limited
 2112 restaurant license; and

2113 (III) there is no reasonably viable alternative location within the geographic boundary
 2114 of the local authority in which the limited restaurant licensee is to be located for establishing a
 2115 limited restaurant license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

2116 ~~[(ii) with]~~ (c) With respect to the premises of ~~[any]~~ a limited restaurant license issued
 2117 by the commission that undergoes a change of ownership, the commission may waive or vary
 2118 the proximity requirements of ~~[Subsections]~~ Subsection (4)(a) ~~[and (b)]~~ in considering whether
 2119 to grant a limited restaurant license to the new owner of the premises if:

2120 (i) (A) the premises previously received a variance reducing the proximity
 2121 [requirements] requirement of Subsection (4)(a)(i) [or (b)]; or

2122 (B) the premises received a variance reducing the proximity requirement of Subsection
 2123 (4)(a)(ii) on or before May 5, 2008; or

2124 ~~[(B)]~~ (ii) a variance from proximity [or distance requirement] requirements was
 2125 otherwise allowed under this title.

2126 ~~[(5) With respect to any public or private school, church, public library, public~~
 2127 ~~playground, or park, the]~~

2128 (d) The 600 foot limitation as described in Subsection (4)(a)(i) is measured from the
 2129 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
 2130 property boundary of the [public or private school, church, public library, public playground,
 2131 school playground, or park] community location.

2132 ~~[(6)]~~ (5) (a) Nothing in this section prevents the commission from considering the
 2133 proximity of any educational, religious, and recreational facility, or any other relevant factor in

2134 reaching a decision on a proposed location.

2135 (b) For purposes of this Subsection [~~(6)~~] (5), "educational facility" includes:

2136 (i) a nursery school;

2137 (ii) an infant day care center; and

2138 (iii) a trade and technical school.

2139 Section 29. Section **32A-4-303** is amended to read:

2140 **32A-4-303. Application and renewal requirements.**

2141 (1) A person seeking a limited restaurant license under this part shall file a written
2142 application with the department, in a form prescribed by the department. The application shall
2143 be accompanied by:

2144 (a) a nonrefundable \$250 application fee;

2145 (b) an initial license fee of \$500, which is refundable if a license is not granted;

2146 (c) written consent of the local authority;

2147 (d) a copy of the applicant's current business license;

2148 (e) evidence of proximity to any [~~public or private school, church, public library,~~
2149 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~
2150 ~~Subsections 32A-4-302(4) and (5), the application shall be processed in accordance with those~~
2151 ~~subsections]~~ community location, with proximity requirements being governed by Section
2152 32A-4-302;

2153 (f) a bond as specified by Section 32A-4-306;

2154 (g) a floor plan of the restaurant, including:

2155 (i) consumption areas; and

2156 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and
2157 beer;

2158 (h) evidence that the restaurant is carrying public liability insurance in an amount and
2159 form satisfactory to the department;

2160 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
2161 \$500,000 per occurrence and \$1,000,000 in the aggregate;

2162 (j) a signed consent form stating that the restaurant will permit any authorized
2163 representative of the commission, department, or any law enforcement officer unrestricted right
2164 to enter the restaurant;

2165 (k) in the case of an applicant that is a partnership, corporation, or limited liability
2166 company, proper verification evidencing that the person or persons signing the restaurant
2167 application are authorized to so act on behalf of the partnership, corporation, or limited liability
2168 company; and

2169 (l) any other information the commission or department may require.

2170 (2) (a) All limited restaurant licenses expire on October 31 of each year.

2171 (b) A person desiring to renew that person's limited restaurant license shall submit:

2172 (i) a renewal fee of \$300; and

2173 (ii) a renewal application to the department no later than September 30.

2174 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
2175 the license effective on the date the existing license expires.

2176 (d) [~~Renewal applications~~] A renewal application shall be in a form as prescribed by
2177 the department.

2178 (3) To ensure compliance with Subsection 32A-4-307(25), the commission may
2179 suspend or revoke a limited restaurant license if the limited restaurant licensee does not
2180 immediately notify the department of any change in:

2181 (a) ownership of the restaurant;

2182 (b) for a corporate owner, the:

2183 (i) corporate officer or directors; or

2184 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2185 corporation; or

2186 (c) for a limited liability company:

2187 (i) managers; or

2188 (ii) members owning at least 20% of the limited liability company.

2189 Section 30. Section **32A-4-305** is amended to read:

2190 **32A-4-305. Commission and department duties before granting licenses.**

2191 (1) (a) Before a limited restaurant license may be granted by the commission, the
2192 department shall conduct an investigation and may hold public hearings for the purpose of
2193 gathering information and making recommendations to the commission as to whether or not a
2194 license should be granted.

2195 (b) The department shall forward the information and recommendations described in

- 2196 Subsection (1)(a) to the commission to aid in the commission's determination.
- 2197 (2) Before issuing [~~any~~] a limited restaurant license, the commission shall:
- 2198 (a) determine that the applicant has complied with all basic qualifications and
- 2199 requirements for making application for a license as provided by Sections 32A-4-302 and
- 2200 32A-4-303;
- 2201 (b) determine that the application is complete;
- 2202 (c) consider the locality within which the proposed limited restaurant outlet is located,
- 2203 including:
- 2204 (i) physical characteristics such as:
- 2205 (A) the condition of the premises;
- 2206 (B) square footage; and
- 2207 (C) parking availability; and
- 2208 (ii) operational factors such as:
- 2209 (A) tourist traffic;
- 2210 (B) proximity to and density of other state stores, package agencies, and outlets;
- 2211 (C) demographics;
- 2212 (D) population to be served; and
- 2213 (E) the extent of and proximity to any [~~school, church, public library, public~~
- 2214 ~~playground, or park~~] community location;
- 2215 (d) consider the applicant's ability to manage and operate a limited restaurant license,
- 2216 including:
- 2217 (i) management experience;
- 2218 (ii) past retail liquor experience; and
- 2219 (iii) the type of management scheme employed by the restaurant;
- 2220 (e) consider the nature or type of restaurant operation, including:
- 2221 (i) the type of menu items offered and emphasized;
- 2222 (ii) whether the restaurant emphasizes service to an adult clientele or to minors;
- 2223 (iii) the hours of operation;
- 2224 (iv) the seating capacity of the facility; and
- 2225 (v) the gross sales of food items; and
- 2226 (f) consider any other factors or circumstances the commission considers necessary.

2227 Section 31. Section ~~32A-4-307~~ is amended to read:

2228 **32A-4-307. Operational restrictions.**

2229 [~~Each~~] A person granted a limited restaurant license and the employees and
2230 management personnel of the limited restaurant shall comply with the following conditions and
2231 requirements. Failure to comply may result in a suspension or revocation of the license or
2232 other disciplinary action taken against individual employees or management personnel.

2233 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee
2234 except from a state [~~stores~~] store or package [~~agencies~~] agency.

2235 (b) Wine and heavy beer purchased [~~in accordance with Subsection (1)(a)~~] from a state
2236 store or package agency may be transported by the limited restaurant licensee from the place of
2237 purchase to the licensed premises.

2238 (c) Payment for wine and heavy beer shall be made in accordance with rules
2239 established by the commission.

2240 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of
2241 [~~spirituous liquor~~] the products listed in Subsection (2)(c) on the premises of the limited
2242 restaurant.

2243 (b) [~~Spirituous liquor~~] A product listed in Subsection (2)(c) may not be on the premises
2244 of the limited restaurant except for use:

2245 (i) as a flavoring on [~~desserts~~] a dessert; and

2246 (ii) in the preparation of a flaming food [~~dishes, drinks, and desserts~~] dish, drink, or
2247 dessert.

2248 (c) This Subsection (2) applies to:

2249 (i) spirituous liquor; and

2250 (ii) on or after October 1, 2008, a flavored malt beverage.

2251 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
2252 exceed five ounces per glass or individual portion.

2253 (ii) An individual portion may be served to a patron in more than one glass as long as
2254 the total amount of wine does not exceed five ounces.

2255 (iii) An individual portion of wine is considered to be one alcoholic beverage under
2256 Subsection (7)(e).

2257 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters

2258 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

2259 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
2260 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
2261 persons.

2262 (c) A wine service may be performed and a service charge assessed by the limited
2263 restaurant licensee as authorized by commission rule for wine purchased at the limited
2264 restaurant.

2265 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
2266 one liter at [~~prices~~] a price fixed by the commission.

2267 (b) A service charge may be assessed by the limited restaurant licensee as authorized
2268 by commission rule for heavy beer purchased at the limited restaurant.

2269 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for
2270 on-premise consumption:

2271 (A) in an open container; and

2272 (B) on draft.

2273 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
2274 not exceed two liters, except that beer may not be sold to an individual patron in a size of
2275 container that exceeds one liter.

2276 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

2277 (i) may do so without obtaining a separate on-premise beer retailer license from the
2278 commission; and

2279 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
2280 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those
2281 restrictions are inconsistent with or less restrictive than the operational restrictions under this
2282 part.

2283 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2284 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited
2285 restaurant's:

2286 (i) limited restaurant license; and

2287 (ii) alcoholic beverage license issued by the local authority.

2288 (6) Wine, heavy beer, and beer may not be stored, served, or sold in [~~any~~] a place other

2289 than as designated in the limited restaurant licensee's application, unless the limited restaurant
2290 licensee first applies for and receives approval from the department for a change of location
2291 within the limited restaurant.

2292 (7) (a) (i) A patron may only make an alcoholic beverage [~~purchases~~] purchase in [~~the~~]
2293 a limited restaurant from and be served by a person employed, designated, and trained by the
2294 limited restaurant licensee to sell and serve an alcoholic [~~beverages~~] beverage.

2295 (ii) Notwithstanding Subsection (7)(a)(i), a patron who [~~has purchased~~] purchases
2296 bottled wine from an employee of the limited restaurant [~~or has carried~~] licensee or carries
2297 bottled wine onto the premises of the limited restaurant pursuant to Subsection (14) may
2298 thereafter serve wine from the bottle to the patron or others at the patron's table.

2299 (b) [~~Alcoholic beverages~~] An alcoholic beverage shall be delivered by a server to the
2300 patron.

2301 (c) [~~Any~~] An alcoholic beverage may only be consumed at the patron's table or counter.

2302 (d) [~~Alcoholic beverages~~] An alcoholic beverage may not be served to or consumed by
2303 a patron at a bar.

2304 (e) [~~Each~~] A limited restaurant patron may have no more than two alcoholic beverages
2305 of any kind at a time before the patron.

2306 (8) The alcoholic beverage storage area shall remain locked at all times other than
2307 those hours and days when alcoholic beverage sales are authorized by law.

2308 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
2309 furnished at a limited restaurant during the following days or hours:

2310 (i) until after the polls are closed on the day of [~~any~~] a:

2311 (A) regular general election;

2312 (B) regular primary election; or

2313 (C) statewide special election;

2314 (ii) until after the polls are closed on the day of [~~any~~] a municipal, local district, special
2315 service district, or school election, but only:

2316 (A) within the boundaries of the municipality, local district, special service district, or
2317 school district; and

2318 (B) if required by local ordinance; and

2319 (iii) on any other day after 12 midnight and before 12 noon.

2320 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2321 Licenses, for on-premise beer licensees.

2322 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold except in
2323 connection with an order of food prepared, sold, and served at the limited restaurant.

2324 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to
2325 ~~[any]~~ a:

2326 (a) minor;

2327 (b) person actually, apparently, or obviously intoxicated;

2328 (c) known habitual drunkard; or

2329 (d) known interdicted person.

2330 (12) (a) (i) Wine and heavy beer may be sold only at ~~[prices]~~ a price fixed by the
2331 commission.

2332 (ii) Wine and heavy beer may not be sold at a discount ~~[prices]~~ price on any date or at
2333 any time.

2334 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost
2335 of the alcoholic ~~[beverages]~~ beverage to the limited restaurant licensee.

2336 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
2337 over consumption or intoxication.

2338 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
2339 hours of the limited ~~[restaurant's]~~ restaurant licensee's business day such as a "happy hour."

2340 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
2341 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

2342 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages
2343 during ~~[any]~~ a set period may not be sold or service for a fixed price ~~[is prohibited]~~.

2344 (g) A limited restaurant licensee may not engage in a public promotion involving or
2345 offering free alcoholic beverages to the general public.

2346 (13) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of
2347 the limited restaurant by:

2348 (a) the limited restaurant licensee; or

2349 (b) ~~[any]~~ an employee or agent of the limited restaurant licensee.

2350 (14) (a) A person may not bring onto the premises of a limited restaurant licensee ~~[any]~~

2351 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the
2352 discretion of the limited restaurant licensee, bottled wine onto the premises of [~~any~~] a limited
2353 restaurant licensee for on-premise consumption.

2354 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee [~~or its~~
2355 ~~officers, managers, employees, or agents~~] or an officer, manager, employee, or agent of a
2356 limited restaurant licensee may not allow:

2357 (i) a person to bring onto the limited restaurant premises [~~any~~] an alcoholic beverage
2358 for on-premise consumption; or

2359 (ii) consumption of [~~any~~] an alcoholic beverage described in Subsection (14)(b)(i) on
2360 [~~its~~] the limited restaurant licensee's premises.

2361 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
2362 or other representative of the limited restaurant licensee upon entering the limited restaurant.

2363 (d) A wine service may be performed and a service charge assessed by the limited
2364 restaurant licensee as authorized by commission rule for wine carried in by a patron.

2365 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee [~~and its~~
2366 ~~employees~~] and an employee of the limited restaurant licensee may not permit a restaurant
2367 patron to carry from the limited restaurant premises an open container that:

2368 (i) is used primarily for drinking purposes; and

2369 (ii) contains [~~any~~] an alcoholic beverage.

2370 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
2371 contents of a bottle of wine if before removal, the bottle [~~has been~~] is recorked or recapped.

2372 (16) (a) A [~~minor may not be employed by a~~] limited restaurant licensee may not
2373 employ a minor to sell or dispense an alcoholic [~~beverages~~] beverage.

2374 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
2375 employed to enter the sale at a cash register or other sales recording device.

2376 (17) An employee of a limited restaurant licensee, while on duty, may not:

2377 (a) consume an alcoholic beverage; or

2378 (b) be intoxicated.

2379 (18) A charge or fee made in connection with the sale, service, or consumption of wine
2380 or heavy beer may be stated in food or alcoholic beverage menus including:

2381 (a) a service charge; or

- 2382 (b) a chilling fee.
- 2383 (19) [Each] A limited restaurant licensee shall display in a prominent place in the
- 2384 restaurant:
- 2385 (a) the limited restaurant license that is issued by the department; and
- 2386 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 2387 drugs is a serious crime that is prosecuted aggressively in Utah."
- 2388 (20) A limited restaurant licensee may not on the premises of the restaurant:
- 2389 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
- 2390 Chapter 10, Part 11, Gambling;
- 2391 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 2392 Part 11, Gambling; or
- 2393 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 2394 the risking of something of value for a return or for an outcome when the return or outcome is
- 2395 based upon an element of chance, excluding the playing of an amusement device that confers
- 2396 only an immediate and unrecorded right of replay not exchangeable for value.
- 2397 (21) (a) [Each] A limited restaurant licensee shall maintain an expense ledger or record
- 2398 showing in detail:
- 2399 (i) quarterly expenditures made separately for:
- 2400 (A) wine;
- 2401 (B) heavy beer;
- 2402 (C) beer;
- 2403 (D) food; and
- 2404 (E) all other items required by the department; and
- 2405 (ii) sales made separately for:
- 2406 (A) wine;
- 2407 (B) heavy beer;
- 2408 (C) beer;
- 2409 (D) food; and
- 2410 (E) all other items required by the department.
- 2411 (b) [~~The~~] A limited restaurant licensee shall keep a record required by Subsection
- 2412 (21)(a) [~~shall be kept~~]:

- 2413 (i) in a form approved by the department; and
- 2414 (ii) current for each three-month period.
- 2415 (c) ~~Each~~ An expenditure shall be supported by:
- 2416 (i) a delivery ~~[tickets]~~ ticket;
- 2417 (ii) ~~[invoices]~~ an invoice;
- 2418 (iii) a receipted ~~[bills]~~ bill;
- 2419 (iv) a canceled ~~[checks]~~ check;
- 2420 (v) a petty cash ~~[vouchers]~~ voucher; or
- 2421 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.
- 2422 (d) In addition to the ledger or record maintained under Subsections (21)(a) through
- 2423 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
- 2424 the department may require.
- 2425 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly
- 2426 forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of the books]~~
- 2427 an entry in a book of account or other ~~[documents]~~ document of the limited restaurant that is
- 2428 required to be made, maintained, or preserved by this title or the rules of the commission for
- 2429 the purpose of deceiving the commission ~~[or, the department, or [any of their officials or~~
- 2430 ~~employees]~~ an official or employee of the commission or department, is subject to:
- 2431 (i) the suspension or revocation of the limited restaurant's license; and
- 2432 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 2433 (22) (a) A limited restaurant licensee may not close or cease operation for a period
- 2434 longer than 240 hours, unless:
- 2435 (i) the limited restaurant licensee notifies the department in writing at least seven days
- 2436 before the ~~[closing]~~ day on which the limited restaurant licensee closes or ceases operation; and
- 2437 (ii) the closure or cessation of operation is first approved by the department.
- 2438 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, ~~[immediate~~
- 2439 ~~notice of closure shall be made to]~~ the limited restaurant licensee shall immediately notify the
- 2440 department by telephone.
- 2441 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or
- 2442 cessation of operation for a period not to exceed 60 days.
- 2443 (ii) The department may extend the initial period an additional 30 days upon:

- 2444 (A) written request of the limited restaurant licensee; and
- 2445 (B) a showing of good cause.
- 2446 (iii) A closure or cessation of operation may not exceed a total of 90 days without
- 2447 commission approval.
- 2448 (d) ~~Any~~ A notice required by Subsection (22)(a) shall include:
- 2449 (i) the dates of closure or cessation of operation;
- 2450 (ii) the reason for the closure or cessation of operation; and
- 2451 (iii) the date on which the limited restaurant licensee will reopen or resume operation.
- 2452 (e) Failure of the limited restaurant licensee to provide notice and to obtain department
- 2453 authorization before closure or cessation of operation ~~[shall result]~~ results in an automatic
- 2454 forfeiture of:
- 2455 (i) the limited restaurant license; and
- 2456 (ii) the unused portion of the license fee for the remainder of the license year effective
- 2457 immediately.
- 2458 (f) Failure of the limited restaurant licensee to reopen or resume operation by the
- 2459 approved date ~~[shall result]~~ results in an automatic forfeiture of:
- 2460 (i) the limited restaurant license; and
- 2461 (ii) the unused portion of the license fee for the remainder of the license year.
- 2462 (23) ~~[Each]~~ A limited restaurant licensee shall maintain at least 70% of its total
- 2463 restaurant business from the sale of food, which does not include service charges.
- 2464 (24) A limited restaurant license may not be transferred from one location to another,
- 2465 without prior written approval of the commission.
- 2466 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,
- 2467 give, or attempt in any way to dispose of the limited restaurant license to ~~[any other]~~ another
- 2468 person whether for monetary gain or not.
- 2469 (b) A limited restaurant license has no monetary value for the purpose of any type of
- 2470 disposition.
- 2471 (26) (a) ~~[Each]~~ A server of wine, heavy beer, and beer in a limited restaurant licensee's
- 2472 establishment shall keep a written beverage tab for each table or group that orders or consumes
- 2473 an alcoholic [beverages] beverage on the premises.
- 2474 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an

2475 alcoholic [~~beverages~~] beverage ordered or consumed.

2476 (27) A limited restaurant licensee may not make a person's willingness to serve an
2477 alcoholic [~~beverages~~] beverage a condition of employment as a server with the limited
2478 restaurant.

2479 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may
2480 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
2481 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2482 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2483 58-37-2; or

2484 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2485 Section 58-37a-3.

2486 Section 32. Section **32A-4-401** is amended to read:

2487 **32A-4-401. Definitions -- Commission's power to grant licenses -- Limitations.**

2488 (1) (a) For purposes of this part:

2489 (i) "Banquet" means an event:

2490 (A) for which there is a contract:

2491 (I) between any person and a person listed in Subsection (1)(a)(i)(B); and

2492 (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide

2493 alcoholic beverages at the event;

2494 (B) held at one or more designated locations approved by the commission in or on the
2495 premises of a:

2496 (I) hotel;

2497 (II) resort facility;

2498 (III) sports center; or

2499 (IV) convention center; and

2500 (C) at which food and alcoholic beverages may be sold and served.

2501 (ii) "Convention center" is as defined by the commission by rule.

2502 (iii) "Hotel" is as defined by the commission by rule.

2503 (iv) "Resort facility" is as defined by the commission by rule.

2504 (v) "Room service" means service of alcoholic beverages to a guest room of a:

2505 (A) hotel; or

- 2506 (B) resort facility.
- 2507 (vi) "Sports center" is as defined by the commission by rule.
- 2508 (b) The commission may issue an on-premise banquet license to any of the following
- 2509 persons for the purpose of allowing the storage, sale, service, and consumption of alcoholic
- 2510 beverages in connection with that person's banquet and room service activities:
- 2511 (i) hotel;
- 2512 (ii) resort facility;
- 2513 (iii) sports center; or
- 2514 (iv) convention center.
- 2515 (c) This chapter is not intended to prohibit alcoholic beverages on the premises of a
- 2516 person listed in Subsection (1) to the extent otherwise permitted by this title.
- 2517 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not
- 2518 at any time aggregate more than that number determined by dividing the population of the state
- 2519 by 30,000.
- 2520 (b) For purposes of this Subsection (2), the population of the state shall be determined
- 2521 by:
- 2522 (i) the most recent United States decennial or special census; or
- 2523 (ii) [~~any other~~] another population determination made by the United States or state
- 2524 governments.
- 2525 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet
- 2526 licensee:
- 2527 (a) the host of a contracted banquet may request an on-premise banquet licensee to
- 2528 provide alcoholic beverages served at a banquet; and
- 2529 (b) an on-premise banquet licensee may provide the alcoholic beverages served at a
- 2530 banquet.
- 2531 (4) At a banquet, an on-premise banquet licensee may provide:
- 2532 (a) a hosted bar; or
- 2533 (b) a cash bar.
- 2534 (5) Nothing in this section shall prohibit a qualified on-premise banquet license
- 2535 applicant from applying for a package agency.
- 2536 (6) (a) [~~The~~] Except as provided in Subsection (6)(b) or (c), the premises of an

2537 on-premise banquet license may not be established:

2538 (i) within 600 feet of [~~any public or private school, church, public library, public~~
2539 ~~playground, or park~~] a community location, as measured by the method in Subsection (6)(d)[-];

2540 or

2541 [~~(b) The premises of an on-premise banquet license may not be established]~~

2542 (ii) within 200 feet of [~~any public or private school, church, public library, public~~
2543 ~~playground, or park~~] a community location, measured in a straight line from the nearest

2544 entrance of the proposed outlet to the nearest property boundary of the [~~public or private~~

2545 ~~school, church, public library, public playground, or park~~] community location.

2546 [~~(c) The restrictions contained in Subsections (6)(a) and (b) govern unless one of the~~
2547 ~~following exemptions applies:~~]

2548 [~~(i) with~~] (b) With respect to the establishment of an on-premise banquet license

2549 [~~within any location~~], the commission may authorize a variance to reduce the proximity

2550 [~~requirements~~] requirement of Subsection (6)(a)(i) [~~or (b)~~] if:

2551 [~~(A)~~] (i) the local authority grants its written consent to the variance;

2552 [~~(B)~~] (ii) the commission finds that alternative locations for establishing an on-premise
2553 banquet license in the community are limited;

2554 [~~(C)~~] (iii) the variance is authorized after a public hearing is held in the city, town, or
2555 county, and where practical in the neighborhood concerned; [~~and~~]

2556 [~~(D)~~] (iv) after giving full consideration to all of the attending circumstances and the
2557 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
2558 establishing the license would not be detrimental to the public health, peace, safety, and
2559 welfare of the community; [~~or~~] and

2560 (v) (A) the community location governing authority gives its written consent to the
2561 variance; or

2562 (B) when written consent is not given by the community location governing authority,
2563 the commission finds that the applicant has established that:

2564 (I) there is substantial unmet public demand to consume alcohol in a public setting
2565 within the geographic boundary of the local authority in which the on-premise banquet license
2566 premises is to be located;

2567 (II) there is no reasonably viable alternative for satisfying substantial unmet demand

2568 described in Subsection (6)(b)(v)(B)(I) other than through the establishment of an on-premise
2569 banquet license; and

2570 (III) there is no reasonably viable alternative location within the geographic boundary
2571 of the local authority in which the on-premise banquet license premises is to be located for
2572 establishing an on-premise banquet license to satisfy the unmet demand described in
2573 Subsection (6)(b)(v)(B)(I).

