

HEAVY BEER AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: Jon J. Greiner

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address provisions related to heavy beer including the wholesaling of heavy beer.

Highlighted Provisions:

This bill:

- ▶ addresses definitions;
- ▶ permits the retail sale of heavy beer for on-premise consumption on draft, subject to certain restrictions;
- ▶ enacts the Heavy Beer Wholesaling Act including:
 - defining terms;
 - authorizing a beer wholesaler licensee to sell and distribute heavy beer to a liquor retailer under limited circumstances; and
 - imposing operational restrictions;
- ▶ addresses issues related to the wholesaling of heavy beer by a beer wholesaler licensee;
- ▶ expands the scope of the Utah Beer Industry Distribution Act to include heavy beer;
- ▶ addresses advertising;
- ▶ addresses criminal provisions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:



28 None

29 Other Special Clauses:

30 ~~H~~→ [None] This bill coordinates with H.B. 347, Alcoholic Beverage Control Act

30a Modifications, S.B. 106, Alcoholic Beverage Control Act Restrictions, and S.B. 187, Alcohol

30b Amendments, to merge substantive amendments. ←~~H~~

31 Utah Code Sections Affected:

32 AMENDS:

33 32A-1-105, as last amended by Laws of Utah 2008, Chapters 317, 322, and 391

34 32A-1-107, as last amended by Laws of Utah 2006, Chapter 162

35 32A-1-109, as last amended by Laws of Utah 2003, Chapter 314

36 32A-1-119, as last amended by Laws of Utah 2008, Chapters 317, 382, and 391

37 32A-1-119.5, as enacted by Laws of Utah 2008, Chapter 317

38 32A-4-106, as last amended by Laws of Utah 2008, Chapters 266 and 391

39 32A-4-206, as last amended by Laws of Utah 2008, Chapter 391

40 32A-4-307, as last amended by Laws of Utah 2008, Chapters 266 and 391

41 32A-4-406, as last amended by Laws of Utah 2008, Chapters 266, 382, and 391

42 32A-5-107, as last amended by Laws of Utah 2008, Chapters 266 and 391

43 32A-6-105, as last amended by Laws of Utah 2003, Chapter 314

44 32A-6-202, as last amended by Laws of Utah 2003, Chapter 314

45 32A-7-106, as last amended by Laws of Utah 2008, Chapters 266 and 391

46 32A-8-101, as last amended by Laws of Utah 2008, Chapter 391

47 32A-8-401, as last amended by Laws of Utah 2008, Chapter 391

48 32A-8-505, as last amended by Laws of Utah 2008, Chapter 391

49 32A-9-101, as last amended by Laws of Utah 1991, Chapter 241

50 32A-10-102, as last amended by Laws of Utah 2008, Chapter 391

51 32A-10-306, as last amended by Laws of Utah 2008, Chapter 391

52 32A-11-101, as last amended by Laws of Utah 2004, Chapter 268

53 32A-11-102, as last amended by Laws of Utah 2004, Chapter 268

54 32A-11-103, as last amended by Laws of Utah 2008, Chapter 382

55 32A-11-105, as renumbered and amended by Laws of Utah 1990, Chapter 23

56 32A-11-106, as last amended by Laws of Utah 2008, Chapter 391

57 32A-11a-101, as enacted by Laws of Utah 1998, Chapter 328

58 32A-11a-102, as last amended by Laws of Utah 2007, Chapter 272

- 59 **32A-11a-103**, as enacted by Laws of Utah 1998, Chapter 328
- 60 **32A-11a-105**, as enacted by Laws of Utah 1998, Chapter 328
- 61 **32A-11a-106**, as last amended by Laws of Utah 2003, Chapter 314
- 62 **32A-12-201**, as last amended by Laws of Utah 2004, Chapter 268
- 63 **32A-12-206**, as last amended by Laws of Utah 1991, Chapter 132
- 64 **32A-12-218**, as last amended by Laws of Utah 2003, Chapter 314
- 65 **32A-12-301**, as last amended by Laws of Utah 2008, Chapter 391
- 66 **32A-12-401**, as last amended by Laws of Utah 2007, Chapter 284

67 ENACTS:

- 68 **32A-11-201**, Utah Code Annotated 1953
- 69 **32A-11-202**, Utah Code Annotated 1953
- 70 **32A-11-203**, Utah Code Annotated 1953
- 71 **32A-11-204**, Utah Code Annotated 1953
- 72 **32A-11-205**, Utah Code Annotated 1953



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

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

76 **32A-1-105. Definitions.**

77 As used in this title:

78 (1) "Airport lounge" means a place of business licensed to sell an alcoholic beverage,
79 at retail, for consumption on its premises located at an international airport with a United States
80 Customs office on the premises of the international airport.

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

- 82 (a) beer;
- 83 (b) flavored malt beverage; and
- 84 (c) liquor, which [~~on or after October 1, 2008,~~] includes a flavored malt beverage.

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

- 86 (i) contains at least .5% of alcohol by volume; and
- 87 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
88 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
89 in an amount greater than the amount prescribed in Subsection (3)(a)(i).

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

- 92 (i) except as provided in Subsection (3)(c), extract;
- 93 (ii) vinegar;
- 94 (iii) cider;
- 95 (iv) essence;
- 96 (v) tincture;
- 97 (vi) food preparation; or
- 98 (vii) an over-the-counter drug or medicine.

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

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

102 (a) at which an alcoholic beverage is:

- 103 (i) stored; or
- 104 (ii) dispensed; or

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

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

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

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

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

111 (c) Beer includes a product that:

112 (i) contains alcohol in the percentages described in Subsection (5)(a); and

113 (ii) is referred to as:

114 (A) beer;

115 (B) ale;

116 (C) porter;

117 (D) stout;

118 (E) lager; or

119 (F) a malt or malted beverage.

120 (d) [~~On or after October 1, 2008, "beer"~~] "Beer" does not include a flavored malt

121 beverage.

122 (6) (a) "Beer retailer" means a business that is:

123 (i) engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for
124 consumption on or off the business premises; and

125 (ii) licensed to sell beer by:

126 (A) the commission;

127 (B) a local authority; or

128 (C) both the commission and a local authority.

129 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
130 beer to a patron for consumption off the beer retailer's premises.

131 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.

132 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to a
133 patron for consumption on the beer retailer's premises, regardless of whether the business sells
134 beer for consumption off the beer retailer's premises.

135 (7) "Beer wholesaler licensee" means a business that is licensed by the commission
136 under this title to act as a wholesaler.

137 [~~(7)~~] (8) "Billboard" means a public display used to advertise including:

138 (a) a light device;

139 (b) a painting;

140 (c) a drawing;

141 (d) a poster;

142 (e) a sign;

143 (f) a signboard; or

144 (g) a scoreboard.

145 [~~(8)~~] (9) "Brewer" means a person engaged in manufacturing:

146 (a) beer;

147 (b) heavy beer; or

148 (c) a flavored malt beverage.

149 [~~(9)~~] (10) "Cash bar" means the service of an alcoholic beverage:

150 (a) at:

151 (i) a banquet; or

- 152 (ii) a temporary event for which a permit is issued under this title; and
- 153 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
- 154 beverage.
- 155 [~~(10)~~] (11) "Chartered bus" means a passenger bus, coach, or other motor vehicle
- 156 provided by a bus company to a group of persons pursuant to a common purpose:
- 157 (a) under a single contract;
- 158 (b) at a fixed charge in accordance with the bus company's tariff; and
- 159 (c) for the purpose of giving the group of persons the exclusive use of the passenger
- 160 bus, coach, or other motor vehicle and a driver to travel together to one or more specified
- 161 destinations.
- 162 [~~(11)~~] (12) "Church" means a building:
- 163 (a) set apart for the purpose of worship;
- 164 (b) in which religious services are held;
- 165 (c) with which clergy is associated; and
- 166 (d) which is tax exempt under the laws of this state.
- 167 [~~(12)~~] (13) "Club" and "private club" means any of the following organized primarily
- 168 for the benefit of its members:
- 169 (a) a social club;
- 170 (b) a recreational association;
- 171 (c) a fraternal association;
- 172 (d) an athletic association; or
- 173 (e) a kindred association.
- 174 [~~(13)~~] (14) "Commission" means the Alcoholic Beverage Control Commission.
- 175 [~~(14)~~] (15) "Community location" means:
- 176 (a) a public or private school;
- 177 (b) a church;
- 178 (c) a public library;
- 179 (d) a public playground; or
- 180 (e) a public park.
- 181 [~~(15)~~] (16) "Community location governing authority" means:
- 182 (a) the governing body of the community location; or

183 (b) if the commission does not know who is the governing body of a community
184 location, a person who appears to the commission to have been given on behalf of the
185 community location authority to prohibit an activity at the community location.

186 [~~(16)~~] (17) "Department" means the Department of Alcoholic Beverage Control.

187 [~~(17)~~] (18) "Disciplinary proceeding" means an adjudicative proceeding permitted
188 under this title:

189 (a) against:

190 (i) a permittee;

191 (ii) a licensee;

192 (iii) a manufacturer;

193 (iv) a supplier;

194 (v) an importer;

195 (vi) an out-of-state brewer holding a certificate of approval under Section 32A-8-101;

196 or

197 (vii) an officer, employee, or agent of:

198 (A) a person listed in Subsections [~~(17)~~] (18)(a)(i) through (vi); or

199 (B) a package agent; and

200 (b) that is brought on the basis of a violation of this title.

201 [~~(18)~~] (19) "Director," unless the context requires otherwise, means the director
202 appointed under Section 32A-1-108.

203 [~~(19)~~] (20) "Distressed merchandise" means an alcoholic beverage in the possession of
204 the department that is saleable, but for some reason is unappealing to the public.

205 [~~(20)~~] (21) "Flavored malt beverage" means a beverage:

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

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

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

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

214 (ii) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.
215 [~~21~~] (22) "Guest" means a person accompanied by an active member or visitor of a
216 club who enjoys only those privileges derived from the host for the duration of the visit to the
217 club.

218 [~~22~~] (23) (a) "Heavy beer" means a product that:
219 (i) contains more than 4% alcohol by volume; and
220 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
221 (b) "Heavy beer" is considered "liquor" for the purposes of this title.

222 [~~23~~] (24) "Hosted bar" means the service of an alcoholic beverage:
223 (a) without charge; and
224 (b) at a:
225 (i) banquet; or
226 (ii) privately hosted event.

227 [~~24~~] (25) "Identification card" means an identification card issued under Title 53,
228 Chapter 3, Part 8, Identification Card Act.

229 [~~25~~] (26) "Interdicted person" means a person to whom the sale, gift, or provision of
230 an alcoholic beverage is prohibited by:
231 (a) law; or
232 (b) court order.

233 [~~26~~] (27) "Intoxicated" means that to a degree that is unlawful under Section
234 76-9-701 a person is under the influence of:
235 (a) an alcoholic beverage;
236 (b) a controlled substance;
237 (c) a substance having the property of releasing toxic vapors; or
238 (d) a combination of Subsections [~~26~~] (27)(a) through (c).

239 [~~27~~] (28) "Licensee" means a person issued a license by the commission to sell,
240 manufacture, store, or allow consumption of an alcoholic beverage on premises owned or
241 controlled by the person.

242 [~~28~~] (29) "Limousine" means a motor vehicle licensed by the state or a local
243 authority, other than a bus or taxicab:
244 (a) in which the driver and a passenger are separated by a partition, glass, or other

245 barrier; and

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

249 ~~[(29)]~~ (30) (a) (i) "Liquor" means alcohol, or an alcoholic, spirituous, vinous,
250 fermented, malt, or other liquid, or combination of liquids, a part of which is spirituous,
251 vinous, or fermented, or other drink, or drinkable liquid that:

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

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

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

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

256 ~~[(30)]~~ (31) "Local authority" means:

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

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

261 ~~[(31)]~~ (32) "Manufacture" means to distill, brew, rectify, mix, compound, process,
262 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
263 others.

264 ~~[(32)]~~ (33) "Member" means a person who, after paying regular dues, has full
265 privileges of a club under this title.

266 ~~[(33)]~~ (34) (a) "Military installation" means a base, air field, camp, post, station, yard,
267 center, or homeport facility for a ship:

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

269 (B) of the National Guard;

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

271 (iii) including a leased facility.

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

273 (i) civil works;

274 (ii) a rivers and harbors project; or

275 (iii) a flood control project.

276 [~~34~~] (35) "Minor" means an individual under the age of 21 years.

277 [~~35~~] (36) "Nude," "nudity," or "state of nudity" means:

278 (a) the appearance of:

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

280 (ii) a human genital;

281 (iii) a human pubic area; or

282 (iv) a human anus; or

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

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

285 (ii) a human genital;

286 (iii) a human pubic area; or

287 (iv) a human anus.

288 [~~36~~] (37) "Outlet" means a location other than a state store or package agency where
289 an alcoholic beverage is sold pursuant to a license issued by the commission.

290 [~~37~~] (38) "Package" means any of the following containing liquor:

291 (a) a container;

292 (b) a bottle;

293 (c) a vessel; or

294 (d) other receptacle.

295 [~~38~~] (39) "Package agency" means a retail liquor location operated:

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

297 (b) by a person:

298 (i) other than the state; and

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

301 [~~39~~] (40) "Package agent" means a person permitted by the commission to operate a
302 package agency pursuant to a contractual agreement with the department to sell liquor from
303 premises that the package agent shall provide and maintain.

304 [~~40~~] (41) "Permittee" means a person issued a permit by the commission to perform
305 an act or exercise a privilege as specifically granted in the permit.

306 [~~41~~] (42) "Person" means an individual, partnership, firm, corporation, limited

307 liability company, association, business trust, or other form of business enterprise, including a
308 receiver or trustee, and the plural as well as the singular number, unless the intent to give a
309 more limited meaning is disclosed by the context.

310 ~~[(42)]~~ (43) "Premises" means a building, enclosure, room, or equipment used in
311 connection with the sale, storage, service, manufacture, distribution, or consumption of an
312 alcoholic product, unless otherwise defined in this title or in the rules adopted by the
313 commission.

314 ~~[(43)]~~ (44) "Prescription" means a writing in legal form, signed by a physician or
315 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

316 ~~[(44)]~~ (45) (a) "Privately hosted event" or "private social function" means a specific
317 social, business, or recreational event:

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

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

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

324 ~~[(45)]~~ (46) (a) "Proof of age" means:

325 (i) an identification card;

326 (ii) an identification that:

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

328 (B) is issued in accordance with the laws of a state other than Utah in which the
329 identification is issued;

330 (C) includes date of birth; and

331 (D) has a picture affixed;

332 (iii) a valid driver license certificate that:

333 (A) includes date of birth;

334 (B) has a picture affixed; and

335 (C) is issued:

336 (I) under Title 53, Chapter 3, Uniform Driver License Act; or

337 (II) in accordance with the laws of the state in which it is issued;

338 (iv) a military identification card that:

339 (A) includes date of birth; and

340 (B) has a picture affixed; or

341 (v) a valid passport.

342 (b) "Proof of age" does not include a driving privilege card issued in accordance with
343 Section 53-3-207.

344 [~~46~~] (47) (a) "Public building" means a building or permanent structure owned or
345 leased by the state, a county, or local government entity that is used for:

346 (i) public education;

347 (ii) transacting public business; or

348 (iii) regularly conducting government activities.

349 (b) "Public building" does not mean or refer to a building owned by the state or a
350 county or local government entity when the building is used by a person, in whole or in part,
351 for a proprietary function.

352 (48) "Qualifying heavy beer" is as defined in Section 32A-11-202.

353 [~~47~~] (49) "Representative" means an individual who is compensated by salary,
354 commission, or other means for representing and selling an alcoholic beverage product of a
355 manufacturer, supplier, or importer of liquor including:

356 (a) wine;

357 (b) heavy beer; or

358 (c) [~~on or after October 1, 2008;~~] a flavored malt beverage.

359 [~~48~~] (50) "Residence" means a person's principal place of abode within Utah.

360 [~~49~~] (51) "Restaurant" means a business establishment:

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

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

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

366 [~~50~~] (52) "Retailer" means a person engaged in the sale or distribution of an alcoholic
367 beverage to a consumer.

368 [~~51~~] (53) (a) "Sample" includes:

369 (i) a department sample; and

370 (ii) an industry representative sample.

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

373 (i) wine;

374 (ii) heavy beer; or

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

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

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

381 (ii) including:

382 (A) wine;

383 (B) heavy beer; or

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

385 [~~(52)~~] (54) (a) "School" means a building used primarily for the general education of
386 minors.

387 (b) "School" does not include:

388 (i) a nursery school;

389 (ii) an infant day care center; or

390 (iii) a trade or technical school.

391 [~~(53)~~] (55) "Sell," "sale," and "to sell" means a transaction, exchange, or barter
392 whereby, for consideration, an alcoholic beverage is either directly or indirectly transferred,
393 solicited, ordered, delivered for value, or by a means or under a pretext is promised or
394 obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or
395 employee, unless otherwise defined in this title or the rules made by the commission.

396 [~~(54)~~] (56) "Seminude," "seminudity," or "state of seminudity" means a state of dress in
397 which opaque clothing covers no more than:

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

- 400 (b) the human genitals, pubic area, and anus:
- 401 (i) with no less than the following at its widest point:
- 402 (A) four inches coverage width in the front of the human body; and
- 403 (B) five inches coverage width in the back of the human body; and
- 404 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 405 [~~55~~] (57) "Sexually oriented entertainer" means a person who while in a state of
- 406 seminudity appears at or performs:
- 407 (a) for the entertainment of one or more patrons;
- 408 (b) on the premises of:
- 409 (i) a class D private club as defined in Subsection 32A-5-101(3); or
- 410 (ii) a tavern;
- 411 (c) on behalf of or at the request of the licensee described in Subsection [~~55~~] (57)(b);
- 412 (d) on a contractual or voluntary basis; and
- 413 (e) whether or not the person is designated:
- 414 (i) an employee of the licensee described in Subsection [~~55~~] (57)(b);
- 415 (ii) an independent contractor of the licensee described in Subsection [~~55~~] (57)(b);
- 416 (iii) an agent of the licensee described in Subsection [~~55~~] (57)(b); or
- 417 (iv) otherwise of the licensee described in Subsection [~~55~~] (57)(b).
- 418 [~~56~~] (58) "Small brewer" means a brewer who manufactures less than 60,000 barrels
- 419 of beer, heavy beer, and flavored malt beverages per year.
- 420 [~~57~~] (59) (a) "Spirituous liquor" means liquor that is distilled.
- 421 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27
- 422 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.
- 423 [~~58~~] (60) (a) "State label" means the official label designated by the commission
- 424 affixed to a liquor container sold in the state.
- 425 (b) "State label" includes the department identification mark and inventory control
- 426 number.
- 427 [~~59~~] (61) (a) "State store" means a facility for the sale of package liquor:
- 428 (i) located on premises owned or leased by the state; and
- 429 (ii) operated by a state employee.
- 430 (b) "State store" does not apply to a:

- 431 (i) licensee;
- 432 (ii) permittee; or
- 433 (iii) package agency.
- 434 [~~(60)~~] (62) "Supplier" means a person selling an alcoholic beverage to the department.
- 435 [~~(61)~~] (63) (a) "Tavern" means a business establishment that is:
 - 436 (i) engaged primarily in the retail sale of beer to a public patron for consumption on the
 - 437 establishment's premises; and
 - 438 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.
- 439 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the
- 440 revenue of the sale of food, although food need not be sold in the establishment:
 - 441 (i) a beer bar;
 - 442 (ii) a parlor;
 - 443 (iii) a lounge;
 - 444 (iv) a cabaret; or
 - 445 (v) a nightclub.
- 446 [~~(62)~~] (64) "Temporary domicile" means the principal place of abode within Utah of a
- 447 person who does not have a present intention to continue residency within Utah permanently or
- 448 indefinitely.
- 449 [~~(63)~~] (65) "Unsaleable liquor merchandise" means merchandise that:
 - 450 (a) is unsaleable because the merchandise is:
 - 451 (i) unlabeled;
 - 452 (ii) leaky;
 - 453 (iii) damaged;
 - 454 (iv) difficult to open; or
 - 455 (v) partly filled;
 - 456 (b) is in a container:
 - 457 (i) having faded labels or defective caps or corks;
 - 458 (ii) in which the contents are:
 - 459 (A) cloudy;
 - 460 (B) spoiled; or
 - 461 (C) chemically determined to be impure; or

462 (iii) that contains:

463 (A) sediment; or

464 (B) a foreign substance; or

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

466 [(64)] (66) "Visitor" means an individual that in accordance with Section 32A-5-107
467 holds limited privileges in a private club by virtue of a visitor card.

468 [(65)] (67) "Warehouser" means a person, other than a licensed manufacturer, engaged
469 in the importation for sale, storage, or distribution of liquor regardless of amount.

470 [(66)] (68) (a) "Wholesaler" means a person engaged in the importation for sale, or in
471 the sale of:

472 (i) beer in wholesale or jobbing quantities to one or more retailers[-]; or

473 (ii) heavy beer in accordance with Chapter 11, Part 2, Heavy Beer Wholesaling Act.

474 (b) Notwithstanding Subsection [(66)] (68)(a), "wholesaler" does not include a small
475 brewer selling beer manufactured by that brewer.

476 [(67)] (69) (a) "Wine" means an alcoholic beverage obtained by the fermentation of the
477 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
478 another ingredient is added.

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

481 Section 2. Section 32A-1-107 is amended to read:

482 **32A-1-107. Powers and duties of the commission.**

483 (1) The commission shall:

484 (a) act as a general policymaking body on the subject of alcoholic product control;

485 (b) adopt and issue policies, directives, rules, and procedures;

486 (c) set policy by written rules that establish criteria and procedures for:

487 (i) granting, denying, suspending, or revoking [~~permits, licenses, certificates of~~
488 ~~approval, and package agencies~~] a permit, license, certificate of approval, or package agency;

489 (ii) controlling liquor merchandise inventory including:

490 (A) listing and delisting [~~products~~] a product;

491 (B) the procedures for testing a new [~~products~~] product;

492 (C) purchasing policy;

- 493 (D) turnover requirements for a regularly coded [~~products~~] product to be continued;
- 494 [~~and~~]
- 495 (E) the disposition of discontinued, distressed, or unsaleable merchandise; and
- 496 (F) what heavy beers may be sold by a beer wholesaler licensee in accordance with
- 497 Chapter 11, Part 2, Heavy Beer Wholesaling Act; and
- 498 (iii) determining the location of a state [~~stores, package agencies, and outlets~~] store,
- 499 package agency, or outlet;
- 500 (d) decide within the limits and under the conditions imposed by this title, the number
- 501 and location of state stores, package agencies, and outlets established in the state;
- 502 (e) issue, grant, deny, suspend, revoke, or not renew the following permits, licenses,
- 503 certificates of approval, and package agencies for the purchase, sale, storage, service,
- 504 manufacture, distribution, and consumption of an alcoholic [~~products~~] product:
- 505 (i) a package [~~agencies~~] agency;
- 506 (ii) a restaurant [~~licenses~~] license;
- 507 (iii) an airport lounge [~~licenses~~] license;
- 508 (iv) a limited restaurant [~~licenses~~] license;
- 509 (v) an on-premise banquet [~~licenses~~] license;
- 510 (vi) a private club [~~licenses~~] license;
- 511 (vii) an on-premise beer retailer [~~licenses~~] license;
- 512 (viii) a temporary special event beer [~~permits~~] permit;
- 513 (ix) a special use [~~permits~~] permit;
- 514 (x) a single event [~~permits~~] permit;
- 515 (xi) a manufacturing [~~licenses~~] license;
- 516 (xii) a liquor warehousing [~~licenses~~] license;
- 517 (xiii) a beer wholesaling [~~licenses~~] license; and
- 518 (xiv) an out-of-state brewer [~~certificates~~] certificate of approval;
- 519 (f) fix prices at which [~~liquors are~~] liquor is sold that are the same at all state stores,
- 520 package agencies, and outlets[;], except that:
- 521 (i) the commission may not set the prices at which a beer wholesaler licensee may sell
- 522 heavy beer to a liquor retailer as provided in Chapter 11, Part 2, Heavy Beer Wholesaling Act;
- 523 and

524 (ii) the price fixed by the commission for a liquor retailer to sell heavy beer on draft
525 may reflect that the heavy beer is sold at a price set by the beer wholesaler licensee;
526 (g) issue and distribute price lists showing the price to be paid by [~~purchasers~~] a
527 purchaser for each class, variety, or brand of liquor kept for sale by the department;
528 (h) (i) require the director to follow sound management principles; and
529 (ii) require periodic reporting from the director to ensure that:
530 (A) sound management principles are being followed; and
531 (B) policies established by the commission are being observed;
532 (i) (i) receive, consider, and act in a timely manner upon [~~all~~] the reports,
533 recommendations, and matters submitted by the director to the commission; and
534 (ii) do [~~all~~] the things necessary to support the department in properly performing the
535 department's duties and responsibilities;
536 (j) obtain temporarily and for special purposes the services of [~~experts and persons~~] an
537 expert or person engaged in the practice of a profession or who possess any needed skills,
538 talents, or abilities if:
539 (i) considered expedient; and
540 (ii) approved by the governor;
541 (k) prescribe the duties of a departmental [~~officials~~] official authorized to assist the
542 commission in issuing [~~permits, licenses, certificates of approval, and package agencies~~] a
543 permit, license, certificate of approval, or package agency under this title;
544 (l) prescribe, consistent with this title, the fees payable for:
545 (i) [~~permits, licenses, certificates of approval, and package agencies~~] a permit, license,
546 certificate of approval, or package agency issued under this title; or
547 (ii) anything done or permitted to be done under this title;
548 (m) prescribe the conduct, management, and equipment of [~~any~~] premises upon which
549 an alcoholic [~~beverages~~] beverage may be sold, consumed, served, or stored;
550 (n) make rules governing the credit terms of:
551 (i) a beer [~~sales to retailers~~] sale to a retailer within the state; and
552 (ii) a heavy beer sale to a liquor retailer within the state in accordance with Chapter 11,
553 Part 2, Heavy Beer Wholesaling Act;
554 (o) require that each of the following, where required in this title, display in a

555 prominent place a sign in large letters stating: "Warning: Driving under the influence of alcohol
556 or drugs is a serious crime that is prosecuted aggressively in Utah.":

557 (i) a state store;

558 (ii) a permittee;

559 (iii) a licensee; and

560 (iv) a package agency; and

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

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

563 (1)(e); or

564 (ii) any officer, employee, or agent of a permittee, licensee, certificate holder, or

565 package agent described in Subsection (1)(p)(i).

