

**Senator John L. Valentine** proposes the following substitute bill:

**ALCOHOL AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: Gregory H. Hughes

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**LONG TITLE**

**General Description:**

This bill modifies the Alcoholic Beverage Control Act.

**Highlighted Provisions:**

This bill:

- ▶ amends definitional provisions;
- ▶ removes requirements related to state labels and markings;
- ▶ prohibits tampering with a package of an alcoholic beverage;
- ▶ addresses the nature of an adjudicative proceeding as a civil action including the burden of proof and the general applicability of mens rea requirements;
- ▶ makes procedural clarifications for administrative actions;
- ▶ provides for electronic verification of proof of age by certain club licensees;
- ▶ removes restrictions related to election days;
- ▶ addresses quotas;
- ▶ addresses proximity for a restaurant liquor or limited restaurant license;
- ▶ addresses dispensing, storage, and bar structures for a restaurant;
- ▶ changes the insurance and liability limits related to dramshop;
- ▶ modifies the definition of a "convention center" and provides for limited grandfathering;



- 26 ▶ creates a resort license including:
  - 27 • defining terms;
  - 28 • providing for licensing, including the creation of sublicenses;
  - 29 • establishing a resort spa sublicense;
  - 30 • imposing operational requirements for a resort license;
  - 31 • addressing the application of operational requirements to a sublicense;
  - 32 • providing for enforcement with relation to a resort license or a sublicense;
  - 33 • addressing the application of the Nuisance Licensee Act to a resort license or
  - 34 sublicense;
  - 35 • providing for the enforcement of criminal penalties; and
  - 36 • expanding protections for employees to encompass employees of a resort
  - 37 licensee;
- 38 ▶ establishes requirements for renting or leasing a club license premises;
- 39 ▶ clarifies the application of criminal procedures, principles, and penalties;
- 40 ▶ addresses training requirements for law enforcement officers;
- 41 ▶ expands licenses subject to protections for employees who exercise judgment;
- 42 ▶ provides for a study of penalties related to minors; and
- 43 ▶ makes technical and conforming changes.

44 **Monies Appropriated in this Bill:**

45 None

46 **Other Special Clauses:**

47 This bill provides an effective date.

48 This bill provides revisor instructions.

49 This bill coordinates with H.B. 349, Heavy Beer Amendments, to merge substantive  
50 amendments.

51 **Utah Code Sections Affected:**

52 AMENDS:

53 **11-10-1**, as last amended by Laws of Utah 1990, Chapter 23

54 **26-38-2**, as last amended by Laws of Utah 2006, Chapter 202

55 **26-38-3**, as last amended by Laws of Utah 2007, Chapter 20

56 **32A-1-105**, as last amended by Laws of Utah 2008, Chapters 317, 322, and 391

- 57           **32A-1-107**, as last amended by Laws of Utah 2006, Chapter 162
- 58           **32A-1-109**, as last amended by Laws of Utah 2003, Chapter 314
- 59           **32A-1-115**, as last amended by Laws of Utah 2008, Chapter 382
- 60           **32A-1-119**, as last amended by Laws of Utah 2008, Chapters 317, 382, and 391
- 61           **32A-1-119.5**, as enacted by Laws of Utah 2008, Chapter 317
- 62           **32A-1-603**, as last amended by Laws of Utah 2008, Chapter 382
- 63           **32A-2-103**, as last amended by Laws of Utah 2007, Chapter 329
- 64           **32A-3-106**, as last amended by Laws of Utah 2008, Chapter 266
- 65           **32A-4-101**, as last amended by Laws of Utah 2008, Chapter 391
- 66           **32A-4-102**, as last amended by Laws of Utah 2008, Chapter 391
- 67           **32A-4-106**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 68           **32A-4-202**, as last amended by Laws of Utah 2004, Chapter 268
- 69           **32A-4-302**, as last amended by Laws of Utah 2008, Chapter 391
- 70           **32A-4-303**, as last amended by Laws of Utah 2008, Chapter 391
- 71           **32A-4-307**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 72           **32A-4-401**, as last amended by Laws of Utah 2008, Chapter 391
- 73           **32A-4-402**, as last amended by Laws of Utah 2008, Chapter 391
- 74           **32A-5-101**, as last amended by Laws of Utah 2008, Chapter 391
- 75           **32A-5-102**, as last amended by Laws of Utah 2008, Chapter 391
- 76           **32A-5-103 (Effective 07/01/09)**, as last amended by Laws of Utah 2008, Chapters 26
- 77           and 382
- 78           **32A-5-104**, as last amended by Laws of Utah 2008, Chapter 391
- 79           **32A-5-106**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 80           **32A-5-107**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 81           **32A-9-103**, as last amended by Laws of Utah 2008, Chapter 382
- 82           **32A-10-201**, as last amended by Laws of Utah 2008, Chapter 391
- 83           **32A-10-202**, as last amended by Laws of Utah 2008, Chapter 391
- 84           **32A-12-101**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 85           **32A-12-102**, as last amended by Laws of Utah 2004, Chapter 268
- 86           **32A-12-104**, as last amended by Laws of Utah 2007, Chapter 322
- 87           **32A-12-209.5**, as last amended by Laws of Utah 2008, Chapter 3

- 88           **32A-12-212**, as last amended by Laws of Utah 2008, Chapter 391
- 89           **32A-12-213**, as last amended by Laws of Utah 2007, Chapter 284
- 90           **32A-12-219**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 91           **32A-12-222**, as last amended by Laws of Utah 2008, Chapter 391
- 92           **32A-12-301**, as last amended by Laws of Utah 2008, Chapter 391
- 93           **32A-14a-102**, as last amended by Laws of Utah 2008, Chapter 3
- 94           **32A-14a-103**, as enacted by Laws of Utah 2000, Chapter 197
- 95           **53-10-305**, as last amended by Laws of Utah 2000, Chapter 1

96 ENACTS:

- 97           **32A-1-304.5**, Utah Code Annotated 1953
- 98           **32A-4a-101**, Utah Code Annotated 1953
- 99           **32A-4a-102**, Utah Code Annotated 1953
- 100          **32A-4a-201**, Utah Code Annotated 1953
- 101          **32A-4a-202**, Utah Code Annotated 1953
- 102          **32A-4a-203**, Utah Code Annotated 1953
- 103          **32A-4a-204**, Utah Code Annotated 1953
- 104          **32A-4a-205**, Utah Code Annotated 1953
- 105          **32A-4a-301**, Utah Code Annotated 1953
- 106          **32A-4a-302**, Utah Code Annotated 1953
- 107          **32A-4a-303**, Utah Code Annotated 1953
- 108          **32A-4a-304**, Utah Code Annotated 1953
- 109          **32A-4a-305**, Utah Code Annotated 1953
- 110          **32A-4a-401**, Utah Code Annotated 1953
- 111          **32A-4a-402**, Utah Code Annotated 1953
- 112          **32A-4a-501**, Utah Code Annotated 1953
- 113          **32A-4a-502**, Utah Code Annotated 1953
- 114          **32A-4a-503**, Utah Code Annotated 1953
- 115          **32A-5-109**, Utah Code Annotated 1953

116 REPEALS:

- 117           **32A-12-218**, as last amended by Laws of Utah 2003, Chapter 314

118 **Uncodified Material Affected:**

119 ENACTS UNCODIFIED MATERIAL

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

122 Section 1. Section **11-10-1** is amended to read:

123 **11-10-1. Business license required -- Authorization for issuance, denial,**  
124 **suspension, or revocation by local authority.**

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

127 (a) "club licensee";

128 (b) "local authority";

129 (c) "person"; and

130 (d) "restaurant."

131 (2) A person may not operate an association, restaurant, club license, or similar  
132 business that allows customers, members, guests, [~~visitors,~~] or other persons to possess or  
133 consume alcoholic beverages on the premises of the club licensee, association, restaurant, or  
134 similar business premises without a business license.

135 (3) Any local authority may issue a business license to any person who owns or  
136 operates an association, restaurant, club license premise, or similar business that allows the  
137 customers, members, guests, [~~visitors,~~] or other persons to hold, store, possess, or consume  
138 alcoholic beverages on the premises. This license does not permit any person to hold, store,  
139 possess, or consume alcoholic beverages on the premises other than as provided in Title 32A,  
140 [~~the~~] Alcoholic Beverage Control Act.

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

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

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

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

148 **26-38-2. Definitions.**

149 As used in this chapter:

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

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

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

156 (c) restaurants, cafes, or cafeterias;

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

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

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

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

162 (h) sports or fitness facilities;

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

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

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

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

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

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

180 (n) any workplace that is not a place of public access or a publicly owned building or

181 office but has one or more employees who are not owner-operators of the business; ~~and~~

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

184 (p) ~~any private~~ a club ~~licensed~~ licensee under Title 32A, Chapter 5, ~~Private~~ Club  
185 ~~Liquor~~ Licenses.

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

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

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

192 **26-38-3. Restriction on smoking in public places and in specified places --**

193 **Exceptions.**

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

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

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

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

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

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

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

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

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

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

211 ~~[(e) before January 1, 2009, class B private clubs, as defined in Section 32A-5-101~~

212 that:]  
213 [(i) are licensed:]  
214 [(A) on or before May 15, 2006; or]  
215 [(B) on or before May 15, 2006 and after May 15, 2006 undergo a change in  
216 ownership; and]  
217 [(ii) do not permit an individual under the age of 21 in the class B private club, unless  
218 the individual is active military; and]

219 [(f)] (c) separate enclosed smoking areas:  
220 (i) located in the passenger terminals of an international airport located in the city of  
221 the first class;  
222 (ii) vented directly to the outdoors; and  
223 (iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the  
224 state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

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

226 **32A-1-105. Definitions.**

227 As used in this title:

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

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

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

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

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

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

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

- 243 (ii) vinegar;
- 244 (iii) cider;
- 245 (iv) essence;
- 246 (v) tincture;
- 247 (vi) food preparation; or
- 248 (vii) an over-the-counter drug or medicine.

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

251 (4) (a) [~~"Bar"~~] Except as provided in Subsection (4)(b), "bar" means a counter or  
252 similar structure:

253 [~~(a)~~] (i) at which an alcoholic beverage or an alcoholic product is:

254 [~~(i)~~] (A) stored; or

255 [~~(ii)~~] (B) dispensed; or

256 [~~(b)~~] (ii) from which an alcoholic beverage is served.

257 (b) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part  
258 3, Limited Restaurant Licenses, "bar structure" means a surface or structure on the premises of  
259 a restaurant if on or at any place of the surface or structure an alcoholic beverage or alcoholic  
260 product is:

261 (i) stored; or

262 (ii) dispensed.

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

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

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

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

268 (c) Beer includes a product that:

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

270 (ii) is referred to as:

271 (A) beer;

272 (B) ale;

273 (C) porter;

- 274 (D) stout;
- 275 (E) lager; or
- 276 (F) a malt or malted beverage.
- 277 (d) [~~On or after October 1, 2008, "beer"~~] "Beer" does not include a flavored malt
- 278 beverage.
- 279 (6) (a) "Beer retailer" means a business that is:
- 280 (i) engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for
- 281 consumption on or off the business premises; and
- 282 (ii) licensed to sell beer by:
- 283 (A) the commission;
- 284 (B) a local authority; or
- 285 (C) both the commission and a local authority.
- 286 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
- 287 beer to a patron for consumption off the beer retailer's premises.
- 288 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 289 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to a
- 290 patron for consumption on the beer retailer's premises, regardless of whether the business sells
- 291 beer for consumption off the beer retailer's premises.
- 292 (7) "Billboard" means a public display used to advertise including:
- 293 (a) a light device;
- 294 (b) a painting;
- 295 (c) a drawing;
- 296 (d) a poster;
- 297 (e) a sign;
- 298 (f) a signboard; or
- 299 (g) a scoreboard.
- 300 (8) "Brewer" means a person engaged in manufacturing:
- 301 (a) beer;
- 302 (b) heavy beer; or
- 303 (c) a flavored malt beverage.
- 304 (9) "Cash bar" means the service of an alcoholic beverage:

- 305 (a) at:
- 306 (i) a banquet; or
- 307 (ii) a temporary event for which a permit is issued under this title; and
- 308 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
- 309 beverage.
- 310 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 311 a bus company to a group of persons pursuant to a common purpose:
- 312 (a) under a single contract;
- 313 (b) at a fixed charge in accordance with the bus company's tariff; and
- 314 (c) for the purpose of giving the group of persons the exclusive use of the passenger
- 315 bus, coach, or other motor vehicle and a driver to travel together to one or more specified
- 316 destinations.
- 317 (11) "Church" means a building:
- 318 (a) set apart for the purpose of worship;
- 319 (b) in which religious services are held;
- 320 (c) with which clergy is associated; and
- 321 (d) which is tax exempt under the laws of this state.
- 322 (12) [~~"Club" and "private club"~~] "Club licensee" means [~~any of the following organized~~
- 323 ~~primarily for the benefit of its members:~~] a person licensed under Chapter 5, Club Licenses.
- 324 [~~(a) a social club;~~]
- 325 [~~(b) a recreational association;~~]
- 326 [~~(c) a fraternal association;~~]
- 327 [~~(d) an athletic association; or~~]
- 328 [~~(e) a kindred association.~~]
- 329 (13) "Commission" means the Alcoholic Beverage Control Commission.
- 330 (14) "Community location" means:
- 331 (a) a public or private school;
- 332 (b) a church;
- 333 (c) a public library;
- 334 (d) a public playground; or
- 335 (e) a public park.

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

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

338 (b) if the commission does not know who is the governing body of a community

339 location, a person who appears to the commission to have been given on behalf of the

340 community location authority to prohibit an activity at the community location.

341 (16) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part

342 3, Limited Restaurant Licenses:

343 (a) Subject to Subsection (16)(b), "counter" means a surface or structure in a dining

344 area of a restaurant where seating is provided to a patron for service of food.

345 (b) "Counter" does not include a surface or structure if on or at any point of the surface

346 or structure an alcoholic beverage or alcoholic product is:

347 (i) stored; or

348 (ii) dispensed.

349 ~~[(16)]~~ (17) "Department" means the Department of Alcoholic Beverage Control.

350 ~~[(17)]~~ (18) "Disciplinary proceeding" means an adjudicative proceeding permitted

351 under this title:

352 (a) against:

353 (i) a permittee;

354 (ii) a licensee;

355 (iii) a manufacturer;

356 (iv) a supplier;

357 (v) an importer;

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

359 or

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

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

362 (B) a package agent; and

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

364 ~~[(18)]~~ (19) "Director," unless the context requires otherwise, means the director

365 appointed under Section 32A-1-108.

366 (20) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part

367 3. Limited Restaurant Licenses, "dispense" means:

368 (a) drawing of an alcoholic beverage or alcoholic product:

369 (i) from an area where it is stored; or

370 (ii) as provided in Subsection 32A-4-106(7)(e)(ii)(B) or 32A-4-307(7)(e)(ii)(B); and

371 (b) using the alcoholic beverage or alcoholic product described in Subsection (20)(a)

372 on the premises of the restaurant to mix or prepare an alcoholic beverage for service to a patron

373 of the restaurant.

