

ALCOHOLIC BEVERAGE CONTROL ACT

MODIFICATIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

- ▶ modifies definition provisions;
- ▶ provides for electronic verification of proof of age by social on-premise liquor licensees;
- ▶ addresses a bar structure in restaurants, including access by minors;
- ▶ creates a new social on-premise liquor license, which includes two types of classes, including:
 - authorizing the commission to grant the license;
 - providing application and renewal requirements;
 - establishing qualifications;
 - establishing the commission and department duties before granting a license;
 - requiring a bond;
 - imposing operational requirements; and
 - providing a transition from private club licenses or restaurant liquor licenses to the new social on-premise liquor license;
- ▶ modifies the provisions related to a private club licensee, including:



- 28 • modifying the number and requirements for classes of licenses;
- 29 • changing renewal fees; and
- 30 • changing operational requirements;
- 31 ▶ establishes requirements for renting or leasing a social on-premise liquor licensee
- 32 premises or private club premises;
- 33 ▶ expands licenses subject to protections for employees who exercise judgment; and
- 34 ▶ makes technical and conforming amendments.

35 Monies Appropriated in this Bill:

36 None

37 Other Special Clauses:

38 This bill provides an effective date.

39 Utah Code Sections Affected:

40 AMENDS:

- 41 **11-10-1**, as last amended by Laws of Utah 1990, Chapter 23
- 42 **26-38-2**, as last amended by Laws of Utah 2006, Chapter 202
- 43 **26-38-3**, as last amended by Laws of Utah 2007, Chapter 20
- 44 **32A-1-105**, as last amended by Laws of Utah 2008, Chapters 317, 322, and 391
- 45 **32A-1-107**, as last amended by Laws of Utah 2006, Chapter 162
- 46 **32A-1-119**, as last amended by Laws of Utah 2008, Chapters 317, 382, and 391
- 47 **32A-1-119.5**, as enacted by Laws of Utah 2008, Chapter 317
- 48 **32A-1-603**, as last amended by Laws of Utah 2008, Chapter 382
- 49 **32A-4-106**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 50 **32A-4-307**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 51 **32A-5-101**, as last amended by Laws of Utah 2008, Chapter 391
- 52 **32A-5-102**, as last amended by Laws of Utah 2008, Chapter 391
- 53 **32A-5-104**, as last amended by Laws of Utah 2008, Chapter 391
- 54 **32A-5-106**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 55 **32A-5-107**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 56 **32A-12-209.5**, as last amended by Laws of Utah 2008, Chapter 3
- 57 **32A-12-213**, as last amended by Laws of Utah 2007, Chapter 284
- 58 **32A-12-222**, as last amended by Laws of Utah 2008, Chapter 391

59 32A-12-301, as last amended by Laws of Utah 2008, Chapter 391

60 32A-14a-103, as enacted by Laws of Utah 2000, Chapter 197

61 ENACTS:

62 32A-1-304.5, Utah Code Annotated 1953

63 32A-4-501, Utah Code Annotated 1953

64 32A-4-502, Utah Code Annotated 1953

65 32A-4-503, Utah Code Annotated 1953

66 32A-4-504, Utah Code Annotated 1953

67 32A-4-505, Utah Code Annotated 1953

68 32A-4-506, Utah Code Annotated 1953

69 32A-4-507, Utah Code Annotated 1953



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

72 Section 1. Section 11-10-1 is amended to read:

73 **11-10-1. Business license required -- Authorization for issuance, denial,**
74 **suspension, or revocation by local authority.**

75 (1) As used in this chapter, [~~"club," "local authority," "restaurant," and "person"~~] the
76 following have the meaning set forth in Section 32A-1-105[~~;~~]:

77 (a) "local authority";

78 (b) "person";

79 (c) "private club";

80 (d) "restaurant"; and

81 (e) "social on-premise liquor licensee."

82 (2) A person may not operate an association, restaurant, private club, social on-premise
83 liquor licensee, or similar business that allows customers, members, guests, [~~visitors;~~] or other
84 persons to possess or consume alcoholic beverages on the private club, association, restaurant,
85 social on-premise liquor license, or similar business premises without a business license.

86 (3) Any local authority may issue a business license to any person who owns or
87 operates an association, restaurant, private club, social on-premise liquor license, or similar
88 business that allows the customers, members, guests, [~~visitors;~~] or other persons to hold, store,
89 possess, or consume alcoholic beverages on the premises. This license does not permit any

90 person to hold, store, possess, or consume alcoholic beverages on the premises other than as
91 provided in Title 32A, [the] Alcoholic Beverage Control Act.

92 (4) Any local authority may suspend or revoke a business license for a violation of
93 Title 32A, [the] Alcoholic Beverage Control Act.

94 (5) Each local authority shall set policy by written rules that establish criteria and
95 procedures for granting, denying, suspending, or revoking licenses issued under this chapter.

96 (6) A license issued under this section constitutes consent of the local authority within
97 the meaning of Title 32A, [the] Alcoholic Beverage Control Act.

98 Section 2. Section **26-38-2** is amended to read:

99 **26-38-2. Definitions.**

100 As used in this chapter:

101 (1) "Place of public access" means any enclosed indoor place of business, commerce,
102 banking, financial service, or other service-related activity, whether publicly or privately owned
103 and whether operated for profit or not, to which persons not employed at the place of public
104 access have general and regular access or which the public uses, including:

105 (a) buildings, offices, shops, elevators, or restrooms;

106 (b) means of transportation or common carrier waiting rooms;

107 (c) restaurants, cafes, or cafeterias;

108 (d) taverns as defined in Section 32A-1-105, or cabarets;

109 (e) shopping malls, retail stores, grocery stores, or arcades;

110 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
111 sites, auditoriums, or arenas;

112 (g) barber shops, hair salons, or laundromats;

113 (h) sports or fitness facilities;

114 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
115 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
116 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
117 of these;

118 (j) (i) any child care facility or program subject to licensure or certification under this
119 title, including those operated in private homes, when any child cared for under that license is
120 present; and

121 (ii) any child care, other than child care as defined in Section 26-39-102, that is not
122 subject to licensure or certification under this title, when any child cared for by the provider,
123 other than the child of the provider, is present;

124 (k) public or private elementary or secondary school buildings and educational
125 facilities or the property on which those facilities are located;

126 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
127 religious organization when used solely by the organization members or their guests or
128 families;

129 (m) any facility rented or leased for private functions from which the general public is
130 excluded and arrangements for the function are under the control of the function sponsor;

131 (n) any workplace that is not a place of public access or a publicly owned building or
132 office but has one or more employees who are not owner-operators of the business; ~~and~~

133 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
134 stating "no smoking", "thank you for not smoking", or similar statement[-];

135 (p) a social on-premise liquor licensee licensed under Title 32A, Chapter 4, Part 5,
136 Social On-premise Liquor Licenses; and

137 ~~[(p) any]~~ (q) a private club licensed under Title 32A, Chapter 5, Private Club [Liquor]
138 Licenses.

139 (2) "Publicly owned building or office" means any enclosed indoor place or portion of
140 a place owned, leased, or rented by any state, county, or municipal government, or by any
141 agency supported by appropriation of, or by contracts or grants from, funds derived from the
142 collection of federal, state, county, or municipal taxes.

143 (3) "Smoking" means the possession of any lighted tobacco product in any form.

144 Section 3. Section **26-38-3** is amended to read:

145 **26-38-3. Restriction on smoking in public places and in specified places --**
146 **Exceptions.**

147 (1) Except as provided in Subsection (2), smoking is prohibited in all enclosed indoor
148 places of public access and publicly owned buildings and offices.

149 (2) Subsection (1) does not apply to:

150 (a) areas not commonly open to the public of owner-operated businesses having no
151 employees other than the owner-operator;

152 (b) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other
153 similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas
154 of these facilities, including dining areas and lobby areas; and

155 [~~(c) before January 1, 2009, taverns, as defined in Section 32A-1-105, that are:]~~

156 [~~(i) licensed on or before May 15, 2006; or]~~

157 [~~(ii) licensed on or before May 15, 2006 and after May 15, 2006 undergo a change in~~
158 ~~ownership;]~~

159 [~~(d) before January 1, 2009, class D private clubs, as defined in Section 32A-5-101,~~
160 ~~that are:]~~

161 [~~(i) licensed on or before May 15, 2006; or]~~

162 [~~(ii) licensed on or before May 15, 2006 and after May 15, 2006 undergo a change in~~
163 ~~ownership;]~~

164 [~~(e) before January 1, 2009, class B private clubs, as defined in Section 32A-5-101~~
165 ~~that:]~~

166 [~~(i) are licensed:]~~

167 [~~(A) on or before May 15, 2006; or]~~

168 [~~(B) on or before May 15, 2006 and after May 15, 2006 undergo a change in~~
169 ~~ownership; and]~~

170 [~~(ii) do not permit an individual under the age of 21 in the class B private club, unless~~
171 ~~the individual is active military; and]~~

172 [~~(f)] (c) separate enclosed smoking areas:~~

173 (i) located in the passenger terminals of an international airport located in the city of
174 the first class;

175 (ii) vented directly to the outdoors; and

176 (iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the
177 state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

178 Section 4. Section **32A-1-105** is amended to read:

179 **32A-1-105. Definitions.**

180 As used in this title:

181 (1) "Airport lounge" means a place of business licensed to sell an alcoholic beverage,
182 at retail, for consumption on its premises located at an international airport with a United States

183 Customs office on the premises of the international airport.

184 (2) "Alcoholic beverage" means the following as the term is defined in this section:

185 (a) beer;

186 (b) flavored malt beverage; and

187 (c) liquor, which [~~on or after October 1, 2008,~~] includes a flavored malt beverage.

188 (3) (a) "Alcoholic product" means a product that:

189 (i) contains at least .5% of alcohol by volume; and

190 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

191 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol

192 in an amount greater than the amount prescribed in Subsection (3)(a)(i).

193 (b) "Alcoholic product" does not include any of the following common items that
194 otherwise come within the definition of an alcoholic product:

195 (i) except as provided in Subsection (3)(c), extract;

196 (ii) vinegar;

197 (iii) cider;

198 (iv) essence;

199 (v) tincture;

200 (vi) food preparation; or

201 (vii) an over-the-counter drug or medicine.

202 (c) An extract containing alcohol obtained by distillation is regulated as an alcoholic
203 product when it is used as a flavoring in the manufacturing of an alcoholic product.

204 (4) "Bar" means a counter or similar structure:

205 (a) at which an alcoholic beverage is:

206 (i) stored; or

207 (ii) dispensed; or

208 (b) from which an alcoholic beverage is served.

209 (5) (a) Subject to Subsection (5)(d), "beer" means a product that:

210 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
211 volume or 3.2% by weight; and

212 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

213 (b) Beer may or may not contain hops or other vegetable products.

- 214 (c) Beer includes a product that:
- 215 (i) contains alcohol in the percentages described in Subsection (5)(a); and
- 216 (ii) is referred to as:
 - 217 (A) beer;
 - 218 (B) ale;
 - 219 (C) porter;
 - 220 (D) stout;
 - 221 (E) lager; or
 - 222 (F) a malt or malted beverage.
- 223 (d) [~~On or after October 1, 2008, "beer"~~] "Beer" does not include a flavored malt
- 224 beverage.
- 225 (6) (a) "Beer retailer" means a business that is:
 - 226 (i) engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for
 - 227 consumption on or off the business premises; and
 - 228 (ii) licensed to sell beer by:
 - 229 (A) the commission;
 - 230 (B) a local authority; or
 - 231 (C) both the commission and a local authority.
- 232 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
- 233 beer to a patron for consumption off the beer retailer's premises.
- 234 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 235 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to a
- 236 patron for consumption on the beer retailer's premises, regardless of whether the business sells
- 237 beer for consumption off the beer retailer's premises.
- 238 (7) "Billboard" means a public display used to advertise including:
 - 239 (a) a light device;
 - 240 (b) a painting;
 - 241 (c) a drawing;
 - 242 (d) a poster;
 - 243 (e) a sign;
 - 244 (f) a signboard; or

245 (g) a scoreboard.

246 (8) "Brewer" means a person engaged in manufacturing:

247 (a) beer;

248 (b) heavy beer; or

249 (c) a flavored malt beverage.

250 (9) "Cash bar" means the service of an alcoholic beverage:

251 (a) at:

252 (i) a banquet; or

253 (ii) a temporary event for which a permit is issued under this title; and

254 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
255 beverage.

256 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
257 a bus company to a group of persons pursuant to a common purpose:

258 (a) under a single contract;

259 (b) at a fixed charge in accordance with the bus company's tariff; and

260 (c) for the purpose of giving the group of persons the exclusive use of the passenger
261 bus, coach, or other motor vehicle and a driver to travel together to one or more specified
262 destinations.

263 (11) "Church" means a building:

264 (a) set apart for the purpose of worship;

265 (b) in which religious services are held;

266 (c) with which clergy is associated; and

267 (d) which is tax exempt under the laws of this state.

268 [~~(12) "Club" and "private club" means any of the following organized primarily for the~~
269 ~~benefit of its members:]~~

270 [~~(a) a social club;]~~

271 [~~(b) a recreational association;]~~

272 [~~(c) a fraternal association;]~~

273 [~~(d) an athletic association; or]~~

274 [~~(e) a kindred association.]~~

275 [~~(13)~~] (12) "Commission" means the Alcoholic Beverage Control Commission.

276 [~~(14)~~] (13) "Community location" means:

- 277 (a) a public or private school;
- 278 (b) a church;
- 279 (c) a public library;
- 280 (d) a public playground; or
- 281 (e) a public park.

282 [~~(15)~~] (14) "Community location governing authority" means:

- 283 (a) the governing body of the community location; or
- 284 (b) if the commission does not know who is the governing body of a community
- 285 location, a person who appears to the commission to have been given on behalf of the
- 286 community location authority to prohibit an activity at the community location.

287 [~~(16)~~] (15) "Department" means the Department of Alcoholic Beverage Control.

288 [~~(17)~~] (16) "Disciplinary proceeding" means an adjudicative proceeding permitted

289 under this title:

- 290 (a) against:
 - 291 (i) a permittee;
 - 292 (ii) a licensee;
 - 293 (iii) a manufacturer;
 - 294 (iv) a supplier;
 - 295 (v) an importer;
 - 296 (vi) an out-of-state brewer holding a certificate of approval under Section 32A-8-101;

297 or

- 298 (vii) an officer, employee, or agent of:
 - 299 (A) a person listed in Subsections [~~(17)~~] (16)(a)(i) through (vi); or
 - 300 (B) a package agent; and
- 301 (b) that is brought on the basis of a violation of this title.

302 [~~(18)~~] (17) "Director," unless the context requires otherwise, means the director

303 appointed under Section 32A-1-108.

304 [~~(19)~~] (18) "Distressed merchandise" means an alcoholic beverage in the possession of

305 the department that is saleable, but for some reason is unappealing to the public.

306 [~~(20)~~] (19) "Flavored malt beverage" means a beverage:

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

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

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

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

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

316 [~~21~~] (20) "Guest" means [~~a person accompanied by an active member or visitor of a~~
317 ~~club who enjoys only those privileges derived from the host for the duration of the visit to the~~
318 ~~club~~] a guest of a member of a private club that meets the requirements of Subsection
319 32A-5-107(5).

320 [~~22~~] (21) (a) "Heavy beer" means a product that:

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

322 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

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

324 [~~23~~] (22) "Hosted bar" means the service of an alcoholic beverage:

325 (a) without charge; and

326 (b) at a:

327 (i) banquet; or

328 (ii) privately hosted event.

329 [~~24~~] (23) "Identification card" means an identification card issued under Title 53,
330 Chapter 3, Part 8, Identification Card Act.

331 [~~25~~] (24) "Interdicted person" means a person to whom the sale, gift, or provision of
332 an alcoholic beverage is prohibited by:

333 (a) law; or

334 (b) court order.

335 [~~26~~] (25) "Intoxicated" means that to a degree that is unlawful under Section
336 76-9-701 a person is under the influence of:

337 (a) an alcoholic beverage;

338 (b) a controlled substance;

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

340 (d) a combination of Subsections [~~(26)~~] (25)(a) through (c).

341 [~~(27)~~] (26) "Licensee" means a person [~~issued~~] granted a license by the commission to
342 sell, manufacture, store, or allow consumption of an alcoholic beverage on premises owned or
343 controlled by the person.

344 [~~(28)~~] (27) "Limousine" means a motor vehicle licensed by the state or a local
345 authority, other than a bus or taxicab:

346 (a) in which the driver and a passenger are separated by a partition, glass, or other
347 barrier; and

348 (b) that is provided by a company to one or more individuals at a fixed charge in
349 accordance with the company's tariff for the purpose of giving the one or more individuals the
350 exclusive use of the limousine and a driver to travel to one or more specified destinations.

351 [~~(29)~~] (28) (a) (i) "Liquor" means alcohol, or an alcoholic, spirituous, vinous,
352 fermented, malt, or other liquid, or combination of liquids, a part of which is spirituous,
353 vinous, or fermented, or other drink, or drinkable liquid that:

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

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

356 (ii) [~~On or after October 1, 2008, "liquor"~~] "Liquor" includes a flavored malt beverage.

357 (b) "Liquor" does not include a beverage defined as a beer.

358 [~~(30)~~] (29) "Local authority" means:

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

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

363 [~~(31)~~] (30) "Manufacture" means to distill, brew, rectify, mix, compound, process,
364 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
365 others.

366 [~~(32)~~] (31) "Member" means [~~a person~~] an individual who, after paying regular dues,
367 has full privileges of a private club under this title.

368 [~~(33)~~] (32) (a) "Military installation" means a base, air field, camp, post, station, yard,

369 center, or homeport facility for a ship:

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

371 (B) of the National Guard;

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

373 (iii) including a leased facility.

374 (b) "Military installation" does not include a facility used primarily for:

375 (i) civil works;

376 (ii) a rivers and harbors project; or

377 (iii) a flood control project.

378 [~~34~~] (33) "Minor" means an individual under the age of 21 years.

379 [~~35~~] (34) "Nude," "nudity," or "state of nudity" means:

380 (a) the appearance of:

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

382 (ii) a human genital;

383 (iii) a human pubic area; or

384 (iv) a human anus; or

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

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

387 (ii) a human genital;

388 (iii) a human pubic area; or

389 (iv) a human anus.

390 [~~36~~] (35) "Outlet" means a location other than a state store or package agency where

391 an alcoholic beverage is sold pursuant to a license [~~issued~~] granted by the commission.

392 [~~37~~] (36) "Package" means any of the following containing liquor:

393 (a) a container;

394 (b) a bottle;

395 (c) a vessel; or

396 (d) other receptacle.

397 [~~38~~] (37) "Package agency" means a retail liquor location operated:

398 (a) under a contractual agreement with the department; and

399 (b) by a person:

400 (i) other than the state; and
401 (ii) who is authorized by the commission to sell package liquor for consumption off the
402 premises of the package agency.

403 [~~39~~] (38) "Package agent" means a person permitted by the commission to operate a
404 package agency pursuant to a contractual agreement with the department to sell liquor from
405 premises that the package agent shall provide and maintain.

406 [~~40~~] (39) "Permittee" means a person issued a permit by the commission to perform
407 an act or exercise a privilege as specifically granted in the permit.

408 [~~41~~] (40) "Person" means an individual, partnership, firm, corporation, limited
409 liability company, association, business trust, or other form of business enterprise, including a
410 receiver or trustee, and the plural as well as the singular number, unless the intent to give a
411 more limited meaning is disclosed by the context.

412 [~~42~~] (41) "Premises" means a building, enclosure, room, or equipment used in
413 connection with the sale, storage, service, manufacture, distribution, or consumption of an
414 alcoholic product, unless otherwise defined in this title or in the rules adopted by the
415 commission.

416 [~~43~~] (42) "Prescription" means a writing in legal form, signed by a physician or
417 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

418 (43) "Private club" is as defined in Section 32A-5-101.

419 (44) (a) "Privately hosted event" or "private social function" means a specific social,
420 business, or recreational event:

421 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
422 group; and

423 (ii) that is limited in attendance to people who are specifically designated and their
424 guests.

425 (b) "Privately hosted event" and "private social function" does not include an event to
426 which the general public is invited, whether for an admission fee or not.

427 (45) (a) "Proof of age" means:

428 (i) an identification card;

429 (ii) an identification that:

430 (A) is substantially similar to an identification card;

- 431 (B) is issued in accordance with the laws of a state other than Utah in which the
432 identification is issued;
- 433 (C) includes date of birth; and
434 (D) has a picture affixed;
- 435 (iii) a valid driver license certificate that:
436 (A) includes date of birth;
437 (B) has a picture affixed; and
438 (C) is issued:
439 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
440 (II) in accordance with the laws of the state in which it is issued;
- 441 (iv) a military identification card that:
442 (A) includes date of birth; and
443 (B) has a picture affixed; or
444 (v) a valid passport.
- 445 (b) "Proof of age" does not include a driving privilege card issued in accordance with
446 Section 53-3-207.
- 447 (46) (a) "Public building" means a building or permanent structure owned or leased by
448 the state, a county, or local government entity that is used for:
449 (i) public education;
450 (ii) transacting public business; or
451 (iii) regularly conducting government activities.
- 452 (b) "Public building" does not mean or refer to a building owned by the state or a
453 county or local government entity when the building is used by a person, in whole or in part,
454 for a proprietary function.
- 455 (47) "Representative" means an individual who is compensated by salary, commission,
456 or other means for representing and selling an alcoholic beverage product of a manufacturer,
457 supplier, or importer of liquor including:
458 (a) wine;
459 (b) heavy beer; or
460 (c) [~~on or after October 1, 2008;~~] a flavored malt beverage.
- 461 (48) "Residence" means a person's principal place of abode within Utah.

462 (49) "Restaurant" means a business establishment:

463 (a) where a variety of foods [~~is~~] are prepared and complete meals are served to the
464 general public;

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

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

468 (50) "Retailer" means a person engaged in the sale or distribution of an alcoholic
469 beverage to a consumer.

470 (51) (a) "Sample" includes:

471 (i) a department sample; and

472 (ii) an industry representative sample.

473 (b) "Department sample" means liquor that is placed in the possession of the
474 department for testing, analysis, and sampling including:

475 (i) wine;

476 (ii) heavy beer; or

477 (iii) [~~on or after October 1, 2008,~~] a flavored malt beverage.

478 (c) "Industry representative sample" means liquor that is placed in the possession of the
479 department:

480 (i) for testing, analysis, and sampling by a local industry representative on the premises
481 of the department to educate the local industry representative of the quality and characteristics
482 of the product; and

483 (ii) including:

484 (A) wine;

485 (B) heavy beer; or

486 (C) [~~on or after October 1, 2008,~~] a flavored malt beverage.

487 (52) (a) "School" means a building used primarily for the general education of minors.

488 (b) "School" does not include:

489 (i) a nursery school;

490 (ii) an infant day care center; or

491 (iii) a trade or technical school.

492 (53) "Sell," "sale," and "to sell" means a transaction, exchange, or barter whereby, for

493 consideration, an alcoholic beverage is either directly or indirectly transferred, solicited,
494 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether
495 done by a person as a principal, proprietor, or as an agent, servant, or employee, unless
496 otherwise defined in this title or the rules made by the commission.

497 (54) "Seminude," "seminudity," or "state of seminudity" means a state of dress in
498 which opaque clothing covers no more than:

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

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

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

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

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

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

506 (55) "Sexually oriented entertainer" means a person who while in a state of seminudity
507 appears at or performs:

508 (a) for the entertainment of one or more patrons;

509 (b) on the premises of:

510 (i) a class [~~D-private club~~] 2 social on-premise liquor license as defined in [~~Subsection~~
511 ~~32A-5-101(3)~~] Section 32A-4-501; or

512 (ii) a tavern;

513 (c) on behalf of or at the request of the licensee described in Subsection (55)(b);

514 (d) on a contractual or voluntary basis; and

515 (e) whether or not the person is designated:

516 (i) an employee of the licensee described in Subsection (55)(b);

517 (ii) an independent contractor of the licensee described in Subsection (55)(b);

518 (iii) an agent of the licensee described in Subsection (55)(b); or

519 (iv) otherwise of the licensee described in Subsection (55)(b).