566 (2) The power of the commission to do the following is plenary, except as otherwise

567 provided by this title, and not subject to review:

568 (a) establish a state [stores] store;

569 (b) create a package [agencies] agency;

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

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

573 (3) The commission may appoint a qualified hearing [examiners] examiner to conduct

574 [~~any~~] a suspension or revocation [hearings] hearing required by law.

575 (4) (a) In [~~any~~] a case [where] when the commission [~~is given~~] has the power to

576 suspend [~~any~~] a permit, license, certificate of approval, or package agency the commission may

577 impose a fine in addition to or in lieu of suspension.

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

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

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

581 (c) The commission shall promulgate, by rule, a schedule setting forth a range of fines

582 for each violation.

583 Section 3. Section **32A-1-109** is amended to read:

584 **32A-1-109. Powers and duties of the director.**

585 Subject to the powers and responsibilities vested in the commission by this title the

586 director shall:

587 (1) prepare and propose to the commission one or more general policies, directives,
588 rules, and procedures governing the administrative activities of the department, and may
589 submit other recommendations to the commission as the director considers in the interest of
590 ~~[its]~~ the commission's or the department's business;

591 (2) within the general policies, directives, rules, and procedures of the commission~~[-];~~

592 (a) provide day-to-day direction, coordination, and delegation of responsibilities in the
593 administrative activities of the department's business; and ~~[promulgate]~~

594 (b) make one or more internal department policies, directives, rules, and procedures
595 relating to department personnel matters, and the day-to-day operation of the department
596 consistent with those of the commission;

597 (3) (a) appoint or employ personnel as considered necessary in the administration of
598 this title ~~[and];~~

599 (b) prescribe the conditions of ~~[their]~~ employment~~[-, define their]~~ for the personnel
600 described in Subsection (3)(a);

601 (c) define the respective duties and powers~~[-, fix their]~~ for the personnel described in
602 Subsection (3)(a);

603 (d) fix the remuneration in accordance with Title 67, Chapter 19, Utah State Personnel
604 Management Act, for the personnel described in Subsection (3)(a); and

605 (e) designate those employees required to give ~~[bonds]~~ a bond and specify the bond
606 amounts;

607 (4) establish and secure adherence to a system of reports, controls, and performance in
608 ~~[all]~~ matters relating to personnel, security, department property management, and operation of
609 ~~[department offices, warehouses, state stores, package agencies, and licensees];~~

610 (a) a department office;

611 (b) a warehouse;

612 (c) a state store;

613 (d) a package agency; and

614 (e) a licensee;

615 (5) within the policies, directives, rules, and procedures approved by the commission
616 and provisions of law, buy, import, keep for sale, sell and control the sale, storage, service,

- 617 transportation, and delivery of an alcoholic [~~products~~] product;
- 618 (6) prepare for commission approval:
- 619 (a) recommendations regarding the location, establishment, relocation, and closure of a
- 620 state [~~stores and package agencies~~] store or package agency;
- 621 (b) recommendations regarding the issuance, suspension, nonrenewal, and revocation
- 622 of [~~licenses and permits~~] a license or permit;
- 623 (c) an annual [~~budgets~~] budget, proposed legislation, and one or more reports as
- 624 required by law and sound business principles;
- 625 (d) plans for reorganizing divisions of the department and [~~their~~] the functions of the
- 626 divisions;
- 627 (e) one or more manuals containing [~~all~~] the commission and department policies,
- 628 directives, rules, and procedures;
- 629 (f) an inventory control system;
- 630 (g) any other [~~reports and recommendations~~] report or recommendation as may be
- 631 requested by the commission;
- 632 (h) rules governing the credit terms of the sale of:
- 633 (i) beer [~~sales~~] to a beer retailer [~~licensees~~]; licensee; or
- 634 (ii) heavy beer to a liquor retailer within the state in accordance with Chapter 11, Part
- 635 2, Heavy Beer Wholesaling Act;
- 636 (i) rules governing the calibration, maintenance, and regulation of a calibrated metered
- 637 dispensing [~~systems~~] system;
- 638 (j) rules governing the posting of a list of types and brand names of liquor being served
- 639 through a calibrated metered dispensing [~~systems~~] system;
- 640 (k) one or more price lists issued and distributed showing the price to be paid for each
- 641 class, variety, or brand of liquor kept for sale at a state [~~stores, package agencies, and outlets~~]
- 642 store, package agency, or outlet;
- 643 (l) one or more directives prescribing the books of account kept by the department and
- 644 by a state [~~stores, package agencies, and outlets~~] store, package agency, or outlet;
- 645 (m) an official state label and the manner in which the label shall be affixed to [~~every~~]
- 646 a package of liquor sold under this title; and
- 647 (n) a policy prescribing the manner of giving and serving [~~notices~~] a notice required by

648 this title or rules made under this title;

649 (7) make available through the department to ~~[any]~~ a person, upon request, a copy of
650 ~~[any]~~ a policy or directive ~~[promulgated]~~ made by the director;

651 ~~[(8) adopt internal departmental policies, directives, rules, and procedures relating to~~
652 ~~department personnel matters and the day-to-day operation of the department that are~~
653 ~~consistent with those of the commission;]~~

654 ~~[(9)]~~ (8) keep a current copy of ~~[the manuals containing]~~ a manual that contains the
655 rules and policies of the department and commission available for public inspection;

656 ~~[(10)]~~ (9) (a) after consultation with the governor, determine whether an alcoholic
657 ~~[products]~~ product should not be sold, offered for sale, or otherwise furnished in an area of the
658 state during a period of emergency that is proclaimed by the governor to exist in that area; and

659 (b) issue ~~[any]~~ a necessary public ~~[announcements and directives]~~ announcement or
660 directive with respect to the determination described in Subsection ~~[(10)]~~ (9)(a); and

661 ~~[(11)]~~ (10) perform other duties required by the commission and by law.

662 Section 4. Section **32A-1-119** is amended to read:

663 **32A-1-119. Disciplinary proceedings -- Procedure.**

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

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

669 (i) the commission;

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

672 (iii) the director; and

673 (iv) the department.

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

677 (i) the commission;

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

679 (iii) the director; and

680 (iv) the department.

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

683 (i) video or audio recorded; and

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

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

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

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

695 (b) (i) Nothing in this section precludes the commission from appointing a necessary
696 officer, including a hearing examiner, from within or without the department, to administer the
697 disciplinary proceeding process.

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

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

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

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

703 (II) conclusions of law; and

704 (III) recommendations.

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

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

709 (a) The department may initiate a disciplinary proceeding described in Subsection

710 (4)(b) if the department receives:

711 (i) a report from a government agency, peace officer, examiner, or investigator alleging
712 that a person listed in Subsections 32A-1-105[(17)](18)(a)(i) through (vii) violated this title or
713 the rules of the commission;

714 (ii) a final adjudication of criminal liability against a person listed in Subsections
715 32A-1-105[(17)](18)(a)(i) through (vii) based on an alleged violation of this title; or

716 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage
717 Liability, against a person listed in Subsections 32A-1-105[(17)](18)(a)(i) through (vii) based
718 on an alleged violation of this title.

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

721 (i) whether a person listed in Subsections 32A-1-105[(17)](18)(a)(i) through (vii)
722 violated this title or rules of the commission; and

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

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

725 (i) if required by law;

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

728 (iii) before imposing a fine against a person listed in Subsections
729 32A-1-105[(17)](18)(a)(i) through (vii).

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

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

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

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

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

- 741 (A) administer [~~oaths or affirmations~~] an oath or affirmation;
- 742 (B) take evidence;
- 743 (C) take a deposition within or without this state; and
- 744 (D) require by subpoena from a place within this state:
- 745 (I) the testimony of a person at a hearing; and
- 746 (II) the production of a book, record, paper, contract, agreement, document, or other
- 747 evidence considered relevant to the inquiry.
- 748 (ii) A person subpoenaed in accordance with this Subsection (5)(f) shall testify and
- 749 produce a book, paper, document, or tangible thing as required in the subpoena.
- 750 (iii) A witness subpoenaed or called to testify or produce evidence who claims a
- 751 privilege against self-incrimination may not be compelled to testify, but the commission or the
- 752 hearing examiner shall file a written report with the county attorney or district attorney in the
- 753 jurisdiction where the privilege is claimed or where the witness resides setting forth the
- 754 circumstance of the claimed privilege.
- 755 (iv) (A) A person is not excused from obeying a subpoena without just cause.
- 756 (B) A district court within the judicial district in which a person alleged to be guilty of
- 757 willful contempt of court or refusal to obey a subpoena is found or resides, upon application by
- 758 the party issuing the subpoena, may issue an order requiring the person to:
- 759 (I) appear before the issuing party; and
- 760 (II) (Aa) produce documentary evidence if so ordered; or
- 761 (Bb) give evidence regarding the matter in question.
- 762 (C) Failure to obey an order of the court may be punished by the court as contempt.
- 763 (g) (i) In a disciplinary proceeding hearing heard by a hearing examiner, the hearing
- 764 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.
- 765 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not
- 766 recommend a penalty more severe than that initially sought by the department in the notice of
- 767 agency action.
- 768 (iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
- 769 shall be served upon the respective parties.
- 770 (iv) The respondent and the department shall be given reasonable opportunity to file a
- 771 written objection to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)

772 before final commission action.

773 (h) In a case heard by the commission, it shall issue its final decision and order in
774 accordance with Subsection (3).

775 (6) (a) The commission shall:

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

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

778 (b) An order of the commission is considered final on the date the order becomes
779 effective.

780 (c) If the commission is satisfied that a person listed in Subsections
781 32A-1-105~~[(17)]~~(18)(a)(i) through (vii) violated this title or the commission's rules, in
782 accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:

783 (i) suspend or revoke the permit, license, or certificate of approval;

784 (ii) impose a fine against a person listed in Subsections 32A-1-105~~[(17)]~~(18)(a)(i)
785 through (vii);

786 (iii) assess the administrative costs of a disciplinary proceeding to the permittee, the
787 licensee, or certificate holder; or

788 (iv) take a combination of actions described in Subsections (6)(c)(i) through (iii).

789 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections
790 32A-1-107(1)(p) and (4).

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

793 (A) during the suspension; and

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

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

796 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the
797 alcoholic beverage license or permit of this establishment. ~~[Alcoholic beverages]~~ An alcoholic
798 beverage may not be sold, served, furnished, or consumed on these premises during the period
799 of suspension."; and

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

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

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

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

808 (h) The commission shall transfer [aH] costs assessed into the General Fund in
809 accordance with Section 32A-1-113.

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

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

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

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

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

822 (i) a manufacturer, supplier, or importer of an alcoholic beverage; or

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

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

827 (A) the removal of the manufacturer's, supplier's, or importer's one or more products
828 from the department's sales list; and

829 (B) a suspension of the department's purchase of the one or more products described in
830 Subsection (8)(b)(i)(A) for a period determined by the commission.

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

832 (A) a manufacturer, supplier, or importer of liquor, wine, heavy beer, or a flavored malt
833 beverage, or its officer, employee, agent, or representative violates this title; and

834 (B) the manufacturer, supplier, or importer:
835 (I) directly commits the violation; or
836 (II) solicits, requests, commands, encourages, or intentionally aids another to engage in
837 the violation.

838 (9) Subject to Section 32A-1-119.5:

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

842 (b) If the commission makes a finding that the brewer holding a certificate of approval
843 violates this title or rules of the commission, the commission may take an action against the
844 brewer holding a certificate of approval that the commission could take against a licensee
845 including:

- 846 (i) suspension or revocation of the certificate of approval; and
- 847 (ii) imposition of a fine.

848 (10) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by
849 the commission or a hearing examiner appointed by the commission shall proceed formally in
850 accordance with Sections 63G-4-204 through 63G-4-209 in a case where:

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

853 (ii) the alleged violation involves:

854 (A) selling, serving, or otherwise furnishing an alcoholic product to a minor;

855 (B) attire, conduct, or entertainment prohibited by Part 6, Attire, Conduct, and
856 Entertainment Act;

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

859 (D) interfering or refusing to cooperate with:

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

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

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

- 865 (F) unlawful importation of an alcoholic product; or
- 866 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection
- 867 32A-12-601(2)[;];
- 868 (I) to a person other than;
- 869 (Aa) the department; or
- 870 (Bb) a military installation[;]; and
- 871 (II) except to the extent permitted by this title, including Chapter 11, Part 2, Heavy
- 872 Beer Wholesaling Act; or
- 873 (iii) the department determines to seek in a disciplinary proceeding hearing:
- 874 (A) an administrative fine exceeding \$3,000;
- 875 (B) a suspension of a license, permit, or certificate of approval of more than ten days;
- 876 or
- 877 (C) a revocation of a license, permit, or certificate of approval.
- 878 (b) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
- 879 Administrative Rulemaking Act, to provide a procedure to implement this Subsection (10).
- 880 Section 5. Section **32A-1-119.5** is amended to read:
- 881 **32A-1-119.5. Timing of reporting violations.**
- 882 (1) As used in this section:
- 883 (a) "Department compliance officer" means an individual who is:
- 884 (i) an auditor or inspector; and
- 885 (ii) employed by the department.
- 886 (b) "Nondepartment enforcement agency" means an agency that:
- 887 (i) (A) is a state agency other than the department; or
- 888 (B) is an agency of a county, city, or town; and
- 889 (ii) has a responsibility, as provided in another provision of this title, to enforce one or
- 890 more provisions of this title.
- 891 (c) "Nondepartment enforcement officer" means an individual who is:
- 892 (i) a peace officer, examiner, or investigator; and
- 893 (ii) employed by an agency described in Subsection (1)(b).
- 894 (2) A disciplinary proceeding may not be initiated or maintained by the commission or
- 895 department on the basis, in whole or in part, of a violation of this title unless a person listed in

896 Subsections 32A-1-105[~~(15)~~](18)(a)(i) through (vi) against whom the violation is alleged is
897 notified by the department of the violation in accordance with this section.

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

902 (b) If the commission or department wants the right to initiate or maintain a
903 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a
904 report described in Subsection (3)(a), the department shall notify a person listed in Subsections
905 32A-1-105[~~(15)~~](18)(a)(i) through (vi) alleged by the report to have violated this title:

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

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

910 (4) 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 by
912 report of a department compliance officer, the department shall notify a person listed in
913 Subsections 32A-1-105[~~(15)~~](18)(a)(i) through (vi) alleged by the report to have violated this
914 title:

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

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

919 (5) The notice described in Subsection (2), (3)(b), or (4) is not required with respect to
920 a person listed in Subsection 32A-1-105[~~(15)~~](18)(a)(vii).

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

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

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

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

928 (b) the date of the notification.

929 Section 6. Section **32A-4-106** is amended to read:

930 **32A-4-106. Operational restrictions.**

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

935 (1) (a) [~~Liquor~~] Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling
936 Act, liquor may not be purchased by a restaurant liquor licensee except from a state store or
937 package agency.

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

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

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

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

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

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

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

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

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

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

958 (ii) in the preparation of a flaming food dish, drink, or dessert;
959 (c) a restaurant patron may have no more than 2.5 ounces of spirituous liquor at a time;
960 and

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

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

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

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

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

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

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

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

977 (4) (a) A restaurant liquor licensee may serve heavy beer:

978 (i) at a price fixed by the commission; and

979 (ii) (A) in an original container not exceeding one liter; or

980 (B) subject to Subsection (4)(c):

981 (I) in an open container; and

982 (II) on draft.

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

985 (c) A restaurant liquor licensee shall sell heavy beer sold pursuant to Subsection
986 (4)(a)(ii)(B) in a size of container that does not exceed two liters, except that heavy beer may
987 not be sold to an individual patron in a size of container that exceeds one liter.

988 [~~(e)~~] (d) A service charge may be assessed by a restaurant liquor licensee as authorized

989 by commission rule for heavy beer or a flavored malt beverage purchased at the restaurant.

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

992 (A) in an open container; and

993 (B) on draft.

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

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

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

1000 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1001 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
1002 inconsistent with or less restrictive than the operational restrictions under this part.

1003 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1004 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
1005 restaurant's:

1006 (i) state liquor license; and

1007 (ii) alcoholic beverage license issued by the local authority.

1008 (6) An alcoholic beverage may not be stored, served, or sold in a place other than as
1009 designated in the restaurant liquor licensee's application, unless the restaurant liquor licensee
1010 first applies for and receives approval from the department for a change of location within the
1011 restaurant.

1012 (7) (a) (i) A patron may only make an alcoholic beverage purchase in the restaurant
1013 from and be served by a person employed, designated, and trained by the restaurant liquor
1014 licensee to sell and serve an alcoholic beverage.

1015 (ii) Notwithstanding Subsection (7)(a)(i), a patron who purchases bottled wine from an
1016 employee of the restaurant or carries bottled wine onto the premises of the restaurant pursuant
1017 to Subsection (14) may thereafter serve wine from the bottle to the patron or others at the
1018 patron's table.

1019 (b) An alcoholic beverage shall be delivered by a server to the patron.

- 1020 (c) An alcoholic beverage may only be consumed at the patron's table or counter.
- 1021 (d) An alcoholic beverage may not be served to or consumed by a patron at a bar.
- 1022 (e) A restaurant patron may have no more than two alcoholic beverages of any kind at a
1023 time before the patron, subject to the limitation in Subsection (2)(d).
- 1024 (8) The liquor storage area shall remain locked at all times other than those hours and
1025 days when liquor sales are authorized by law.
- 1026 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
1027 restaurant of a restaurant liquor licensee on any day after 12 midnight or before 12 noon.
- 1028 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1029 Licenses, for on-premise beer licensees.
- 1030 (10) An alcoholic beverage may not be sold except in connection with an order for food
1031 prepared, sold, and served at the restaurant.
- 1032 (11) An alcoholic beverage may not be sold, served, or otherwise furnished to a:
1033 (a) minor;
1034 (b) person actually, apparently, or obviously intoxicated;
1035 (c) known habitual drunkard; or
1036 (d) known interdicted person.
- 1037 (12) (a) (i) Liquor may be sold only at a price fixed by the commission.
1038 (ii) Liquor may not be sold at a discount price on any date or at any time.
- 1039 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
1040 beverage to the restaurant liquor licensee.
- 1041 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1042 over consumption or intoxication.
- 1043 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1044 hours of a restaurant liquor licensee's business day such as a "happy hour."
- 1045 (e) More than one alcoholic beverage may not be sold or served for the price of a single
1046 alcoholic beverage.
- 1047 (f) An indefinite or unlimited number of alcoholic beverages during a set period may
1048 not be sold or served for a fixed price.
- 1049 (g) A restaurant liquor licensee may not engage in a public promotion involving or
1050 offering free an alcoholic beverage to the general public.

- 1051 (13) An alcoholic beverage may not be purchased for a patron of a restaurant by:
- 1052 (a) the restaurant liquor licensee; or
- 1053 (b) an employee or agent of the restaurant liquor licensee.
- 1054 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee an
- 1055 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
- 1056 discretion of the restaurant liquor licensee, bottled wine onto the premises of a restaurant liquor
- 1057 licensee for on-premise consumption.
- 1058 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or an
- 1059 officer, manager, employee, or agent of the restaurant liquor licensee may not allow:
- 1060 (i) a person to bring onto the restaurant premises an alcoholic beverage for on-premise
- 1061 consumption; or
- 1062 (ii) consumption of an alcoholic beverage described in this Subsection (14) on the
- 1063 restaurant liquor licensee's premises.
- 1064 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
- 1065 or other representative of the restaurant liquor licensee upon entering the restaurant.
- 1066 (d) A wine service may be performed and a service charge assessed by a restaurant
- 1067 liquor licensee as authorized by commission rule for wine carried in by a patron.
- 1068 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee or an
- 1069 employee of the restaurant liquor licensee may not permit a restaurant patron to carry from the
- 1070 restaurant premises an open container that:
- 1071 (i) is used primarily for drinking purposes; and
- 1072 (ii) contains an alcoholic beverage.
- 1073 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the
- 1074 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought
- 1075 onto the premises of the restaurant in accordance with Subsection (14), only if the bottle is
- 1076 recorked or recapped before removal.
- 1077 (16) (a) A restaurant liquor licensee may not employ a minor to sell or dispense an
- 1078 alcoholic beverage.
- 1079 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
- 1080 employed to enter the sale at a cash register or other sales recording device.
- 1081 (17) An employee of a restaurant liquor licensee, while on duty, may not:

1082 (a) consume an alcoholic beverage; or

1083 (b) be intoxicated.

1084 (18) A charge or fee made in connection with the sale, service, or consumption of liquor
1085 may be stated in food or alcoholic beverage menus including:

1086 (a) a set-up charge;

1087 (b) a service charge; or

1088 (c) a chilling fee.

1089 (19) A restaurant liquor licensee shall display in a prominent place in the restaurant:

1090 (a) the liquor license that is issued by the department;

1091 (b) a list of the types and brand names of liquor being served through its calibrated
1092 metered dispensing system; and

1093 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1094 drugs is a serious crime that is prosecuted aggressively in Utah."

1095 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor
1096 licensee:

1097 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1098 Chapter 10, Part 11, Gambling;

1099 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1100 Part 11, Gambling; or

1101 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1102 the risking of something of value for a return or for an outcome when the return or outcome is
1103 based upon an element of chance, excluding the playing of an amusement device that confers
1104 only an immediate and unrecorded right of replay not exchangeable for value.

1105 (21) (a) A restaurant liquor licensee shall maintain an expense ledger or record
1106 showing in detail:

1107 (i) quarterly expenditures made separately for:

1108 (A) malt or brewed beverages;

1109 (B) set-ups;

1110 (C) liquor;

1111 (D) food; and

1112 (E) [aH] other items required by the department; and

- 1113 (ii) sales made separately for:
1114 (A) malt or brewed beverages;
1115 (B) set-ups;
1116 (C) food; and
1117 (D) [aH] other items required by the department.
- 1118 (b) A restaurant liquor licensee shall keep a record required by Subsection (21)(a):
1119 (i) in a form approved by the department; and
1120 (ii) current for each three-month period.
- 1121 (c) An expenditure shall be supported by:
1122 (i) a delivery ticket;
1123 (ii) an invoice;
1124 (iii) a receipted bill;
1125 (iv) a canceled check;
1126 (v) a petty cash voucher; or
1127 (vi) other sustaining datum or memorandum.
- 1128 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant
1129 liquor licensee shall maintain accounting and other records and documents as the department
1130 may require.
- 1131 (e) A restaurant liquor licensee or person acting for the restaurant, who knowingly
1132 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or
1133 other document of the restaurant that is required to be made, maintained, or preserved by this
1134 title or the rules of the commission for the purpose of deceiving the commission or the
1135 department, or an official or employee of the commission or department, is subject to:
1136 (i) the suspension or revocation of the restaurant's liquor license; and
1137 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1138 (22) (a) A restaurant liquor licensee may not close or cease operation for a period
1139 longer than 240 hours, unless:
1140 (i) the restaurant liquor licensee notifies the department in writing at least seven days
1141 before the day on which the restaurant liquor licensee closes or ceases operation; and
1142 (ii) the closure or cessation of operation is first approved by the department.
- 1143 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the

1144 restaurant liquor licensee shall immediately notify the department by telephone.

1145 (c) (i) The department may authorize a closure or cessation of operation for a period
1146 not to exceed 60 days.