374 ~~[(19)]~~ (21) "Distressed merchandise" means an alcoholic beverage in the possession of

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

376 ~~[(20)]~~ (22) "Flavored malt beverage" means a beverage:

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

378 (b) that is treated by processing, filtration, or another method of manufacture that is not

379 generally recognized as a traditional process in the production of a beer as described in 27

380 C.F.R. Sec. 25.55;

381 (c) to which is added a flavor or other ingredient containing alcohol, except for a hop

382 extract; and

383 (d) (i) for which the producer is required to file a formula for approval with the United

384 States Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec. 25.55; or

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

386 ~~[(21)]~~ (23) "Guest" means ~~[a person accompanied by an active member or visitor of a~~

387 ~~club who enjoys only those privileges derived from the host for the duration of the visit to the~~

388 ~~club]~~ an individual who meets the requirements of Subsection 32A-5-107(1)(i) or (j).

389 ~~[(22)]~~ (24) (a) "Heavy beer" means a product that:

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

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

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

393 ~~[(23)]~~ (25) "Hosted bar" means the service of an alcoholic beverage:

394 (a) without charge; and

395 (b) at a:

396 (i) banquet; or

397 (ii) privately hosted event.

398           ~~[(24)]~~ (26) "Identification card" means an identification card issued under Title 53,  
399 Chapter 3, Part 8, Identification Card Act.

400           ~~[(25)]~~ (27) "Interdicted person" means a person to whom the sale, gift, or provision of  
401 an alcoholic beverage is prohibited by:

402           (a) law; or

403           (b) court order.

404           ~~[(26)]~~ (28) "Intoxicated" means that ~~[to a degree that is unlawful under Section~~  
405 ~~76-9-701]~~ a person ~~[is under the influence of]:~~

406           (a) is significantly impaired as to the person's mental or physical functions as a result of  
407 the use of:

408           ~~[(a)]~~ (i) an alcoholic beverage;

409           ~~[(b)]~~ (ii) a controlled substance;

410           ~~[(c)]~~ (iii) a substance having the property of releasing toxic vapors; or

411           ~~[(d)]~~ (iv) a combination of Subsections ~~[(26)]~~ (28)(a)(i) through ~~[(c)]~~ (iii); and

412           (b) exhibits plain and easily observed outward manifestations of behavior or physical  
413 signs produced by the over consumption of an alcoholic beverage.

414           (29) "Invitee" is as defined in Section 32A-4a-102.

415           ~~[(27)]~~ (30) "Licensee" means a person ~~[issued]~~ granted a license by the commission to  
416 sell, manufacture, store, or allow consumption of an alcoholic beverage on premises owned or  
417 controlled by the person.

418           ~~[(28)]~~ (31) "Limousine" means a motor vehicle licensed by the state or a local  
419 authority, other than a bus or taxicab:

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

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

425           ~~[(29)]~~ (32) (a) (i) "Liquor" means alcohol, or an alcoholic, spirituous, vinous,  
426 fermented, malt, or other liquid, or combination of liquids, a part of which is spirituous,  
427 vinous, or fermented, or other drink, or drinkable liquid that:

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

- 429 (B) is suitable to use for beverage purposes.
- 430 (ii) [~~On or after October 1, 2008, "liquor"~~] "Liquor" includes a flavored malt beverage.
- 431 (b) "Liquor" does not include a beverage defined as a beer.
- 432 [~~(30)~~] (33) "Local authority" means:
- 433 (a) the governing body of the county if the premises are located in an unincorporated
- 434 area of a county; or
- 435 (b) the governing body of the city or town if the premises are located in an incorporated
- 436 city or a town.
- 437 [~~(31)~~] (34) "Manufacture" means to distill, brew, rectify, mix, compound, process,
- 438 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
- 439 others.
- 440 [~~(32)~~] (35) "Member" means [~~a person~~] an individual who, after paying regular dues,
- 441 has full privileges of [~~a~~] an equity club licensee or fraternal club [~~under this title~~] licensee, as
- 442 defined in Section 32A-5-101.
- 443 [~~(33)~~] (36) (a) "Military installation" means a base, air field, camp, post, station, yard,
- 444 center, or homeport facility for a ship:
- 445 (i) (A) under the control of the United States Department of Defense; or
- 446 (B) of the National Guard;
- 447 (ii) that is located within the state; and
- 448 (iii) including a leased facility.
- 449 (b) "Military installation" does not include a facility used primarily for:
- 450 (i) civil works;
- 451 (ii) a rivers and harbors project; or
- 452 (iii) a flood control project.
- 453 [~~(34)~~] (37) "Minor" means an individual under the age of 21 years.
- 454 [~~(35)~~] (38) "Nude," "nudity," or "state of nudity" means:
- 455 (a) the appearance of:
- 456 (i) the nipple or areola of a female human breast;
- 457 (ii) a human genital;
- 458 (iii) a human pubic area; or
- 459 (iv) a human anus; or

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

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

462 (ii) a human genital;

463 (iii) a human pubic area; or

464 (iv) a human anus.

465 [~~36~~] (39) "Outlet" means a location other than a state store or package agency where  
466 an alcoholic beverage is sold pursuant to a license [~~issued~~] granted by the commission.

467 [~~37~~] (40) "Package" means any of the following containing liquor:

468 (a) a container;

469 (b) a bottle;

470 (c) a vessel; or

471 (d) other receptacle.

472 [~~38~~] (41) "Package agency" means a retail liquor location operated:

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

474 (b) by a person:

475 (i) other than the state; and

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

478 [~~39~~] (42) "Package agent" means a person permitted by the commission to operate a  
479 package agency pursuant to a contractual agreement with the department to sell liquor from  
480 premises that the package agent shall provide and maintain.

481 [~~40~~] (43) "Permittee" means a person issued a permit by the commission to perform  
482 an act or exercise a privilege as specifically granted in the permit.

483 [~~41~~] (44) "Person" means an individual, partnership, firm, corporation, limited  
484 liability company, association, business trust, or other form of business enterprise, including a  
485 receiver or trustee, and the plural as well as the singular number, unless the intent to give a  
486 more limited meaning is disclosed by the context.

487 [~~42~~] (45) "Premises" means a building, enclosure, room, or equipment used in  
488 connection with the sale, storage, service, manufacture, distribution, or consumption of an  
489 alcoholic product, unless otherwise defined in this title or in the rules adopted by the  
490 commission.

491            [~~(43)~~] (46) "Prescription" means a writing in legal form, signed by a physician or  
492 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

493            [~~(44)~~] (47) (a) "Privately hosted event" or "private social function" means a specific  
494 social, business, or recreational event:

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

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

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

501            [~~(45)~~] (48) (a) "Proof of age" means:

502            (i) an identification card;

503            (ii) an identification that:

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

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

507            (C) includes date of birth; and

508            (D) has a picture affixed;

509            (iii) a valid driver license certificate that:

510            (A) includes date of birth;

511            (B) has a picture affixed; and

512            (C) is issued:

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

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

515            (iv) a military identification card that:

516            (A) includes date of birth; and

517            (B) has a picture affixed; or

518            (v) a valid passport.

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

521            [~~(46)~~] (49) (a) "Public building" means a building or permanent structure owned or

522 leased by the state, a county, or local government entity that is used for:

- 523 (i) public education;
- 524 (ii) transacting public business; or
- 525 (iii) regularly conducting government activities.

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

529 ~~[(47)]~~ (50) "Representative" means an individual who is compensated by salary,  
530 commission, or other means for representing and selling an alcoholic beverage product of a  
531 manufacturer, supplier, or importer of liquor including:

- 532 (a) wine;
- 533 (b) heavy beer; or
- 534 (c) ~~[on or after October 1, 2008;]~~ a flavored malt beverage.

535 ~~[(48)]~~ (51) "Residence" means a person's principal place of abode within Utah.

536 (52) "Resident," in relation to a resort, is as defined in Section 32A-4a-102.

537 (53) "Resort" is as defined in Section 32A-4a-102.

538 ~~[(49)]~~ (54) "Restaurant" means a business establishment:

- 539 (a) where a variety of foods ~~[is]~~ are prepared and complete meals are served to the  
540 general public;
- 541 (b) located on a premises having adequate culinary fixtures for food preparation and  
542 dining accommodations; and
- 543 (c) that is engaged primarily in serving meals to the general public.

544 ~~[(50)]~~ (55) "Retailer" means a person engaged in the sale or distribution of an alcoholic  
545 beverage to a consumer.

546 ~~[(51)]~~ (56) (a) "Sample" includes:

- 547 (i) a department sample; and
- 548 (ii) an industry representative sample.

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

- 551 (i) wine;
- 552 (ii) heavy beer; or

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

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

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

559 (ii) including:

560 (A) wine;

561 (B) heavy beer; or

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

563 [~~(52)~~] (57) (a) "School" means a building used primarily for the general education of  
564 minors.

565 (b) "School" does not include:

566 (i) a nursery school;

567 (ii) an infant day care center; or

568 (iii) a trade or technical school.

569 [~~(53)~~] (58) "Sell," "sale," and "to sell" means a transaction, exchange, or barter  
570 whereby, for consideration, an alcoholic beverage is either directly or indirectly transferred,  
571 solicited, ordered, delivered for value, or by a means or under a pretext is promised or  
572 obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or  
573 employee, unless otherwise defined in this title or the rules made by the commission.

574 [~~(54)~~] (59) "Seminude," "seminudity," or "state of seminudity" means a state of dress in  
575 which opaque clothing covers no more than:

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

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

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

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

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

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

583 [~~(55)~~] (60) "Sexually oriented entertainer" means a person who while in a state of

584 seminudity appears at or performs:

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

586 (b) on the premises of:

587 (i) a ~~[class D private]~~ social club licensee as defined in ~~[Subsection]~~ Section

588 32A-5-101~~[(3)]~~; or

589 (ii) a tavern;

590 (c) on behalf of or at the request of the licensee described in Subsection ~~[(55)]~~ (60)(b);

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

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

593 (i) an employee of the licensee described in Subsection ~~[(55)]~~ (60)(b);

594 (ii) an independent contractor of the licensee described in Subsection ~~[(55)]~~ (60)(b);

595 (iii) an agent of the licensee described in Subsection ~~[(55)]~~ (60)(b); or

596 (iv) otherwise of the licensee described in Subsection ~~[(55)]~~ (60)(b).

597 ~~[(56)]~~ (61) "Small brewer" means a brewer who manufactures less than 60,000 barrels

598 of beer, heavy beer, and flavored malt beverages per year.

599 ~~[(57)]~~ (62) (a) "Spirituos liquor" means liquor that is distilled.

600 (b) "Spirituos liquor" includes an alcohol product defined as a "distilled spirit" by 27

601 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.

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

604 ~~[(b) "State label" includes the department identification mark and inventory control~~  
605 ~~number.]~~

606 ~~[(59)]~~ (63) (a) "State store" means a facility for the sale of package liquor:

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

608 (ii) operated by a state employee.

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

610 (i) licensee;

611 (ii) permittee; or

612 (iii) package agency.

613 (64) For purposes of Chapter 4, Part 1, Restaurant Liquor Licenses, and Chapter 4, Part

614 3, Limited Restaurant Licenses:

615           (a) "Storage area" means an area on the premises of a restaurant where a licensee  
616 stores an alcoholic beverage or alcoholic product.

617           (b) "Store" means to place or maintain in a location an alcoholic beverage or alcoholic  
618 product from which a person draws to prepare an alcoholic beverage for service to a patron of  
619 the restaurant, except as provided in Subsection 32A-4-106(7)(e)(ii)(B) or  
620 32A-4-307(7)(e)(ii)(B).

621           (65) "Sublicense" is as defined in Section 32A-4a-102.

622           ~~[(60)]~~ (66) "Supplier" means a person selling an alcoholic beverage to the department.

623           ~~[(61)]~~ (67) (a) "Tavern" means a business establishment that is:

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

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

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

629           (i) a beer bar;

630           (ii) a parlor;

631           (iii) a lounge;

632           (iv) a cabaret; or

633           (v) a nightclub.

634           ~~[(62)]~~ (68) "Temporary domicile" means the principal place of abode within Utah of a  
635 person who does not have a present intention to continue residency within Utah permanently or  
636 indefinitely.

637           ~~[(63)]~~ (69) "Unsaleable liquor merchandise" means merchandise that:

638           (a) is unsaleable because the merchandise is:

639           (i) unlabeled;

640           (ii) leaky;

641           (iii) damaged;

642           (iv) difficult to open; or

643           (v) partly filled;

644           (b) is in a container:

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

646 (ii) in which the contents are:

647 (A) cloudy;

648 (B) spoiled; or

649 (C) chemically determined to be impure; or

650 (iii) that contains:

651 (A) sediment; or

652 (B) a foreign substance; or

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

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

656 [~~(65)~~ (70) "Warehouser" means a person, other than a licensed manufacturer, engaged  
657 in the importation for sale, storage, or distribution of liquor regardless of amount.

658 [~~(66)~~ (71) (a) "Wholesaler" means a person engaged in the importation for sale, or in  
659 the sale of beer in wholesale or jobbing quantities to one or more retailers.

660 (b) Notwithstanding Subsection [~~(66)~~ (71)(a), "wholesaler" does not include a small  
661 brewer selling beer manufactured by that brewer.

662 [~~(67)~~ (72) (a) "Wine" means an alcoholic beverage obtained by the fermentation of the  
663 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not  
664 another ingredient is added.