2574 ~~[(ii) with]~~ (c) With respect to the premises of any on-premise banquet license issued
2575 by the commission that undergoes a change of ownership, the commission may waive or vary
2576 the proximity requirements of ~~[Subsections]~~ Subsection (6)(a) ~~[and (b)]~~ in considering whether
2577 to grant an on-premise banquet license to the new owner of the premises if:

2578 (i) (A) the premises previously received a variance reducing the proximity
2579 ~~[requirements]~~ requirement of Subsection (6)(a)(i) ~~[or (b)]~~; or

2580 (B) the premises received a variance reducing the proximity requirement of Subsection
2581 (6)(a)(ii) on or before May 4, 2008; or

2582 ~~[(B)]~~ (ii) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed
2583 under this title.

2584 (d) ~~[With respect to any public or private school, church, public library, public~~
2585 ~~playground, or park, the]~~ The 600 foot limitation described in Subsection (6)(a) is measured
2586 from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian
2587 travel to the property boundary of the ~~[public or private school, church, public library, public~~
2588 ~~playground, school playground, or park]~~ community location.

2589 (7) (a) Nothing in this section prevents the commission from considering the proximity
2590 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
2591 decision on a proposed location.

2592 (b) For purposes of this Subsection (7), "educational facility" includes:

2593 (i) a nursery school;

2594 (ii) an infant day care center; and

2595 (iii) a trade and technical school.

2596 Section 33. Section **32A-4-402** is amended to read:

2597 **32A-4-402. Application and renewal requirements.**

2598 (1) (a) A person seeking an on-premise banquet license under this part shall file a

2599 written application with the department, in a form prescribed by the department. The
2600 application shall be accompanied by:

- 2601 (i) a nonrefundable \$250 application fee;
- 2602 (ii) an initial license fee of \$500, which is refundable if a license is not granted;
- 2603 (iii) written consent of the local authority;
- 2604 (iv) a copy of the applicant's current business license;
- 2605 (v) evidence of proximity to any [~~public or private school, church, public library,~~
2606 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~
2607 ~~Subsection 32A-4-401(6), the application shall be processed in accordance with those~~
2608 ~~subsections]~~ community location, with proximity requirements being governed by Section
2609 32A-4-401;
- 2610 (vi) a bond as specified by Section 32A-4-405;
- 2611 (vii) a description or floor plan and boundary map of the premises, where appropriate,
2612 of the on-premise banquet license applicant's location, designating:
 - 2613 (A) the location at which the on-premise banquet license applicant proposes that
2614 alcoholic beverages be stored; and
 - 2615 (B) the designated locations on the premises of the applicant from which the
2616 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and
2617 consumed;
 - 2618 (viii) evidence that the on-premise banquet license applicant is carrying public liability
2619 insurance in an amount and form satisfactory to the department;
 - 2620 (ix) evidence that the on-premise banquet license applicant is carrying dramshop
2621 insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;
 - 2622 (x) a signed consent form stating that the on-premise banquet license applicant will
2623 permit any authorized representative of the commission, department, or any law enforcement
2624 officer unrestricted right to enter the on-premise banquet premises;
 - 2625 (xi) in the case of an applicant that is a partnership, corporation, or limited liability
2626 company, proper verification evidencing that the person or persons signing the on-premise
2627 banquet license application are authorized to so act on behalf of the partnership, corporation, or
2628 limited liability company; and
 - 2629 (xii) any other information the commission or department may require.

2630 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv),
2631 and (vi) if the applicant is:

2632 (i) a state agency; or

2633 (ii) a political subdivision of the state including:

2634 (A) a county; or

2635 (B) a municipality.

2636 (2) Additional locations in or on the premises of an on-premise banquet license

2637 applicant's business from which the on-premise banquet license applicant may propose that

2638 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's

2639 original application may be approved by the department upon proper application, in accordance

2640 with guidelines approved by the commission.

2641 (3) (a) All on-premise banquet licenses expire on October 31 of each year.

2642 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that

2643 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed

2644 renewal application to the department no later than September 30.

2645 (ii) A licensee is not required to submit the renewal fee if the licensee is:

2646 (A) a state agency; or

2647 (B) a political subdivision of the state including:

2648 (I) a county; or

2649 (II) a municipality.

2650 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of

2651 the license effective on the date the existing license expires.

2652 (d) [~~Renewal applications~~] A renewal application shall be in a form as prescribed by

2653 the department.

2654 (4) To ensure compliance with Subsection 32A-4-406(24), the commission may

2655 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to

2656 immediately notify the department of any change in:

2657 (a) ownership of the licensee;

2658 (b) for a corporate owner, the:

2659 (i) corporate officers or directors; or

2660 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the

2661 corporation; or

2662 (c) for a limited liability company:

2663 (i) managers; or

2664 (ii) members owning at least 20% of the limited liability company.

2665 Section 34. Section **32A-4-406** is amended to read:

2666 **32A-4-406. Operational restrictions.**

2667 [~~Each~~] A person granted an on-premise banquet license and the employees and
 2668 management personnel of the on-premise banquet licensee shall comply with this title, the rules
 2669 of the commission, and the following conditions and requirements. Failure to comply may
 2670 result in a suspension or revocation of the on-premise banquet license or other disciplinary
 2671 action taken against individual employees or management personnel.

2672 (1) A person involved in the sale or service of an alcoholic [~~beverages~~] beverage under
 2673 the on-premise banquet license shall:

2674 (a) be under the supervision and direction of the on-premise banquet licensee; and

2675 (b) complete the seminar provided for in Section 62A-15-401.

2676 (2) (a) Liquor may not be purchased by [~~the~~] an on-premise banquet licensee except
 2677 from a state [~~stores~~] store or package [~~agencies~~] agency.

2678 (b) Liquor purchased [~~in accordance with Subsection (2)(a)]~~ from a state store or
 2679 package agency may be transported by the on-premise banquet licensee from the place of
 2680 purchase to the licensed premises.

2681 (c) Payment for liquor shall be made in accordance with rules established by the
 2682 commission.

2683 (3) [~~Alcoholic beverages~~] An alcoholic beverage may be sold or provided at a banquet
 2684 by an on-premise banquet licensee subject to the restrictions set forth in this Subsection (3).

2685 (a) An on-premise banquet licensee may sell or provide [~~any~~] a primary spirituous
 2686 liquor only in a quantity not to exceed [~~one ounce~~] 1.5 ounces per beverage dispensed through
 2687 a calibrated metered dispensing system approved by the department in accordance with
 2688 commission rules adopted under this title, except that:

2689 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing
 2690 system if used as a secondary flavoring ingredient in a beverage subject to the following
 2691 restrictions:

2692 (A) the secondary ingredient may be dispensed only in conjunction with the purchase
2693 of a primary spirituous liquor;

2694 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;

2695 (C) the on-premise banquet licensee shall designate a location where flavorings are
2696 stored on the floor plan provided to the department; and

2697 (D) ~~all~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled
2698 "flavorings";

2699 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing
2700 system if used:

2701 (A) as a flavoring on ~~desserts~~ a dessert; and

2702 (B) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or
2703 dessert;

2704 (iii) ~~each~~ an attendee may have no more than ~~[2.75]~~ 2.5 ounces of spirituous liquor at
2705 a time before the attendee; and

2706 (iv) ~~each~~ an attendee may have no more than one spirituous liquor drink at a time
2707 before the attendee.

2708 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to
2709 exceed five ounces per glass or individual portion.

2710 (B) An individual portion may be served to an attendee in more than one glass as long
2711 as the total amount of wine does not exceed five ounces.

2712 (C) An individual portion of wine is considered to be one alcoholic beverage under
2713 Subsection (5)(c).

2714 (ii) Wine may be sold and served in ~~containers~~ a container not exceeding 1.5 liters at
2715 ~~prices~~ a price fixed by the commission.

2716 (iii) A wine service may be performed and a service charge assessed by the on-premise
2717 banquet licensee as authorized by commission rule for wine purchased on the banquet
2718 premises.

2719 (c) (i) Heavy beer may be served in an original ~~containers~~ container not exceeding
2720 one liter at ~~prices~~ a price fixed by the commission.

2721 (ii) A flavored malt beverage may be served in an original container not exceeding one
2722 liter at a price fixed by the commission.

2723 ~~[(it)]~~ (iii) A service charge may be assessed by the on-premise banquet licensee as
2724 authorized by commission rule for heavy beer or a flavored malt beverage purchased on the
2725 banquet premises.

2726 (d) (i) Except as provided in Subsection (3)(d)(ii), beer may be sold and served for
2727 on-premise consumption:

2728 (A) in an open container; and

2729 (B) on draft.

2730 (ii) Beer sold pursuant to Subsection (3)(d)(i) shall be in a size of container that does
2731 not exceed two liters, except that beer may not be sold to an individual attendee in a container
2732 size that exceeds one liter.

2733 (4) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be stored, served, or sold in
2734 any place other than as designated in the on-premise banquet licensee's application, except that
2735 additional locations in or on the premises of an on-premise banquet licensee may be approved
2736 in accordance with guidelines approved by the commission as provided in Subsection
2737 32A-4-402(2).

2738 (5) (a) An attendee may only make an alcoholic beverage ~~[purchases]~~ purchase from
2739 and be served by a person employed, designated, and trained by the on-premise banquet
2740 licensee to sell and serve an alcoholic ~~[beverages]~~ beverage.

2741 (b) Notwithstanding Subsection (5)(a), an attendee who ~~[has purchased]~~ purchases
2742 bottled wine from an employee of the on-premise banquet licensee may thereafter serve wine
2743 from the bottle to the attendee or others at the attendee's table.

2744 (c) ~~[Each]~~ An attendee may have no more than two alcoholic beverages of any kind at a
2745 time before the attendee, subject to the limitation of Subsection (3)(a)(iv).

2746 (6) The alcoholic beverage storage area shall remain locked at all times other than
2747 those hours and days when alcoholic beverage sales are authorized by law.

2748 (7) (a) Except as provided in Subsection (7)(b), an alcoholic ~~[beverages]~~ beverage may
2749 be offered for sale, sold, served, or otherwise furnished by an on-premise banquet licensee
2750 from 10 a.m. to 1 a.m. seven days a week:

2751 (i) at a banquet; or

2752 (ii) in connection with room service.

2753 (b) Notwithstanding Subsection (7)(a), a sale or service of liquor may not occur at a

- 2754 banquet or in connection with room service until after the polls are closed on the day of:
- 2755 (i) a regular general election;
- 2756 (ii) a regular primary election; or
- 2757 (iii) a statewide special election.
- 2758 (8) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise
- 2759 furnished to [~~any~~] a:
- 2760 (a) minor;
- 2761 (b) person actually, apparently, or obviously intoxicated;
- 2762 (c) known habitual drunkard; or
- 2763 (d) known interdicted person.
- 2764 (9) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.
- 2765 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.
- 2766 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost
- 2767 of the alcoholic beverage to the on-premise banquet licensee.
- 2768 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 2769 over consumption or intoxication.
- 2770 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 2771 hours of the on-premise banquet licensee's business day such as a "happy hour."
- 2772 (e) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
- 2773 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 2774 (f) An on-premise banquet licensee may not engage in a public promotion involving or
- 2775 offering free alcoholic beverages to the general public.
- 2776 (10) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for an
- 2777 attendee by:
- 2778 (a) the on-premise banquet licensee; or
- 2779 (b) [~~any~~] an employee or agent of the on-premise banquet licensee.
- 2780 (11) An attendee of a banquet may not bring [~~any~~] an alcoholic beverage into or onto,
- 2781 or remove [~~any~~] an alcoholic beverage from the premises of a banquet.
- 2782 (12) (a) Except as otherwise provided in this title, the sale and service of an alcoholic
- 2783 [~~beverages~~] beverage by an on-premise banquet licensee at a banquet shall be made only for
- 2784 consumption at the location of the banquet.

2785 (b) The host of a banquet, an attendee, or ~~[any other]~~ a person other than the
2786 on-premise banquet licensee or ~~[its employees]~~ an employee of the on-premise banquet
2787 licensee, may not remove ~~[any]~~ an alcoholic beverage from the premises of the banquet.

2788 (13) An on-premise banquet licensee employee shall remain at the banquet at all times
2789 when an alcoholic ~~[beverages are being]~~ beverage is sold, served, or consumed at the banquet.

2790 (14) (a) An on-premise banquet licensee may not leave ~~[any]~~ an unsold alcoholic
2791 ~~[beverages]~~ beverage at the banquet following the conclusion of the banquet.

2792 (b) At the conclusion of a banquet, the on-premise banquet licensee or ~~[its employees]~~
2793 an employee of the on-premise banquet licensee, shall:

2794 (i) destroy ~~[any]~~ an opened and unused alcoholic ~~[beverages]~~ beverage that ~~[are]~~ is not
2795 saleable, under conditions established by the department; and

2796 (ii) return to the on-premise banquet licensee's approved locked storage area any:

2797 (A) opened and unused alcoholic beverage that is saleable; and

2798 (B) unopened ~~[containers]~~ container of an alcoholic ~~[beverages]~~ beverage.

2799 (15) Except as provided in Subsection (14), ~~[any]~~ an open or sealed container of an
2800 alcoholic ~~[beverages]~~ beverage not sold or consumed at a banquet:

2801 (a) shall be stored by the on-premise banquet licensee in the on-premise banquet
2802 licensee's approved locked storage area; and

2803 (b) may be used at more than one banquet.

2804 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense,
2805 or otherwise furnish an alcoholic ~~[beverages]~~ beverage in connection with the on-premise
2806 banquet licensee's banquet and room service activities.

2807 (17) An employee of an on-premise banquet licensee, while on duty, may not:

2808 (a) consume an alcoholic beverage; or

2809 (b) be intoxicated.

2810 (18) An on-premise banquet licensee shall prominently display at ~~[each]~~ a banquet at
2811 which an alcoholic ~~[beverages are]~~ beverage is sold or served:

2812 (a) a copy of the licensee's on-premise banquet license; and

2813 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2814 drugs is a serious crime that is prosecuted aggressively in Utah."

2815 (19) An on-premise banquet licensee may not on the premises of the hotel, resort

2816 facility, sports center, or convention center:

2817 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
2818 Chapter 10, Part 11, Gambling;

2819 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2820 Part 11, Gambling; or

2821 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2822 the risking of something of value for a return or for an outcome when the return or outcome is
2823 based upon an element of chance, excluding the playing of an amusement device that confers
2824 only an immediate and unrecorded right of replay not exchangeable for value.

2825 (20) (a) An on-premise banquet licensee shall maintain accounting and such other
2826 records and documents as the commission or department may require.

2827 (b) An on-premise banquet licensee or person acting for the on-premise banquet
2828 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the~~
2829 ~~entries in any of the books~~] an entry in a book of account or other [~~documents~~] document of the
2830 on-premise banquet licensee required to be made, maintained, or preserved by this title or the
2831 rules of the commission for the purpose of deceiving the commission [~~or~~], the department, or
2832 [~~any of their officials or employees~~] an official or employee of the commission or department,
2833 is subject to:

2834 (i) the suspension or revocation of the on-premise banquet license; and

2835 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2836 (21) (a) For the purpose described in Subsection (21)(b), an on-premise banquet
2837 licensee shall provide the department with advance notice of a scheduled banquet in
2838 accordance with rules made by the commission in accordance with Title 63, Chapter 46a, Utah
2839 Administrative Rulemaking Act.

2840 (b) The advance notice required by Subsection (21)(a) is required to provide any of the
2841 following the opportunity to conduct a random inspection of a banquet:

2842 (i) an authorized representative of the commission or the department; or

2843 (ii) a law enforcement officer.

2844 (22) An on-premise banquet licensee shall maintain at least 50% of its total annual
2845 banquet gross receipts from the sale of food, not including:

2846 (a) mix for an alcoholic [~~beverages~~] beverage; and

2847 (b) [~~charges~~] a charge in connection with the service of an alcoholic [~~beverages~~]
2848 beverage.

2849 (23) A person may not transfer an on-premise banquet license from one business
2850 location to another without prior written approval of the commission.

2851 (24) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange,
2852 barter, give, or attempt in any way to dispose of the license to [~~any other~~] another person,
2853 whether for monetary gain or not.

2854 (b) An on-premise banquet license has no monetary value for the purpose of any type
2855 of disposition.

2856 (25) (a) Room service of an alcoholic [~~beverages~~] beverage to a guest room of a hotel
2857 or resort facility shall be provided in person by an on-premise banquet licensee employee only
2858 to an adult guest in the guest room.

2859 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be left outside a guest room
2860 for retrieval by a guest.

2861 (c) An on-premise banquet licensee may only provide an alcoholic [~~beverages~~]
2862 beverage for room service in a sealed [~~containers~~] container.

2863 (26) An on-premise banquet licensee or an employee of the on-premise banquet
2864 licensee may not knowingly allow a person on a banquet location of a hotel, resort facility,
2865 sports center, or convention center to, in violation of Title 58, Chapter 37, Utah Controlled
2866 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2867 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2868 58-37-2; or

2869 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2870 Section 58-37a-3.

2871 Section 35. Section **32A-5-101** is amended to read:

2872 **32A-5-101. Commission's power to license private clubs -- Limitations.**

2873 (1) Before a private club may sell or allow the consumption of alcoholic beverages on
2874 its premises, the private club shall first obtain a license from the commission as provided in
2875 this chapter.

2876 (2) The commission may grant private club licenses to social clubs, recreational,
2877 athletic, or kindred associations that desire to maintain premises upon which alcoholic

2878 beverages may be stored, sold, served, and consumed.

2879 (3) At the time the commission grants a private club license the commission shall
2880 designate whether the private club license qualifies as a class A, B, C, or D license as defined
2881 in Subsections (3)(a) through (d).

2882 (a) A "class A licensee" is a private club licensee that:

2883 (i) meets the requirements of this chapter;

2884 (ii) owns, maintains, or operates a substantial recreational facility in conjunction with a
2885 club house such as:

2886 (A) a golf course; or

2887 (B) a tennis facility;

2888 (iii) has at least 50% of the total membership having:

2889 (A) full voting rights; and

2890 (B) an equal share of the equity of the club; and

2891 (iv) if there is more than one class of membership, has at least one class of membership
2892 that entitles each member in that class to:

2893 (A) full voting rights; and

2894 (B) an equal share of the equity of the club.

2895 (b) A "class B licensee" is a private club licensee that:

2896 (i) meets the requirements of this chapter;

2897 (ii) has no capital stock;

2898 (iii) exists solely for:

2899 (A) the benefit of its members and their beneficiaries; and

2900 (B) ~~any~~ a lawful social, intellectual, educational, charitable, benevolent, moral,

2901 fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on
2902 through voluntary activity of its members in their local lodges;

2903 (iv) has a representative form of government; and

2904 (v) has a lodge system in which:

2905 (A) there is a supreme governing body;

2906 (B) subordinate to the supreme governing body are local lodges, however designated,
2907 into which individuals are admitted as members in accordance with the laws of the fraternal;

2908 (C) the local lodges are required by the laws of the fraternal to hold regular meetings at

2909 least monthly; and

2910 (D) the local lodges regularly engage in one or more programs involving member
2911 participation to implement the purposes of Subsection (3)(b)(iii).

2912 (c) A "class C licensee" is a private club licensee that:

2913 (i) meets the requirements of this chapter;

2914 (ii) is a dining club, as determined by the commission in accordance with Subsection
2915 (4); and

2916 (iii) maintains at least 50% of its total private club business from the sale of food, not
2917 including:

2918 (A) mix for alcoholic beverages; or

2919 (B) service charges.

2920 (d) A "class D licensee" is a private club licensee that:

2921 (i) meets the requirements of this chapter; and

2922 (ii) (A) does not meet the requirements of a class A, B, or C license; or

2923 (B) seeks to qualify as a class D licensee.

2924 (4) In determining whether an applicant is a dining club under Subsection (3)(c), the
2925 commission:

2926 (a) shall determine whether the applicant maintains at least 50% of its total private club
2927 business from the sale of food, not including:

2928 (i) mix for alcoholic beverages;

2929 (ii) service charges; or

2930 (iii) membership and visitor card fees; and

2931 (b) may consider:

2932 (i) the square footage and seating capacity of the applicant;

2933 (ii) what portion of the square footage and seating capacity will be used for a dining
2934 area in comparison to the portion that will be used as a bar area;

2935 (iii) whether full meals including appetizers, main courses, and desserts are served;

2936 (iv) whether the applicant will maintain adequate on-premise culinary facilities to
2937 prepare full meals, except an applicant that is located on the premise of a hotel or resort facility
2938 may use the culinary facilities of the hotel or resort facility;

2939 (v) whether the entertainment provided at the club is suitable for minors; and

- 2940 (vi) the club management's ability to manage and operate a dining club including:
- 2941 (A) management experience;
- 2942 (B) past dining club or restaurant management experience; and
- 2943 (C) the type of management scheme employed by the private club.
- 2944 (5) (a) A private club or any officer, director, managing agent, or employee of a private
- 2945 club may not store, sell, serve, or permit consumption of alcoholic beverages upon the premises
- 2946 of the club, under a permit issued by local authority or otherwise, unless a private club license
- 2947 ~~[has been]~~ is first issued by the commission.
- 2948 (b) Violation of this Subsection (5) is a class B misdemeanor.
- 2949 (6) (a) Subject to the other provisions of this Subsection (6), the commission may issue
- 2950 private club licenses at places and in numbers as ~~[it]~~ the commission considers necessary.
- 2951 (b) The total number of private club licenses may not at any time aggregate more than
- 2952 that number determined by dividing the population of the state by ~~[7,300]~~ 7,850.
- 2953 (c) For purposes of this Subsection (6), population shall be determined by:
- 2954 (i) the most recent United States decennial or special census; or
- 2955 (ii) ~~[any other]~~ another population determination made by the United States or state
- 2956 governments.
- 2957 (d) (i) The commission may issue seasonal private club licenses to be established in
- 2958 areas the commission considers necessary.
- 2959 (ii) A seasonal private club license shall be for a period of six consecutive months.
- 2960 (iii) A private club license issued for operation during a summer time period is known
- 2961 as a "Seasonal A" private club license. The period of operation for a "Seasonal A" club license
- 2962 shall:
- 2963 (A) begin on May 1; and
- 2964 (B) end on October 31.
- 2965 (iv) A private club license issued for operation during a winter time period is known as
- 2966 a "Seasonal B" private club license. The period of operation for a "Seasonal B" club license
- 2967 shall:
- 2968 (A) begin on November 1; and
- 2969 (B) end on April 30.
- 2970 (v) In determining the number of private club licenses that the commission may issue

2971 under this section:

2972 (A) a seasonal private club license is counted as 1/2 of one private club license; and

2973 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

2974 (e) (i) If the location, design, and construction of a hotel may require more than one

2975 private club location within the hotel to serve the public convenience, the commission may

2976 authorize as many as three private club locations within the hotel under one license if:

2977 (A) the hotel has a minimum of 150 guest rooms; and

2978 (B) all locations under the license are:

2979 (I) within the same hotel facility; and

2980 (II) on premises which are managed or operated and owned or leased by the licensee.

2981 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel may not have more than one private

2982 club location under a single private club license.

2983 (7) (a) ~~[The]~~ Except as provided in Subsection (7)(b) or (c), the premises of a private
2984 club license may not be established;

2985 (i) within 600 feet of [any public or private school, church, public library, public
2986 playground, or park] a community location, as measured by the method in Subsection [(8):]

2987 (7)(d); or

2988 ~~[(b) The premises of a private club license may not be established]~~

2989 (ii) within 200 feet of [any public or private school, church, public library, public
2990 playground, or park] a community location, measured in a straight line from the nearest

2991 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~
2992 ~~school, church, public library, public playground, or park]~~ community location.