1147 (ii) The department may extend the initial period an additional 30 days upon:

1148 (A) written request of the restaurant liquor licensee; and

1149 (B) a showing of good cause.

1150 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1151 commission approval.

1152 (d) A notice shall include:

1153 (i) the dates of closure or cessation of operation;

1154 (ii) the reason for the closure or cessation of operation; and

1155 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.

1156 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department
1157 authorization before closure or cessation of operation results in an automatic forfeiture of:

1158 (i) the license; and

1159 (ii) the unused portion of the license fee for the remainder of the license year effective
1160 immediately.

1161 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the
1162 approved date results in an automatic forfeiture of:

1163 (i) the license; and

1164 (ii) the unused portion of the license fee for the remainder of the license year.

1165 (23) A restaurant liquor licensee shall maintain at least 70% of its total restaurant
1166 business from the sale of food, which does not include mix for an alcoholic beverage or service
1167 charges.

1168 (24) A restaurant liquor license may not be transferred from one location to another,
1169 without prior written approval of the commission.

1170 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,
1171 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license
1172 to another person whether for monetary gain or not.

1173 (b) A restaurant liquor license has no monetary value for the purpose of any type of
1174 disposition.

1175 (26) A server of an alcoholic beverage in a restaurant liquor licensee's establishment
1176 shall keep a written beverage tab for each table or group that orders or consumes an alcoholic
1177 beverage on the premises. The beverage tab shall list the type and amount of an alcoholic
1178 beverage ordered or consumed.

1179 (27) A person's willingness to serve an alcoholic beverage may not be made a
1180 condition of employment as a server with a restaurant that has a restaurant liquor license.

1181 (28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may
1182 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
1183 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1184 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1185 58-37-2; or

1186 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1187 Section 58-37a-3.

1188 Section 7. Section **32A-4-206** is amended to read:

1189 **32A-4-206. Operational restrictions.**

1190 A person granted an airport lounge liquor license and the employees and management
1191 personnel of the airport lounge shall comply with the following conditions and requirements.
1192 Failure to comply may result in a suspension or revocation of the airport lounge liquor license
1193 or other disciplinary action taken against individual employees or management personnel.

1194 (1) (a) [~~Liquor~~] Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling
1195 Act, liquor may not be purchased by an airport lounge liquor licensee except from a state store
1196 or package agency.

1197 (b) Liquor purchased from a state store or package agency may be transported by the
1198 airport lounge liquor licensee from the place of purchase to the licensed premises.

1199 (c) Payment for liquor shall be made in accordance with the rules established by the
1200 commission.

1201 (2) An airport lounge liquor licensee may sell or provide a primary spirituous liquor
1202 only in a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated
1203 metered dispensing system approved by the department in accordance with commission rules
1204 adopted under this title, except that:

1205 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing

1206 system if used as a secondary flavoring ingredient in a beverage subject to the following
1207 restrictions:

1208 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1209 a spirituous primary liquor;

1210 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

1211 (iii) the airport lounge liquor licensee shall designate a location where flavorings are
1212 stored on the floor plan provided to the department; and

1213 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

1214 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1215 system if used:

1216 (i) as a flavoring on a dessert; and

1217 (ii) in the preparation of a flaming food dish, drink, or dessert;

1218 (c) an airport lounge patron may have no more than 2.5 ounces of spirituous liquor at a
1219 time before the patron; and

1220 (d) an airport lounge patron may have no more than two spirituous liquor drinks at a
1221 time before the patron, except that an airport lounge patron may not have two spirituous liquor
1222 drinks before the airport lounge patron if one of the spirituous liquor drinks consists only of the
1223 primary spirituous liquor for the other spirituous liquor drink.

1224 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
1225 exceed five ounces per glass or individual portion.

1226 (ii) An individual portion may be served to a patron in more than one glass as long as
1227 the total amount of wine does not exceed five ounces.

1228 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1229 Subsection (7)(c).

1230 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
1231 fixed by the commission to a table of four or more persons.

1232 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
1233 fixed by the commission to a table of less than four persons.

1234 (c) A wine service may be performed and a service charge assessed by the airport
1235 lounge liquor licensee as authorized by commission rule for wine purchased at the airport
1236 lounge.

1237 ~~[(4) (a) Heavy beer may be served in an original container not exceeding one liter at a~~
1238 ~~price fixed by the commission.]~~

1239 (4) (a) An airport lounge liquor licensee may serve heavy beer:

1240 (i) at a price fixed by the commission; and

1241 (ii) (A) in an original container not exceeding one liter; or

1242 (B) subject to Subsection (4)(c):

1243 (I) in an open container; and

1244 (II) on draft.

1245 (b) A flavored malt beverage may be served in an original container not exceeding one
1246 liter at a price fixed by the commission.

1247 (c) An airport lounge liquor licensee shall sell heavy beer sold pursuant to Subsection
1248 (4)(a)(ii)(B) in a size of container that does not exceed two liters, except that heavy beer may
1249 not be sold to an individual patron in a size of container that exceeds one liter.

1250 ~~[(c)]~~ (d) A service charge may be assessed by the airport lounge liquor licensee as
1251 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the
1252 airport lounge.

1253 (5) (a) (i) Subject to Subsection (5)(a)(ii), an airport lounge liquor licensee may sell
1254 beer for on-premise consumption:

1255 (A) in an open container; and

1256 (B) on draft.

1257 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1258 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1259 container that exceeds one liter.

1260 (b) An airport lounge liquor licensee that sells beer pursuant to Subsection (5)(a):

1261 (i) may do so without obtaining a separate on-premise beer retailer license from the
1262 commission; and

1263 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1264 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
1265 inconsistent with or less restrictive than the operational restrictions under this part.

1266 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1267 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the airport

1268 lounge's:

1269 (i) state liquor license; and

1270 (ii) alcoholic beverage license issued by the local authority.

1271 (6) An alcoholic beverage may not be stored, served, or sold in a place other than as
1272 designated in the airport lounge liquor licensee's application, unless the airport lounge liquor
1273 licensee first applies for and receives approval from the department for a change of location
1274 within the airport lounge.

1275 (7) (a) A patron may only make a purchase in the airport lounge from and be served by
1276 a person employed, designated, and trained by the airport lounge liquor licensee to sell,
1277 dispense, and serve an alcoholic beverage.

1278 (b) Notwithstanding Subsection (7)(a), a patron who purchases bottled wine from an
1279 employee of the airport lounge may serve wine from the bottle to the patron or others at the
1280 patron's table.

1281 (c) An airport lounge patron may have no more than two alcoholic beverages of any
1282 kind at a time before the patron, subject to the limitation in Subsection (2)(d).

1283 (8) The liquor storage area shall remain locked at all times other than those hours and
1284 days when liquor sales and service are authorized by law.

1285 (9) An alcoholic beverage may not be sold, offered for sale, served, or otherwise
1286 furnished at an airport lounge on any day after 12 midnight and before 8 a.m.

1287 (10) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

1288 (a) minor;

1289 (b) person actually, apparently, or obviously intoxicated;

1290 (c) known habitual drunkard; or

1291 (d) known interdicted person.

1292 (11) (a) (i) Liquor may be sold only at a price fixed by the commission.

1293 (ii) Liquor may not be sold at a discount price on any date or at any time.

1294 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
1295 beverage to the airport lounge liquor licensee.

1296 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1297 over consumption or intoxication.

1298 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain

1299 hours of the airport lounge liquor licensee's business day such as a "happy hour."

1300 (e) More than one alcoholic beverage may not be sold or served for the price of a single
1301 alcoholic beverage.

1302 (f) An indefinite or unlimited number of alcoholic beverages during a set period may
1303 not be sold or served for a fixed price.

1304 (g) An airport lounge liquor licensee may not engage in a public promotion involving
1305 or offering free an alcoholic beverage to the general public.

1306 (12) An alcoholic beverage may not be purchased for a patron of an airport lounge by:

1307 (a) the airport lounge liquor licensee; or

1308 (b) an employee or agent of the airport lounge liquor licensee.

1309 (13) (a) A person may not bring onto the premises of an airport lounge liquor licensee
1310 an alcoholic beverage for on-premise consumption.

1311 (b) An airport lounge liquor licensee or an officer, manager, employee, or agent of the
1312 airport lounge liquor licensee may not allow a person to bring onto the airport lounge premises
1313 an alcoholic beverage for on-premise consumption or allow consumption of the alcoholic
1314 beverage on the airport lounge liquor licensee's premises.

1315 (14) An airport lounge liquor licensee and an employee of the airport lounge liquor
1316 licensee may not permit a patron to remove an alcoholic beverage from the airport lounge
1317 premises.

1318 (15) (a) An airport lounge liquor licensee may not employ a minor to sell or dispense
1319 an alcoholic beverage.

1320 (b) Notwithstanding Subsection (15)(a), a minor who is at least 16 years of age may be
1321 employed to enter the sale at a cash register or other sales recording device.

1322 (16) An employee of an airport lounge liquor licensee, while on duty, may not:

1323 (a) consume an alcoholic beverage; or

1324 (b) be intoxicated.

1325 (17) A charge or fee made in connection with the sale, service, or consumption of
1326 liquor may be stated in a food or alcoholic beverage menu including:

1327 (a) a set-up charge;

1328 (b) a service charge; or

1329 (c) a chilling fee.

1330 (18) An airport lounge liquor licensee shall display in a prominent place in the airport
1331 lounge:

1332 (a) the liquor license that is issued by the department;

1333 (b) a list of the types and brand names of liquor being served through its calibrated
1334 metered dispensing system; and

1335 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1336 drugs is a serious crime that is prosecuted aggressively in Utah."

1337 (19) (a) An airport lounge liquor licensee shall maintain an expense ledger or record
1338 showing in detail:

1339 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all
1340 other items required by the department; and

1341 (ii) sales made separately for malt or brewed beverages, food, and all other items
1342 required by the department.

1343 (b) An airport lounge liquor licensee shall keep a record required by Subsection
1344 (19)(a):

1345 (i) in a form approved by the department; and

1346 (ii) current for each three-month period.

1347 (c) An expenditure shall be supported by:

1348 (i) a delivery ticket;

1349 (ii) an invoice;

1350 (iii) a receipted bill;

1351 (iv) a canceled check;

1352 (v) a petty cash voucher; or

1353 (vi) other sustaining datum or memorandum.

1354 (d) In addition to a ledger or record required by Subsection (19)(a), an airport lounge
1355 liquor licensee shall maintain accounting and other records and documents as the department
1356 may require.

1357 (e) An airport lounge liquor licensee or person acting for the airport lounge, who
1358 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of
1359 account or other document of the airport lounge required to be made, maintained, or preserved
1360 by this title or the rules of the commission for the purpose of deceiving the commission, the

1361 department, or an official or employee of the commission or department, is subject to:

1362 (i) the immediate suspension or revocation of the airport lounge's liquor license; and

1363 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1364 (20) An airport lounge liquor license may not be transferred from one location to

1365 another, without prior written approval of the commission.

1366 (21) (a) An airport lounge liquor licensee may not sell, transfer, assign, exchange,

1367 barter, give, or attempt in any way to dispose of the airport lounge liquor license to another

1368 person, whether for monetary gain or not.

1369 (b) An airport lounge liquor license has no monetary value for the purpose of any type

1370 of disposition.

1371 (22) A server of an alcoholic beverage in an airport lounge liquor licensee's

1372 establishment shall keep a written beverage tab for each table or group that orders or consumes

1373 an alcoholic beverage on the premises. The beverage tab shall list the type and amount of an

1374 alcoholic beverage ordered or consumed.

1375 (23) An airport lounge liquor licensee's premises may not be leased for a private

1376 function.

1377 (24) An airport lounge liquor licensee may not on the premises of the airport lounge

1378 liquor licensee:

1379 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,

1380 Chapter 10, Part 11, Gambling;

1381 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,

1382 Part 11, Gambling; or

1383 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires

1384 the risking of something of value for a return or for an outcome when the return or outcome is

1385 based upon an element of chance, excluding the playing of an amusement device that confers

1386 only an immediate and unrecorded right of replay not exchangeable for value.

1387 (25) An airport lounge liquor licensee or an employee of the airport lounge liquor

1388 licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58,

1389 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1390 (a) sell, distribute, possess, or use a controlled substance, as defined in Section

1391 58-37-2; or

1392 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1393 Section 58-37a-3.

1394 Section 8. Section **32A-4-307** is amended to read:

1395 **32A-4-307. Operational restrictions.**

1396 A person granted a limited restaurant license and the employees and management
1397 personnel of the limited restaurant shall comply with the following conditions and
1398 requirements. Failure to comply may result in a suspension or revocation of the license or
1399 other disciplinary action taken against individual employees or management personnel.

1400 (1) (a) [~~Wine~~] Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling Act,
1401 wine and heavy beer may not be purchased by a limited restaurant licensee except from a state
1402 store or package agency.

1403 (b) Wine and heavy beer purchased from a state store or package agency may be
1404 transported by the limited restaurant licensee from the place of purchase to the licensed
1405 premises.

1406 (c) Payment for wine and heavy beer shall be made in accordance with rules
1407 established by the commission.

1408 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of the
1409 products listed in Subsection (2)(c) on the premises of the limited restaurant.

1410 (b) A product listed in Subsection (2)(c) may not be on the premises of the limited
1411 restaurant except for use:

1412 (i) as a flavoring on a dessert; and

1413 (ii) in the preparation of a flaming food dish, drink, or dessert.

1414 (c) This Subsection (2) applies to:

1415 (i) spirituous liquor; and

1416 (ii) [~~on or after October 1, 2008;~~] a flavored malt beverage.

1417 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
1418 exceed five ounces per glass or individual portion.

1419 (ii) An individual portion may be served to a patron in more than one glass as long as
1420 the total amount of wine does not exceed five ounces.

1421 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1422 Subsection (7)(e).

1423 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
1424 fixed by the commission to a table of four or more persons.

1425 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
1426 fixed by the commission to a table of less than four persons.

1427 (c) A wine service may be performed and a service charge assessed by the limited
1428 restaurant licensee as authorized by commission rule for wine purchased at the limited
1429 restaurant.

1430 ~~[(4)(a) Heavy beer may be served in an original container not exceeding one liter at a
1431 price fixed by the commission.]~~

1432 (4) (a) A limited restaurant licensee may serve heavy beer:

1433 (i) at a price fixed by the commission; and

1434 (ii) (A) in an original container not exceeding one liter; or

1435 (B) subject to Subsection (4)(c):

1436 (I) in an open container; and

1437 (II) on draft.

1438 (b) A service charge may be assessed by the limited restaurant licensee as authorized
1439 by commission rule for heavy beer purchased at the limited restaurant.

1440 (c) A limited restaurant licensee shall sell heavy beer sold pursuant to Subsection
1441 (4)(a)(ii)(B) in a size of container that does not exceed two liters, except that heavy beer may
1442 not be sold to an individual patron in a size of container that exceeds one liter.

1443 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for
1444 on-premise consumption:

1445 (A) in an open container; and

1446 (B) on draft.

1447 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1448 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1449 container that exceeds one liter.

1450 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

1451 (i) may do so without obtaining a separate on-premise beer retailer license from the
1452 commission; and

1453 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer

1454 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
1455 inconsistent with or less restrictive than the operational restrictions under this part.

1456 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1457 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited
1458 restaurant's:

1459 (i) limited restaurant license; and

1460 (ii) alcoholic beverage license issued by the local authority.

1461 (6) Wine, heavy beer, and beer may not be stored, served, or sold in a place other than
1462 as designated in the limited restaurant licensee's application, unless the limited restaurant
1463 licensee first applies for and receives approval from the department for a change of location
1464 within the limited restaurant.

1465 (7) (a) (i) A patron may only make an alcoholic beverage purchase in a limited
1466 restaurant from and be served by a person employed, designated, and trained by the limited
1467 restaurant licensee to sell and serve an alcoholic beverage.

1468 (ii) Notwithstanding Subsection (7)(a)(i), a patron who purchases bottled wine from an
1469 employee of the limited restaurant licensee or carries bottled wine onto the premises of the
1470 limited restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the
1471 patron or others at the patron's table.

1472 (b) An alcoholic beverage shall be delivered by a server to the patron.

1473 (c) An alcoholic beverage may only be consumed at the patron's table or counter.

1474 (d) An alcoholic beverage may not be served to or consumed by a patron at a bar.

1475 (e) A limited restaurant patron may have no more than two alcoholic beverages of any
1476 kind at a time before the patron.

1477 (8) The alcoholic beverage storage area shall remain locked at all times other than
1478 those hours and days when alcoholic beverage sales are authorized by law.

1479 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
1480 furnished at a limited restaurant on any day after 12 midnight or before 12 noon.

1481 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1482 Licenses, for on-premise beer licensees.

1483 (10) An alcoholic beverage may not be sold except in connection with an order of food
1484 prepared, sold, and served at the limited restaurant.

1485 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to a:

1486 (a) minor;

1487 (b) person actually, apparently, or obviously intoxicated;

1488 (c) known habitual drunkard; or

1489 (d) known interdicted person.

1490 (12) (a) (i) Wine and heavy beer may be sold only at a price fixed by the commission.

1491 (ii) Wine and heavy beer may not be sold at a discount price on any date or at any time.

1492 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic

1493 beverage to the limited restaurant licensee.

1494 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1495 over consumption or intoxication.

1496 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1497 hours of the limited restaurant licensee's business day such as a "happy hour."

1498 (e) More than one alcoholic beverage may not be sold or served for the price of a single
1499 alcoholic beverage.

1500 (f) An indefinite or unlimited number of alcoholic beverages during a set period may
1501 not be sold or served for a fixed price.

1502 (g) A limited restaurant licensee may not engage in a public promotion involving or
1503 offering free alcoholic beverages to the general public.

1504 (13) An alcoholic beverage may not be purchased for a patron of the limited restaurant
1505 by:

1506 (a) the limited restaurant licensee; or

1507 (b) an employee or agent of the limited restaurant licensee.

1508 (14) (a) A person may not bring onto the premises of a limited restaurant licensee an
1509 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1510 discretion of the limited restaurant licensee, bottled wine onto the premises of a limited
1511 restaurant licensee for on-premise consumption.

1512 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or an
1513 officer, manager, employee, or agent of a limited restaurant licensee may not allow:

1514 (i) a person to bring onto the limited restaurant premises an alcoholic beverage for
1515 on-premise consumption; or

1516 (ii) consumption of an alcoholic beverage described in Subsection (14)(b)(i) on the
1517 limited restaurant licensee's premises.

1518 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1519 or other representative of the limited restaurant licensee upon entering the limited restaurant.

1520 (d) A wine service may be performed and a service charge assessed by the limited
1521 restaurant licensee as authorized by commission rule for wine carried in by a patron.

1522 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and an
1523 employee of the limited restaurant licensee may not permit a restaurant patron to carry from the
1524 limited restaurant premises an open container that:

1525 (i) is used primarily for drinking purposes; and

1526 (ii) contains an alcoholic beverage.

1527 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
1528 contents of a bottle of wine if before removal, the bottle is recorked or recapped.

1529 (16) (a) A limited restaurant licensee may not employ a minor to sell or dispense an
1530 alcoholic beverage.

1531 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
1532 employed to enter the sale at a cash register or other sales recording device.

1533 (17) An employee of a limited restaurant licensee, while on duty, may not:

1534 (a) consume an alcoholic beverage; or

1535 (b) be intoxicated.

1536 (18) A charge or fee made in connection with the sale, service, or consumption of wine
1537 or heavy beer may be stated in food or alcoholic beverage menus including:

1538 (a) a service charge; or

1539 (b) a chilling fee.

1540 (19) A limited restaurant licensee shall display in a prominent place in the restaurant:

1541 (a) the limited restaurant license that is issued by the department; and

1542 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1543 drugs is a serious crime that is prosecuted aggressively in Utah."

1544 (20) A limited restaurant licensee may not on the premises of the restaurant:

1545 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1546 Chapter 10, Part 11, Gambling;

1547 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1548 Part 11, Gambling; or

1549 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1550 the risking of something of value for a return or for an outcome when the return or outcome is
1551 based upon an element of chance, excluding the playing of an amusement device that confers
1552 only an immediate and unrecorded right of replay not exchangeable for value.

1553 (21) (a) A limited restaurant licensee shall maintain an expense ledger or record
1554 showing in detail:

1555 (i) quarterly expenditures made separately for:

1556 (A) wine;

1557 (B) heavy beer;

1558 (C) beer;

1559 (D) food; and

1560 (E) [aH] other items required by the department; and

1561 (ii) sales made separately for:

1562 (A) wine;

1563 (B) heavy beer;

1564 (C) beer;

1565 (D) food; and

1566 (E) [aH] other items required by the department.

1567 (b) A limited restaurant licensee shall keep a record required by Subsection (21)(a):

1568 (i) in a form approved by the department; and

1569 (ii) current for each three-month period.

1570 (c) An expenditure shall be supported by:

1571 (i) a delivery ticket;

1572 (ii) an invoice;

1573 (iii) a receipted bill;

1574 (iv) a canceled check;

1575 (v) a petty cash voucher; or

1576 (vi) other sustaining datum or memorandum.

1577 (d) In addition to the ledger or record maintained under Subsections (21)(a) through

1578 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
1579 the department may require.

1580 (e) ~~[Any]~~ A limited restaurant licensee or person acting for the restaurant, who
1581 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of
1582 account or other document of the limited restaurant that is required to be made, maintained, or
1583 preserved by this title or the rules of the commission for the purpose of deceiving the
1584 commission, the department, or an official or employee of the commission or department, is
1585 subject to:

- 1586 (i) the suspension or revocation of the limited restaurant's license; and
- 1587 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1588 (22) (a) A limited restaurant licensee may not close or cease operation for a period
1589 longer than 240 hours, unless:

- 1590 (i) the limited restaurant licensee notifies the department in writing at least seven days
1591 before the day on which the limited restaurant licensee closes or ceases operation; and
- 1592 (ii) the closure or cessation of operation is first approved by the department.

1593 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the limited
1594 restaurant licensee shall immediately notify the department by telephone.

1595 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or
1596 cessation of operation for a period not to exceed 60 days.

1597 (ii) The department may extend the initial period an additional 30 days upon:

- 1598 (A) written request of the limited restaurant licensee; and
- 1599 (B) a showing of good cause.

1600 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1601 commission approval.

1602 (d) A notice required by Subsection (22)(a) shall include:

- 1603 (i) the dates of closure or cessation of operation;
- 1604 (ii) the reason for the closure or cessation of operation; and
- 1605 (iii) the date on which the limited restaurant licensee will reopen or resume operation.

1606 (e) Failure of the limited restaurant licensee to provide notice and to obtain department
1607 authorization before closure or cessation of operation results in an automatic forfeiture of:

- 1608 (i) the limited restaurant license; and

1609 (ii) the unused portion of the license fee for the remainder of the license year effective
1610 immediately.

1611 (f) Failure of the limited restaurant licensee to reopen or resume operation by the
1612 approved date results in an automatic forfeiture of:

1613 (i) the limited restaurant license; and

1614 (ii) the unused portion of the license fee for the remainder of the license year.

1615 (23) A limited restaurant licensee shall maintain at least 70% of its total restaurant
1616 business from the sale of food, which does not include service charges.

1617 (24) A limited restaurant license may not be transferred from one location to another,
1618 without prior written approval of the commission.

1619 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,
1620 give, or attempt in any way to dispose of the limited restaurant license to another person
1621 whether for monetary gain or not.

1622 (b) A limited restaurant license has no monetary value for the purpose of any type of
1623 disposition.

1624 (26) (a) A server of wine, heavy beer, and beer in a limited restaurant licensee's
1625 establishment shall keep a written beverage tab for each table or group that orders or consumes
1626 an alcoholic beverage on the premises.

1627 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an
1628 alcoholic beverage ordered or consumed.

1629 (27) A limited restaurant licensee may not make a person's willingness to serve an
1630 alcoholic beverage a condition of employment as a server with the limited restaurant.

1631 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may
1632 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
1633 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1634 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1635 58-37-2; or

1636 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1637 Section 58-37a-3.

1638 Section 9. Section **32A-4-406** is amended to read:

1639 **32A-4-406. Operational restrictions.**

1640 A person granted an on-premise banquet license and the employees and management
1641 personnel of the on-premise banquet licensee shall comply with this title, the rules of the
1642 commission, and the following conditions and requirements. Failure to comply may result in a
1643 suspension or revocation of the on-premise banquet license or other disciplinary action taken
1644 against individual employees or management personnel.

1645 (1) A person involved in the sale or service of an alcoholic beverage under the
1646 on-premise banquet license shall:

1647 (a) be under the supervision and direction of the on-premise banquet licensee; and

1648 (b) complete the seminar provided for in Section 62A-15-401.

1649 (2) (a) ~~[Liquor]~~ Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling
1650 Act, liquor may not be purchased by an on-premise banquet licensee except from a state store
1651 or package agency.