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

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

668 **32A-1-107. Powers and duties of the commission.**

669 (1) The commission shall:

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

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

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

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

675 (ii) controlling liquor merchandise inventory including:

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

- 677 (B) the procedures for testing a new [~~products~~] product;
- 678 (C) purchasing policy;
- 679 (D) turnover requirements for a regularly coded [~~products~~] product to be continued;
- 680 and
- 681 (E) the disposition of discontinued, distressed, or unsaleable merchandise; and
- 682 (iii) determining the location of a state [~~stores, package agencies, and outlets~~] store,
- 683 package agency, or outlet;
- 684 (d) decide within the limits and under the conditions imposed by this title, the number
- 685 and location of state stores, package agencies, and outlets established in the state;
- 686 (e) issue, grant, deny, suspend, revoke, or not renew the following permits, licenses,
- 687 certificates of approval, and package agencies for the purchase, sale, storage, service,
- 688 manufacture, distribution, and consumption of an alcoholic [~~products~~] product:
- 689 (i) a package [~~agencies~~] agency;
- 690 (ii) a restaurant [~~licenses~~] license;
- 691 (iii) an airport lounge [~~licenses~~] license;
- 692 (iv) a limited restaurant [~~licenses~~] license;
- 693 (v) an on-premise banquet [~~licenses~~] license;
- 694 (vi) a resort license, under which four or more sublicenses may be included;
- 695 [~~(vi) private~~] (vii) a club [~~licenses~~] license;
- 696 [~~(vii)~~] (viii) an on-premise beer retailer [~~licenses~~] license;
- 697 [~~(viii)~~] (ix) a temporary special event beer [~~permits~~] permit;
- 698 [~~(ix)~~] (x) a special use [~~permits~~] permit;
- 699 [~~(x)~~] (xi) a single event [~~permits~~] permit;
- 700 [~~(xi)~~] (xii) a manufacturing [~~licenses~~] license;
- 701 [~~(xii)~~] (xiii) a liquor warehousing [~~licenses~~] license;
- 702 [~~(xiii)~~] (xiv) a beer wholesaling [~~licenses~~] license; and
- 703 [~~(xiv)~~] (xv) an out-of-state brewer [~~certificates~~] certificate of approval;
- 704 (f) fix prices at which [~~liquors are~~] liquor is sold that are the same at all state stores,
- 705 package agencies, and outlets;
- 706 (g) issue and distribute price lists showing the price to be paid by [~~purchasers~~] a
- 707 purchaser for each class, variety, or brand of liquor kept for sale by the department;

- 708 (h) (i) require the director to follow sound management principles; and  
709 (ii) require periodic reporting from the director to ensure that:  
710 (A) sound management principles are being followed; and  
711 (B) policies established by the commission are being observed;
- 712 (i) (i) receive, consider, and act in a timely manner upon ~~[aH]~~ the reports,  
713 recommendations, and matters submitted by the director to the commission; and  
714 (ii) do ~~[aH]~~ the things necessary to support the department in properly performing the  
715 department's duties and responsibilities;
- 716 (j) obtain temporarily and for special purposes the services of ~~[experts and persons]~~ an  
717 expert or person engaged in the practice of a profession or who possess any needed skills,  
718 talents, or abilities if:  
719 (i) considered expedient; and  
720 (ii) approved by the governor;
- 721 (k) prescribe the duties of a departmental ~~[officials]~~ official authorized to assist the  
722 commission in issuing ~~[permits, licenses, certificates of approval, and package agencies]~~ a  
723 permit, license, certificate of approval, or package agency under this title;
- 724 (l) prescribe, consistent with this title, the fees payable for:  
725 (i) ~~[permits, licenses, certificates of approval, and package agencies]~~ a permit, license,  
726 certificate of approval, or package agency issued under this title; or  
727 (ii) anything done or permitted to be done under this title;
- 728 (m) prescribe the conduct, management, and equipment of ~~[any]~~ premises upon which  
729 an alcoholic ~~[beverages]~~ beverage may be sold, consumed, served, or stored;
- 730 (n) make rules governing the credit terms of beer sales to retailers within the state;
- 731 (o) require that each of the following, where required in this title, display in a  
732 prominent place a sign in large letters stating: "Warning: Driving under the influence of alcohol  
733 or drugs is a serious crime that is prosecuted aggressively in Utah.":
- 734 (i) a state store;  
735 (ii) a permittee;  
736 (iii) a licensee; and  
737 (iv) a package agency; and  
738 (p) subject to Subsection (4) and as provided in this title, impose fines against:

739 (i) a permittee, licensee, certificate holder, or package agent described in Subsection  
740 (1)(e); or

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

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

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

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

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

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

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

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

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

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

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

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

760 Section 6. Section **32A-1-109** is amended to read:

761 **32A-1-109. Powers and duties of the director.**

762 Subject to the powers and responsibilities vested in the commission by this title the  
763 director shall:

764 (1) prepare and propose to the commission general policies, directives, rules, and  
765 procedures governing the administrative activities of the department, and may submit other  
766 recommendations to the commission as the director considers in the interest of ~~[its]~~ the  
767 commission's or the department's business;

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

769 (a) provide day-to-day direction, coordination, and delegation of responsibilities in the

770 administrative activities of the department's business; and [~~promulgate~~]

771 (b) make internal department policies, directives, rules, and procedures relating to  
772 department personnel matters, and the day-to-day operation of the department consistent with  
773 those of the commission;

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

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

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

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

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

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

787 (a) a department office;

788 (b) a warehouse;

789 (c) a state store;

790 (d) a package agency; and

791 (e) a licensee;

792 (5) within the policies, directives, rules, and procedures approved by the commission  
793 and provisions of law, buy, import, keep for sale, sell and control the sale, storage, service,  
794 transportation, and delivery of an alcoholic [~~products~~] product;

795 (6) prepare for commission approval:

796 (a) recommendations regarding the location, establishment, relocation, and closure of  
797 [~~state stores and package agencies~~] a state store or package agency;

798 (b) recommendations regarding the issuance, suspension, nonrenewal, and revocation  
799 of [~~licenses and permits~~] a license or permit;

800 (c) an annual [~~budgets~~] budget, proposed legislation, and reports as required by law and

801 sound business principles;

802 (d) plans for reorganizing divisions of the department and ~~[their]~~ the functions of the  
803 divisions;

804 (e) manuals containing ~~[all]~~ commission and department policies, directives, rules, and  
805 procedures;

806 (f) an inventory control system;

807 (g) any other ~~[reports and recommendations]~~ report or recommendation as may be  
808 requested by the commission;

809 (h) rules governing the credit terms of the sale of beer ~~[sales]~~ to a beer retailer  
810 ~~[licensees]~~ licensee;

811 (i) rules governing the calibration, maintenance, and regulation of a calibrated metered  
812 dispensing ~~[systems]~~ system;

813 (j) rules governing the posting of a list of types and brand names of liquor ~~[being]~~  
814 served through a calibrated metered dispensing ~~[systems]~~ system;

815 (k) price lists issued and distributed showing the price to be paid for each class, variety,  
816 or brand of liquor kept for sale at a state ~~[stores, package agencies, and outlets]~~ store, package  
817 agency, or outlet;

818 (l) directives prescribing the books of account kept by the department and by a state  
819 ~~[stores, package agencies, and outlets;]~~ store, package agency, or outlet; and

820 ~~[(m) an official state label and the manner in which the label shall be affixed to every~~  
821 ~~package of liquor sold under this title; and]~~

822 ~~[(n)]~~ (m) a policy prescribing the manner of giving and serving ~~[notices]~~ a notice  
823 required by this title or rules made under this title;

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

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

829 ~~[(9)]~~ (8) keep a current copy of ~~[the manuals containing]~~ a manual that contains the  
830 rules and policies of the department and commission available for public inspection;

831 ~~[(10)]~~ (9) (a) after consultation with the governor, determine whether an alcoholic

832 [~~products~~] product should not be sold, offered for sale, or otherwise furnished in an area of the  
833 state during a period of emergency that is proclaimed by the governor to exist in that area; and

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

836 [~~(11)~~] (10) perform other duties required by the commission and by law.

837 Section 7. Section **32A-1-115** is amended to read:

838 **32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account**  
839 **-- Distribution.**

840 (1) As used in this section:

841 (a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted  
842 Account created in this section.

843 (b) "Alcohol-related offense" means:

844 (i) a violation of:

845 (A) Section 41-6a-502; or

846 (B) an ordinance that complies with the requirements of:

847 (I) Subsection 41-6a-510(1); or

848 (II) Section 76-5-207; or

849 (ii) an offense involving the:

850 (A) illegal sale of alcohol;

851 (B) illegal distribution of alcohol;

852 (C) illegal transportation of alcohol;

853 (D) illegal possession of alcohol; or

854 (E) illegal consumption of alcohol.

855 (c) "Annual conviction time period" means the time period that:

856 (i) begins on July 1 and ends on June 30; and

857 (ii) immediately precedes the fiscal year for which an appropriation under this section  
858 is made.

859 (d) "Coordinating council" means the Utah Substance Abuse and Anti-Violence  
860 Coordinating Council created in Section 63M-7-301.

861 (e) "Municipality" means:

862 (i) a city; or

863 (ii) a town.  
864 (2) (a) There is created in the General Fund a restricted account called the "Alcoholic  
865 Beverage Enforcement and Treatment Restricted Account."

866 (b) The account shall be funded from:  
867 (i) amounts deposited by the state treasurer in accordance with Section 59-15-109;  
868 (ii) any appropriations made to the account by the Legislature; and  
869 (iii) interest described in Subsection (2)(c).

870 (c) Interest earned on the account shall be deposited into the account.

871 (d) (i) Consistent with the policies provided in Subsection 32A-1-104(4)(b), the  
872 revenues in the account shall be used for statewide public purposes including promoting the  
873 reduction of the harmful effects of over consumption of alcoholic beverages by adults and  
874 alcohol consumption by minors by funding exclusively programs or projects related to  
875 prevention, treatment, detection, prosecution, and control of violations of this title and other  
876 offenses in which alcohol is a contributing factor except as provided in Subsection (2)(d)(ii).

877 (ii) The portion distributed under this section to counties may also be used for the  
878 confinement or treatment of persons arrested for or convicted of offenses in which alcohol is a  
879 contributing factor.

880 (iii) ~~Any~~ A municipality or county entitled to receive ~~[funds]~~ monies shall use the  
881 ~~[funds]~~ monies exclusively as required by this Subsection (2)(d).

882 (iv) The appropriations provided for under Subsection (3) are:

883 (A) intended to supplement the budget of the appropriate agencies of each municipality  
884 and county within the state to enable the municipalities and counties to more effectively fund  
885 the programs and projects described in this Subsection (2)(d); and

886 (B) not intended to replace ~~[funds]~~ monies that would otherwise be allocated for the  
887 programs and projects in this Subsection (2)(d).

888 (3) (a) The revenues deposited into the account shall be distributed to municipalities  
889 and counties:

890 (i) to the extent appropriated by the Legislature except that the Legislature shall  
891 appropriate each fiscal year an amount equal to at least the amount deposited in the account in  
892 accordance with Section 59-15-109; and

893 (ii) as provided in this Subsection (3).

894 (b) The amount appropriated from the account shall be distributed as follows:  
895 (i) 25% to municipalities and counties based upon the percentage of the state  
896 population residing in each municipality and county;  
897 (ii) 30% to municipalities and counties based upon each municipality's and county's  
898 percentage of the statewide convictions for all alcohol-related offenses;  
899 (iii) 20% to municipalities and counties based upon the percentage of all state stores,  
900 package agencies, liquor licensees, and beer licensees in the state that are located in each  
901 municipality and county; and  
902 (iv) 25% to the counties for confinement and treatment purposes authorized by this  
903 section based upon the percentage of the state population located in each county.  
904 (c) (i) Except as provided in Subsection (3)(c)(iii), a municipality that does not have a  
905 law enforcement agency may not receive monies under this section.  
906 (ii) The State Tax Commission:  
907 (A) may not distribute the monies the municipality would receive but for the  
908 municipality not having a law enforcement agency to that municipality; and  
909 (B) shall distribute the monies that the municipality would have received but for it not  
910 having a law enforcement agency to the county in which the municipality is located for use by  
911 the county in accordance with this section.  
912 (iii) Notwithstanding Subsections (3)(c)(i) and (ii), if the coordinating council finds  
913 that a municipality described in Subsection (3)(c)(i) demonstrates that the municipality can use  
914 the monies that the municipality is otherwise eligible to receive in accordance with this section,  
915 the coordinating council may direct the State Tax Commission to distribute the money to the  
916 municipality.  
917 (4) To determine the distributions required by Subsection (3)(b)(ii), the State Tax  
918 Commission shall annually:  
919 (a) for an annual conviction time period:  
920 (i) multiply by two the total number of convictions in the state obtained during the  
921 annual conviction time period for violation of:  
922 (A) Section 41-6a-502; or  
923 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or  
924 Section 76-5-207; and

925 (ii) add to the number calculated under Subsection (4)(a)(i) the number of convictions  
926 obtained during the annual conviction time period for all alcohol-related offenses other than the  
927 alcohol-related offenses described in Subsection (4)(a)(i);

928 (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum  
929 obtained in Subsection (4)(a); and

930 (c) multiply the amount calculated under Subsection (4)(b), by the number of  
931 convictions obtained in each municipality and county during the annual conviction time period  
932 for alcohol-related offenses.

933 (5) For purposes of this section:

934 (a) the number of state stores, package agencies, and licensees located within the limits  
935 of each municipality and county:

936 (i) is the number determined by the department to be so located;

937 (ii) includes all:

938 (A) [~~private clubs~~] club licenses;

939 (B) restaurants;

940 (C) limited restaurants;

941 (D) on-premise banquet licenses;

942 (E) airport lounges;

943 (F) resort licenses;

944 [~~(F)~~] (G) package agencies; and

945 [~~(G)~~] (H) state stores; and

946 (iii) does not include on-premise beer retailer licensees;

947 (b) the number of state stores, package agencies, and licensees in a county consists only  
948 of that number located within unincorporated areas of the county;

949 (c) population figures shall be determined according to the most current population  
950 estimates prepared by the Utah Population Estimates Committee;

951 (d) a county's population figure for the 25% distribution to municipalities and counties  
952 under Subsection (3)(b)(i) shall be determined only with reference to the population in the  
953 unincorporated areas of the county;

954 (e) a county's population figure under Subsection (3)(b)(iv) for the 25% distribution to  
955 counties only shall be determined with reference to the total population in the county, including

956 that of municipalities;

957 (f) a conviction occurs in the municipality or county that actually prosecutes the  
958 offense to judgment; and

959 (g) in the case of a conviction based upon a guilty plea, the conviction is considered to  
960 occur in the municipality or county that, except for the guilty plea, would have prosecuted the  
961 offense.

962 (6) By not later than September 1 each year:

963 (a) the state court administrator shall certify to the State Tax Commission the number  
964 of convictions obtained for alcohol-related offenses in each municipality or county in the state  
965 during the annual conviction time period; and

966 (b) the coordinating council shall notify the State Tax Commission of any municipality  
967 that does not have a law enforcement agency.

968 (7) By not later than December 1 of each year, the coordinating council shall notify the  
969 State Tax Commission for the fiscal year of appropriation of:

970 (a) any municipality that may receive a distribution under Subsection (3)(c)(iii);

971 (b) any county that may receive a distribution allocated to a municipality described in  
972 Subsection (3)(c)(ii);

973 (c) any municipality or county that may not receive a distribution because the  
974 coordinating council has suspended the payment under Subsection (10)(a)(i); and

975 (d) any municipality or county that receives a distribution because the suspension of  
976 payment has been cancelled under Subsection (10)(a)(ii).

977 (8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax  
978 Commission shall annually distribute to each municipality and county the portion of the  
979 appropriation that the municipality or county is eligible to receive under this section, except for  
980 any municipality or county that the coordinating council notifies the State Tax Commission in  
981 accordance with Subsection (7) may not receive a distribution in that fiscal year.

982 (b) (i) The State Tax Commission shall prepare forms for use by municipalities and  
983 counties in applying for distributions under this section.