520 (56) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
521 beer, heavy beer, and flavored malt beverages per year.

522 (57) "Social on-premise liquor licensee" means a person licensed under Chapter 4, Part
523 5, Social On-premise Liquor Licenses.

524 [~~57~~] 58 (a) "Spirituous liquor" means liquor that is distilled.

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

527 [~~58~~] 59 (a) "State label" means the official label designated by the commission
528 affixed to a liquor container sold in the state.

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

531 [~~59~~] 60 (a) "State store" means a facility for the sale of package liquor:

532 (i) located on premises owned or leased by the state; and

533 (ii) operated by a state employee.

534 (b) "State store" does not apply to a:

535 (i) licensee;

536 (ii) permittee; or

537 (iii) package agency.

538 [~~60~~] 61 "Supplier" means a person selling an alcoholic beverage to the department.

539 [~~61~~] 62 (a) "Tavern" means a business establishment that is:

540 (i) engaged primarily in the retail sale of beer to a public patron for consumption on the
541 establishment's premises; and

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

543 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the
544 revenue of the sale of food, although food need not be sold in the establishment:

545 (i) a beer bar;

546 (ii) a parlor;

547 (iii) a lounge;

548 (iv) a cabaret; or

549 (v) a nightclub.

550 [~~62~~] 63 "Temporary domicile" means the principal place of abode within Utah of a
551 person who does not have a present intention to continue residency within Utah permanently or
552 indefinitely.

553 [~~63~~] 64 "Unsaleable liquor merchandise" means merchandise that:

554 (a) is unsaleable because the merchandise is:

- 555 (i) unlabeled;
 556 (ii) leaky;
 557 (iii) damaged;
 558 (iv) difficult to open; or
 559 (v) partly filled;
 560 (b) is in a container:
 561 (i) having faded labels or defective caps or corks;
 562 (ii) in which the contents are:
 563 (A) cloudy;
 564 (B) spoiled; or
 565 (C) chemically determined to be impure; or
 566 (iii) that contains:
 567 (A) sediment; or
 568 (B) a foreign substance; or
 569 (c) is otherwise considered by the department as unfit for sale.

570 ~~[(64) "Visitor" means an individual that in accordance with Section 32A-5-107 holds~~
 571 ~~limited privileges in a private club by virtue of a visitor card.]~~

572 (65) "Warehouser" means a person, other than a licensed manufacturer, engaged in the
 573 importation for sale, storage, or distribution of liquor regardless of amount.

574 (66) (a) "Wholesaler" means a person engaged in the importation for sale, or in the sale
 575 of beer in wholesale or jobbing quantities to one or more retailers.

576 (b) Notwithstanding Subsection (66)(a), "wholesaler" does not include a small brewer
 577 selling beer manufactured by that brewer.

578 (67) (a) "Wine" means an alcoholic beverage obtained by the fermentation of the
 579 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
 580 another ingredient is added.

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

583 Section 5. Section **32A-1-107** is amended to read:

584 **32A-1-107. Powers and duties of the commission.**

585 (1) The commission shall:

- 586 (a) act as a general policymaking body on the subject of alcoholic product control;
- 587 (b) adopt and issue policies, directives, rules, and procedures;
- 588 (c) set policy by written rules that establish criteria and procedures for:
- 589 (i) granting, denying, suspending, or revoking [~~permits, licenses, certificates of~~
590 ~~approval, and package agencies~~] a permit, license, certificate of approval, or package agency;
- 591 (ii) controlling liquor merchandise inventory including:
- 592 (A) listing and delisting [~~products~~] a product;
- 593 (B) the procedures for testing a new [~~products~~] product;
- 594 (C) purchasing policy;
- 595 (D) turnover requirements for regularly coded products to be continued; and
- 596 (E) the disposition of discontinued, distressed, or unsaleable merchandise; and
- 597 (iii) determining the location of [~~state stores, package agencies, and outlets~~] a state
598 store, package agency, or outlet;
- 599 (d) decide within the limits and under the conditions imposed by this title, the number
600 and location of state stores, package agencies, and outlets established in the state;
- 601 (e) issue, grant, deny, suspend, revoke, or not renew the following permits, licenses,
602 certificates of approval, and package agencies for the purchase, sale, storage, service,
603 manufacture, distribution, and consumption of an alcoholic [~~products~~] product:
- 604 (i) a package [~~agencies~~] agency;
- 605 (ii) a restaurant [~~licenses~~] liquor license;
- 606 (iii) an airport lounge [~~licenses~~] license;
- 607 (iv) a limited restaurant [~~licenses~~] license;
- 608 (v) an on-premise banquet [~~licenses~~] license;
- 609 (vi) a social on-premise liquor license;
- 610 [~~(vi)~~] (vii) a private club [~~licenses~~] license;
- 611 [~~(vii)~~] (viii) an on-premise beer retailer [~~licenses~~] license;
- 612 [~~(viii)~~] (ix) a temporary special event beer [~~permits~~] permit;
- 613 [~~(ix)~~] (x) a special use [~~permits~~] permit;
- 614 [~~(x)~~] (xi) a single event [~~permits~~] permit;
- 615 [~~(xi)~~] (xii) a manufacturing [~~licenses~~] license;
- 616 [~~(xii)~~] (xiii) a liquor warehousing [~~licenses~~] license;

617 ~~[(xiii)]~~ (xiv) a beer wholesaling [licenses] license; and

618 ~~[(xiv)]~~ (xv) an out-of-state brewer [certificates] certificate of approval;

619 (f) fix prices at which ~~[liquors are]~~ liquor is sold that are the same at all state stores,

620 package agencies, and outlets;

621 (g) issue and distribute price lists showing the price to be paid by ~~[purchasers]~~ a

622 purchaser for each class, variety, or brand of liquor kept for sale by the department;

623 (h) (i) require the director to follow sound management principles; and

624 (ii) require periodic reporting from the director to ensure that:

625 (A) sound management principles are being followed; and

626 (B) policies established by the commission are being observed;

627 (i) (i) receive, consider, and act in a timely manner upon ~~[aH]~~ reports,

628 recommendations, and matters submitted by the director to the commission; and

629 (ii) do ~~[aH]~~ the things necessary to support the department in properly performing the

630 department's duties and responsibilities;

631 (j) obtain temporarily and for special purposes the services of ~~[experts and persons]~~ an

632 expert or a person engaged in the practice of a profession or who possess any needed skills,

633 talents, or abilities if:

634 (i) considered expedient; and

635 (ii) approved by the governor;

636 (k) prescribe the duties of a departmental ~~[officials]~~ official authorized to assist the

637 commission in issuing ~~[permits, licenses, certificates of approval, and package agencies]~~ a

638 permit, license, certificate of approval, or package agency under this title;

639 (l) prescribe, consistent with this title, the fees payable for:

640 (i) ~~[permits, licenses, certificates of approval, and package agencies]~~ a permit, license,

641 certificate of approval, or package agency issued under this title; or

642 (ii) anything done or permitted to be done under this title;

643 (m) prescribe the conduct, management, and equipment of any premises upon which an

644 alcoholic ~~[beverages]~~ beverage may be sold, consumed, served, or stored;

645 (n) make rules governing the credit terms of beer sales to retailers within the state;

646 (o) require that each of the following, where required in this title, display in a

647 prominent place a sign in large letters stating: "Warning: Driving under the influence of alcohol

648 or drugs is a serious crime that is prosecuted aggressively in Utah.":

649 (i) a state store;

650 (ii) a permittee;

651 (iii) a licensee; and

652 (iv) a package agency; and

653 (p) subject to Subsection (4) and as provided in this title, impose fines against:

654 (i) a permittee, licensee, certificate holder, or package agent described in Subsection

655 (1)(e); or

656 (ii) ~~[any]~~ an officer, employee, or agent of a permittee, licensee, certificate holder, or
657 package agent described in Subsection (1)(p)(i).

658 (2) The power of the commission to do the following is plenary, except as otherwise
659 provided by this title, and not subject to review:

660 (a) establish a state ~~[stores]~~ store;

661 (b) create a package ~~[agencies]~~ agency;

662 (c) grant authority to operate a package ~~[agencies]~~ agency; and

663 (d) grant or deny ~~[permits, licenses, and certificates of approval]~~ a permit, license, or
664 certificate of approval.

665 (3) The commission may appoint a qualified hearing ~~[examiners]~~ examiner to conduct
666 ~~[any]~~ a suspension or revocation ~~[hearings]~~ hearing required by law.

667 (4) (a) In ~~[any]~~ a case ~~[where]~~ when the commission is given the power to suspend
668 ~~[any]~~ a permit, license, certificate of approval, or package agency, the commission may impose
669 a fine in addition to or in lieu of suspension.

670 (b) ~~[Fines]~~ A fine imposed may not exceed \$25,000 in the aggregate for:

671 (i) ~~[any]~~ a single Notice of Agency Action; or

672 (ii) a single action against a package agency.

673 (c) The commission shall promulgate, by rule, a schedule setting forth a range of fines
674 for each violation.

675 Section 6. Section **32A-1-119** is amended to read:

676 **32A-1-119. Disciplinary proceedings -- Procedure.**

677 (1) As used in Subsection (4), "final adjudication" means an adjudication for which a
678 final unappealable judgment or order is issued.

679 (2) (a) Subject to Section 32A-1-119.5, the following may conduct an adjudicative
680 proceeding to inquire into a matter necessary and proper for the administration of this title and
681 rules adopted under this title:

682 (i) the commission;

683 (ii) a hearing examiner appointed by the commission for the purposes provided in
684 Subsection 32A-1-107(3);

685 (iii) the director; and

686 (iv) the department.

687 (b) Except as provided in this section or Section 32A-3-106, the following shall
688 comply with the procedures and requirements of Title 63G, Chapter 4, Administrative
689 Procedures Act, in an adjudicative proceeding:

690 (i) the commission;

691 (ii) a hearing examiner appointed by the commission;

692 (iii) the director; and

693 (iv) the department.

694 (c) Except where otherwise provided by law, an adjudicative proceeding before the
695 commission or a hearing examiner appointed by the commission shall be:

696 (i) video or audio recorded; and

697 (ii) subject to Subsection (5)(e), conducted in accordance with Title 52, Chapter 4,
698 Open and Public Meetings Act.

699 (d) A person listed in Subsection (2)(a) shall conduct an adjudicative proceeding
700 concerning departmental personnel in accordance with Title 67, Chapter 19, Utah State
701 Personnel Management Act.

702 (e) A hearing that is informational, fact gathering, and nonadversarial in nature shall be
703 conducted in accordance with rules, policies, and procedures made by the commission,
704 director, or department.

705 (3) (a) Subject to Section 32A-1-119.5, a disciplinary proceeding shall be conducted
706 under the authority of the commission, which is responsible for rendering a final decision and
707 order on a disciplinary matter.

708 (b) (i) Nothing in this section precludes the commission from appointing a necessary
709 officer, including a hearing examiner, from within or without the department, to administer the

710 disciplinary proceeding process.

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

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

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

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

716 (II) conclusions of law; and

717 (III) recommendations.

718 (c) Nothing in this section precludes the commission, after the commission renders its
719 final decision and order, from having the director prepare, issue, and cause to be served on the
720 parties the final written order on behalf of the commission.

721 (4) Subject to Section 32A-1-119.5:

722 (a) The department may initiate a disciplinary proceeding described in Subsection
723 (4)(b) if the department receives:

724 (i) a report from a government agency, peace officer, examiner, or investigator alleging
725 that a person listed in Subsections 32A-1-105[~~(17)~~](16)(a)(i) through (vii) violated this title or
726 the rules of the commission;

727 (ii) a final adjudication of criminal liability against a person listed in Subsections
728 32A-1-105[~~(17)~~](16)(a)(i) through (vii) based on an alleged violation of this title; or

729 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage
730 Liability, against a person listed in Subsections 32A-1-105[~~(17)~~](16)(a)(i) through (vii) based
731 on an alleged violation of this title.

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

734 (i) whether a person listed in Subsections 32A-1-105[~~(17)~~](16)(a)(i) through (vii)
735 violated this title or rules of the commission; and

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

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

738 (i) if required by law;

739 (ii) before revoking or suspending a permit, license, or certificate of approval issued
740 under this title; or

741 (iii) before imposing a fine against a person listed in Subsections
742 32A-1-105[(17)](16)(a)(i) through (vii).

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

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

747 (d) The commission or an appointed hearing examiner shall preside over a disciplinary
748 proceeding hearing.

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

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

754 (A) administer oaths or affirmations;

755 (B) take evidence;

756 (C) take a deposition within or without this state; and

757 (D) require by subpoena from a place within this state:

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

759 (II) the production of a book, record, paper, contract, agreement, document, or other
760 evidence considered relevant to the inquiry.

761 (ii) A person subpoenaed in accordance with this Subsection (5)(f) shall testify and
762 produce a book, paper, document, or tangible thing as required in the subpoena.

763 (iii) A witness subpoenaed or called to testify or produce evidence who claims a
764 privilege against self-incrimination may not be compelled to testify, but the commission or the
765 hearing examiner shall file a written report with the county attorney or district attorney in the
766 jurisdiction where the privilege is claimed or where the witness resides setting forth the
767 circumstance of the claimed privilege.

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

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

- 772 (I) appear before the issuing party; and
773 (II) (Aa) produce documentary evidence if so ordered; or
774 (Bb) give evidence regarding the matter in question.
775 (C) Failure to obey an order of the court may be punished by the court as contempt.
776 (g) (i) In a disciplinary proceeding hearing heard by a hearing examiner, the hearing
777 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.
778 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not
779 recommend a penalty more severe than that initially sought by the department in the notice of
780 agency action.
781 (iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
782 shall be served upon the respective parties.
783 (iv) The respondent and the department shall be given reasonable opportunity to file a
784 written objection to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
785 before final commission action.
786 (h) In a case heard by the commission, it shall issue its final decision and order in
787 accordance with Subsection (3).
788 (6) (a) The commission shall:
789 (i) render a final decision and order on a disciplinary action; and
790 (ii) cause its final order to be prepared in writing, issued, and served on all parties.
791 (b) An order of the commission is considered final on the date the order becomes
792 effective.
793 (c) If the commission is satisfied that a person listed in Subsections
794 32A-1-105[~~(17)~~](16)(a)(i) through (vii) violated this title or the commission's rules, in
795 accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:
796 (i) suspend or revoke the permit, license, or certificate of approval;
797 (ii) impose a fine against a person listed in Subsections 32A-1-105[~~(17)~~](16)(a)(i)
798 through (vii);
799 (iii) assess the administrative costs of a disciplinary proceeding to the permittee, the
800 licensee, or certificate holder; or
801 (iv) take a combination of actions described in Subsections (6)(c)(i) through (iii).
802 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections

803 32A-1-107(1)(p) and (4).

804 (e) (i) If a permit or license is suspended under this Subsection (6), the permittee or
805 licensee shall prominently post a sign provided by the department:

806 (A) during the suspension; and

807 (B) at the entrance of the premises of the permittee or licensee.

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

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

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

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

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

817 (g) A permittee or licensee whose permit or license is revoked may not reapply for a
818 permit or license under this title for three years from the date on which the permit or license is
819 revoked.

820 (h) The commission shall transfer all costs assessed into the General Fund in
821 accordance with Section 32A-1-113.

822 (7) Subject to Section 32A-1-119.5:

823 (a) In addition to an action taken against a permittee, licensee, or certificate holder
824 under this section, the department may initiate disciplinary action against an officer, employee,
825 or agent of a permittee, licensee, or certificate holder.

826 (b) If an officer, employee, or agent is found to have violated this title, the commission
827 may prohibit the officer, employee, or agent from serving, selling, distributing, manufacturing,
828 wholesaling, warehousing, or handling an alcoholic beverage in the course of acting as an
829 officer, employee, or agent with a permittee, licensee, or certificate holder under this title for a
830 period determined by the commission.

831 (8) Subject to Section 32A-1-119.5:

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

834 (i) a manufacturer, supplier, or importer of an alcoholic beverage; or
835 (ii) an officer, employee, agent, or representative of a person listed in Subsection
836 (8)(a)(i).

837 (b) (i) If the commission makes the finding described in Subsection (8)(b)(ii), the
838 commission may, in addition to other penalties prescribed by this title, order:
839 (A) the removal of the manufacturer's, supplier's, or importer's one or more products
840 from the department's sales list; and
841 (B) a suspension of the department's purchase of the one or more products described in
842 Subsection (8)(b)(i)(A) for a period determined by the commission.

843 (ii) The commission may take the action described in Subsection (8)(b)(i) if:
844 (A) a manufacturer, supplier, or importer of liquor, wine, heavy beer, or a flavored malt
845 beverage, or its officer, employee, agent, or representative violates this title; and
846 (B) the manufacturer, supplier, or importer:
847 (I) directly commits the violation; or
848 (II) solicits, requests, commands, encourages, or intentionally aids another to engage in
849 the violation.

850 (9) Subject to Section 32A-1-119.5:
851 (a) The department may initiate a disciplinary proceeding against a brewer holding a
852 certificate of approval under Section 32A-8-101 for an alleged violation of this title or the rules
853 of the commission.
854 (b) If the commission makes a finding that the brewer holding a certificate of approval
855 violates this title or rules of the commission, the commission may take an action against the
856 brewer holding a certificate of approval that the commission could take against a licensee
857 including:
858 (i) suspension or revocation of the certificate of approval; and
859 (ii) imposition of a fine.

860 (10) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by
861 the commission or a hearing examiner appointed by the commission shall proceed formally in
862 accordance with Sections 63G-4-204 through 63G-4-209 in a case where:
863 (i) the alleged violation poses, or potentially poses, a grave risk to public safety, health,
864 and welfare;

- 865 (ii) the alleged violation involves:
- 866 (A) selling, serving, or otherwise furnishing an alcoholic product to a minor;
- 867 (B) attire, conduct, or entertainment prohibited by Part 6, Attire, Conduct, and
- 868 Entertainment Act;
- 869 (C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf
- 870 of the respondent;
- 871 (D) interfering or refusing to cooperate with:
- 872 (I) an authorized official of the department or the state in the discharge of the official's
- 873 duties in relation to the enforcement of this title; or
- 874 (II) a peace officer in the discharge of the peace officer's duties in relation to the
- 875 enforcement of this title;
- 876 (E) an unlawful trade practice under Sections 32A-12-601 through 32A-12-606;
- 877 (F) unlawful importation of an alcoholic product; or
- 878 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection
- 879 32A-12-601(2), to a person other than the department or a military installation, except to the
- 880 extent permitted by this title; or
- 881 (iii) the department determines to seek in a disciplinary proceeding hearing:
- 882 (A) an administrative fine exceeding \$3,000;
- 883 (B) a suspension of a license, permit, or certificate of approval of more than ten days;
- 884 or
- 885 (C) a revocation of a license, permit, or certificate of approval.
- 886 (b) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
- 887 Administrative Rulemaking Act, to provide a procedure to implement this Subsection (10).
- 888 Section 7. Section **32A-1-119.5** is amended to read:
- 889 **32A-1-119.5. Timing of reporting violations.**
- 890 (1) As used in this section:
- 891 (a) "Department compliance officer" means an individual who is:
- 892 (i) an auditor or inspector; and
- 893 (ii) employed by the department.
- 894 (b) "Nondepartment enforcement agency" means an agency that:
- 895 (i) (A) is a state agency other than the department; or

896 (B) is an agency of a county, city, or town; and
897 (ii) has a responsibility, as provided in another provision of this title, to enforce one or
898 more provisions of this title.

899 (c) "Nondepartment enforcement officer" means an individual who is:

- 900 (i) a peace officer, examiner, or investigator; and
- 901 (ii) employed by an agency described in Subsection (1)(b).

902 (2) A disciplinary proceeding may not be initiated or maintained by the commission or
903 department on the basis, in whole or in part, of a violation of this title unless a person listed in
904 Subsections 32A-1-105[~~(15)~~](16)(a)(i) through (vi) against whom the violation is alleged is
905 notified by the department of the violation in accordance with this section.

906 (3) (a) A nondepartment enforcement agency or nondepartment enforcement officer
907 may not report a violation of this title to the department more than eight business days after the
908 day on which a nondepartment enforcement officer or agency completes an investigation that
909 finds a violation of this title.

910 (b) If the commission or department wants the right to initiate or maintain a
911 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a
912 report described in Subsection (3)(a), the department shall notify a person listed in Subsections
913 32A-1-105[~~(15)~~](16)(a)(i) through (vi) alleged by the report to have violated this title:

914 (i) by no later than eight business days of the day on which the department receives the
915 report described in Subsection (3)(a); and

916 (ii) that the commission or department may initiate or maintain a disciplinary
917 proceeding on the basis, in whole or in part, of the violation.

918 (4) If the commission or department wants the right to initiate or maintain a
919 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by
920 report of a department compliance officer, the department shall notify a person listed in
921 Subsections 32A-1-105[~~(17)~~](16)(a)(i) through (vi) alleged by the report to have violated this
922 title:

923 (a) by no later than eight business days of the day on which the department compliance
924 officer completes an investigation that finds a violation of this title; and

925 (b) that the commission or department may initiate or maintain a disciplinary
926 proceeding on the basis, in whole or in part, of the violation.

927 (5) The notice described in Subsection (2), (3)(b), or (4) is not required with respect to
928 a person listed in Subsection 32A-1-105[~~(17)~~](16)(a)(vii).

929 (6) (a) A notice required by Subsection (2), (3)(b), or (4) may be done orally, if after
930 the oral notification the department provides written notification.

931 (b) The written notification described in Subsection (6)(a) may be sent outside the time
932 periods required by this section.

933 (7) The department shall maintain a record of a notification required by Subsection (2),
934 (3)(b), or (4) that includes:

935 (a) the name of the person notified; and

936 (b) the date of the notification.

937 Section 8. Section **32A-1-304.5** is enacted to read:

938 **32A-1-304.5. Verification of proof of age by a social on-premise liquor licensee.**

939 (1) Notwithstanding any other provision of this part, a social on-premise liquor
940 licensee shall require that a person authorized to sell or otherwise handle an alcoholic beverage
941 or alcoholic product under the social on-premise liquor license verify proof of age as provided
942 in this section.

943 (2) A person described in Subsection (1) is required to verify proof of age under this
944 section before an individual who appears to be 30 years of age or younger:

945 (a) gains admittance to the class 2 social on-premise liquor licensee's premises if the
946 social on-premise liquor licensee is a class 2 social on-premise liquor licensee; or

947 (b) procures an alcoholic beverage or alcoholic product if the social on-premise liquor
948 licensee is a class 1 social on-premise liquor licensee.

949 (3) To comply with Subsection (2), a person shall:

950 (a) request the individual present proof of age; and

951 (b) (i) verify the validity of the proof of age electronically under the verification
952 program created in Subsection (4); or

953 (ii) if the proof of age cannot be electronically verified as provided in Subsection
954 (3)(b)(i), request that the individual comply with a process established by the commission by
955 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

956 (4) The commission shall establish by rule made in accordance with Title 63G, Chapter
957 3, Utah Administrative Rulemaking Act, an electronic verification program that includes the

958 following:

959 (a) the specifications for the technology used by the social on-premise liquor licensee
 960 to electronically verify proof of age, including that the technology display to the person
 961 described in Subsection (1) no more than the following for the individual who presents the
 962 proof of age:

963 (i) the name;

964 (ii) the age;

965 (iii) the number assigned to the individual's proof of age by the issuing authority;

966 (iv) the birth date;

967 (v) the gender; and

968 (vi) the status and expiration date of the individual's proof of age; and

969 (b) the security measures that must be used by a social on-premise liquor licensee to
 970 ensure that information obtained under this section is:

971 (i) used by the social on-premise liquor licensee only for purposes of verifying proof
 972 of age in accordance with this section; and

973 (ii) retained by the social on-premise liquor licensee for no more than ~~H~~→ [48 hours] seven
 973a calendar days ←H from
 974 close of business of the day on which the social on-premise liquor licensee obtains the
 975 information.