2993 ~~[(c) The restrictions contained in Subsections (7)(a) and (b) govern unless one of the~~
2994 ~~following exemptions applies:]~~

2995 ~~[(i) with]~~ (b) With respect to the establishment of a private club license [within a city
2996 of the third, fourth, or fifth class, a town, or the unincorporated area of a county], the

2997 commission may authorize a variance to reduce the proximity ~~[requirements]~~ requirement of
2998 Subsection (7)(a)(i) ~~[or (b)]~~ if:

2999 ~~[(A)]~~ (i) the local governing authority [has granted] grants its written consent to the
3000 variance;

3001 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a private club

3002 license in the community are limited;

3003 ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where
3004 practical in the neighborhood concerned; ~~[and]~~

3005 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the
3006 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
3007 establishing the license would not be detrimental to the public health, peace, safety, and
3008 welfare of the community; and

3009 ~~[(ii) with respect to the establishment of a private club license in any location, the~~
3010 ~~commission may authorize a variance to reduce the proximity requirements of Subsection~~
3011 ~~(7)(a) or (b) in relation to a church:]~~

3012 ~~[(A) if the local governing body of the church in question gives its written consent to~~
3013 ~~the variance;]~~

3014 ~~[(B) following a public hearing in the city, town, or county and where practical in the~~
3015 ~~neighborhood concerned; and]~~

3016 ~~[(C) after giving full consideration to all of the attending circumstances and the~~
3017 ~~policies stated in Subsections 32A-1-104(3) and (4); or]~~

3018 (v) (A) the community location governing authority gives its written consent to the
3019 variance; or

3020 (B) when written consent is not given by the community location governing authority,
3021 the commission finds that the applicant has established that:

3022 (I) there is substantial unmet public demand to consume alcohol in a public setting
3023 within the geographic boundary of the local authority in which the private club licensee is to be
3024 located;

3025 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
3026 described in Subsection (7)(b)(v)(B)(I) other than through the establishment of a private club
3027 licensee; and

3028 (III) there is no reasonably viable alternative location within the geographic boundary
3029 of the local authority in which the private club licensee is to be located for establishing a
3030 private club license to satisfy the unmet demand described in Subsection (7)(b)(v)(B)(I).

3031 ~~[(iii) with]~~ (c) With respect to the premises of a private club license issued by the
3032 commission that undergoes a change of ownership, the commission may waive or vary the

3033 proximity requirements of Subsection (7)(a) [~~or (b)~~] in considering whether to grant a private
3034 club license to the new owner of the premises if:

3035 (i) (A) the premises previously received a variance reducing the proximity

3036 [~~requirements~~] requirement of Subsection (7)(a)(i) [~~or (b)~~]; or

3037 (B) the premises received a variance reducing the proximity requirement of Subsection
3038 (7)(a)(ii) on or before May 4, 2008;

3039 [~~(B)~~] (ii) a variance from proximity [~~or distance~~] requirements was otherwise allowed
3040 under this title.

3041 [~~(8) With respect to any public or private school, church, public library, public~~
3042 ~~playground, or park, the]~~

3043 (d) The 600 foot limitation described in Subsection (7)(a)(i) is measured from the
3044 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
3045 property boundary of the [~~public or private school, church, public library, public playground, or~~
3046 ~~park~~] community location.

3047 [~~(9)~~] (8) (a) Nothing in this section prevents the commission from considering the
3048 proximity of any educational, religious, and recreational facility, or any other relevant factor in
3049 reaching a decision on whether to issue a private club license.

3050 (b) For purposes of this Subsection [~~(9)~~] (8), "educational facility" includes:

3051 (i) a nursery school;

3052 (ii) infant day care center; and

3053 (iii) a trade and technical school.

3054 [~~(10)~~] (9) If requested by a private club licensee, the commission may approve a
3055 change in the class of private club license in accordance with rules made by the commission.

3056 Section 36. Section **32A-5-102** is amended to read:

3057 **32A-5-102. Application and renewal requirements.**

3058 (1) A club seeking a class A, B, C, or D private club license under this chapter shall
3059 file a written application with the department in a form prescribed by the department. The
3060 application shall be accompanied by:

3061 (a) a nonrefundable \$250 application fee;

3062 (b) an initial license fee of \$2,500, which is refundable if a license is not granted;

3063 (c) written consent of the local authority;

- 3064 (d) a copy of the applicant's current business license;
- 3065 (e) evidence of proximity to any [~~public or private school, church, public library,~~
- 3066 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of~~
- 3067 ~~Subsections 32A-5-101(7) and (8), the application shall be processed in accordance with those~~
- 3068 ~~subsections] community location, with proximity requirements being governed by Section~~
- 3069 32A-5-101;
- 3070 (f) evidence that the applicant operates a club where a variety of food is prepared and
- 3071 served in connection with dining accommodations;
- 3072 (g) a bond as specified by Section 32A-5-106;
- 3073 (h) a floor plan of the club premises, including consumption areas and the area where
- 3074 the applicant proposes to keep and store liquor;
- 3075 (i) evidence that the club is carrying public liability insurance in an amount and form
- 3076 satisfactory to the department;
- 3077 (j) evidence that the club is carrying dramshop insurance coverage of at least \$500,000
- 3078 per occurrence and \$1,000,000 in the aggregate;
- 3079 (k) a copy of the club's bylaws or house rules, and any amendments to those
- 3080 documents, which shall be kept on file with the department at all times;
- 3081 (l) a signed consent form stating that the club and its management will permit any
- 3082 authorized representative of the commission, department, or any law enforcement officer
- 3083 unrestricted right to enter the club premises;
- 3084 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,
- 3085 C, or D private club licensee; and
- 3086 (ii) evidence that the private club meets the requirements for the classification for
- 3087 which the club is applying;
- 3088 (n) in the case of a partnership, corporation, or limited liability company applicant,
- 3089 proper verification evidencing that the person or persons signing the private club application
- 3090 are authorized to so act on behalf of the partnership, corporation, or limited liability company;
- 3091 and
- 3092 (o) any other information the commission or department may require.
- 3093 (2) (a) The commission may refuse to issue a license if the commission determines that
- 3094 any provisions of the club's bylaws or house rules, or amendments to those documents are not:

- 3095 (i) reasonable; and
- 3096 (ii) consistent with:
- 3097 (A) the declared nature and purpose of the applicant; and
- 3098 (B) the purposes of this chapter.
- 3099 (b) Club bylaws or house rules shall include provisions respecting the following:
- 3100 (i) standards of eligibility for members;
- 3101 (ii) limitation of members, consistent with the nature and purpose of the private club;
- 3102 (iii) the period for which dues are paid, and the date upon which the period expires;
- 3103 (iv) provisions for dropping members for the nonpayment of dues or other cause; and
- 3104 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor

3105 cards.

- 3106 (3) (a) All private club licenses expire on June 30 of each year.
- 3107 (b) A person desiring to renew that person's private club license shall submit by no later
- 3108 than May 31:

- 3109 (i) a completed renewal application to the department; and
- 3110 (ii) a renewal fee in the following amount:

Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
3111 under \$10,000	\$1,000
3112 equals or exceeds \$10,000 but less than \$25,000	\$1,250
3113 equals or exceeds \$25,000 but less than \$75,000	\$1,750
3114 equals or exceeds \$75,000	\$2,250

3115 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of

3116 the license effective on the date the existing license expires.

3117 (d) ~~[Renewal applications]~~ A renewal application shall be in a form as prescribed by

3118 the department.

3119 (4) To ensure compliance with Subsection 32A-5-107(40), the commission may

3120 suspend or revoke any private club license if the private club licensee does not immediately

3121 notify the department of any change in:

- 3122 (a) ownership of the club;
- 3123 (b) for a corporate owner, the:
- 3124 (i) corporate officers or directors; or
- 3125

3126 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
3127 corporation; or

3128 (c) for a limited liability company:

3129 (i) managers; or

3130 (ii) members owning at least 20% of the limited liability company.

3131 Section 37. Section **32A-5-104** is amended to read:

3132 **32A-5-104. Commission and department duties before granting licenses.**

3133 (1) (a) Before a private club license may be granted by the commission, the department
3134 shall conduct an investigation and may hold public hearings for the purpose of gathering
3135 information and making recommendations to the commission as to whether or not a license
3136 should be granted.

3137 (b) The department shall forward the information and recommendations described in
3138 Subsection (1)(a) to the commission to aid in the commission's determination.

3139 (2) Before issuing ~~[any]~~ a private club license, the commission shall:

3140 (a) determine that:

3141 (i) the applicant has complied with all basic qualifications and requirements for making
3142 application for a license as provided by Sections 32A-5-102 and 32A-5-103~~[-];~~ and ~~[that]~~

3143 (ii) the application is complete;

3144 (b) determine whether the applicant qualifies as a class A, B, C, or D private club
3145 licensee;

3146 (c) consider the locality within which the proposed private club outlet is located
3147 including:

3148 (i) physical characteristics such as:

3149 (A) condition of the premises;

3150 (B) square footage; and

3151 (C) parking availability; and

3152 (ii) operational factors such as:

3153 (A) tourist traffic;

3154 (B) proximity to and density of other state stores, package agencies, and licensed
3155 outlets;

3156 (C) demographics;

3157 (D) population to be served; and

3158 (E) the extent of and proximity to any [~~school, church, public library, public~~

3159 ~~playground, or park~~] community location;

3160 (d) consider the club management's ability to manage and operate a private club

3161 license, including:

3162 (i) management experience[;];

3163 (ii) past retail liquor experience[;]; and

3164 (iii) the type of management scheme employed by the private club;

3165 (e) consider the nature or type of private club operation of the proposed liquor licensee,

3166 including:

3167 (i) the type of menu items offered and emphasized[;];

3168 (ii) the hours of operation[;];

3169 (iii) the seating capacity of the facility[;]; and

3170 (iv) the gross sales of food items; and

3171 (f) consider any other factor or circumstance the commission considers necessary.

3172 Section 38. Section **32A-5-107** is amended to read:

3173 **32A-5-107. Operational restrictions.**

3174 [~~Each~~] A club granted a private club license and the employees, management personnel,

3175 and members of the club shall comply with the following conditions and requirements. Failure

3176 to comply may result in a suspension or revocation of the private club license or other

3177 disciplinary action taken against individual employees or management personnel.

3178 (1) [~~Each~~] A private club shall have a governing body that:

3179 (a) consists of three or more members of the private club; and

3180 (b) holds regular meetings to:

3181 (i) review membership applications; and

3182 (ii) conduct [~~any~~] other business as required by the bylaws or house rules of the private

3183 club.

3184 (2) (a) [~~Each~~] A private club may admit an individual as a member only on written

3185 application signed by the applicant, subject to:

3186 (i) the applicant paying an application fee as required by Subsection (4); and

3187 (ii) investigation, vote, and approval of a quorum of the governing body.

3188 (b) (i) [~~Admissions~~] An admission of a member shall be recorded in the official
3189 minutes of a regular meeting of the governing body.

3190 (ii) An application, whether approved or disapproved, shall be filed as a part of the
3191 official records of the private club licensee.

3192 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an
3193 applicant and immediately accord the applicant temporary privileges of a member until the
3194 governing body completes its investigation and votes on the application, subject to the
3195 following conditions:

3196 (i) the applicant shall:

3197 (A) submit a written application; and

3198 (B) pay the application fee required by Subsection (4);

3199 (ii) the governing body votes on the application at its next meeting, which shall take
3200 place no later than 31 days following the day on which the application [~~was~~] is submitted; and

3201 (iii) the applicant's temporary membership privileges [~~are terminated~~] terminate if the
3202 governing body disapproves the application.

3203 (d) The spouse of a member of any class of private club [~~is entitled to all~~] has the rights
3204 and privileges of the member:

3205 (i) to the extent permitted by the bylaws or house rules of the private club; and

3206 (ii) except to the extent restricted by this title.

3207 (e) The minor child of a member of a class A private club [~~is entitled to all~~] has the
3208 rights and privileges of the member:

3209 (i) to the extent permitted by the bylaws or house rules of the private club; and

3210 (ii) except to the extent restricted by this title.

3211 (3) (a) [~~Each~~] A private club shall maintain a current and complete membership record
3212 showing:

3213 (i) the date of application of [~~each~~] a proposed member;

3214 (ii) [~~each~~] a member's address;

3215 (iii) the date the governing body approved a member's admission;

3216 (iv) the date initiation fees and dues [~~were~~] are assessed and paid; and

3217 (v) the serial number of the membership card issued to [~~each~~] a member.

3218 (b) A current record shall [~~also~~] be kept indicating when [~~members are dropped or~~

3219 ~~resigned]~~ a member is dropped or resigns.

3220 (4) (a) [~~Each~~] A private club shall establish in the private club bylaws or house rules
3221 application fees and membership dues:

3222 (i) as established by commission rules; and

3223 (ii) [~~which~~] that are collected from all members.

3224 (b) An application fee:

3225 (i) [~~shall~~] may not be less than \$4;

3226 (ii) shall be paid when the applicant applies for membership; and

3227 (iii) at the discretion of the private club, may be credited toward membership dues if
3228 the governing body approves the applicant as a member.

3229 (5) (a) [~~Each~~] A private club may, in its discretion, allow an individual to be admitted
3230 to or use the private club premises as a guest only under the following conditions:

3231 (i) [~~each~~] a guest must be previously authorized by one of the following who agrees to
3232 host the guest into the private club:

3233 (A) an active member of the private club; or

3234 (B) a holder of a current visitor card;

3235 (ii) [~~each~~] a guest must be known by the guest's host based on a preexisting bonafide
3236 business or personal relationship with the host [~~prior to~~] before the guest's admittance to the
3237 private club;

3238 (iii) [~~each~~] a guest must be accompanied by the guest's host for the duration of the
3239 guest's visit to the private club;

3240 (iv) [~~each~~] a guest's host must remain on the private club premises for the duration of
3241 the guest's visit to the private club;

3242 (v) [~~each~~] a guest's host is responsible for the cost of [~~all~~] services extended to the
3243 guest;

3244 (vi) [~~each~~] a guest [~~enjoys~~] has only those privileges derived from the guest's host for
3245 the duration of the guest's visit to the private club;

3246 (vii) an employee of the private club, while on duty, may not act as a host for a guest;

3247 (viii) an employee of the private club, while on duty, may not attempt to locate a
3248 member or current visitor card holder to serve as a host for a guest with whom the member or
3249 visitor card holder has no acquaintance based on a preexisting bonafide business or personal

3250 relationship prior to the guest's arrival at the private club; and

3251 (ix) a private club [~~and its employees~~] or an employee of the private club may not enter

3252 into an agreement or arrangement with a club member or holder of a current visitor card to

3253 indiscriminately host [~~members~~] a member of the general public into the private club as

3254 [~~guests~~] a guest.

3255 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

3256 (i) the private club licensee is a class B private club; and

3257 (ii) the guest is a member of the same fraternal organization as the private club

3258 licensee.

3259 (6) [~~Each~~] A private club may, in its discretion, issue a visitor [~~cards~~] card to allow

3260 [~~individuals~~] an individual to enter and use the private club premises on a temporary basis

3261 under the following conditions:

3262 (a) [~~each~~] a visitor card shall be issued for a period not to exceed three weeks;

3263 (b) a fee of not less than \$4 shall be assessed for [~~each~~] a visitor card that is issued;

3264 (c) a visitor card [~~shall~~] may not be issued to a minor;

3265 (d) a holder of a visitor card may not host more than seven guests at one time;

3266 (e) [~~each~~] a visitor card issued shall include:

3267 (i) the visitor's full name and signature;

3268 (ii) the date the visitor card [~~was~~] is issued;

3269 (iii) the date the visitor card expires;

3270 (iv) the club's name; and

3271 (v) the serial number of the visitor card; and

3272 (f) (i) the private club shall maintain a current record of the issuance of [~~each~~] a visitor

3273 card on the private club premises; and

3274 (ii) the record described in Subsection (6)(f)(i) shall:

3275 (A) be available for inspection by the department; and

3276 (B) include:

3277 (I) the name of the person to whom the visitor card [~~was~~] is issued;

3278 (II) the date the visitor card [~~was~~] is issued;

3279 (III) the date the visitor card expires; and

3280 (IV) the serial number of the visitor card.

3281 (7) A private club may not sell an alcoholic [~~beverages~~] beverage to or allow [~~any~~] a
3282 patron to be admitted to or use the private club premises other than:

3283 (a) a member;

3284 (b) a visitor who holds a valid visitor card issued under Subsection (6); or

3285 (c) a guest of:

3286 (i) a member; or

3287 (ii) a holder of a [~~current~~] valid visitor card.

3288 (8) (a) A minor may not be:

3289 (i) a member, officer, director, or trustee of a private club;

3290 (ii) issued a visitor card;

3291 (iii) admitted into, use, or be on the premises of [~~any~~] a lounge or bar area, as defined

3292 by commission rule, of [~~any~~] a private club except to the extent authorized under Subsection

3293 (8)(c)(ii);

3294 (iv) admitted into, use, or be on the premises of [~~any~~] a class D private club:

3295 (A) that operates as a sexually oriented business as defined by local ordinance; or

3296 (B) when a sexually oriented entertainer is performing on the premises; or

3297 (v) admitted into, use, or be on the premises of a class D private club except to the

3298 extent authorized under Subsections (8)(b) through (g).

3299 (b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private
3300 club, a minor may be admitted into, use, or be on the premises of a class D private club under
3301 the following circumstances:

3302 (i) during [~~periods~~] a period when no alcoholic beverages are sold, served, otherwise
3303 furnished, or consumed on the premises, but in no event later than 1 p.m.;

3304 (ii) when accompanied at all times by a member or holder of a current visitor card who
3305 is the minor's parent, legal guardian, or spouse; and

3306 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food
3307 service provider.

3308 (c) A [~~minor may be employed by a~~] class D private club may employ a minor on the
3309 premises of the private club if:

3310 (i) the parent or legal guardian of the minor owns or operates the class D private club;

3311 or

3312 (ii) the minor performs maintenance and cleaning services during the hours when the
3313 private club is not open for business.

3314 (d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be
3315 admitted into, use, or be on the premises of a dance or concert hall if:

3316 (A) the dance or concert hall is located:

3317 (I) on the premises of a class D private club; or

3318 (II) on the property that immediately adjoins the premises of and is operated by a class
3319 D private club; and

3320 (B) the commission [~~has issued~~] issues the class D private club a permit to operate a
3321 minor dance or concert hall based on the criteria described in Subsection (8)(d)(iii).

3322 (ii) If the dance or concert hall is located on the premises of a class D private club, a
3323 minor must be properly hosted in accordance with Subsection (5) by:

3324 (A) a member; or

3325 (B) a holder of a current visitor card.

3326 (iii) The commission may issue a minor dance or concert hall permit if:

3327 (A) the private club's lounge, bar, and alcoholic beverage consumption area is:

3328 (I) not accessible to [~~minors~~] a minor;

3329 (II) clearly defined; and

3330 (III) separated from the dance or concert hall area by one or more walls, multiple floor
3331 levels, or other substantial physical barriers;

3332 (B) [~~any~~] a bar or dispensing area is not visible to [~~minors~~] a minor;

3333 (C) [~~no~~] consumption of an alcoholic [~~beverages~~] beverage may not occur in:

3334 (I) the dance or concert hall area; or

3335 (II) [~~any~~] an area of the private club accessible to a minor;

3336 (D) the private club maintains sufficient security personnel to prevent the passing of
3337 beverages from the private club's lounge, bar, or an alcoholic beverage consumption [~~areas~~]
3338 area to:

3339 (I) the dance or concert hall area; or

3340 (II) [~~any~~] an area of the private club accessible to a minor;

3341 (E) there are one or more separate entrances, exits, and restroom facilities from the
3342 private club's lounge, bar, and alcoholic beverage consumption areas than for:

- 3343 (I) the dance or concert hall area; or
- 3344 (II) ~~[any]~~ an area accessible to a minor; and
- 3345 (F) the private club complies with any other restrictions imposed by the commission by
- 3346 rule.
- 3347 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
- 3348 guardian who is a member or holder of a current visitor card may be admitted into, use, or be
- 3349 on the premises of a concert hall described in Subsection (8)(d)(i) if:
- 3350 (i) ~~[a]~~ the requirements of Subsection (8)(d) are met; and
- 3351 (ii) ~~[a]~~ signage, product, and dispensing equipment containing recognition of an
- 3352 alcoholic ~~[beverages]~~ beverage is not visible to the minor.
- 3353 (f) A minor under 18 years of age but who is 14 years of age or older who is not
- 3354 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
- 3355 a concert hall described in Subsection (8)(d)(i) if:
- 3356 (i) ~~[a]~~ the requirements of Subsections (8)(d) and (8)(e)(ii) are met; and
- 3357 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the
- 3358 class D private club.
- 3359 (g) The commission may suspend or revoke a minor dance or concert permit issued to
- 3360 a class D private club and suspend or revoke the license of the class D private club if:
- 3361 (i) the private club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);
- 3362 (ii) the private club sells, serves, or otherwise furnishes an alcoholic ~~[beverages]~~
- 3363 beverage to a minor;
- 3364 (iii) the private club licensee or a supervisory or managerial level employee of the
- 3365 private club licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act,
- 3366 on the basis of ~~[activities]~~ an activity that ~~[occurred]~~ occurs on:
- 3367 (A) the licensed premises; or
- 3368 (B) the dance or concert hall that is located on property that immediately adjoins the
- 3369 premises of and is operated by the class D private club;
- 3370 (iv) there are three or more convictions of patrons of the private club under Title 58,
- 3371 Chapter 37, Utah Controlled Substances Act, based on activities that ~~[occurred]~~ occur on:
- 3372 (A) the licensed premises; or
- 3373 (B) the dance or concert hall that is located on property that immediately adjoins the

3374 premises of and is operated by the class D private club;

3375 (v) there is more than one conviction:

3376 (A) of:

3377 (I) the private club licensee;

3378 (II) an employee of the private club licensee;

3379 (III) an entertainer contracted by the private club licensee; or

3380 (IV) a patron of the private club licensee; and

3381 (B) made on the basis of a lewd [~~acts~~] act or lewd entertainment prohibited by this title

3382 that [~~occurred~~] occurs on:

3383 (I) the licensed premises; or

3384 (II) the dance or concert hall that is located on property that immediately adjoins the
3385 premises of and is operated by the class D private club; or

3386 (vi) the commission finds acts or conduct contrary to the public welfare and morals
3387 involving lewd acts or lewd entertainment prohibited by this title that [~~occurred~~] occurs on:

3388 (A) the licensed premises; or

3389 (B) the dance or concert hall that is located on property that immediately adjoins the
3390 premises of and is operated by the class D private club.

3391 (h) Nothing in this Subsection (8) [~~shall prohibit~~] prohibits a class D private club from
3392 selling, serving, or otherwise furnishing an alcoholic [~~beverages~~] beverage in a dance or
3393 concert area located on the private club premises on days and times when the private club does
3394 not allow [~~minors~~] a minor into those areas.

3395 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being
3396 more restrictive of a minor's admittance to, use of, or presence on the premises of [~~any~~] a
3397 private club.