1652 (b) Liquor purchased from a state store or package agency may be transported by the
1653 on-premise banquet licensee from the place of purchase to the licensed premises.

1654 (c) Payment for liquor shall be made in accordance with rules established by the
1655 commission.

1656 (3) An alcoholic beverage may be sold or provided at a banquet by an on-premise
1657 banquet licensee subject to the restrictions set forth in this Subsection (3).

1658 (a) An on-premise banquet licensee may sell or provide a primary spirituous liquor
1659 only in a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated
1660 metered dispensing system approved by the department in accordance with commission rules
1661 adopted under this title, except that:

1662 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing
1663 system if used as a secondary flavoring ingredient in a beverage subject to the following
1664 restrictions:

1665 (A) the secondary ingredient may be dispensed only in conjunction with the purchase
1666 of a primary spirituous liquor;

1667 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;

1668 (C) the on-premise banquet licensee shall designate a location where flavorings are
1669 stored on the floor plan provided to the department; and

1670 (D) a flavoring container shall be plainly and conspicuously labeled "flavorings";

- 1671 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing
1672 system if used:
- 1673 (A) as a flavoring on a dessert; and
1674 (B) in the preparation of a flaming food dish, drink, or dessert;
- 1675 (iii) an attendee may have no more than 2.5 ounces of spirituous liquor at a time before
1676 the attendee; and
- 1677 (iv) an attendee may have no more than one spirituous liquor drink at a time before the
1678 attendee.
- 1679 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to
1680 exceed five ounces per glass or individual portion.
- 1681 (B) An individual portion may be served to an attendee in more than one glass as long
1682 as the total amount of wine does not exceed five ounces.
- 1683 (C) An individual portion of wine is considered to be one alcoholic beverage under
1684 Subsection (5)(c).
- 1685 (ii) Wine may be sold and served in a container not exceeding 1.5 liters at a price fixed
1686 by the commission.
- 1687 (iii) A wine service may be performed and a service charge assessed by the on-premise
1688 banquet licensee as authorized by commission rule for wine purchased on the banquet
1689 premises.
- 1690 ~~[(c) (i) Heavy beer may be served in an original container not exceeding one liter at a
1691 price fixed by the commission.]~~
- 1692 (c) (i) An on-premise banquet licensee may serve heavy beer:
- 1693 (A) at a price fixed by the commission; and
- 1694 (B) (I) in an original container not exceeding one liter; or
- 1695 (II) subject to Subsection (3)(c)(iii):
- 1696 (Aa) in an open container; and
- 1697 (Bb) on draft.
- 1698 (ii) A flavored malt beverage may be served in an original container not exceeding one
1699 liter at a price fixed by the commission.
- 1700 (iii) An on-premise banquet licensee shall sell heavy beer sold pursuant to Subsection
1701 (3)(c)(i)(B)(II) in a size of container that does not exceed two liters, except that heavy beer may

1702 not be sold to an individual patron in a size of container that exceeds one liter.

1703 ~~[(iii)]~~ (iv) A service charge may be assessed by the on-premise banquet licensee as
1704 authorized by commission rule for heavy beer or a flavored malt beverage purchased on the
1705 banquet premises.

1706 (d) (i) Except as provided in Subsection (3)(d)(ii), beer may be sold and served for
1707 on-premise consumption:

1708 (A) in an open container; and

1709 (B) on draft.

1710 (ii) Beer sold pursuant to Subsection (3)(d)(i) shall be in a size of container that does
1711 not exceed two liters, except that beer may not be sold to an individual attendee in a container
1712 size that exceeds one liter.

1713 (4) An alcoholic beverage may not be stored, served, or sold in ~~[any]~~ a place other than
1714 as designated in the on-premise banquet licensee's application, except that additional locations
1715 in or on the premises of an on-premise banquet licensee may be approved in accordance with
1716 guidelines approved by the commission as provided in Subsection 32A-4-402(2).

1717 (5) (a) An attendee may only make an alcoholic beverage purchase from and be served
1718 by a person employed, designated, and trained by the on-premise banquet licensee to sell and
1719 serve an alcoholic beverage.

1720 (b) Notwithstanding Subsection (5)(a), an attendee who purchases bottled wine from
1721 an employee of the on-premise banquet licensee may thereafter serve wine from the bottle to
1722 the attendee or others at the attendee's table.

1723 (c) An attendee may have no more than two alcoholic beverages of any kind at a time
1724 before the attendee, subject to the limitation of Subsection (3)(a)(iv).

1725 (6) The alcoholic beverage storage area shall remain locked at all times other than
1726 those hours and days when alcoholic beverage sales are authorized by law.

1727 (7) An alcoholic beverage may be offered for sale, sold, served, or otherwise furnished
1728 by an on-premise banquet licensee from 10 a.m. to 1 a.m. seven days a week:

1729 (a) at a banquet; or

1730 (b) in connection with room service.

1731 (8) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

1732 (a) minor;

- 1733 (b) person actually, apparently, or obviously intoxicated;
- 1734 (c) known habitual drunkard; or
- 1735 (d) known interdicted person.
- 1736 (9) (a) (i) Liquor may be sold only at a price fixed by the commission.
- 1737 (ii) Liquor may not be sold at a discount price on any date or at any time.
- 1738 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
- 1739 beverage to the on-premise banquet licensee.
- 1740 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 1741 over consumption or intoxication.
- 1742 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 1743 hours of the on-premise banquet licensee's business day such as a "happy hour."
- 1744 (e) More than one alcoholic beverage may not be sold or served for the price of a single
- 1745 alcoholic beverage.
- 1746 (f) An on-premise banquet licensee may not engage in a public promotion involving or
- 1747 offering free alcoholic beverages to the general public.
- 1748 (10) An alcoholic beverage may not be purchased for an attendee by:
- 1749 (a) the on-premise banquet licensee; or
- 1750 (b) an employee or agent of the on-premise banquet licensee.
- 1751 (11) An attendee of a banquet may not bring an alcoholic beverage into or onto, or
- 1752 remove an alcoholic beverage from the premises of a banquet.
- 1753 (12) (a) Except as otherwise provided in this title, the sale and service of an alcoholic
- 1754 beverage by an on-premise banquet licensee at a banquet shall be made only for consumption at
- 1755 the location of the banquet.
- 1756 (b) The host of a banquet, an attendee, or a person other than the on-premise banquet
- 1757 licensee or an employee of the on-premise banquet licensee, may not remove an alcoholic
- 1758 beverage from the premises of the banquet.
- 1759 (13) An on-premise banquet licensee employee shall remain at the banquet at all times
- 1760 when an alcoholic beverage is sold, served, or consumed at the banquet.
- 1761 (14) (a) An on-premise banquet licensee may not leave an unsold alcoholic beverage at
- 1762 the banquet following the conclusion of the banquet.
- 1763 (b) At the conclusion of a banquet, the on-premise banquet licensee or an employee of

1764 the on-premise banquet licensee, shall:

1765 (i) destroy an opened and unused alcoholic beverage that is not saleable, under
1766 conditions established by the department; and

1767 (ii) return to the on-premise banquet licensee's approved locked storage area any:

1768 (A) opened and unused alcoholic beverage that is saleable; and

1769 (B) unopened container of an alcoholic beverage.

1770 (15) Except as provided in Subsection (14), an open or sealed container of an alcoholic
1771 beverage not sold or consumed at a banquet:

1772 (a) shall be stored by the on-premise banquet licensee in the on-premise banquet
1773 licensee's approved locked storage area; and

1774 (b) may be used at more than one banquet.

1775 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense,
1776 or otherwise furnish an alcoholic beverage in connection with the on-premise banquet
1777 licensee's banquet and room service activities.

1778 (17) An employee of an on-premise banquet licensee, while on duty, may not:

1779 (a) consume an alcoholic beverage; or

1780 (b) be intoxicated.

1781 (18) An on-premise banquet licensee shall prominently display at a banquet at which
1782 an alcoholic beverage is sold or served:

1783 (a) a copy of the licensee's on-premise banquet license; and

1784 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1785 drugs is a serious crime that is prosecuted aggressively in Utah."

1786 (19) An on-premise banquet licensee may not on the premises of the hotel, resort
1787 facility, sports center, or convention center:

1788 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1789 Chapter 10, Part 11, Gambling;

1790 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1791 Part 11, Gambling; or

1792 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1793 the risking of something of value for a return or for an outcome when the return or outcome is
1794 based upon an element of chance, excluding the playing of an amusement device that confers

1795 only an immediate and unrecorded right of replay not exchangeable for value.

1796 (20) (a) An on-premise banquet licensee shall maintain accounting and such other
1797 records and documents as the commission or department may require.

1798 (b) An on-premise banquet licensee or person acting for the on-premise banquet
1799 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes an
1800 entry in a book of account or other document of the on-premise banquet licensee required to be
1801 made, maintained, or preserved by this title or the rules of the commission for the purpose of
1802 deceiving the commission, the department, or an official or employee of the commission or
1803 department, is subject to:

1804 (i) the suspension or revocation of the on-premise banquet license; and

1805 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1806 (21) (a) For the purpose described in Subsection (21)(b), an on-premise banquet
1807 licensee shall provide the department with advance notice of a scheduled banquet in
1808 accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah
1809 Administrative Rulemaking Act.

1810 (b) The advance notice required by Subsection (21)(a) is required to provide any of the
1811 following the opportunity to conduct a random inspection of a banquet:

1812 (i) an authorized representative of the commission or the department; or

1813 (ii) a law enforcement officer.

1814 (22) An on-premise banquet licensee shall maintain at least 50% of its total annual
1815 banquet gross receipts from the sale of food, not including:

1816 (a) mix for an alcoholic beverage; and

1817 (b) a charge in connection with the service of an alcoholic beverage.

1818 (23) A person may not transfer an on-premise banquet license from one business
1819 location to another without prior written approval of the commission.

1820 (24) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange,
1821 barter, give, or attempt in any way to dispose of the license to another person, whether for
1822 monetary gain or not.

1823 (b) An on-premise banquet license has no monetary value for the purpose of any type
1824 of disposition.

1825 (25) (a) Room service of an alcoholic beverage to a guest room of a hotel or resort

1826 facility shall be provided in person by an on-premise banquet licensee employee only to an
1827 adult guest in the guest room.

1828 (b) An alcoholic beverage may not be left outside a guest room for retrieval by a guest.

1829 (c) An on-premise banquet licensee may only provide an alcoholic beverage for room
1830 service in a sealed container.

1831 (26) An on-premise banquet licensee or an employee of the on-premise banquet
1832 licensee may not knowingly allow a person on a banquet location of a hotel, resort facility,
1833 sports center, or convention center to, in violation of Title 58, Chapter 37, Utah Controlled
1834 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1835 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1836 58-37-2; or

1837 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1838 Section 58-37a-3.

1839 Section 10. Section **32A-5-107** is amended to read:

1840 **32A-5-107. Operational restrictions.**

1841 A club granted a private club license and the employees, management personnel, and
1842 members of the club shall comply with the following conditions and requirements. Failure to
1843 comply may result in a suspension or revocation of the private club license or other disciplinary
1844 action taken against individual employees or management personnel.

1845 (1) A private club shall have a governing body that:

1846 (a) consists of three or more members of the private club; and

1847 (b) holds regular meetings to:

1848 (i) review membership applications; and

1849 (ii) conduct other business as required by the bylaws or house rules of the private club.

1850 (2) (a) A private club may admit an individual as a member only on written application
1851 signed by the applicant, subject to:

1852 (i) the applicant paying an application fee as required by Subsection (4); and

1853 (ii) investigation, vote, and approval of a quorum of the governing body.

1854 (b) (i) An admission of a member shall be recorded in the official minutes of a regular
1855 meeting of the governing body.

1856 (ii) An application, whether approved or disapproved, shall be filed as a part of the

1857 official records of the private club licensee.

1858 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an
1859 applicant and immediately accord the applicant temporary privileges of a member until the
1860 governing body completes its investigation and votes on the application, subject to the
1861 following conditions:

1862 (i) the applicant shall:

1863 (A) submit a written application; and

1864 (B) pay the application fee required by Subsection (4);

1865 (ii) the governing body votes on the application at its next meeting, which shall take
1866 place no later than 31 days following the day on which the application is submitted; and

1867 (iii) the applicant's temporary membership privileges terminate if the governing body
1868 disapproves the application.

1869 (d) The spouse of a member of any class of private club has the rights and privileges of
1870 the member:

1871 (i) to the extent permitted by the bylaws or house rules of the private club; and

1872 (ii) except to the extent restricted by this title.

1873 (e) The minor child of a member of a class A private club has the rights and privileges
1874 of the member:

1875 (i) to the extent permitted by the bylaws or house rules of the private club; and

1876 (ii) except to the extent restricted by this title.

1877 (3) (a) A private club shall maintain a current and complete membership record
1878 showing:

1879 (i) the date of application of a proposed member;

1880 (ii) a member's address;

1881 (iii) the date the governing body approved a member's admission;

1882 (iv) the date initiation fees and dues are assessed and paid; and

1883 (v) the serial number of the membership card issued to a member.

1884 (b) A current record shall be kept indicating when a member is dropped or resigns.

1885 (4) (a) A private club shall establish in the private club bylaws or house rules
1886 application fees and membership dues:

1887 (i) as established by commission rules; and

- 1888 (ii) that are collected from all members.
- 1889 (b) An application fee:
- 1890 (i) may not be less than \$4;
- 1891 (ii) shall be paid when the applicant applies for membership; and
- 1892 (iii) at the discretion of the private club, may be credited toward membership dues if
- 1893 the governing body approves the applicant as a member.
- 1894 (5) (a) A private club may, in its discretion, allow an individual to be admitted to or use
- 1895 the private club premises as a guest only under the following conditions:
- 1896 (i) a guest must be previously authorized by one of the following who agrees to host
- 1897 the guest into the private club:
- 1898 (A) an active member of the private club; or
- 1899 (B) a holder of a current visitor card;
- 1900 (ii) a guest must be known by the guest's host based on a preexisting bonafide business
- 1901 or personal relationship with the host before the guest's admittance to the private club;
- 1902 (iii) a guest must be accompanied by the guest's host for the duration of the guest's visit
- 1903 to the private club;
- 1904 (iv) a guest's host must remain on the private club premises for the duration of the
- 1905 guest's visit to the private club;
- 1906 (v) a guest's host is responsible for the cost of services extended to the guest;
- 1907 (vi) a guest has only those privileges derived from the guest's host for the duration of
- 1908 the guest's visit to the private club;
- 1909 (vii) an employee of the private club, while on duty, may not act as a host for a guest;
- 1910 (viii) an employee of the private club, while on duty, may not attempt to locate a
- 1911 member or current visitor card holder to serve as a host for a guest with whom the member or
- 1912 visitor card holder has no acquaintance based on a preexisting bonafide business or personal
- 1913 relationship prior to the guest's arrival at the private club; and
- 1914 (ix) a private club or an employee of the private club may not enter into an agreement
- 1915 or arrangement with a club member or holder of a current visitor card to indiscriminately host a
- 1916 member of the general public into the private club as a guest.
- 1917 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:
- 1918 (i) the private club licensee is a class B private club; and

- 1919 (ii) the guest is a member of the same fraternal organization as the private club
1920 licensee.
- 1921 (6) A private club may, in its discretion, issue a visitor card to allow an individual to
1922 enter and use the private club premises on a temporary basis under the following conditions:
- 1923 (a) a visitor card shall be issued for a period not to exceed three weeks;
1924 (b) a fee of not less than \$4 shall be assessed for a visitor card that is issued;
1925 (c) a visitor card may not be issued to a minor;
1926 (d) a holder of a visitor card may not host more than seven guests at one time;
1927 (e) a visitor card issued shall include:
1928 (i) the visitor's full name and signature;
1929 (ii) the date the visitor card is issued;
1930 (iii) the date the visitor card expires;
1931 (iv) the club's name; and
1932 (v) the serial number of the visitor card; and
1933 (f) (i) the private club shall maintain a current record of the issuance of a visitor card
1934 on the private club premises; and
1935 (ii) the record described in Subsection (6)(f)(i) shall:
1936 (A) be available for inspection by the department; and
1937 (B) include:
1938 (I) the name of the person to whom the visitor card is issued;
1939 (II) the date the visitor card is issued;
1940 (III) the date the visitor card expires; and
1941 (IV) the serial number of the visitor card.
- 1942 (7) A private club may not sell an alcoholic beverage to or allow a patron to be
1943 admitted to or use the private club premises other than:
1944 (a) a member;
1945 (b) a visitor who holds a valid visitor card issued under Subsection (6); or
1946 (c) a guest of:
1947 (i) a member; or
1948 (ii) a holder of a valid visitor card.
- 1949 (8) (a) A minor may not be:

1950 (i) a member, officer, director, or trustee of a private club;
1951 (ii) issued a visitor card;
1952 (iii) admitted into, use, or be on the premises of a lounge or bar area, as defined by
1953 commission rule, of a private club except to the extent authorized under Subsection (8)(c)(ii);
1954 (iv) admitted into, use, or be on the premises of a class D private club:
1955 (A) that operates as a sexually oriented business as defined by local ordinance; or
1956 (B) when a sexually oriented entertainer is performing on the premises; or
1957 (v) admitted into, use, or be on the premises of a class D private club except to the
1958 extent authorized under Subsections (8)(b) through (g).

1959 (b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private
1960 club, a minor may be admitted into, use, or be on the premises of a class D private club under
1961 the following circumstances:

1962 (i) during a period when no alcoholic [~~beverages are~~] beverage is sold, served,
1963 otherwise furnished, or consumed on the premises, but in no event later than 1 p.m.;

1964 (ii) when accompanied at all times by a member or holder of a current visitor card who
1965 is the minor's parent, legal guardian, or spouse; and

1966 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food
1967 service provider.

1968 (c) A class D private club may employ a minor on the premises of the private club if:

1969 (i) the parent or legal guardian of the minor owns or operates the class D private club;
1970 or

1971 (ii) the minor performs maintenance and cleaning services during the hours when the
1972 private club is not open for business.

1973 (d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be
1974 admitted into, use, or be on the premises of a dance or concert hall if:

1975 (A) the dance or concert hall is located:

1976 (I) on the premises of a class D private club; or
1977 (II) on the property that immediately adjoins the premises of and is operated by a class
1978 D private club; and

1979 (B) the commission issues the class D private club a permit to operate a minor dance or
1980 concert hall based on the criteria described in Subsection (8)(d)(iii).

1981 (ii) If the dance or concert hall is located on the premises of a class D private club, a
1982 minor must be properly hosted in accordance with Subsection (5) by:
1983 (A) a member; or
1984 (B) a holder of a current visitor card.
1985 (iii) The commission may issue a minor dance or concert hall permit if:
1986 (A) the private club's lounge, bar, and alcoholic beverage consumption area is:
1987 (I) not accessible to a minor;
1988 (II) clearly defined; and
1989 (III) separated from the dance or concert hall area by one or more walls, multiple floor
1990 levels, or other substantial physical barriers;
1991 (B) a bar or dispensing area is not visible to a minor;
1992 (C) consumption of an alcoholic beverage may not occur in:
1993 (I) the dance or concert hall area; or
1994 (II) an area of the private club accessible to a minor;
1995 (D) the private club maintains sufficient security personnel to prevent the passing of
1996 ~~beverages~~ a beverage from the private club's lounge, bar, or an alcoholic beverage
1997 consumption area to:
1998 (I) the dance or concert hall area; or
1999 (II) an area of the private club accessible to a minor;
2000 (E) there are one or more separate entrances, exits, and restroom facilities from the
2001 private club's lounge, bar, and alcoholic beverage consumption areas than for:
2002 (I) the dance or concert hall area; or
2003 (II) an area accessible to a minor; and
2004 (F) the private club complies with any other restrictions imposed by the commission by
2005 rule.
2006 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
2007 guardian who is a member or holder of a current visitor card may be admitted into, use, or be
2008 on the premises of a concert hall described in Subsection (8)(d)(i) if:
2009 (i) the requirements of Subsection (8)(d) are met; and
2010 (ii) signage, product, and dispensing equipment containing recognition of an alcoholic
2011 beverage is not visible to the minor.

2012 (f) A minor under 18 years of age but who is 14 years of age or older who is not
2013 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
2014 a concert hall described in Subsection (8)(d)(i) if:

2015 (i) the requirements of Subsections (8)(d) and (8)(e)(ii) are met; and
2016 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the
2017 class D private club.

2018 (g) The commission may suspend or revoke a minor dance or concert permit issued to
2019 a class D private club and suspend or revoke the license of the class D private club if:

2020 (i) the private club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);

2021 (ii) the private club sells, serves, or otherwise furnishes an alcoholic beverage to a
2022 minor;

2023 (iii) the private club licensee or a supervisory or managerial level employee of the
2024 private club licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act,
2025 on the basis of an activity that occurs on:

2026 (A) the licensed premises; or

2027 (B) the dance or concert hall that is located on property that immediately adjoins the
2028 premises of and is operated by the class D private club;

2029 (iv) there are three or more convictions of patrons of the private club under Title 58,
2030 Chapter 37, Utah Controlled Substances Act, based on activities that occur on:

2031 (A) the licensed premises; or

2032 (B) the dance or concert hall that is located on property that immediately adjoins the
2033 premises of and is operated by the class D private club;

2034 (v) there is more than one conviction:

2035 (A) of:

2036 (I) the private club licensee;

2037 (II) an employee of the private club licensee;

2038 (III) an entertainer contracted by the private club licensee; or

2039 (IV) a patron of the private club licensee; and

2040 (B) made on the basis of a lewd act or lewd entertainment prohibited by this title that
2041 occurs on:

2042 (I) the licensed premises; or

2043 (II) the dance or concert hall that is located on property that immediately adjoins the
2044 premises of and is operated by the class D private club; or

2045 (vi) the commission finds acts or conduct contrary to the public welfare and morals
2046 involving lewd acts or lewd entertainment prohibited by this title that occurs on:

2047 (A) the licensed premises; or

2048 (B) the dance or concert hall that is located on property that immediately adjoins the
2049 premises of and is operated by the class D private club.

2050 (h) Nothing in this Subsection (8) prohibits a class D private club from selling, serving,
2051 or otherwise furnishing an alcoholic beverage in a dance or concert area located on the private
2052 club premises on days and times when the private club does not allow a minor into those areas.

2053 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being
2054 more restrictive of a minor's admittance to, use of, or presence on the premises of a private
2055 club.

2056 (9) (a) A private club shall maintain an expense ledger or record showing in detail all
2057 expenditures separated by payments for:

2058 (i) malt or brewed beverages;

2059 (ii) liquor;

2060 (iii) food;

2061 (iv) detailed payroll;

2062 (v) entertainment;

2063 (vi) rent;

2064 (vii) utilities;

2065 (viii) supplies; and

2066 (ix) other expenditures.

2067 (b) A private club shall keep a record required by this Subsection (9):

2068 (i) in a form approved by the department; and

2069 (ii) balanced each month.

2070 (c) An expenditure shall be supported by:

2071 (i) a delivery ticket;

2072 (ii) an invoice;

2073 (iii) a receipted bill;

- 2074 (iv) a canceled check;
- 2075 (v) a petty cash voucher; or
- 2076 (vi) other sustaining datum or memorandum.

2077 (d) An invoice or receipted bill for the current calendar or fiscal year documenting a
2078 purchase made by the private club shall be maintained.

2079 (10) (a) A private club shall maintain a minute book that is posted currently by the
2080 private club.

2081 (b) The minute book required by this Subsection (10) shall contain the minutes of a
2082 regular or special meeting of the governing body.

2083 (c) A private club shall maintain a membership list.

2084 (11) (a) A private club shall maintain a current copy of the private club's current
2085 bylaws and current house rules.

2086 (b) A change in the bylaws or house rules:

2087 (i) is not effective unless submitted to the department within ten days after adoption;
2088 and

2089 (ii) becomes effective 15 days after received by the department unless rejected by the
2090 department before the expiration of the 15-day period.

2091 (12) A private club shall maintain accounting and other records and documents as the
2092 department may require.

2093 (13) A private club or person acting for the private club, who knowingly forges,
2094 falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or other
2095 document of the private club licensee required to be made, maintained, or preserved by this
2096 title or the rules of the commission for the purpose of deceiving the commission, the
2097 department, or an official or employee of the commission or department, is subject to:

- 2098 (a) the suspension or revocation of the private club's license; and
- 2099 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

2100 (14) (a) A private club licensee shall maintain and keep a record required by this
2101 section and a book, record, receipt, or disbursement maintained or used by the licensee, as the
2102 department requires, for a minimum period of three years.

2103 (b) A record, book, receipt, or disbursement is subject to inspection by an authorized
2104 representative of the commission and the department.

2105 (c) A private club licensee shall allow the department, through an auditor or examiner
2106 of the department, to audit the records of the private club licensee at times the department
2107 considers advisable.

2108 (d) The department shall audit the records of the private club licensee at least once
2109 annually.