984 (ii) The forms described in this Subsection (8) may require the submission of  
985 information the State Tax Commission considers necessary to enable the State Tax  
986 Commission to comply with this section.

987 (9) A municipality or county that receives any monies under this section during a fiscal  
988 year shall by no later than October 1 following the fiscal year:

989 (a) report to the coordinating council:

990 (i) the programs or projects of the municipality or county that receive monies under  
991 this section;

992 (ii) if the monies for programs or projects were exclusively used as required by  
993 Subsection (2)(d);

994 (iii) indicators of whether the programs or projects that receive monies under this  
995 section are effective; and

996 (iv) if [any] monies received under this section were not expended by the municipality  
997 or county; and

998 (b) provide the coordinating council a statement signed by the chief executive officer  
999 of the county or municipality attesting that the monies received under this section were used in  
1000 addition to [any] monies appropriated or otherwise available for the county's or municipality's  
1001 law enforcement and were not used to supplant those monies.

1002 (10) (a) The coordinating council may, by a majority vote:

1003 (i) suspend future payments under Subsection (8) to a municipality or county that:

1004 (A) does not file a report that meets the requirements of Subsection (9); or

1005 (B) the coordinating council finds does not use the monies as required by Subsection  
1006 (2)(d) on the basis of the report filed by the municipality or county under Subsection (9); and

1007 (ii) cancel a suspension under Subsection (10)(a)(i).

1008 (b) The State Tax Commission shall:

1009 (i) retain monies that a municipality or county does not receive under Subsection  
1010 (10)(a); and

1011 (ii) notify the coordinating council of the balance of retained monies under this  
1012 Subsection (10)(b) after the annual distribution under Subsection (8).

1013 (11) (a) Subject to the requirements of this Subsection (11), the coordinating council  
1014 shall award the balance of retained monies under Subsection (10)(b):

1015 (i) as prioritized by majority vote of the coordinating council; and

1016 (ii) as grants to:

1017 (A) a county;

- 1018 (B) a municipality;
- 1019 (C) the Department of Alcoholic Beverage Control;
- 1020 (D) the Department of Human Services;
- 1021 (E) the Department of Public Safety; or
- 1022 (F) the Utah State Office of Education.
- 1023 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating
- 1024 council shall notify the State Tax Commission of [~~any~~] grants awarded under this Subsection
- 1025 (11).
- 1026 (c) The State Tax Commission shall make payments of [~~grants~~] a grant:
- 1027 (i) upon receiving notice as provided under Subsection (11)(b); and
- 1028 (ii) by not later than June 30 of the fiscal year of the appropriation.
- 1029 (d) An entity that receives a grant under this Subsection (11) shall use the grant monies
- 1030 exclusively for programs or projects described in Subsection (2)(d).
- 1031 Section 8. Section **32A-1-119** is amended to read:
- 1032 **32A-1-119. Disciplinary proceedings -- Procedure.**
- 1033 (1) As used in Subsection (4), "final adjudication" means an adjudication for which a
- 1034 final [~~unappealable~~] judgment or order is issued[~~;~~] that:
- 1035 (a) is not appealed, and the time to appeal the judgment has expired; or
- 1036 (b) is appealed, and is affirmed, in whole or in part, on appeal.
- 1037 (2) (a) Subject to Section 32A-1-119.5, the following may conduct an adjudicative
- 1038 proceeding to inquire into a matter necessary and proper for the administration of this title and
- 1039 rules adopted under this title:
- 1040 (i) the commission;
- 1041 (ii) a hearing examiner appointed by the commission for the purposes provided in
- 1042 Subsection 32A-1-107(3);
- 1043 (iii) the director; and
- 1044 (iv) the department.
- 1045 (b) Except as provided in this section or Section 32A-3-106, the following shall
- 1046 comply with the procedures and requirements of Title 63G, Chapter 4, Administrative
- 1047 Procedures Act, in an adjudicative proceeding:
- 1048 (i) the commission;

- 1049 (ii) a hearing examiner appointed by the commission;
- 1050 (iii) the director; and
- 1051 (iv) the department.
- 1052 (c) Except where otherwise provided by law, an adjudicative proceeding before the
- 1053 commission or a hearing examiner appointed by the commission shall be:
- 1054 (i) video or audio recorded; and
- 1055 (ii) subject to Subsection (5)(e), conducted in accordance with Title 52, Chapter 4,
- 1056 Open and Public Meetings Act.
- 1057 (d) A person listed in Subsection (2)(a) shall conduct an adjudicative proceeding
- 1058 concerning departmental personnel in accordance with Title 67, Chapter 19, Utah State
- 1059 Personnel Management Act.
- 1060 (e) A hearing that is informational, fact gathering, and nonadversarial in nature shall be
- 1061 conducted in accordance with rules, policies, and procedures made by the commission,
- 1062 director, or department.
- 1063 (3) (a) Subject to Section 32A-1-119.5, a disciplinary proceeding shall be conducted
- 1064 under the authority of the commission, which is responsible for rendering a final decision and
- 1065 order on a disciplinary matter.
- 1066 (b) (i) Nothing in this section precludes the commission from appointing a necessary
- 1067 officer, including a hearing examiner, from within or without the department, to administer the
- 1068 disciplinary proceeding process.
- 1069 (ii) A hearing examiner appointed by the commission:
- 1070 (A) may conduct a disciplinary proceeding hearing on behalf of the commission; and
- 1071 (B) shall submit to the commission a report including:
- 1072 (I) findings of fact determined on the basis of a preponderance of the evidence
- 1073 presented at the hearing;
- 1074 (II) conclusions of law; and
- 1075 (III) recommendations.
- 1076 (c) Nothing in this section precludes the commission, after the commission renders its
- 1077 final decision and order, from having the director prepare, issue, and cause to be served on the
- 1078 parties the final written order on behalf of the commission.
- 1079 (4) Subject to Section 32A-1-119.5:

- 1080 (a) The department may initiate a disciplinary proceeding described in Subsection  
1081 (4)(b) if the department receives:
- 1082 (i) a report from a government agency, peace officer, examiner, or investigator alleging  
1083 that a person listed in Subsections 32A-1-105[~~(17)~~](18)(a)(i) through (vii) violated this title or  
1084 the rules of the commission;
  - 1085 (ii) a final adjudication of criminal liability against a person listed in Subsections  
1086 32A-1-105[~~(17)~~](18)(a)(i) through (vii) based on an alleged violation of this title; or
  - 1087 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage  
1088 Liability, against a person listed in Subsections 32A-1-105[~~(17)~~](18)(a)(i) through (vii) based  
1089 on an alleged violation of this title.
- 1090 (b) The department may initiate a disciplinary proceeding if the department receives an  
1091 item listed in Subsection (4)(a) to determine:
- 1092 (i) whether a person listed in Subsections 32A-1-105[~~(17)~~](18)(a)(i) through (vii)  
1093 violated this title or rules of the commission; and
  - 1094 (ii) if a violation is found, the appropriate sanction to be imposed.
- 1095 (5) (a) Unless waived by the respondent, a disciplinary proceeding shall be held:
- 1096 (i) if required by law;
  - 1097 (ii) before revoking or suspending a permit, license, or certificate of approval issued  
1098 under this title; or
  - 1099 (iii) before imposing a fine against a person listed in Subsections  
1100 32A-1-105[~~(17)~~](18)(a)(i) through (vii).
- 1101 (b) Inexcusable failure of a respondent to appear at a scheduled disciplinary proceeding  
1102 hearing after receiving proper notice is an admission of the charged violation.
- 1103 (c) The validity of a disciplinary proceeding is not affected by the failure of a person to  
1104 attend or remain in attendance.
- 1105 (d) The commission or an appointed hearing examiner shall preside over a disciplinary  
1106 proceeding hearing.
- 1107 (e) A disciplinary proceeding hearing may be closed only after the commission or  
1108 hearing examiner makes a written finding that the public interest in an open hearing is clearly  
1109 outweighed by factors enumerated in the closure order.
- 1110 (f) (i) The commission or its hearing examiner as part of a disciplinary proceeding

1111 hearing may:

1112 (A) administer oaths or affirmations;

1113 (B) take evidence;

1114 (C) take a deposition within or without this state; and

1115 (D) require by subpoena from a place within this state:

1116 (I) the testimony of a person at a hearing; and

1117 (II) the production of a book, record, paper, contract, agreement, document, or other  
1118 evidence considered relevant to the inquiry.

1119 (ii) A person subpoenaed in accordance with this Subsection (5)(f) shall testify and  
1120 produce a book, paper, document, or tangible thing as required in the subpoena.

1121 (iii) A witness subpoenaed or called to testify or produce evidence who claims a  
1122 privilege against self-incrimination may not be compelled to testify, but the commission or the  
1123 hearing examiner shall file a written report with the county attorney or district attorney in the  
1124 jurisdiction where the privilege is claimed or where the witness resides setting forth the  
1125 circumstance of the claimed privilege.

1126 (iv) (A) A person is not excused from obeying a subpoena without just cause.

1127 (B) A district court within the judicial district in which a person alleged to be guilty of  
1128 willful contempt of court or refusal to obey a subpoena is found or resides, upon application by  
1129 the party issuing the subpoena, may issue an order requiring the person to:

1130 (I) appear before the issuing party; and

1131 (II) (Aa) produce documentary evidence if so ordered; or

1132 (Bb) give evidence regarding the matter in question.

1133 (C) Failure to obey an order of the court may be punished by the court as contempt.

1134 (g) (i) In a disciplinary proceeding hearing heard by a hearing examiner, the hearing  
1135 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.

1136 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not  
1137 recommend a penalty more severe than that initially sought by the department in the notice of  
1138 agency action.

1139 (iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)  
1140 shall be served upon the respective parties.

1141 (iv) The respondent and the department shall be given reasonable opportunity to file a

1142 written objection to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)  
1143 before final commission action.

1144 (h) In a case heard by the commission, it shall issue its final decision and order in  
1145 accordance with Subsection (3).

1146 (6) (a) The commission shall:

1147 (i) render a final decision and order on a disciplinary action; and

1148 (ii) cause its final order to be prepared in writing, issued, and served on all parties.

1149 (b) An order of the commission is [~~considered~~] final on the date the order [~~becomes~~  
1150 effective] is issued.

1151 (c) If the commission is satisfied that a person listed in Subsections  
1152 32A-1-105[~~(17)~~](18)(a)(i) through (vii) violated this title or the commission's rules, in  
1153 accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:

1154 (i) suspend or revoke the permit, license, or certificate of approval;

1155 (ii) impose a fine against a person listed in Subsections 32A-1-105[~~(17)~~](18)(a)(i)  
1156 through (vii);

1157 (iii) assess the administrative costs of a disciplinary proceeding to the permittee, the  
1158 licensee, or certificate holder; or

1159 (iv) take a combination of actions described in Subsections (6)(c)(i) through (iii).

1160 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections  
1161 32A-1-107(1)(p) and (4).

1162 (e) (i) If a permit or license is suspended under this Subsection (6), the permittee or  
1163 licensee shall prominently post a sign provided by the department:

1164 (A) during the suspension; and

1165 (B) at the entrance of the premises of the permittee or licensee.

1166 (ii) The sign required by this Subsection (6)(e) shall:

1167 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the  
1168 alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be  
1169 sold, served, furnished, or consumed on these premises during the period of suspension."; and

1170 (B) include the dates of the suspension period.

1171 (iii) A permittee or licensee may not remove, alter, obscure, or destroy a sign required  
1172 to be posted under this Subsection (6)(e) during the suspension period.

1173 (f) If a permit or license is revoked, the commission may order the revocation of a  
1174 compliance bond posted by the permittee or licensee.

1175 (g) A permittee or licensee whose permit or license is revoked may not reapply for a  
1176 permit or license under this title for three years from the date on which the permit or license is  
1177 revoked.

1178 (h) The commission shall transfer all costs assessed into the General Fund in  
1179 accordance with Section 32A-1-113.

1180 (7) Subject to Section 32A-1-119.5:

1181 (a) In addition to an action taken against a permittee, licensee, or certificate holder  
1182 under this section, the department may initiate disciplinary action against an officer, employee,  
1183 or agent of a permittee, licensee, or certificate holder.

1184 (b) If an officer, employee, or agent is found to have violated this title, the commission  
1185 may prohibit the officer, employee, or agent from serving, selling, distributing, manufacturing,  
1186 wholesaling, warehousing, or handling an alcoholic beverage in the course of acting as an  
1187 officer, employee, or agent with a permittee, licensee, or certificate holder under this title for a  
1188 period determined by the commission.

1189 (8) Subject to Section 32A-1-119.5:

1190 (a) The department may initiate a disciplinary proceeding for an alleged violation of  
1191 this title or the rules of the commission against:

1192 (i) a manufacturer, supplier, or importer of an alcoholic beverage; or

1193 (ii) an officer, employee, agent, or representative of a person listed in Subsection  
1194 (8)(a)(i).

1195 (b) (i) If the commission makes the finding described in Subsection (8)(b)(ii), the  
1196 commission may, in addition to other penalties prescribed by this title, order:

1197 (A) the removal of the manufacturer's, supplier's, or importer's one or more products  
1198 from the department's sales list; and

1199 (B) a suspension of the department's purchase of the one or more products described in  
1200 Subsection (8)(b)(i)(A) for a period determined by the commission.

1201 (ii) The commission may take the action described in Subsection (8)(b)(i) if:

1202 (A) a manufacturer, supplier, or importer of liquor, wine, heavy beer, or a flavored malt  
1203 beverage, or its officer, employee, agent, or representative violates this title; and

- 1204 (B) the manufacturer, supplier, or importer:  
1205 (I) directly commits the violation; or  
1206 (II) solicits, requests, commands, encourages, or intentionally aids another to engage in  
1207 the violation.
- 1208 (9) Subject to Section 32A-1-119.5:  
1209 (a) The department may initiate a disciplinary proceeding against a brewer holding a  
1210 certificate of approval under Section 32A-8-101 for an alleged violation of this title or the rules  
1211 of the commission.
- 1212 (b) If the commission makes a finding that the brewer holding a certificate of approval  
1213 violates this title or rules of the commission, the commission may take an action against the  
1214 brewer holding a certificate of approval that the commission could take against a licensee  
1215 including:
- 1216 (i) suspension or revocation of the certificate of approval; and  
1217 (ii) imposition of a fine.
- 1218 (10) (a) An adjudicative proceeding under this title, including a disciplinary  
1219 proceeding, is a civil action, notwithstanding whether at issue in the adjudicative proceeding is  
1220 a violation of statute that can be prosecuted criminally.
- 1221 (b) Unless specifically adopted in this title, a procedure or principal that is applicable  
1222 to a criminal proceeding does not apply to an adjudicative proceeding permitted under this title  
1223 including:
- 1224 (i) Title 76, Chapter 1, General Provisions;  
1225 (ii) Title 76, Chapter 2, Principles of Criminal Responsibility;  
1226 (iii) Title 76, Chapter 3, Punishments; and  
1227 (iv) Title 76, Chapter 4, Inchoate Offenses.
- 1228 (c) (i) The burden of proof in an adjudicative proceeding under this title is by a  
1229 preponderance of the evidence.
- 1230 (ii) If the subject of an adjudicative proceeding under this title asserts an affirmative  
1231 defense, the subject has the burden of proof to establish the affirmative defense by the  
1232 preponderance of the evidence.
- 1233 (d) In an adjudicative proceeding under this title, to find a violation of this title the  
1234 commission:

1235 (i) is required to determine whether the conduct that constitutes the violation occurred;  
1236 and

1237 (ii) is not required to make a finding of knowledge or intent unless knowledge or intent  
1238 is expressly made an element of the violation by statute.