3398 (9) (a) [~~Each~~] A private club shall maintain an expense ledger or record showing in
3399 detail all expenditures separated by payments for:

3400 (i) malt or brewed beverages;

3401 (ii) liquor;

3402 (iii) food;

3403 (iv) detailed payroll;

3404 (v) entertainment;

- 3405 (vi) rent;
- 3406 (vii) utilities;
- 3407 (viii) supplies; and
- 3408 (ix) ~~[all]~~ other expenditures.
- 3409 (b) ~~[The]~~ A private club shall keep a record required by this Subsection (9) ~~[shall be]~~:
- 3410 (i) ~~[kept]~~ in a form approved by the department; and
- 3411 (ii) balanced each month.
- 3412 (c) ~~[Each]~~ An expenditure shall be supported by:
- 3413 (i) a delivery ~~[tickets]~~ ticket;
- 3414 (ii) ~~[invoices]~~ an invoice;
- 3415 (iii) a receipted ~~[bills]~~ bill;
- 3416 (iv) a canceled ~~[checks]~~ check;
- 3417 (v) a petty cash ~~[vouchers]~~ voucher; or
- 3418 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.
- 3419 (d) ~~[All invoices and receipted bills]~~ An invoice or receipted bill for the current
- 3420 calendar or fiscal year documenting ~~[purchases]~~ a purchase made by the private club shall
- 3421 ~~[also]~~ be maintained.
- 3422 (10) (a) ~~[Each]~~ A private club shall maintain a minute book that is posted currently by
- 3423 the private club.
- 3424 (b) The minute book required by this Subsection (10) shall contain the minutes of ~~[all]~~
- 3425 a regular [and] or special [meetings] meeting of the governing body.
- 3426 ~~[(c) Membership lists shall also be maintained.]~~
- 3427 (c) A private club shall maintain a membership list.
- 3428 (11) (a) ~~[Each]~~ A private club shall maintain a current ~~[copies]~~ copy of the private
- 3429 club's current bylaws and current house rules.
- 3430 (b) ~~[Changes]~~ A change in the bylaws or house rules:
- 3431 (i) ~~[are]~~ is not effective unless submitted to the department within ten days after
- 3432 adoption; and
- 3433 (ii) ~~[become]~~ becomes effective 15 days after received by the department unless
- 3434 rejected by the department before the expiration of the 15-day period.
- 3435 (12) ~~[Each]~~ A private club shall maintain accounting and other records and documents

3436 as the department may require.

3437 (13) ~~[Any]~~ A private club or person acting for the private club, who knowingly forges,
3438 falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of the books]~~ an
3439 entry in a book of account or other ~~[documents]~~ document of the private club licensee required
3440 to be made, maintained, or preserved by this title or the rules of the commission for the purpose
3441 of deceiving the commission ~~[or]~~, the department, or ~~[any of their officials or employees]~~ an
3442 official or employee of the commission or department, is subject to:

3443 (a) the suspension or revocation of the private club's license; and

3444 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

3445 (14) (a) ~~[Each]~~ A private club licensee shall maintain and keep ~~[all the records]~~ a
3446 record required by this section and ~~[all other books, records, receipts, and disbursements]~~ a
3447 book, record, receipt, or disbursement maintained or used by the licensee, as the department
3448 requires, for a minimum period of three years.

3449 (b) ~~[All records, books, receipts, and disbursements are]~~ A record, book, receipt, or
3450 disbursement is subject to inspection by an authorized ~~[representatives]~~ representative of the
3451 commission and the department.

3452 (c) ~~[The]~~ A private club licensee shall allow the department, through ~~[its auditors or~~
3453 examiners] an auditor or examiner of the department, to audit ~~[all]~~ the records of the private
3454 club licensee at times the department considers advisable.

3455 (d) The department shall audit the records of the private club licensee at least once
3456 annually.

3457 (15) ~~[Each]~~ A private club licensee shall own or lease premises suitable for the private
3458 club's activities.

3459 (16) (a) A private club licensee may not maintain facilities in ~~[any]~~ a manner that
3460 barricades or conceals the private club licensee's operation.

3461 (b) ~~[Any]~~ A member of the commission, authorized department personnel, or ~~[any]~~ a
3462 peace officer shall, upon presentation of credentials, be admitted immediately to the private
3463 club and permitted without hindrance or delay to inspect completely the entire private club
3464 premises and ~~[all]~~ the books and records of the private club licensee, at any time during which
3465 ~~[the same are open]~~ the private club licensee is open for the transaction of business to its
3466 members.

3467 (17) [~~Any public~~] Public advertising related to a private club licensee by the following
3468 shall clearly identify a private club as being "a private club for members":

3469 (a) the private club licensee;

3470 (b) [~~the employees or agents~~] an employee or agent of the private club licensee; or

3471 (c) [~~any~~] a person under a contract or agreement with the private club licensee.

3472 (18) A private club licensee must have food available at all times when an alcoholic
3473 [~~beverages are~~] beverage is sold, served, or consumed on the premises.

3474 (19) (a) Liquor may not be purchased by a private club licensee except from a state
3475 [~~stores~~] store or package [~~agencies~~] agency.

3476 (b) Liquor purchased [~~in accordance with Subsection (19)(a)]~~ from a state store or
3477 package agency may be transported by the private club licensee from the place of purchase to
3478 the licensed premises.

3479 (c) Payment for liquor shall be made in accordance with rules established by the
3480 commission.

3481 (20) A private club licensee may sell or provide [~~any~~] a primary spirituous liquor only
3482 in a quantity not to exceed [~~one ounce~~] 1.5 ounces per beverage dispensed through a calibrated
3483 metered dispensing system approved by the department in accordance with commission rules
3484 adopted under this title, except that:

3485 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
3486 system if used as a secondary flavoring ingredient in a beverage subject to the following
3487 restrictions:

3488 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
3489 a primary spirituous liquor;

3490 (ii) the secondary ingredient [~~is~~] may not be the only spirituous liquor in the beverage;

3491 (iii) the private club licensee shall designate a location where flavorings are stored on
3492 the floor plan provided to the department; and

3493 (iv) [~~all~~] a flavoring [~~containers~~] container shall be plainly and conspicuously labeled
3494 "flavorings";

3495 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
3496 system if used:

3497 (i) as a flavoring on [~~desserts~~] a dessert; and

3498 (ii) in the preparation of a flaming food [~~dishes, drinks, and desserts~~] dish, drink, or
3499 dessert; [and]

3500 (c) [~~each~~] a private club patron may have no more than [~~2.75~~] 2.5 ounces of spirituous
3501 liquor at a time before the private club patron.

3502 (d) a private club patron may not have more than one spirituous liquor drink at a time
3503 before the patron.

3504 (21) (a) (i) Wine may be sold and served by the glass or an individual portion not to
3505 exceed five ounces per glass or individual portion.

3506 (ii) An individual portion may be served to a patron in more than one glass as long as
3507 the total amount of wine does not exceed five ounces.

3508 (iii) An individual portion of wine is considered to be one alcoholic beverage under
3509 Subsection (25)(c).

3510 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters
3511 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

3512 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
3513 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
3514 persons.

3515 (c) A wine service may be performed and a service charge assessed by the private club
3516 licensee as authorized by commission rule for wine purchased at the private club.

3517 (22) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
3518 one liter at [~~prices~~] a price fixed by the commission.

3519 (b) A flavored malt beverage may be served in an original container not exceeding one
3520 liter at a price fixed by the commission.

3521 [~~(b)~~] (c) A service charge may be assessed by the private club licensee for heavy beer
3522 or a flavored malt beverage purchased at the private club.

3523 (23) (a) (i) Subject to Subsection (23)(a)(ii), a private club [~~licensed to sell liquor~~]
3524 licensee may sell beer for on-premise consumption:

3525 (A) in an open container; and

3526 (B) on draft.

3527 (ii) Beer sold pursuant to Subsection (23)(a)(i) shall be in a size of container that does
3528 not exceed two liters, except that beer may not be sold to an individual patron in a size of

3529 container that exceeds one liter.

3530 (b) (i) A private club [~~licensed under this chapter~~] licensee that sells beer pursuant to
3531 Subsection (23)(a):

3532 (A) may do so without obtaining a separate on-premise beer retailer license from the
3533 commission; and

3534 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
3535 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those
3536 restrictions are inconsistent with or less restrictive than the operational restrictions under this
3537 chapter.

3538 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
3539 Licenses, required by Subsection (23)(b)(i) may result in a suspension or revocation of the
3540 private club's:

3541 (A) state liquor license; and

3542 (B) alcoholic beverage license issued by the local authority.

3543 (24) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in
3544 [~~any~~] a place other than as designated in the private club licensee's application, unless the
3545 private club licensee first applies for and receives approval from the department for a change of
3546 location within the private club.

3547 (25) (a) A patron may only make an alcoholic beverage [~~purchases~~] purchase in the
3548 private club from and be served by a person employed, designated, and trained by the private
3549 club licensee to sell, dispense, and serve an alcoholic [~~beverages~~] beverage.

3550 (b) Notwithstanding Subsection (25)(a), a patron who [~~has purchased~~] purchases
3551 bottled wine from an employee of the private club [~~or has carried~~] licensee or carries bottled
3552 wine onto the premises of the private club pursuant to Subsection (31) may thereafter serve
3553 wine from the bottle to the patron or others at the patron's table.

3554 (c) [~~Each~~] A private club patron may have no more than two alcoholic beverages of
3555 any kind at a time before the private club patron, subject to the limitation of Subsection (20)(d).

3556 (26) The liquor storage area shall remain locked at all times other than those hours and
3557 days when liquor sales and service are authorized by law.

3558 (27) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
3559 private club during the following days or hours:

- 3560 (i) until after the polls are closed on the day of ~~[any]~~ a:
- 3561 (A) regular general election;
- 3562 (B) regular primary election; or
- 3563 (C) statewide special election;
- 3564 (ii) until after the polls are closed on the day of ~~[any]~~ a municipal, local district, special
- 3565 service district, or school election, but only:
- 3566 (A) within the boundaries of the municipality, local district, special service district, or
- 3567 school district; and
- 3568 (B) if required by local ordinance; and
- 3569 (iii) on any other day after 1 a.m. and before 10 a.m.
- 3570 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
- 3571 Licenses, for on-premise beer licenses.
- 3572 (c) (i) Notwithstanding Subsections (27)(a) and (b), a private club shall remain open
- 3573 for one hour after the private club ceases the sale and service of an alcoholic ~~[beverages]~~
- 3574 beverage during which time a patron of the private club may finish consuming:
- 3575 (A) ~~[any]~~ a single drink containing spirituous liquor;
- 3576 (B) a single serving of wine not exceeding five ounces;
- 3577 (C) a single serving of heavy beer; ~~[or]~~
- 3578 (D) a single serving of beer not exceeding 26 ounces~~[-];~~ or
- 3579 (E) a single serving of a flavored malt beverage.
- 3580 (ii) A private club is not required to remain open:
- 3581 (A) after all patrons have vacated the premises; or
- 3582 (B) during an emergency.
- 3583 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club licensee may not
- 3584 allow a patron to remain on the premises of the private club to consume an alcoholic
- 3585 ~~[beverages]~~ beverage on the premises.
- 3586 (28) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or
- 3587 otherwise furnished to ~~[any]~~ a:
- 3588 (a) minor;
- 3589 (b) person actually, apparently, or obviously intoxicated;
- 3590 (c) known habitual drunkard; or

- 3591 (d) known interdicted person.
- 3592 (29) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.
- 3593 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.
- 3594 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost
- 3595 of the alcoholic beverage to the private club licensee.
- 3596 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 3597 over consumption or intoxication.
- 3598 (d) The price of a single serving of a primary spirituous liquor shall be the same
- 3599 whether served as a single drink or in conjunction with another alcoholic beverage.
- 3600 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 3601 hours of the private club's business day such as a "happy hour."
- 3602 (f) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
- 3603 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 3604 (g) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic
- 3605 beverages may not be sold or served during [~~any~~] a set period for a fixed price [~~is prohibited~~].
- 3606 (h) A private club licensee may not engage in a promotion involving or offering free
- 3607 alcoholic beverages to patrons of the private club.
- 3608 (30) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for a patron of
- 3609 the private club licensee by:
- 3610 (a) the private club licensee; or
- 3611 (b) [~~any~~] an employee or agent of the private club licensee.
- 3612 (31) (a) A person may not bring onto the premises of a private club licensee [~~any~~] an
- 3613 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
- 3614 discretion of the licensee, bottled wine onto the premises of [~~any~~] a private club licensee for
- 3615 on-premise consumption.
- 3616 (b) Except bottled wine under Subsection (31)(a), a private club [~~or its officers,~~
- 3617 ~~managers, employees, or agents~~] licensee or an officer, manager, employee, or agent of a
- 3618 private club licensee may not allow:
- 3619 (i) a person to bring onto the private club premises [~~any~~] an alcoholic beverage for
- 3620 consumption on the private club premises; or
- 3621 (ii) consumption of an alcoholic [~~beverages~~] beverage described in Subsection

3622 (31)(b)(i) on the premises of the private club.

3623 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
3624 or other representative of the private club licensee upon entering the private club.

3625 (d) A wine service may be performed and a service charge assessed by the private club
3626 licensee as authorized by commission rule for wine carried in by a patron.

3627 (32) (a) Except as provided in Subsection (32)(b), a private club [~~and its employees~~]
3628 licensee or an employee of the private club licensee may not permit a patron of the private club
3629 to carry from the private club premises an open container that:

3630 (i) is used primarily for drinking purposes; and

3631 (ii) contains [~~any~~] an alcoholic beverage.

3632 (b) A patron may remove the unconsumed contents of a bottle of wine if before
3633 removal, the bottle [~~has been~~] is recorked or recapped.

3634 (33) (a) A minor may not be employed by [~~any~~] a class A, B, or C private club licensee
3635 to sell, dispense, or handle [~~any~~] an alcoholic beverage.

3636 (b) Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may be
3637 employed by a class A or C private club licensee to enter the sale at a cash register or other
3638 sales recording device.

3639 (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed
3640 by or be on the premises of [~~any~~] a class D private club.

3641 (d) A minor may not be employed to work in [~~any~~] a lounge or bar area of [~~any~~] a class
3642 A, B, or C private club licensee.

3643 (34) An employee of a private club licensee, while on duty, may not:

3644 (a) consume an alcoholic beverage; or

3645 (b) be intoxicated.

3646 [~~(35) (a) A private club may not charge for the service or supply of glasses, ice, or~~
3647 ~~mixers unless:]~~

3648 [~~(i) the charges are fixed in the house rules of the club; and]~~

3649 [~~(ii) a copy of the house rules is kept on the club premises and available at all times for~~
3650 ~~examination by patrons of the club.]~~

3651 [~~(b) A charge or fee made in connection with the sale, service, or consumption of~~
3652 ~~liquor may be stated in food or alcoholic beverage menus including:]~~

3653 (35) A private club licensee shall have available on the premises for a patron to review
3654 at the time that the customer requests it, a written alcoholic beverage price list or a menu
3655 containing the price of an alcoholic beverage sold or served by the private club licensee
3656 including:

- 3657 (i) (a) a set-up charge;
3658 (ii) (b) a service charge; or
3659 (iii) (c) a chilling fee.

3660 (36) ~~[Each]~~ A private club licensee shall display in a prominent place in the private
3661 club:

- 3662 (a) the private club license that is issued by the department;
3663 (b) a list of the types and brand names of liquor being served through its calibrated
3664 metered dispensing system; and
3665 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
3666 drugs is a serious crime that is prosecuted aggressively in Utah."

3667 (37) A private club licensee may not on the premises of the private club:

3668 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
3669 Chapter 10, Part 11, Gambling;

3670 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
3671 Part 11, Gambling; or

3672 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
3673 the risking of something of value for a return or for an outcome when the return or outcome is
3674 based upon an element of chance, excluding the playing of an amusement device that confers
3675 only an immediate and unrecorded right of replay not exchangeable for value.

3676 (38) (a) A private club licensee may not close or cease operation for a period longer
3677 than 240 hours, unless:

3678 (i) the private club licensee notifies the department in writing at least seven days before
3679 the ~~[closing]~~ day on which the private club licensee closes or ceases operation; and

3680 (ii) the closure or cessation of operation is first approved by the department.

3681 (b) Notwithstanding Subsection (38)(a), in the case of emergency closure, ~~[immediate~~
3682 ~~notice of closure shall be made to]~~ the private club licensee shall immediately notify the
3683 department by telephone.

3684 (c) (i) The department may authorize a closure or cessation of operation for a period
3685 not to exceed 60 days.

3686 (ii) The department may extend the initial period an additional 30 days upon:

3687 (A) written request of the private club; and ~~[upon]~~

3688 (B) a showing of good cause.

3689 (ii) A closure or cessation of operation may not exceed a total of 90 days without
3690 commission approval.

3691 (d) The notice required by Subsection (38)(a) shall include:

3692 (i) the dates of closure or cessation of operation;

3693 (ii) the reason for the closure or cessation of operation; and

3694 (iii) the date on which the private club licensee will reopen or resume operation.

3695 (e) Failure of the private club licensee to provide notice and to obtain department
3696 authorization ~~[prior to]~~ before closure or cessation of operation ~~[shall result]~~ results in an
3697 automatic forfeiture of:

3698 (i) the private club license; and

3699 (ii) the unused portion of the private club license fee for the remainder of the license
3700 year effective immediately.

3701 (f) Failure of the private club licensee to reopen or resume operation by the approved
3702 date ~~[shall result]~~ results in an automatic forfeiture of:

3703 (i) the private club license; and

3704 (ii) the unused portion of the ~~[club's]~~ private club license fee for the remainder of the
3705 license year.

3706 (39) A private club license may not be transferred from one location to another person,
3707 without prior written approval of the commission.

3708 (40) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give, or
3709 attempt in any way to dispose of the private club license to ~~[any other]~~ another person, whether
3710 for monetary gain or not.

3711 (b) A private club license has no monetary value for the purpose of any type of
3712 disposition.

3713 (41) A private club licensee or an employee of the private club licensee may not
3714 knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,

3715 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3716 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
3717 58-37-2; or

3718 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
3719 Section 58-37a-3.

3720 Section 39. Section **32A-7-101** is amended to read:

3721 **32A-7-101. Issuance of single event permits -- Limitations.**

3722 (1) The commission may issue a single event permit to any of the following that is
3723 conducting a convention, civic, or community enterprise, a bona fide:

3724 (a) partnership;

3725 (b) corporation;

3726 (c) limited liability company;

3727 (d) church;

3728 (e) political organization;

3729 (f) incorporated association;

3730 (g) recognized subordinate lodge, chapter, or other local unit of an entity described in
3731 Subsections (1)(a) through (f);

3732 (h) state agency; or

3733 (i) political subdivision of the state including:

3734 (i) a county; or

3735 (ii) a municipality.

3736 (2) ~~[The]~~ A single event permit may authorize:

3737 (a) for a period not to exceed 120 consecutive hours, the storage, sale, service, and
3738 consumption of liquor at an event at which the storage, sale, service, or consumption of liquor
3739 is otherwise prohibited by this title; and

3740 (b) the storage, sale, service, and consumption of beer at the same event for the period
3741 that the storage, sale, service, or consumption of liquor is authorized under Subsection (2)(a)
3742 for the single event permit.

3743 (3) The commission may not issue more than four single event permits in any one
3744 calendar year to the same:

3745 (a) partnership;

- 3746 (b) corporation;
- 3747 (c) limited liability company;
- 3748 (d) church;
- 3749 (e) political organization;
- 3750 (f) incorporated association;
- 3751 (g) recognized subordinate lodge, chapter, or other local unit of an entity described in

3752 Subsections (3)(a) through (f);

- 3753 (h) state agency; or
- 3754 (i) political subdivision of the state including:
 - 3755 (i) a county; or
 - 3756 (ii) a municipality.

3757 (4) (a) The 600 foot and 200 foot proximity [~~limitations to educational, religious, and~~
3758 ~~recreational facilities~~] requirements in relation to a community location that are applicable to a
3759 state [~~stores~~] store, package [~~agencies~~] agency, [~~and licensees~~] or licensee, do not apply to a
3760 single event [~~permits~~] permit.

3761 (b) [~~Nothing~~] Notwithstanding Subsection (4)(a), nothing in this section [~~;- however;~~]
3762 prevents the commission from considering the proximity of [~~any~~] an educational, religious, or
3763 recreational facility, or any other relevant factor in deciding whether to [~~grant~~] issue a single
3764 event permit.

3765 Section 40. Section **32A-7-106** is amended to read:

3766 **32A-7-106. Operational restrictions.**

3767 (1) (a) [~~Any~~] An organization granted a single event permit and [~~any~~] a person
3768 involved in the storage, sale, or service of an alcoholic [~~beverages~~] beverage at the event for
3769 which the permit is issued, shall abide by:

- 3770 (i) this title;
- 3771 (ii) the rules of the commission; and
- 3772 (iii) the special conditions and requirements provided in this section.

3773 (b) Failure to comply with Subsection (1)(a) by an organization or person described in
3774 Subsection (1)(a):

- 3775 (i) may result in:
 - 3776 (A) an immediate revocation of the single event permit;

3777 (B) forfeiture of the surety bond; and

3778 (C) immediate seizure of [~~an~~] an alcoholic [~~beverages~~] beverage present at the event;

3779 and

3780 (ii) disqualifies the organization from applying [~~for a single event permit under this~~
3781 ~~chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special~~
3782 ~~Event Beer Permits;]~~ for a period of three years from the date of revocation of the permit[:] for:

3783 (A) a single event permit under this chapter; or

3784 (B) a temporary special event beer permit under Chapter 10, Part 3, Temporary Special
3785 Event Beer Permits.

3786 (c) [~~Any~~] An alcoholic [~~beverages~~] beverage seized under this Subsection (1) shall be
3787 returned to the organization after the event if forfeiture proceedings are not instituted under
3788 Section 32A-13-103.

3789 (2) Special conditions and requirements for a single event [~~permittees~~] permittee
3790 include the following:

3791 (a) (i) [~~All persons~~] A person involved in the storage, sale, or service of an alcoholic
3792 [~~beverages~~] beverage at the event must do so under the supervision and direction of the
3793 permittee.

3794 (ii) [~~All persons~~] A person involved in the sale or service of an alcoholic [~~beverages~~]
3795 beverage at the event may not, while on duty:

3796 (A) consume an alcoholic beverage; or

3797 (B) be intoxicated.

3798 (b) (i) [~~All~~] A permittee shall purchase liquor stored, sold, served, and consumed at the
3799 event [~~shall be purchased by the permittee~~] from a state store or package agency.

3800 [~~(ii) All beer purchased by the permittee shall be purchased from:]~~

3801 (ii) The permittee shall purchase beer from:

3802 (A) a licensed beer wholesaler; or

3803 (B) a licensed beer retailer.

3804 (iii) [~~All~~] An alcoholic [~~beverages are~~] beverage is considered under the control of the
3805 permittee during the event.

3806 (iv) [~~Attendees~~] An attendee of the event may not bring [~~any~~] an alcoholic [~~beverages~~]
3807 beverage onto the premises of the event.

3808 (c) A permittee may not charge more than the maximum amount set forth in the permit
3809 for ~~[any]~~ an alcoholic beverage.

3810 (d) ~~[Each]~~ A permittee shall post in a prominent place in the area in which an alcoholic
3811 ~~[beverages are being]~~ beverage is sold, served, and consumed, a copy of the permit, together
3812 with a list of the operational restrictions and requirements of a single event ~~[permittees]~~
3813 permittee set forth in this section.

3814 (e) ~~[Alcoholic beverages]~~ An alcoholic beverage purchased for the event may not be
3815 stored, sold, served, or consumed in ~~[any]~~ a location other than that described in the application
3816 and designated on the permit unless the permittee first applies for and receives approval from
3817 the commission for a change of location.

3818 (f) (i) A single event permittee may sell or provide a primary spirituous liquor only in a
3819 quantity not to exceed ~~[one ounce]~~ 1.5 ounces per beverage except that additional spirituous
3820 liquor may be used in a beverage if:

3821 (A) used as a secondary flavoring ingredient;

3822 (B) used in conjunction with the primary spirituous liquor;

3823 (C) the secondary ingredient is not the only spirituous liquor in the beverage; ~~[and]~~

3824 (D) ~~[each]~~ an attendee ~~[may have]~~ has no more than ~~[2.75]~~ 2.5 ounces of spirituous
3825 liquor at a time before the attendee; and

3826 (E) an attendee has no more than one spirituous liquor drink at a time before the
3827 attendee.

3828 (ii) Spirituous liquor need not be dispensed through a calibrated metered dispensing
3829 system.

3830 (g) (i) (A) Wine may be sold and served by the glass or an individual portion that does
3831 not exceed five ounces per glass or individual portion.

3832 (B) An individual portion may be served to an attendee in more than one glass as long
3833 as the total amount of wine does not exceed five ounces.

3834 (C) An individual portion of wine is considered to be one alcoholic beverage under
3835 Subsection (2)(p).

3836 (ii) Wine may be sold and served in ~~[containers]~~ a container not exceeding 1.5 liters at
3837 ~~[prices]~~ a price fixed by the commission.

3838 (iii) A wine service may be performed and a service charge assessed by the single event

3839 permittee as authorized by commission rule for wine purchased at the event.