2110 (15) A private club licensee shall own or lease premises suitable for the private club's
2111 activities.

2112 (16) (a) A private club licensee may not maintain facilities in a manner that barricades
2113 or conceals the private club licensee's operation.

2114 (b) A member of the commission, authorized department personnel, or a peace officer
2115 shall, upon presentation of credentials, be admitted immediately to the private club and
2116 permitted without hindrance or delay to inspect completely the entire private club premises and
2117 the books and records of the private club licensee, at any time during which the private club
2118 licensee is open for the transaction of business to its members.

2119 (17) Public advertising related to a private club licensee by the following shall clearly
2120 identify a private club as being "a private club for members":

2121 (a) the private club licensee;

2122 (b) an employee or agent of the private club licensee; or

2123 (c) a person under a contract or agreement with the private club licensee.

2124 (18) A private club licensee must have food available at all times when an alcoholic
2125 beverage is sold, served, or consumed on the premises.

2126 (19) (a) [~~Liquor~~] Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling
2127 Act, liquor may not be purchased by a private club licensee except from a state store or
2128 package agency.

2129 (b) Liquor purchased from a state store or package agency may be transported by the
2130 private club licensee from the place of purchase to the licensed premises.

2131 (c) Payment for liquor shall be made in accordance with rules established by the
2132 commission.

2133 (20) A private club licensee may sell or provide a primary spirituous liquor only in a
2134 quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered
2135 dispensing system approved by the department in accordance with commission rules adopted

2136 under this title, except that:

2137 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
2138 system if used as a secondary flavoring ingredient in a beverage subject to the following
2139 restrictions:

2140 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
2141 a primary spirituous liquor;

2142 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

2143 (iii) the private club licensee shall designate a location where flavorings are stored on
2144 the floor plan provided to the department; and

2145 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

2146 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
2147 system if used:

2148 (i) as a flavoring on a dessert; and

2149 (ii) in the preparation of a flaming food dish, drink, or dessert;

2150 (c) a private club patron may have no more than 2.5 ounces of spirituous liquor at a
2151 time before the private club patron[-]; and

2152 (d) a private club patron may have no more than two spirituous liquor drinks at a time
2153 before the private club patron, except that a private club patron may not have two spirituous
2154 liquor drinks before the private club patron if one of the spirituous liquor drinks consists only
2155 of the primary spirituous liquor for the other spirituous liquor drink.

2156 (21) (a) (i) Wine may be sold and served by the glass or an individual portion not to
2157 exceed five ounces per glass or individual portion.

2158 (ii) An individual portion may be served to a patron in more than one glass as long as
2159 the total amount of wine does not exceed five ounces.

2160 (iii) An individual portion of wine is considered to be one alcoholic beverage under
2161 Subsection (25)(c).

2162 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
2163 fixed by the commission to a table of four or more persons.

2164 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price
2165 fixed by the commission to a table of less than four persons.

2166 (c) A wine service may be performed and a service charge assessed by the private club

2167 licensee as authorized by commission rule for wine purchased at the private club.

2168 ~~[(22)(a) Heavy beer may be served in an original container not exceeding one liter at a~~
2169 ~~price fixed by the commission.]~~

2170 (22) (a) A private club licensee may serve heavy beer:

2171 (i) at a price fixed by the commission; and

2172 (ii) (A) in an original container not exceeding one liter; or

2173 (B) subject to Subsection (22)(c):

2174 (I) in an open container; and

2175 (II) on draft.

2176 (b) A flavored malt beverage may be served in an original container not exceeding one
2177 liter at a price fixed by the commission.

2178 (c) A private club licensee shall sell heavy beer sold pursuant to Subsection
2179 (22)(a)(ii)(B) in a size of container that does not exceed two liters, except that heavy beer may
2180 not be sold to an individual patron in a size of container that exceeds one liter.

2181 ~~[(c)]~~ (d) A service charge may be assessed by the private club licensee for heavy beer
2182 or a flavored malt beverage purchased at the private club.

2183 (23) (a) (i) Subject to Subsection (23)(a)(ii), a private club licensee may sell beer for
2184 on-premise consumption:

2185 (A) in an open container; and

2186 (B) on draft.

2187 (ii) Beer sold pursuant to Subsection (23)(a)(i) shall be in a size of container that does
2188 not exceed two liters, except that beer may not be sold to an individual patron in a size of
2189 container that exceeds one liter.

2190 (b) (i) A private club licensee that sells beer pursuant to Subsection (23)(a):

2191 (A) may do so without obtaining a separate on-premise beer retailer license from the
2192 commission; and

2193 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
2194 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
2195 inconsistent with or less restrictive than the operational restrictions under this chapter.

2196 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2197 Licenses, required by Subsection (23)(b)(i) may result in a suspension or revocation of the

2198 private club's:

2199 (A) state liquor license; and

2200 (B) alcoholic beverage license issued by the local authority.

2201 (24) An alcoholic beverage may not be stored, served, or sold in a place other than as
2202 designated in the private club licensee's application, unless the private club licensee first
2203 applies for and receives approval from the department for a change of location within the
2204 private club.

2205 (25) (a) A patron may only make an alcoholic beverage purchase in the private club
2206 from and be served by a person employed, designated, and trained by the private club licensee
2207 to sell, dispense, and serve an alcoholic beverage.

2208 (b) Notwithstanding Subsection (25)(a), a patron who purchases bottled wine from an
2209 employee of the private club licensee or carries bottled wine onto the premises of the private
2210 club pursuant to Subsection (31) may thereafter serve wine from the bottle to the patron or
2211 others at the patron's table.

2212 (c) A private club patron may have no more than two alcoholic beverages of any kind
2213 at a time before the private club patron, subject to the limitation of Subsection (20)(d).

2214 (26) The liquor storage area shall remain locked at all times other than those hours and
2215 days when liquor sales and service are authorized by law.

2216 (27) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
2217 private club on any day after 1 a.m. or before 10 a.m.

2218 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2219 Licenses, for on-premise beer licenses.

2220 (c) (i) Notwithstanding Subsections (27)(a) and (b), a private club shall remain open
2221 for one hour after the private club ceases the sale and service of an alcoholic beverage during
2222 which time a patron of the private club may finish consuming:

2223 (A) a single drink containing spirituous liquor;

2224 (B) a single serving of wine not exceeding five ounces;

2225 (C) a single serving of heavy beer;

2226 (D) a single serving of beer not exceeding 26 ounces; or

2227 (E) a single serving of a flavored malt beverage.

2228 (ii) A private club is not required to remain open:

- 2229 (A) after all patrons have vacated the premises; or
- 2230 (B) during an emergency.
- 2231 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club licensee may not
- 2232 allow a patron to remain on the premises of the private club to consume an alcoholic beverage
- 2233 on the premises.
- 2234 (28) An alcoholic beverage may not be sold, served, or otherwise furnished to a:
- 2235 (a) minor;
- 2236 (b) person actually, apparently, or obviously intoxicated;
- 2237 (c) known habitual drunkard; or
- 2238 (d) known interdicted person.
- 2239 (29) (a) (i) Liquor may be sold only at a price fixed by the commission.
- 2240 (ii) Liquor may not be sold at a discount price on any date or at any time.
- 2241 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
- 2242 beverage to the private club licensee.
- 2243 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 2244 over consumption or intoxication.
- 2245 (d) The price of a single serving of a primary spirituous liquor shall be the same
- 2246 whether served as a single drink or in conjunction with another alcoholic beverage.
- 2247 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 2248 hours of the private club's business day such as a "happy hour."
- 2249 (f) More than one alcoholic beverage may not be sold or served for the price of a single
- 2250 alcoholic beverage.
- 2251 (g) An indefinite or unlimited number of alcoholic beverages may not be sold or served
- 2252 during a set period for a fixed price.
- 2253 (h) A private club licensee may not engage in a promotion involving or offering free
- 2254 alcoholic beverages to patrons of the private club.
- 2255 (30) An alcoholic beverage may not be purchased for a patron of the private club
- 2256 licensee by:
- 2257 (a) the private club licensee; or
- 2258 (b) an employee or agent of the private club licensee.
- 2259 (31) (a) A person may not bring onto the premises of a private club licensee an

2260 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
2261 discretion of the licensee, bottled wine onto the premises of a private club licensee for
2262 on-premise consumption.

2263 (b) Except bottled wine under Subsection (31)(a), a private club licensee or an officer,
2264 manager, employee, or agent of a private club licensee may not allow:

2265 (i) a person to bring onto the private club premises an alcoholic beverage for
2266 consumption on the private club premises; or

2267 (ii) consumption of an alcoholic beverage described in Subsection (31)(b)(i) on the
2268 premises of the private club.

2269 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
2270 or other representative of the private club licensee upon entering the private club.

2271 (d) A wine service may be performed and a service charge assessed by the private club
2272 licensee as authorized by commission rule for wine carried in by a patron.

2273 (32) (a) Except as provided in Subsection (32)(b), a private club licensee or an
2274 employee of the private club licensee may not permit a patron of the private club to carry from
2275 the private club premises an open container that:

2276 (i) is used primarily for drinking purposes; and

2277 (ii) contains an alcoholic beverage.

2278 (b) A patron may remove the unconsumed contents of a bottle of wine if before
2279 removal, the bottle is recorked or recapped.

2280 (33) (a) A minor may not be employed by a class A, B, or C private club licensee to
2281 sell, dispense, or handle an alcoholic beverage.

2282 (b) Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may be
2283 employed by a class A or C private club licensee to enter the sale at a cash register or other
2284 sales recording device.

2285 (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed
2286 by or be on the premises of a class D private club.

2287 (d) A minor may not be employed to work in a lounge or bar area of a class A, B, or C
2288 private club licensee.

2289 (34) An employee of a private club licensee, while on duty, may not:

2290 (a) consume an alcoholic beverage; or

2291 (b) be intoxicated.

2292 (35) A private club licensee shall have available on the premises for a patron to review
2293 at the time that the customer requests it, a written alcoholic beverage price list or a menu
2294 containing the price of an alcoholic beverage sold or served by the private club licensee
2295 including:

2296 (a) a set-up charge;

2297 (b) a service charge; or

2298 (c) a chilling fee.

2299 (36) A private club licensee shall display in a prominent place in the private club:

2300 (a) the private club license that is issued by the department;

2301 (b) a list of the types and brand names of liquor being served through its calibrated
2302 metered dispensing system; and

2303 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2304 drugs is a serious crime that is prosecuted aggressively in Utah."

2305 (37) A private club licensee may not on the premises of the private club:

2306 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
2307 Chapter 10, Part 11, Gambling;

2308 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
2309 Part 11, Gambling; or

2310 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2311 the risking of something of value for a return or for an outcome when the return or outcome is
2312 based upon an element of chance, excluding the playing of an amusement device that confers
2313 only an immediate and unrecorded right of replay not exchangeable for value.

2314 (38) (a) A private club licensee may not close or cease operation for a period longer
2315 than 240 hours, unless:

2316 (i) the private club licensee notifies the department in writing at least seven days before
2317 the day on which the private club licensee closes or ceases operation; and

2318 (ii) the closure or cessation of operation is first approved by the department.

2319 (b) Notwithstanding Subsection (38)(a), in the case of emergency closure, the private
2320 club licensee shall immediately notify the department by telephone.

2321 (c) (i) The department may authorize a closure or cessation of operation for a period

2322 not to exceed 60 days.

2323 (ii) The department may extend the initial period an additional 30 days upon:

2324 (A) written request of the private club; and

2325 (B) a showing of good cause.

2326 (iii) A closure or cessation of operation may not exceed a total of 90 days without

2327 commission approval.

2328 (d) The notice required by Subsection (38)(a) shall include:

2329 (i) the dates of closure or cessation of operation;

2330 (ii) the reason for the closure or cessation of operation; and

2331 (iii) the date on which the private club licensee will reopen or resume operation.

2332 (e) Failure of the private club licensee to provide notice and to obtain department

2333 authorization before closure or cessation of operation results in an automatic forfeiture of:

2334 (i) the private club license; and

2335 (ii) the unused portion of the private club license fee for the remainder of the license

2336 year effective immediately.

2337 (f) Failure of the private club licensee to reopen or resume operation by the approved

2338 date results in an automatic forfeiture of:

2339 (i) the private club license; and

2340 (ii) the unused portion of the private club license fee for the remainder of the license

2341 year.

2342 (39) A private club license may not be transferred from one location to another person,

2343 without prior written approval of the commission.

2344 (40) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give, or

2345 attempt in any way to dispose of the private club license to another person, whether for

2346 monetary gain or not.

2347 (b) A private club license has no monetary value for the purpose of any type of

2348 disposition.

2349 (41) A private club licensee or an employee of the private club licensee may not

2350 knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,

2351 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2352 (a) sell, distribute, possess, or use a controlled substance, as defined in Section

2353 58-37-2; or

2354 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2355 Section 58-37a-3.

2356 Section 11. Section **32A-6-105** is amended to read:

2357 **32A-6-105. Operational restrictions.**

2358 ~~[Each]~~ A person granted a special use permit and the employees and management
2359 personnel of the permittee shall abide by the following conditions and requirements. Failure to
2360 comply may result in a revocation of the permit, or other disciplinary action taken against
2361 individual employees or management personnel. Suspension or revocation of a permit may be
2362 done by the commission with or without cause.

2363 (1) ~~[Where]~~ If authorized by the permit, a permittee may purchase and receive a
2364 non-consumable alcoholic ~~[products]~~ product directly from a manufacturer for industrial,
2365 educational, scientific, manufacturing, or health care facility use purposes.

2366 (2) (a) Except as otherwise provided~~[-]~~ in this title, including Section 32A-6-202, a
2367 permittee may not purchase liquor ~~[may not be purchased by any permittee]~~ except from a state
2368 ~~[stores]~~ store or package ~~[agencies]~~ agency.

2369 (b) Liquor ~~[so]~~ purchased in accordance with this Subsection (2) may be transported by
2370 the permittee from the place of purchase to the permittee's premises. ~~[All liquor shall be~~
2371 purchased]

2372 (c) A permittee shall purchase liquor at prices set by the commission.

2373 (3) ~~[Alcoholic products]~~ An alcoholic product may not be stored, used, manufactured,
2374 blended, sold, or consumed in ~~[any]~~ a place other than as designated in the permittee's
2375 application.

2376 (4) A permittee may not purchase, store, sell, use, consume, or manufacture ~~[any]~~ an
2377 alcoholic ~~[products]~~ product for ~~[any]~~ a purpose other than that authorized by the special use
2378 permit.

2379 (5) Except as otherwise provided, an alcoholic ~~[products]~~ product may not be sold,
2380 served, or otherwise furnished to any:

2381 (a) minor;

2382 (b) person actually, apparently, or obviously intoxicated;

2383 (c) known habitual drunkard; or

2384 (d) known interdicted person.

2385 (6) ~~[Each]~~ A permittee shall keep records and accounts, as required by commission
2386 rule, of all alcoholic products purchased, manufactured, used, and sold.

2387 (7) A special use permit may not be transferred from one location to another, without
2388 prior written approval of the commission.

2389 (8) A special use permittee may not sell, transfer, assign, exchange, barter, give, or
2390 attempt in any way to dispose of the permit to any other person whether for monetary gain or
2391 not.

2392 Section 12. Section **32A-6-202** is amended to read:

2393 **32A-6-202. Operational restrictions.**

2394 In addition to the restrictions, conditions, and requirements of Section 32A-6-105,
2395 ~~[each]~~ a public service permit is subject to the following operating restrictions:

2396 (1) (a) A public service permittee whose public conveyances operate on an interstate
2397 basis may purchase an alcoholic ~~[beverages]~~ beverage outside of the state and bring it into the
2398 state and sell and serve it to passengers traveling on the permittee's public conveyance for
2399 consumption while en route on the conveyance.

2400 (b) A public service permittee whose public conveyances operate solely within the
2401 state shall purchase to sell and serve to passengers traveling on the permittee's public
2402 conveyance for consumption while en route on the conveyance:

2403 (i) liquor from ~~[state stores or package agencies; and]~~;

2404 (A) a state store; or

2405 (B) a package agency; and

2406 (ii) beer from a local beer wholesaler licensee.

2407 (2) A public service permittee may establish a hospitality room in which an alcoholic
2408 ~~[beverages]~~ beverage may be stored, sold, served, and consumed, if:

2409 (a) the room is located within a depot, terminal, or similar facility adjacent to and
2410 servicing the permittee's airline, railroad, bus, boat, or other public conveyance;

2411 (b) the room is completely enclosed and the interior is not visible to the public;

2412 (c) the sale or service of the alcoholic ~~[beverages]~~ beverage is made only to ~~[persons]~~ a
2413 person then in transit using the host company's airline, railroad, bus line, or other public
2414 conveyance, and holding a valid boarding pass or similar travel document issued by the host

2415 company; and

2416 (d) (i) [~~all~~] liquor is purchased from:

2417 (A) a state store; [~~or~~]

2418 (B) a package agency; [~~and~~] or

2419 (C) in the case of heavy beer, a beer wholesaler licensee that complies with Chapter 11,
2420 Part 2, Heavy Beer Wholesaling Act; and

2421 (ii) beer is purchased from a local [~~licensed~~] beer wholesaler licensee.

2422 (3) [~~Each~~] A public service permittee operating a hospitality room shall display in a
2423 prominent place in the hospitality room, a sign in large letters stating: "Warning: Driving under
2424 the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

2425 (4) The operation of [~~all~~] a hospitality [~~rooms~~] room shall be done in accordance with
2426 this chapter and rules adopted by the commission.

2427 Section 13. Section **32A-7-106** is amended to read:

2428 **32A-7-106. Operational restrictions.**

2429 (1) (a) An organization granted a single event permit and a person involved in the
2430 storage, sale, or service of an alcoholic beverage at the event for which the permit is issued,
2431 shall abide by:

2432 (i) this title;

2433 (ii) the rules of the commission; and

2434 (iii) the special conditions and requirements provided in this section.

2435 (b) Failure to comply with Subsection (1)(a) by an organization or person described in
2436 Subsection (1)(a):

2437 (i) may result in:

2438 (A) an immediate revocation of the single event permit;

2439 (B) forfeiture of the surety bond; and

2440 (C) immediate seizure of an alcoholic beverage present at the event; and

2441 (ii) disqualifies the organization from applying for a period of three years from the date
2442 of revocation of the permit for:

2443 (A) a single event permit under this chapter; or

2444 (B) a temporary special event beer permit under Chapter 10, Part 3, Temporary Special
2445 Event Beer Permits.

2446 (c) An alcoholic beverage seized under this Subsection (1) shall be returned to the
2447 organization after the event if forfeiture proceedings are not instituted under Section
2448 32A-13-103.

2449 (2) Special conditions and requirements for a single event permittee include the
2450 following:

2451 (a) (i) A person involved in the storage, sale, or service of an alcoholic beverage at the
2452 event must do so under the supervision and direction of the permittee.

2453 (ii) A person involved in the sale or service of an alcoholic beverage at the event may
2454 not, while on duty:

2455 (A) consume an alcoholic beverage; or

2456 (B) be intoxicated.

2457 (b) (i) A permittee shall purchase liquor stored, sold, served, and consumed at the event
2458 from:

2459 (A) a state store [or];

2460 (B) a package agency[-]; or

2461 (C) in the case of heavy beer, a beer wholesaler licensee that complies with Chapter 11,
2462 Part 2, Heavy Beer Wholesaling Act.

2463 (ii) The permittee shall purchase beer from:

2464 (A) a [~~licensed~~] beer wholesaler licensee; or

2465 (B) a licensed beer retailer.

2466 (iii) An alcoholic beverage is considered under the control of the permittee during the
2467 event.

2468 (iv) An attendee of the event may not bring an alcoholic beverage onto the premises of
2469 the event.

2470 (c) A permittee may not charge more than the maximum amount set forth in the permit
2471 for an alcoholic beverage.

2472 (d) A permittee shall post in a prominent place in the area in which an alcoholic
2473 beverage is sold, served, and consumed, a copy of the permit, together with a list of the
2474 operational restrictions and requirements of a single event permittee set forth in this section.

2475 (e) An alcoholic beverage purchased for the event may not be stored, sold, served, or
2476 consumed in a location other than that described in the application and designated on the

2477 permit unless the permittee first applies for and receives approval from the commission for a
 2478 change of location.

2479 (f) (i) A single event permittee may sell or provide a primary spirituous liquor only in a
 2480 quantity not to exceed 1.5 ounces per beverage except that additional spirituous liquor may be
 2481 used in a beverage if:

2482 (A) used as a secondary flavoring ingredient;

2483 (B) used in conjunction with the primary spirituous liquor;

2484 (C) the secondary ingredient is not the only spirituous liquor in the beverage;

2485 (D) an attendee has no more than 2.5 ounces of spirituous liquor at a time before the
 2486 attendee; and

2487 (E) an attendee has no more than one spirituous liquor drink at a time before the
 2488 attendee.

2489 (ii) Spirituous liquor need not be dispensed through a calibrated metered dispensing
 2490 system.

2491 (g) (i) (A) Wine may be sold and served by the glass or an individual portion that does
 2492 not exceed five ounces per glass or individual portion.

2493 (B) An individual portion may be served to an attendee in more than one glass as long
 2494 as the total amount of wine does not exceed five ounces.

2495 (C) An individual portion of wine is considered to be one alcoholic beverage under
 2496 Subsection (2)~~(p)~~(o).

2497 (ii) Wine may be sold and served in a container not exceeding 1.5 liters at a price fixed
 2498 by the commission.

2499 (iii) A wine service may be performed and a service charge assessed by the single event
 2500 permittee as authorized by commission rule for wine purchased at the event.

2501 ~~[(h) (i) Heavy beer may be served in an original container not exceeding one liter at a
 2502 price fixed by the commission.]~~

2503 (h) (i) A single event permittee may serve heavy beer:

2504 (A) at a price fixed by the commission; and

2505 (B) (I) in an original container not exceeding one liter; or

2506 (II) subject to Subsection (2)(h)(iii):

2507 (Aa) in an open container; and

2508 (Bb) on draft.
2509 (ii) A flavored malt beverage may be served in an original container not exceeding one
2510 liter at a price fixed by the commission.
2511 (iii) A single event permittee shall sell heavy beer sold pursuant to Subsection
2512 (2)(h)(i)(B)(II) in a size of container that does not exceed two liters, except that heavy beer may
2513 not be sold to an individual patron in a size of container that exceeds one liter.
2514 ~~[(iii)]~~ (iv) A service charge may be assessed by a single event permittee as authorized
2515 by commission rule for heavy beer or a flavored malt beverage purchased at the event.
2516 (i) (i) Subject to Subsection (2)(i)(ii), beer may be sold for on-premise consumption:
2517 (A) in an open container; and
2518 (B) on draft.
2519 (ii) Beer sold pursuant to Subsection (2)(i)(i) shall be in a size of container that does
2520 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
2521 container that exceeds one liter.
2522 (j) (i) An alcoholic beverage may not be sold, served, or consumed between the hours
2523 of 1 a.m. and 10 a.m.
2524 (ii) This Subsection (2)(j) does not preclude a local authority from being more
2525 restrictive with respect to the hours of sale, service, or consumption of an alcoholic beverage at
2526 a temporary single event.
2527 (k) An alcoholic beverage may not be sold, served, or otherwise furnished to a:
2528 (i) minor;
2529 (ii) person actually, apparently, or obviously intoxicated;
2530 (iii) known habitual drunkard; or
2531 (iv) known interdicted person.
2532 (l) (i) (A) Liquor may be sold only at a price fixed by the commission.
2533 (B) Liquor may not be sold at a discount price on any date or at any time.
2534 (ii) An alcoholic beverage may not be sold at less than the cost of the alcoholic
2535 beverage to the permittee.
2536 (iii) An alcoholic beverage may not be sold at a price that encourages over
2537 consumption or intoxication.
2538 (iv) An alcoholic beverage may not be sold at a special or reduced price for only

2539 certain hours of the day of the permitted event.

2540 (v) More than one alcoholic beverage may not be sold or served for the price of a
2541 single alcoholic beverage.

2542 (vi) The permittee may not engage in a public promotion involving or offering free
2543 alcoholic beverages to the general public.

2544 (m) A single event permittee and its employees may not permit an attendee to carry
2545 from the premises an open container that:

2546 (i) is used primarily for drinking purposes; and

2547 (ii) contains an alcoholic beverage.

2548 (n) A minor may not sell, serve, dispense, or handle an alcoholic beverage at the event.

2549 (o) An attendee may have no more than one alcoholic beverage of any kind at a time
2550 before the patron, subject to the limitation in Subsection (2)(f)(i)(E).

2551 (3) The permittee shall maintain an expense and revenue ledger or record showing:

2552 (a) expenditures made for liquor and beer, set-ups, and other ingredients and
2553 components of an alcoholic beverage; and

2554 (b) the revenue from the sale of an alcoholic beverage.

2555 (4) A single event permit may not be transferred.