1239 ~~[(10)]~~ (11) (a) If a respondent requests a disciplinary proceeding hearing, the hearing  
1240 held by the commission or a hearing examiner appointed by the commission shall proceed  
1241 formally in accordance with Sections 63G-4-204 through 63G-4-209 in a case where:

1242 (i) the alleged violation poses, or potentially poses, a grave risk to public safety, health,  
1243 and welfare;

1244 (ii) the alleged violation involves:

1245 (A) selling, serving, or otherwise furnishing an alcoholic product to a minor;

1246 (B) attire, conduct, or entertainment prohibited by Part 6, Attire, Conduct, and  
1247 Entertainment Act;

1248 (C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf  
1249 of the respondent;

1250 (D) interfering or refusing to cooperate with:

1251 (I) an authorized official of the department or the state in the discharge of the official's  
1252 duties in relation to the enforcement of this title; or

1253 (II) a peace officer in the discharge of the peace officer's duties in relation to the  
1254 enforcement of this title;

1255 (E) an unlawful trade practice under Sections 32A-12-601 through 32A-12-606;

1256 (F) unlawful importation of an alcoholic product; or

1257 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection  
1258 32A-12-601(2), to a person other than the department or a military installation, except to the  
1259 extent permitted by this title; or

1260 (iii) the department determines to seek in a disciplinary proceeding hearing:

1261 (A) an administrative fine exceeding \$3,000;

1262 (B) a suspension of a license, permit, or certificate of approval of more than ten days;

1263 or

1264 (C) a revocation of a license, permit, or certificate of approval.

1265 (b) If a respondent does not request a disciplinary proceeding hearing, a hearing shall

1266 proceed informally unless it is designated as a formal proceeding pursuant to rules adopted by  
1267 the commission in accordance with Subsection (11)(c).

1268 ~~[(b)]~~ (c) The commission shall make rules in accordance with Title 63G, Chapter 3,  
1269 Utah Administrative Rulemaking Act, to provide a procedure to implement this Subsection  
1270 ~~[(10)]~~ (11).

1271 (12) Notwithstanding the other provisions of this title, the commission may not order a  
1272 disciplinary action or fine in accordance with this section if the disciplinary action or fine is  
1273 ordered on the basis of a violation:

1274 (a) of a provision in this title related to intoxication or becoming intoxicated; and  
1275 (b) if the violation is first investigated by a law enforcement officer, as defined in  
1276 Section 53-13-103, who has not received training regarding the requirements of this title  
1277 related to responsible alcoholic beverage sale or service.

1278 Section 9. Section **32A-1-119.5** is amended to read:

1279 **32A-1-119.5. Timing of reporting violations.**

1280 (1) As used in this section:

1281 (a) "Department compliance officer" means an individual who is:

1282 (i) an auditor or inspector; and

1283 (ii) employed by the department.

1284 (b) "Nondepartment enforcement agency" means an agency that:

1285 (i) (A) is a state agency other than the department; or

1286 (B) is an agency of a county, city, or town; and

1287 (ii) has a responsibility, as provided in another provision of this title, to enforce one or  
1288 more provisions of this title.

1289 (c) "Nondepartment enforcement officer" means an individual who is:

1290 (i) a peace officer, examiner, or investigator; and

1291 (ii) employed by an agency described in Subsection (1)(b).

1292 (2) A disciplinary proceeding may not be initiated or maintained by the commission or  
1293 department on the basis, in whole or in part, of a violation of this title unless a person listed in  
1294 Subsections 32A-1-105~~[(15)]~~(18)(a)(i) through (vi) against whom the violation is alleged is  
1295 notified by the department of the violation in accordance with this section.

1296 (3) (a) A nondepartment enforcement agency or nondepartment enforcement officer

1297 may not report a violation of this title to the department more than eight business days after the  
1298 day on which a nondepartment enforcement officer or agency completes an investigation that  
1299 finds a violation of this title.

1300 (b) If the commission or department wants the right to initiate or maintain a  
1301 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a  
1302 report described in Subsection (3)(a), the department shall notify a person listed in Subsections  
1303 32A-1-105[~~(15)~~](18)(a)(i) through (vi) alleged by the report to have violated this title:

1304 (i) by no later than eight business days of the day on which the department receives the  
1305 report described in Subsection (3)(a); and

1306 (ii) that the commission or department may initiate or maintain a disciplinary  
1307 proceeding on the basis, in whole or in part, of the violation.

1308 (4) If the commission or department wants the right to initiate or maintain a  
1309 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by  
1310 report of a department compliance officer, the department shall notify a person listed in  
1311 Subsections 32A-1-105[~~(15)~~](18)(a)(i) through (vi) alleged by the report to have violated this  
1312 title:

1313 (a) by no later than eight business days of the day on which the department compliance  
1314 officer completes an investigation that finds a violation of this title; and

1315 (b) that the commission or department may initiate or maintain a disciplinary  
1316 proceeding on the basis, in whole or in part, of the violation.

1317 (5) The notice described in Subsection (2), (3)(b), or (4) is not required with respect to  
1318 a person listed in Subsection 32A-1-105[~~(15)~~](18)(a)(vii).

1319 (6) (a) A notice required by Subsection (2), (3)(b), or (4) may be done orally, if after  
1320 the oral notification the department provides written notification.

1321 (b) The written notification described in Subsection (6)(a) may be sent outside the time  
1322 periods required by this section.

1323 (7) The department shall maintain a record of a notification required by Subsection (2),  
1324 (3)(b), or (4) that includes:

1325 (a) the name of the person notified; and

1326 (b) the date of the notification.

1327 Section 10. Section **32A-1-304.5** is enacted to read:

1328 **32A-1-304.5. Verification of proof of age by certain club licensees.**

1329 (1) For purposes of this section, "applicable club licensee" means the following as  
1330 defined in Section 32A-5-101:

1331 (a) a dining club licensee; or

1332 (b) a social club licensee.

1333 (2) Notwithstanding any other provision of this part, an applicable club licensee shall  
1334 require that a person authorized to sell or otherwise handle an alcoholic beverage or alcoholic  
1335 product under the applicable club license verify proof of age as provided in this section.

1336 (3) A person described in Subsection (2) is required to verify proof of age under this  
1337 section before an individual who appears to be 35 years of age or younger:

1338 (a) gains admittance to the premises of a social club licensee; or

1339 (b) procures an alcoholic beverage or alcoholic product on the premises of a dining  
1340 club licensee.

1341 (4) To comply with Subsection (3), a person shall:

1342 (a) request the individual present proof of age; and

1343 (b) (i) verify the validity of the proof of age electronically under the verification  
1344 program created in Subsection (5); or

1345 (ii) if the proof of age cannot be electronically verified as provided in Subsection  
1346 (4)(b)(i), request that the individual comply with a process established by the commission by  
1347 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1348 (5) The commission shall establish by rule made in accordance with Title 63G, Chapter  
1349 3, Utah Administrative Rulemaking Act, an electronic verification program that includes the  
1350 following:

1351 (a) the specifications for the technology used by the applicable club licensee to  
1352 electronically verify proof of age, including that the technology display to the person described  
1353 in Subsection (2) no more than the following for the individual who presents the proof of age:

1354 (i) the name;

1355 (ii) the age;

1356 (iii) the number assigned to the individual's proof of age by the issuing authority;

1357 (iv) the birth date;

1358 (v) the gender; and

- 1359 (vi) the status and expiration date of the individual's proof of age; and
- 1360 (b) the security measures that must be used by an applicable club licensee to ensure
- 1361 that information obtained under this section is:
- 1362 (i) used by the applicable club licensee only for purposes of verifying proof of age in
- 1363 accordance with this section; and
- 1364 (ii) retained by the applicable club licensee for seven days after the day on which the
- 1365 applicable club licensee obtains the information.
- 1366 (6) (a) An applicable club licensee may not disclose information obtained under this
- 1367 section except as provided under this title.
- 1368 (b) Information obtained under this section is considered a record for any purpose
- 1369 under Section 32A-5-107.

1370 Section 11. Section **32A-1-603** is amended to read:

1371 **32A-1-603. Sexually oriented entertainer.**

1372 (1) Subject to the restrictions of this section, live entertainment is permitted on a  
1373 premises or at an event regulated by the commission.

1374 (2) Notwithstanding Subsection (1), a licensee or permittee may not permit a person to:

1375 (a) appear or perform in a state of nudity;

1376 (b) perform or simulate an act of:

1377 (i) sexual intercourse;

1378 (ii) masturbation;

1379 (iii) sodomy;

1380 (iv) bestiality;

1381 (v) oral copulation;

1382 (vi) flagellation; or

1383 (vii) a sexual act that is prohibited by Utah law; or

1384 (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.

1385 (3) A sexually oriented entertainer may perform in a state of seminudity:

1386 (a) only in:

1387 (i) a tavern; or [~~class D private club; and~~]

1388 (ii) a social club license premises; and

1389 (b) only if:

1390 (i) all windows, doors, and other apertures to the premises are darkened or otherwise  
1391 constructed to prevent anyone outside the premises from seeing the performance; and

1392 (ii) the outside entrance doors of the premises remain unlocked.

1393 (4) A sexually oriented entertainer may perform only upon a stage or in a designated  
1394 performance area that is:

1395 (a) approved by the commission in accordance with rules made by the commission in  
1396 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1397 (b) configured so as to preclude a patron from:

1398 (i) touching the sexually oriented entertainer; or

1399 (ii) placing any money or object on or within the costume or the person of the sexually  
1400 oriented entertainer; and

1401 (c) configured so as to preclude the sexually oriented entertainer from touching a  
1402 patron.

1403 (5) A sexually oriented entertainer may not touch a patron:

1404 (a) during the sexually oriented entertainer's performance; or

1405 (b) while the sexually oriented entertainer is dressed in performance attire or costume.

1406 (6) A sexually oriented entertainer, while in the portion of the premises used by  
1407 patrons, must be dressed in opaque clothing which covers and conceals the sexually oriented  
1408 entertainer's performance attire or costume from the top of the breast to the knee.

1409 (7) A patron may not be on the stage or in the performance area while a sexually  
1410 oriented entertainer is appearing or performing on the stage or in the performance area.

1411 (8) A patron may not:

1412 (a) touch a sexually oriented entertainer:

1413 (i) during the sexually oriented entertainer's performance; or

1414 (ii) while the sexually oriented entertainer is dressed in performance attire or costume;

1415 or

1416 (b) place money or any other object on or within the costume or the person of the  
1417 sexually oriented entertainer.

1418 (9) A minor may not be on a premises described in Subsection (3) [~~when a sexually~~  
1419 ~~oriented entertainer is performing on the premises~~].

1420 (10) A person who appears or performs for the entertainment of patrons on a premises

1421 or at an event regulated by the commission that is not a tavern or ~~[class D private club]~~ social  
 1422 club licensee:

1423 (a) may not appear or perform in a state of nudity or a state of seminudity; and

1424 (b) may appear or perform in opaque clothing that completely covers the person's

1425 genitals, pubic area, and anus if the covering:

1426 (i) is not less than the following at its widest point:

1427 (A) four inches coverage width in the front of the human body; and

1428 (B) five inches coverage width in the back of the human body;

1429 (ii) does not taper to less than one inch wide at the narrowest point; and

1430 (iii) if covering a female, completely covers the breast below the top of the areola.

1431 Section 12. Section **32A-2-103** is amended to read:

1432 **32A-2-103. Operational restrictions.**

1433 (1) (a) Liquor may not be sold from a state store except in a sealed package. ~~[The]~~

1434 (b) A sealed package may not be opened on the premises of ~~[any]~~ a state store.

1435 (2) (a) An officer, agent, clerk, or employee of a state store may not consume or allow

1436 to be consumed by any person ~~[any]~~ an alcoholic beverage on the premises of a state store.

1437 (b) Violation of this Subsection (2) is a class B misdemeanor.

1438 ~~[(3) All liquor sold shall be in packages that are properly marked and labeled in~~

1439 ~~accordance with the rules adopted under this title.]~~

1440 ~~[(4)]~~ (3) Liquor may not be sold except at prices fixed by the commission.

1441 ~~[(5)]~~ (4) Liquor may not be sold, delivered, or furnished to ~~[any]~~ a:

1442 (a) minor;

1443 (b) person actually, apparently, or obviously intoxicated;

1444 (c) known habitual drunkard; or

1445 (d) known interdicted person.

1446 ~~[(6)]~~ (5) Sale or delivery of liquor may not be made on or from the premises of ~~[any]~~ a

1447 state store, nor may ~~[any]~~ a state store be kept open for the sale of liquor:

1448 (a) on Sunday;

1449 (b) on ~~[any]~~ a state or federal legal holiday; or

1450 ~~[(c) on any day on which any regular general election, regular primary election, or~~

1451 ~~statewide special election is held;]~~

1452           ~~[(d) on any day on which any municipal, local district, special service district, or school~~  
1453 ~~election is held, but only within the boundaries of the municipality, local district, special~~  
1454 ~~service district, or school district holding the election and only if the municipality, local~~  
1455 ~~district, special service district or school district in which the election is being held notifies the~~  
1456 ~~department at least 30 days prior to the date of the election; or]~~

1457           ~~[(e)]~~ (c) except on days and during hours as the commission may direct by rule or  
1458 order.

1459           ~~[(7) Each]~~ (6) A state store shall display in a prominent place in the store a sign in  
1460 large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious  
1461 crime that is prosecuted aggressively in Utah."

1462           ~~[(8)]~~ (7) (a) A minor may not be admitted into, or be on the premises of a state store  
1463 unless accompanied by a person who is:

1464           (i) 21 years of age or older; and

1465           (ii) the minor's parent, legal guardian, or spouse.

1466           (b) ~~[Any]~~ A state store employee that has reason to believe that a person who is on the  
1467 premises of a state store is under the age of 21 and is not accompanied by a person described in  
1468 Subsection ~~[(8)]~~ (7)(a) may:

1469           (i) ask the suspected minor for proof of age;

1470           (ii) ask the person who ~~[accompanied]~~ accompanies the suspected minor for proof of  
1471 age; and

1472           (iii) ask the suspected minor or the person who ~~[accompanied]~~ accompanies the  
1473 suspected minor for proof of parental, guardianship, or spousal relationship.