3840 (h) (i) Heavy beer may be served in an original [~~containers~~] container not exceeding
3841 one liter at [~~prices~~] a price fixed by the commission.

3842 (ii) A flavored malt beverage may be served in an original container not exceeding one
3843 liter at a price fixed by the commission.

3844 [~~(ii)~~] (iii) A service charge may be assessed by [~~the~~] a single event permittee as
3845 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the
3846 event.

3847 (i) (i) Subject to Subsection (2)(i)(ii), beer may be sold for on-premise consumption:

3848 (A) in an open container; and

3849 (B) on draft.

3850 (ii) Beer sold pursuant to Subsection (2)(i)(i) shall be in a size of container that does
3851 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
3852 container that exceeds one liter.

3853 (j) (i) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or
3854 consumed between the hours of 1 a.m. and 10 a.m.

3855 (ii) This Subsection (2)(j) does not preclude a local authority from being more
3856 restrictive with respect to the hours of sale, service, or consumption of an alcoholic [~~beverages~~]
3857 beverage at a temporary single event.

3858 (k) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise
3859 furnished until after the polls are closed on the day of [~~any~~] a:

3860 (i) regular general election;

3861 (ii) regular primary election; or

3862 (iii) statewide special election.

3863 (l) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise
3864 furnished to [~~any~~] a:

3865 (i) minor;

3866 (ii) person actually, apparently, or obviously intoxicated;

3867 (iii) known habitual drunkard; or

3868 (iv) known interdicted person.

3869 (m) (i) (A) Liquor may be sold only at [~~prices~~] a price fixed by the commission.

- 3870 (B) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.
- 3871 (ii) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost
- 3872 of the alcoholic beverage to the permittee.
- 3873 (iii) An alcoholic beverage may not be sold at a price that encourages over
- 3874 consumption or intoxication.
- 3875 (iv) An alcoholic beverage may not be sold at a special or reduced price for only
- 3876 certain hours of the day of the permitted event.
- 3877 (v) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
- 3878 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 3879 (vi) The permittee may not engage in a public promotion involving or offering free
- 3880 alcoholic beverages to the general public.
- 3881 (n) A single event permittee and its employees may not permit an attendee to carry
- 3882 from the premises an open container that:
- 3883 (i) is used primarily for drinking purposes; and
- 3884 (ii) contains [~~any~~] an alcoholic beverage.
- 3885 (o) A minor may not sell, serve, dispense, or handle [~~any~~] an alcoholic beverage at the
- 3886 event.
- 3887 (p) [~~Each~~] An attendee may have no more than one alcoholic beverage of any kind at a
- 3888 time before the patron, subject to the limitation in Subsection (2)(f)(i)(E).
- 3889 (3) The permittee shall maintain an expense and revenue ledger or record showing:
- 3890 (a) expenditures made for liquor and beer, set-ups, and other ingredients and
- 3891 components of an alcoholic [~~beverages~~] beverage; and
- 3892 (b) the revenue from the sale of an alcoholic [~~beverages~~] beverage.
- 3893 (4) A single event permit may not be transferred.
- 3894 (5) A single event permittee may not on the premises serviced by the single event
- 3895 permittee:
- 3896 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
- 3897 Chapter 10, Part 11, Gambling;
- 3898 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 3899 Part 11, Gambling; or
- 3900 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires

3901 the risking of something of value for a return or for an outcome when the return or outcome is
 3902 based upon an element of chance, excluding the playing of an amusement device that confers
 3903 only an immediate and unrecorded right of replay not exchangeable for value.

3904 (6) A single event permittee or an employee of the single event permittee may not
 3905 knowingly allow a person at an event to, in violation of Title 58, Chapter 37, Utah Controlled
 3906 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3907 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
 3908 58-37-2; or

3909 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
 3910 Section 58-37a-3.

3911 Section 41. Section **32A-8-101** is amended to read:

3912 **32A-8-101. Commission's power to grant licenses -- Limitations.**

3913 (1) The commission may issue an alcoholic beverage manufacturing [~~licenses to~~
 3914 ~~manufacturers whose businesses are] license to a manufacturer whose business in this state is
 3915 located in this state for the manufacture, storage, and sale of alcoholic beverages for each type
 3916 of license provided by this chapter.~~

3917 (2) The type of manufacturing licenses issued under this chapter are known as a:

3918 (a) winery [~~licenses]~~ license;

3919 (b) distillery [~~licenses]~~ license; and

3920 (c) brewery [~~licenses]~~ license.

3921 (3) (a) A person may not manufacture [~~any~~] an alcoholic beverage unless an alcoholic
 3922 beverage manufacturing license [~~has been~~] is issued by the commission.

3923 (b) A separate license is required for each place of manufacture, storage, and sale of an
 3924 alcoholic [~~beverages]~~ beverage.

3925 (c) Violation of this Subsection (3) is a class B misdemeanor.

3926 (4) [~~Brewers~~] (a) A brewer located outside the state [~~are~~] is not required to be licensed
 3927 under this chapter. [~~However, they~~]

3928 (b) A brewer described in Subsection (4)(a) must obtain a certificate of approval from
 3929 the department before selling or delivering:

3930 (i) beer to a licensed beer [~~wholesalers]~~ wholesaler in this state[~~, or~~];

3931 (ii) on or after October 1, 2008, a flavored malt beverage to the department or a

3932 military installation; or

3933 (iii) if a small brewer, beer to a licensed beer [~~wholesalers or retailers~~] wholesaler or
3934 retailer in this state.

3935 [~~(a)~~] (c) A brewer seeking a certificate of approval shall file a written application with
3936 the department, in a form prescribed by the department. The application shall be accompanied
3937 by:

3938 (i) a nonrefundable \$50 application fee;

3939 (ii) an initial certificate of approval fee of \$250 that is refundable if a certificate is not
3940 granted;

3941 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and
3942 Firearms to brew beer [~~and~~], heavy beer [~~products~~], or a flavored malt beverage; and

3943 (iv) any other information or documents the department may require.

3944 [~~(b) Each~~] (d) (i) An application shall be signed and verified by oath or affirmation by:

3945 (A) a partner if the brewer is a partnership[;]; or [~~by~~]

3946 (B) an executive officer, manager, or person specifically authorized by a corporation or
3947 limited liability company to sign the application [~~to which shall be attached written evidence of~~
3948 ~~this authority~~].

3949 (ii) The brewer filing an application shall attach to the application written evidence of
3950 the authority of the person described in Subsection (4)(d)(i) to sign the application.

3951 [~~(e)~~] (e) (i) All certificates of approval expire on December 31 of each year.

3952 (ii) [~~Brewers~~] A brewer desiring to renew [~~their certificates~~] its certificate shall submit
3953 a renewal fee of \$200, and a completed renewal application to the department no later than
3954 November 30 of the year the certificate expires.

3955 (iii) Failure to meet the renewal requirements [~~shall result~~] results in an automatic
3956 forfeiture of the certificate effective on the date the existing certificate expires.

3957 (iv) [~~Renewal applications~~] A renewal application shall be in a form prescribed by the
3958 department.

3959 (5) The commission may prescribe by policy, directive, or rule, consistent with this
3960 title, the general operational requirements of licensees relating to:

3961 (a) physical facilities;

3962 (b) conditions of sale, storage, or manufacture of alcoholic beverages;

3963 (c) storage and sales quantity limitations; and
3964 (d) other matters considered appropriate by the commission.
3965 Section 42. Section **32A-8-401** is amended to read:
3966 **32A-8-401. Authority and operational restrictions.**
3967 (1) A brewery license allows the licensee to:
3968 (a) manufacture, brew, store, transport, or export beer [~~and~~], heavy beer, and flavored
3969 malt beverages;
3970 (b) sell heavy beer [~~to~~] and, on or after October 1, 2008, a flavored malt beverage to:
3971 (i) the department[~~,to~~];
3972 (ii) a military [~~installations,] installation; and [to]~~
3973 (iii) an out-of-state [~~customers] customer;~~
3974 (c) sell beer to a licensed [~~wholesalers] wholesaler;~~
3975 (d) in the case of a small brewer, sell in accordance with Subsection (5), beer
3976 manufactured by the brewer to:
3977 (i) a licensed retailer;
3978 (ii) a holder of a single event permit issued by the commission pursuant to Chapter 7,
3979 Single Event Permits; and
3980 (iii) a holder of a temporary retail beer permit issued by the commission for a
3981 temporary special event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits;
3982 and
3983 (e) warehouse on its premises an alcoholic [~~beverages which] beverage that it~~
3984 manufactures or purchases for manufacturing purposes.
3985 (2) If considered necessary, the commission or department may:
3986 (a) require certain alterations to the plant, equipment, or premises;
3987 (b) require the alteration or removal of any unsuitable alcoholic beverage-making
3988 equipment or material;
3989 (c) require the licensee to clean, disinfect, ventilate, or otherwise improve the sanitary
3990 and working conditions of any plant, premises, and equipment; or
3991 (d) demand that all books, records, or data pertaining to the materials and ingredients
3992 used in the manufacture of alcoholic products are available to the commission or department
3993 upon request.

3994 (3) A brewery licensee may not sell [~~heavy beer~~] the following to any person within the
3995 state except the department [~~and~~] or a military [~~installations:] installation~~:

3996 (a) heavy beer; or

3997 (b) on or after October 1, 2008, a flavored malt beverage.

3998 (4) A brewery licensee may not permit any beer, heavy beer, or flavored malt beverage
3999 to be consumed on its premises, except under the circumstances described in this Subsection
4000 (4).

4001 (a) A brewer may allow its off-duty employees to consume beer, heavy beer, or a
4002 flavored malt beverage on its premises without charge.

4003 (b) A brewery licensee may allow any person who can lawfully buy [~~beer or malted~~
4004 ~~beverages~~] the following for wholesale or retail distribution to consume bona fide samples of
4005 its product on the brewery premises[-]:

4006 (i) beer;

4007 (ii) heavy beer; or

4008 (iii) on or after October 1, 2008, a flavored malt beverage.

4009 (c) (i) A brewery licensee may operate on its manufacturing premises a retail facility
4010 allowing consumption on premises of beer in bottles or draft as long as food is also available.

4011 (ii) [~~Any~~] A retail facility located on the premises of a brewery licensee shall be
4012 operated or supervised by the brewer.

4013 (iii) In operating an on-site retail facility, a brewery licensee shall comply with the
4014 requirements of Sections 32A-10-101 and 32A-10-102.

4015 (5) (a) [~~Every~~] A small brewer licensee located in this state, and [~~every~~] a small brewer
4016 located outside this state that obtains a certificate of approval from the department to sell beer
4017 in this state under Subsection 32A-8-101(4), that sells beer manufactured by the small brewer
4018 directly to a retailer licensee or permittee shall own, lease, or maintain and control a warehouse
4019 facility located in this state for the storage of all beer to be sold to any retailer licensee or
4020 permittee.

4021 (b) A small brewer may not sell beer to a retailer licensee or permittee unless the beer:

4022 (i) [~~was~~] is manufactured by the small brewer; and

4023 (ii) [~~has first been~~] is first placed in the small brewer's warehouse facility in this state.

4024 (c) (i) [~~Each~~] A small brewer warehouse shall maintain complete beer importation,

4025 inventory, tax, distribution, sales records, and other documents as the department and State Tax
4026 Commission may require.

4027 (ii) The records and documents described in Subsection (5)(c)(i) are subject to
4028 inspection by:

4029 (A) the department; and

4030 (B) the State Tax Commission.

4031 (iii) ~~Any~~ A small brewer or person acting for the small brewer, who knowingly
4032 forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the records or documents]~~ a
4033 record or document required to be made, maintained, or preserved by this title or the rules of
4034 the commission, or State Tax Commission for the purpose of deceiving the commission,
4035 department, State Tax Commission, or any of their officials or employees, is subject to:

4036 (A) the immediate suspension or revocation of:

4037 (I) the brewery license; or

4038 (II) the certificate of approval; and

4039 (B) possible criminal prosecution under Chapter 12, Criminal Offenses.

4040 Section 43. Section **32A-8-501** is amended to read:

4041 **32A-8-501. Commission's power to grant licenses.**

4042 (1) The commission may issue a local industry representative ~~[licenses]~~ license to an
4043 individual ~~[residents]~~ resident of Utah, Utah ~~[partnerships]~~ partnership, Utah ~~[corporations]~~
4044 corporation, ~~[and]~~ or Utah limited liability ~~[companies]~~ company who ~~[are]~~ is employed by a
4045 manufacturer, supplier, or importer, whether compensated by salary, commission, or ~~[any~~
4046 ~~other]~~ another means, to represent liquor~~[-wine, or heavy beer]~~ products with the department,
4047 package agencies, licensees, and permittees under this title~~[-]~~ including:

4048 (a) wine;

4049 (b) heavy beer; or

4050 (c) on or after October 1, 2008, a flavored malt beverage.

4051 (2) (a) Before ~~[any Utah resident, Utah partnership, Utah corporation, or Utah limited~~
4052 ~~liability company]~~ a person described in Subsection (1) may represent ~~[a liquor, wine, or heavy~~
4053 ~~beer]~~ an alcoholic product of a manufacturer, supplier, or importer, the ~~[resident, partnership,~~
4054 ~~or corporation]~~ person shall ~~[first]~~ obtain a local industry representative license from the
4055 commission as provided in this part.

4056 (b) A violation of this Subsection (2) is a class B misdemeanor.

4057 (3) ~~[Individual employees or agents]~~ An individual employee or agent of a local
4058 industry representative ~~[licensees are]~~ licensee is not required to be separately licensed.

4059 (4) A local industry representative may represent more than one manufacturer,
4060 supplier, or importer at a time.

4061 (5) (a) A manufacturer, supplier, or importer is not required to use a local industry
4062 representative to represent its products with the department, package agencies, licensees, or
4063 permittees.

4064 (b) ~~[Any]~~ An employee or agent of the manufacturer, supplier, or importer who is not a
4065 local industry representative while in the state shall first register with the department, on forms
4066 provided by the department, before representing alcoholic beverage products with the
4067 department, package agencies, licensees, and permittees of the department.

4068 (c) A manufacturer, supplier, or importer described in Subsection (5)(b) and ~~[their]~~ its
4069 employees and agents are subject to the same operational restrictions of this part and Chapter
4070 12, Criminal Offenses.

4071 Section 44. Section **32A-8-503** is amended to read:

4072 **32A-8-503. Qualifications.**

4073 (1) (a) The commission may not grant a local industry representative license to ~~[any]~~ a
4074 person who has been convicted of:

4075 (i) a felony under any federal or state law;

4076 (ii) any violation of any federal or state law or local ordinance concerning the sale,
4077 manufacture, distribution, importing, warehousing, adulteration, or transportation of alcoholic
4078 beverages;

4079 (iii) any crime involving moral turpitude; or

4080 (iv) on two or more occasions within the five years before the day on which the license
4081 is granted, driving under the influence of alcohol, any drug, or the combined influence of
4082 alcohol and any drug.

4083 (b) In the case of a partnership, corporation, or limited liability company the
4084 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
4085 offense described in Subsection (1)(a):

4086 (i) a partner;

- 4087 (ii) a managing agent;
4088 (iii) a manager;
4089 (iv) an officer;
4090 (v) a director;
4091 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
4092 the applicant corporation; or
4093 (vii) a member who owns at least 20% of the applicant limited liability company.
- 4094 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
4095 supervisory or managerial capacity for the local industry representative has been convicted of
4096 any offense described in Subsection (1)(a).
- 4097 (2) The commission may immediately suspend or revoke the local industry
4098 representative license if after the day on which the local industry representative license is
4099 granted, a person described in Subsection (1)(a), (b), or (c):
- 4100 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
4101 to the license being granted; or
- 4102 (b) on or after the day on which the license is granted:
- 4103 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
4104 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
4105 combined influence of alcohol and any drug; and
- 4106 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
4107 influence of alcohol and any drug within five years before the day on which the person is
4108 convicted of the offense described in Subsection (2)(b)(ii)(A).
- 4109 (3) The director may take emergency action by immediately suspending the operation
4110 of the local industry representative license according to the procedures and requirements of
4111 Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal
4112 matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
- 4113 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
4114 or
- 4115 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
4116 any drug, or the combined influence of alcohol and any drug; and
4117 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined

4118 influence of alcohol and any drug within five years before the day on which the person is
4119 arrested on a charge described in Subsection (3)(b)(i).

4120 (4) (a) (i) The commission may not grant a local industry representative license to [any]
4121 an individual who has had any type of license, agency, or permit issued under this title revoked
4122 within the last three years.

4123 (ii) The commission may not grant a local industry representative license to an
4124 applicant that is a partnership, corporation, or limited liability company if any partner,
4125 managing agent, manager, officer, director, stockholder who holds at least 20% of the total
4126 issued and outstanding stock of an applicant corporation, or member who owns at least 20% of
4127 an applicant limited liability company is or was:

4128 (A) a partner or managing agent of any partnership that had any type of license, agency,
4129 or permit issued under this title revoked within the last three years;

4130 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
4131 of the total issued and outstanding stock of any corporation that had any type of license,
4132 agency, or permit issued under this title revoked within the last three years; or

4133 (C) a manager or member who owns or owned at least 20% of any limited liability
4134 company that had any type of license, agency, or permit issued under this title revoked within
4135 the last three years.

4136 (b) An applicant that is a partnership, corporation, or limited liability company may not
4137 be granted a local industry representative license if any of the following had any type of
4138 license, agency, or permit issued under this title revoked while acting in that person's individual
4139 capacity within the last three years:

4140 (i) [any] a partner or managing agent of the applicant partnership;

4141 (ii) [any] a managing agent, officer, director, or stockholder who holds at least 20% of
4142 the total issued and outstanding stock of the applicant corporation; or

4143 (iii) [any] a manager or member who owns at least 20% of the applicant limited
4144 liability company.

4145 (c) A person acting in an individual capacity may not be granted an industry
4146 representative license if that person was:

4147 (i) a partner or managing agent of a partnership that had any type of license, agency, or
4148 permit issued under this title revoked within the last three years;

4149 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
4150 total issued and outstanding stock of a corporation that had any type of license, agency, or
4151 permit issued under this title revoked within the last three years; or

4152 (iii) a manager or member who owned at least 20% of a limited liability company that
4153 had any type of license, agency, or permit issued under this title revoked within the last three
4154 years.

4155 (5) (a) The commission may not grant a local industry representative license to a
4156 minor.

4157 (b) The commission may not grant a local industry representative license to an
4158 applicant that is a partnership, corporation, or limited liability company if any of the following
4159 is a minor:

4160 (i) a partner or managing agent of the applicant partnership;

4161 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
4162 total issued and outstanding stock of the applicant corporation; or

4163 (iii) a manager or member who owns at least 20% of the applicant limited liability
4164 company.

4165 (6) Except as otherwise provided, the commission may not grant a local industry
4166 representative license to:

4167 (a) [~~any~~] a holder of any retail license issued under this title that sells;

4168 (i) spirituous liquor[;];

4169 (ii) wine[; ~~or~~];

4170 (iii) heavy beer; or

4171 (iv) on or after October 1, 2008, a flavored malt beverage;

4172 (b) [~~any~~] an employee or agent of any retail license issued under this title that sells;

4173 (i) spirituous liquor[;];

4174 (ii) wine[; ~~or~~];

4175 (iii) heavy beer; or

4176 (iv) on or after October 1, 2008, a flavored malt beverage; or

4177 (c) [~~any~~] an individual, partnership, corporation, or limited liability company who
4178 holds any interest in any retail license issued under this title that sells;

4179 (i) spirituous liquor[;];

- 4180 (ii) wine~~[, or]~~;
- 4181 (iii) heavy beer; or
- 4182 (iv) on or after October 1, 2008, a flavored malt beverage.

4183 (7) If ~~[any]~~ an individual, partnership, corporation, or limited liability company to
4184 whom a local industry representative license has been issued under this part no longer
4185 possesses the qualifications required by this title for obtaining that license, the commission
4186 may suspend or revoke that license.

4187 Section 45. Section **32A-8-505** is amended to read:

4188 **32A-8-505. Operational restrictions.**

4189 (1) (a) A local industry representative licensee, employee or agent of the licensee, or
4190 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
4191 state, shall abide by the conditions and requirements set forth in this section.

4192 (b) If ~~[any]~~ a person listed in Subsection (1)(a) knowingly violates or fails to comply
4193 with the conditions and requirements set forth in this section:

4194 (i) ~~[such]~~ the violation or failure to comply may result in:

4195 (A) a suspension or revocation of the license; or

4196 (B) other disciplinary action taken against individual employees or agents of the
4197 licensee; and

4198 (ii) the commission may order the removal of the manufacturer's, supplier's, or
4199 importer's products from the department's sales list and a suspension of the department's
4200 purchase of those products for a period determined by the commission if the manufacturer,
4201 supplier, or importer:

4202 (A) directly committed the violation; or

4203 (B) solicited, requested, commanded, encouraged, or intentionally aided another to
4204 engage in the violation.

4205 (2) A local industry representative licensee, employee or agent of the licensee, or
4206 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
4207 state:

4208 (a) only to the extent authorized by Chapter 12, Criminal Offenses, may:

4209 (i) assist the department in:

4210 (A) ordering, shipping, and delivering merchandise;

- 4211 (B) providing new product notification;
- 4212 (C) obtaining listing and delisting information;
- 4213 (D) receiving price quotations;
- 4214 (E) providing product sales analysis;
- 4215 (F) conducting shelf management; and
- 4216 (G) conducting educational seminars; and
- 4217 (ii) for the purpose of acquiring new listings:
- 4218 (A) solicit orders from the department; and
- 4219 (B) submit to the department price lists and samples of the products of the
- 4220 manufacturer, supplier, or importer;
- 4221 (b) may not sell any liquor[~~-, wine, or heavy beer~~] within the state except to the
- 4222 department and military installations[;] including:
- 4223 (i) wine;
- 4224 (ii) heavy beer; or
- 4225 (iii) on or after October 1, 2008, a flavored malt beverage;
- 4226 (c) may not ship or transport, or cause to be shipped or transported, into this state or
- 4227 from one place to another within this state any liquor[;] including:
- 4228 (i) wine[~~-or~~];
- 4229 (ii) heavy beer; or
- 4230 (iii) on or after October 1, 2008, a flavored malt beverage;
- 4231 (d) may not sell or furnish any liquor[~~-, wine, or heavy beer~~] to any person within this
- 4232 state other than to the department and military installations[;] including:
- 4233 (i) wine;
- 4234 (ii) heavy beer; or
- 4235 (iii) on or after October 1, 2008, a flavored malt beverage;
- 4236 (e) except as otherwise provided, may not advertise products it represents in violation
- 4237 of this title or any other federal or state law;
- 4238 (f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and
- 4239 (g) may only provide samples of products of the manufacturer, supplier, or importer for
- 4240 tasting and sampling purposes as provided in Section 32A-12-603 by the department.
- 4241 (3) (a) A local industry representative licensee shall maintain on file with the

4242 department a current accounts list of the names and addresses of all manufacturers, suppliers,
4243 and importers the licensee represents.

4244 (b) The licensee shall notify the department in writing of any changes to the accounts
4245 listed within 14 days from the date the licensee either acquired or lost the account of a
4246 particular manufacturer, supplier, or importer.

4247 (4) A local industry representative licensee shall maintain accounting and other records
4248 and documents as the department may require for at least three years.

4249 (5) ~~Any~~ A local industry representative licensee or person acting for the licensee, who
4250 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of
4251 the books of account or other documents of the licensee required to be made, maintained, or
4252 preserved by this title or the rules of the commission for the purpose of deceiving the
4253 commission or the department, or any of their officials or employees, is subject to:

4254 (a) the immediate suspension or revocation of the industry representative's license; and
4255 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

4256 (6) A local industry representative licensee may, for the purpose of becoming educated
4257 as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee
4258 represents, taste and analyze industry representative samples under the conditions listed in this
4259 Subsection (6).

4260 (a) The licensee may not receive more than two industry representative samples of a
4261 particular type, vintage, and production lot of a particular branded product within a consecutive
4262 120-day period.

4263 (b) (i) ~~Each~~ A sample of liquor may not exceed 1 liter.