976 (5) A social on-premise liquor licensee may not disclose information obtained under
 977 this section except as provided under this title.

978 Section 9. Section **32A-1-603** is amended to read:

979 **32A-1-603. Sexually oriented entertainer.**

980 (1) Subject to the restrictions of this section, live entertainment is permitted on a
 981 premises or at an event regulated by the commission.

982 (2) Notwithstanding Subsection (1), a licensee or permittee may not permit a person to:

983 (a) appear or perform in a state of nudity;

984 (b) perform or simulate an act of:

985 (i) sexual intercourse;

986 (ii) masturbation;

987 (iii) sodomy;

988 (iv) bestiality;

- 989 (v) oral copulation;
- 990 (vi) flagellation; or
- 991 (vii) a sexual act that is prohibited by Utah law; or
- 992 (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.
- 993 (3) A sexually oriented entertainer may perform in a state of seminudity:
- 994 (a) only in:
- 995 (i) a tavern; or [class D private club; and]
- 996 (ii) a class 2 social on-premise liquor licensee's premises; and
- 997 (b) only if:
- 998 (i) all windows, doors, and other apertures to the premises are darkened or otherwise
- 999 constructed to prevent anyone outside the premises from seeing the performance; and
- 1000 (ii) the outside entrance doors of the premises remain unlocked.
- 1001 (4) A sexually oriented entertainer may perform only upon a stage or in a designated
- 1002 performance area that is:
- 1003 (a) approved by the commission in accordance with rules made by the commission in
- 1004 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 1005 (b) configured so as to preclude a patron from:
- 1006 (i) touching the sexually oriented entertainer; or
- 1007 (ii) placing any money or object on or within the costume or the person of the sexually
- 1008 oriented entertainer; and
- 1009 (c) configured so as to preclude the sexually oriented entertainer from touching a
- 1010 patron.
- 1011 (5) A sexually oriented entertainer may not touch a patron:
- 1012 (a) during the sexually oriented entertainer's performance; or
- 1013 (b) while the sexually oriented entertainer is dressed in performance attire or costume.
- 1014 (6) A sexually oriented entertainer, while in the portion of the premises used by
- 1015 patrons, must be dressed in opaque clothing which covers and conceals the sexually oriented
- 1016 entertainer's performance attire or costume from the top of the breast to the knee.
- 1017 (7) A patron may not be on the stage or in the performance area while a sexually
- 1018 oriented entertainer is appearing or performing on the stage or in the performance area.
- 1019 (8) A patron may not:

- 1020 (a) touch a sexually oriented entertainer:
- 1021 (i) during the sexually oriented entertainer's performance; or
- 1022 (ii) while the sexually oriented entertainer is dressed in performance attire or costume;

1023 or

- 1024 (b) place money or any other object on or within the costume or the person of the
- 1025 sexually oriented entertainer.

1026 (9) A minor may not be on a premises described in Subsection (3) [~~when a sexually~~
1027 ~~oriented entertainer is performing on the premises~~].

1028 (10) A person who appears or performs for the entertainment of patrons on a premises
1029 or at an event regulated by the commission that is not a tavern or class [~~D private club~~] 2 social
1030 on-premise liquor license:

- 1031 (a) may not appear or perform in a state of nudity or a state of seminudity; and
- 1032 (b) may appear or perform in opaque clothing that completely covers the person's
- 1033 genitals, pubic area, and anus if the covering:

- 1034 (i) is not less than the following at its widest point:
- 1035 (A) four inches coverage width in the front of the human body; and
- 1036 (B) five inches coverage width in the back of the human body;
- 1037 (ii) does not taper to less than one inch wide at the narrowest point; and
- 1038 (iii) if covering a female, completely covers the breast below the top of the areola.

1039 Section 10. Section **32A-4-106** is amended to read:

1040 **32A-4-106. Operational restrictions.**

1041 A person granted a restaurant liquor license and the employees and management
1042 personnel of the restaurant shall comply with the following conditions and requirements.
1043 Failure to comply may result in a suspension or revocation of the restaurant liquor license or
1044 other disciplinary action taken against individual employees or management personnel.

1045 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state
1046 store or package agency.

1047 (b) Liquor purchased from a state store or package agency may be transported by the
1048 restaurant liquor licensee from the place of purchase to the licensed premises.

1049 (c) Payment for liquor shall be made in accordance with rules established by the
1050 commission.

1051 (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in
1052 a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered
1053 dispensing system approved by the department in accordance with commission rules adopted
1054 under this title, except that:

1055 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1056 system if used as a secondary flavoring ingredient in a beverage subject to the following
1057 restrictions:

1058 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1059 a primary spirituous liquor;

1060 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

1061 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored
1062 on the floor plan provided to the department; and

1063 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

1064 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1065 system if used:

1066 (i) as a flavoring on a dessert; and

1067 (ii) in the preparation of a flaming food dish, drink, or dessert;

1068 (c) a restaurant patron may have no more than 2.5 ounces of spirituous liquor at a time;
1069 and

1070 (d) a restaurant patron may have no more than one spirituous liquor drink at a time
1071 before the patron.

1072 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to
1073 exceed five ounces per glass or individual portion.

1074 (ii) An individual portion of wine may be served to a patron in more than one glass as
1075 long as the total amount of wine does not exceed five ounces.

1076 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1077 Subsection (7)~~(c)~~(d).

1078 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
1079 fixed by the commission to a table of four or more persons.

1080 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
1081 fixed by the commission to a table of less than four persons.

1082 (c) A wine service may be performed and a service charge assessed by a restaurant
1083 liquor licensee as authorized by commission rule for wine purchased at the restaurant.

1084 (4) (a) Heavy beer may be served in an original container not exceeding one liter at a
1085 price fixed by the commission.

1086 (b) A flavored malt beverage may be served in an original container not exceeding one
1087 liter at a price fixed by the commission.

1088 (c) A service charge may be assessed by a restaurant liquor licensee as authorized by
1089 commission rule for heavy beer or a flavored malt beverage purchased at the restaurant.

1090 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant liquor licensee may sell beer for
1091 on-premise consumption:

1092 (A) in an open container; and

1093 (B) on draft.

1094 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1095 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1096 container that exceeds one liter.

1097 (b) A restaurant liquor licensee that sells beer pursuant to Subsection (5)(a):

1098 (i) may do so without obtaining a separate on-premise beer retailer license from the
1099 commission; and

1100 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1101 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
1102 inconsistent with or less restrictive than the operational restrictions under this part.

1103 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1104 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
1105 restaurant's:

1106 (i) state liquor license; and

1107 (ii) alcoholic beverage license issued by the local authority.

1108 (6) An alcoholic beverage may not be stored, served, or sold in a place other than as
1109 designated in the restaurant liquor licensee's application, unless the restaurant liquor licensee
1110 first applies for and receives approval from the department for a change of location within the
1111 restaurant.

1112 (7) (a) (i) A patron may only make an alcoholic beverage purchase in the restaurant

1113 from and be served by a person employed, designated, and trained by the restaurant liquor
1114 licensee to sell and serve an alcoholic beverage.

1115 (ii) Notwithstanding Subsection (7)(a)(i), a patron who purchases bottled wine from an
1116 employee of the restaurant or carries bottled wine onto the premises of the restaurant pursuant
1117 to Subsection (14) may thereafter serve wine from the bottle to the patron or others at the
1118 patron's table.

1119 ~~[(b) An alcoholic beverage shall be delivered by a server to the patron.]~~

1120 ~~[(c) An]~~ (b) A patron may consume an alcoholic beverage [may] only [be consumed] at
1121 the patron's table or at a counter, bar, or similar structure.

1122 ~~[(d) An alcoholic beverage may not be served to or consumed by a patron at a bar.]~~

1123 (c) (i) For purposes of this Subsection (7)(c), "bar structure" means the entire counter
1124 or structure at which occurs an activity that makes the counter or structure a bar under Section
1125 32A-1-105.

1126 (ii) A patron who is 21 years of age or older may:

1127 (A) sit at a bar structure;

1128 (B) be served an alcoholic beverage at a bar structure; and

1129 (C) consume an alcoholic beverage at a bar structure.

1130 (iii) Except as provided in Subsection (7)(c)(iv), a restaurant liquor licensee may not
1131 permit a minor to, and a minor may not:

1132 (A) sit at a bar structure; or

1133 (B) consume food or beverages at a bar structure.

1134 (iv) (A) A minor may be at a bar structure if the minor is employed by a restaurant
1135 liquor licensee to perform maintenance and cleaning services during an hour when the
1136 restaurant liquor licensee is not open for business.

1137 (B) A minor may momentarily pass by a bar structure without remaining or sitting at
1138 the bar structure en route to an area of a restaurant liquor licensee's premises in which the
1139 minor is permitted to be.

1140 ~~[(e)]~~ (d) A restaurant patron may have no more than two alcoholic beverages of any
1141 kind at a time before the patron, subject to the limitation in Subsection (2)(d).

1142 (8) The liquor storage area shall remain locked at all times other than those hours and
1143 days when liquor sales are authorized by law.

1144 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
1145 restaurant of a restaurant liquor licensee on any day after 12 midnight or before 12 noon.

1146 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1147 Licenses, for on-premise beer licensees.

1148 (10) An alcoholic beverage may not be sold except in connection with an order for food
1149 prepared, sold, and served at the restaurant.

1150 (11) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

1151 (a) minor;

1152 (b) person actually, apparently, or obviously intoxicated;

1153 (c) known habitual drunkard; or

1154 (d) known interdicted person.

1155 (12) (a) (i) Liquor may be sold only at a price fixed by the commission.

1156 (ii) Liquor may not be sold at a discount price on any date or at any time.

1157 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
1158 beverage to the restaurant liquor licensee.

1159 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1160 over consumption or intoxication.

1161 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1162 hours of a restaurant liquor licensee's business day such as a "happy hour."

1163 (e) More than one alcoholic beverage may not be sold or served for the price of a single
1164 alcoholic beverage.

1165 (f) An indefinite or unlimited number of alcoholic beverages during a set period may
1166 not be sold or served for a fixed price.

1167 (g) A restaurant liquor licensee may not engage in a public promotion involving or
1168 offering free an alcoholic beverage to the general public.

1169 (13) An alcoholic beverage may not be purchased for a patron of a restaurant by:

1170 (a) the restaurant liquor licensee; or

1171 (b) an employee or agent of the restaurant liquor licensee.

1172 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee an
1173 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1174 discretion of the restaurant liquor licensee, bottled wine onto the premises of a restaurant liquor

1175 licensee for on-premise consumption.

1176 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or an
1177 officer, manager, employee, or agent of the restaurant liquor licensee may not allow:

1178 (i) a person to bring onto the restaurant premises an alcoholic beverage for on-premise
1179 consumption; or

1180 (ii) consumption of an alcoholic beverage described in this Subsection (14) on the
1181 restaurant liquor licensee's premises.

1182 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1183 or other representative of the restaurant liquor licensee upon entering the restaurant.

1184 (d) A wine service may be performed and a service charge assessed by a restaurant
1185 liquor licensee as authorized by commission rule for wine carried in by a patron.

1186 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee or an
1187 employee of the restaurant liquor licensee may not permit a restaurant patron to carry from the
1188 restaurant premises an open container that:

1189 (i) is used primarily for drinking purposes; and

1190 (ii) contains an alcoholic beverage.

1191 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the
1192 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought
1193 onto the premises of the restaurant in accordance with Subsection (14), only if the bottle is
1194 recorked or recapped before removal.

1195 (16) (a) A restaurant liquor licensee may not employ a minor to sell or dispense an
1196 alcoholic beverage.

1197 (b) Notwithstanding Subsection (16)(a) and subject to Subsection (7)(c), a minor who
1198 is at least 16 years of age may be employed to enter the sale at a cash register or other sales
1199 recording device.

1200 (17) An employee of a restaurant liquor licensee, while on duty, may not:

1201 (a) consume an alcoholic beverage; or

1202 (b) be intoxicated.

1203 (18) A charge or fee made in connection with the sale, service, or consumption of liquor
1204 may be stated in food or alcoholic beverage menus including:

1205 (a) a set-up charge;

- 1206 (b) a service charge; or
- 1207 (c) a chilling fee.
- 1208 (19) A restaurant liquor licensee shall display in a prominent place in the restaurant:
- 1209 (a) the liquor license that is issued by the department;
- 1210 (b) a list of the types and brand names of liquor being served through its calibrated
- 1211 metered dispensing system; and
- 1212 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 1213 drugs is a serious crime that is prosecuted aggressively in Utah."
- 1214 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor
- 1215 licensee:
- 1216 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
- 1217 Chapter 10, Part 11, Gambling;
- 1218 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 1219 Part 11, Gambling; or
- 1220 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 1221 the risking of something of value for a return or for an outcome when the return or outcome is
- 1222 based upon an element of chance, excluding the playing of an amusement device that confers
- 1223 only an immediate and unrecorded right of replay not exchangeable for value.
- 1224 (21) (a) A restaurant liquor licensee shall maintain an expense ledger or record showing
- 1225 in detail:
- 1226 (i) quarterly expenditures made separately for:
- 1227 (A) malt or brewed beverages;
- 1228 (B) set-ups;
- 1229 (C) liquor;
- 1230 (D) food; and
- 1231 (E) all other items required by the department; and
- 1232 (ii) sales made separately for:
- 1233 (A) malt or brewed beverages;
- 1234 (B) set-ups;
- 1235 (C) food; and
- 1236 (D) all other items required by the department.

- 1237 (b) A restaurant liquor licensee shall keep a record required by Subsection (21)(a):
1238 (i) in a form approved by the department; and
1239 (ii) current for each three-month period.
- 1240 (c) An expenditure shall be supported by:
1241 (i) a delivery ticket;
1242 (ii) an invoice;
1243 (iii) a receipted bill;
1244 (iv) a canceled check;
1245 (v) a petty cash voucher; or
1246 (vi) other sustaining datum or memorandum.
- 1247 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant
1248 liquor licensee shall maintain accounting and other records and documents as the department
1249 may require.
- 1250 (e) A restaurant liquor licensee or person acting for the restaurant, who knowingly
1251 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or
1252 other document of the restaurant that is required to be made, maintained, or preserved by this
1253 title or the rules of the commission for the purpose of deceiving the commission or the
1254 department, or an official or employee of the commission or department, is subject to:
1255 (i) the suspension or revocation of the restaurant's liquor license; and
1256 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1257 (22) (a) A restaurant liquor licensee may not close or cease operation for a period
1258 longer than 240 hours, unless:
1259 (i) the restaurant liquor licensee notifies the department in writing at least seven days
1260 before the day on which the restaurant liquor licensee closes or ceases operation; and
1261 (ii) the closure or cessation of operation is first approved by the department.
- 1262 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the
1263 restaurant liquor licensee shall immediately notify the department by telephone.
- 1264 (c) (i) The department may authorize a closure or cessation of operation for a period
1265 not to exceed 60 days.
1266 (ii) The department may extend the initial period an additional 30 days upon:
1267 (A) written request of the restaurant liquor licensee; and

- 1268 (B) a showing of good cause.
- 1269 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1270 commission approval.
- 1271 (d) A notice shall include:
- 1272 (i) the dates of closure or cessation of operation;
- 1273 (ii) the reason for the closure or cessation of operation; and
- 1274 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.
- 1275 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department
1276 authorization before closure or cessation of operation results in an automatic forfeiture of:
- 1277 (i) the license; and
- 1278 (ii) the unused portion of the license fee for the remainder of the license year effective
1279 immediately.
- 1280 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the
1281 approved date results in an automatic forfeiture of:
- 1282 (i) the license; and
- 1283 (ii) the unused portion of the license fee for the remainder of the license year.
- 1284 (23) A restaurant liquor licensee shall maintain at least 70% of its total restaurant
1285 business from the sale of food, which does not include mix for an alcoholic beverage or service
1286 charges.
- 1287 (24) A restaurant liquor license may not be transferred from one location to another,
1288 without prior written approval of the commission.
- 1289 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,
1290 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license
1291 to another person whether for monetary gain or not.
- 1292 (b) A restaurant liquor license has no monetary value for the purpose of any type of
1293 disposition.
- 1294 (26) A server of an alcoholic beverage in a restaurant liquor licensee's establishment
1295 shall keep a written beverage tab for each table or group that orders or consumes an alcoholic
1296 beverage on the premises. The beverage tab shall list the type and amount of an alcoholic
1297 beverage ordered or consumed.
- 1298 (27) A person's willingness to serve an alcoholic beverage may not be made a

1299 condition of employment as a server with a restaurant that has a restaurant liquor license.

1300 (28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may
 1301 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
 1302 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1303 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
 1304 58-37-2; or

1305 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
 1306 Section 58-37a-3.

1307 Section 11. Section **32A-4-307** is amended to read:

1308 **32A-4-307. Operational restrictions.**

1309 A person granted a limited restaurant license and the employees and management
 1310 personnel of the limited restaurant shall comply with the following conditions and
 1311 requirements. Failure to comply may result in a suspension or revocation of the license or
 1312 other disciplinary action taken against individual employees or management personnel.

1313 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee
 1314 except from a state store or package agency.

1315 (b) Wine and heavy beer purchased from a state store or package agency may be
 1316 transported by the limited restaurant licensee from the place of purchase to the licensed
 1317 premises.

1318 (c) Payment for wine and heavy beer shall be made in accordance with rules
 1319 established by the commission.

1320 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of the
 1321 products listed in Subsection (2)(c) on the premises of the limited restaurant.

1322 (b) A product listed in Subsection (2)(c) may not be on the premises of the limited
 1323 restaurant except for use:

1324 (i) as a flavoring on a dessert; and

1325 (ii) in the preparation of a flaming food dish, drink, or dessert.

1326 (c) This Subsection (2) applies to:

1327 (i) spirituous liquor; and

1328 (ii) ~~[on or after October 1, 2008,]~~ a flavored malt beverage.

1329 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to

1330 exceed five ounces per glass or individual portion.

1331 (ii) An individual portion may be served to a patron in more than one glass as long as
1332 the total amount of wine does not exceed five ounces.

1333 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1334 Subsection (7)~~(e)~~(d).

1335 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
1336 fixed by the commission to a table of four or more persons.

1337 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
1338 fixed by the commission to a table of less than four persons.

1339 (c) A wine service may be performed and a service charge assessed by the limited
1340 restaurant licensee as authorized by commission rule for wine purchased at the limited
1341 restaurant.

1342 (4) (a) Heavy beer may be served in an original container not exceeding one liter at a
1343 price fixed by the commission.

1344 (b) A service charge may be assessed by the limited restaurant licensee as authorized
1345 by commission rule for heavy beer purchased at the limited restaurant.

1346 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for
1347 on-premise consumption:

1348 (A) in an open container; and

1349 (B) on draft.

1350 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1351 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1352 container that exceeds one liter.

1353 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

1354 (i) may do so without obtaining a separate on-premise beer retailer license from the
1355 commission; and

1356 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1357 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
1358 inconsistent with or less restrictive than the operational restrictions under this part.

1359 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1360 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited

1361 restaurant's:

1362 (i) limited restaurant license; and

1363 (ii) alcoholic beverage license issued by the local authority.

1364 (6) Wine, heavy beer, and beer may not be stored, served, or sold in a place other than
 1365 as designated in the limited restaurant licensee's application, unless the limited restaurant
 1366 licensee first applies for and receives approval from the department for a change of location
 1367 within the limited restaurant.

1368 (7) (a) (i) A patron may only make an alcoholic beverage purchase in a limited
 1369 restaurant from and be served by a person employed, designated, and trained by the limited
 1370 restaurant licensee to sell and serve an alcoholic beverage.

1371 (ii) Notwithstanding Subsection (7)(a)(i), a patron who purchases bottled wine from an
 1372 employee of the limited restaurant licensee or carries bottled wine onto the premises of the
 1373 limited restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the
 1374 patron or others at the patron's table.

1375 ~~[(b) An alcoholic beverage shall be delivered by a server to the patron.]~~

1376 ~~[(c) An]~~ (b) A patron may consume an alcoholic beverage ~~[may]~~ only ~~[be consumed]~~ at
 1377 the patron's table or at a counter, bar, or similar structure.

1378 ~~[(d) An alcoholic beverage may not be served to or consumed by a patron at a bar.]~~

1379 (c) (i) For purposes of this Subsection (7)(c), "bar structure" means the entire counter
 1380 or structure at which occurs an activity that makes the counter or structure a bar under Section
 1381 32A-1-105.

1382 (ii) A patron who is 21 years of age or older may:

1383 (A) sit at a bar structure;

1384 (B) be served an alcoholic beverage at a bar structure; or

1385 (C) consume an alcoholic beverage at a bar structure.

1386 (iii) Except as provided in Subsection (7)(c)(iv), a limited restaurant licensee may not
 1387 permit a minor to, and a minor may not:

1388 (A) sit at a bar structure; or

1389 (B) consume food or beverages at a bar structure.

1390 (iv) (A) A minor may be at a bar structure if the minor is employed by a limited
 1391 restaurant licensee to perform maintenance and cleaning services during an hour when the

1392 limited restaurant licensee is not open for business.

1393 (B) A minor may momentarily pass by a bar structure without remaining or sitting at
1394 the bar structure en route to an area of a limited restaurant licensee's premises in which the
1395 minor is permitted to be.

1396 [~~e~~] (d) A limited restaurant patron may have no more than two alcoholic beverages of
1397 any kind at a time before the patron.

1398 (8) The alcoholic beverage storage area shall remain locked at all times other than
1399 those hours and days when alcoholic beverage sales are authorized by law.

1400 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
1401 furnished at a limited restaurant on any day after 12 midnight or before 12 noon.

1402 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1403 Licenses, for on-premise beer licensees.

1404 (10) An alcoholic beverage may not be sold except in connection with an order of food
1405 prepared, sold, and served at the limited restaurant.

1406 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to a:

1407 (a) minor;

1408 (b) person actually, apparently, or obviously intoxicated;

1409 (c) known habitual drunkard; or

1410 (d) known interdicted person.

1411 (12) (a) (i) Wine and heavy beer may be sold only at a price fixed by the commission.

1412 (ii) Wine and heavy beer may not be sold at a discount price on any date or at any time.

1413 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
1414 beverage to the limited restaurant licensee.

1415 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1416 over consumption or intoxication.

1417 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1418 hours of the limited restaurant licensee's business day such as a "happy hour."

1419 (e) More than one alcoholic beverage may not be sold or served for the price of a single
1420 alcoholic beverage.

1421 (f) An indefinite or unlimited number of alcoholic beverages during a set period may
1422 not be sold or served for a fixed price.

1423 (g) A limited restaurant licensee may not engage in a public promotion involving or
1424 offering free alcoholic beverages to the general public.

1425 (13) An alcoholic beverage may not be purchased for a patron of the limited restaurant
1426 by:

1427 (a) the limited restaurant licensee; or

1428 (b) an employee or agent of the limited restaurant licensee.

1429 (14) (a) A person may not bring onto the premises of a limited restaurant licensee an
1430 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1431 discretion of the limited restaurant licensee, bottled wine onto the premises of a limited
1432 restaurant licensee for on-premise consumption.

1433 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or an
1434 officer, manager, employee, or agent of a limited restaurant licensee may not allow:

1435 (i) a person to bring onto the limited restaurant premises an alcoholic beverage for
1436 on-premise consumption; or

1437 (ii) consumption of an alcoholic beverage described in Subsection (14)(b)(i) on the
1438 limited restaurant licensee's premises.