2556 (5) A single event permittee may not on the premises serviced by the single event
2557 permittee:

2558 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
2559 Chapter 10, Part 11, Gambling;

2560 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2561 Part 11, Gambling; or

2562 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2563 the risking of something of value for a return or for an outcome when the return or outcome is
2564 based upon an element of chance, excluding the playing of an amusement device that confers
2565 only an immediate and unrecorded right of replay not exchangeable for value.

2566 (6) A single event permittee or an employee of the single event permittee may not
2567 knowingly allow a person at an event to, in violation of Title 58, Chapter 37, Utah Controlled
2568 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2569 (a) sell, distribute, possess, or use a controlled substance, as defined in Section

2570 58-37-2; or

2571 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2572 Section 58-37a-3.

2573 Section 14. Section **32A-8-101** is amended to read:

2574 **32A-8-101. Commission's power to grant licenses -- Limitations.**

2575 (1) The commission may issue an alcoholic beverage manufacturing license to a
2576 manufacturer whose business in this state is located in this state for the manufacture, storage,
2577 and sale of an alcoholic [beverages] beverage for each type of license provided by this chapter.

2578 (2) The type of manufacturing licenses issued under this chapter are known as a:

2579 (a) winery license;

2580 (b) distillery license; and

2581 (c) brewery license.

2582 (3) (a) A person may not manufacture an alcoholic beverage unless an alcoholic
2583 beverage manufacturing license is issued by the commission.

2584 (b) A separate license is required for each place of manufacture, storage, and sale of an
2585 alcoholic beverage.

2586 (c) Violation of this Subsection (3) is a class B misdemeanor.

2587 (4) (a) A brewer located outside the state is not required to be licensed under this
2588 chapter.

2589 (b) A brewer described in Subsection (4)(a) must obtain a certificate of approval from
2590 the department before selling or delivering:

2591 (i) beer to a [~~licensed~~] beer wholesaler licensee in this state;

2592 (ii) [~~on or after October 1, 2008,~~] a flavored malt beverage to:

2593 (A) the department; or

2594 (B) a military installation; [~~or~~]

2595 (iii) heavy beer to a beer wholesaler licensee in this state that complies with Chapter

2596 11, Part 2, Heavy Beer Wholesaling Act; or

2597 [~~(iii)~~] (iv) if a small brewer, beer to:

2598 (A) a [~~licensed~~] beer wholesaler licensee; or

2599 (B) a retailer in this state.

2600 (c) A brewer seeking a certificate of approval shall file a written application with the

2601 department, in a form prescribed by the department. The application shall be accompanied by:

2602 (i) a nonrefundable \$50 application fee;

2603 (ii) an initial certificate of approval fee of \$250 that is refundable if a certificate is not
2604 granted;

2605 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and
2606 Firearms to brew beer, heavy beer, or a flavored malt beverage; and

2607 (iv) ~~any~~ other information or documents the department may require.

2608 (d) (i) An application shall be signed and verified by oath or affirmation by:

2609 (A) a partner if the brewer is a partnership; or

2610 (B) an executive officer, manager, or person specifically authorized by a corporation or
2611 limited liability company to sign the application.

2612 (ii) The brewer filing an application shall attach to the application written evidence of
2613 the authority of the person described in Subsection (4)(d)(i) to sign the application.

2614 (e) (i) ~~All certificates~~ A certificate of approval ~~expire~~ expires on December 31 of
2615 each year.

2616 (ii) A brewer desiring to renew its certificate shall submit a renewal fee of \$200, and a
2617 completed renewal application to the department no later than November 30 of the year the
2618 certificate expires.

2619 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
2620 certificate effective on the date the existing certificate expires.

2621 (iv) A renewal application shall be in a form prescribed by the department.

2622 (5) The commission may prescribe by policy, directive, or rule, consistent with this
2623 title, the general operational requirements of licensees relating to:

2624 (a) physical facilities;

2625 (b) conditions of sale, storage, or manufacture of an alcoholic ~~beverages~~ beverage;

2626 (c) storage and sales quantity limitations; and

2627 (d) other matters considered appropriate by the commission.

2628 Section 15. Section **32A-8-401** is amended to read:

2629 **32A-8-401. Authority and operational restrictions.**

2630 (1) A brewery license allows the licensee to:

2631 (a) manufacture, brew, store, transport, or export beer, heavy beer, and a flavored malt

2632 [~~beverages~~] beverage;

2633 (b) sell heavy beer [~~and, on or after October 1, 2008,~~] or a flavored malt beverage to:

2634 (i) the department;

2635 (ii) a military installation; and

2636 (iii) an out-of-state customer;

2637 (c) sell heavy beer to a beer wholesaler licensee that complies with Chapter 11, Part 2,

2638 Heavy Beer Wholesaling Act;

2639 [~~(c)~~] (d) sell beer to a [~~licensed~~] beer wholesaler licensee;

2640 [~~(d)~~] (e) in the case of a small brewer, sell in accordance with Subsection (5), beer

2641 manufactured by the brewer to:

2642 (i) a licensed retailer;

2643 (ii) a holder of a single event permit issued by the commission pursuant to Chapter 7,

2644 Single Event Permits; and

2645 (iii) a holder of a temporary retail beer permit issued by the commission for a

2646 temporary special event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits;

2647 and

2648 [~~(e)~~] (f) warehouse on its premises an alcoholic beverage that it manufactures or
2649 purchases for manufacturing purposes.

2650 (2) If considered necessary, the commission or department may:

2651 (a) require certain alterations to the plant, equipment, or premises;

2652 (b) require the alteration or removal of [~~any~~] unsuitable alcoholic beverage-making
2653 equipment or material;

2654 (c) require the licensee to clean, disinfect, ventilate, or otherwise improve the sanitary
2655 and working conditions of any plant, premises, and equipment; or

2656 (d) demand that [~~all books, records, or data~~] a book, record, or data pertaining to the
2657 materials and ingredients used in the manufacture of an alcoholic [~~products are~~] product is
2658 available to the commission or department upon request.

2659 (3) A brewery licensee may not sell the following to [~~any~~] a person within the state
2660 except as follows:

2661 (a) heavy beer to:

2662 (i) the department [~~or~~];

- 2663 (ii) a military installation[~~;~~]; or
 2664 ~~[(a) heavy beer; or]~~
 2665 (iii) a beer wholesaler licensee that complies with Chapter 11, Part 2, Heavy Beer
 2666 Wholesaling Act; or
 2667 (b) ~~[on or after October 1, 2008;]~~ a flavored malt beverage[~~;~~] to:
 2668 (i) the department; or
 2669 (ii) a military installation.
- 2670 (4) A brewery licensee may not permit ~~[any]~~ beer, heavy beer, or a flavored malt
 2671 beverage to be consumed on its premises, except under the circumstances described in this
 2672 Subsection (4).
- 2673 (a) A brewer may allow ~~[its]~~ an off-duty ~~[employees]~~ employee of the brewer to
 2674 consume beer, heavy beer, or a flavored malt beverage on its premises without charge.
- 2675 (b) A brewery licensee may allow ~~[any]~~ a person who can lawfully buy the following
 2676 for wholesale or retail distribution to consume bona fide samples of its product on the brewery
 2677 premises:
- 2678 (i) beer;
 2679 (ii) heavy beer; or
 2680 (iii) ~~[on or after October 1, 2008;]~~ a flavored malt beverage.
- 2681 (c) (i) A brewery licensee may operate on its manufacturing premises a retail facility
 2682 allowing consumption on premises of beer in bottles or draft as long as food is also available.
 2683 (ii) A retail facility located on the premises of a brewery licensee shall be operated or
 2684 supervised by the brewer.
 2685 (iii) In operating an on-site retail facility, a brewery licensee shall comply with the
 2686 requirements of Sections 32A-10-101 and 32A-10-102.
- 2687 (5) (a) A small brewer licensee located in this state, and a small brewer located outside
 2688 this state that obtains a certificate of approval from the department to sell beer in this state
 2689 under Subsection 32A-8-101(4), that sells beer manufactured by the small brewer directly to a
 2690 retailer licensee or permittee shall own, lease, or maintain and control a warehouse facility
 2691 located in this state for the storage of ~~[aH]~~ beer to be sold to any retailer licensee or permittee.
 2692 (b) A small brewer may not sell beer to a retailer licensee or permittee unless the beer:
 2693 (i) is manufactured by the small brewer; and

2694 (ii) is first placed in the small brewer's warehouse facility in this state.

2695 (c) (i) A small brewer warehouse shall maintain complete beer importation, inventory,
2696 tax, distribution, sales records, and other documents as the department and State Tax
2697 Commission may require.

2698 (ii) The records and documents described in Subsection (5)(c)(i) are subject to
2699 inspection by:

2700 (A) the department; and

2701 (B) the State Tax Commission.

2702 (iii) A small brewer or person acting for the small brewer, who knowingly forges,
2703 falsifies, alters, cancels, destroys, conceals, or removes a record or document required to be
2704 made, maintained, or preserved by this title or the rules of the commission, or State Tax
2705 Commission for the purpose of deceiving the commission, department, State Tax Commission,
2706 or any of their officials or employees, is subject to:

2707 (A) the immediate suspension or revocation of:

2708 (I) the brewery license; or

2709 (II) the certificate of approval; and

2710 (B) possible criminal prosecution under Chapter 12, Criminal Offenses.

2711 Section 16. Section **32A-8-505** is amended to read:

2712 **32A-8-505. Operational restrictions.**

2713 (1) (a) A local industry representative licensee, employee or agent of the licensee, or
2714 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
2715 state, shall abide by the conditions and requirements set forth in this section.

2716 (b) If a person listed in Subsection (1)(a) knowingly violates or fails to comply with the
2717 conditions and requirements set forth in this section:

2718 (i) the violation or failure to comply may result in:

2719 (A) a suspension or revocation of the license; or

2720 (B) other disciplinary action taken against individual employees or agents of the
2721 licensee; and

2722 (ii) the commission may order the removal of the manufacturer's, supplier's, or
2723 importer's [~~products~~] product from the department's sales list and a suspension of the
2724 department's purchase of [~~those products~~] the product for a period determined by the

- 2725 commission if the manufacturer, supplier, or importer:
- 2726 (A) directly committed the violation; or
- 2727 (B) solicited, requested, commanded, encouraged, or intentionally aided another to
- 2728 engage in the violation.
- 2729 (2) A local industry representative licensee, employee or agent of the licensee, or
- 2730 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
- 2731 state:
- 2732 (a) only to the extent authorized by Chapter 12, Criminal Offenses, may:
- 2733 (i) assist the department in:
- 2734 (A) ordering, shipping, and delivering merchandise;
- 2735 (B) providing new product notification;
- 2736 (C) obtaining listing and delisting information;
- 2737 (D) receiving price quotations;
- 2738 (E) providing product sales analysis;
- 2739 (F) conducting shelf management; and
- 2740 (G) conducting educational seminars; and
- 2741 (ii) for the purpose of acquiring new listings:
- 2742 (A) solicit orders from the department; and
- 2743 (B) submit to the department price lists and samples of the products of the
- 2744 manufacturer, supplier, or importer;
- 2745 (b) may not sell ~~[any]~~ liquor within the state except ~~[to]~~ as follows:
- 2746 (i) heavy beer to:
- 2747 (A) the department [and];
- 2748 (B) a military [~~installations including:~~] installation; or
- 2749 [(i) ~~wine;~~
- 2750 [(ii) ~~heavy beer; or~~
- 2751 [(iii) ~~on or after October 1, 2008;~~
- 2752 (C) a beer wholesaler licensee that complies with Chapter 11, Part 2, Heavy Beer
- 2753 Wholesaling Act; and
- 2754 (ii) wine or a flavored malt beverage[;] to:
- 2755 (A) the department; or

2756 (B) a military installation;
2757 (c) may not ship or transport, or cause to be shipped or transported, into this state or
2758 from one place to another within this state [~~any~~] liquor including:
2759 (i) wine;
2760 (ii) heavy beer; or
2761 (iii) [~~on or after October 1, 2008;~~] a flavored malt beverage;
2762 (d) may not sell or furnish [~~any~~] liquor to [~~any~~] a person within this state [~~other than to~~]
2763 except as follows:
2764 (i) heavy beer to:
2765 (A) the department [~~and~~];
2766 (B) a military [~~installations including;~~] installation; or
2767 [~~(i) wine;~~]
2768 [~~(ii) heavy beer; or~~]
2769 [~~(iii) on or after October 1, 2008;~~]
2770 (C) a beer wholesaler licensee that complies with Chapter 11, Part 2, Heavy Beer
2771 Wholesaling Act; and
2772 (ii) wine or a flavored malt beverage[;]to:
2773 (A) the department; or
2774 (B) a military installation;
2775 (e) except as otherwise provided, may not advertise [~~products~~] a product it represents
2776 in violation of this title or any other federal or state law;
2777 (f) shall comply with [~~all~~] trade practices provided in Chapter 12, Criminal Offenses;
2778 and
2779 (g) may only provide samples of [~~products~~] a product of the manufacturer, supplier, or
2780 importer for tasting and sampling purposes as provided in Section 32A-12-603 by the
2781 department.
2782 (3) (a) A local industry representative licensee shall maintain on file with the
2783 department a current accounts list of the names and addresses of all manufacturers, suppliers,
2784 and importers the licensee represents.
2785 (b) The licensee shall notify the department in writing of any changes to the accounts
2786 listed within 14 days from the date the licensee either acquired or lost the account of a

2787 particular manufacturer, supplier, or importer.

2788 (4) A local industry representative licensee shall maintain accounting and other records
2789 and documents as the department may require for at least three years.

2790 (5) A local industry representative licensee or person acting for the licensee, who
2791 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of
2792 the books of account or other documents of the licensee required to be made, maintained, or
2793 preserved by this title or the rules of the commission for the purpose of deceiving the
2794 commission or the department, or any of their officials or employees, is subject to:

2795 (a) the immediate suspension or revocation of the industry representative's license; and

2796 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

2797 (6) A local industry representative licensee may, for the purpose of becoming educated
2798 as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee
2799 represents, taste and analyze industry representative samples under the conditions listed in this
2800 Subsection (6).

2801 (a) The licensee may not receive more than two industry representative samples of a
2802 particular type, vintage, and production lot of a particular branded product within a consecutive
2803 120-day period.

2804 (b) (i) A sample of liquor may not exceed 1 liter.

2805 (ii) Notwithstanding Subsection (6)(b)(i), a sample of the following may not exceed 1.5
2806 liters unless that exact product is only commercially packaged in a larger size, not to exceed 5
2807 liters:

2808 (A) wine;

2809 (B) heavy beer; or

2810 (C) [~~on or after October 1, 2008,~~] a flavored malt beverage.

2811 (c) An industry representative sample may only be of a product not presently listed on
2812 the department's sales list.

2813 (d) (i) An industry representative sample shall be shipped:

2814 (A) prepaid by the manufacturer, supplier, or importer;

2815 (B) by common carrier and not via United States mail; and

2816 (C) directly to the department's central administrative warehouse office.

2817 (ii) An industry representative sample may not be shipped to any other location within

2818 the state.

2819 (e) An industry representative sample shall be accompanied by a letter from the
2820 manufacturer, supplier, or importer:

2821 (i) clearly identifying the product as an "industry representative sample"; and

2822 (ii) clearly stating:

2823 (A) the FOB case price of the product; and

2824 (B) the name of the local industry representative for who it is intended.

2825 (f) The department shall assess a reasonable handling, labeling, and storage fee for
2826 each industry representative sample received.

2827 (g) The department shall affix to a bottle or container a label clearly identifying the
2828 product as an "industry representative sample."

2829 (h) The department shall:

2830 (i) account for and record [~~each~~] an industry representative sample received;

2831 (ii) account for the sample's disposition; and

2832 (iii) maintain a record of the sample and its disposition for a two-year period.

2833 (i) An industry representative sample may not leave the premises of the department's
2834 central administrative warehouse office.

2835 (j) A licensed industry representative and the industry representative's employees and
2836 agents may, at regularly scheduled days and times established by the department, taste and
2837 analyze one or more industry representative samples on the premises of the department's
2838 central administrative warehouse office.

2839 (k) Any unused contents of an opened product remaining after the product is sampled
2840 shall be destroyed by the department under controlled and audited conditions established by the
2841 department.

2842 (l) An industry representative sample that is not tasted within 30 days of receipt by the
2843 department shall be disposed of at the discretion of the department in one of the following
2844 ways:

2845 (i) contents destroyed under controlled and audited conditions established by the
2846 department; or

2847 (ii) added to the inventory of the department for sale to the public.

2848 (7) An employee or agent of a local industry representative licensee may not be:

- 2849 (a) the holder of any retail license issued under this title that sells:
- 2850 (i) spirituous liquor;
- 2851 (ii) wine;
- 2852 (iii) heavy beer; or
- 2853 (iv) [~~on or after October 1, 2008,~~] a flavored malt beverage;
- 2854 (b) an employee or agent of any retail licensee issued under this title that sells:
- 2855 (i) spirituous liquor;
- 2856 (ii) wine;
- 2857 (iii) heavy beer; or
- 2858 (iv) [~~on or after October 1, 2008,~~] a flavored malt beverage; or
- 2859 (c) a minor.
- 2860 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
- 2861 give, or attempt in any way to dispose of the license to any other person, whether for monetary
- 2862 gain or not.
- 2863 (b) A local industry representative license has no monetary value for the purpose of any
- 2864 type of disposition.
- 2865 Section 17. Section **32A-9-101** is amended to read:
- 2866 **32A-9-101. Commission's power to issue licenses.**
- 2867 (1) The commission may issue a liquor warehousing [licenses] license for the
- 2868 warehousing, distribution, and transportation of liquor.
- 2869 (2) [~~A~~] (a) Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling Act, a
- 2870 person may not warehouse, distribute, or transport liquor for resale to a wholesale or retail
- 2871 [customers] customer unless the person is issued a liquor warehousing license by the
- 2872 commission.
- 2873 (b) A separate license is required for each warehousing facility.
- 2874 (c) Violation of this Subsection (2) is a class B misdemeanor.
- 2875 (3) The commission may prescribe by policy, directive, or rule, consistent with this
- 2876 title, the general operational requirements of [~~licensees~~] a liquor warehousing licensee relating
- 2877 to:
- 2878 (a) physical facilities;
- 2879 (b) conditions of storage, distribution, or transport of liquor; and

2880 (c) other matters considered appropriate by the commission.

2881 Section 18. Section **32A-10-102** is amended to read:

2882 **32A-10-102. General restrictions.**

2883 (1) (a) (i) A beer retailer licensed under this part or Part 2, On-Premise Beer Retailer
2884 Licenses, may not purchase, acquire, possess for the purpose of resale, or sell beer except that
2885 which is lawfully purchased from:

2886 (A) a beer wholesaler [~~licensed under this title~~] licensee; or

2887 (B) a small brewer that manufactures the beer.

2888 (ii) Violation of Subsection (1)(a)(i) is a class A misdemeanor.

2889 (b) (i) A beer retailer shall purchase beer only from a [~~licensed~~] beer wholesaler
2890 licensee who is authorized by the commission to sell beer in the geographical area in which the
2891 beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to
2892 the beer retailer as provided in Section 32A-11-106.

2893 (ii) Violation of Subsection (1)(b)(i) is a class B misdemeanor.

2894 (2) (a) Beer may not be sold, provided, or possessed for off-premise consumption in a
2895 container larger than two liters.

2896 (b) For a special event that does not last longer than 30 days:

2897 (i) an on-premise beer retailer license issued by the commission as provided in this part
2898 is not required for the sale of beer at the special event; and

2899 (ii) a temporary beer permit must be obtained from the commission as provided in Part
2900 3, Temporary Special Event Beer Permits.

2901 (3) (a) A minor may not be granted a beer retailer license.

2902 (b) The commission may not grant a beer retailer license to an applicant that is a
2903 partnership, corporation, or limited liability company if any of the following is a minor:

2904 (i) a partner or managing agent of the applicant partnership;

2905 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
2906 total issued and outstanding stock of the applicant corporation; or

2907 (iii) a manager or member who owns at least 20% of the applicant limited liability
2908 company.

2909 (4) A minor may not sell beer on the premises of a beer retailer for off-premise
2910 consumption unless:

2911 (a) the sale is done under the supervision of a person 21 years of age or older who is on
2912 the premises; and

2913 (b) the minor is at least 16 years of age.

2914 (5) (a) Subject to the other provisions of this Subsection (5), a beer retailer shall:

2915 (i) display a beer sold by the retailer in an area that is visibly separate and distinct from
2916 the area where a nonalcoholic beverage is displayed; and

2917 (ii) post a sign in the area described in Subsection (5)(a)(i) that:

2918 (A) is prominent;

2919 (B) is easily readable by a consumer;

2920 (C) meets the requirements for format made by the commission by rule made in
2921 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

2922 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain
2923 alcohol. Please read the label carefully."

2924 (b) Notwithstanding Subsection (5)(a), a nonalcoholic beverage may be displayed with
2925 beer if the nonalcoholic beverage is labeled, packaged, or advertised as a nonalcoholic beer.

2926 (c) The requirements of this Subsection (5) apply to a beer notwithstanding that it is
2927 labeled, packaged, or advertised as:

2928 (i) a malt cooler; or

2929 (ii) a beverage that may provide energy.

2930 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2931 commission shall define by rule what constitutes an "area that is visibly separate and distinct
2932 from the area where a nonalcoholic beverage is displayed."

2933 (e) A violation of this Subsection (5) is an infraction.

2934 Section 19. Section **32A-10-306** is amended to read:

2935 **32A-10-306. Operational restrictions.**

2936 (1) (a) A person granted a temporary special event beer permit and [any] a person
2937 involved in the storage, sale, or service of beer at the event for which a temporary special event
2938 the permit is issued, shall abide by this title, the rules of the commission, and the special
2939 conditions and requirements provided in this section.

2940 (b) Failure to comply as provided in Subsection (1)(a):

2941 (i) may result in:

2942 (A) an immediate revocation of the permit;

2943 (B) forfeiture of the surety bond; and

2944 (C) immediate seizure of ~~all~~ beer present at the event; and

2945 (ii) disqualifies the organization from applying for a temporary special event beer

2946 permit under this part or a single event permit under Chapter 7, Single Event Permits, for a

2947 period of three years from the date of revocation of the temporary special event permit.

2948 (c) Beer seized under this Subsection (1) shall be returned to the organization after the

2949 event if forfeiture proceedings are not instituted under Section 32A-13-103.

2950 (2) Special conditions and requirements for temporary special event beer permittees

2951 include the following:

2952 (a) (i) A person involved in the storage, sale, or service of beer at the temporary special

2953 event is considered to be under the supervision and direction of the permittee.

2954 (ii) A person involved in the sale or service of beer at the temporary special event may

2955 not, while on duty:

2956 (A) consume an alcoholic beverage; or

2957 (B) be intoxicated.

2958 (b) (i) A permittee shall purchase beer stored, sold, served, and consumed at the

2959 temporary special event from a ~~licensed~~ beer wholesaler licensee or retailer.

2960 (ii) Beer is considered under the control of the permittee during the temporary special

2961 event.

2962 (iii) An attendee of the temporary special event may not bring an alcoholic beverage

2963 onto the premises of the temporary special event.

2964 (c) A permittee shall post in a prominent place in the area in which beer is being sold,

2965 served, and consumed:

2966 (i) a copy of the permit; and

2967 (ii) a list of the operational restrictions and requirements of temporary special event

2968 beer permittees set forth in this section.

2969 (d) Beer purchased for a temporary special event may not be stored, sold, served, or

2970 consumed in a location other than that described in the application and designated on the

2971 temporary special event permit unless the permittee first applies for and receives approval from

2972 the commission for a change of location.

2973 (e) (i) Subject to Subsection (2)(e)(ii), beer may be sold for on-premise consumption:

2974 (A) in an open container; and

2975 (B) on draft.

2976 (ii) Beer sold pursuant to Subsection (2)(e)(i) shall be in a size of container that does
2977 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
2978 container that exceeds one liter.

2979 (f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed
2980 between the hours of 1 a.m. and 10 a.m.

2981 (ii) This Subsection (2)(f) does not preclude a local authority from being more
2982 restrictive with respect to the hours of sale, service, or consumption of beer at a temporary
2983 special event.

2984 (g) Beer may not be sold, served, or otherwise furnished to a:

2985 (i) minor;

2986 (ii) person actually, apparently, or obviously intoxicated;

2987 (iii) known habitual drunkard; or

2988 (iv) known interdicted person.

2989 (h) (i) Beer may not be sold at less than the cost of the beer to the permittee.

2990 (ii) Beer may not be sold at a price that encourages over consumption or intoxication.

2991 (iii) Beer may not be sold at a special or reduced price for only certain hours of the day
2992 of the permitted event.

2993 (iv) More than one beer beverage may not be sold or served for the price of a single
2994 beer beverage.

2995 (v) ~~The~~ A permittee may not engage in a public promotion involving or offering free
2996 beer to the general public.