4264 (ii) ~~Each~~ Notwithstanding Subsection (6)(b)(i), a sample of [wine or heavy beer] the
4265 following may not exceed 1.5 liters unless that exact product is only commercially packaged in
4266 a larger size, not to exceed 5 liters[-]:

4267 (A) wine;

4268 (B) heavy beer; or

4269 (C) on or after October 1, 2008, a flavored malt beverage.

4270 (c) ~~Each~~ An industry representative sample may only be of a product not presently
4271 listed on the department's sales list.

4272 (d) (i) ~~Industry~~ An industry representative ~~[samples]~~ sample shall be shipped:

- 4273 (A) prepaid by the manufacturer, supplier, or importer;
- 4274 (B) by common carrier and not via United States mail; and
- 4275 (C) directly to the department's central administrative warehouse office.
- 4276 (ii) ~~[These samples]~~ An industry representative sample may not be shipped to any other
- 4277 location within the state.
- 4278 (e) ~~[Industry]~~ An industry representative [samples] sample shall be accompanied by a
- 4279 letter from the manufacturer, supplier, or importer:
- 4280 (i) clearly identifying the product as an "industry representative sample"; and
- 4281 (ii) clearly stating:
- 4282 (A) the FOB case price of the product; and
- 4283 (B) the name of the local industry representative for who it is intended.
- 4284 (f) The department shall assess a reasonable handling, labeling, and storage fee for
- 4285 each industry representative sample received.
- 4286 (g) The department shall affix to ~~[each]~~ a bottle or container a label clearly identifying
- 4287 the product as an "industry representative sample."
- 4288 (h) The department shall:
- 4289 (i) account for and record each industry representative sample received;
- 4290 (ii) account for the sample's disposition; and
- 4291 (iii) maintain a record of the sample and its disposition for a two-year period.
- 4292 (i) ~~[Industry]~~ An industry representative [samples] sample may not leave the premises
- 4293 of the department's central administrative warehouse office.
- 4294 (j) ~~[Licensed]~~ A licensed industry [representatives] representative and ~~[their]~~ the
- 4295 industry representative's employees and agents may, at regularly scheduled days and times
- 4296 established by the department, taste and analyze one or more industry representative samples
- 4297 on the premises of the department's central administrative warehouse office.
- 4298 (k) Any unused contents of an opened product remaining after the product ~~[has been]~~ is
- 4299 sampled shall be destroyed by the department under controlled and audited conditions
- 4300 established by the department.
- 4301 (l) ~~[Industry representative samples]~~ An industry representative sample that ~~[are]~~ is not
- 4302 tasted within 30 days of receipt by the department shall be disposed of at the discretion of the
- 4303 department in one of the following ways:

4304 (i) contents destroyed under controlled and audited conditions established by the
4305 department; or

4306 (ii) added to the inventory of the department for sale to the public.

4307 (7) An employee or agent of a local industry representative licensee may not be:

4308 (a) the holder of any retail license issued under this title that sells:

4309 (i) spirituous liquor[;];

4310 (ii) wine[~~;~~or];

4311 (iii) heavy beer; or

4312 (iv) on or after October 1, 2008, a flavored malt beverage;

4313 (b) an employee or agent of any retail licensee issued under this title that sells:

4314 (i) spirituous liquor[;];

4315 (ii) wine[~~;~~or];

4316 (iii) heavy beer; or

4317 (iv) on or after October 1, 2008, a flavored malt beverage; or

4318 (c) a minor.

4319 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
4320 give, or attempt in any way to dispose of the license to any other person, whether for monetary
4321 gain or not.

4322 (b) A local industry representative license has no monetary value for the purpose of any
4323 type of disposition.

4324 Section 46. Section **32A-10-101** is amended to read:

4325 **32A-10-101. State and local licensing -- Limitations.**

4326 (1) [~~Any~~] A local authority may:

4327 (a) tax or prohibit any retail sale of beer;

4328 (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise
4329 consumption;

4330 (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise
4331 consumption at temporary special events that do not last longer than 30 days;

4332 (d) issue, suspend, and revoke licenses to businesses to sell beer at retail for
4333 off-premise consumption;

4334 (e) establish proximity restrictions for establishing premises where beer is sold at retail

4335 for off-premise consumption in relation to any [~~public or private school, church, public library,~~
4336 ~~public playground, or park~~] community location; and

4337 (f) otherwise regulate the retail sale of beer for off-premise consumption subject to the
4338 requirements of Sections 32A-10-102 and 32A-10-103.

4339 (2) The commission shall issue [~~licenses~~] a license to sell beer at retail for on-premise
4340 consumption as provided in Part 2, On-Premise Beer Retailer Licenses.

4341 (3) [~~Each~~] A licensee issued a license for on-premise consumption, by the commission
4342 under Subsection (2) or by the local authority under Subsection (1), is subject to the operational
4343 restrictions provided in Section 32A-10-206, except as otherwise provided.

4344 (4) Suspension or revocation of an on-premise beer retailer license issued by the
4345 commission under Subsection (2) or an on-premise beer retailer license issued by a local
4346 authority under Subsection (1) prohibits the establishment whose license is suspended or
4347 revoked from continuing to operate under the other state or local license it may have.

4348 (5) The commission shall issue temporary permits to sell beer at retail for on-premise
4349 consumption at temporary special events that do not last longer than 30 days as provided in
4350 Part 3, Temporary Special Event Beer Permits.

4351 (6) [~~Each~~] A permittee issued a temporary permit by the commission under Subsection
4352 (5) or by the local authority under Subsection (1), is subject to the operational restrictions
4353 provided in Section 32A-10-306, except as otherwise provided.

4354 (7) Suspension or revocation of a temporary permit issued by the commission under
4355 Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose
4356 permit is suspended or revoked from continuing to operate under the other state or local permit
4357 the permittee may have.

4358 Section 47. Section **32A-10-102** is amended to read:

4359 **32A-10-102. General restrictions.**

4360 (1) (a) (i) A beer retailer licensed under this part or Part 2, On-Premise Beer Retailer
4361 Licenses, may not purchase, acquire, possess for the purpose of resale, or sell [~~any~~] beer except
4362 that which [~~has been~~] is lawfully purchased from:

4363 (A) a wholesaler licensed under this title; or [~~from~~]

4364 (B) a small brewer that [~~manufactured~~] manufactures the beer.

4365 (ii) Violation of Subsection (1)(a) is a class A misdemeanor.

4366 (b) (i) ~~[All purchases made of beer by any]~~ A beer retailer shall purchase beer only
4367 from a licensed wholesaler ~~[shall be from that wholesaler]~~ who is authorized by the
4368 commission to sell beer in the geographical area in which the beer retailer is located, unless an
4369 alternate wholesaler is authorized by the department to sell to the beer retailer as provided in
4370 Section 32A-11-106.

4371 (ii) Violation of Subsection (1)(b) is a class B misdemeanor.

4372 (2) (a) Beer may not be sold, provided, or possessed for off-premise consumption in
4373 ~~[containers]~~ a container larger than two liters.

4374 (b) For a special event that does not last longer than 30 days:

4375 (i) an on-premise beer retailer license issued by the commission as provided in this part
4376 is not required for the sale of beer at the special event; and

4377 (ii) a temporary beer permit must be obtained from the commission as provided in Part
4378 3, Temporary Special Event Beer Permits.

4379 (3) (a) A minor may not be granted a beer retailer license.

4380 (b) The commission may not grant a beer retailer license to an applicant that is a
4381 partnership, corporation, or limited liability company if any of the following is a minor:

4382 (i) a partner or managing agent of the applicant partnership;

4383 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
4384 total issued and outstanding stock of the applicant corporation; or

4385 (iii) a manager or member who owns at least 20% of the applicant limited liability
4386 company.

4387 (4) A minor may not sell beer on the premises of a beer retailer for off-premise
4388 consumption unless:

4389 (a) the sale is done under the supervision of a person 21 years of age or older who is on
4390 the premises; and

4391 (b) the minor is at least 16 years of age.

4392 (5) (a) ~~[If malt beverage coolers or malt liquor is sold by a beer retailer for off-premise~~
4393 ~~consumption, the]~~ A beer retailer shall ~~[display a sign at the location on the premises where~~
4394 ~~malt beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please~~
4395 ~~read the label."];~~

4396 (i) display a beer sold by the retailer in an area that is visibly separate and distinct from

4397 the area where a nonalcoholic beverage is displayed; and

4398 (ii) post a sign in the area described in Subsection (5)(a)(i) that:

4399 (A) is prominent;

4400 (B) is easily readable by a consumer;

4401 (C) meets the requirements for format made by the commission by rule made in
4402 accordance with Title 63, Title 46a, Utah Administrative Rulemaking Act; and

4403 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain
4404 alcohol. Please read the label carefully."

4405 (b) The requirements of this Subsection (5) apply to a beer notwithstanding that its
4406 labeled, packaged, or advertised as:

4407 (i) a malt cooler; or

4408 (ii) a beverage that may provide energy.

4409 ~~(b)~~ (c) A violation of this Subsection (5) is an infraction.

4410 Section 48. Section **32A-10-201** is amended to read:

4411 **32A-10-201. Commission's power to grant licenses -- Limitations.**

4412 (1) Before ~~any~~ an establishment may sell beer at retail for on-premise consumption, it
4413 shall first obtain:

4414 (a) an on-premise beer retailer license from the commission as provided in this part;
4415 and

4416 (b) (i) a license issued by the local authority, as provided in Section 32A-10-101, to
4417 sell beer at retail for on-premise consumption; or

4418 (ii) other written consent of the local authority to sell beer at retail for on-premise
4419 consumption.

4420 (2) (a) Subject to the requirements of this section, the commission may issue
4421 on-premise beer retailer licenses for the purpose of establishing on-premise beer retailer outlets
4422 at places and in numbers as it considers proper for the storage, sale, and consumption of beer
4423 on premises operated as on-premise beer retailer outlets.

4424 (b) Notwithstanding Subsection (2)(a), the total number of on-premise beer retailer
4425 licenses that are taverns may not at any time aggregate more than that number determined by
4426 dividing the population of the state by ~~[25,000]~~ 30,500.

4427 (c) For purposes of this Subsection (2), the population of the state shall be determined

4428 by:

4429 (i) the most recent United States decennial special census; or

4430 (ii) ~~[any other]~~ another population determination made by the United States or state
4431 governments.

4432 (d) (i) The commission may issue seasonal licenses for taverns established in areas the
4433 commission considers necessary.

4434 (ii) A seasonal license for taverns shall be for a period of six consecutive months.

4435 (iii) An on-premise beer retailer license for a tavern issued for operation during a
4436 summer time period is known as a "Seasonal A" on-premise beer retailer license for a tavern.
4437 The period of operation for a "Seasonal A" on-premise beer retailer license for a tavern shall:

4438 (A) begin on May 1; and

4439 (B) end on October 31.

4440 (iv) An on-premise beer retailer license for a tavern issued for operation during a
4441 winter time period is known as a "Seasonal B" on-premise beer retailer license for a tavern.

4442 The period of operation for a "Seasonal B" on-premise beer retailer license for a tavern shall:

4443 (A) begin on November 1; and

4444 (B) end on April 30.

4445 (v) In determining the number of tavern licenses that the commission may issue under
4446 this section:

4447 (A) a seasonal on-premise beer retailer license for a tavern is counted as 1/2 of one
4448 on-premise beer retailer license for a tavern; and

4449 (B) each "Seasonal A" on-premise beer retailer license for a tavern shall be paired with
4450 a "Seasonal B" on-premise beer retailer license for a tavern.

4451 (3) (a) ~~[The]~~ Except as provided in Subsection (3)(b) or (c), the premises of an
4452 on-premise beer retailer license may not be established:

4453 (i) within 600 feet of ~~[any public or private school, church, public library, public~~
4454 ~~playground, or park]~~ a community location, as measured by the method in Subsection ~~[(4):]~~
4455 (3)(d); or

4456 ~~[(b) The premises of an on-premise beer retailer license may not be established]~~

4457 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~
4458 ~~playground, or park]~~ a community location, measured in a straight line from the nearest

4459 entrance of the proposed outlet to the nearest property boundary of the [~~public or private~~
4460 ~~school, church, public library, public playground, or park~~] community location.

4461 [~~(c)~~] The restrictions of Subsections (3)(a) and (b) govern unless one of the following
4462 exemptions applies:]

4463 [~~(i) with~~] (b) With respect to the establishment of an on-premise beer retailer license
4464 [~~that operates as a tavern within a city of the third, fourth, or fifth class, a town, or the~~
4465 ~~unincorporated area of a county~~], the commission may authorize a variance to reduce the
4466 proximity [~~requirements~~] requirement of Subsection (3)(a)(i) [~~or (b)~~] if:

4467 [~~(A)~~] (i) the local [~~governing~~] authority [~~has granted~~] grants its written consent to the
4468 variance;

4469 [~~(B)~~] (ii) the commission finds that alternative locations for establishing an on-premise
4470 beer retailer [~~tavern~~] license in the community are limited;

4471 [~~(C)~~] (iii) a public hearing [~~has been~~] is held in the city, town, or county, and where
4472 practical, in the neighborhood concerned; [~~and~~]

4473 [~~(D)~~] (iv) after giving full consideration to all of the attending circumstances and the
4474 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that
4475 establishing the license would not be detrimental to the public health, peace, safety, and
4476 welfare of the community; and

4477 [~~(i) with respect to the establishment of an on-premise beer retailer license that~~
4478 ~~operates as a tavern in any location, the commission may authorize a variance to reduce the~~
4479 ~~proximity requirements of Subsection (3)(a) or (b) in relation to a church:]~~

4480 [~~(A) if the local governing body of the church in question gives its written consent to~~
4481 ~~the variance;]~~

4482 [~~(B) following a public hearing in the city, town, or county and where practical in the~~
4483 ~~neighborhood concerned; and]~~

4484 [~~(C) after giving full consideration to all of the attending circumstances and the~~
4485 ~~policies stated in Subsections 32A-1-104(3) and (4);]~~

4486 [~~(iii) with respect to the establishment of an on-premise beer retailer license that does~~
4487 ~~not operate as a tavern in any location, the commission may authorize a variance that reduces~~
4488 ~~the proximity requirements of Subsection (3)(a) or (b) if:]~~

4489 [~~(A) the local governing authority has granted its written consent to the variance;]~~

4490 ~~[(B) alternative locations for establishing an on-premise beer retailer license that does~~
4491 ~~not operate as a tavern in the community are limited;]~~

4492 ~~[(C) a public hearing has been held in the city, town, or county, and where practical in~~
4493 ~~the neighborhood concerned; and]~~

4494 ~~[(D) after giving full consideration to all of the attending circumstances and the~~
4495 ~~policies stated in Subsections 32A-1-104(3) and (4), the commission determines that~~
4496 ~~establishing a license would not be detrimental to the public health, peace, safety, and welfare~~
4497 ~~of the community;]~~

4498 (v) (A) the community location governing authority gives its written consent to the
4499 variance; or

4500 (B) when written consent is not given by the community location governing authority,
4501 the commission finds that the applicant has established that:

4502 (I) there is substantial unmet public demand to consume alcohol in a public setting
4503 within the geographic boundary of the local authority in which the on-premise beer retailer
4504 licensee is to be located;

4505 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
4506 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of an on-premise
4507 beer retailer license; and

4508 (III) there is no reasonably viable alternative location within the geographic boundary
4509 of the local authority in which the on-premise beer retailer licensee is to be located for
4510 establishing an on-premise beer retailer license to satisfy the unmet demand described in
4511 Subsection (3)(b)(v)(B)(I).

4512 ~~[(iv) with] (c) (i) With respect to [any] an on-premise beer retailer license issued by~~
4513 ~~the commission before July 1, 1991, to an establishment that undergoes a change in ownership~~
4514 ~~after that date, the commission may waive or vary the proximity requirements of this~~
4515 ~~Subsection (3) in considering whether to grant an on-premise retailer beer license to the new~~
4516 ~~owner[; and].~~

4517 ~~[(v) with] (ii) With respect to the premises of an on-premise beer retailer license~~
4518 ~~issued by the commission that undergoes a change of ownership, the commission may waive or~~
4519 ~~vary the proximity requirements of Subsection (3)(a) [or (b)] in considering whether to grant an~~
4520 ~~on-premise beer retailer license to the new owner of the premises if:~~

4521 (A) ~~(I)~~ the premises previously received a variance from the proximity [~~requirements~~
 4522 ~~requirement~~ of Subsection (3)(a)(i) [~~or (b)~~]; or

4523 (II) the premises received a variance from the proximity requirement of Subsection
 4524 (3)(a)(ii) on or before May 4, 2008; or

4525 (B) a variance from proximity [~~or distance~~] requirements was otherwise allowed under
 4526 this title.

4527 [~~(4) With respect to any public or private school, church, public library, public~~
 4528 ~~playground, or park, the~~]

4529 (d) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the
 4530 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
 4531 property boundary of the [~~public or private school, church, public library, public playground,~~
 4532 ~~school playground or park] community location.~~

4533 [~~(5)~~] (4) (a) Nothing in this section prevents the commission from considering the
 4534 proximity of any educational, religious, and recreational facility, or any other relevant factor in
 4535 reaching a decision on a proposed location.

4536 (b) For purposes of this Subsection [~~(5)~~] (4), "educational facility" includes:

4537 (i) a nursery school;

4538 (ii) an infant day care center; and

4539 (iii) a trade and technical school.

4540 Section 49. Section **32A-10-202** is amended to read:

4541 **32A-10-202. Application and renewal requirements.**

4542 (1) A person seeking an on-premise beer retailer license under this chapter shall file a
 4543 written application with the department, in a form prescribed by the department. The
 4544 application shall be accompanied by:

4545 (a) a nonrefundable \$250 application fee;

4546 (b) an initial license fee that is refundable if a license is not granted in the following
 4547 amount:

4548 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial
 4549 license fee is \$150; or

4550 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is
 4551 \$1,250;

4552 (c) written consent of the local authority or a license to sell beer at retail for on-premise
4553 consumption granted by the local authority under Section 32A-10-101;

4554 (d) a copy of the applicant's current business license;

4555 (e) evidence of proximity to any [~~public or private school, church, public library,
4556 public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
4557 Subsections 32A-10-201(3) and (4), the application shall be processed in accordance with
4558 those subsections]~~ community location, with proximity requirements being governed by
4559 Section 32A-10-201;

4560 (f) a bond as specified by Section 32A-10-205;

4561 (g) a floor plan of the premises, including consumption areas and the area where the
4562 applicant proposes to keep, store, and sell beer;

4563 (h) evidence that the on-premise beer retailer licensee is carrying public liability
4564 insurance in an amount and form satisfactory to the department;

4565 (i) for [~~those licensees that sell]~~ a licensee that sells more than \$5,000 of beer annually,
4566 evidence that the on-premise beer retailer licensee is carrying dramshop insurance coverage of
4567 at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

4568 (j) a signed consent form stating that the on-premise beer retailer licensee will permit
4569 any authorized representative of the commission, department, or any peace officer unrestricted
4570 right to enter the licensee premises;

4571 (k) in the case of an applicant that is a partnership, corporation, or limited liability
4572 company, proper verification evidencing that the person or persons signing the on-premise beer
4573 retailer licensee application are authorized to so act on the behalf of the partnership,
4574 corporation, or limited liability company; and

4575 (l) any other information the department may require.

4576 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each
4577 year.

4578 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the
4579 person's on-premise beer retailer license shall submit by no later than January 31:

4580 (A) a completed renewal application to the department; and

4581 (B) a renewal fee in the following amount:

4582 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee

4583 is \$200; or
4584 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
4585 \$1,000.
4586 (ii) A licensee is not required to submit a renewal fee if the licensee is:
4587 (A) a state agency; or
4588 (B) a political subdivision of the state including:
4589 (I) a county; or
4590 (II) a municipality.
4591 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
4592 the license, effective on the date the existing license expires.
4593 (d) [~~Renewal applications~~] A renewal statement shall be in a form as prescribed by the
4594 department.
4595 (3) To ensure compliance with Subsection 32A-10-206(17), the commission may
4596 suspend or revoke a beer retailer license if [~~any~~] a beer retailer licensee does not immediately
4597 notify the department of any change in:
4598 (a) ownership of the beer retailer;
4599 (b) for a corporate owner, the:
4600 (i) corporate officers or directors; and
4601 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
4602 corporation; or
4603 (c) for a limited liability company:
4604 (i) managers; or
4605 (ii) members owning at least 20% of the limited liability company.
4606 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and
4607 (f) if the applicant is:
4608 (a) a state agency; or
4609 (b) a political subdivision of the state including:
4610 (i) a county; or
4611 (ii) a municipality.
4612 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer
4613 license is required for each building or resort facility owned or leased by the same applicant.

4614 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each
4615 retail beer dispensing outlet located in the same building or on the same resort premises owned
4616 or operated by the same applicant.

4617 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets
4618 in the building or resort facility operate in the same manner.

4619 (ii) If the condition described in Subsection (5)(c)(i) is not met:

4620 (A) one state on-premise beer retailer tavern license is required for all outlets in the
4621 same building or on the same resort premises that operate as a tavern; and

4622 (B) one state on-premise beer retailer license is required for all outlets in the same
4623 building or on the same resort premises that do not operate as a tavern.

4624 Section 50. Section **32A-10-204** is amended to read:

4625 **32A-10-204. Commission and department duties before granting licenses.**

4626 (1) (a) Before an on-premise beer retailer license may be granted by the commission
4627 the department shall conduct an investigation and may hold public hearings for the purpose of
4628 gathering information and making recommendations to the commission as to whether or not a
4629 license should be granted. [~~This~~]

4630 (b) The department shall forward the information [~~shall be forwarded~~] and
4631 recommendations described in Subsection (1)(a) to the commission to aid in [~~its~~] the
4632 commission's determination.

4633 (2) Before issuing an on-premise beer retailer license, the commission shall:

4634 (a) determine that:

4635 (i) the applicant has complied with all basic qualifications and requirements for making
4636 application for a license as provided by Sections 32A-10-202 and 32A-10-203[;]; and [~~that~~]

4637 (ii) the application is complete;

4638 (b) consider the locality within which the proposed on-premise beer retailer outlet is
4639 located including[~~, but not limited to~~]:

4640 (i) physical characteristics such as:

4641 (A) the condition of the premises[;];

4642 (B) square footage[;]; and

4643 (C) parking availability; and

4644 (ii) operational factors such as:

- 4645 (A) tourist traffic[;];
- 4646 (B) proximity to and density of other state stores, package agencies, and licensed
- 4647 outlets[;];
- 4648 (C) demographics[;];
- 4649 (D) population served[;]; and
- 4650 (E) the extent of and proximity to any [~~school, church, public library, public~~
- 4651 ~~playground, or park~~] community location;
- 4652 (c) consider the applicant's ability to manage and operate an on-premise beer retailer
- 4653 license including[~~, but not limited to~~];
- 4654 (i) management experience[;];
- 4655 (ii) past beer retailer experience[;]; and
- 4656 (iii) the type of management scheme employed by the outlet;
- 4657 (d) consider the nature or type of beer retailer operation of the proposed licensee; and
- 4658 (e) consider any other factors or circumstances [it] the commission considers
- 4659 necessary.

4660 Section 51. Section **32A-10-206** is amended to read:

4661 **32A-10-206. Operational restrictions.**

4662 [Each] A person granted an on-premise beer retailer license and the employees and

4663 management personnel of the on-premise beer retailer licensee shall comply with the following

4664 conditions and requirements. Failure to comply may result in a suspension or revocation of the

4665 license or other disciplinary action taken against individual employees or management

4666 personnel.

4667 (1) (a) Subject to Subsection (1)(b), a beer retailer licensee may sell beer for

4668 on-premise consumption:

- 4669 (i) in an open container; and
- 4670 (ii) on draft.

4671 (b) Beer sold pursuant to Subsection (1)(a) shall be in a size of container that does not

4672 exceed two liters, except that beer may not be sold to an individual patron in a size of container

4673 that exceeds one liter.

4674 (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer

4675 licensee.

4676 (3) A patron of the on-premise beer retailer may only make [~~purchases~~] a purchase
4677 from and be served by a person employed, designated, and trained by the licensee to sell and
4678 serve beer.

4679 (4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at [~~any~~] an
4680 on-premise beer retailer establishment after 1 a.m. and before 10 a.m.