1439 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1440 or other representative of the limited restaurant licensee upon entering the limited restaurant.

1441 (d) A wine service may be performed and a service charge assessed by the limited
1442 restaurant licensee as authorized by commission rule for wine carried in by a patron.

1443 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and an
1444 employee of the limited restaurant licensee may not permit a restaurant patron to carry from the
1445 limited restaurant premises an open container that:

1446 (i) is used primarily for drinking purposes; and

1447 (ii) contains an alcoholic beverage.

1448 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
1449 contents of a bottle of wine if before removal, the bottle is recorked or recapped.

1450 (16) (a) A limited restaurant licensee may not employ a minor to sell or dispense an
1451 alcoholic beverage.

1452 (b) Notwithstanding Subsection (16)(a) and subject to Subsection (7)(c), a minor who
1453 is at least 16 years of age may be employed to enter the sale at a cash register or other sales

1454 recording device.

1455 (17) An employee of a limited restaurant licensee, while on duty, may not:

1456 (a) consume an alcoholic beverage; or

1457 (b) be intoxicated.

1458 (18) A charge or fee made in connection with the sale, service, or consumption of wine
1459 or heavy beer may be stated in food or alcoholic beverage menus including:

1460 (a) a service charge; or

1461 (b) a chilling fee.

1462 (19) A limited restaurant licensee shall display in a prominent place in the restaurant:

1463 (a) the limited restaurant license that is issued by the department; and

1464 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1465 drugs is a serious crime that is prosecuted aggressively in Utah."

1466 (20) A limited restaurant licensee may not on the premises of the restaurant:

1467 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1468 Chapter 10, Part 11, Gambling;

1469 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1470 Part 11, Gambling; or

1471 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1472 the risking of something of value for a return or for an outcome when the return or outcome is
1473 based upon an element of chance, excluding the playing of an amusement device that confers
1474 only an immediate and unrecorded right of replay not exchangeable for value.

1475 (21) (a) A limited restaurant licensee shall maintain an expense ledger or record
1476 showing in detail:

1477 (i) quarterly expenditures made separately for:

1478 (A) wine;

1479 (B) heavy beer;

1480 (C) beer;

1481 (D) food; and

1482 (E) all other items required by the department; and

1483 (ii) sales made separately for:

1484 (A) wine;

- 1485 (B) heavy beer;
- 1486 (C) beer;
- 1487 (D) food; and
- 1488 (E) all other items required by the department.
- 1489 (b) A limited restaurant licensee shall keep a record required by Subsection (21)(a):
- 1490 (i) in a form approved by the department; and
- 1491 (ii) current for each three-month period.
- 1492 (c) An expenditure shall be supported by:
- 1493 (i) a delivery ticket;
- 1494 (ii) an invoice;
- 1495 (iii) a receipted bill;
- 1496 (iv) a canceled check;
- 1497 (v) a petty cash voucher; or
- 1498 (vi) other sustaining datum or memorandum.
- 1499 (d) In addition to the ledger or record maintained under Subsections (21)(a) through
- 1500 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
- 1501 the department may require.
- 1502 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly
- 1503 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or
- 1504 other document of the limited restaurant that is required to be made, maintained, or preserved
- 1505 by this title or the rules of the commission for the purpose of deceiving the commission, the
- 1506 department, or an official or employee of the commission or department, is subject to:
- 1507 (i) the suspension or revocation of the limited restaurant's license; and
- 1508 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1509 (22) (a) A limited restaurant licensee may not close or cease operation for a period
- 1510 longer than 240 hours, unless:
- 1511 (i) the limited restaurant licensee notifies the department in writing at least seven days
- 1512 before the day on which the limited restaurant licensee closes or ceases operation; and
- 1513 (ii) the closure or cessation of operation is first approved by the department.
- 1514 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the limited
- 1515 restaurant licensee shall immediately notify the department by telephone.

1516 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or
1517 cessation of operation for a period not to exceed 60 days.

1518 (ii) The department may extend the initial period an additional 30 days upon:

1519 (A) written request of the limited restaurant licensee; and

1520 (B) a showing of good cause.

1521 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1522 commission approval.

1523 (d) A notice required by Subsection (22)(a) shall include:

1524 (i) the dates of closure or cessation of operation;

1525 (ii) the reason for the closure or cessation of operation; and

1526 (iii) the date on which the limited restaurant licensee will reopen or resume operation.

1527 (e) Failure of the limited restaurant licensee to provide notice and to obtain department
1528 authorization before closure or cessation of operation results in an automatic forfeiture of:

1529 (i) the limited restaurant license; and

1530 (ii) the unused portion of the license fee for the remainder of the license year effective
1531 immediately.

1532 (f) Failure of the limited restaurant licensee to reopen or resume operation by the
1533 approved date results in an automatic forfeiture of:

1534 (i) the limited restaurant license; and

1535 (ii) the unused portion of the license fee for the remainder of the license year.

1536 (23) A limited restaurant licensee shall maintain at least 70% of its total restaurant
1537 business from the sale of food, which does not include service charges.

1538 (24) A limited restaurant license may not be transferred from one location to another,
1539 without prior written approval of the commission.

1540 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,
1541 give, or attempt in any way to dispose of the limited restaurant license to another person
1542 whether for monetary gain or not.

1543 (b) A limited restaurant license has no monetary value for the purpose of any type of
1544 disposition.

1545 (26) (a) A server of wine, heavy beer, and beer in a limited restaurant licensee's
1546 establishment shall keep a written beverage tab for each table or group that orders or consumes

1547 an alcoholic beverage on the premises.

1548 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an
1549 alcoholic beverage ordered or consumed.

1550 (27) A limited restaurant licensee may not make a person's willingness to serve an
1551 alcoholic beverage a condition of employment as a server with the limited restaurant.

1552 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may
1553 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
1554 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1555 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1556 58-37-2; or

1557 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1558 Section 58-37a-3.

1559 Section 12. Section **32A-4-501** is enacted to read:

1560 **Part 5. Social On-premise Liquor Licenses**

1561 **32A-4-501. Definitions -- Commission's power to license social on-premise liquor**
1562 **establishments -- Limitations.**

1563 (1) As used in this chapter:

1564 (a) "Class 1 social on-premise liquor licensee" means a person that qualifies as a class
1565 1 social on-premise liquor licensee under Subsection (3)(a)(ii)(A).

1566 (b) "Class 2 social on-premise liquor licensee" means a person that qualifies as a class
1567 2 social on-premise liquor licensee under Subsection (3)(a)(ii)(B).

1568 (c) "Social on-premise liquor licensee" means a person who is licensed under this
1569 chapter.

1570 (2) Before a person may sell or allow the consumption of an alcoholic beverage on its
1571 premises as a social on-premise liquor licensee, the person shall first obtain a license from the
1572 commission as provided in this chapter.

1573 (3) (a) The commission may grant a social on-premise liquor license to a person who:

1574 (i) meets the requirements of this chapter; and

1575 (ii) (A) meets the following requirements for a class 1 social on-premise liquor license:

1576 (I) operates in the manner of a dining establishment, as determined by the commission,
1577 which may consider:

- 1578 (Aa) the square footage and seating capacity of the applicant;
1579 (Bb) what portion of the square footage and seating capacity will be used for a dining
1580 area in comparison to the portion that will be used as a bar area;
1581 (Cc) whether full meals including appetizers, main courses, and desserts are served;
1582 (Dd) whether the applicant will maintain adequate on-premise culinary facilities to
1583 prepare full meals, or if an applicant is located on the premise of a hotel or resort facility, will
1584 use the culinary facilities of the hotel or resort facility;
1585 (Ee) whether the entertainment provided at the social on-premise liquor licensee is
1586 suitable for minors; and
1587 (Ff) the applicant management's ability to manage and operate a dining establishment,
1588 including management experience, past dining establishment or restaurant management
1589 experience, and the type of management scheme employed by the applicant; and
1590 (II) maintains at least 50% of its total business from the sale of food, not including:
1591 (Aa) a mix for an alcoholic beverage; or
1592 (Bb) a service charge; or
1593 (B) for a class 2 social on-premise liquor license:
1594 (I) does not meet the requirements of a class 1 social on-premise liquor license; or
1595 (II) seeks to qualify as a class 2 social on-premise liquor licensee.
1596 (b) At the time the commission grants a social on-premise liquor license the
1597 commission shall designate whether the social on-premise liquor license qualifies as a class 1
1598 social on-premise liquor license or a class 2 social on-premise liquor license.
1599 (4) (a) Subject to the other provisions of this Subsection (4), the commission may grant
1600 social on-premise liquor licenses at places and in numbers as the commission considers
1601 necessary.
1602 (b) The total number of social on-premise liquor licenses may not at any time aggregate
1603 more than that allowed under Section 32A-4-507, until such time that the number is determined
1604 by dividing the population of the state by the number specified by the Legislature.
1605 (c) For purposes of this Subsection (4), population shall be determined by:
1606 (i) the most recent United States decennial or special census; or
1607 (ii) another population determination made by the United States or state governments.
1608 (d) (i) The commission may grant seasonal social on-premise liquor licenses to be

- 1609 established in areas the commission considers necessary.
- 1610 (ii) A seasonal social on-premise liquor license shall be for a period of six consecutive
1611 months.
- 1612 (iii) A social on-premise liquor license granted for operation during a summer time
1613 period is known as a "Seasonal A" social on-premise liquor license. The period of operation
1614 for a "Seasonal A" social on-premise liquor license shall:
- 1615 (A) begin on May 1; and
- 1616 (B) end on October 31.
- 1617 (iv) A social on-premise liquor license granted for operation during a winter time
1618 period is known as a "Seasonal B" social on-premise liquor license. The period of operation
1619 for a "Seasonal B" social on-premise liquor license shall:
- 1620 (A) begin on November 1; and
- 1621 (B) end on April 30.
- 1622 (v) In determining the number of social on-premise liquor licenses that the commission
1623 may grant under this section:
- 1624 (A) a seasonal social on-premise liquor license is counted as one half of one social
1625 on-premise liquor license; and
- 1626 (B) each "Seasonal A" social on-premise liquor license shall be paired with a "Seasonal
1627 B" social on-premise liquor license.
- 1628 (e) (i) If the location, design, and construction of a hotel may require more than one
1629 social on-premise liquor license location within the hotel to serve the public convenience, the
1630 commission may authorize as many as three social on-premise liquor license locations within
1631 the hotel under one license if:
- 1632 (A) the hotel has a minimum of 150 guest rooms; and
- 1633 (B) all locations under the social on-premise liquor license are:
- 1634 (I) within the same hotel facility; and
- 1635 (II) on premises which are managed or operated and owned or leased by the social
1636 on-premise liquor licensee.
- 1637 (ii) A facility other than a hotel may not have more than one social on-premise liquor
1638 license location under a single social on-premise liquor license.
- 1639 (5) (a) Except as provided in Subsection (5)(b), (c), or (d), the premises of a social

1640 on-premise liquor license may not be established:

1641 (i) within 600 feet of a community location, as measured by the method in Subsection
1642 (5)(e); or

1643 (ii) within 200 feet of a community location, measured in a straight line from the
1644 nearest entrance of the proposed outlet to the nearest property boundary of the community
1645 location.

1646 (b) With respect to the establishment of a social on-premise liquor license, the
1647 commission may authorize a variance to reduce the proximity requirement of Subsection
1648 (5)(a)(i) if:

1649 (i) the local authority grants its written consent to the variance;

1650 (ii) the commission finds that alternative locations for establishing a social on-premise
1651 liquor license in the community are limited;

1652 (iii) a public hearing is held in the city, town, or county, and where practical in the
1653 neighborhood concerned;

1654 (iv) after giving full consideration to all of the attending circumstances and the policies
1655 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
1656 social on-premise liquor license would not be detrimental to the public health, peace, safety,
1657 and welfare of the community; and

1658 (v) (A) the community location governing authority gives its written consent to the
1659 variance; or

1660 (B) when written consent is not given by the community location governing authority,
1661 the commission finds that the applicant has established that:

1662 (I) there is substantial unmet public demand to consume alcohol in a public setting
1663 within the geographic boundary of the local authority in which the social on-premise liquor
1664 licensee is to be located;

1665 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1666 described in Subsection (5)(b)(v)(B)(I) other than through the establishment of a social
1667 on-premise liquor licensee; and

1668 (III) there is no reasonably viable alternative location within the geographic boundary
1669 of the local authority in which the social on-premise liquor licensee is to be located for
1670 establishing a social on-premise liquor license to satisfy the unmet demand described in

1671 Subsection (5)(b)(v)(B)(I).

1672 (c) With respect to the establishment of a social on-premise liquor license, the
1673 commission may authorize a variance that reduces the proximity requirement of Subsection
1674 (5)(a)(ii) if:

1675 (i) the community location at issue is:

1676 (A) a public library; or

1677 (B) a public park;

1678 (ii) the local authority grants its written consent to the variance;

1679 (iii) the commission finds that alternative locations for establishing a social on-premise
1680 liquor license in the community are limited;

1681 (iv) a public hearing is held in the city, town, or county, and where practical in the
1682 neighborhood concerned;

1683 (v) after giving full consideration to all of the attending circumstances and the policies
1684 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
1685 social on-premise liquor license would not be detrimental to the public health, peace, safety,
1686 and welfare of the community; and

1687 (vi) (A) the community location governing authority gives its written consent to the
1688 variance; or

1689 (B) when written consent is not given by the community location governing authority,
1690 the commission finds that the applicant has established that:

1691 (I) there is substantial unmet public demand to consume alcohol in a public setting
1692 within the geographic boundary of the local authority in which the social on-premise liquor
1693 licensee is to be located;

1694 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
1695 described in Subsection (5)(c)(vi)(B)(I) other than through the establishment of a social
1696 on-premise liquor license; and

1697 (III) there is no reasonably viable alternative location within the geographic boundary
1698 of the local authority in which the social on-premise liquor licensee is to be located for
1699 establishing a social on-premise liquor license to satisfy the unmet demand described in
1700 Subsection (5)(c)(vi)(B)(I).

1701 (d) With respect to the premises of a social on-premise liquor license granted by the

1702 commission that undergoes a change of ownership, the commission may waive or vary the
1703 proximity requirements of Subsection (5)(a) in considering whether to grant a social
1704 on-premise liquor license to the new owner of the premises if:

1705 (i) (A) the premises previously received a variance reducing the proximity requirement
1706 of Subsection (5)(a)(i); or

1707 (B) the premises received a variance reducing the proximity requirement of Subsection
1708 (5)(a)(ii) on or before May 4, 2008; or

1709 (ii) a variance from proximity requirements was otherwise allowed under this title.

1710 (e) The 600-foot limitation described in Subsection (5)(a)(i) is measured from the
1711 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
1712 property boundary of the community location.

1713 (6) (a) Nothing in this section prevents the commission from considering the proximity
1714 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
1715 decision on whether to grant a social on-premise liquor license.

1716 (b) For purposes of this Subsection (6), "educational facility" includes:

1717 (i) a nursery school;

1718 (ii) an infant day care center; and

1719 (iii) a trade and technical school.

1720 (7) If requested by a social on-premise liquor licensee, the commission may approve a
1721 change in the class of social on-premise liquor license in accordance with rules made by the
1722 commission.

1723 Section 13. Section **32A-4-502** is enacted to read:

1724 **32A-4-502. Application and renewal requirements.**

1725 (1) A person seeking a social on-premise liquor license under this chapter shall file a
1726 written application with the department in a form prescribed by the department. The
1727 application shall be accompanied by:

1728 (a) a nonrefundable \$250 application fee;

1729 (b) an initial license fee of \$2,500, which is refundable if a social on-premise liquor
1730 license is not granted;

1731 (c) written consent of the local authority;

1732 (d) a copy of the applicant's current business license;

- 1733 (e) evidence of proximity to any community location, with proximity requirements
1734 being governed by Section 32A-4-501;
- 1735 (f) evidence that the applicant operates a location where a variety of food is prepared
1736 and served in connection with dining accommodations;
- 1737 (g) a bond as specified by Section 32A-4-505;
- 1738 (h) a floor plan of the social on-premise liquor license premises, including
1739 consumption areas and the area where the applicant proposes to keep and store liquor;
- 1740 (i) evidence that the applicant is carrying public liability insurance in an amount and
1741 form satisfactory to the department;
- 1742 (j) evidence that the applicant is carrying dramshop insurance coverage of at least
1743 \$500,000 per occurrence and \$1,000,000 in the aggregate;
- 1744 (k) a signed consent form stating that the applicant and its management will permit any
1745 authorized representative of the commission, department, or any law enforcement officer
1746 unrestricted right to enter the social on-premise liquor license premises;
- 1747 (l) (i) a statement as to whether the applicant is seeking to qualify as a class 1 social
1748 on-premise liquor licensee or a class 2 social on-premise liquor licensee; and
- 1749 (ii) evidence that the applicant meets the requirements for the classification for which
1750 the applicant is applying;
- 1751 (m) in the case of a partnership, corporation, or limited liability company applicant,
1752 proper verification evidencing that the person or persons signing the social on-premise liquor
1753 license application are authorized to so act on behalf of the partnership, corporation, or limited
1754 liability company; and
- 1755 (n) any other information the commission or department may require.
- 1756 (2) (a) A social on-premise liquor license expires on June 30 of each year.
- 1757 (b) A person desiring to renew that person's social on-premise liquor license shall
1758 submit by no later than May 31:
- 1759 (i) a completed renewal application to the department; and
- 1760 (ii) a renewal fee of \$1,600.
- 1761 (c) Failure to meet the renewal requirements results in an automatic forfeiture of the
1762 license effective on the date the existing license expires.
- 1763 (d) A renewal application shall be in a form as prescribed by the department.

1764 (3) To ensure compliance with Subsection 32A-4-506(23), the commission may
1765 suspend or revoke a social on-premise liquor license if the social on-premise liquor licensee
1766 does not immediately notify the department of any change in:

1767 (a) ownership of the social on-premise liquor licensee;

1768 (b) for a corporate owner, the:

1769 (i) corporate officers or directors; or

1770 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
1771 corporation; or

1772 (c) for a limited liability company:

1773 (i) managers; or

1774 (ii) members owning at least 20% of the limited liability company.

1775 Section 14. Section **32A-4-503** is enacted to read:

1776 **32A-4-503. Qualifications.**

1777 (1) (a) The commission may not grant a social on-premise liquor license to a person
1778 who has been convicted of:

1779 (i) a felony under a federal or state law;

1780 (ii) a violation of a federal or state law or local ordinance concerning the sale,

1781 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic
1782 beverage;

1783 (iii) a crime involving moral turpitude; or

1784 (iv) on two or more occasions within the five years before the day on which the license
1785 is granted, driving under the influence of alcohol, a drug, or the combined influence of alcohol
1786 and a drug.

1787 (b) In the case of a partnership, corporation, or limited liability company, the
1788 proscription under Subsection (1)(a) applies if any of the following has been convicted of an
1789 offense described in Subsection (1)(a):

1790 (i) a partner;

1791 (ii) a managing agent;

1792 (iii) a manager;

1793 (iv) an officer;

1794 (v) a director;

1795 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
1796 the applicant corporation; or

1797 (vii) a member who owns at least 20% of the applicant limited liability company.

1798 (c) The proscription under Subsection (1)(a) applies if a person employed to act in a
1799 supervisory or managerial capacity for a social on-premise liquor licensee has been convicted
1800 of an offense described in Subsection (1)(a).

1801 (2) The commission may immediately suspend or revoke a social on-premise liquor
1802 license if after the day on which the social on-premise liquor license is granted, a person
1803 described in Subsection (1)(a), (b), or (c):

1804 (a) is found to have been convicted of an offense described in Subsection (1)(a) before
1805 the social on-premise liquor license is granted; or

1806 (b) on or after the day on which the social on-premise liquor license is granted:

1807 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

1808 (ii) (A) is convicted of driving under the influence of alcohol, a drug, or the combined
1809 influence of alcohol and a drug; and

1810 (B) was convicted of driving under the influence of alcohol, a drug, or the combined
1811 influence of alcohol and a drug within five years before the day on which the person is
1812 convicted of the offense described in Subsection (2)(b)(ii)(A).

1813 (3) The director may take emergency action by immediately suspending the operation
1814 of a social on-premise liquor license in accordance with Title 63G, Chapter 4, Administrative
1815 Procedures Act, for the period during which the criminal matter is being adjudicated if a person
1816 described in Subsection (1)(a), (b), or (c):

1817 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

1818 or

1819 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, a
1820 drug, or the combined influence of alcohol and a drug; and

1821 (ii) was convicted of driving under the influence of alcohol, a drug, or the combined
1822 influence of alcohol and a drug within five years before the day on which the person is arrested
1823 on a charge described in Subsection (3)(b)(i).

1824 (4) (a) (i) The commission may not grant a social on-premise liquor license to a person
1825 who has had any type of license, agency, or permit issued under this title revoked within the

1826 last three years.

1827 (ii) The commission may not grant a social on-premise liquor license to an applicant
1828 that is a partnership, corporation, or limited liability company if a partner, managing agent,
1829 manager, officer, director, stockholder who holds at least 20% of the total issued and
1830 outstanding stock of an applicant corporation, or member who owns at least 20% of an
1831 applicant limited liability company is or was:

1832 (A) a partner or managing agent of a partnership that had any type of license, agency,
1833 or permit issued under this title revoked within the last three years;

1834 (B) a managing agent, officer, director, or a stockholder who holds or held at least 20%
1835 of the total issued and outstanding stock of a corporation that had any type of license, agency,
1836 or permit issued under this title revoked within the last three years; or

1837 (C) a manager or member who owns or owned at least 20% of a limited liability
1838 company that had any type of license, agency, or permit issued under this title revoked within
1839 the last three years.

1840 (b) An applicant that is a partnership, corporation, or limited liability company may not
1841 be granted a social on-premise liquor license if any of the following had any type of license,
1842 agency, or permit issued under this title revoked while acting in that person's individual
1843 capacity within the last three years:

1844 (i) a partner or managing agent of the applicant partnership;

1845 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
1846 total issued and outstanding stock of the applicant corporation; or

1847 (iii) a manager or member who owned at least 20% of the applicant limited liability
1848 company.

1849 (c) A person acting in an individual capacity may not be granted a social on-premise
1850 liquor license if that person was:

1851 (i) a partner or managing agent of a partnership that had any type of license, agency, or
1852 permit issued under this title revoked within the last three years;

1853 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
1854 total issued and outstanding stock of a corporation that had any type of license, agency, or
1855 permit issued under this title revoked within the last three years; or

1856 (iii) a manager or member of a limited liability company who owned at least 20% of

1857 the limited liability company that had any type of license, agency, or permit issued under this
1858 title revoked within the last three years.

1859 (5) (a) A minor may not be granted a social on-premise liquor license.

1860 (b) The commission may not grant a social on-premise liquor license to an applicant
1861 that is a partnership, corporation, or limited liability company if any of the following is a
1862 minor:

1863 (i) a partner or managing agent of the applicant partnership;

1864 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
1865 total issued and outstanding stock of the applicant corporation; or

1866 (iii) a manager or member who owns at least 20% of the applicant limited liability
1867 company.

1868 (6) If a person to whom a social on-premise liquor license is granted under this chapter
1869 no longer possesses the qualifications required by this title for obtaining that social on-premise
1870 liquor license, the commission may suspend or revoke that social on-premise liquor license.

1871 Section 15. Section **32A-4-504** is enacted to read:

1872 **32A-4-504. Commission and department duties before granting licenses.**

1873 (1) (a) Before the commission may grant a social on-premise liquor license, the
1874 department shall conduct an investigation and may hold public hearings for the purpose of
1875 gathering information and making recommendations to the commission as to whether or not a
1876 social on-premise liquor license should be granted.