1474           (c) ~~[Any]~~ A state store employee shall refuse to sell liquor to the suspected minor and  
1475 to the person who ~~[accompanied]~~ accompanies the suspected minor into the state store if ~~[they~~  
1476 ~~fail]~~ the suspected minor or person fails to provide ~~[any of the]~~ information specified in  
1477 Subsection ~~[(8)]~~ (7)(b).

1478           (d) ~~[Any]~~ A state store employee shall require ~~[the]~~ a suspected minor and the person  
1479 who ~~[accompanied]~~ accompanies the suspected minor into the state store to immediately leave  
1480 the premises of the state store if ~~[they fail]~~ the suspected minor or person fails to provide ~~[any~~  
1481 ~~of the]~~ information specified in Subsection ~~[(8)]~~ (7)(b).

1482           Section 13. Section **32A-3-106** is amended to read:

1483 **32A-3-106. Operational restrictions.**

1484 (1) (a) A package agency may not be operated until a package agency agreement has  
1485 been entered into by the package agent and the department.

1486 (b) The agreement shall state the conditions of operation by which the package agent  
1487 and the department are bound.

1488 (c) If the package agent violates the conditions, terms, or covenants contained in the  
1489 agreement or violates any provisions of this title, the department may take whatever action  
1490 against the agent that is allowed by the package agency agreement.

1491 (d) Actions against the package agent are governed solely by the agreement and may  
1492 include suspension or revocation of the agency.

1493 (2) (a) A package agency may not purchase liquor from any person except from the  
1494 department.

1495 (b) At the discretion of the department, liquor may be provided by the department to a  
1496 package agency for sale on consignment.

1497 (3) The department may pay or otherwise remunerate a package agent on any basis  
1498 including sales or volume of business done by the agency.

1499 (4) Liquor may not be sold from any package agency except in a sealed package. The  
1500 package may not be opened on the premises of a package agency.

1501 [~~(5) All liquor sold shall be in packages that are properly marked and labeled in  
1502 accordance with the rules adopted under this title.~~]

1503 [~~(6)~~ (5) A package agency may not display liquor or price lists in windows or  
1504 showcases visible to passersby.

1505 [~~(7)~~ (6) (a) An officer, agent, clerk, or employee of a package agency may not  
1506 consume or allow to be consumed by any person any alcoholic beverage on the premises of a  
1507 package agency.

1508 (b) Violation of this Subsection [~~(7)~~ (6) is a class B misdemeanor.

1509 [~~(8)~~ (7) Liquor may not be sold except at prices fixed by the commission.

1510 [~~(9)~~ (8) Liquor may not be sold, delivered, or furnished to any:

1511 (a) minor;

1512 (b) person actually, apparently, or obviously intoxicated;

1513 (c) known habitual drunkard; or

1514 (d) known interdicted person.

1515 ~~[(10)]~~ (9) (a) Subject to ~~[Subsection (10)(b)]~~ the other provisions of this Subsection

1516 (9), sale or delivery of liquor may not be made on or from the premises of ~~[any]~~ a package

1517 agency nor may ~~[any]~~ a package agency be kept open for the sale of liquor:

1518 (i) (A) on Sunday; or

1519 (B) on a state or federal legal holiday; and

1520 (ii) except on days and during hours as the commission may direct by rule or order.

1521 (b) The restrictions in Subsection ~~[(10)]~~ (9)(a)(i) govern unless:

1522 (i) the package agency is located at a winery licensed under Chapter 8, Manufacturing

1523 Licenses;

1524 (ii) the winery licensed under Chapter 8, Manufacturing Licenses, holds:

1525 (A) a restaurant liquor license under Chapter 4, Part 1, Restaurant Liquor Licenses; or

1526 (B) a limited restaurant license under Chapter 4, Part 3, Limited Restaurant Licenses;

1527 (iii) the restaurant described in Subsection ~~[(10)]~~ (9)(b)(ii) is located at the winery;

1528 (iv) the restaurant described in Subsection ~~[(10)]~~ (9)(b)(ii) sells wines produced at the

1529 winery;

1530 (v) the winery described in Subsection ~~[(10)]~~ (9)(b)(i):

1531 (A) owns the restaurant; or

1532 (B) operates the restaurant;

1533 (vi) the package agency only sells wine produced at the winery; and

1534 (vii) the package agency's days and hours of sale are the same as the days and hours of

1535 sale at the restaurant described in Subsection ~~[(10)]~~ (9)(b)(ii).

1536 ~~[(c) (i) In addition to the requirements of Subsection (10)(a), the sale or delivery of~~

1537 ~~liquor may not be made on or from the premises of a package agency described in Subsection~~

1538 ~~(10)(c)(ii) and a package agency described in Subsection (10)(c)(ii) may not be open for the~~

1539 ~~sale of liquor until after the polls are closed:]~~

1540 ~~[(A) on a day on which is held:]~~

1541 ~~[(I) a regular general election;]~~

1542 ~~[(II) a regular primary election; or]~~

1543 ~~[(III) a statewide special election; or]~~

1544 ~~[(B) on a day on which is held a municipal, local district, special service district, or~~

1545 school election if:]

1546 ~~[(F) the package agency is within the boundaries of the municipality, local district,~~  
 1547 ~~special service district, or school district holding the election; and]~~

1548 ~~[(H) the municipality, local district, special service district, or school district in which~~  
 1549 ~~the election is held notifies the department at least 30 days before the day on which the election~~  
 1550 ~~is held.]~~

1551 ~~[(ii) This Subsection (10)(c) applies to a package agency that contracts with the~~  
 1552 ~~department to sell liquor in a manner similar to a state store, whether or not the operator of the~~  
 1553 ~~package agency has a source of income that is not from the sale of liquor.]~~

1554 ~~[(iii) The commission may by rule made in accordance with Title 63G, Chapter 3, Utah~~  
 1555 ~~Administrative Rulemaking Act, define what constitutes a package agency that sells liquor "in~~  
 1556 ~~a manner similar to a state store."]~~

1557 (c) (i) Subsection (9)(a)(i) does not apply to a package agency held by a resort licensee  
 1558 if the package agency that contracts with the department to sell liquor does not sell liquor in a  
 1559 manner similar to a state store.

1560 (ii) The commission may by rule made in accordance with Title 63G, Chapter 3, Utah  
 1561 Administrative Rulemaking Act, define what constitutes a package agency that sells liquor "in  
 1562 a manner similar to a state store."

1563 ~~[(11)] (10) The package agency certificate issued by the commission shall be~~  
 1564 ~~permanently posted in a conspicuous place in the package agency.~~

1565 ~~[(12) Each] (11) A package agent shall display in a prominent place in the package~~  
 1566 ~~agency a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs~~  
 1567 ~~is a serious crime that is prosecuted aggressively in Utah."~~

1568 ~~[(13)] (12) (a) A package agency may not close or cease operation for a period longer~~  
 1569 ~~than 72 hours, unless:~~

1570 (i) the package agency notifies the department in writing at least seven days before the  
 1571 closing; and

1572 (ii) the closure or cessation of operation is first approved by the department.

1573 (b) Notwithstanding Subsection ~~[(13)] (12)~~(a), in the case of emergency closure,  
 1574 immediate notice of closure shall be made to the department by telephone.

1575 (c) (i) The department may authorize a closure or cessation of operation for a period

1576 not to exceed 60 days.

1577 (ii) The department may extend the initial period an additional 30 days upon written  
1578 request of the package agency and upon a showing of good cause.

1579 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
1580 commission approval.

1581 (d) The notice required by Subsection [~~(13)~~] (12)(a) shall include:

1582 (i) the dates of closure or cessation of operation;

1583 (ii) the reason for the closure or cessation of operation; and

1584 (iii) the date on which the agency will reopen or resume operation.

1585 (e) Failure of the agency to provide notice and to obtain department authorization prior  
1586 to closure or cessation of operation shall result in an automatic termination of the package  
1587 agency contract effective immediately.

1588 (f) Failure of the agency to reopen or resume operation by the approved date shall  
1589 result in an automatic termination of the package agency contract effective on that date.

1590 [~~(14)~~] (13) Liquor may not be stored or sold in any place other than as designated in the  
1591 package agent's application, unless the package agent first applies for and receives approval  
1592 from the department for a change of location within the package agency premises.

1593 [~~(15)~~] (14) (a) Except to the extent authorized by commission rule, a minor may not be  
1594 admitted into, or be on the premises of a package agency unless accompanied by a person who  
1595 is:

1596 (i) 21 years of age or older; and

1597 (ii) the minor's parent, legal guardian, or spouse.

1598 (b) [~~Any~~] A package agent or employee of the package agency that has reason to  
1599 believe that a person who is on the premises of a package agency store is under the age of 21  
1600 and is not accompanied by a person described in Subsection [~~(15)~~] (14)(a) may:

1601 (i) ask the suspected minor for proof of age;

1602 (ii) ask the person who [~~accompanied~~] accompanies the suspected minor for proof of  
1603 age; and

1604 (iii) ask the suspected minor or the person who [~~accompanied~~] accompanies the  
1605 suspected minor for proof of parental, guardianship, or spousal relationship.

1606 (c) [~~Any~~] A package agent or employee of a package agency shall refuse to sell liquor

1607 to the suspected minor and to the person who [~~accompanied~~] accompanies the suspected minor  
 1608 into the package agency if [~~they fail~~] the minor or person fails to provide any [~~of the~~]  
 1609 information specified in Subsection [~~(15)~~] (14)(b).

1610 (d) [~~Any~~] A package agent or employee of a package agency shall require the suspected  
 1611 minor and the person who [~~accompanied~~] accompanies the suspected minor into the package  
 1612 agency to immediately leave the premises of the package agency if [~~they fail~~] the minor or  
 1613 person fails to provide [~~any of the~~] information specified in Subsection [~~(15)~~] (14)(b).

1614 [~~(16)~~] (15) A package agency may not transfer its operations from one location to  
 1615 another location without prior written approval of the commission.

1616 [~~(17)~~] (16) (a) A person, having been granted a package agency, may not sell, transfer,  
 1617 assign, exchange, barter, give, or attempt in any way to dispose of the package agency to any  
 1618 other person, whether for monetary gain or not.

1619 (b) A package agency has no monetary value for the purpose of any type of disposition.  
 1620 Section 14. Section **32A-4-101** is amended to read:

1621 **32A-4-101. Commission's power to grant licenses -- Limitations.**

1622 (1) Before a restaurant may sell or allow the consumption of liquor on its premises, it  
 1623 shall first obtain a license from the commission as provided in this part.

1624 (2) The commission may [~~issue~~] grant restaurant liquor licenses for the purpose of  
 1625 establishing restaurant liquor outlets at places and in numbers it considers proper for the  
 1626 storage, sale, and consumption of liquor on premises operated as public restaurants.

1627 (3) (a) Subject to the other provisions of this Subsection (3) and Subsection  
 1628 32A-4a-201(2), the total number of restaurant liquor licenses may not at any time aggregate  
 1629 more than that number determined by dividing the population of the state by 5,200.

1630 (b) For purposes of this Subsection (3), population shall be determined by:

1631 (i) the most recent United States decennial or special census; or

1632 (ii) another population determination made by the United States or state governments.

1633 (c) (i) The commission may [~~issue~~] grant seasonal restaurant liquor licenses established  
 1634 in areas the commission considers necessary.

1635 (ii) A seasonal restaurant liquor license shall be for a period of six consecutive months.

1636 (iii) A restaurant liquor license [~~issued~~] granted for operation during a summer time  
 1637 period is known as a "Seasonal A" restaurant liquor license. The period of operation for a

1638 "Seasonal A" restaurant liquor license shall:

1639 (A) begin on May 1; and

1640 (B) end on October 31.

1641 (iv) A restaurant liquor license [~~issued~~] granted for operation during a winter time

1642 period is known as a "Seasonal B" restaurant liquor license. The period of operation for a

1643 "Seasonal B" restaurant liquor license shall:

1644 (A) begin on November 1; and

1645 (B) end on April 30.

1646 (v) In determining the number of restaurant liquor licenses that the commission may

1647 issue under this section:

1648 (A) a seasonal license is counted as [~~1/2~~] one-half of one restaurant liquor license; and

1649 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

1650 (d) (i) If the location, design, and construction of a hotel may require more than one

1651 restaurant liquor sales location within the hotel to serve the public convenience, the

1652 commission may authorize the sale of liquor at as many as three restaurant locations within the

1653 hotel under one license if:

1654 (A) the hotel has a minimum of 150 guest rooms; and

1655 (B) all locations under the license are:

1656 (I) within the same hotel facility; and

1657 (II) on premises that are managed or operated and owned or leased by the licensee.

1658 (ii) A facility other than a hotel shall have a separate restaurant liquor license for each

1659 restaurant where liquor is sold.

1660 (4) (a) Except as otherwise provided in this Subsection (4)[~~(b)~~, ~~(c)~~, or ~~(d)~~], the

1661 premises of a restaurant liquor license may not be established:

1662 (i) within 600 feet of a community location, as measured by the method in Subsection

1663 (4)[~~(e)~~](f);

1664 (ii) within 200 feet of a community location, measured in a straight line from the

1665 nearest entrance of the proposed outlet to the nearest property boundary of the community

1666 location.

1667 (b) With respect to the establishment of a restaurant liquor license, the commission

1668 may authorize a variance to reduce the proximity requirement of Subsection (4)(a)(i) if:

- 1669 (i) the local authority grants its written consent to the variance;
- 1670 (ii) the commission finds that alternative locations for establishing a restaurant liquor  
1671 license in the community are limited;
- 1672 (iii) a public hearing is held in the city, town, or county, and where practical in the  
1673 neighborhood concerned;
- 1674 (iv) after giving full consideration to all of the attending circumstances and the policies  
1675 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
1676 restaurant liquor license would not be detrimental to the public health, peace, safety, and  
1677 welfare of the community; and
- 1678 (v) (A) the community location governing authority gives its written consent to the  
1679 variance; or
- 1680 (B) when written consent is not given by the community location governing authority,  
1681 the commission finds that the applicant has established that:
- 1682 (I) there is substantial unmet public demand to consume alcohol in a public setting  
1683 within the geographic boundary of the local authority in which the restaurant is to be located;
- 1684 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1685 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a restaurant  
1686 liquor license; and
- 1687 (III) there is no reasonably viable alternative location within the geographic boundary  
1688 of the local authority in which the restaurant is to be located for establishing a restaurant liquor  
1689 license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).
- 1690 (c) With respect to the establishment of a restaurant liquor license, the commission  
1691 may authorize a variance that reduces the proximity requirement of Subsection (4)(a)(ii) if:
- 1692 (i) the community location at issue is:
- 1693 (A) a public library; or
- 1694 (B) a public park;
- 1695 (ii) the local authority grants its written consent to the variance;
- 1696 (iii) the commission finds that alternative locations for establishing a restaurant liquor  
1697 license in the community are limited;
- 1698 (iv) a public hearing is held in the city, town, or county, and where practical in the  
1699 neighborhood concerned;

1700 (v) after giving full consideration to all of the attending circumstances and the policies  
1701 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
1702 restaurant liquor license would not be detrimental to the public health, peace, safety, and  
1703 welfare of the community; and

1704 (vi) (A) the community location governing authority gives its written consent to the  
1705 variance; or

1706 (B) when written consent is not given by the community location governing authority,  
1707 the commission finds that the applicant has established that:

1708 (I) there is substantial unmet public demand to consume alcohol in a public setting  
1709 within the geographic boundary of the local authority in which the restaurant is to be located;

1710 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1711 described in Subsection (4)(c)(vi)(B)(I) other than through the establishment of a restaurant  
1712 liquor license; and

1713 (III) there is no reasonably viable alternative location within the geographic boundary  
1714 of the local authority in which the restaurant is to be located for establishing a restaurant liquor  
1715 license to satisfy the unmet demand described in Subsection (4)(c)(vi)(B)(I).