4681 (b) Beer may not be sold, served, or otherwise furnished to [~~any~~] a:

4682 (i) minor;

4683 (ii) person actually, apparently, or obviously intoxicated;

4684 (iii) known habitual drunkard; or

4685 (iv) known interdicted person.

4686 (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall
4687 remain open for one hour after the tavern ceases the sale and service of alcoholic beverages
4688 during which time a patron of the tavern may finish consuming a single serving of beer not
4689 exceeding 26 ounces.

4690 (ii) A tavern is not required to remain open:

4691 (A) after all patrons have vacated the premises; or

4692 (B) during an emergency.

4693 (d) Between the hours of 2 a.m. and 10 a.m. on any day a tavern may not allow a patron
4694 to remain on the premises to consume alcoholic beverages on the premises.

4695 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.

4696 (b) Beer may not be sold at a special or reduced price that encourages over
4697 consumption or intoxication.

4698 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer
4699 retailer's business day such as a "happy hour."

4700 (d) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
4701 served for the price of a single alcoholic beverage [~~is prohibited~~].

4702 (e) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic
4703 beverages may not be sold or served during [~~any~~] a set period for a fixed price [~~is prohibited~~].

4704 (f) An on-premise beer licensee may not engage in a public promotion involving or
4705 offering free alcoholic beverages to the general public.

4706 (6) Beer may not be purchased for a patron of the on-premise beer establishment by:

- 4707 (a) the on-premise beer licensee; or
- 4708 (b) an employee or agent of the on-premise beer licensee.
- 4709 (7) Beer sold in a sealed [~~containers~~] container by the on-premise beer retailer licensee
- 4710 may be removed from the on-premise beer retailer premises.
- 4711 (8) (a) A person may not bring onto the premises of an on-premise beer retailer
- 4712 licensee [~~any~~] an alcoholic beverage for on-premise consumption.
- 4713 (b) An on-premise beer retailer licensee or [~~its officers, managers, employees, or~~
- 4714 ~~agents~~] an officer, manager, employee, or agent of the licensee may not:
- 4715 (i) allow a person to bring onto the on-premise beer retailer licensee premises [~~any~~] an
- 4716 alcoholic beverage for on-premise consumption; or
- 4717 (ii) allow consumption of [~~any such~~] an alcoholic beverage described in this
- 4718 Subsection (8) on its premises.
- 4719 (9) An on-premise beer retailer licensee and [~~its employees~~] an employee or the
- 4720 licensee may not permit a patron to carry from the premises an open container that:
- 4721 (a) is used primarily for drinking purposes; and
- 4722 (b) contains [~~any~~] an alcoholic beverage.
- 4723 (10) (a) Except as provided in Subsection (10)(b), a minor may not be:
- 4724 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell,
- 4725 dispense, or otherwise furnish beer; or
- 4726 (ii) on the premises of [~~any~~] a tavern.
- 4727 (b) Notwithstanding Subsection (10)(a), a minor who is at least 16 years of age may be
- 4728 employed to enter the sale at a cash register or other sales recording device on the premises of
- 4729 an on-premise beer retailer that is not a tavern.
- 4730 (11) An employee of a licensee, while on duty, may not:
- 4731 (a) consume an alcoholic beverage; or
- 4732 (b) be intoxicated.
- 4733 (12) [~~Each~~] An on-premise beer retailer licensee shall display in a prominent place in
- 4734 the on-premise beer retailer licensee:
- 4735 (a) the on-premise beer retailer license that is issued by the department; and
- 4736 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 4737 drugs is a serious crime that is prosecuted aggressively in Utah."

4738 (13) An on-premise beer retailer licensee may not on the premises of the on-premise
4739 beer retailer licensee:

4740 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
4741 Chapter 10, Part 11, Gambling;

4742 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
4743 Part 11, Gambling; or

4744 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
4745 the risking of something of value for a return or for an outcome when the return or outcome is
4746 based upon an element of chance, excluding the playing of an amusement device that confers
4747 only an immediate and unrecorded right of replay not exchangeable for value.

4748 (14) (a) Each on-premise beer retailer licensee shall maintain accounting and other
4749 records and documents as the department may require.

4750 (b) Any on-premise beer retailer licensee or person acting for the on-premise beer
4751 retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes
4752 ~~[the entries in any of the books]~~ an entry in a book of account or other ~~[documents]~~ document
4753 of the on-premise beer retailer licensee required to be made, maintained, or preserved by this
4754 title or the rules of the commission for the purpose of deceiving the commission ~~[or]~~, the
4755 department, or any of their officials or employees, is subject to:

- 4756 (i) the immediate suspension or revocation of the on-premise beer retailer license; and
- 4757 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

4758 (15) (a) A tavern licensed under this chapter may not close or cease operation for a
4759 period longer than 240 hours, unless:

4760 (i) the tavern licensee notifies the department in writing at least seven days before the
4761 closing; and

4762 (ii) the closure or cessation of operation is first approved by the department.

4763 (b) Notwithstanding Subsection (15)(a), in the case of emergency ~~[closure, immediate~~
4764 ~~notice of closure shall be made to]~~, a tavern licensee shall immediately notify the department
4765 by telephone.

4766 (c) (i) The department may authorize a closure or cessation of operation for a period
4767 not to exceed 60 days.

4768 (ii) The department may extend the initial period an additional 30 days upon:

- 4769 (A) written request of the tavern licensee; and
4770 (B) a showing of good cause.
4771 (iii) A closure or cessation of operation may not exceed a total of 90 days without
4772 commission approval.
4773 (d) A notice of closure or cessation by a tavern licensee shall include:
4774 (i) the date of closure or cessation of operation;
4775 (ii) the reason for the closure or cessation of operation; and
4776 (iii) the dates on which the tavern licensee will reopen or resume operation.
4777 (e) Failure of the tavern licensee to provide notice and to obtain department
4778 authorization before closure or cessation of operation [~~shall result~~] results effective
4779 immediately in an automatic forfeiture of:
4780 (i) the license; and
4781 (ii) the unused portion of the license fee for the remainder of the license year.
4782 (f) Failure of the tavern licensee to reopen or resume operation by the approved date
4783 [~~shall result~~] results in an automatic forfeiture of:
4784 (i) the license; and
4785 (ii) the unused portion of the license fee for the remainder of the license year.
4786 (16) An on-premise beer retailer license may not be transferred from one location to
4787 another, without prior written approval of the commission.
4788 (17) (a) An on-premise beer retailer licensee may not sell, transfer, assign, exchange,
4789 barter, give, or attempt in any way to dispose of the license to any person, whether for
4790 monetary gain or not.
4791 (b) An on-premise beer retailer license has no monetary value for the purpose of any
4792 type of disposition.
4793 (18) An on-premise beer retailer or an employee of the on-premise beer retailer may
4794 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
4795 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:
4796 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
4797 58-37-2; or
4798 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
4799 Section 58-37a-3.

4800 Section 52. Section **32A-10-306** is amended to read:

4801 **32A-10-306. Operational restrictions.**

4802 (1) (a) [~~Any~~] A person granted a temporary special event beer permit and any person
4803 involved in the storage, sale, or service of beer at the event for which a temporary special event
4804 the permit is issued, shall abide by this title, the rules of the commission, and the special
4805 conditions and requirements provided in this section.

4806 (b) Failure to comply as provided in Subsection (1)(a):

4807 (i) may result in:

4808 (A) an immediate revocation of the permit;

4809 (B) forfeiture of the surety bond; and

4810 (C) immediate seizure of all beer present at the event; and

4811 (ii) disqualifies the organization from applying for a temporary special event beer
4812 permit under this part or a single event permit under Chapter 7, Single Event Permits, for a
4813 period of three years from the date of revocation of the temporary special event permit.

4814 (c) [~~Any beer~~] Beer seized under this Subsection (1) shall be returned to the
4815 organization after the event if forfeiture proceedings are not instituted under Section
4816 32A-13-103.

4817 (2) Special conditions and requirements for temporary special event beer permittees
4818 include the following:

4819 (a) (i) [~~All persons~~] A person involved in the storage, sale, or service of beer at the
4820 temporary special event [~~do so~~] is considered to be under the supervision and direction of the
4821 permittee.

4822 (ii) [~~All persons~~] A person involved in the sale or service of beer at the temporary
4823 special event may not, while on duty:

4824 (A) consume an alcoholic beverage; or

4825 (B) be intoxicated.

4826 (b) (i) [~~All beer~~] A permittee shall purchase beer stored, sold, served, and consumed at
4827 the temporary special event [~~shall be purchased by the permittee~~] from a licensed beer
4828 wholesaler or retailer.

4829 (ii) [~~All beer~~] Beer is considered under the control of the permittee during the
4830 temporary special event.

4831 (iii) An attendee of the temporary special event may not bring [~~any~~] an alcoholic
4832 [~~beverages~~] beverage onto the premises of the temporary special event.

4833 (c) [~~Each~~] A permittee shall post in a prominent place in the area in which beer is being
4834 sold, served, and consumed:

4835 (i) a copy of the permit; and

4836 (ii) a list of the operational restrictions and requirements of temporary special event
4837 beer permittees set forth in this section.

4838 (d) Beer purchased for a temporary special event may not be stored, sold, served, or
4839 consumed in [~~any~~] a location other than that described in the application and designated on the
4840 temporary special event permit unless the permittee first applies for and receives approval from
4841 the commission for a change of location.

4842 (e) (i) Subject to Subsection (2)(e)(ii), beer may be sold for on-premise consumption:

4843 (A) in an open container; and

4844 (B) on draft.

4845 (ii) Beer sold pursuant to Subsection (2)(e)(i) shall be in a size of container that does
4846 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
4847 container that exceeds one liter.

4848 (f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed
4849 between the hours of 1 a.m. and 10 a.m.

4850 (ii) This Subsection (2)(f) does not preclude a local authority from being more
4851 restrictive with respect to the hours of sale, service, or consumption of beer at a temporary
4852 special event.

4853 (g) Beer may not be sold, served, or otherwise furnished to [~~any~~] a:

4854 (i) minor;

4855 (ii) person actually, apparently, or obviously intoxicated;

4856 (iii) known habitual drunkard; or

4857 (iv) known interdicted person.

4858 (h) (i) Beer may not be sold at less than the cost of the beer to the permittee.

4859 (ii) Beer may not be sold at a price that encourages over consumption or intoxication.

4860 (iii) Beer may not be sold at a special or reduced price for only certain hours of the day
4861 of the permitted event.

4862 (iv) ~~[The sale or service of more]~~ More than one beer beverage may not be sold or
4863 served for the price of a single beer beverage ~~[is prohibited]~~.

4864 (v) The permittee may not engage in a public promotion involving or offering free beer
4865 to the general public.

4866 (i) The permittee and its employees may not permit an attendee to carry from the
4867 premises an open container that:

4868 (i) is used for drinking purposes; and

4869 (ii) contains ~~any~~ an alcoholic beverage.

4870 (j) A minor may not sell, serve, dispense, or handle any beer at a temporary special
4871 event.

4872 (3) The permittee shall maintain an expense and revenue ledger or record showing:

4873 (a) expenditures made for beer; and

4874 (b) the revenue from sale of beer.

4875 (4) A temporary special event beer permit may not be transferred.

4876 (5) A temporary special event beer permittee may not on the premises serviced by the
4877 permittee:

4878 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
4879 Chapter 10, Part 11, Gambling;

4880 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
4881 Part 11, Gambling; or

4882 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
4883 the risking of something of value for a return or for an outcome when the return or outcome is
4884 based upon an element of chance, excluding the playing of an amusement device that confers
4885 only an immediate and unrecorded right of replay not exchangeable for value.

4886 (6) A temporary special event beer permittee or an employee of the temporary special
4887 event beer permittee may not knowingly allow a person at an event to, in violation of Title 58,
4888 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

4889 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
4890 58-37-2; or

4891 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
4892 Section 58-37a-3.

4893 Section 53. Section **32A-11-106** is amended to read:

4894 **32A-11-106. Operational restrictions.**

4895 [Each] A person granted a beer wholesaling license, and the employees and
4896 management personnel of the beer wholesaling licensee, shall comply with the following
4897 conditions and requirements. Failure to comply may result in a suspension or revocation of the
4898 beer wholesaling license or other disciplinary action taken against individual employees or
4899 management personnel of the licensee.

4900 (1) A licensee may not wholesale [~~any~~] a beer manufactured within the state by a
4901 brewer who is not licensed by the commission as a manufacturing licensee.

4902 (2) A licensee may not wholesale [~~any~~] a beer manufactured out of state by a brewer
4903 who has not obtained a certificate of approval from the department.

4904 (3) (a) A licensee may not sell or distribute beer to [~~any~~] a person within the state
4905 except:

4906 (i) a licensed beer retailer;

4907 (ii) a holder of a single event permit issued [~~by the commission~~] pursuant to Chapter 7,
4908 Single Event Permits; or

4909 (iii) a holder of a temporary [~~retail~~] special event beer permit issued [~~by the~~
4910 ~~commission~~] for a temporary special event pursuant to Chapter 10, Part 3, Temporary Special
4911 Event Beer Permits.

4912 (b) A violation of this Subsection (3) is a class A misdemeanor.

4913 (4) (a) A licensee may not sell or distribute [~~any~~] a beer to [~~any~~] a retailer outside of the
4914 geographic area designated on its application, except that if a licensee is temporarily unable to
4915 supply retail dealers within its authorized geographical area, the department may grant
4916 temporary authority to another licensed wholesaler who distributes the same brand in another
4917 area to supply retailers.

4918 (b) A violation of this Subsection (4) is a class B misdemeanor.

4919 (5) (a) [~~Every~~] A licensee shall own, lease, or otherwise control and maintain a
4920 warehouse facility located in this state for the receipt, storage, and further distribution of all
4921 beer sold by the licensee to [~~any~~] a person within the state.

4922 (b) A licensee may not sell beer to [~~any~~] a person in this state, other than the
4923 department, unless the beer [~~has~~] is first [~~been~~]:

4924 (i) physically removed from the vehicle used to transport the beer from the supplier to
4925 the licensee; and

4926 (ii) delivered into the actual possession and control of the licensee in its warehouse or
4927 other facility.

4928 (6) (a) ~~[Each]~~ A beer wholesaling licensee shall maintain accounting and other records
4929 and documents as the department may require.

4930 (b) ~~[Any]~~ A licensee or person acting for the licensee, who knowingly forges, falsifies,
4931 alters, cancels, destroys, conceals, or removes the entries in ~~[any of the books]~~ a book of
4932 account or other ~~[documents]~~ document of the licensee required to be made, maintained, or
4933 preserved by this title or the rules of the commission for the purpose of deceiving the
4934 commission ~~[or]~~, the department, or ~~[any of their officials or employees]~~ an official or
4935 employee of the commission or department, is subject to:

4936 (i) the immediate suspension or revocation of the beer wholesaling license; and

4937 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

4938 (7) A licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any
4939 way to dispose of the beer wholesaling license to ~~[any]~~ a person, whether for monetary gain or
4940 not, unless it is done:

4941 (a) in accordance with the commission rules; and

4942 (b) after written consent ~~[has been]~~ is given by the commission.

4943 (8) A licensee may not sell or distribute ~~[any]~~ an alcoholic beverage that ~~[is not clearly~~
4944 ~~labeled in a manner reasonably calculated to put the public on notice that the beverage is an~~
4945 ~~alcoholic beverage. The beverage shall bear the label "alcoholic beverage" or a manufacturer's~~
4946 ~~label which in common usage apprises the general public that the beverage contains alcohol]~~
4947 has not had its label and packaging approved by the department under Chapter 1, Part 8, Malted
4948 Beverages Act.

4949 Section 54. Section **32A-12-212** is amended to read:

4950 **32A-12-212. Unlawful possession -- Exceptions.**

4951 (1) A person may not have or possess within this state any liquor unless authorized by
4952 this title or the rules of the commission, except that:

4953 (a) a person who clears United States Customs when entering this country may have or
4954 possess for personal consumption and not for sale or resale, a maximum of two liters of liquor

4955 purchased from without the United States;

4956 (b) a person who moves the person's residence to this state from outside of this state
4957 may have or possess for personal consumption and not for sale or resale, [~~any~~] liquor
4958 previously purchased outside the state and brought into this state during the move, if:

4959 (i) the person first obtains department approval [~~prior to~~] before moving the liquor into
4960 the state;

4961 (ii) the department affixes the official state label to the liquor; and

4962 (iii) the person pays the department a reasonable administrative handling fee as
4963 determined by the commission;

4964 (c) a person who as a beneficiary inherits as part of an estate liquor that is located
4965 outside the state, may have or possess the liquor and transport or cause the liquor to be
4966 transported into the state if:

4967 (i) the person first obtains department approval [~~prior to~~] before moving the liquor into
4968 the state;

4969 (ii) the person provides sufficient documentation to the department to establish the
4970 person's legal right to the liquor as a beneficiary;

4971 (iii) the department affixes the official state label to the liquor; and

4972 (iv) the person pays the department a reasonable administrative handling fee as
4973 determined by the commission; or

4974 (d) a person may transport, have, or possess liquor if:

4975 (i) the person transports, has, or possesses the liquor:

4976 (A) for personal household use and consumption; and

4977 (B) not for:

4978 (I) sale;

4979 (II) resale;

4980 (III) gifting to another; or

4981 (IV) consumption on a premise licensed by the commission;

4982 (ii) the liquor is purchased from a store or outlet on a military installation; and

4983 (iii) the maximum amount the person transports, has, or possesses under this

4984 Subsection (1)(d) is:

4985 (A) two liters of:

- 4986 (I) spirituous liquor;
- 4987 (II) wine; or
- 4988 (III) a combination of spirituous liquor and wine; and
- 4989 (B) (I) one case of heavy beer that does not exceed 288 ounces[-]; or
- 4990 (II) on or after October 1, 2008, one case of a flavored malt beverage that does not
- 4991 exceed 288 ounces.

- 4992 (2) (a) Approval under Subsection (1)(b) may be obtained by a person who:
- 4993 (i) is transferring the person's permanent residence to this state; or
- 4994 (ii) maintains separate residences both in and out of this state.
- 4995 (b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more
- 4996 than once.

4997 Section 55. Section **32A-12-222** is amended to read:

4998 **32A-12-222. Unlawful dispensing.**

4999 (1) For purposes of this section:

- 5000 (a) "primary spirituous liquor" means the main distilled spirit in a beverage; and
- 5001 (b) "primary spirituous liquor" does not include [~~any~~] a secondary alcoholic product
- 5002 used as [~~flavorings~~] a flavoring in conjunction with the primary distilled spirit in the beverage.

5003 (2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous
5004 liquor for consumption on the licensed premises, or [~~any~~] an officer, manager, employee, or
5005 agent of the licensee may not:

- 5006 (a) sell, serve, dispense, or otherwise furnish [~~any~~] a primary spirituous liquor to [~~any~~]
- 5007 a person on the licensed premises except in a quantity that does not exceed [~~one ounce~~] 1.5
- 5008 ounces per beverage dispensed through a calibrated metered dispensing system approved by the
- 5009 department;

5010 (b) sell, serve, dispense, or otherwise furnish more than a total of [~~2.75~~] 2.5 ounces of
5011 spirituous liquor per beverage;

5012 (c) allow [~~any~~] a person on the licensed premises to have more than [~~two~~] one
5013 alcoholic [~~beverages~~] beverage containing spirituous liquor at a time; [~~or~~]

5014 (d) allow any person on the licensed premises to have more than a total of [~~2.75~~] 2.5
5015 ounces of spirituous liquor at a time[-]; or

5016 [~~(3) Any of the following or an officer, manager, employee, or agent of the following~~]

5017 may not]

5018 (e) allow any person [~~on the premises of the following~~] to have more than one
5019 spirituous liquor beverage at a time[?].

5020 [~~(a) a restaurant liquor licensee;~~]

5021 [~~(b) limited restaurant licensee;~~]

5022 [~~(c) an on-premise banquet licensee; or~~]

5023 [~~(d) a single event permittee.~~]

5024 [(4)] (3) A violation of this section is a class C misdemeanor.

5025 Section 56. Section **32A-12-301** is amended to read:

5026 **32A-12-301. Operating without a license or permit.**

5027 (1) [~~Except as provided by this title or the rules of the commission, a~~] A person may
5028 not operate the following [~~if that establishment allows patrons, customers, members, guests,~~
5029 ~~visitors, or other persons~~] businesses without first obtaining a license under this title if the
5030 business allows a patron, customer, member, guest, visitor, or other person to purchase or
5031 consume an alcoholic [~~beverages~~] beverage on the premises of the business:

5032 (a) a restaurant;

5033 (b) an airport lounge;

5034 (c) a private club;

5035 (d) an on-premise beer retailer outlet;

5036 (e) on-premise banquet premises; or

5037 (f) [~~an establishment~~] a business similar to one listed in Subsections (1)(a) through (e).

5038 (2) A person conducting an event or function that is open to the general public may not
5039 directly or indirectly sell, offer to sell, or otherwise furnish an alcoholic [~~beverages to persons~~]
5040 beverage to a person attending the event or function without first obtaining a permit under this
5041 title.

5042 (3) A person conducting a privately hosted event or private social function may not
5043 directly or indirectly sell or offer to sell an alcoholic [~~beverages to persons~~] beverage to a
5044 person attending the privately hosted event or private social function without first obtaining a
5045 permit under this title.

5046 (4) A person may not operate the following businesses without first obtaining a license
5047 under this title:

- 5048 (a) a winery manufacturer;
- 5049 (b) a distillery manufacturer;
- 5050 (c) a brewery manufacturer;
- 5051 (d) a local industry representative of:
- 5052 (i) a manufacturer of an alcoholic beverage;
- 5053 (ii) a supplier of an alcoholic beverage; or
- 5054 (iii) an importer of an alcoholic beverage;
- 5055 (e) a liquor warehouse; or
- 5056 (f) a beer wholesaler.
- 5057 (5) A person may not operate a public conveyance in this state without first obtaining a
- 5058 public service permit under this title if that public conveyance allows a person to purchase or
- 5059 consume an alcoholic beverage or alcoholic product:

- 5060 (a) on the public conveyance; or
- 5061 (b) on the premises of a hospitality room located with a depot, terminal, or similar
- 5062 facility at which a service is provided to a patron of the public conveyance.

5063 Section 57. Section **32A-12-307** is amended to read:

5064 **32A-12-307. Interfering with suppliers.**

5065 ~~[A]~~ (1) Except as provided in Subsection (2), a member of the commission, the

5066 [department] director, or an employee of the department may not directly or indirectly

5067 participate in any manner, by recommendation or otherwise, in the appointment, employment,

5068 or termination of appointment or employment of [any] an agent, representative, employee, or

5069 officer of [any] a manufacturer, supplier, or importer of liquor[~~, wine, or heavy beer~~] to the

5070 department [except to] including a manufacturer, supplier, or importer of:

- 5071 (a) wine;
- 5072 (b) heavy beer; or
- 5073 (c) on or after October 1, 2008, a flavored malt beverage.

5074 (2) A person described in Subsection (1) may participate in the appointment,

5075 employment, or termination of appointment or employment to determine qualifications for

5076 licensing under Chapter 8, Part 5, Local Industry Representative Licenses, and to enforce

5077 compliance with this title.

5078 Section 58. Section **32A-12-603** is amended to read:

5079 **32A-12-603. Tied house -- Prohibitions.**

5080 (1) (a) It is unlawful for [~~any~~] an industry member, directly or indirectly or through an
5081 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
5082 or from the department to the exclusion in whole or in part of any of those products sold or
5083 offered for sale by other persons by acquiring or holding any interest in any license with respect
5084 to the premises of a retailer, except where the license is held by a retailer that is completely
5085 owned by the industry member.

5086 (b) Interest in any retail license includes any interest acquired by a corporate official,
5087 partner, employee, or other representative of the industry member.

5088 (c) Any interest in a retail license acquired by a separate corporation in which the
5089 industry member or the industry member's officials hold ownership or are otherwise affiliated
5090 is an interest in a retail license.

5091 (d) Less than complete ownership of a retail business by an industry member
5092 constitutes an interest in a retail license within the meaning of Subsection (1)(a).