1877 (b) The department shall forward the information and recommendations described in
1878 Subsection (1)(a) to the commission to aid in the commission's determination.

1879 (2) Before granting a social on-premise liquor license, the commission shall:

1880 (a) determine that:

1881 (i) the applicant has complied with all basic qualifications and requirements for making
1882 application for a social on-premise liquor license as provided by Sections 32A-4-502 and
1883 32A-4-503; and

1884 (ii) the application is complete;

1885 (b) determine whether the applicant qualifies as a class 1 social on-premise liquor
1886 licensee or a class 2 social on-premise liquor licensee;

1887 (c) consider the locality within which the proposed social on-premise liquor license

1888 outlet is located including:
1889 (i) physical characteristics such as:
1890 (A) condition of the premises;
1891 (B) square footage; and
1892 (C) parking availability; and
1893 (ii) operational factors such as:
1894 (A) tourist traffic;
1895 (B) proximity to and density of other state stores, package agencies, and licensed
1896 outlets;
1897 (C) demographics;
1898 (D) population to be served; and
1899 (E) the extent of and proximity to any community location;
1900 (d) consider the social on-premise liquor licensee management's ability to manage and
1901 operate a social on-premise liquor license, including:
1902 (i) management experience;
1903 (ii) past social on-premise liquor license experience; and
1904 (iii) the type of management scheme employed by the social on-premise liquor
1905 licensee;
1906 (e) consider the nature or type of the proposed social on-premise liquor license
1907 operation, including:
1908 (i) the type of menu items offered and emphasized;
1909 (ii) the hours of operation;
1910 (iii) the seating capacity of the social on-premise liquor license premises; and
1911 (iv) the gross sales of food items; and
1912 (f) consider any other factor or circumstance the commission considers necessary.
1913 Section 16. Section **32A-4-505** is enacted to read:
1914 **32A-4-505. Bond.**
1915 (1) A social on-premise liquor licensee shall post a cash or corporate surety bond in the
1916 penal sum of \$10,000 payable to the department, which the social on-premise liquor licensee
1917 procures and must maintain for so long as the social on-premise liquor licensee continues to
1918 operate as a social on-premise liquor licensee.

1919 (2) The bond shall be in a form approved by the attorney general, conditioned upon the
1920 social on-premise liquor licensee's faithful compliance with this title and the rules of the
1921 commission.

1922 (3) (a) If a \$10,000 corporate surety bond is canceled due to the social on-premise
1923 liquor licensee's negligence, a \$300 reinstatement fee may be assessed.

1924 (b) No part of any cash or corporate bond posted under this section may be withdrawn:

1925 (i) during the period the social on-premise liquor license is in effect; or

1926 (ii) while a revocation proceeding is pending against the social on-premise liquor
1927 licensee.

1928 (c) A bond filed by a social on-premise liquor licensee may be forfeited if the social
1929 on-premise liquor license is finally revoked.

1930 Section 17. Section **32A-4-506** is enacted to read:

1931 **32A-4-506. Operational restrictions.**

1932 (1) A social on-premise liquor licensee and the employees and management personnel
1933 of the social on-premise liquor licensee shall comply with the conditions and requirements in
1934 this section. Failure to comply may result in a suspension or revocation of the social
1935 on-premise liquor license or other disciplinary action taken against individual employees or
1936 management personnel.

1937 (2) (a) A social on-premise liquor licensee may not purchase liquor except from a state
1938 store or package agency.

1939 (b) Liquor purchased from a state store or package agency may be transported by a
1940 social on-premise liquor licensee from the place of purchase to the social on-premise liquor
1941 licensee premises.

1942 (c) Payment for liquor shall be made in accordance with rules established by the
1943 commission.

1944 (3) A social on-premise liquor licensee may sell or provide a primary spirituous liquor
1945 only in a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated
1946 metered dispensing system approved by the department in accordance with commission rules
1947 adopted under this title, except that:

1948 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1949 system if used as a secondary flavoring ingredient in a beverage subject to the following

1950 restrictions:

1951 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1952 a primary spirituous liquor;

1953 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

1954 (iii) the social on-premise liquor licensee shall designate a location where flavorings
1955 are stored on the floor plan provided to the department; and

1956 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

1957 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1958 system if used:

1959 (i) as a flavoring on a dessert; and

1960 (ii) in the preparation of a flaming food dish, drink, or dessert;

1961 (c) a social on-premise liquor licensee patron may have no more than 2.5 ounces of
1962 spirituous liquor at a time before the social on-premise liquor licensee patron; and

1963 (d) a social on-premise liquor licensee patron may have no more than two spirituous
1964 liquor drinks at a time before the social on-premise liquor licensee patron, except that a social
1965 on-premise liquor licensee patron may not have two spirituous liquor drinks before the social
1966 on-premise liquor licensee patron if one of the spirituous liquor drinks consists only of the
1967 primary spirituous liquor for the other spirituous liquor drink.

1968 (4) (a) (i) Wine may be sold and served by the glass or an individual portion not to
1969 exceed five ounces per glass or individual portion.

1970 (ii) An individual portion may be served to a social on-premise liquor licensee patron
1971 in more than one glass as long as the total amount of wine does not exceed five ounces.

1972 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1973 Subsection (8)(c).

1974 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
1975 fixed by the commission to a table of four or more persons.

1976 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
1977 fixed by the commission to a table of less than four persons.

1978 (c) A social on-premise liquor licensee may perform a wine service and assess a
1979 service charge as authorized by commission rule for wine purchased at the social on-premise
1980 liquor licensee premises.

1981 (5) (a) Heavy beer may be served in an original container not exceeding one liter at a
1982 price fixed by the commission.

1983 (b) A flavored malt beverage may be served in an original container not exceeding one
1984 liter at a price fixed by the commission.

1985 (c) A social on-premise liquor licensee may assess a service charge for heavy beer or a
1986 flavored malt beverage purchased at the social on-premise liquor licensee premises.

1987 (6) (a) (i) Subject to Subsection (6)(a)(ii), a social on-premise liquor licensee may sell
1988 beer for on-premise consumption:

1989 (A) in an open container; and

1990 (B) on draft.

1991 (ii) Beer sold pursuant to Subsection (6)(a)(i) shall be in a size of container that does
1992 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1993 container that exceeds one liter.

1994 (b) (i) A social on-premise liquor licensee that sells beer pursuant to Subsection (6)(a):

1995 (A) may do so without obtaining a separate on-premise beer retailer license from the
1996 commission; and

1997 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1998 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
1999 inconsistent with or less restrictive than the operational restrictions under this chapter.

2000 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2001 Licenses, required by Subsection (6)(b)(i) may result in a suspension or revocation of the social
2002 on-premise liquor licensee's:

2003 (A) state liquor license; and

2004 (B) alcoholic beverage license issued by the local authority.

2005 (7) An alcoholic beverage may not be stored, served, or sold in a place other than as
2006 designated in the social on-premise liquor licensee's application, unless the social on-premise
2007 liquor licensee first applies for and receives approval from the department for a change of
2008 location within the social on-premise liquor licensee's premises.

2009 (8) (a) A patron may only make an alcoholic beverage purchase in the social
2010 on-premise liquor licensee's premises from and be served by a person employed, designated,
2011 and trained by the social on-premise liquor licensee to sell, dispense, and serve an alcoholic

2012 beverage.

2013 (b) Notwithstanding Subsection (8)(a), a patron who purchases bottled wine from an
2014 employee of the social on-premise liquor licensee or carries bottled wine onto the premises of
2015 the social on-premise liquor licensee pursuant to Subsection (14) may thereafter serve wine
2016 from the bottle to the patron or others at the patron's table.

2017 (c) A social on-premise liquor licensee patron may have no more than two alcoholic
2018 beverages of any kind at a time before the social on-premise liquor licensee patron, subject to
2019 the limitation of Subsection (3)(d).

2020 (9) The liquor storage area of a social on-premise liquor licensee shall remain locked at
2021 all times other than those hours and days when liquor sales and service are authorized by law.

2022 (10) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
2023 social on-premise liquor licensee's premises on any day after 1 a.m. or before 10 a.m.

2024 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2025 Licenses, for on-premise beer licenses.

2026 (c) (i) Notwithstanding Subsections (10)(a) and (b), a social on-premise liquor licensee
2027 shall remain open for one hour after the social on-premise liquor licensee ceases the sale and
2028 service of an alcoholic beverage during which time a patron of the social on-premise liquor
2029 licensee may finish consuming:

2030 (A) a single drink containing spirituous liquor;

2031 (B) a single serving of wine not exceeding five ounces;

2032 (C) a single serving of heavy beer;

2033 (D) a single serving of beer not exceeding 26 ounces; or

2034 (E) a single serving of a flavored malt beverage.

2035 (ii) A social on-premise liquor licensee is not required to remain open:

2036 (A) after all patrons have vacated the premises; or

2037 (B) during an emergency.

2038 (d) Between the hours of 2 a.m. and 10 a.m. on any day a social on-premise liquor
2039 licensee may not allow a patron to remain on the premises of the social on-premise liquor
2040 licensee to consume an alcoholic beverage on the premises.

2041 (11) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

2042 (a) minor;

- 2043 (b) person actually, apparently, or obviously intoxicated;
2044 (c) known habitual drunkard; or
2045 (d) known interdicted person.
2046 (12) (a) (i) Liquor may be sold only at a price fixed by the commission.
2047 (ii) Liquor may not be sold at a discount price on any date or at any time.
2048 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
2049 beverage to the social on-premise liquor licensee.
2050 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
2051 over consumption or intoxication.
2052 (d) The price of a single serving of a primary spirituous liquor shall be the same
2053 whether served as a single drink or in conjunction with another alcoholic beverage.
2054 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
2055 hours of the social on-premise liquor licensee's business day such as a "happy hour."
2056 (f) More than one alcoholic beverage may not be sold or served for the price of a single
2057 alcoholic beverage.
2058 (g) An indefinite or unlimited number of alcoholic beverages may not be sold or served
2059 during a set period for a fixed price.
2060 (h) A social on-premise liquor licensee may not engage in a promotion involving or
2061 offering free alcoholic beverages to the general public.
2062 (13) An alcoholic beverage may not be purchased for a patron of the social on-premise
2063 liquor licensee by:
2064 (a) the social on-premise liquor licensee; or
2065 (b) an employee or agent of the social on-premise liquor licensee.
2066 (14) (a) A person may not bring onto the premises of a social on-premise liquor
2067 licensee an alcoholic beverage for on-premise consumption, except a person may bring, subject
2068 to the discretion of the social on-premise liquor licensee, bottled wine onto the premises of a
2069 social on-premise liquor licensee for on-premise consumption.
2070 (b) Except bottled wine under Subsection (14)(a), a social on-premise liquor licensee
2071 or an officer, manager, employee, or agent of a social on-premise liquor licensee may not
2072 allow:
2073 (i) a person to bring onto the social on-premise liquor licensee's premises an alcoholic

2074 beverage for consumption on the social on-premise liquor licensee's premises; or
2075 (ii) consumption of an alcoholic beverage described in Subsection (14)(b)(i) on the
2076 premises of the social on-premise liquor licensee.
2077 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
2078 or other representative of the social on-premise liquor licensee upon entering the social
2079 on-premise liquor licensee's premises.
2080 (d) A social on-premise liquor licensee may perform a wine service and assess a
2081 service charge as authorized by commission rule for wine carried in by a patron.
2082 (15) (a) Except as provided in Subsection (15)(b), a social on-premise liquor licensee
2083 or an employee of the social on-premise liquor licensee may not permit a patron of the social
2084 on-premise liquor licensee to carry from the social on-premise liquor licensee's premises an
2085 open container that:
2086 (i) is used primarily for drinking purposes; and
2087 (ii) contains an alcoholic beverage.
2088 (b) A patron may remove the unconsumed contents of a bottle of wine if before
2089 removal, the bottle is recorked or recapped.
2090 (16) An employee of a social on-premise liquor licensee, while on duty, may not:
2091 (a) consume an alcoholic beverage; or
2092 (b) be intoxicated.
2093 (17) A social on-premise liquor licensee shall have available on the premises for a
2094 patron to review at the time that the customer requests it, a written alcoholic beverage price list
2095 or a menu containing the price of an alcoholic beverage sold or served by the social on-premise
2096 liquor licensee including:
2097 (a) a set-up charge;
2098 (b) a service charge; or
2099 (c) a chilling fee.
2100 (18) A social on-premise liquor licensee shall display in a prominent place in the social
2101 on-premise liquor licensee's premises:
2102 (a) the social on-premise liquor license that is issued by the department;
2103 (b) a list of the types and brand names of liquor being served through the social
2104 on-premise liquor licensee's calibrated metered dispensing system; and

2105 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2106 drugs is a serious crime that is prosecuted aggressively in Utah."

2107 (19) A social on-premise liquor licensee may not on the premises of the social
2108 on-premise liquor licensee:

2109 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
2110 Chapter 10, Part 11, Gambling;

2111 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
2112 Part 11, Gambling; or

2113 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2114 the risking of something of value for a return or for an outcome when the return or outcome is
2115 based upon an element of chance, excluding the playing of an amusement device that confers
2116 only an immediate and unrecorded right of replay not exchangeable for value.

2117 (20) A social on-premise liquor licensee or an employee of the social on-premise liquor
2118 licensee may not knowingly allow a person on the premises of the social on-premise liquor
2119 licensee to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter
2120 37a, Utah Drug Paraphernalia Act:

2121 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2122 58-37-2; or

2123 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2124 Section 58-37a-3.

2125 (21) (a) A social on-premise liquor licensee shall maintain an expense ledger or record
2126 showing in detail:

2127 (i) quarterly expenditures made separately for:

2128 (A) malt or brewed beverages;

2129 (B) set-ups;

2130 (C) liquor;

2131 (D) food; and

2132 (E) all other items required by the department; and

2133 (ii) sales made separately for:

2134 (A) malt or brewed beverages;

2135 (B) set-ups;

- 2136 (C) liquor;
2137 (D) food; and
2138 (E) all other items required by the department.
2139 (b) A social on-premise liquor licensee shall keep a record required by this Subsection
2140 (21):
2141 (i) in a form approved by the department; and
2142 (ii) current for each three-month period.
2143 (c) An expenditure shall be supported by:
2144 (i) a delivery ticket;
2145 (ii) an invoice;
2146 (iii) a receipted bill;
2147 (iv) a canceled check;
2148 (v) a petty cash voucher; or
2149 (vi) other sustaining datum or memorandum.
2150 (d) In addition to a ledger or record required by Subsection (21)(a), a social on-premise
2151 liquor licensee shall maintain accounting and other records and documents as the department
2152 may require.
2153 (e) A social on-premise liquor licensee or person acting for the social on-premise
2154 liquor licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes
2155 an entry in a book of account or other document of the social on-premise liquor licensee
2156 required to be made, maintained, or preserved by this title or the rules of the commission for
2157 the purpose of deceiving the commission, the department, or an official or employee of the
2158 commission or department, is subject to:
2159 (i) the suspension or revocation of the social on-premise liquor license; and
2160 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
2161 (f) A social on-premise liquor licensee shall maintain and keep a record required by
2162 this section and a book, record, receipt, or disbursement maintained or used by the social
2163 on-premise liquor licensee, as the department requires, for a minimum period of three years.
2164 (g) A record, book, receipt, or disbursement is subject to inspection by an authorized
2165 representative of the commission and the department.
2166 (h) A social on-premise liquor licensee shall allow the department, through an auditor

2167 or examiner of the department, to audit the records of the social on-premise liquor licensee at
2168 times the department considers advisable.

2169 (22) (a) A social on-premise liquor licensee may not close or cease operation for a
2170 period longer than 240 hours, unless:

2171 (i) the social on-premise liquor licensee notifies the department in writing at least
2172 seven days before the day on which the social on-premise liquor licensee closes or ceases
2173 operation; and

2174 (ii) the closure or cessation of operation is first approved by the department.

2175 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, a social
2176 on-premise liquor licensee shall immediately notify the department by telephone.

2177 (c) (i) The department may authorize a closure or cessation of operation for a period
2178 not to exceed 60 days.

2179 (ii) The department may extend the initial period an additional 30 days upon:

2180 (A) written request of the social on-premise liquor licensee; and

2181 (B) a showing of good cause.

2182 (iii) A closure or cessation of operation may not exceed a total of 90 days without
2183 commission approval.

2184 (d) The notice required by Subsection (22)(a) shall include:

2185 (i) the dates of closure or cessation of operation;

2186 (ii) the reason for the closure or cessation of operation; and

2187 (iii) the date on which the social on-premise liquor licensee will reopen or resume
2188 operation.

2189 (e) Failure of a social on-premise liquor licensee to provide notice and to obtain
2190 department authorization before closure or cessation of operation results in an automatic
2191 forfeiture of:

2192 (i) the social on-premise liquor license; and

2193 (ii) the unused portion of the social on-premise liquor license fee for the remainder of
2194 the license year effective immediately.

2195 (f) Failure of a social on-premise liquor licensee to reopen or resume operation by the
2196 approved date results in an automatic forfeiture of:

2197 (i) the social on-premise liquor license; and

2198 (ii) the unused portion of the social on-premise liquor license fee for the remainder of
2199 the license year.

2200 (23) (a) A social on-premise liquor license may not be transferred from one location to
2201 another ~~H~~→ [person] location ←~~H~~ , without prior written approval of the commission.

2202 (b) A social on-premise liquor licensee may not sell, transfer, assign, exchange, barter,
2203 give, or attempt in any way to dispose of the social on-premise liquor license to another person,
2204 whether for monetary gain or not.

2205 (c) A social on-premise liquor license has no monetary value for the purpose of any
2206 type of disposition.

2207 (24) Subject to Subsections (22) and (23), a social on-premise liquor licensee may not
2207a ~~H~~→ temporarily ←~~H~~

2208 rent or otherwise ~~H~~→ temporarily ←~~H~~ lease its premises to a person unless:

2209 (a) the person to whom the social on-premise liquor licensee rents or leases the
2210 premises agrees in writing to comply with this section as if the person is the social on-premise
2211 liquor licensee, except for a requirement related to maintaining a book, document, or similar
2212 record; and

2213 (b) the social on-premise liquor licensee takes reasonable steps to ensure that the
2214 person complies with this section as provided in Subsection (24)(a).

2215 (25) (a) A social on-premise liquor licensee may not maintain premises in a manner
2216 that barricades or conceals the social on-premise liquor licensee's operation.

2217 (b) A member of the commission, authorized department personnel, or a peace officer
2218 shall, upon presentation of credentials, be admitted immediately to the premises of a social
2219 on-premise liquor licensee and permitted without hindrance or delay to inspect completely the
2220 entire social on-premise liquor licensee's premises and the books and records of the social
2221 on-premise liquor licensee, at any time during which the social on-premise liquor licensee is
2222 open for the transaction of business.

2223 (26) (a) A minor may not be admitted into, use, or be on:

2224 (i) a lounge or bar area, as defined by commission rule, of the premises of a class 1
2225 social on-premise liquor licensee; or

2226 (ii) the premises of a class 2 social on-premise liquor licensee, except to the extent
2227 provided for under Subsection (26)(d).

2228 (b) (i) Except as provided in Subsection (26)(b)(ii), a class 1 social on-premise liquor

- 2229 licensee may not employ a minor to sell, dispense, or handle an alcoholic beverage.
- 2230 (ii) A class 1 social on-premise liquor licensee may employ a minor who is at least 16
- 2231 years of age to enter the sale at a cash register or other sales recording device.
- 2232 (iii) A class 1 social on-premise liquor licensee may not employ a minor to work in a
- 2233 lounge or bar area of the class 1 social on-premise liquor licensee.
- 2234 (c) A class 2 social on-premise liquor licensee may not employ a minor on the premises
- 2235 of the class 2 social on-premise liquor licensee.
- 2236 (d) (i) A minor who is at least 18 years of age may be admitted into, use, or be on the
- 2237 premises of a dance or concert hall if:
- 2238 (A) the dance or concert hall is located:
- 2239 (I) on the premises of a class 2 social on-premise liquor license; or
- 2240 (II) on the property that immediately adjoins the premises of and is operated by a class
- 2241 2 social on-premise liquor licensee; and
- 2242 (B) the class 2 social on-premise liquor licensee holds a permit to operate a minor
- 2243 dance or concert hall:
- 2244 (I) that was granted on or before May 11, 2009, on the basis of the operational
- 2245 requirements described in Subsection (26)(d)(ii); and
- 2246 (II) when the class 2 social on-premise liquor licensee was licensed as a class D private
- 2247 club.
- 2248 (ii) A class 2 social on-premise liquor licensee shall continue to operate in such a way
- 2249 that:
- 2250 (A) the social on-premise liquor licensee's lounge, bar, or other area for consumption
- 2251 of an alcoholic beverage is:
- 2252 (I) not accessible to a minor;
- 2253 (II) clearly defined; and
- 2254 (III) separated from the dance or concert hall area by one or more walls, multiple floor
- 2255 levels, or other substantial physical barriers;
- 2256 (B) a bar or dispensing area is not visible to a minor;
- 2257 (C) consumption of an alcoholic beverage may not occur in:
- 2258 (I) the dance or concert hall area; or
- 2259 (II) an area of the social on-premise liquor licensee's premises that is accessible to a

2260 minor;

2261 (D) the social on-premise liquor licensee maintains sufficient security personnel to
2262 prevent the passing of beverages from the social on-premise liquor licensee's lounge, bar, or
2263 other area for consumption of an alcoholic beverage to:

2264 (I) the dance or concert hall area; or

2265 (II) an area of the social on-premise liquor licensee's premises that is accessible to a
2266 minor;

2267 (E) there are one or more separate entrances, exits, and restroom facilities from the
2268 social on-premise liquor licensee's lounge, bar, or other area for consumption of an alcoholic
2269 beverage than for:

2270 (I) the dance or concert hall area; or

2271 (II) an area of the social on-premise liquor licensee's premises that is accessible to a
2272 minor; and

2273 (F) the social on-premise liquor licensee complies with any other restrictions imposed
2274 by the commission by rule.

2275 (iii) A minor who is under 18 years of age who is accompanied at all times by a parent
2276 or legal guardian may be admitted into, use, or be on the premises of a concert hall described in
2277 Subsection (26)(d)(ii) if:

2278 (A) the requirements of Subsection (26)(d)(ii) are met; and

2279 (B) signage, product, and dispensing equipment containing recognition of an alcoholic
2280 beverage is not visible to the minor.

2281 (iv) A minor who is under 18 years of age, but who is 14 years of age or older, who is
2282 not accompanied by a parent or legal guardian may be admitted into, use, or be on the premises
2283 of a concert hall described in Subsection (26)(d)(ii) if:

2284 (A) the requirements of Subsections (26)(d)(ii) and (iii) are met; and

2285 (B) there is no alcoholic beverage sales, service, or consumption on the premises of the
2286 class 2 social on-premise liquor licensee.