2997 (i) ~~The~~ A permittee and its employees may not permit an attendee to carry from the
2998 premises an open container that:

2999 (i) is used for drinking purposes; and

3000 (ii) contains an alcoholic beverage.

3001 (j) A minor may not sell, serve, dispense, or handle any beer at a temporary special
3002 event.

3003 (3) ~~The~~ A permittee shall maintain an expense and revenue ledger or record showing:

- 3004 (a) expenditures made for beer; and
- 3005 (b) the revenue from sale of beer.
- 3006 (4) A temporary special event beer permit may not be transferred.
- 3007 (5) A temporary special event beer permittee may not on the premises serviced by the
- 3008 permittee:
- 3009 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
- 3010 Chapter 10, Part 11, Gambling;
- 3011 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 3012 Part 11, Gambling; or
- 3013 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 3014 the risking of something of value for a return or for an outcome when the return or outcome is
- 3015 based upon an element of chance, excluding the playing of an amusement device that confers
- 3016 only an immediate and unrecorded right of replay not exchangeable for value.
- 3017 (6) A temporary special event beer permittee or an employee of the temporary special
- 3018 event beer permittee may not knowingly allow a person at an event to, in violation of Title 58,
- 3019 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:
- 3020 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
- 3021 58-37-2; or
- 3022 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
- 3023 Section 58-37a-3.
- 3024 Section 20. Section **32A-11-101** is amended to read:
- 3025 **32A-11-101. Commission's power to issue licenses.**
- 3026 (1) (a) The commission may issue a beer wholesaling [~~licenses~~] license for the import,
- 3027 purchase, storage, sale, and distribution of beer.
- 3028 (b) The license entitles the beer wholesaler licensee to:
- 3029 (i) purchase and import beer into the state;
- 3030 (ii) store beer in approved warehouses; and
- 3031 (iii) sell and distribute beer directly to:
- 3032 (A) a licensed beer retailer;
- 3033 (B) a holder of a single event permit issued by the commission pursuant to Chapter 7,
- 3034 Single Event Permits; and

3035 (C) a holder of a temporary retail beer permit issued by the commission for a
 3036 temporary special event pursuant to Chapter 10, Part 3, Temporary Special Event Beer
 3037 Permits[-]; and

3038 (iv) if the beer wholesaler licensee complies with Part 2, Heavy Beer Wholesaling Act:

3039 (A) purchase and import heavy beer into the state;

3040 (B) store heavy beer in an approved warehouse; and

3041 (C) sell and distribute heavy beer directly to a liquor retailer, as defined in Section
 3042 32A-11-202.

3043 (2) (a) A person may not import, purchase, store, sell, or distribute beer or heavy beer
 3044 to ~~[retailers]~~ a retailer or act in any way as a ~~[beer]~~ wholesaler unless the person has been
 3045 issued a beer wholesaler's license by the commission in accordance with this section.

3046 (b) Nothing in this section precludes a small brewer from selling ~~[beer it has~~
 3047 ~~manufactured directly]~~ to a licensed beer retailer[-] the following that the brewer manufactures:

3048 (i) beer; or

3049 (ii) qualifying heavy beer.

3050 (c) Violation of this Subsection (2) is a class A misdemeanor.

3051 (3) The commission may prescribe by policy, directive, or rule, consistent with this
 3052 title, the general operational requirements of ~~[wholesaling licensees]~~ a beer wholesaler licensee
 3053 relating to physical facilities, conditions of purchase, storage, sale, importation, distribution, or
 3054 transportation of beer or heavy beer within the state.

3055 Section 21. Section **32A-11-102** is amended to read:

3056 **32A-11-102. Application and renewal requirements.**

3057 (1) A person seeking a beer wholesaling license under this chapter shall file a written
 3058 application with the department, in a form prescribed by the department. The application shall
 3059 be accompanied by:

3060 (a) a nonrefundable \$250 application fee;

3061 (b) an initial license fee of \$2,000, which is refundable if a license is not granted;

3062 (c) written consent of the local authority;

3063 (d) a copy of the applicant's current business license;

3064 (e) a bond as specified in Section 32A-11-105;

3065 (f) evidence that the applicant is carrying public liability insurance in an amount and

3066 form satisfactory to the department;

3067 (g) a signed consent form stating that the beer wholesaler licensee will permit any
3068 authorized representative of the commission, department, or any peace officer unrestricted right
3069 to enter the licensed premises;

3070 (h) a statement of:

3071 (i) the brands of beer the applicant is authorized to sell and distribute;

3072 [~~(i) a statement of all~~] (ii) the geographical areas in which the applicant is authorized
3073 to sell and distribute beer; and

3074 (iii) if the beer wholesaler licensee is in compliance with Part 2, Heavy Beer
3075 Wholesaling Act:

3076 (A) the brands of heavy beer that the beer wholesaler licensee is authorized to sell and
3077 distribute; and

3078 (B) the one or more geographical areas in which the beer wholesaler licensee is
3079 authorized to sell and distribute heavy beer;

3080 [~~(j)~~] (i) in the case of an applicant that is a partnership, corporation, or limited liability
3081 company, proper verification evidencing that the person or persons signing the beer
3082 wholesaling license application are authorized to so act on behalf of the partnership,
3083 corporation, or limited liability company; and

3084 [~~(k)~~] (j) any other documents and evidence as the department may direct.

3085 (2) (a) (i) [~~AH~~] A beer wholesaling [~~licenses expire~~] license expires on December 31 of
3086 each year.

3087 (ii) A person desiring to renew that person's beer wholesaling license shall submit by
3088 no later than November 30 of the year the license expires:

3089 (A) a completed renewal application to the department; and

3090 (B) a renewal fee in the following amount:

3091 Case Sales in Previous License Year for the Licensee	Renewal Fee
3092 under 500,000 cases	\$1,000
3093 equals or exceeds 500,000 cases but less than 1,000,000 cases	\$2,000
3094 equals or exceeds 1,000,000 cases	\$3,000.

3095 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
3096 license effective on the date the existing license expires.

3097 (iv) Renewal applications shall be in a form prescribed by the department.

3098 (b) The annual renewal fee prescribed in this Subsection (2) is independent of any like
3099 license fee which may be assessed by the local authority of the city or county in which the
3100 wholesaler's warehouse is located. Any local fees may not exceed \$300. Payment of local fees
3101 shall be made directly to the local authority assessing the local fees.

3102 (3) To ensure compliance with Subsection 32A-11-106(7), the commission may
3103 suspend or revoke a beer wholesaling license if a beer [~~wholesaling~~] wholesale licensee does
3104 not immediately notify the department of any change in:

3105 (a) ownership of the beer wholesaler licensee;

3106 (b) for a corporate owner, the:

3107 (i) corporate officers or directors; or

3108 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
3109 corporation; or

3110 (c) for a limited liability company:

3111 (i) managers; or

3112 (ii) members owning at least 20% of the limited liability company.

3113 Section 22. Section **32A-11-103** is amended to read:

3114 **32A-11-103. Qualifications.**

3115 (1) (a) The commission may not issue a beer wholesaling license to any person who
3116 has been convicted of:

3117 (i) a felony under any federal or state law;

3118 (ii) [~~any~~] a violation of any federal or state law or local ordinance concerning the sale,
3119 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic
3120 [~~products~~] product;

3121 (iii) [~~any~~] a crime involving moral turpitude; or

3122 (iv) on two or more occasions within the five years before the day on which the license
3123 is granted, driving under the influence of alcohol, any drug, or the combined influence of
3124 alcohol and any drug.

3125 (b) In the case of a partnership, corporation, or limited liability company, the
3126 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
3127 offense described in Subsection (1)(a):

- 3128 (i) a partner;
- 3129 (ii) a managing agent;
- 3130 (iii) a manager;
- 3131 (iv) an officer;
- 3132 (v) a director;
- 3133 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
- 3134 the applicant corporation; or
- 3135 (vii) a member who owns at least 20% of the applicant limited liability company.

3136 (c) The proscription under Subsection (1)(a) applies if ~~[any]~~ a person employed to act

3137 in a supervisory or managerial capacity for the wholesaler ~~[has been]~~ is convicted of any

3138 offense as provided in Subsection (1)(a).

3139 (2) The commission may immediately suspend or revoke a beer wholesaling license if

3140 after the day on which the beer wholesaling license is granted, a person described in Subsection

3141 (1)(a), (b), or (c):

3142 (a) is found to have been convicted of ~~[any]~~ an offense described in Subsection (1)(a)

3143 prior to the license being granted; or

3144 (b) on or after the day on which the license is granted:

3145 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

3146 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the

3147 combined influence of alcohol and any drug; and

3148 (B) was convicted of driving under the influence of alcohol, any drug, or the combined

3149 influence of alcohol and any drug within five years before the day on which the person is

3150 convicted of the offense described in Subsection (2)(b)(ii)(A).

3151 (3) The director may take emergency action by immediately suspending the operation

3152 of a beer wholesaling license according to the procedures and requirements of Title 63G,

3153 Chapter 4, Administrative Procedures Act, for the period during which the criminal matter is

3154 being adjudicated if a person described in Subsection (1)(a), (b), or (c):

3155 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

3156 or

3157 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,

3158 ~~[any]~~ a drug, or the combined influence of alcohol and ~~[any]~~ a drug; and

3159 (ii) was convicted of driving under the influence of alcohol, [any] a drug, or the
3160 combined influence of alcohol and [any] a drug within five years before the day on which the
3161 person is arrested on a charge described in Subsection (3)(b)(i).

3162 (4) (a) (i) The commission may not grant a beer wholesaling license to [any] a person
3163 who has had any type of license, agency, or permit issued under this title revoked within the
3164 last three years.

3165 (ii) The commission may not grant a beer wholesaling license to an applicant that is a
3166 partnership, corporation, or limited liability company if any partner, managing agent, manager,
3167 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
3168 of the applicant corporation, or member who owns at least 20% of the applicant limited
3169 liability company is or was:

3170 (A) a partner or managing agent of any partnership that had any type of license, agency,
3171 or permit issued under this title revoked within the last three years;

3172 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
3173 of the total issued and outstanding stock of any corporation that had any type of license,
3174 agency, or permit issued under this title revoked within the last three years; or

3175 (C) a manager or member who owns or owned at least 20% of any limited liability
3176 company that had any type of license, agency, or permit issued under this title revoked within
3177 the last three years.

3178 (b) An applicant that is a partnership, corporation, or limited liability company may not
3179 be granted a beer wholesaling license if any of the following had any type of license, agency, or
3180 permit issued under this title revoked while acting in that person's individual capacity within
3181 the last three years:

3182 (i) a partner or managing agent of the applicant partnership;

3183 (ii) [any] a managing agent, officer, director, or stockholder who holds at least 20% of
3184 the total issued and outstanding stock of the applicant corporation; or

3185 (iii) [any] a manager or member who owns at least 20% of the applicant limited
3186 liability company.

3187 (c) A person acting in an individual capacity may not be granted a beer wholesaling
3188 license if that person was:

3189 (i) a partner or managing agent of a partnership that had any type of license, agency, or

3190 permit issued under this title revoked within the last three years;

3191 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
3192 total issued and outstanding stock of a corporation that had any type of license, agency, or
3193 permit issued under this title revoked within the last three years; or

3194 (iii) a manager or member who owned at least 20% of the limited liability company
3195 that had any type of license, agency, or permit issued under this title revoked within the last
3196 three years.

3197 (5) (a) A minor may not be:

3198 (i) granted a beer wholesaling license; or

3199 (ii) employed by a beer wholesaler licensee to handle beer.

3200 (b) The commission may not grant a beer wholesaling license to an applicant that is a
3201 partnership, corporation, or limited liability company if any of the following is a minor:

3202 (i) a partner or managing agent of the applicant partnership;

3203 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
3204 total issued and outstanding stock of the applicant corporation; or

3205 (iii) a manager or member who owns at least 20% of the applicant limited liability
3206 company.

3207 (6) (a) A beer wholesaler licensee may not be issued, directly or indirectly, nor hold,
3208 through any wholly or partially owned subsidiaries or otherwise, a brewery license or a retail
3209 beer license simultaneously with a beer wholesaling license.

3210 (b) A retail beer licensee may not be issued, directly or indirectly, nor hold, through
3211 any wholly or partially owned subsidiaries or otherwise, a wholesaling license.

3212 (7) The commission may not grant a beer wholesaling license to ~~[any]~~ a person who
3213 has not met any applicable federal requirements for beer wholesaling.

3214 (8) If ~~[any]~~ a person to whom a license ~~[has been]~~ is issued under this chapter no
3215 longer possesses the qualifications required by this title for obtaining that license, the
3216 commission may suspend or revoke that license.

3217 Section 23. Section **32A-11-105** is amended to read:

3218 **32A-11-105. Bond.**

3219 (1) ~~[Each wholesaling]~~ A beer wholesaler licensee shall post a cash or corporate surety
3220 bond in the penal sum of \$10,000 payable to the department, which the beer wholesaler

3221 licensee has procured and must maintain for so long as the beer wholesaler licensee continues
3222 to operate as a [~~wholesaling~~] beer wholesaler licensee.

3223 (2) The bond shall be in a form approved by the attorney general, conditioned upon the
3224 beer wholesaler licensee's faithful compliance with this title and the rules of the commission.

3225 (3) If the surety bond is canceled due to the beer wholesaler licensee's negligence, a
3226 \$300 reinstatement fee may be assessed. No part of any cash bond so posted may be
3227 withdrawn during the period the license is in effect. A bond filed by a beer wholesaler licensee
3228 may be forfeited if the license is finally revoked.

3229 Section 24. Section **32A-11-106** is amended to read:

3230 **32A-11-106. Operational restrictions.**

3231 A person granted a beer wholesaling license, and the employees and management
3232 personnel of the beer [~~wholesaling~~] wholesaler licensee, shall comply with the following
3233 conditions and requirements. Failure to comply may result in a suspension or revocation of the
3234 beer wholesaling license or other disciplinary action taken against individual employees or
3235 management personnel of the beer wholesaler licensee.

3236 (1) A beer wholesaler licensee may not wholesale a beer manufactured within the state
3237 by a brewer who is not licensed by the commission as a manufacturing licensee.

3238 (2) A beer wholesaler licensee may not wholesale a beer manufactured out of state by a
3239 brewer who has not obtained a certificate of approval from the department.

3240 (3) (a) A beer wholesaler licensee may not sell or distribute beer to a person within the
3241 state except:

3242 (i) a licensed beer retailer;

3243 (ii) a holder of a single event permit issued pursuant to Chapter 7, Single Event
3244 Permits; or

3245 (iii) a holder of a temporary special event beer permit issued for a temporary special
3246 event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits.

3247 (b) A violation of this Subsection (3) is a class A misdemeanor.

3248 (4) (a) A beer wholesaler licensee may not sell or distribute a beer to a retailer outside
3249 of the geographic area designated on its application, except that if a beer wholesaler licensee is
3250 temporarily unable to supply retail dealers within its authorized geographical area, the
3251 department may grant temporary authority to another [~~licensed~~] beer wholesaler licensee who

3252 distributes the same brand in another area to supply retailers.

3253 (b) A violation of this Subsection (4) is a class B misdemeanor.

3254 (5) (a) A beer wholesaler licensee shall own, lease, or otherwise control and maintain a
3255 warehouse facility located in this state for the receipt, storage, and further distribution of all
3256 beer sold by the beer wholesaler licensee to a person within the state.

3257 (b) A beer wholesaler licensee may not sell beer to a person in this state, other than the
3258 department, unless the beer is first:

3259 (i) physically removed from the vehicle used to transport the beer from the supplier to
3260 the beer wholesaler licensee; and

3261 (ii) delivered into the actual possession and control of the beer wholesaler licensee in
3262 its warehouse or other facility.

3263 (6) (a) A beer [~~wholesaling~~] wholesaler licensee shall maintain accounting and other
3264 records and documents as the department may require.

3265 (b) A beer wholesaler licensee or person acting for the licensee, who knowingly forges,
3266 falsifies, alters, cancels, destroys, conceals, or removes the entries in a book of account or other
3267 document of the licensee required to be made, maintained, or preserved by this title or the rules
3268 of the commission for the purpose of deceiving the commission, the department, or an official
3269 or employee of the commission or department, is subject to:

3270 (i) the immediate suspension or revocation of the beer wholesaling license; and

3271 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

3272 (7) A beer wholesaler licensee may not sell, transfer, assign, exchange, barter, give, or
3273 attempt in any way to dispose of the beer wholesaling license to a person, whether for monetary
3274 gain or not, unless it is done:

3275 (a) in accordance with the commission rules; and

3276 (b) after written consent is given by the commission.

3277 (8) A beer wholesaler licensee may not sell or distribute an alcoholic beverage that has
3278 not had its label and packaging approved by the department under Chapter 1, Part 8, Malted
3279 Beverages Act.

3280 Section 25. Section **32A-11-201** is enacted to read:

3281 **Part 2. Heavy Beer Wholesaling Act**

3282 **32A-11-201. Title.**

3283 This part is known as the "Heavy Beer Wholesaling Act."

3284 Section 26. Section **32A-11-202** is enacted to read:

3285 **32A-11-202. Definitions.**

3286 As used in this part:

3287 (1) "Liquor retailer" means:

3288 (a) a restaurant liquor licensee;

3289 (b) a limited restaurant licensee;

3290 (c) an airport lounge liquor licensee;

3291 (d) an on-premise banquet licensee;

3292 (e) a private club licensee;

3293 (f) a public service special use permittee for qualifying heavy beer sold on draft in a
3294 hospitality room; or

3295 (g) a single event permittee.

3296 (2) "Qualifying heavy beer" means heavy beer that is included in the list of liquor
3297 products approved by the commission in accordance with Section 32A-1-107.

3298 Section 27. Section **32A-11-203** is enacted to read:

3299 **32A-11-203. Wholesaling of heavy beer.**

3300 A beer wholesaler licensee may import, purchase, and store qualifying heavy beer in
3301 order to sell and distribute that qualifying heavy beer to a liquor retailer if the beer wholesaler
3302 licensee:

3303 (1) enters a valid contract with the liquor retailer to sell and distribute qualifying heavy
3304 beer directly to the liquor retailer;

3305 (2) sells or distributes the qualifying heavy beer in a package used by the liquor retailer
3306 to sell the qualifying heavy beer on draft;

3307 (3) properly marks and labels the qualifying heavy beer in accordance with the rules
3308 adopted by the commission under this title; and

3309 (4) complies with this part.

3310 Section 28. Section **32A-11-204** is enacted to read:

3311 **32A-11-204. Operational restrictions.**

3312 (1) A beer wholesaler licensee when transporting qualifying heavy beer to or from the
3313 beer wholesaler licensee's premises shall carry the qualifying heavy beer in a conveyance that is

3314 made available for inspection by the department while en route within the state.

3315 (2) A beer wholesaler licensee may not ship, convey, distribute, or remove qualifying
3316 heavy beer from a warehouse except in a container that is used by a liquor retailer to sell the
3317 qualifying heavy beer on draft.

3318 (3) A beer wholesaler licensee may not receive, warehouse, ship, distribute, or convey
3319 qualifying heavy beer that the commission does not authorize the beer wholesaler licensee to
3320 handle through the beer wholesaler licensee's warehouse.

3321 (4) A beer wholesaler licensee may not sell or distribute qualifying heavy beer
3322 manufactured within the state by a brewer who is not licensed by the commission as a
3323 manufacturing licensee.

3324 (5) (a) A beer wholesaler licensee may not sell or distribute qualifying heavy beer to a
3325 person within the state except to a liquor retailer.

3326 (b) A violation of this Subsection (5) is a class A misdemeanor.

3327 (6) (a) Except as provided in Subsection (6)(b), a beer wholesaler licensee may not sell
3328 or distribute qualifying heavy beer to a liquor retailer outside of the geographic area designated
3329 on the beer wholesaler licensee's license renewal application.

3330 (b) If a beer wholesaler licensee is temporarily unable to supply qualifying heavy beer
3331 to a liquor retailer within the authorized geographical area, the department may grant temporary
3332 authority to another beer wholesaler licensee who distributes the same brand in another area to
3333 supply the liquor retailer.

3334 (c) A violation of this Subsection (6) is a class B misdemeanor.

3335 (7) (a) A beer wholesaler licensee shall own, lease, or otherwise control and maintain a
3336 warehouse facility located in this state for the receipt, storage, and further distribution of
3337 qualifying heavy beer sold by the beer wholesaler licensee to a liquor retailer.

3338 (b) A beer wholesaler licensee may not sell qualifying heavy beer to a person in this
3339 state unless the qualifying heavy beer is first:

3340 (i) physically removed from the vehicle used to transport the qualifying heavy beer
3341 from the supplier to the beer wholesaler licensee; and

3342 (ii) delivered into the actual possession and control of the beer wholesaler licensee in
3343 its warehouse or other facility.

3344 (8) A beer wholesaler licensee may not sell qualifying heavy beer:

- 3345 (a) at a discount price on any date or at any time;
- 3346 (b) at less than the cost of the qualifying heavy beer to the beer wholesaler licensee;
- 3347 (c) at a special or reduced price that encourages over consumption or intoxication;
- 3348 (d) more than one qualifying heavy beer at the price of a single qualifying heavy beer;
- 3349 or
- 3350 (e) an indefinite or unlimited number of qualifying heavy beers during a set period for
- 3351 a fixed price.

Section 29. Section **32A-11-205** is enacted to read:

32A-11-205. Liquor retailer may purchase qualifying heavy beer from beer wholesaler licensee.

A liquor retailer may purchase qualifying heavy beer from a beer wholesaler licensee only if the beer wholesaler licensee complies with this part.

Section 30. Section **32A-11a-101** is amended to read:

32A-11a-101. Title -- Legislative intent.

(1) This chapter [~~shall be~~] is known as the "Utah Beer Industry Distribution Act."

(2) (a) It is the policy of the Legislature to regulate and control the importation, sale, and distribution of beer and heavy beer within the state in the exercise of its powers under the Twenty-first Amendment to the Constitution of the United States and pursuant to the Utah Constitution.

(b) In furtherance of the policy described in Subsection (2)(a), this chapter [~~is enacted to~~]:

(i) [~~promote~~] promotes good faith and fair dealing in the business relationships between suppliers, wholesalers, and retailers of beer and heavy beer; and

(ii) [~~provide~~] provides for the establishment and maintenance of an orderly system for the distribution of beer and heavy beer in accordance with the laws of the state regulating the sale and distribution of beer and heavy beer to the public.

Section 31. Section **32A-11a-102** is amended to read:

32A-11a-102. Definitions.

As used in this chapter:

(1) "Affected party" means a supplier or wholesaler who is a party to a distributorship agreement that a terminating party seeks to terminate or not renew.

3376 (2) (a) "Distributorship agreement" means [~~any~~] a written contract, agreement, or
3377 arrangement between a supplier and a wholesaler pursuant to which the wholesaler has the
3378 right to purchase, resell, and distribute in a designated geographical area [~~any~~] a brand of beer
3379 or heavy beer manufactured, imported, or distributed by the supplier.

3380 (b) A separate agreement between a supplier and a wholesaler that relates to the
3381 relationship between the supplier and the wholesaler or the duties of either of them under a
3382 distributorship agreement is considered to be part of the distributorship agreement for purposes
3383 of this chapter.

3384 (c) A distributorship agreement may be for a definite or indefinite period.

3385 (3) "Good cause" means the material failure by a supplier or a wholesaler to comply
3386 with an essential, reasonable, and lawful requirement imposed by a distributorship agreement if
3387 the failure occurs after the supplier or wholesaler acting in good faith provides notice of
3388 deficiency and an opportunity to correct in accordance with Sections 32A-11a-103 and
3389 32A-11a-104.

3390 (4) "Good faith" is as defined in Subsection 70A-1a-201(2)[~~(t)~~].

3391 (5) "Retailer" means a person subject to license under Chapter 10, Beer Retailer
3392 Licenses.

3393 (6) "Sales territory" means the geographic area of distribution and sale responsibility
3394 designated by a distributorship agreement.

3395 (7) "Supplier," notwithstanding Section 32A-1-105, means a brewer or other person
3396 who sells beer and heavy beer to a wholesaler for resale in this state.

3397 (8) "Terminating party" means a supplier or wholesaler who:

3398 (a) is a party to a distributorship agreement; and

3399 (b) seeks to terminate or not renew the distributorship agreement.

3400 Section 32. Section **32A-11a-103** is amended to read:

3401 **32A-11a-103. Termination of distributorship agreements.**

3402 (1) Except as provided in Subsection (2) or (3), a supplier or wholesaler may not:

3403 (a) terminate a distributorship agreement; or

3404 (b) fail to renew a distributorship agreement.