5093 (2) (a) It is unlawful for any industry member, directly or indirectly or through an
5094 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
5095 or from the department to the exclusion in whole or in part of any of those products sold or
5096 offered for sale by other persons by acquiring any interest in real or personal property owned,
5097 occupied, or used by the retailer in the conduct of the retailer's business.

5098 (b) For purposes of Subsection (2)(a):

5099 (i) "interest" does not include complete ownership of a retail business by an industry
5100 member;

5101 (ii) interest in retail property includes any interest acquired by a corporate official,
5102 partner, employee, or other representative of the industry member;

5103 (iii) any interest in a retail license acquired by a separate corporation in which the
5104 industry member or its officials hold ownership or are otherwise affiliated is an interest in the
5105 retailer's property;

5106 (iv) less than complete ownership of a retail business by an industry member
5107 constitutes an interest in retail property;

5108 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry
5109 member constitutes an interest in the retailer's property; and

5110 (vi) the renting of display space by an industry member at a retail establishment
5111 constitutes an interest in the retailer's property.

5112 (3) (a) It is unlawful for any industry member, directly or indirectly or through an
5113 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
5114 or from the department to the exclusion in whole or in part of any of those products sold or
5115 offered for sale by other persons by furnishing, giving, renting, lending, or selling to the retailer
5116 any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to the
5117 exceptions enumerated in Subsection (4).

5118 (b) (i) For purposes of this Subsection (3), indirect inducement includes:

5119 (A) furnishing things of value to a third party where the benefits resulting from the
5120 things of value flow to individual retailers; and

5121 (B) making payments for advertising to a retailer association or a display company
5122 where the resulting benefits flow to individual retailers.

5123 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

5124 (A) the thing of value was furnished to a retailer by the third party without the
5125 knowledge or intent of the industry member; or

5126 (B) the industry member did not reasonably foresee that the thing of value would have
5127 been furnished to a retailer.

5128 (iii) Anything that may lawfully be furnished, given, rented, lent, or sold by industry
5129 members to retailers under Subsection (4) may be furnished directly by a third party to a
5130 retailer.

5131 (c) (i) A transaction in which equipment is sold to a retailer by an industry member,
5132 except as provided in Subsection (4), is the selling of equipment within the meaning of
5133 Subsection (3)(a) regardless of how the equipment is sold.

5134 (ii) The negotiation by an industry member of a special price to a retailer for equipment
5135 from an equipment company is the furnishing of a thing of value within the meaning of
5136 Subsection (3)(a).

5137 (d) The furnishing of free warehousing by delaying delivery of alcoholic beverages
5138 beyond the time that payment for the product is received, or if a retailer is purchasing on credit,
5139 delaying final delivery of products beyond the close of the period of time for which credit is
5140 lawfully extended, is the furnishing of a service or thing of value within the meaning of

5141 Subsection (3)(a).

5142 (e) Any financial, legal, administrative, or influential assistance given a retailer by an
5143 industry member in the retailer's acquisition of the retailer's license is the furnishing of a
5144 service or thing of value within the meaning of Subsection (3)(a).

5145 (4) (a) Notwithstanding Subsection (3), things of value may be furnished by industry
5146 members to retailers under the conditions and within the limitations prescribed in:

5147 (i) this Subsection (4); and

5148 (ii) the applicable federal laws cited in this Subsection (4).

5149 (b) (i) The following may be furnished by an industry member:

5150 (A) a product display as provided in 27 C.F.R. Sec. 6.83;

5151 (B) point of sale advertising materials and consumer advertising specialties as provided
5152 in 27 C.F.R. Sec. 6.84;

5153 (C) things of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;

5154 (D) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;

5155 (E) combination packaging as provided in 27 C.F.R. Sec. 6.93;

5156 (F) educational seminars as provided in 27 C.F.R. Sec. 6.94;

5157 (G) consumer promotions as provided in 27 C.F.R. Sec. 6.96;

5158 (H) advertising service as provided in 27 C.F.R. Sec. 6.98;

5159 (I) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;

5160 (J) merchandise as provided in 27 C.F.R. Sec. 6.101; and

5161 (K) outside signs as provided in 27 C.F.R. Sec. 6.102.

5162 (ii) The following exceptions provided in federal law are not adopted:

5163 (A) the exception for samples provided in 27 C.F.R. Sec. 6.91;

5164 (B) the exception for consumer tasting or sampling at retail establishments provided in
5165 27 C.F.R. Sec. 6.95; and

5166 (C) the exception for participation in retailer association activities provided in 27
5167 C.F.R. Sec. 6.100.

5168 (iii) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall keep
5169 and maintain a record:

5170 (A) of all items furnished to a retailer;

5171 (B) on premises of the industry member; and

5172 (C) for a three-year period.

5173 (c) [~~Samples of liquor, wine, and heavy beer~~] A sample of liquor may be provided to

5174 the department under the following conditions [~~listed in this Subsection (4)(c):~~]:

5175 (i) This Subsection (4)(c) includes a sample of:

5176 (A) wine;

5177 (B) heavy beer; or

5178 (C) on or after October 1, 2008, a flavored malt beverage.

5179 [(~~ii~~)] (ii) With the department's permission, an industry member may submit department

5180 samples to the department for product testing, analysis, and sampling.

5181 [(~~iii~~)] (iii) No more than two department samples of a particular type, vintage, and

5182 production lot of a particular branded product may be submitted to the department for

5183 department testing, analysis, and sampling within a consecutive 120-day period.

5184 [(~~iv~~)] (iv) (A) [~~Each~~] A sample of liquor may not exceed 1 liter.

5185 (B) [~~Each~~] Notwithstanding Subsection (4)(c)(iv)(A), a sample of [wine and heavy

5186 beer] the following may not exceed 1.5 liters unless that exact product is only commercially

5187 packaged in a larger size, not to exceed 5 liters[~~;~~]:

5188 (I) wine;

5189 (II) heavy beer; or

5190 (III) on or after October 1, 2008, a flavored malt beverage.

5191 [(~~v~~)] (v) (A) [~~Department samples~~] A department sample submitted to the department:

5192 (I) shall be shipped prepaid by the industry member by common carrier; and

5193 (II) may not be shipped by United States mail directly to the department's central

5194 administrative warehouse office.

5195 (B) [~~Department samples~~] A department sample may not be shipped to any other

5196 location within the state.

5197 [(~~vi~~)] [~~Department samples~~] (vi) A department sample submitted to the department shall

5198 be accompanied by a letter from the industry member:

5199 (A) clearly identifying the product as a "department sample"; and

5200 (B) clearly stating the FOB case price of the product.

5201 [(~~vii~~)] (vii) (A) The department may transfer listed items from current stock for use as

5202 comparison control samples or to verify product spoilage as [~~deemed~~] considered appropriate.

5203 (B) Each sample transferred under Subsection (4)(c)(vi)(A) shall be charged back to
5204 the respective industry member.

5205 [~~vii~~] viii The department shall:

5206 (A) account for, label, and record all department samples received or transferred;

5207 (B) account for the department sample's disposition; and

5208 (C) maintain a record:

5209 (I) of the samples and their disposition; and

5210 (II) for a two-year period.

5211 [~~viii~~] ix The department shall affix to each bottle or container a label clearly
5212 identifying the product as a "department sample".

5213 [~~ix~~—~~Each~~] x A department sample delivered to the department or transferred from
5214 the department's current stock shall be disposed of at the discretion of the department in one of
5215 the following ways:

5216 (A) tested and analyzed with the remaining contents destroyed under controlled and
5217 audited conditions established by the department;

5218 (B) entire contents destroyed under controlled and audited conditions established by
5219 the department; or

5220 (C) added to the inventory of the department for sale to the public.

5221 [~~x~~] xi Persons other than authorized department officials may not be in possession
5222 of department samples except as otherwise provided.

5223 (d) Samples of beer may be provided by a beer industry member to a retailer under the
5224 conditions listed in this Subsection (4)(d).

5225 (i) Samples of beer may be provided by an industry member only to a retailer who has
5226 not purchased the brand of beer from that industry member within the last 12 months.

5227 (ii) For each retailer, the industry member may give not more than three gallons of any
5228 brand of beer, except that if a particular product is not available in a size within the quantity
5229 limitation an industry member may furnish the next largest size.

5230 (e) Educational seminars may involve an industry member under the conditions listed
5231 in this Subsection (4)(e).

5232 (i) An industry member may provide or participate in educational seminars:

5233 (A) involving:

- 5234 (I) the department;
- 5235 (II) retailers;
- 5236 (III) holders of educational or scientific special use permits;
- 5237 (IV) other industry members; or
- 5238 (V) employees of the persons listed in Subsections (4)(e)(i)(A)(I) through (IV); and
- 5239 (B) regarding such topics as:
 - 5240 (I) merchandising and product knowledge;
 - 5241 (II) use of equipment; and
 - 5242 (III) tours of alcoholic beverage manufacturing facilities.
- 5243 (ii) An industry member may not pay a department employee's, retailer's, or permittee's
- 5244 expenses or compensate them for attending a seminar or tour described in Subsection (4)(e)(i).
- 5245 (iii) (A) A liquor industry member for purposes of this Subsection (4)(e)(iii) includes
- 5246 an industry member for:
 - 5247 (I) wine;
 - 5248 (II) heavy beer; and
 - 5249 (III) on or after October 1, 2008, a flavored malt beverage.
- 5250 ~~[(iii)-(A)]~~ (B) A liquor~~[- wine, and heavy beer]~~ industry member may conduct ~~[tastings]~~
- 5251 a tasting of the industry member's liquor products:
 - 5252 (I) for the department, at the department's request; and
 - 5253 (II) for licensed industry representatives, but only at the department's central
 - 5254 administrative warehouse office.
- 5255 ~~[(B)]~~ (C) The industry member may only use department or industry representative
- 5256 samples when conducting any tasting of the industry member's products.
- 5257 (iv) A beer industry member may conduct tastings of beer products for a licensed beer
- 5258 retailer either at:
 - 5259 (A) the industry member's premises; or
 - 5260 (B) a retail establishment.
- 5261 (v) Except to the extent authorized by commission rule, an alcoholic beverage industry
- 5262 member may not conduct tasting or sampling activities with:
 - 5263 (A) a retailer; or
 - 5264 (B) a member of the general public.

5265 (f) A beer industry member may participate in beer retailer association activities to the
5266 extent authorized by 27 C.F.R. Sec. 6.100.

5267 (g) (i) An industry member may contribute to charitable, civic, religious, fraternal,
5268 educational, or community activities.

5269 (ii) A contribution described in Subsection (4)(g)(i) may not be given to influence a
5270 retailer in the selection of the alcoholic beverage products that may be sold at these activities
5271 and events.

5272 (iii) An industry member or retailer violates this section if:

5273 (A) the industry member's contribution described in Subsection (4)(g)(i) influences,
5274 directly or indirectly, the retailer in the selection of alcoholic beverage products; and

5275 (B) a competitor's alcoholic beverage products are excluded in whole or in part from
5276 sale at the activity or event.

5277 (h) (i) An industry member may lease or furnish equipment listed in Subsection
5278 (4)(h)(ii) to a retailer if:

5279 (A) the equipment is leased or furnished for a special event;

5280 (B) a reasonable rental or service fee is charged for the equipment; and

5281 (C) the period for which the equipment is leased or furnished does not exceed 30 days.

5282 (ii) This Subsection (4)(h) applies to the following equipment:

5283 (A) a picnic pump;

5284 (B) a cold plate;

5285 (C) a tub;

5286 (D) a keg box;

5287 (E) a refrigerated trailer;

5288 (F) a refrigerated van; or

5289 (G) a refrigerated draft system.

5290 (i) (i) A liquor industry member for purposes of this Subsection (4)(i) includes an
5291 industry member for:

5292 (A) wine;

5293 (B) heavy beer; or

5294 (C) on or after October 1, 2008, a flavored malt beverage.

5295 ~~[(i)]~~ (ii) A liquor~~[- wine, and heavy beer]~~ industry member may assist the department

5296 in:

5297 (A) ordering, shipping, and delivering merchandise;

5298 (B) new product notification;

5299 (C) listing and delisting information;

5300 (D) price quotations;

5301 (E) product sales analysis;

5302 (F) shelf management; and

5303 (G) educational seminars.

5304 [~~(ii)~~] (iii) (A) Subject to Subsection (4)(i)[~~(ii)~~] (iii)(B), a liquor~~[- wine, and heavy beer]~~

5305 industry member may, for the purpose of acquiring new listings:

5306 (I) solicit orders from the department; and

5307 (II) submit to the department samples of their products under Subsection (4)(c) and

5308 price lists.

5309 (B) An industry member may not solicit either in person, by mail, or otherwise, any

5310 state store personnel for the purpose or with the intent of furthering the sale of a particular

5311 brand or brands of alcoholic beverage product as against another brand or brands.

5312 [~~(iii)~~] (iv) (A) Any visitations to a state store or package agency by an industry member

5313 shall be confined to the customer areas of the store unless otherwise approved.

5314 (B) Calls on the state warehouse by industry members are to be confined to the office

5315 area only unless otherwise approved.

5316 [~~(iv)~~] (v) A beer industry member may assist licensed retailers in:

5317 (A) ordering, shipping, and delivering beer merchandise;

5318 (B) new product notification;

5319 (C) listing and delisting information;

5320 (D) price quotations;

5321 (E) product sales analysis;

5322 (F) shelf management; and

5323 (G) educational seminars.

5324 [~~(v)~~] (vi) A beer industry member may, for the purpose of acquiring new listings:

5325 (A) solicit orders from licensed retailers; and

5326 (B) submit to licensed retailers samples of their beer products under Subsection (4)(c)

5327 and price lists.

5328 (5) It is unlawful for any industry member, directly or indirectly or through an affiliate,
5329 to induce any retailer to purchase any alcoholic beverages from the industry member or from
5330 the department to the exclusion in whole or in part of any of those products sold or offered for
5331 sale by other persons by paying or crediting the retailer for any advertising, display, or
5332 distribution service:

5333 (a) as defined in and to the extent restricted by 27 C.F.R. Sections 6.51 through 6.56;
5334 and

5335 (b) subject to the exceptions:

5336 (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

5337 (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

5338 (6) It is unlawful for any industry member, directly or indirectly or through an affiliate,
5339 to induce any retailer to purchase any alcoholic beverages from the industry member or from
5340 the department to the exclusion in whole or in part of any of those products sold or offered for
5341 sale by other persons by guaranteeing any loan or the repayment of any financial obligation of
5342 the retailer.

5343 (7) (a) It is unlawful for any industry member, directly or indirectly or through an
5344 affiliate, to induce any retailer to purchase any beer from the industry member to the exclusion
5345 in whole or in part of any beer products sold or offered for sale by other persons by extending
5346 to any retailer credit for a period in excess of 15 days from the date of delivery to the date of
5347 full legal discharge of the retailer through the payment of cash or its equivalent, from all
5348 indebtedness arising from the transaction, so long as that beer purchased or delivered during
5349 the first 15 days of any month is paid for in cash or its equivalent on or before the 25th day of
5350 the same month, and beer purchased or delivered after the 15th day of any month is paid for in
5351 cash or its equivalent on or before the 10th day of the next succeeding month.

5352 (b) First party in-state checks are considered cash payment if the checks:

5353 (i) are honored on presentment; and

5354 (ii) received under the terms prescribed in Subsection (7)(a).

5355 (c) An extension of credit for product purchased by an industry member to a retailer
5356 whose account is in arrears does not constitute a violation of Subsection (7)(a) if the retailer
5357 pays in advance or on delivery an amount equal to or greater than the value of each order,

5358 regardless of the manner in which the industry member applies the payment in its records.

5359 (8) (a) It is unlawful for any industry member, directly or indirectly or through an
5360 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
5361 or from the department to the exclusion in whole or in part of any of those products sold or
5362 offered for sale by other persons by requiring:

5363 (i) the department to take and dispose of a certain quota of any alcoholic products; or

5364 (ii) a beer retailer to take and dispose of a certain quota of any beer products.

5365 (b) (i) It is an unlawful means to induce to require:

5366 (A) the department to purchase one product in order to purchase another; or

5367 (B) a beer retailer to purchase one beer product in order to purchase another.

5368 (ii) This Subsection (8)(b) includes:

5369 (A) the requirement to take a minimum quantity of a product in standard packaging in
5370 order to obtain the same product in some type of premium package such as:

5371 (I) a distinctive decanter; or

5372 (II) a wooden or tin box; or

5373 (B) combination sales if one or more products may be purchased only in combination
5374 with other products and not individually.

5375 (c) This Subsection (8) does not preclude the selling, at a special combination price,
5376 two or more kinds or brands of products so long as the department or beer retailer:

5377 (i) has the option of purchasing either product at the usual price; and

5378 (ii) is not required to purchase any product the department or beer retailer does not
5379 want.

5380 (d) An industry member may package and distribute alcoholic beverages in
5381 combination with other nonalcoholic items or products.

5382 (e) The combination package shall be designed to be delivered intact to the consumer
5383 and the additional cost incurred by the industry member shall be included in the cost to the
5384 department or beer retailer.

5385 Section 59. Section **53-10-102** is amended to read:

5386 **53-10-102. Definitions.**

5387 As used in this chapter:

5388 (1) "Administration of criminal justice" means performance of any of the following:

5389 detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication,
5390 correctional supervision, or rehabilitation of accused persons or criminal offenders.

5391 (2) "Alcoholic [~~beverages~~] beverage" has the same meaning as provided in Section
5392 32A-1-105.

5393 (3) "Alcoholic [~~products~~] product" has the same meaning as provided in Section
5394 32A-1-105.

5395 (4) "Commission" means the Alcoholic Beverage Control Commission.

5396 (5) "Communications services" means the technology of reception, relay, and
5397 transmission of information required by public safety agencies in the performance of their duty.

5398 (6) "Conviction record" means criminal history information indicating a record of a
5399 criminal charge which has led to a declaration of guilt of an offense.

5400 (7) "Criminal history record information" means information on individuals consisting
5401 of identifiable descriptions and notations of:

5402 (a) arrests, detentions, indictments, informations, or other formal criminal charges, and
5403 any disposition arising from any of them; and

5404 (b) sentencing, correctional supervision, and release.

5405 (8) "Criminalist" means the scientific discipline directed to the recognition,
5406 identification, individualization, and evaluation of physical evidence by application of the
5407 natural sciences in law-science matters.

5408 (9) "Criminal justice agency" means courts or a government agency or subdivision of a
5409 government agency that administers criminal justice under a statute, executive order, or local
5410 ordinance and that allocates greater than 50% of its annual budget to the administration of
5411 criminal justice.

5412 (10) "Department" means the Department of Public Safety.

5413 (11) "Director" means the division director appointed under Section 53-10-103.

5414 (12) "Division" means the Criminal Investigations and Technical Services Division
5415 created in Section 53-10-103.

5416 (13) "Executive order" means an order of the president of the United States or the chief
5417 executive of a state that has the force of law and that is published in a manner permitting
5418 regular public access to it.

5419 (14) "Forensic" means dealing with the application of scientific knowledge relating to

5420 criminal evidence.

5421 (15) "Missing child" means any person under the age of 18 years who is missing from
5422 his or her home environment or a temporary placement facility for any reason and whose
5423 location cannot be determined by the person responsible for the child's care.

5424 (16) "Missing person" has the same meaning as provided in Section 26-2-27.

5425 (17) "Pathogens" means disease-causing agents.

5426 (18) "Physical evidence" means something submitted to the bureau to determine the
5427 truth of a matter using scientific methods of analysis.

5428 (19) "Qualifying entity" means a business, organization, or a governmental entity
5429 which employs persons who deal with:

5430 (a) national security interests;

5431 (b) care, custody, or control of children;

5432 (c) fiduciary trust over money; or

5433 (d) health care to children or vulnerable adults.

5434 Section 60. Section **76-5-113** is amended to read:

5435 **76-5-113. Surreptitious administration of certain substances -- Definitions --**

5436 **Penalties -- Defenses.**

5437 (1) As used in this section:

5438 (a) "Administer" means the introduction of a substance into the body by injection,
5439 inhalation, ingestion, or by any other means.

5440 (b) "Alcoholic beverage" has the same meaning as "alcoholic [~~beverages~~] beverage" in
5441 Section 32A-1-105.

5442 (c) "Bodily injury" has the same definition as in Section 76-1-601.

5443 (d) "Controlled substance" has the same definition as in Section 58-37-2.

5444 (e) "Deleterious substance" means a substance which, if administered, would likely
5445 cause bodily injury.

5446 (f) "Poisonous" means a substance which, if administered, would likely cause serious
5447 bodily injury or death.

5448 (g) "Prescription drug" has the same definition as in Section 58-17b-102.

5449 (h) "Serious bodily injury" has the same definition as in Section 19-2-115.

5450 (i) "Substance" means a controlled substance, poisonous substance, or deleterious

5451 substance as defined in this Subsection (1).

5452 (2) In addition to any other offense the actor's conduct may constitute, it is a criminal
5453 offense for a person, surreptitiously or by means of fraud, deception, or misrepresentation, to
5454 cause another person to unknowingly consume or receive the administration of:

5455 (a) any poisonous, deleterious, or controlled substance; or

5456 (b) any alcoholic beverage.

5457 (3) A violation of Subsection (2) is:

5458 (a) a second degree felony if the substance is a poisonous substance, regardless of
5459 whether the substance is a controlled substance or a prescription drug;

5460 (b) a third degree felony if the substance is not within the scope of Subsection (3)(a),
5461 and is a controlled substance or a prescription drug; and

5462 (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic
5463 beverage.

5464 (4) (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:

5465 (i) provided the appropriate administration of a prescription drug; and

5466 (ii) acted on the reasonable belief that his conduct was in the best interest of the
5467 well-being of the person to whom the prescription drug was administered.

5468 (b) (i) The defendant shall file and serve on the prosecuting attorney a notice in writing
5469 of his intention to claim a defense under Subsection (4)(a) not fewer than 20 days before the
5470 trial.

5471 (ii) The notice shall specifically identify the factual basis for the defense and the names
5472 and addresses of the witnesses the defendant proposes to examine to establish the defense.

5473 (c) The prosecuting attorney shall file and serve the defendant with a notice containing
5474 the names and addresses of the witnesses the prosecutor proposes to examine in order to
5475 contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a).

5476 This notice shall be filed or served not more than ten days after receipt of the defendant's notice
5477 under Subsection (4)(b), or at another time as the court may direct.

5478 (d) (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c)
5479 entitles the opposing party to a continuance to allow for preparation.

5480 (ii) If the court finds that a party's failure to comply is the result of bad faith, it may
5481 impose appropriate sanctions.

5482 (5) This section does not diminish the scope of authorized health care by a health care
5483 provider as defined in Section 26-23a-1.

5484 Section 61. **Appropriation.**

5485 As an ongoing appropriation subject to future budget constraints, there is appropriated
5486 from the Liquor Control Fund for fiscal year 2008-2009, \$1,589,100 to the Division of
5487 Substance Abuse and Mental Health within the Department of Human Services for purposes of
5488 substance abuse prevention and treatment.

S.B. 211 2nd Sub. (Salmon) - Alcoholic Beverage Control Amendments

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will reduce sales and excise tax from off-premises retail stores by \$604,000 consequently reducing General Fund Revenues by the same amount. Sales through the Department of Alcoholic Beverage Control would generate sales tax increases of \$467,500 to the General Fund. The Department of Alcoholic Beverage Control anticipates an increase in revenue of \$2,491,400 which includes profit to the Department of \$1,725,600 and \$765,800 that is transferred to the school lunch program. This bill appropriates \$1,589,100 from the Liquor Control Fund to the Division of Substance Abuse and Mental Health, Department of Human Services. The remaining Liquor Control Fund revenue - \$136,500 - would be deposited into the General Fund whereby offsetting any General Fund revenue loss.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
Liquor Control Fund	\$0	\$1,589,100	\$1,589,100	\$0	\$2,354,900	\$2,354,900
Transfers	\$0	\$765,800	\$765,800	\$0	\$0	\$0
Total	\$0	\$2,354,900	\$2,354,900	\$0	\$2,354,900	\$2,354,900

Individual, Business and/or Local Impact

Certain individuals would pay higher prices for certain alcoholic beverages. Certain businesses may be impacted due to the reduction in inventory they are able to carry. Local school districts would benefit from revenue generated by this bill.