2287 (v) The commission may suspend or revoke a minor dance or concert hall permit held
2288 by a class 2 social on-premise liquor licensee and suspend or revoke the license of the class 2
2289 social on-premise liquor licensee if:

2290 (A) the social on-premise liquor licensee fails to comply with this Subsection (26)(d);

- 2291 (B) the social on-premise liquor licensee sells, serves, or otherwise furnishes an
2292 alcoholic beverage to a minor;
- 2293 (C) the social on-premise liquor licensee or a supervisory or managerial level employee
2294 of the social on-premise liquor licensee is convicted under Title 58, Chapter 37, Utah
2295 Controlled Substances Act, on the basis of an activity that occurs on:
- 2296 (I) the social on-premise liquor licensee's premises; or
2297 (II) the dance or concert hall that is located on property that immediately adjoins the
2298 premises of and is operated by the class 2 social on-premise liquor licensee;
- 2299 (D) there are three or more convictions of patrons of the social on-premise liquor
2300 licensee under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of an activity
2301 that occurs on:
- 2302 (I) the premises of the social on-premise liquor licensee; or
2303 (II) the dance or concert hall that is located on property that immediately adjoins the
2304 premises of and is operated by the class 2 social on-premise liquor licensee;
- 2305 (E) there is more than one conviction:
- 2306 (I) of:
- 2307 (Aa) the social on-premise liquor licensee;
2308 (Bb) an employee of the social on-premise liquor licensee;
2309 (Cc) an entertainer contracted by the social on-premise liquor licensee; or
2310 (Dd) a patron of the social on-premise liquor licensee; and
- 2311 (II) made on the basis of a lewd act or lewd entertainment prohibited by this title that
2312 occurs on:
- 2313 (Aa) the premises of the social on-premise liquor licensee; or
2314 (Bb) the dance or concert hall that is located on property that immediately adjoins the
2315 premises of and is operated by the class 2 social on-premise liquor licensee; or
- 2316 (F) the commission finds acts or conduct contrary to the public welfare and morals
2317 involving lewd acts or lewd entertainment prohibited by this title that occurs on:
- 2318 (I) the premises of the social on-premise liquor licensee; or
2319 (II) the dance or concert hall that is located on property that immediately adjoins the
2320 premises of and is operated by the class 2 social on-premise liquor licensee.
- 2321 (vi) Nothing in this Subsection (26) prohibits a class 2 social on-premise liquor

2322 licensee from selling, serving, or otherwise furnishing an alcoholic beverage in a dance or
2323 concert area located on the social on-premise liquor licensee's premises on days and times
2324 when the social on-premise liquor licensee does not allow a minor into those areas.

2325 (e) Nothing in this Subsection (26) precludes a local authority from being more
2326 restrictive of a minor's admittance to, use of, or presence on the premises of a social on-premise
2327 liquor licensee.

2328 (27) Notwithstanding that a patron may order an alcoholic beverage without ordering
2329 food, a social on-premise liquor licensee shall:

2330 (a) have a variety of food prepared and served in connection with dining
2331 accommodations; and

2332 (b) have food available at all times when an alcoholic beverage is sold, served, or
2333 consumed on the premises of the social on-premise liquor licensee.

2334 (28) A social on-premise liquor licensee shall comply with Section 32A-1-304.5.
2335 Section 18. Section 32A-4-507 is enacted to read:

2336 **32A-4-507. Transition.**

2337 (1) (a) If a private club licensee is a class C private club licensee as of June 30, 2009, it
2338 renews its license in accordance with Section 32A-5-102, and it continues to meet the
2339 qualifications of a class C private club licensee:

2340 (i) notwithstanding the renewal fee required under Section 32A-5-102, the class C
2341 private club licensee shall pay a renewal fee of \$1,600; and

2342 (ii) effective July 1, 2009, the class C private club license is automatically converted to
2343 a class 1 social on-premise liquor license.

2344 (b) If a private club licensee is a class D private club licensee as of June 30, 2009, it
2345 renews its license in accordance with Section 32A-5-102, and it continues to meet the
2346 qualifications of a class D private club licensee:

2347 (i) notwithstanding the renewal fee required under Section 32A-5-102, the class D
2348 private club licensee shall pay a renewal fee of \$1,600; and

2349 (ii) effective July 1, 2009, the class D private club license is automatically converted to
2350 a class 2 social on-premise liquor license.

2351 (c) Notwithstanding Subsection (1)(a) or (b), if at the time of renewal a class C private
2352 club licensee or class D private club licensee requests to convert to a different class of social

2353 on-premise liquor license than that provided in Subsection (1)(a) or (b), the commission may
 2354 approve a change in the class of social on-premise liquor license in accordance with rules made
 2355 by the commission.

2356 (2) (a) (i) On and after July 1, 2009, the total number of social on-premise liquor
 2357 licenses and private club licenses may not at any time aggregate more than that number
 2358 determined by dividing the population of the state by 7,850.

2359 (ii) For purposes of this Subsection (2), population shall be determined by:

2360 (A) the most recent United States decennial or special census; or

2361 (B) another population determination made by the United States or state governments.

2362 (b) Subject to Subsection (2)(d), the department shall determine the allocation of the
 2363 number of private club licenses and social on-premise liquor licenses allowed under Subsection
 2364 (2)(a), except that the department may not allocate the licenses in a manner that would result in
 2365 a person who holds a license on June 30, 2009, losing the license solely because of the
 2366 allocation.

2367 (c) If after the conversions under Subsection (1) and the allocation under Subsection
 2368 (2)(a), there are social on-premise liquor licenses that may be issued by the commission, if a
 2369 restaurant liquor licensee renews its license under this section as of September 30, 2009:

2370 (i) the restaurant liquor licensee may request converting its license to a class 1 social
 2371 on-premise liquor license;

2372 (ii) notwithstanding the renewal fee required under Section 32A-4-102, the restaurant
 2373 liquor licensee shall pay a renewal fee of \$1,600; and

2374 (iii) effective ~~H~~→ [October] November ←~~H~~ 1, 2009, if the restaurant liquor licensee
 2374a qualifies as a class 1

2375 social on-premise liquor licensee, the department shall automatically convert the restaurant
 2376 liquor license to a class 1 social on-premise liquor license.

2377 (d) By no later than the November 2009 interim meeting of the Business and Labor
 2378 Interim Committee, the department shall:

2379 (i) report to the Business and Labor Interim Committee the adjustments required in
 2380 Sections 32A-4-501 and 32A-5-101, to the number of licenses that may be issued under
 2381 Chapter 4, Part 5, Social On-premise Liquor Licenses, and Chapter 5, Private Club Licenses;
 2382 and

2383 (ii) recommend legislation to adjust the numbers in Sections 32A-4-501 and

2384 32A-5-101.

2385 (3) A conversion under this section does not require a redetermination of applicable
2386 proximity requirements.

2387 Section 19. Section **32A-5-101** is amended to read:

2388 **CHAPTER 5. PRIVATE CLUB LICENSES**

2389 **32A-5-101. Definitions -- Commission's power to license private clubs --**

2390 **Limitations.**

2391 (1) As used in this chapter:

2392 (a) "Class A private club licensee" means a private club that qualifies as a private club
2393 licensee under Subsection (3)(a)(ii)(A).

2394 (b) "Class B private club licensee" means a private club that qualifies as a private club
2395 licensee under Subsection (3)(a)(ii)(B).

2396 (c) "Private club" means an entity, whether incorporated or unincorporated, that:

2397 (i) is organized and operated solely for a social, recreational, patriotic, or fraternal
2398 purpose;

2399 (ii) has members;

2400 (iii) limits access to its premises to a member or a guest of the member; and

2401 (iv) desires to maintain premises upon which an alcoholic beverage may be stored, sold
2402 to, served to, and consumed by:

2403 (A) a member; or

2404 (B) a guest of a member.

2405 (d) "Private club licensee" means a private club that is licensed under this chapter.

2406 ~~[(1)]~~ (2) Before a private club may sell or allow the consumption of an alcoholic
2407 [beverages] beverage on its premises, the private club shall first obtain a license from the
2408 commission as provided in this chapter.

2409 ~~[(2)]~~ (3) (a) The commission may grant a private club [licenses to social clubs,
2410 recreational, athletic, or kindred associations that desire to maintain premises upon which
2411 alcoholic beverages may be stored, sold, served, and consumed.] license to a private club that:

2412 ~~[(3)]~~ At the time the commission grants a private club license the commission shall
2413 designate whether the private club license qualifies as a class A, B, C, or D license as defined
2414 in Subsections (3)(a) through (d).]

2415 ~~[(a) A "class A licensee" is a private club licensee that:]~~
 2416 (i) meets the requirements of this chapter; and
 2417 (ii) (A) meets the following requirements for a class A private club license:
 2418 (I) owns, maintains, or operates a [substantial] social or recreational facility in
 2419 conjunction with:
 2420 (Aa) a club house [such as:]; or
 2421 (Bb) another building or space in a building owned or leased by the private club;
 2422 ~~[(A) a golf course; or]~~
 2423 ~~[(B) a tennis facility;]~~
 2424 ~~[(iii) (II) has at least 50% of the total membership having:~~
 2425 ~~[(A) (Aa) full voting rights; and~~
 2426 ~~[(B) (Bb) an equal share of the equity of the club; and~~
 2427 ~~[(iv) (III) if there is more than one class of membership, has at least one class of~~
 2428 ~~membership that entitles each member in that class to:~~
 2429 ~~[(A) (Aa) full voting rights; and~~
 2430 ~~[(B) (Bb) an equal share of the equity of the club[-]; or~~
 2431 ~~[(b) A "class B licensee" is a private club licensee that:]~~
 2432 ~~[(i) meets the requirements of this chapter;]~~
 2433 (B) meets the following requirements for a class B private club license:
 2434 [(ii) (I) has no capital stock;
 2435 [(iii) (II) exists solely for:
 2436 [(A) (Aa) the benefit of its members and their beneficiaries; and
 2437 [(B) (Bb) a lawful social, intellectual, educational, charitable, benevolent, moral,
 2438 fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on
 2439 through voluntary activity of its members in their local lodges;
 2440 [(iv) (III) has a representative form of government; [and]
 2441 [(v) (IV) has a lodge system in which:
 2442 [(A) (Aa) there is a supreme governing body;
 2443 [(B) (Bb) subordinate to the supreme governing body are local lodges, however
 2444 designated, into which individuals are admitted as members in accordance with the laws of the
 2445 fraternal;

2446 ~~[(C)]~~ (Cc) the local lodges are required by the laws of the fraternal to hold regular
2447 meetings at least monthly; and

2448 ~~[(D)]~~ (Dd) the local lodges regularly engage in one or more programs involving
2449 member participation to implement the purposes of Subsection ~~[(3)(b)(iii):]~~ (3)(a)(ii)(B)(II):
2450 and

2451 ~~[(c) A "class C licensee" is a private club licensee that:]~~
2452 ~~[(i) meets the requirements of this chapter;]~~
2453 ~~[(ii) is a dining club, as determined by the commission in accordance with Subsection~~
2454 ~~(4); and]~~

2455 ~~[(iii) maintains at least 50% of its total private club business from the sale of food, not~~
2456 ~~including:]~~

2457 ~~[(A) mix for alcoholic beverages; or]~~
2458 ~~[(B) service charges.]~~

2459 ~~[(d) A "class D licensee" is a private club licensee that:]~~
2460 ~~[(i) meets the requirements of this chapter; and]~~
2461 ~~[(ii) (A) does not meet the requirements of a class A, B, or C license; or]~~
2462 ~~[(B) seeks to qualify as a class D licensee.]~~

2463 ~~[(4) In determining whether an applicant is a dining club under Subsection (3)(c), the~~
2464 ~~commission:]~~

2465 ~~[(a) shall determine whether the applicant maintains at least 50% of its total private~~
2466 ~~club business from the sale of food, not including:]~~

2467 ~~[(i) mix for alcoholic beverages;]~~
2468 ~~[(ii) service charges; or]~~
2469 ~~[(iii) membership and visitor card fees; and]~~

2470 ~~[(b) may consider:]~~

2471 ~~[(i) the square footage and seating capacity of the applicant;]~~
2472 ~~[(ii) what portion of the square footage and seating capacity will be used for a dining~~
2473 ~~area in comparison to the portion that will be used as a bar area;]~~

2474 ~~[(iii) whether full meals including appetizers, main courses, and desserts are served;]~~
2475 ~~[(iv) whether the applicant will maintain adequate on-premise culinary facilities to~~
2476 ~~prepare full meals, except an applicant that is located on the premise of a hotel or resort facility~~

2477 may use the culinary facilities of the hotel or resort facility;]

2478 [~~(v) whether the entertainment provided at the club is suitable for minors; and]~~

2479 [~~(vi) the club management's ability to manage and operate a dining club including:~~

2480 [~~(A) management experience;~~

2481 [~~(B) past dining club or restaurant management experience; and]~~

2482 [~~(C) the type of management scheme employed by the private club.]~~

2483 (V) owns or leases a building or space in a building used for lodge activities.

2484 (b) At the time that the commission grants a private club license the commission shall

2485 designate whether the private club license qualifies as a class A private club license or a class B

2486 private club license.

2487 [~~(5)~~ (4)] (a) A private club or [~~any~~] an officer, director, managing agent, or employee

2488 of a private club may not store, sell, serve, or permit consumption of an alcoholic [~~beverages~~]

2489 beverage upon the premises of the private club, under a permit issued by local authority or

2490 otherwise, unless a private club license is first [~~issued~~] granted by the commission.

2491 (b) Violation of this Subsection [~~(5)~~] (4) is a class B misdemeanor.

2492 [~~(6)~~] (5) (a) Subject to the other provisions of this Subsection [~~(6)~~] (5), the commission

2493 may [~~issue~~] grant private club licenses at places and in numbers as the commission considers

2494 necessary.

2495 (b) The total number of private club licenses may not at any time aggregate more than

2496 that allowed under Section 32A-4-507, until such time that the number is determined by

2497 dividing the population of the state by [~~7,850~~] the number specified by the Legislature.

2498 (c) For purposes of this Subsection [~~(6)~~] (5), population shall be determined by:

2499 (i) the most recent United States decennial or special census; or

2500 (ii) another population determination made by the United States or state governments.

2501 [~~(d)(i) The commission may issue seasonal private club licenses to be established in~~

2502 ~~areas the commission considers necessary.]~~

2503 [~~(ii) A seasonal private club license shall be for a period of six consecutive months.]~~

2504 [~~(iii) A private club license issued for operation during a summer time period is known~~

2505 ~~as a "Seasonal A" private club license. The period of operation for a "Seasonal A" club license~~

2506 ~~shall:]~~

2507 [~~(A) begin on May 1; and]~~

2508 ~~[(B) end on October 31.]~~
2509 ~~[(iv) A private club license issued for operation during a winter time period is known~~
2510 ~~as a "Seasonal B" private club license. The period of operation for a "Seasonal B" club license~~
2511 ~~shall:]~~
2512 ~~[(A) begin on November 1; and]~~
2513 ~~[(B) end on April 30:]~~
2514 ~~[(v) In determining the number of private club licenses that the commission may issue~~
2515 ~~under this section:]~~
2516 ~~[(A) a seasonal private club license is counted as 1/2 of one private club license; and]~~
2517 ~~[(B) each "Seasonal A" license shall be paired with a "Seasonal B" license:]~~
2518 ~~[(e) (i) If the location, design, and construction of a hotel may require more than one~~
2519 ~~private club location within the hotel to serve the public convenience, the commission may~~
2520 ~~authorize as many as three private club locations within the hotel under one license if:]~~
2521 ~~[(A) the hotel has a minimum of 150 guest rooms; and]~~
2522 ~~[(B) all locations under the license are:]~~
2523 ~~[(F) within the same hotel facility; and]~~
2524 ~~[(H) on premises which are managed or operated and owned or leased by the licensee.]~~
2525 ~~[(ii) (d) A facility [other than a hotel] may not have more than one private club~~
2526 ~~location under a single private club license.~~
2527 ~~[(7) (6) (a) Except as provided in Subsection [(7) (6)(b), (c), or (d), the premises of a~~
2528 ~~private club license may not be established:~~
2529 ~~(i) within 600 feet of a community location, as measured by the method in Subsection~~
2530 ~~[(7) (6)(e); or~~
2531 ~~(ii) within 200 feet of a community location, measured in a straight line from the~~
2532 ~~nearest entrance of the proposed outlet to the nearest property boundary of the community~~
2533 ~~location.~~
2534 ~~(b) With respect to the establishment of a private club license, the commission may~~
2535 ~~authorize a variance to reduce the proximity requirement of Subsection [(7) (6)(a)(i) if:~~
2536 ~~(i) the local authority grants its written consent to the variance;~~
2537 ~~(ii) the commission finds that alternative locations for establishing a private club~~
2538 ~~license in the community are limited;~~

2539 (iii) a public hearing is held in the city, town, or county, and where practical in the
2540 neighborhood concerned;

2541 (iv) after giving full consideration to all of the attending circumstances and the policies
2542 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
2543 license would not be detrimental to the public health, peace, safety, and welfare of the
2544 community; and

2545 (v) (A) the community location governing authority gives its written consent to the
2546 variance; or

2547 (B) when written consent is not given by the community location governing authority,
2548 the commission finds that the applicant has established that:

2549 (I) there is substantial unmet public demand to consume alcohol in a public setting
2550 within the geographic boundary of the local authority in which the private club licensee is to be
2551 located;

2552 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2553 described in Subsection [~~(7)~~] (6)(b)(v)(B)(I) other than through the establishment of a private
2554 club licensee; and

2555 (III) there is no reasonably viable alternative location within the geographic boundary
2556 of the local authority in which the private club licensee is to be located for establishing a
2557 private club license to satisfy the unmet demand described in Subsection [~~(7)~~] (6)(b)(v)(B)(I).

2558 (c) With respect to the establishment of a private club license, the commission may
2559 authorize a variance that reduces the proximity requirement of Subsection [~~(7)~~] (6)(a)(ii) if:

2560 (i) the community location at issue is:

2561 (A) a public library; or

2562 (B) a public park;

2563 (ii) the local authority grants its written consent to the variance;

2564 (iii) the commission finds that alternative locations for establishing a private club
2565 license in the community are limited;

2566 (iv) a public hearing is held in the city, town, or county, and where practical in the
2567 neighborhood concerned;

2568 (v) after giving full consideration to all of the attending circumstances and the policies
2569 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the

2570 private club license would not be detrimental to the public health, peace, safety, and welfare of
2571 the community; and

2572 (vi) (A) the community location governing authority gives its written consent to the
2573 variance; or

2574 (B) when written consent is not given by the community location governing authority,
2575 the commission finds that the applicant has established that:

2576 (I) there is substantial unmet public demand to consume alcohol in a public setting
2577 within the geographic boundary of the local authority in which the private club licensee is to be
2578 located;

2579 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
2580 described in Subsection [(7)] (6)(c)(vi)(B)(I) other than through the establishment of a private
2581 club license; and

2582 (III) there is no reasonably viable alternative location within the geographic boundary
2583 of the local authority in which the private club licensee is to be located for establishing a
2584 private club license to satisfy the unmet demand described in Subsection [(7)] (6)(c)(vi)(B)(I).

2585 (d) With respect to the premises of a private club license [~~issued~~] granted by the
2586 commission that undergoes a change of ownership, the commission may waive or vary the
2587 proximity requirements of Subsection [(7)] (6)(a) in considering whether to grant a private club
2588 license to the new owner of the premises if:

2589 (i) (A) the premises previously received a variance reducing the proximity requirement
2590 of Subsection [(7)] (6)(a)(i); or

2591 (B) the premises received a variance reducing the proximity requirement of Subsection
2592 [(7)] (6)(a)(ii) on or before May 4, 2008; or

2593 (ii) a variance from proximity requirements was otherwise allowed under this title.

2594 (e) The 600 foot limitation described in Subsection [(7)] (6)(a)(i) is measured from the
2595 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
2596 property boundary of the community location.

2597 [(8)] (7) (a) Nothing in this section prevents the commission from considering the
2598 proximity of any educational, religious, and recreational facility, or any other relevant factor in
2599 reaching a decision on whether to [~~issue~~] grant a private club license.

2600 (b) For purposes of this Subsection [(8)] (7), "educational facility" includes:

- 2601 (i) a nursery school;
- 2602 (ii) infant day care center; and
- 2603 (iii) a trade and technical school.
- 2604 ~~[(9) If requested by a private club licensee, the commission may approve a change in~~
 2605 ~~the class of private club license in accordance with rules made by the commission.]~~
- 2606 Section 20. Section **32A-5-102** is amended to read:
- 2607 **32A-5-102. Application and renewal requirements.**
- 2608 (1) A private club seeking a [~~class A, B, C, or D~~] private club license under this
 2609 chapter shall file a written application with the department in a form prescribed by the
 2610 department. The application shall be accompanied by:
- 2611 (a) a nonrefundable \$250 application fee;
- 2612 (b) an initial license fee of \$2,500, which is refundable if a license is not granted;
- 2613 (c) written consent of the local authority;
- 2614 (d) a copy of the applicant's current business license;
- 2615 (e) evidence of proximity to any community location, with proximity requirements
 2616 being governed by Section 32A-5-101;
- 2617 (f) evidence that the applicant operates a private club where a variety of food is
 2618 prepared and served in connection with dining accommodations;
- 2619 (g) a bond as specified by Section 32A-5-106;
- 2620 (h) a floor plan of the private club premises, including:
- 2621 (i) consumption areas; and
- 2622 (ii) the area where the applicant proposes to keep and store liquor;
- 2623 (i) evidence that the private club is carrying public liability insurance in an amount and
 2624 form satisfactory to the department;
- 2625 (j) evidence that the private club is carrying dramshop insurance coverage of at least
 2626 \$500,000 per occurrence and \$1,000,000 in the aggregate;
- 2627 (k) a copy of the private club's bylaws or house rules, and any amendments to those
 2628 documents~~[, which shall be kept on file with the department at all times];~~
- 2629 (l) a signed consent form stating that the private club and its management will permit
 2630 any authorized representative of the commission, department, or any law enforcement officer
 2631 unrestricted right to enter the private club premises;

2632 (m) (i) a statement as to whether the private club is seeking to qualify as a class [~~A, B,~~
2633 ~~C, or D~~] A private club licensee or a class B private club licensee; and

2634 (ii) evidence that the private club meets the requirements for the classification for
2635 which the private club is applying;

2636 (n) in the case of a partnership, corporation, or limited liability company applicant,
2637 proper verification evidencing that the person or persons signing the private club application
2638 are authorized to so act on behalf of the partnership, corporation, or limited liability company;
2639 and

2640 (o) any other information the commission or department may require.

2641 (2) (a) The commission may refuse to [~~issue a~~] grant a private club license if the
2642 commission determines that any provisions of the private club's bylaws or house rules, or
2643 amendments to those documents are not:

2644 (i) reasonable; and

2645 (ii) consistent with:

2646 (A) the declared nature and purpose of the applicant; and

2647 (B) the purposes of this chapter.

2648 (b) [~~Club~~] A private club's bylaws or house rules shall include provisions respecting
2649 the following:

2650 (i) standards of eligibility for members;

2651 (ii) limitation of members, consistent with the nature and purpose of the private club;

2652 (iii) the period for which dues are paid, and the date upon which the period expires;

2653 (iv) provisions for [~~dropping members~~] removing a member from the private club
2654 membership for the nonpayment of dues or other cause; and

2655 (v) provisions for guests [~~or visitors, if any, and for the issuance and use of visitor~~
2656 ~~cards~~].

2657 (c) A private club shall keep its bylaws or house rules, and any amendments to those
2658 documents, on file with the department at all times.

2659 (3) (a) [~~AH~~] A private club [~~licenses expire~~] license expires on June 30 of each year.

2660 (b) A person desiring to renew that person's private club license shall submit by no later
2661 than May 31:

2662 (i) a completed renewal application to the department; and

| | |
|------|---|
| 2663 | (ii) a renewal fee [in the following amount:] <u>of \$1,600.</u> |
| 2664 | [Gross Cost of Liquor in Previous License Year for the Licensee — Renewal Fee] |
| 2665 | [under \$10,000 ————— \$1,000] |
| 2666 | [equals or exceeds \$10,000 but less than \$25,000 ————— \$1,250] |
| 2667 | [equals or exceeds \$25,000 but less than \$75,000 ————— \$1,750] |
| 2668 | [equals or exceeds \$75,000 ————— \$2,250] |

2669 (c) Failure to meet the renewal requirements [~~shall result~~] results in an automatic
 2670 forfeiture of [~~the~~] a private club license effective on the date the existing private club license
 2671 expires.

2672 (d) A renewal application shall be in a form as prescribed by the department.