1716 (d) With respect to the premises of a restaurant liquor license [~~issued~~] granted by the  
1717 commission that undergoes a change of ownership, the commission may waive or vary the  
1718 proximity requirements of Subsection (4)(a) in considering whether to grant a restaurant liquor  
1719 license to the new owner of the premises if:

1720 (i) (A) the premises previously received a variance reducing the proximity requirement  
1721 of Subsection (4)(a)(i); or

1722 (B) the premises received a variance reducing the proximity requirement of Subsection  
1723 (4)(a)(ii) on or before May 4, 2008; or

1724 (ii) a variance from proximity requirements was otherwise allowed under this title.

1725 (e) With respect to the premises of a restaurant liquor license granted by the  
1726 commission that undergoes a change of ownership, the commission shall waive or vary the  
1727 proximity requirements of Subsection (4)(a) in considering whether to grant a restaurant liquor  
1728 license to the new owner of the premises if:

1729 (i) when a restaurant liquor license was granted to a previous owner, the premises met  
1730 the proximity requirements of Subsection (4)(a);

1731 (ii) the premises has had a restaurant liquor license at all times since the restaurant  
1732 liquor license described in Subsection (4)(e)(i) was granted without a variance; and

1733 (iii) the community location located within the proximity requirements of Subsection  
1734 (4)(a) after the day on which the restaurant liquor license described in Subsection (4)(e)(i) was  
1735 granted.

1736 [~~e~~] (f) The 600 foot limitation described in Subsection (4)(a)(i) is measured from the  
1737 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
1738 community location.

1739 (5) (a) Nothing in this section prevents the commission from considering the proximity  
1740 of any educational, religious, and recreational facility, or any other relevant factor in reaching a  
1741 decision on a proposed location.

1742 (b) For purposes of this Subsection (5), "educational facility" includes:

1743 (i) a nursery school;

1744 (ii) an infant day care center; and

1745 (iii) a trade and technical school.

1746 Section 15. Section **32A-4-102** is amended to read:

1747 **32A-4-102. Application and renewal requirements.**

1748 (1) A person seeking a restaurant liquor license under this part shall file a written  
1749 application with the department, in a form prescribed by the department. It shall be  
1750 accompanied by:

1751 (a) a nonrefundable \$250 application fee;

1752 (b) an initial license fee of \$1,750, which is refundable if a license is not granted;

1753 (c) written consent of the local authority;

1754 (d) a copy of the applicant's current business license;

1755 (e) evidence of proximity to any community location, with proximity requirements  
1756 being governed by Section 32A-4-101;

1757 (f) a bond as specified by Section 32A-4-105;

1758 (g) a floor plan of the restaurant, including consumption areas and the area where the  
1759 applicant proposes to keep, store, and sell liquor;

1760 (h) evidence that the restaurant is carrying public liability insurance in an amount and  
1761 form satisfactory to the department;

1762 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least  
1763 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

1764 (j) a signed consent form stating that the restaurant will permit any authorized  
1765 representative of the commission, department, or any law enforcement officer unrestricted right  
1766 to enter the restaurant;

1767 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
1768 company, proper verification evidencing that the person or persons signing the restaurant  
1769 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
1770 company; and

1771 (l) any other information the commission or department may require.

1772 (2) (a) [~~AH~~] A restaurant liquor [~~licenses expire~~] license expires on October 31 of each  
1773 year.

1774 (b) A person desiring to renew the person's restaurant liquor license shall by no later  
1775 than September 30 submit:

1776 (i) a completed renewal application to the department; and

1777 (ii) a renewal fee in the following amount:

Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
1778 under \$5,000	\$750
1779 equals or exceeds \$5,000 but less than \$10,000	\$900
1780 equals or exceeds \$10,000 but less than \$25,000	\$1,250
1781 equals or exceeds \$25,000	\$1,500

1782 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
1783 the license effective on the date the existing license expires.

1784 (d) A renewal application shall be in a form as prescribed by the department.

1785 (3) To ensure compliance with Subsection 32A-4-106(25), the commission may  
1786 suspend or revoke a restaurant liquor license if the restaurant liquor licensee does not  
1787 immediately notify the department of any change in:  
1788

1789 (a) ownership of the restaurant;

1790 (b) for a corporate owner, the:

1791 (i) corporate officers or directors; or

1792 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the

1793 corporation; or

1794 (c) for a limited liability company:

1795 (i) managers; or

1796 (ii) members owning at least 20% of the limited liability company.

1797 Section 16. Section **32A-4-106** is amended to read:

1798 **32A-4-106. Operational restrictions.**

1799 A person granted a restaurant liquor license and the employees and management  
1800 personnel of the restaurant shall comply with the following conditions and requirements.

1801 Failure to comply may result in a suspension or revocation of the restaurant liquor license or  
1802 other disciplinary action taken against individual employees or management personnel.

1803 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state  
1804 store or package agency.

1805 (b) Liquor purchased from a state store or package agency may be transported by the  
1806 restaurant liquor licensee from the place of purchase to the licensed premises.

1807 (c) Payment for liquor shall be made in accordance with rules established by the  
1808 commission.

1809 (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in  
1810 a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered  
1811 dispensing system approved by the department in accordance with commission rules adopted  
1812 under this title, except that:

1813 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1814 system if used as a secondary flavoring ingredient in a beverage subject to the following  
1815 restrictions:

1816 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of  
1817 a primary spirituous liquor;

1818 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

1819 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored  
1820 on the floor plan provided to the department; and

1821 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

1822 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1823 system if used:

- 1824 (i) as a flavoring on a dessert; and  
1825 (ii) in the preparation of a flaming food dish, drink, or dessert;  
1826 (c) a restaurant patron may have no more than 2.5 ounces of spirituous liquor at a time;  
1827 and  
1828 (d) a restaurant patron may have no more than one spirituous liquor drink at a time  
1829 before the patron.
- 1830 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to  
1831 exceed five ounces per glass or individual portion.
- 1832 (ii) An individual portion of wine may be served to a patron in more than one glass as  
1833 long as the total amount of wine does not exceed five ounces.
- 1834 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
1835 Subsection (7)~~(f)~~(g).
- 1836 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price  
1837 fixed by the commission to a table of four or more persons.
- 1838 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price  
1839 fixed by the commission to a table of less than four persons.
- 1840 (c) A wine service may be performed and a service charge assessed by a restaurant  
1841 liquor licensee as authorized by commission rule for wine purchased at the restaurant.
- 1842 (4) (a) Heavy beer may be served in an original container not exceeding one liter at a  
1843 price fixed by the commission.
- 1844 (b) A flavored malt beverage may be served in an original container not exceeding one  
1845 liter at a price fixed by the commission.
- 1846 (c) A service charge may be assessed by a restaurant liquor licensee as authorized by  
1847 commission rule for heavy beer or a flavored malt beverage purchased at the restaurant.
- 1848 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant liquor licensee may sell beer for  
1849 on-premise consumption:
- 1850 (A) in an open container; and  
1851 (B) on draft.
- 1852 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
1853 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
1854 container that exceeds one liter.

1855 (b) A restaurant liquor licensee that sells beer pursuant to Subsection (5)(a):  
1856 (i) may do so without obtaining a separate on-premise beer retailer license from the  
1857 commission; and  
1858 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
1859 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are  
1860 inconsistent with or less restrictive than the operational restrictions under this part.

1861 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
1862 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the  
1863 restaurant's:

1864 (i) state liquor license; and  
1865 (ii) alcoholic beverage license issued by the local authority.

1866 (6) An alcoholic beverage may not be stored, served, or sold in a place other than as  
1867 designated in the restaurant liquor licensee's application, unless the restaurant liquor licensee  
1868 first applies for and receives approval from the department for a change of location within the  
1869 restaurant.

1870 (7) (a) (i) As used in this Subsection (7), and subject to Subsection (7)(a)(ii),

1871 "grandfathered bar structure" means a bar structure in a restaurant that:

1872 (A) as of May 11, 2009 has:

1873 (I) (Aa) patron seating at the bar structure;

1874 (Bb) a partition at one or more locations on the bar structure that is along the width of  
1875 the bar structure; and

1876 (Cc) facilities for the dispensing or storage of an alcoholic beverage on the portion of  
1877 the bar structure that is separated by the partition described in Subsection (7)(a)(i)(A)(I)(Bb); or

1878 (II) (Aa) patron seating at the bar structure;

1879 (Bb) a partition at one or more locations on the bar structure that is along the length of  
1880 the bar structure; and

1881 (Cc) facilities for the dispensing or storage of an alcoholic beverage:

1882 (Ii) on the portion of the bar structure that is separated by a partition described in  
1883 Subsection (7)(a)(i)(A)(II)(Bb); or

1884 (Iii) adjacent to the bar structure in a manner visible to a patron sitting at the bar  
1885 structure;

1886 (B) is not operational as of May 12, 2009 and:  
1887 (I) an applicant for a restaurant liquor license under this chapter:  
1888 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;  
1889 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as  
1890 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah  
1891 Administrative Rulemaking Act; and  
1892 (Cc) is granted a restaurant liquor license by the commission under this chapter by no  
1893 later than December 31, 2009; and  
1894 (II) the restaurant described in Subsection (7)(a)(i)(C)(I) has a bar structure described  
1895 in Subsection (7)(a)(i)(A);  
1896 (C) as of May 12, 2009, has no patron seating at the bar structure; or  
1897 (D) is not operational as of May 12, 2009 and:  
1898 (I) an applicant for a restaurant liquor license under this chapter:  
1899 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;  
1900 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as  
1901 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah  
1902 Administrative Rulemaking Act; and  
1903 (Cc) is granted a restaurant liquor license by the commission under this chapter by no  
1904 later than December 31, 2009; and  
1905 (II) the restaurant described in Subsection (7)(a)(i)(D)(I) has a bar structure described  
1906 in Subsection (7)(a)(i)(C).  
1907 (ii) "Grandfathered bar structure" does not include a grandfathered bar structure  
1908 described in Subsection (7)(a)(i) on or after the day on which a restaurant remodels the  
1909 grandfathered bar structure, as defined by rule made by the commission in accordance with  
1910 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.  
1911 (iii) Subject to Subsection (7)(a)(ii), a grandfathered bar structure remains a  
1912 grandfathered bar structure notwithstanding whether the restaurant undergoes a change of  
1913 ownership.  
1914 ~~(7)(a)~~ (b) (i) A patron may only make an alcoholic beverage purchase in the  
1915 restaurant from and be served by a person employed, designated, and trained by the restaurant  
1916 liquor licensee to sell and serve an alcoholic beverage.

1917 (ii) Only a person employed, designated, and trained by a restaurant liquor licensee  
 1918 may sell, serve, or deliver an alcoholic beverage to a patron of a restaurant.

1919 ~~[(ii)]~~ (iii) Notwithstanding Subsection (7)[(a)](b)(i) or (ii), a patron who purchases  
 1920 bottled wine from an employee of the restaurant or carries bottled wine onto the premises of  
 1921 the restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the  
 1922 patron or others at the patron's table.

1923 ~~[(b) An alcoholic beverage shall be delivered by a server to the patron.]~~

1924 (c) ~~[An]~~ A patron may consume an alcoholic beverage [may] only [be consumed]:

1925 (i) at:

1926 (A) the patron's table [or];

1927 (B) a counter; or

1928 (C) a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); and

1929 (ii) where food is served.

1930 (d) ~~[An]~~ (i) An alcoholic beverage may not be served to or consumed by a patron at a  
 1931 bar structure that is not a grandfathered bar structure described in Subsection (7)(a)(i)(A) or  
 1932 (B).

1933 (ii) A patron who is 21 years of age or older may:

1934 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B);

1935 (B) be served an alcoholic beverage at a grandfathered bar structure described in  
 1936 Subsection (7)(a)(i)(A) or (B); and

1937 (C) consume an alcoholic beverage at a grandfathered bar structure described in  
 1938 Subsection (7)(a)(i)(A) or (B).

1939 (iii) Except as provided in Subsection (7)(d)(iv), a restaurant liquor licensee may not  
 1940 permit a minor to, and a minor may not:

1941 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); or

1942 (B) consume food or beverages at a bar structure described in Subsection (7)(a)(i)(A)  
 1943 or (B).

1944 (iv) (A) A minor may be at a grandfathered bar structure described in Subsection  
 1945 (7)(a)(i)(A) or (B) if the minor is employed by a restaurant liquor licensee:

1946 (I) as provided in Subsection (16)(b); or

1947 (II) to perform maintenance and cleaning services during an hour when the restaurant

1948 liquor licensee is not open for business.

1949 (B) A minor may momentarily pass by a grandfathered bar structure described in  
1950 Subsection (7)(a)(i)(A) or (B) without remaining or sitting at the bar structure en route to an  
1951 area of a restaurant liquor licensee's premises in which the minor is permitted to be.

1952 (e) Except as provided in Subsection (14), a restaurant liquor licensee may dispense an  
1953 alcoholic beverage only:

1954 (i) from:

1955 (A) a grandfathered bar structure;

1956 (B) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at  
1957 the grandfathered bar structure if that area is used to dispense an alcoholic beverage or  
1958 alcoholic product as of May 12, 2009; or

1959 (C) an area that is:

1960 (I) separated from an area for the consumption of food by a restaurant patron by a solid,  
1961 opaque, permanent structural barrier such that the facilities for the dispensing or storage of an  
1962 alcoholic beverage or alcoholic product are:

1963 (Aa) not readily visible to a restaurant patron; and

1964 (Bb) not accessible by a restaurant patron; and

1965 (II) apart from an area used:

1966 (Aa) for dining;

1967 (Bb) for staging; or

1968 (Cc) as a lobby or waiting area;

1969 (ii) if the restaurant liquor licensee uses an alcoholic beverage or alcoholic product that  
1970 is:

1971 (A) stored in an area described in Subsection (7)(e)(i); or

1972 (B) on the premises of the restaurant liquor licensee in an area not described in  
1973 Subsection (7)(e)(i) if:

1974 (I) immediately before the alcoholic beverage or alcoholic product is dispensed it is in  
1975 an unopened package;

1976 (II) the unopened package is taken to an area described in Subsection (7)(e)(i) before it  
1977 is opened; and

1978 (III) once opened, the package is kept in an area described in Subsection (7)(e)(i); and

1979 (iii) if any instrument or equipment used to dispense an alcoholic beverage or alcoholic  
 1980 product is located in an area described in Subsection (7)(e)(i).