3405 (2) A supplier or wholesaler may take an action prohibited by Section (1) if:

3406 (a) the supplier or wholesaler has good cause for the action; and

- 3407 (b) if notification is required by Section 32A-11a-104:
- 3408 (i) the terminating party provides the affected party prior notification in accordance
- 3409 with Section 32A-11a-104; and
- 3410 (ii) the affected party [~~has not eliminated~~] does not eliminate the reasons specified in
- 3411 the notification as the reasons for the action within 90 days after the date the notification is
- 3412 mailed in accordance with Section 32A-11a-104.
- 3413 (3) A supplier may terminate or not renew a distributorship agreement if:
- 3414 (a) the supplier gives the wholesaler 30 days written notice before termination or
- 3415 nonrenewal;
- 3416 (b) the supplier discontinues production or discontinues distribution throughout the
- 3417 state of [~~all~~] the brands of beer and heavy beer sold by the supplier to the wholesaler; and
- 3418 (c) the termination or nonrenewal does not violate the distributorship agreement.
- 3419 Section 33. Section **32A-11a-105** is amended to read:
- 3420 **32A-11a-105. Prohibited conduct of supplier.**
- 3421 (1) A supplier may not:
- 3422 (a) induce, coerce, or attempt to induce or coerce, [~~any~~] a wholesaler to engage in [~~any~~]
- 3423 an illegal act or course of conduct;
- 3424 (b) impose a requirement that is discriminatory by its terms or in the methods of
- 3425 enforcement as compared to requirements imposed by the supplier on similarly situated
- 3426 wholesalers;
- 3427 (c) prohibit a wholesaler from selling the product of [~~any other~~] another supplier;
- 3428 (d) fix or maintain the price at which a wholesaler may resell beer and heavy beer;
- 3429 (e) fail to execute with [~~each~~] a wholesaler of its brands a written distributorship
- 3430 agreement;
- 3431 (f) require [~~any~~] a wholesaler to accept delivery of [~~any~~] beer, heavy beer, or any other
- 3432 item that is not voluntarily ordered by the wholesaler;
- 3433 (g) restrict or inhibit, directly or indirectly, the right of a wholesaler to participate in an
- 3434 organization representing interests of wholesalers for [~~any~~] a lawful purpose;
- 3435 (h) require a wholesaler to participate in or contribute to [~~any~~] a local, regional, or
- 3436 national advertising fund or other promotional activity that:
- 3437 (i) is not used for advertising or promotional activities in the wholesaler's sales

3438 territory; or

3439 (ii) would require [~~contributions~~] a contribution by the wholesaler in excess of the
3440 amounts specified in the distributorship agreement;

3441 (i) retaliate against a wholesaler that files a complaint with the department or the
3442 applicable federal agency regarding an alleged violation by the supplier of a state or federal law
3443 or administrative rule;

3444 (j) require without good cause [~~any~~] a change in the manager of a wholesaler who has
3445 previously been approved by the supplier;

3446 (k) if a wholesaler changes its approved manager, prohibit the change unless the new
3447 manager fails to meet the reasonable standards for similarly situated wholesalers of the supplier
3448 as stated in the distributorship agreement; or

3449 (l) refuse to deliver a beer [~~products~~] product or heavy beer product covered by a
3450 distributorship agreement to the wholesaler:

3451 (i) in reasonable quantities; and

3452 (ii) within a reasonable time after receipt of the wholesaler's order.

3453 (2) Notwithstanding Subsection (1)(l), the supplier may refuse to deliver [~~products~~] a
3454 beer product or heavy beer product if the refusal is due to:

3455 (a) the wholesaler's failure to pay the supplier pursuant to the distributorship
3456 agreement;

3457 (b) an unforeseeable event beyond the supplier's control;

3458 (c) a work stoppage or delay due to a strike or labor problem;

3459 (d) a bona fide shortage of materials; or

3460 (e) a freight embargo.

3461 Section 34. Section **32A-11a-106** is amended to read:

3462 **32A-11a-106. Prohibited conduct of wholesaler.**

3463 (1) A wholesaler may not:

3464 (a) induce, coerce, or attempt to induce or coerce, [~~any~~] a retailer to engage in [~~any~~] an
3465 illegal act or course of conduct;

3466 (b) impose a requirement that is discriminatory by its terms or in the methods of
3467 enforcement as compared to requirements imposed by the wholesaler on similarly situated
3468 retailers;

- 3469 (c) prohibit a retailer from selling the product of [~~any other~~] another wholesaler;
- 3470 (d) fix or maintain the price at which a retailer may resell beer or heavy beer;
- 3471 (e) require [~~any~~] a retailer to accept delivery of [~~any~~] beer, heavy beer, or any other
- 3472 item that is not voluntarily ordered by the retailer;
- 3473 (f) restrict or inhibit, directly or indirectly, the right of a retailer to participate in an
- 3474 organization representing interests of retailers for [~~any~~] a lawful purpose;
- 3475 (g) require a retailer to participate in or contribute to [~~any~~] a local, regional, or national
- 3476 advertising fund or other promotional activity;
- 3477 (h) retaliate against a retailer that files a complaint with the department or the
- 3478 applicable federal agency regarding an alleged violation by the wholesaler of a state or federal
- 3479 law or administrative rule; and
- 3480 (i) refuse to deliver a beer [products] product or heavy beer product carried by the
- 3481 wholesaler to a properly licensed retailer who resides within the wholesaler's sales territory:
- 3482 (i) in reasonable quantities; and
- 3483 (ii) within a reasonable time after receipt of the retailer's order.
- 3484 (2) Notwithstanding Subsection (1)(i), the wholesaler may refuse to deliver [~~products~~]
- 3485 a beer product or heavy beer product if the refusal is due to:
- 3486 (a) the retailer's failure to pay the wholesaler pursuant to Subsection 32A-12-603(7);
- 3487 (b) an unforeseeable event beyond the wholesaler's control;
- 3488 (c) a work stoppage or delay due to a strike or labor problem;
- 3489 (d) a bona fide shortage of materials; or
- 3490 (e) a freight embargo.
- 3491 Section 35. Section **32A-12-201** is amended to read:
- 3492 **32A-12-201. Unlawful sale or furnishing.**
- 3493 (1) It is unlawful for [~~any~~] a person in the business of selling liquor, [~~or any~~] a
- 3494 manufacturer, supplier, or importer of liquor, or [~~their officers, managers, employees, or~~
- 3495 ~~agents~~] an officer, manager, employee, or agent of them to sell, ship, transport, or cause to be
- 3496 sold, shipped, or transported [~~any~~] liquor from an out-of-state location directly or indirectly
- 3497 into this state except to the extent authorized by this title to:
- 3498 (a) the department;
- 3499 (b) a military installation;

3500 (c) a holder of a special use permit to the extent authorized by the commission in the
3501 permit; ~~[or]~~

3502 (d) a bonded liquor warehouse licensed by the commission to distribute and transport
3503 liquor to:

3504 (i) the department; or

3505 (ii) an out-of-state wholesaler or retailer~~[-]; or~~

3506 (e) in the case of qualifying heavy beer, a beer wholesaler licensee that complies with
3507 Chapter 11, Part 2, Heavy Beer Wholesaling Act, to distribute and transport qualifying heavy
3508 beer to:

3509 (i) a restaurant liquor licensee;

3510 (ii) a limited restaurant licensee;

3511 (iii) an airport lounge liquor licensee;

3512 (iv) an on-premise banquet licensee;

3513 (v) a private club licensee;

3514 (vi) a special use permittee; and

3515 (vii) a single event permittee.

3516 (2) (a) It is unlawful for ~~[any]~~ a person in the business of selling beer, ~~[or any]~~ a
3517 manufacturer, supplier, or importer of beer, or ~~[their officers, managers, employees, or agents]~~
3518 an officer, manager, employee, or agent of them to sell, ship, transport, or cause to be sold,
3519 shipped, or transported ~~[any]~~ beer from an out-of-state location directly or indirectly into this
3520 state except to the extent authorized by this title to:

3521 (i) a ~~[licensed]~~ beer wholesaler licensee;

3522 (ii) a military installation; or

3523 (iii) a holder of a special use permit to the extent authorized by the commission in the
3524 permit.

3525 (b) Subsection (2)(a) does not preclude a small brewer that holds a certificate of
3526 approval under Subsection 32A-8-101(4) from selling, shipping, or transporting beer directly to
3527 a licensed beer retailer to the extent authorized by Subsection 32A-8-401(5).

3528 (3) (a) It is unlawful for ~~[any]~~ a manufacturer, supplier, or importer of liquor in this
3529 state, or ~~[their officers, managers, employees, or agents]~~ an officer, manager, employee, or
3530 agent of them to sell, ship, transport, or cause to be sold, shipped, or transported ~~[any]~~ liquor

3531 directly or indirectly to ~~any~~ a person in this state except to the extent authorized by this title
 3532 to:

3533 (i) the department;
 3534 (ii) a military installation;
 3535 (iii) a holder of a special use permit to the extent authorized by the commission in the
 3536 permit; ~~or~~

3537 (iv) a bonded liquor warehouse licensed by the commission to distribute and transport
 3538 liquor to:

3539 (A) the department; or

3540 (B) an out-of-state wholesaler or retailer~~[-];~~ or

3541 (v) in the case of qualifying heavy beer, a beer wholesaler licensee that complies with

3542 Chapter 11, Part 2, Heavy Beer Wholesaling Act, to distribute and transport qualifying heavy

3543 beer to:

3544 (A) a restaurant liquor licensee;

3545 (B) a limited restaurant licensee;

3546 (C) an airport lounge liquor licensee;

3547 (D) an on-premise banquet licensee;

3548 (E) a private club licensee;

3549 (F) a special use permittee; or

3550 (G) a single event permittee.

3551 (b) Subsection (3)(a) does not preclude a winery licensed under this title and located in
 3552 this state from selling wine to ~~persons~~ a person on its winery premises:

3553 (i) to the extent authorized by Subsection 32A-8-201(4)(c); or

3554 (ii) under a package agency established by the commission on the winery premises.

3555 (4) (a) It is unlawful for ~~any~~ a manufacturer, supplier, or importer of beer in this state,

3556 or ~~their officers, managers, employees, or agents~~ an officer, manager, employee, or agent of

3557 them to sell, ship, transport, or cause to be sold, shipped, or transported any beer directly or

3558 indirectly to any person in this state except to the extent authorized by this title to:

3559 (i) a ~~licensed~~ beer wholesaler licensee;

3560 (ii) a military installation; or

3561 (iii) a holder of a special use permit to the extent authorized by the commission in the

3562 permit.

3563 (b) Subsection (4)(a) does not preclude:

3564 (i) a small brewer licensed under this title and located in this state from selling,
3565 shipping, and transporting beer directly to a licensed beer retailer in this state to the extent
3566 authorized by Subsection 32A-8-401(5); or

3567 (ii) a brewer licensed under this title from selling beer to persons on its manufacturing
3568 premises under Subsection 32A-8-401(4)(c).

3569 (5) It is unlawful for [~~any~~] a person other than a person described in Subsection (1) or
3570 (2) to sell, ship, transport, or cause to be sold, shipped, or transported [~~any~~] an alcoholic
3571 beverage or an alcoholic product from an out-of-state location directly or indirectly into this
3572 state, except as otherwise provided by this title.

3573 (6) It is unlawful for [~~any~~] a person in this state other than a person described in
3574 Subsection (3) or (4) to sell, ship, transport, or cause to be sold, shipped, or transported [~~any~~]
3575 an alcoholic beverage or an alcoholic product directly or indirectly to [~~any other~~] another
3576 person in this state, except as otherwise provided by this title.

3577 (7) It is unlawful for [~~any~~] a retail licensee or permittee in this state, or [~~their officers,~~
3578 ~~managers, employees, or agents~~] an officer, manager, employee, or agent of the retail licensee
3579 or permittee to keep for sale, or to directly or indirectly, sell, offer to sell, or otherwise furnish
3580 to another, [~~any~~] an alcoholic beverage or an alcoholic product, except as otherwise provided
3581 by this title.

3582 (8) (a) A violation of Subsection (1), (2), (3), or (4) is a third degree felony.

3583 (b) A violation of Subsection (5) or (6) is a class B misdemeanor.

3584 (c) A violation of Subsection (7) is a class B misdemeanor, except where otherwise
3585 provided by this title.

3586 Section 36. Section **32A-12-206** is amended to read:

3587 **32A-12-206. Unlawful sale or supply of beer or heavy beer.**

3588 (1) [~~A~~] (a) Subject to Subsection (1)(b), a person may not sell, offer to sell, or
3589 otherwise furnish or supply beer or heavy beer to the general public in [~~containers~~] a container
3590 larger than two liters. [~~This does not preclude licensed beer wholesalers from]~~

3591 (b) This Subsection (1) does not prohibit a beer wholesaler licensee from:

3592 (i) selling, offering to sell, or otherwise furnishing or supplying beer in [~~containers~~] a

3593 container larger than two liters to a beer ~~[retailers]~~ retailer authorized by this title to dispense
 3594 beer on draft for consumption on the beer retailer's licensed premises~~[-]; or~~

3595 (ii) selling, offering to sell, or otherwise furnishing or supplying qualifying heavy beer
 3596 in a container larger than two liters to a liquor retailer, as defined in Section 32A-11-202, if:

3597 (A) the beer wholesaler licensee complies with Chapter 11, Part 2, Heavy Beer
 3598 Wholesaling Act; and

3599 (B) the liquor retailer is authorized by another provision in this title to dispense heavy
 3600 beer on draft for consumption on the liquor retailer's licensed premises.

3601 (2) (a) A person may not purchase or possess beer in ~~[containers]~~ a container larger
 3602 than two liters unless the person is a beer retailer authorized by this title to dispense beer on
 3603 draft for consumption on the beer retailer's licensed premises.

3604 (b) A person may not purchase or possess heavy beer in a container larger than two
 3605 liters unless the person is a liquor retailer authorized by another provision in this title to
 3606 dispense heavy beer on draft for consumption on the liquor retailer's licensed premises.

3607 Section 37. Section **32A-12-218** is amended to read:

3608 **32A-12-218. Unlawful labeling or lack of label.**

3609 (1) Unless otherwise provided by this title or the rules of the commission, it is unlawful
 3610 for ~~[any]~~ a person to possess ~~[any]~~ liquor unless:

3611 (a) the liquor is contained in its original package; and

3612 (b) the package has affixed to it the ~~[official commission]~~ state label and markings as
 3613 required by this title and the rules of the commission.

3614 (2) Unless authorized by the department, it is unlawful for any person to be in
 3615 possession of or use an official commission label, marking, or equipment that is used by ~~[the~~
 3616 ~~department, a state store, or a package agency]~~ one of the following to label or mark an original
 3617 liquor ~~[bottles or packages:]~~ bottle or package:

3618 (a) the department;

3619 (b) a state store;

3620 (c) a package agency; or

3621 (d) a beer wholesaler licensee that complies with Chapter 11, Chapter 2, Heavy Beer
 3622 Wholesaling Act.

3623 (3) A violation of Subsection (2) is a third degree felony.

3624 Section 38. Section **32A-12-301** is amended to read:

3625 **32A-12-301. Operating without a license or permit.**

3626 (1) A person may not operate the following businesses without first obtaining a license
3627 under this title if the business allows a patron, customer, member, guest, visitor, or other
3628 person to purchase or consume an alcoholic beverage on the premises of the business:

3629 (a) a restaurant;

3630 (b) an airport lounge;

3631 (c) a private club;

3632 (d) an on-premise beer retailer outlet;

3633 (e) on-premise banquet premises; or

3634 (f) a business similar to one listed in Subsections (1)(a) through (e).

3635 (2) A person conducting an event or function that is open to the general public may not
3636 directly or indirectly sell, offer to sell, or otherwise furnish an alcoholic beverage to a person
3637 attending the event or function without first obtaining a permit under this title.

3638 (3) A person conducting a privately hosted event or private social function may not
3639 directly or indirectly sell or offer to sell an alcoholic beverage to a person attending the
3640 privately hosted event or private social function without first obtaining a permit under this title.

3641 (4) A person may not operate the following businesses without first obtaining a license
3642 under this title:

3643 (a) a winery manufacturer;

3644 (b) a distillery manufacturer;

3645 (c) a brewery manufacturer;

3646 (d) a local industry representative of:

3647 (i) a manufacturer of an alcoholic beverage;

3648 (ii) a supplier of an alcoholic beverage; or

3649 (iii) an importer of an alcoholic beverage;

3650 (e) a liquor warehouse; or

3651 (f) a [beer] wholesaler.

3652 (5) A person may not operate a public conveyance in this state without first obtaining a
3653 public service permit under this title if that public conveyance allows a person to purchase or
3654 consume an alcoholic beverage or alcoholic product:

3655 (a) on the public conveyance; or

3656 (b) on the premises of a hospitality room located with a depot, terminal, or similar
3657 facility at which a service is provided to a patron of the public conveyance.

3658 Section 39. Section **32A-12-401** is amended to read:

3659 **32A-12-401. Advertising prohibited -- Exceptions.**

3660 (1) (a) The advertising of liquor by the department is prohibited, except:

3661 (i) the department may provide for an appropriate sign in the window or on the front of
3662 a state store or package agency denoting that it is a state authorized liquor outlet;

3663 (ii) the department or a package agency may provide a printed price [lists] list to the
3664 public;

3665 (iii) the department may authorize the use of price posting and floor stacking of liquor
3666 within a state [stores] store;

3667 (iv) subject to Subsection (1)(b), the department may provide a listing of the address
3668 and telephone number of a state store in one or more printed or electronic directories available
3669 to the general public; and

3670 (v) subject to Subsection (1)(b), a package agency may provide a listing of its address
3671 and telephone number in one or more printed or electronic directories available to the general
3672 public.

3673 (b) ~~[Any]~~ A listing under Subsection (1)(a)(iv) or (v) in the business or yellow pages of
3674 a telephone directory may not be displayed in an advertisement or other promotional format.

3675 (2) (a) The department may not advertise an alcoholic [beverages] beverage on
3676 [billboards] a billboard.

3677 (b) A package agency may not advertise an alcoholic [beverages on billboards]
3678 beverage except to the extent allowed by the commission by rule.

3679 (3) (a) The department may not display liquor or a price [lists in windows or
3680 showcases] list in a window or showcase visible to passersby.

3681 (b) A package agency may not display liquor or a price [lists in windows or showcases]
3682 list in a window or showcase visible to passersby, except to the extent allowed by the
3683 commission by rule.

3684 (4) ~~[Except to the extent prohibited by this title, the]~~ The advertising of an alcoholic
3685 [beverages] beverage is allowed under guidelines established by the commission by rule[-].

3686 except:

3687 (a) if prohibited by this title; and

3688 (b) the commission may not impose a greater restriction on the advertising of heavy

3689 beer by a beer wholesaler licensee that complies with Chapter 11, Part 2, Heavy Beer

3690 Wholesaling Act, than is imposed on a beer wholesaler licensee with regard to beer.

3691 (5) The advertising or use of any means or media to offer an alcoholic [beverages]

3692 beverage to the general public without charge is prohibited.

3692a **Ĥ→ Section 40. Coordinating H.B. 349 with H.B. 347 -- Merging substantive amendments.**

3692b **If this H.B. 349 and H.B. 347, Alcoholic Beverage Control Act Modifications, both pass, it is**

3692c **the intent of the Legislature that the Office of Legislative Research and General Counsel in**

3692d **preparing the Utah Code database for publication:**

3692e **(1) modify Subsection 32A-4-506(2)(a) enacted in H.B. 347 to read:**

3692f **"(2)(a) Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling Act, a social on-**

3692g **premise liquor licensee may not purchase liquor except from a state store or package agency.";**

3692h **(2) modify Subsection 32A-4-506(5) enacted in H.B. 347 to read:**

3692i **"(5)(a) A social on-premise liquor licensee may serve heavy beer:**

3692j **(i) at a price fixed by the commission; and**

3692k **(ii) (A) in an original container not exceeding one liter; or**

3692l **(B) subject to Subsection (5)(c):**

3692m **(I) in an open container; and**

3692n **(II) on draft.**

3692o **(b) A flavored malt beverage may be served in an original container not exceeding one**

3692p **liter at a price fixed by the commission.**

3692q **(c) A social on-premise liquor licensee shall sell heavy beer sold pursuant to Subsection**

3692r **(5)(a)(ii)(B) in a size of container that does not exceed two liters, except that heavy beer may**

3692s **not be sold to an individual patron in a size of container that exceeds one liter.**

3692t **(d) A service charge may be assessed by the social on-premise liquor licensee for heavy**

3692u **beer or a flavored malt beverage purchased at the social on-premise liquor licensee's**

3692v **premises.";**

3692w **(3) not make the changes to Subsection 32A-5-107(19)(a) in this bill, delete Subsection**

3692x **32A-5-107(12)(a) as amended in H.B. 347, and replace that Subsection (12)(a) with the**

3692y **following:**

3692z **"(12)(a) Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling Act, a private club**

3692aa **licensee may not purchase liquor except from a state store or package agency.";**

3692ab **H→(4) insert into Section 32A-11-202, enacted in this bill, a Subsection (1)(e) to read**
 3692ac **"(e) a social on-premise liquor licensee;" and renumber the remaining subsections of**
 3692ad **Subsection (1) accordingly;**

3692ae **(5) insert into Subsection 32A-12-201(1)(e), as amended in this bill, a Subsection**
 3692af **(1)(e)(v) to read "(v) a social on-premise liquor licensee;" and renumber the remaining**
 3692ag **subsections of Subsection (1)(e) accordingly; and**

3692ah **(6) insert into Subsection 32A-12-201(3)(a)(v), as amended in this bill, a Subsection**
 3692ai **(3)(a)(v)(E) to read "(E) a social on-premise liquor licensee;" and renumber the remaining**
 3692aj **subsections of Subsection (3)(a)(v) accordingly.**

3692ak **Section 41. Coordinating H.B. 349 with S.B. 106 -- Merging substantive amendments.**
 3692al **If this H.B. 349, and S.B. 106, Alcoholic Beverage Control Act Restrictions, both pass, it is the**
 3692am **intent of the Legislature that the Office of Legislative Research and General Counsel in**
 3692an **preparing the Utah Code database for publication:**

3692ao **(1) modify 32A-11-203, enacted in this bill as follows:**

3692ap **(a) insert "and" after Subsection (2);**

3692aq **(b) delete Subsection (3); and**

3692ar **(c) renumber Subsection (4) to Subsection (3); and**

3692as **(2) provide that the repeal of Section 32A-12-218 in S.B. 106 supersedes the**
 3692at **amendments to that section in this bill.**

3692au **Section 42. Coordinating H.B. 349 with S.B. 187 -- Merging substantive amendments.**
 3692av **If this H.B. 349 and S.B. 187, Alcohol Amendments, both pass, it is the intent of the Legislature**
 3692aw **that the Office of Legislative Research and General Counsel in preparing the Utah Code**
 3692ax **database for publication:**

3692ay **(1) modify Subsection 32A-4a-305(9)(a) enacted in S.B. 187 to read:**

3692az **"(9)(a) Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling Act, a resort**
 3692ba **amenity sublicensee may not purchase liquor except from a state store or package agency.";**

3692bb **(2) modify Subsection 32A-4a-305(12) enacted in S.B. 187 to read:**

3692bc **"(12)(a) A resort amenity sublicensee may serve heavy beer:**

3692bd **(i) at a price fixed by the commission; and**

3692be **(ii) (A) in an original container not exceeding one liter; or**

3692bf **(B) subject to Subsection (12)(c):**

3692bg **(I) in an open container; and**

3692bh **(II) on draft.**

3692bi **(b) A flavored malt beverage may be served in an original container not exceeding ←H**

3692bj one liter at a price fixed by the commission.

3692bk (c) A resort amenity sublicensee shall sell heavy beer sold pursuant to Subsection
3692bl (12)(a)(ii)(B) in a size of container that does not exceed two liters, except that heavy beer may
3692bm not be sold to an individual patron in a size of container that exceeds one liter.

3692bn (d) A service charge may be assessed by the resort amenity sublicensee for heavy beer
3692bo or a flavored malt beverage purchased at the resort amenity sublicense premises.";

3692bp (3) modify Subsection 32A-4a-401(4)(a) enacted in S.B. 187 to read:

3692bq "(4)(a) Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling Act, a resort
3692br licensee may not purchase liquor except from a state store or package agency.";

3692bs (4) insert into Section 32A-11-202, enacted in this bill, a Subsection (1)(e) to read "(e) a
3692bt resort licensee;" and renumber the remaining subsections of Subsection (1) accordingly;

3692bu (5) insert into Subsection 32A-12-201(1)(e), as amended in this bill, a Subsection
3692bv (1)(e)(v) to read "(v) a resort licensee;" and renumber the remaining subsections of Subsection
3692bw (1)(e) accordingly; and

3692bx (6) insert in Subsection 32A-12-201(3)(a)(v), as amended in this bill, a Subsection
3692by (3)(a)(v)(E) to read "(E) a resort licensee;" and renumber the remaining subsections of
3692bz Subsection (3)(a)(v) accordingly. ←Ĥ

Legislative Review Note
as of 2-12-09 12:34 PM

Office of Legislative Research and General Counsel