2673 (4) To ensure compliance with Subsection 32A-5-107[~~(40)~~](33), the commission may
 2674 suspend or revoke [~~any~~] a private club license if the private club licensee does not immediately
 2675 notify the department of [~~any~~] a change in:

- 2676 (a) ownership of the private club;
- 2677 (b) for a corporate owner, the:
 - 2678 (i) corporate officers or directors; or
 - 2679 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
 2680 corporation; or

- 2681 (c) for a limited liability company:
 - 2682 (i) managers; or
 - 2683 (ii) members owning at least 20% of the limited liability company.

2684 Section 21. Section **32A-5-104** is amended to read:

2685 **32A-5-104. Commission and department duties before granting licenses.**

2686 (1) (a) Before a private club license may be granted by the commission, the department
 2687 shall conduct an investigation and may hold public hearings for the purpose of gathering
 2688 information and making recommendations to the commission as to whether or not a private
 2689 club license should be granted.

2690 (b) The department shall forward the information and recommendations described in
 2691 Subsection (1)(a) to the commission to aid in the commission's determination.

2692 (2) Before [~~issuing~~] granting a private club license, the commission shall:

- 2693 (a) determine that:

2694 (i) the applicant has complied with all basic qualifications and requirements for making
2695 application for a private club license as provided by Sections 32A-5-102 and 32A-5-103; and
2696 (ii) the application is complete;

2697 (b) determine whether the applicant qualifies as a class A[, ~~B, C, or D~~] private club
2698 licensee or a class B private club licensee;

2699 (c) consider the locality within which the proposed private club outlet is located
2700 including:

2701 (i) physical characteristics such as:
2702 (A) condition of the premises;
2703 (B) square footage; and
2704 (C) parking availability; and
2705 (ii) operational factors such as:
2706 [~~(A)~~ tourist traffic];
2707 [~~(B)~~] (A) proximity to and density of other state stores, package agencies, and licensed
2708 outlets;

2709 [~~(C)~~] (B) demographics;
2710 [~~(D)~~] (C) population to be served; and
2711 [~~(E)~~] (D) the extent of and proximity to any community location;

2712 (d) consider the private club management's ability to manage and operate a private club
2713 license, including:

2714 (i) management experience;
2715 (ii) past retail liquor experience; and
2716 (iii) the type of management scheme employed by the private club;

2717 (e) consider the nature or type of private club operation of the proposed [~~liquor~~] private
2718 club licensee, including:

2719 (i) the type of menu items offered and emphasized;
2720 (ii) the hours of operation;
2721 (iii) the seating capacity of the [~~facility~~] premises; and
2722 (iv) the gross sales of food items; and
2723 (f) consider any other factor or circumstance the commission considers necessary.

2724 Section 22. Section **32A-5-106** is amended to read:

2725 **32A-5-106. Bond.**

2726 (1) [Each] A private club [~~liquor~~] licensee shall post a cash or corporate surety bond in
 2727 the penal sum of \$10,000 payable to the department, which the private club licensee has
 2728 procured and must maintain for so long as the private club licensee continues to operate as a
 2729 private club [~~liquor~~] licensee.

2730 (2) The bond shall be in a form approved by the attorney general, conditioned upon
 2731 [~~the~~] a private club licensee's faithful compliance with this title and the rules of the
 2732 commission.

2733 (3) (a) If [~~the~~] a \$10,000 corporate surety bond is canceled due to the private club
 2734 licensee's negligence, a \$300 reinstatement fee may be assessed.

2735 (b) No part of any cash or corporate bond [~~so~~] posted under this section may be
 2736 withdrawn:

2737 (i) during the period the private club license is in effect[;]; or

2738 (ii) while revocation proceedings are pending against the private club licensee.

2739 (c) A bond filed by a private club licensee may be forfeited if the private club license is
 2740 finally revoked.

2741 Section 23. Section **32A-5-107** is amended to read:

2742 **32A-5-107. Operational restrictions.**

2743 A private club granted a private club license and the employees, management
 2744 personnel, and members of the private club shall comply with the following conditions and
 2745 requirements. Failure to comply may result in a suspension or revocation of the private club
 2746 license or other disciplinary action taken against individual employees or management
 2747 personnel.

2748 (1) A private club licensee shall have a governing body that:

2749 (a) consists of three or more members of the private club; and

2750 (b) holds regular meetings to:

2751 (i) review membership applications; and

2752 (ii) conduct other business as required by the bylaws or house rules of the private club.

2753 (2) (a) A private club licensee may admit an individual as a member only on written
 2754 application signed by the applicant, subject to:

2755 (i) the applicant paying an application fee [~~as required by Subsection (4)~~]; and

2756 (ii) investigation, vote, and approval of a quorum of the governing body.

2757 (b) (i) ~~[An]~~ A private club licensee shall record an admission of a member ~~[shall be~~
2758 ~~recorded]~~ in the official minutes of a regular meeting of the governing body.

2759 (ii) ~~[An]~~ A private club licensee shall file an application, whether approved or
2760 disapproved, ~~[shall be filed]~~ as a part of the official records of the private club licensee.

2761 ~~[(c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an~~
2762 ~~applicant and immediately accord the applicant temporary privileges of a member until the~~
2763 ~~governing body completes its investigation and votes on the application, subject to the~~
2764 ~~following conditions:]~~

2765 ~~[(i) the applicant shall:]~~

2766 ~~[(A) submit a written application; and]~~

2767 ~~[(B) pay the application fee required by Subsection (4);]~~

2768 ~~[(ii) the governing body votes on the application at its next meeting, which shall take~~
2769 ~~place no later than 31 days following the day on which the application is submitted; and]~~

2770 ~~[(iii) the applicant's temporary membership privileges terminate if the governing body~~
2771 ~~disapproves the application.]]~~

2772 ~~[(d)]~~ (c) The spouse of a member of ~~[any class of]~~ a private club has the rights and
2773 privileges of the member:

2774 (i) to the extent permitted by the bylaws or house rules of the private club; and

2775 (ii) except to the extent restricted by this title.

2776 ~~[(e)]~~ (d) ~~[The]~~ A minor child of a member of a ~~[class A]~~ private club has the rights and
2777 privileges of the member:

2778 (i) to the extent permitted by the bylaws or house rules of the private club; and

2779 (ii) except to the extent restricted by this title.

2780 (3) (a) A private club licensee shall maintain a current and complete membership
2781 record showing:

2782 (i) the date of application of a proposed member;

2783 (ii) a member's address;

2784 (iii) the date the governing body approved a member's admission;

2785 (iv) the date initiation fees and dues are assessed and paid; and

2786 (v) the serial number of the membership card issued to a member.

2787 (b) A current record shall be kept indicating when a member is ~~[dropped]~~ removed as a
2788 member or resigns.

2789 (4) ~~[(a)]~~ A private club licensee shall establish in the private club bylaws or house rules
2790 application fees and membership dues~~[:]~~.

2791 ~~[(i) as established by commission rules; and]~~

2792 ~~[(ii) that are collected from all members.]~~

2793 ~~[(b) An application fee:]~~

2794 ~~[(i) may not be less than \$4;]~~

2795 ~~[(ii) shall be paid when the applicant applies for membership; and]~~

2796 ~~[(iii) at the discretion of the private club, may be credited toward membership dues if~~
2797 ~~the governing body approves the applicant as a member.]~~

2798 (5) (a) A private club licensee may, in its discretion, allow an individual to be admitted
2799 to or use the private club premises as a guest ~~[only under]~~ subject to the following conditions:

2800 (i) the individual is allowed to use the private club premises only to the extent
2801 permitted by the private club bylaws or house rules;

2802 ~~[(i) a guest]~~ (ii) the individual must be previously authorized by ~~[one of the following]~~
2803 a member of the private club who agrees to host the individual as a guest into the private
2804 club~~[:]~~;

2805 ~~[(A) an active member of the private club; or]~~

2806 ~~[(B) a holder of a current visitor card;]~~

2807 ~~[(ii) a guest must be known by the guest's host based on a preexisting bonafide business~~
2808 ~~or personal relationship with the host before the guest's admittance to the private club;]~~

2809 ~~[(iii) a guest must be accompanied by the guest's host for the duration of the guest's visit~~
2810 ~~to the private club;]~~

2811 ~~[(iv) a guest's host must remain on the private club premises for the duration of the~~
2812 ~~guest's visit to the private club;]~~

2813 ~~[(v) a guest's host is responsible for the cost of services extended to the guest;]~~

2814 ~~[(vi) a guest]~~ (iii) the individual has only those privileges derived from the ~~[guest's]~~
2815 individual's host for the duration of the ~~[guest's]~~ individual's visit to the private club; and

2816 ~~[(vii) an employee of the private club, while on duty, may not act as a host for a guest;]~~

2817 ~~[(viii) an employee of the private club, while on duty, may not attempt to locate a~~

2818 ~~member or current visitor card holder to serve as a host for a guest with whom the member or~~
2819 ~~visitor card holder has no acquaintance based on a preexisting bonafide business or personal~~
2820 ~~relationship prior to the guest's arrival at the private club; and]~~

2821 ~~[(ix)]~~ (iv) a private club or an employee of the private club may not enter into an
2822 agreement or arrangement with a private club member ~~[or holder of a current visitor card]~~ to
2823 indiscriminately host a member of the general public into the private club as a guest.

2824 (b) Notwithstanding Subsection (5)(a), ~~[previous authorization is not required]~~ an
2825 individual may be allowed as a guest in a private club without a host if:

2826 ~~[(i) the private club licensee is a class B private club; and]~~

2827 (i) (A) the private club is a class A private club licensee; and

2828 (B) the individual is a member of a class A private club licensee that has reciprocal
2829 guest privileges with the class A private club licensee for which the individual is a guest; or

2830 (ii) (A) the private club is a class B private club licensee; and

2831 ~~[(ii)]~~ (B) the [guest] individual is a member of the same fraternal organization as the
2832 class B private club licensee for which the individual is a guest.

2833 ~~[(6) A private club may, in its discretion, issue a visitor card to allow an individual to~~
2834 ~~enter and use the private club premises on a temporary basis under the following conditions:]~~

2835 ~~[(a) a visitor card shall be issued for a period not to exceed three weeks;]~~

2836 ~~[(b) a fee of not less than \$4 shall be assessed for a visitor card that is issued;]~~

2837 ~~[(c) a visitor card may not be issued to a minor;]~~

2838 ~~[(d) a holder of a visitor card may not host more than seven guests at one time;]~~

2839 ~~[(e) a visitor card issued shall include:]~~

2840 ~~[(i) the visitor's full name and signature;]~~

2841 ~~[(ii) the date the visitor card is issued;]~~

2842 ~~[(iii) the date the visitor card expires;]~~

2843 ~~[(iv) the club's name; and]~~

2844 ~~[(v) the serial number of the visitor card; and]~~

2845 ~~[(f) (i) the private club shall maintain a current record of the issuance of a visitor card~~
2846 ~~on the private club premises; and]~~

2847 ~~[(ii) the record described in Subsection (6)(f)(i) shall:]~~

2848 ~~[(A) be available for inspection by the department; and]~~

2849 ~~[(B) include:]~~

2850 ~~[(F) the name of the person to whom the visitor card is issued;]~~

2851 ~~[(H) the date the visitor card is issued;]~~

2852 ~~[(HH) the date the visitor card expires; and]~~

2853 ~~[(IV) the serial number of the visitor card.]~~

2854 ~~[(7)] (6) A private club licensee may not sell an alcoholic beverage to or allow a patron~~

2855 ~~to be admitted to or use the private club premises other than:~~

2856 ~~(a) a member; or~~

2857 ~~[(b) a visitor who holds a valid visitor card issued under Subsection (6); or]~~

2858 ~~[(c)] (b) a guest of[; (i)] a member[; or].~~

2859 ~~[(ii) a holder of a valid visitor card.]~~

2860 ~~[(8)] (7) (a) A minor may not be:~~

2861 ~~[(i)] (i) a member, officer, director, or trustee of a private club; or~~

2862 ~~[(ii) issued a visitor card;]~~

2863 ~~[(iii)] (ii) admitted into, use, or be on the premises of a lounge or bar area, as defined~~

2864 ~~by commission rule, of a private club [except to the extent authorized under Subsection~~

2865 ~~(8)(c)(i);] licensee.~~

2866 ~~[(iv) admitted into, use, or be on the premises of a class D private club;]~~

2867 ~~[(A) that operates as a sexually oriented business as defined by local ordinance; or]~~

2868 ~~[(B) when a sexually oriented entertainer is performing on the premises; or]~~

2869 ~~[(v) admitted into, use, or be on the premises of a class D private club except to the~~

2870 ~~extent authorized under Subsections (8)(b) through (g).]~~

2871 ~~[(b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private~~

2872 ~~club, a minor may be admitted into, use, or be on the premises of a class D private club under~~

2873 ~~the following circumstances:]~~

2874 ~~[(i) during a period when no alcoholic beverages are sold, served, otherwise furnished,~~

2875 ~~or consumed on the premises, but in no event later than 1 p.m.;~~

2876 ~~[(ii) when accompanied at all times by a member or holder of a current visitor card~~

2877 ~~who is the minor's parent, legal guardian, or spouse; and]~~

2878 ~~[(iii) the private club has a full kitchen and is licensed by the local jurisdiction as a~~

2879 ~~food service provider.]~~

2880 ~~[(c) A class D private club may employ a minor on the premises of the private club if:]~~
2881 ~~[(i) the parent or legal guardian of the minor owns or operates the class D private club;~~
2882 ~~or]~~
2883 ~~[(ii) the minor performs maintenance and cleaning services during the hours when the~~
2884 ~~private club is not open for business.]]~~
2885 ~~[(d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be~~
2886 ~~admitted into, use, or be on the premises of a dance or concert hall if:]~~
2887 ~~[(A) the dance or concert hall is located:]~~
2888 ~~[(f) on the premises of a class D private club; or]~~
2889 ~~[(H) on the property that immediately adjoins the premises of and is operated by a class~~
2890 ~~D private club; and]~~
2891 ~~[(B) the commission issues the class D private club a permit to operate a minor dance~~
2892 ~~or concert hall based on the criteria described in Subsection (8)(d)(iii).]]~~
2893 ~~[(ii) If the dance or concert hall is located on the premises of a class D private club, a~~
2894 ~~minor must be properly hosted in accordance with Subsection (5) by:]~~
2895 ~~[(A) a member; or]~~
2896 ~~[(B) a holder of a current visitor card.]~~
2897 ~~[(iii) The commission may issue a minor dance or concert hall permit if:]~~
2898 ~~[(A) the private club's lounge, bar, and alcoholic beverage consumption area is:]~~
2899 ~~[(f) not accessible to a minor;]~~
2900 ~~[(H) clearly defined; and]~~
2901 ~~[(H) separated from the dance or concert hall area by one or more walls, multiple floor~~
2902 ~~levels, or other substantial physical barriers;]~~
2903 ~~[(B) a bar or dispensing area is not visible to a minor;]~~
2904 ~~[(C) consumption of an alcoholic beverage may not occur in:]~~
2905 ~~[(f) the dance or concert hall area; or]~~
2906 ~~[(H) an area of the private club accessible to a minor;]~~
2907 ~~[(D) the private club maintains sufficient security personnel to prevent the passing of~~
2908 ~~beverages from the private club's lounge, bar, or an alcoholic beverage consumption area to:]~~
2909 ~~[(f) the dance or concert hall area; or]~~
2910 ~~[(H) an area of the private club accessible to a minor;]~~

2911 ~~[(E) there are one or more separate entrances, exits, and restroom facilities from the~~
2912 ~~private club's lounge, bar, and alcoholic beverage consumption areas than for:]~~

2913 ~~[(F) the dance or concert hall area; or]~~

2914 ~~[(H) an area accessible to a minor; and]~~

2915 ~~[(F) the private club complies with any other restrictions imposed by the commission~~
2916 ~~by rule:]~~

2917 ~~[(e) A minor under 18 years of age who is accompanied at all times by a parent or legal~~
2918 ~~guardian who is a member or holder of a current visitor card may be admitted into, use, or be~~
2919 ~~on the premises of a concert hall described in Subsection (8)(d)(i) if:]~~

2920 ~~[(i) the requirements of Subsection (8)(d) are met; and]~~

2921 ~~[(ii) signage, product, and dispensing equipment containing recognition of an alcoholic~~
2922 ~~beverage is not visible to the minor:]~~

2923 ~~[(f) A minor under 18 years of age but who is 14 years of age or older who is not~~
2924 ~~accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of~~
2925 ~~a concert hall described in Subsection (8)(d)(i) if:]~~

2926 ~~[(i) the requirements of Subsections (8)(d) and (8)(e)(ii) are met; and]~~

2927 ~~[(ii) there is no alcoholic beverage, sales, service, or consumption on the premises of~~
2928 ~~the class D private club:]~~

2929 ~~[(g) The commission may suspend or revoke a minor dance or concert permit issued to~~
2930 ~~a class D private club and suspend or revoke the license of the class D private club if:]~~

2931 ~~[(i) the private club fails to comply with the restrictions in Subsection (8)(d), (e), or~~
2932 ~~(f);]~~

2933 ~~[(ii) the private club sells, serves, or otherwise furnishes an alcoholic beverage to a~~
2934 ~~minor;]~~

2935 ~~[(iii) the private club licensee or a supervisory or managerial level employee of the~~
2936 ~~private club licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act,~~
2937 ~~on the basis of an activity that occurs on:]~~

2938 ~~[(A) the licensed premises; or]~~

2939 ~~[(B) the dance or concert hall that is located on property that immediately adjoins the~~
2940 ~~premises of and is operated by the class D private club;]~~

2941 ~~[(iv) there are three or more convictions of patrons of the private club under Title 58,~~

2942 Chapter 37, Utah Controlled Substances Act, based on activities that occur on:]
 2943 ~~[(A) the licensed premises; or]~~
 2944 ~~[(B) the dance or concert hall that is located on property that immediately adjoins the~~
 2945 ~~premises of and is operated by the class D private club;]~~
 2946 ~~[(v) there is more than one conviction:]~~
 2947 ~~[(A) of:]~~
 2948 ~~[(F) the private club licensee;]~~
 2949 ~~[(H) an employee of the private club licensee;]~~
 2950 ~~[(HH) an entertainer contracted by the private club licensee; or]~~
 2951 ~~[(IV) a patron of the private club licensee; and]~~
 2952 ~~[(B) made on the basis of a lewd act or lewd entertainment prohibited by this title that~~
 2953 ~~occurs on:]~~
 2954 ~~[(f) the licensed premises; or]~~
 2955 ~~[(H) the dance or concert hall that is located on property that immediately adjoins the~~
 2956 ~~premises of and is operated by the class D private club; or]~~
 2957 ~~[(vi) the commission finds acts or conduct contrary to the public welfare and morals~~
 2958 ~~involving lewd acts or lewd entertainment prohibited by this title that occurs on:]~~
 2959 ~~[(A) the licensed premises; or]~~
 2960 ~~[(B) the dance or concert hall that is located on property that immediately adjoins the~~
 2961 ~~premises of and is operated by the class D private club.]~~
 2962 ~~[(h) Nothing in this Subsection (8) prohibits a class D private club from selling,~~
 2963 ~~selling, or otherwise furnishing an alcoholic beverage in a dance or concert area located on the~~
 2964 ~~private club premises on days and times when the private club does not allow a minor into~~
 2965 ~~those areas:]~~
 2966 ~~[(i)]~~ (b) Nothing in ~~[Subsections (8)(a) through (g)]~~ this Subsection (7) precludes a
 2967 local authority from being more restrictive of a minor's admittance to, use of, or presence on
 2968 the premises of a private club.
 2969 ~~[(9)]~~ (8) (a) A private club licensee shall maintain an expense ledger or record showing
 2970 in detail all expenditures separated by payments for:
 2971 (i) malt or brewed beverages;
 2972 (ii) liquor;

- 2973 (iii) food;
- 2974 (iv) detailed payroll;
- 2975 (v) entertainment;
- 2976 (vi) rent;
- 2977 (vii) utilities;
- 2978 (viii) supplies; and
- 2979 (ix) other expenditures.
- 2980 (b) A private club licensee shall keep a record required by this Subsection ~~[(9)]~~ (8):
- 2981 (i) in a form approved by the department; and
- 2982 (ii) balanced each month.
- 2983 (c) An expenditure shall be supported by:
- 2984 (i) a delivery ticket;
- 2985 (ii) an invoice;
- 2986 (iii) a receipted bill;
- 2987 (iv) a canceled check;
- 2988 (v) a petty cash voucher; or
- 2989 (vi) other sustaining datum or memorandum.
- 2990 (d) ~~[(A)]~~ A private club licensee shall maintain an invoice or receipted bill for the
- 2991 current calendar or fiscal year documenting a purchase made by the private club ~~[shall be~~
- 2992 ~~maintained]~~.
- 2993 ~~[(10)(a)]~~ (e) (i) A private club licensee shall maintain a minute book that is posted
- 2994 currently by the private club.
- 2995 ~~[(b)]~~ (ii) The minute book required by this Subsection ~~[(10)]~~ (8)(e) shall contain the
- 2996 minutes of a regular or special meeting of the governing body.
- 2997 ~~[(c)]~~ (f) A private club licensee shall maintain a membership list.
- 2998 ~~[(11)(a)]~~ (g) A private club licensee shall maintain a current copy of the private club's
- 2999 current bylaws and current house rules.
- 3000 ~~[(b) A change in the bylaws or house rules:]~~
- 3001 ~~[(i) is not effective unless submitted to the department within ten days after adoption;~~
- 3002 ~~and]~~
- 3003 ~~[(ii) becomes effective 15 days after received by the department unless rejected by the~~

3004 ~~department before the expiration of the 15-day period.]~~

3005 ~~[(12)]~~ (h) A private club licensee shall maintain accounting and other records and
3006 documents as the department may require.

3007 ~~[(13)]~~ (i) A private club licensee or person acting for the private club licensee, who
3008 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of
3009 account or other document of the private club licensee required to be made, maintained, or
3010 preserved by this title or the rules of the commission for the purpose of deceiving the
3011 commission, the department, or an official or employee of the commission or department, is
3012 subject to:

3013 ~~[(a)]~~ (i) the suspension or revocation of the private club's license; and

3014 ~~[(b)]~~ (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

3015 ~~[(14)-(a)]~~ (j) A private club licensee shall maintain and keep a record required by this
3016 section and a book, record, receipt, or disbursement maintained or used by the private club
3017 licensee, as the department requires, for a minimum period of three years.

3018 ~~[(b)]~~ (k) A record, book, receipt, or disbursement of a private club licensee is subject to
3019 inspection by an authorized representative of the commission and the department.

3020 ~~[(e)]~~ (l) A private club licensee shall allow the department, through an auditor or
3021 examiner of the department, to audit the records of the private club licensee at times the
3022 department considers advisable.

3023 ~~[(d)]~~ (m) The department shall audit the records of the private club licensee at least
3024 once annually.

3025 ~~[(15)]~~ (9) (a) A private club licensee shall own or lease premises suitable for the
3026 private club's activities.

3027 ~~[(16)-(a)]~~ (b) A private club licensee may not maintain ~~[facilities]~~ its premises in a
3028 manner that barricades or conceals the private club licensee's operation.

3029 ~~[(b)]~~ (c) A member of the commission, authorized department personnel, or a peace
3030 officer shall, upon presentation of credentials, be admitted immediately to the private club and
3031 permitted without hindrance or delay to inspect completely the entire private club premises and
3032 the books and records of the private club licensee, at any time during which the private club
3033 licensee is open for the transaction of business to its members.

3034 ~~[(17)]~~ (10) Public advertising related to a private club licensee by the following shall

3035 clearly identify a private club as being "a private club for members":

3036 (a) the private club licensee;

3037 (b) an employee or agent of the private club licensee; or

3038 (c) a person under a contract or agreement with the private club licensee.

