

1 **EXEMPTION FOR ALCOHOLIC BEVERAGE**

2 **MANUFACTURING LICENSE**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Christine A. Johnson**

6 Senate Sponsor: Dennis E. Stowell

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Alcoholic Beverage Control Act to address exemptions from
11 manufacturing license requirements.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ creates an exemption from licensure for a fermented beverage manufactured in an
16 individual's personal residence;
- 17 ▶ allows storage and transportation; and
- 18 ▶ makes technical amendments.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **32A-8-101**, as last amended by Laws of Utah 2008, Chapter 391

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

28 Section 1. Section **32A-8-101** is amended to read:

29 **32A-8-101. Commission's power to grant licenses -- Limitations -- Exceptions.**

30 (1) The commission may issue an alcoholic beverage manufacturing license to a
31 manufacturer whose business [~~in this state~~] is located in this state for the manufacture, storage,
32 and sale of alcoholic beverages for each type of license provided by this chapter.

33 (2) The type of manufacturing licenses issued under this chapter are known as a:

34 (a) winery license;

35 (b) distillery license; and

36 (c) brewery license.

37 (3) (a) [~~A~~] Except as provided in Subsection (6), a person may not manufacture an
38 alcoholic beverage unless an alcoholic beverage manufacturing license is issued by the
39 commission.

40 (b) A separate license is required for each place of manufacture, storage, and sale of an
41 alcoholic beverage.

42 (c) Violation of this Subsection (3) is a class B misdemeanor.

43 (4) (a) A brewer located outside the state is not required to be licensed under this
44 chapter.

45 (b) A brewer described in Subsection (4)(a) must obtain a certificate of approval from
46 the department before selling or delivering:

47 (i) beer to a licensed beer wholesaler in this state;

48 (ii) [~~on or after October 1, 2008,~~] a flavored malt beverage to the department or a
49 military installation; or

50 (iii) if a small brewer, beer to a licensed beer wholesaler or retailer in this state.

51 (c) A brewer seeking a certificate of approval shall file a written application with the
52 department, in a form prescribed by the department. The application shall be accompanied by:

53 (i) a nonrefundable \$50 application fee;

54 (ii) an initial certificate of approval fee of \$250 that is refundable if a certificate is not
55 granted;

56 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and
57 Firearms to brew beer, heavy beer, or a flavored malt beverage; and

- 58 (iv) any other information or documents the department may require.
- 59 (d) (i) An application shall be signed and verified by oath or affirmation by:
- 60 (A) a partner if the brewer is a partnership; or
- 61 (B) an executive officer, manager, or person specifically authorized by a corporation
- 62 or limited liability company to sign the application.
- 63 (ii) The brewer filing an application shall attach to the application written evidence of
- 64 the authority of the person described in Subsection (4)(d)(i) to sign the application.
- 65 (e) (i) All certificates of approval expire on December 31 of each year.
- 66 (ii) A brewer desiring to renew its certificate shall submit a renewal fee of \$200, and a
- 67 completed renewal application to the department no later than November 30 of the year the
- 68 certificate expires.
- 69 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
- 70 certificate effective on the date the existing certificate expires.
- 71 (iv) A renewal application shall be in a form prescribed by the department.
- 72 (5) The commission may prescribe by policy, directive, or rule, consistent with this
- 73 title, the general operational requirements of licensees relating to:
- 74 (a) physical facilities;
- 75 (b) conditions of sale, storage, or manufacture of alcoholic beverages;
- 76 (c) storage and sales quantity limitations; and
- 77 (d) other matters considered appropriate by the commission.
- 78 (6) (a) As used in this Subsection (6), "fermented alcoholic beverage" means:
- 79 (i) beer;
- 80 (ii) heavy beer; or
- 81 (iii) wine.
- 82 (b) An individual may without being licensed under this chapter manufacture in the
- 83 individual's personal residence a fermented alcoholic beverage if:
- 84 (i) the individual is 21 years of age or older;
- 85 (ii) the individual manufactures no more than:

86 (A) 100 gallons in a calendar year, if there is one individual that is 21 years of age or
87 older residing in the household; or

88 (B) 200 gallons in a calendar year, if there are two or more individuals who are 21
89 years of age or older residing in the household;

90 (iii) the fermented alcoholic beverage is manufactured and used for personal or family
91 use and consumption, including use at an organized event where fermented alcoholic
92 beverages are judged as to taste and quality; and

93 (iv) the fermented alcoholic beverage is not for:

94 (A) sale or offering for sale; or

95 (B) consumption on a premise licensed by the commission.

96 (c) An individual may store a fermented alcoholic beverage manufactured as provided
97 in Subsection (6)(b) in the individual's personal residence.

98 (d) A fermented alcoholic beverage manufactured in accordance with Subsection
99 (6)(b) may be removed from the premises where it is manufactured:

100 (i) for personal or family use, including use at an organized event where fermented
101 alcoholic beverages are judged as to taste and quality;

102 (ii) if the fermented alcoholic beverage is transported in compliance with Section
103 41-6a-526; and

104 (iii) if the fermented alcoholic beverage is removed only in the following quantities:

105 (A) for personal and family use that is unrelated to an organized event where
106 fermented alcoholic beverages are judged as to taste and quality, the quantity that may be
107 possessed at one time is:

108 (I) one liter of wine for each individual who is 21 years of age or older residing in the
109 household;

110 (II) 72 ounces of heavy beer for each individual who is 21 years of age or older
111 residing in the household; or

112 (III) 72 ounces of beer for each individual who is 21 years of age or older residing in
113 the household; and

114 (B) for on-premise consumption at an organized event where fermented alcoholic
115 beverages are judged as to taste and quality, the quantity that may be removed for each
116 organized event is:

117 (I) one liter of wine for each wine category in which the individual enters, except that
118 the individual may not remove wine for more than three categories for the same organized
119 event;

120 (II) 72 ounces of heavy beer for each heavy beer category in which the individual
121 enters, except that the individual may not remove heavy beer for more than three categories for
122 the same organized event; or

123 (III) 72 ounces of beer for each beer category in which the individual enters, except
124 that the individual may not remove beer for more than three categories for the same organized
125 event.

126 (e) A partnership, corporation, or association may not manufacture a fermented
127 alcoholic beverage under this Subsection (6) for personal or family use and consumption
128 without obtaining a license under this chapter, except that an individual who operates a
129 brewery under this chapter as an individual owner or in partnership with others, may remove
130 beer from the brewery for personal or family use in the amounts described in Subsection
131 (6)(b)(ii).