3039 ~~[(18)]~~ (11) A private club licensee must have food available at all times when an
3040 alcoholic beverage is sold, served, or consumed on the premises.

3041 ~~[(19)]~~ (12) (a) ~~[Liquor]~~ A private club licensee may not ~~[be purchased by a private club~~
3042 ~~licensee]~~ purchase liquor except from a state store or package agency.

3043 (b) Liquor purchased from a state store or package agency may be transported by ~~[the]~~
3044 a private club licensee from the place of purchase to the licensed premises of the private club
3045 licensee.

3046 (c) Payment for liquor shall be made in accordance with rules established by the
3047 commission.

3048 ~~[(20)]~~ (13) A private club licensee may sell or provide a primary spirituous liquor only
3049 in a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered
3050 dispensing system approved by the department in accordance with commission rules adopted
3051 under this title, except that:

3052 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
3053 system if used as a secondary flavoring ingredient in a beverage subject to the following
3054 restrictions:

3055 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
3056 a primary spirituous liquor;

3057 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

3058 (iii) the private club licensee shall designate a location where flavorings are stored on
3059 the floor plan provided to the department; and

3060 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

3061 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
3062 system if used:

3063 (i) as a flavoring on a dessert; and

3064 (ii) in the preparation of a flaming food dish, drink, or dessert;

3065 (c) a private club patron may have no more than 2.5 ounces of spirituous liquor at a

3066 time before the private club patron[-]; and

3067 (d) a private club patron may have no more than two spirituous liquor drinks at a time
3068 before the private club patron, except that a private club patron may not have two spirituous
3069 liquor drinks before the private club patron if one of the spirituous liquor drinks consists only
3070 of the primary spirituous liquor for the other spirituous liquor drink.

3071 [~~(21)~~] (14) (a) (i) Wine may be sold and served by the glass or an individual portion
3072 not to exceed five ounces per glass or individual portion.

3073 (ii) An individual portion may be served to a patron in more than one glass as long as
3074 the total amount of wine does not exceed five ounces.

3075 (iii) An individual portion of wine is considered to be one alcoholic beverage under
3076 Subsection [~~(25)~~] (19)(c).

3077 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
3078 fixed by the commission to a table of four or more persons.

3079 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
3080 fixed by the commission to a table of less than four persons.

3081 (c) A wine service may be performed and a service charge assessed by the private club
3082 licensee as authorized by commission rule for wine purchased at the private club.

3083 [~~(22)~~] (15) (a) Heavy beer may be served in an original container not exceeding one
3084 liter at a price fixed by the commission.

3085 (b) A flavored malt beverage may be served in an original container not exceeding one
3086 liter at a price fixed by the commission.

3087 (c) A service charge may be assessed by the private club licensee for heavy beer or a
3088 flavored malt beverage purchased at the private club.

3089 [~~(23)~~] (16) (a) (i) Subject to Subsection [~~(23)~~] (16)(a)(ii), a private club licensee may
3090 sell beer for on-premise consumption:

3091 (A) in an open container; and

3092 (B) on draft.

3093 (ii) Beer sold pursuant to Subsection [~~(23)~~] (16)(a)(i) shall be in a size of container that
3094 does not exceed two liters, except that beer may not be sold to an individual patron in a size of
3095 container that exceeds one liter.

3096 (b) (i) A private club licensee that sells beer pursuant to Subsection [~~(23)~~] (16)(a):

3097 (A) may do so without obtaining a separate on-premise beer retailer license from the
3098 commission; and

3099 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
3100 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
3101 inconsistent with or less restrictive than the operational restrictions under this chapter.

3102 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
3103 Licenses, required by Subsection [~~(23)~~] (16)(b)(i) may result in a suspension or revocation of
3104 the private club's:

3105 (A) state liquor license; and

3106 (B) alcoholic beverage license issued by the local authority.

3107 [~~(24)~~] (17) An alcoholic beverage may not be stored, served, or sold in a place other
3108 than as designated in the private club licensee's application, unless the private club licensee
3109 first applies for and receives approval from the department for a change of location within the
3110 private club.

3111 [~~(25)~~] (18) (a) A patron may only make an alcoholic beverage purchase in the private
3112 club from and be served by a person employed, designated, and trained by the private club
3113 licensee to sell, dispense, and serve an alcoholic beverage.

3114 (b) Notwithstanding Subsection [~~(25)~~] (18)(a), a patron who purchases bottled wine
3115 from an employee of [~~the~~] a private club licensee or carries bottled wine onto the premises of
3116 the private club pursuant to Subsection [~~(31)~~] (24) may thereafter serve wine from the bottle to
3117 the patron or others at the patron's table.

3118 (c) A private club patron may have no more than two alcoholic beverages of any kind
3119 at a time before the private club patron, subject to the limitation of Subsection [~~(20)~~] (13)(d).

3120 [~~(26)~~] (19) The liquor storage area shall remain locked at all times other than those
3121 hours and days when liquor sales and service are authorized by law.

3122 [~~(27)~~] (20) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished
3123 at a private club on any day after 1 a.m. or before 10 a.m.

3124 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
3125 Licenses, for an on-premise beer [~~licenses~~] license.

3126 (c) (i) Notwithstanding Subsections [~~(27)~~] (20)(a) and (b), a private club shall remain
3127 open for one hour after the private club ceases the sale and service of an alcoholic beverage

3128 during which time a patron of the private club may finish consuming:

- 3129 (A) a single drink containing spirituous liquor;
- 3130 (B) a single serving of wine not exceeding five ounces;
- 3131 (C) a single serving of heavy beer;
- 3132 (D) a single serving of beer not exceeding 26 ounces; or
- 3133 (E) a single serving of a flavored malt beverage.

3134 (ii) A private club is not required to remain open:

- 3135 (A) after all patrons have vacated the premises; or
- 3136 (B) during an emergency.

3137 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club licensee may not
3138 allow a patron to remain on the premises of the private club to consume an alcoholic beverage
3139 on the premises.

3140 [~~(28)~~] (21) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

- 3141 (a) minor;
- 3142 (b) person actually, apparently, or obviously intoxicated;
- 3143 (c) known habitual drunkard; or
- 3144 (d) known interdicted person.

3145 [~~(29)~~] (22) (a) (i) Liquor may be sold only at a price fixed by the commission.

3146 (ii) Liquor may not be sold at a discount price on any date or at any time.

3147 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
3148 beverage to the private club licensee.

3149 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
3150 over consumption or intoxication.

3151 (d) The price of a single serving of a primary spirituous liquor shall be the same
3152 whether served as a single drink or in conjunction with another alcoholic beverage.

3153 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
3154 hours of the private club's business day such as a "happy hour."

3155 (f) More than one alcoholic beverage may not be sold or served for the price of a single
3156 alcoholic beverage.

3157 (g) An indefinite or unlimited number of alcoholic beverages may not be sold or served
3158 during a set period for a fixed price.

3159 (h) A private club licensee may not engage in a promotion involving or offering free
3160 alcoholic beverages to patrons of the private club.

3161 ~~[(30)]~~ (23) An alcoholic beverage may not be purchased for a patron of the private club
3162 licensee by:

3163 (a) the private club licensee; or

3164 (b) an employee or agent of the private club licensee.

3165 ~~[(31)]~~ (24) (a) ~~[A person]~~ An individual may not bring onto the premises of a private
3166 club licensee an alcoholic beverage for on-premise consumption, except ~~[a person]~~ an
3167 individual may bring, subject to the discretion of the licensee, bottled wine onto the premises
3168 of a private club licensee for on-premise consumption.

3169 (b) Except bottled wine under Subsection ~~[(31)]~~ (24)(a), a private club licensee or an
3170 officer, manager, employee, or agent of a private club licensee may not allow:

3171 (i) ~~[a person]~~ an individual to bring onto the private club premises an alcoholic
3172 beverage for consumption on the private club premises; or

3173 (ii) consumption of an alcoholic beverage described in Subsection ~~[(31)]~~ (24)(b)(i) on
3174 the premises of the private club.

3175 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
3176 or other representative of the private club licensee upon entering the private club.

3177 (d) A wine service may be performed and a service charge assessed by the private club
3178 licensee as authorized by commission rule for wine carried in by a patron.

3179 ~~[(32)]~~ (25) (a) Except as provided in Subsection ~~[(32)]~~ (25)(b), a private club licensee
3180 or an employee of the private club licensee may not permit a patron of the private club to carry
3181 from the private club premises an open container that:

3182 (i) is used primarily for drinking purposes; and

3183 (ii) contains an alcoholic beverage.

3184 (b) A patron may remove the unconsumed contents of a bottle of wine if before
3185 removal, the bottle is recorked or recapped.

3186 ~~[(33)]~~ (26) (a) A ~~[minor may not be employed by a class A, B, or C]~~ private club
3187 licensee may not employ a minor to sell, dispense, or handle an alcoholic beverage.

3188 (b) Notwithstanding Subsection ~~[(33)]~~ (26)(a), a minor who is at least 16 years of age
3189 may be employed by a class A ~~[or C]~~ private club licensee to enter the sale at a cash register or

3190 other sales recording device.

3191 ~~[(c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed~~
3192 ~~by or be on the premises of a class D private club.]~~

3193 ~~[(d)]~~ (c) A minor may not be employed to work in a lounge or bar area of a ~~[class A, B,~~
3194 ~~or C]~~ private club licensee.

3195 ~~[(34)]~~ (27) An employee of a private club licensee, while on duty, may not:

3196 (a) consume an alcoholic beverage; or

3197 (b) be intoxicated.

3198 ~~[(35)]~~ (28) A private club licensee shall have available on the premises for a patron to
3199 review at the time that the ~~[customer]~~ patron requests it, a written alcoholic beverage price list
3200 or a menu containing the price of an alcoholic beverage sold or served by the private club
3201 licensee including:

3202 (a) a set-up charge;

3203 (b) a service charge; or

3204 (c) a chilling fee.

3205 ~~[(36)]~~ (29) A private club licensee shall display in a prominent place in the private
3206 club:

3207 (a) the private club license that is issued by the department;

3208 (b) a list of the types and brand names of liquor being served through ~~[its]~~ the private
3209 club licensee's calibrated metered dispensing system; and

3210 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
3211 drugs is a serious crime that is prosecuted aggressively in Utah."

3212 ~~[(37)]~~ (30) A private club licensee may not on the premises of the private club:

3213 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
3214 Chapter 10, Part 11, Gambling;

3215 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
3216 Part 11, Gambling; or

3217 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
3218 the risking of something of value for a return or for an outcome when the return or outcome is
3219 based upon an element of chance, excluding the playing of an amusement device that confers
3220 only an immediate and unrecorded right of replay not exchangeable for value.

- 3221 [~~(38)~~] (31) (a) A private club licensee may not close or cease operation for a period
 3222 longer than 240hours, unless:
- 3223 (i) the private club licensee notifies the department in writing at least seven days before
 3224 the day on which the private club licensee closes or ceases operation; and
- 3225 (ii) the closure or cessation of operation is first approved by the department.
- 3226 (b) Notwithstanding Subsection [~~(38)~~] (31)(a), in the case of emergency closure, the
 3227 private club licensee shall immediately notify the department by telephone.
- 3228 (c) (i) The department may authorize a closure or cessation of operation for a period
 3229 not to exceed 60 days.
- 3230 (ii) The department may extend the initial period an additional 30 days upon:
- 3231 (A) written request of the private club licensee; and
- 3232 (B) a showing of good cause.
- 3233 (iii) A closure or cessation of operation may not exceed a total of 90 days without
 3234 commission approval.
- 3235 (d) The notice required by Subsection [~~(38)~~] (31)(a) shall include:
- 3236 (i) the dates of closure or cessation of operation;
- 3237 (ii) the reason for the closure or cessation of operation; and
- 3238 (iii) the date on which the private club licensee will reopen or resume operation.
- 3239 (e) Failure of [~~the~~] a private club licensee to provide notice and to obtain department
 3240 authorization before closure or cessation of operation results in an automatic forfeiture of:
- 3241 (i) the private club license; and
- 3242 (ii) the unused portion of the private club license fee for the remainder of the license
 3243 year effective immediately.
- 3244 (f) Failure of the private club licensee to reopen or resume operation by the approved
 3245 date results in an automatic forfeiture of:
- 3246 (i) the private club license; and
- 3247 (ii) the unused portion of the private club license fee for the remainder of the license
 3248 year.
- 3249 [~~(39)~~] (32) A private club license may not be transferred from one location to another
 3250 **H→ [person] location ←H** , without prior written approval of the commission.
- 3251 [~~(40)~~] (33) (a) A private club licensee, may not sell, transfer, assign, exchange, barter,

3252 give, or attempt in any way to dispose of the private club license to another person, whether for
3253 monetary gain or not.

3254 (b) A private club license has no monetary value for the purpose of any type of
3255 disposition.

3256 (34) Subject to Subsections (31) ~~H→~~ **[through]** **and** ~~←H~~ (33), a private club licensee may
3256a not ~~H→~~ **temporarily** ~~←H~~ rent or
3257 otherwise ~~H→~~ **temporarily** ~~←H~~ lease its premises to a person unless:

3258 (a) the person to whom the private club licensee rents or leases the premises agrees in
3259 writing to comply with this section as if the person is the private club licensee, except for a
3260 requirement related to maintaining a book, document, or similar record; and

3261 (b) the private club licensee takes reasonable steps to ensure that the person complies
3262 with this section as provided in Subsection (34)(a).

3263 ~~[(41)]~~ (35) A private club licensee or an employee of the private club licensee may not
3264 knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
3265 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3266 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
3267 58-37-2; or

3268 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
3269 Section 58-37a-3.

3270 Section 24. Section **32A-12-209.5** is amended to read:

3271 **32A-12-209.5. Unlawful admittance or attempt to gain admittance by minor.**

3272 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
3273 premises of:

3274 (a) a tavern; or

3275 (b) a class ~~[D-private club]~~ 2 social on-premise liquor licensee, except to the extent
3276 authorized by Subsection ~~[32A-5-107(8)]~~ 32A-4-506(7).

3277 (2) A minor who violates this section is guilty of a class C misdemeanor.

3278 (3) When a minor who is at least 18 years old, but younger than 21 years old, is found
3279 by a court to have violated this section:

3280 (a) if the violation is the minor's first violation of this section, the court may suspend
3281 the minor's driving privileges; or

3282 (b) if the violation is the minor's second or subsequent violation of this section, the

3283 court shall suspend the minor's driving privileges.

3284 (4) When a minor who is at least 13 years old, but younger than 18 years old, is found
 3285 by a court to have violated this section, [~~the provisions regarding suspension of the driver's~~
 3286 ~~license under~~] Section 78A-6-606 [~~apply~~] applies to the violation.

3287 (5) When the court issues an order suspending a person's driving privileges for a
 3288 violation of this section, the Driver License Division shall suspend the person's license under
 3289 Section 53-3-219.

3290 (6) When the Department of Public Safety receives the arrest or conviction record of a
 3291 person for a driving offense committed while the person's license is suspended pursuant to this
 3292 section, the [~~department~~] Department of Public Safety shall extend the suspension for an
 3293 additional like period of time.

3294 Section 25. Section **32A-12-213** is amended to read:

3295 **32A-12-213. Unlawful bringing onto premises for consumption.**

3296 (1) Except as provided in Subsection (3), a person may not bring for on-premise
 3297 consumption [~~any~~] an alcoholic beverage onto the premises of [~~any~~]:

3298 (a) a licensed or unlicensed restaurant;

3299 (b) a licensed or unlicensed private club;

3300 (c) an airport lounge licensee;

3301 (d) an on-premise banquet licensee;

3302 (e) an on-premise beer retailer licensee;

3303 (f) a social on-premise liquor licensee;

3304 [~~(f)~~] (g) an event where an alcoholic [~~beverages are~~] beverage is sold or served under a
 3305 single event permit or temporary special event beer permit issued under this title; or

3306 [~~(g)~~] (h) any establishment open to the general public.

3307 (2) Except as provided in Subsection (3), a [~~licensed or unlicensed restaurant or private~~
 3308 ~~club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer licensee, or~~
 3309 ~~holder of~~] person described in Subsections (1)(a) through (f) or that holds a single event permit
 3310 or temporary special event beer permit issued under this title, or [~~its officers, managers,~~
 3311 ~~employees, or agents~~] an officer, manager, employee, or agent of that person may not allow:

3312 (a) a person to bring onto its premises [~~any~~] an alcoholic beverage for on-premise
 3313 consumption; or [~~allow~~]

3314 (b) consumption of ~~[any such]~~ an alcoholic beverage described in Subsection (2)(a) in
3315 violation of this section.

3316 (3) (a) A person may bring bottled wine onto the premises of ~~[any restaurant liquor~~
3317 ~~licensee, limited restaurant licensee, or private club licensee]~~ the following and consume the
3318 wine ~~[pursuant to the applicable restrictions contained in Subsection 32A-4-106(14),~~
3319 ~~32A-4-307(14), or 32A-5-107(31);]~~;

3320 (i) a restaurant liquor licensee, pursuant to the restrictions in Subsection
3321 32A-4-106(14);

3322 (ii) a limited restaurant licensee, pursuant to the restrictions in Subsection
3323 32A-4-307(14);

3324 (iii) a social on-premise liquor licensee, pursuant to the restrictions in Subsection
3325 32A-4-507(14); or

3326 (iv) a private club licensee, pursuant to the restrictions in Subsection 32A-5-107(24).

3327 (b) ~~[a]~~ A passenger of a limousine may bring onto, have, and consume ~~[any]~~ an
3328 alcoholic beverage on the limousine if:

3329 (i) the travel of the limousine begins and ends at:

3330 (A) the residence of the passenger;

3331 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

3332 (C) the temporary domicile of the passenger; and

3333 (ii) the driver of the limousine is separated from the passengers by partition or other
3334 means approved by the department[;].

3335 (c) ~~[a]~~ A passenger of a chartered bus may bring onto, have, and consume ~~[any]~~ an
3336 alcoholic beverage on the chartered bus:

3337 (i) (A) but may consume only during travel to a specified destination of the chartered
3338 bus and not during travel back to the place where the travel begins; or

3339 (B) if the travel of the chartered bus begins and ends at:

3340 (I) the residence of the passenger;

3341 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

3342 (III) the temporary domicile of the passenger; and

3343 (ii) the chartered bus has a nondrinking designee other than the driver traveling on the
3344 chartered bus to monitor consumption[; ~~and~~].

3345 (d) [a] A person may bring onto any premises, have, and consume [~~any~~] an alcoholic
3346 beverage at a privately hosted event that is not open to the general public.

3347 (4) Except as provided in Subsection (3)(c)(i)(A), the consumption of an alcoholic
3348 [~~beverages in limousines and chartered buses~~] beverage in a limousine or chartered bus is not
3349 allowed if the limousine or chartered bus drops off [~~passengers at locations~~] a passenger at a
3350 location from which [~~they depart in private vehicles~~] the passenger departs in a private vehicle.

3351 Section 26. Section ~~32A-12-222~~ is amended to read:

3352 **32A-12-222. Unlawful dispensing.**

3353 (1) For purposes of this section:

3354 (a) "primary spirituous liquor" means the main distilled spirit in a beverage; and

3355 (b) "primary spirituous liquor" does not include a secondary alcoholic product used as
3356 a flavoring in conjunction with the primary distilled spirit in the beverage.

3357 (2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous
3358 liquor for consumption on the licensed premises, or an officer, manager, employee, or agent of
3359 the licensee may not:

3360 (a) sell, serve, dispense, or otherwise furnish a primary spirituous liquor to a person on
3361 the licensed premises except in a quantity that does not exceed 1.5 ounces per beverage
3362 dispensed through a calibrated metered dispensing system approved by the department;

3363 (b) sell, serve, dispense, or otherwise furnish more than a total of 2.5 ounces of
3364 spirituous liquor per beverage;

3365 (c) allow any person on the licensed premises to have more than a total of 2.5 ounces
3366 of spirituous liquor at a time;

3367 (d) allow any person on the premises of the following to have more than one spirituous
3368 liquor beverage at a time:

3369 (i) a restaurant liquor licensee;

3370 (ii) an on-premise banquet licensee; or

3371 (iii) a single event permittee; or

3372 (e) allow any person to have more than two spirituous liquor beverages at a time in
3373 violation of:

3374 (i) Subsection 32A-4-206(2)(d); [~~or~~]

3375 (ii) Subsection 32A-4-506(3)(d); or

3376 [~~(f)~~] (iii) Subsection 32A-5-107[~~(20)~~](13)(d).

3377 (3) A violation of this section is a class C misdemeanor.

3378 Section 27. Section **32A-12-301** is amended to read:

3379 **32A-12-301. Operating without a license or permit.**

3380 (1) A person may not operate the following businesses without first obtaining a license
3381 under this title if the business allows a patron, customer, member, guest, [~~visitor,~~] or other
3382 person to purchase or consume an alcoholic beverage on the premises of the business:

3383 (a) a restaurant;

3384 (b) an airport lounge;

3385 (c) a private club;

3386 (d) an on-premise beer retailer outlet;

3387 (e) on-premise banquet premises; [~~or~~]

3388 (f) a social on-premise liquor licensee premises; or

3389 [~~(f)~~] (g) a business similar to one listed in Subsections (1)(a) through [~~(e)~~] (f).

3390 (2) A person conducting an event or function that is open to the general public may not
3391 directly or indirectly sell, offer to sell, or otherwise furnish an alcoholic beverage to a person
3392 attending the event or function without first obtaining a permit under this title.

3393 (3) A person conducting a privately hosted event or private social function may not
3394 directly or indirectly sell or offer to sell an alcoholic beverage to a person attending the
3395 privately hosted event or private social function without first obtaining a permit under this title.

3396 (4) A person may not operate the following businesses without first obtaining a license
3397 under this title:

3398 (a) a winery manufacturer;

3399 (b) a distillery manufacturer;

3400 (c) a brewery manufacturer;

3401 (d) a local industry representative of:

3402 (i) a manufacturer of an alcoholic beverage;

3403 (ii) a supplier of an alcoholic beverage; or

3404 (iii) an importer of an alcoholic beverage;

3405 (e) a liquor warehouse; or

3406 (f) a beer wholesaler.

3407 (5) A person may not operate a public conveyance in this state without first obtaining a
3408 public service permit under this title if that public conveyance allows a person to purchase or
3409 consume an alcoholic beverage or alcoholic product:

3410 (a) on the public conveyance; or

3411 (b) on the premises of a hospitality room located with a depot, terminal, or similar
3412 facility at which a service is provided to a patron of the public conveyance.

3413 Section 28. Section **32A-14a-103** is amended to read:

3414 **32A-14a-103. Employee protected in exercising judgment.**

3415 (1) An employer may not sanction or terminate the employment of an employee of a
3416 restaurant, airport lounge, on-premise banquet licensee, social on-premise liquor licensee,
3417 private club, on-premise beer retailer, or any other establishment serving an alcoholic
3418 [~~beverages~~] beverage as a result of the employee having exercised the employee's independent
3419 judgment to refuse to sell an alcoholic [~~beverages~~] beverage to any person the employee
3420 considers to meet one or more of the conditions described in Subsection 32A-14a-102(1).

3421 (2) [~~Any~~] An employer who terminates an employee or imposes sanctions on the
3422 employee contrary to this section is considered to have discriminated against that employee and
3423 is subject to [~~the conditions and penalties set forth in~~] Title 34A, Chapter 5, Utah
3424 Antidiscrimination Act.

3425 Section 29. **Effective date.**

3426 This bill takes effect on July 1, 2009, except that Section 32A-4-507 takes effect on
3427 May 12, 2009.

Legislative Review Note
as of 2-13-09 6:12 AM

Office of Legislative Research and General Counsel

H.B. 347 - Alcoholic Beverage Control Act Modifications

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. Businesses may be impacted due to this proposed change in statute.