1981 (f) (i) A restaurant liquor licensee that has a grandfathered bar structure may receive a  
 1982 credit for purchases from a state store or package agency if:

1983 (A) the restaurant liquor licensee completes a remodel of the grandfathered bar  
 1984 structure by no later than December 31, 2011;

1985 (B) the remodeling described in Subsection (7)(f)(i)(A) results in the restaurant  
 1986 engaging in an activity described in Subsection (7)(e) only in an area described in Subsection  
 1987 (7)(e)(i)(C);

1988 (C) the restaurant liquor licensee requests the credit by no later than April 1, 2012;

1989 (D) the department determines that the restaurant liquor licensee has completed a  
 1990 remodel described in Subsections (7)(f)(i)(A) and (B); and

1991 (E) the department authorizes the credit, including the amount of the credit under  
 1992 Subsection (7)(f)(ii), on the basis that:

1993 (I) the restaurant liquor licensee complied with this Subsection (7); and

1994 (II) the aggregate of ~~H→~~ [att] ~~←H~~ credits authorized under this Subsection (7)(f) ~~H→~~ and  
 1994a Subsection 32A-4-307(7)(f) ~~←H~~ before the

1995 current authorization does not exceed ~~H→~~ [\$1,090,000] the amount described in Subsection  
 1995a (7)(f)(v)(A) ~~←H~~ .

1996 (ii) The amount of the credit described in this Subsection (7)(f) is the lesser of:

1997 (A) the actual costs of the remodel as evidenced by receipts, copies of which are  
 1998 provided to the department as part of the request for the credit; or

1999 (B) \$30,000.

2000 (iii) For a restaurant liquor licensee, a credit under this Subsection (7)(f):

2001 (A) begins on the day on which the department authorizes the credit under Subsection  
 2002 (7)(f)(i); and

2003 (B) ends the day on which the restaurant liquor licensee uses all of the credit.

2004 (iv) The department shall by contract provide for how a package agency accounts for a  
 2005 credit purchase made at the package agency by a restaurant liquor licensee under this  
 2006 Subsection (7)(f).

2007 (v) (A) Notwithstanding the other provisions of this Subsection (7)(f), the department  
 2008 may not authorize a credit if the aggregate of ~~H→~~ [att] ~~←H~~ credits authorized under this  
 2008a Subsection (7)(f)

2009 ~~H→~~ [before the authorization] and Subsection 32A-4-307(7)(f) before the department

- 2009a **authorizes the credit** ←**H** exceeds **H**→ :
- 2009b **(I) \$1,000,000, for the aggregate of credits under this Subsection (7)(f) and Subsection**
- 2009c **32A-4-307(7)(f), if the credit could be used on or before June 30, 2010; and**
- 2009d **(II) subject to Subsection (7)(v)(A)(I),** ←**H** \$1,090,000 **H**→ **for the aggregate of all**
- 2009e **credits that can be authorized under this Subsection (7)(f) and**
- 2009f **Subsection 32A-4-307(7)(f)** ←**H** .

2010            (B) The department shall authorize credits in the order that the department receives a  
2011 request described in Subsection (7)(f)(i)(C) from a restaurant liquor licensee requesting a credit  
2012 under this Subsection (7)(f).

2013            [~~e~~] (g) A restaurant patron may have no more than two alcoholic beverages of any  
2014 kind at a time before the patron, subject to the limitation in Subsection (2)(d).

2015            (8) (a) [~~The~~] A liquor storage area shall remain locked at all times other than those  
2016 hours and days when liquor sales are authorized by law.

2017            (b) A restaurant liquor licensee shall store an alcoholic beverage or alcoholic product  
2018 in a storage area described in Subsection (7)(e)(i).

2019            (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a  
2020 restaurant of a restaurant liquor licensee on any day after 12 midnight or before 12 noon.

2021            (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
2022 Licenses, for on-premise beer licensees.

2023            (10) An alcoholic beverage may not be sold except in connection with an order for  
2024 food prepared, sold, and served at the restaurant.

2025            (11) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

2026            (a) minor;

2027            (b) person actually, apparently, or obviously intoxicated;

2028            (c) known habitual drunkard; or

2029            (d) known interdicted person.

2030            (12) (a) (i) Liquor may be sold only at a price fixed by the commission.

2031            (ii) Liquor may not be sold at a discount price on any date or at any time.

2032            (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic  
2033 beverage to the restaurant liquor licensee.

2034            (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
2035 over consumption or intoxication.

2036            (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
2037 hours of a restaurant liquor licensee's business day such as a "happy hour."

2038            (e) More than one alcoholic beverage may not be sold or served for the price of a single  
2039 alcoholic beverage.

2040            (f) An indefinite or unlimited number of alcoholic beverages during a set period may

2041 not be sold or served for a fixed price.

2042 (g) A restaurant liquor licensee may not engage in a public promotion involving or  
2043 offering free an alcoholic beverage to the general public.

2044 (13) An alcoholic beverage may not be purchased for a patron of a restaurant by:

2045 (a) the restaurant liquor licensee; or

2046 (b) an employee or agent of the restaurant liquor licensee.

2047 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee an  
2048 alcoholic beverage for on-premise consumption, except a person may bring, subject to the  
2049 discretion of the restaurant liquor licensee, bottled wine onto the premises of a restaurant liquor  
2050 licensee for on-premise consumption.

2051 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or an  
2052 officer, manager, employee, or agent of the restaurant liquor licensee may not allow:

2053 (i) a person to bring onto the restaurant premises an alcoholic beverage for on-premise  
2054 consumption; or

2055 (ii) consumption of an alcoholic beverage described in this Subsection (14) on the  
2056 restaurant liquor licensee's premises.

2057 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
2058 or other representative of the restaurant liquor licensee upon entering the restaurant.

2059 (d) A wine service may be performed and a service charge assessed by a restaurant  
2060 liquor licensee as authorized by commission rule for wine carried in by a patron.

2061 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee or an  
2062 employee of the restaurant liquor licensee may not permit a restaurant patron to carry from the  
2063 restaurant premises an open container that:

2064 (i) is used primarily for drinking purposes; and

2065 (ii) contains an alcoholic beverage.

2066 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the  
2067 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought  
2068 onto the premises of the restaurant in accordance with Subsection (14), only if the bottle is  
2069 recorked or recapped before removal.

2070 (16) (a) A restaurant liquor licensee may not employ a minor to sell or dispense an  
2071 alcoholic beverage.

2072 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be  
2073 employed to enter the sale at a cash register or other sales recording device.

2074 (17) An employee of a restaurant liquor licensee, while on duty, may not:

2075 (a) consume an alcoholic beverage; or

2076 (b) be intoxicated.

2077 (18) A charge or fee made in connection with the sale, service, or consumption of liquor  
2078 may be stated in food or alcoholic beverage menus including:

2079 (a) a set-up charge;

2080 (b) a service charge; or

2081 (c) a chilling fee.

2082 (19) A restaurant liquor licensee shall display in a prominent place in the restaurant:

2083 (a) the liquor license that is [~~issued~~] granted by the department;

2084 (b) a list of the types and brand names of liquor being served through its calibrated  
2085 metered dispensing system; and

2086 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
2087 drugs is a serious crime that is prosecuted aggressively in Utah."

2088 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor  
2089 licensee:

2090 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
2091 Chapter 10, Part 11, Gambling;

2092 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
2093 Part 11, Gambling; or

2094 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
2095 the risking of something of value for a return or for an outcome when the return or outcome is  
2096 based upon an element of chance, excluding the playing of an amusement device that confers  
2097 only an immediate and unrecorded right of replay not exchangeable for value.

2098 (21) (a) A restaurant liquor licensee shall maintain an expense ledger or record showing  
2099 in detail:

2100 (i) quarterly expenditures made separately for:

2101 (A) malt or brewed beverages;

2102 (B) set-ups;

- 2103 (C) liquor;
- 2104 (D) food; and
- 2105 (E) all other items required by the department; and
- 2106 (ii) sales made separately for:
  - 2107 (A) malt or brewed beverages;
  - 2108 (B) set-ups;
  - 2109 (C) food; and
  - 2110 (D) all other items required by the department.
- 2111 (b) A restaurant liquor licensee shall keep a record required by Subsection (21)(a):
  - 2112 (i) in a form approved by the department; and
  - 2113 (ii) current for each three-month period.
- 2114 (c) An expenditure shall be supported by:
  - 2115 (i) a delivery ticket;
  - 2116 (ii) an invoice;
  - 2117 (iii) a receipted bill;
  - 2118 (iv) a canceled check;
  - 2119 (v) a petty cash voucher; or
  - 2120 (vi) other sustaining datum or memorandum.
- 2121 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant
- 2122 liquor licensee shall maintain accounting and other records and documents as the department
- 2123 may require.
- 2124 (e) A restaurant liquor licensee or person acting for the restaurant, who knowingly
- 2125 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or
- 2126 other document of the restaurant that is required to be made, maintained, or preserved by this
- 2127 title or the rules of the commission for the purpose of deceiving the commission or the
- 2128 department, or an official or employee of the commission or department, is subject to:
  - 2129 (i) the suspension or revocation of the restaurant's liquor license; and
  - 2130 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 2131 (22) (a) A restaurant liquor licensee may not close or cease operation for a period
- 2132 longer than 240 hours, unless:
  - 2133 (i) the restaurant liquor licensee notifies the department in writing at least seven days

2134 before the day on which the restaurant liquor licensee closes or ceases operation; and  
2135 (ii) the closure or cessation of operation is first approved by the department.  
2136 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the  
2137 restaurant liquor licensee shall immediately notify the department by telephone.  
2138 (c) (i) The department may authorize a closure or cessation of operation for a period  
2139 not to exceed 60 days.  
2140 (ii) The department may extend the initial period an additional 30 days upon:  
2141 (A) written request of the restaurant liquor licensee; and  
2142 (B) a showing of good cause.  
2143 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
2144 commission approval.  
2145 (d) A notice shall include:  
2146 (i) the dates of closure or cessation of operation;  
2147 (ii) the reason for the closure or cessation of operation; and  
2148 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.  
2149 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department  
2150 authorization before closure or cessation of operation results in an automatic forfeiture of:  
2151 (i) the license; and  
2152 (ii) the unused portion of the license fee for the remainder of the license year effective  
2153 immediately.  
2154 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the  
2155 approved date results in an automatic forfeiture of:  
2156 (i) the license; and  
2157 (ii) the unused portion of the license fee for the remainder of the license year.  
2158 (23) A restaurant liquor licensee shall maintain at least 70% of its total restaurant  
2159 business from the sale of food, which does not include mix for an alcoholic beverage or service  
2160 charges.  
2161 (24) A restaurant liquor license may not be transferred from one location to another,  
2162 without prior written approval of the commission.  
2163 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,  
2164 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license

2165 to another person whether for monetary gain or not.

2166 (b) A restaurant liquor license has no monetary value for the purpose of any type of  
2167 disposition.

2168 (26) A server of an alcoholic beverage in a restaurant liquor licensee's establishment  
2169 shall keep a written beverage tab for each table or group that orders or consumes an alcoholic  
2170 beverage on the premises. The beverage tab shall list the type and amount of an alcoholic  
2171 beverage ordered or consumed.

2172 (27) A person's willingness to serve an alcoholic beverage may not be made a  
2173 condition of employment as a server with a restaurant that has a restaurant liquor license.

2174 (28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may  
2175 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
2176 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2177 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
2178 58-37-2; or

2179 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
2180 Section 58-37a-3.

2181 Section 17. Section **32A-4-202** is amended to read:

2182 **32A-4-202. Application and renewal requirements.**

2183 (1) A person seeking an airport lounge liquor license under this part shall file a written  
2184 application with the department, in a form prescribed by the department, accompanied by:

2185 (a) a nonrefundable \$250 application fee;

2186 (b) an initial license fee of \$7,000, which is refundable if a license is not granted;

2187 (c) written consent of the local and airport authority;

2188 (d) a copy of the applicant's current business license;

2189 (e) a bond as specified by Section 32A-4-205;

2190 (f) a floor plan of the airport lounge, including consumption areas and the area where  
2191 the applicant proposes to keep, store, and sell liquor;

2192 (g) a copy of the sign proposed to be used by the licensee on its premises to inform the  
2193 public that alcoholic beverages are sold and consumed there;

2194 (h) evidence that the airport lounge is carrying public liability insurance in an amount  
2195 and form satisfactory to the department;

2196 (i) evidence that the airport lounge is carrying dramshop insurance coverage of at least  
2197 [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~] \$2,000,000 in the aggregate;

2198 (j) a signed consent form stating that the airport lounge will permit any authorized  
2199 representative of the commission, department, or any law enforcement officer unrestricted right  
2200 to enter the airport lounge;

2201 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
2202 company, proper verification evidencing that the person or persons signing the airport lounge  
2203 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
2204 company; and

2205 (l) any other information the commission or department may require.

2206 (2) (a) [~~AH~~] An airport lounge liquor [~~licenses expire~~] license expires on October 31 of  
2207 each year.

2208 (b) A person desiring to renew that person's airport lounge liquor license shall submit a  
2209 renewal fee of \$5,000 and a completed renewal application to the department no later than  
2210 September 30.

2211 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
2212 the license, effective on the date the existing license expires.

2213 (d) Renewal applications shall be in a form as prescribed by the department.

2214 (3) To ensure compliance with Subsection 32A-4-206(21), the commission may revoke  
2215 an airport lounge liquor license if the airport liquor licensee does not immediately notify the  
2216 department of any change in:

2217 (a) ownership of the licensee;

2218 (b) for a corporate owner, the:

2219 (i) corporate officers or directors; or

2220 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
2221 corporation; or

2222 (c) for a limited liability company:

2223 (i) managers; or

2224 (ii) members owning at least 20% of the limited liability company.

2225 Section 18. Section **32A-4-302** is amended to read:

2226 **32A-4-302. Commission's power to grant licenses -- Limitations.**

2227 (1) A restaurant wanting to sell and allow the consumption of only wine, heavy beer,  
2228 and beer on its premises, but not spirituous liquor or~~[-on or after October 1, 2008,]~~ a flavored  
2229 malt beverage, shall obtain a limited restaurant license from the commission as provided in this  
2230 part before selling or allowing the consumption of wine, heavy beer, or beer on its premises.

2231 (2) (a) Subject to the other provisions of this section and Subsection 32A-4a-201(2),  
2232 the commission may ~~[issue]~~ grant limited restaurant licenses for the purpose of establishing  
2233 limited restaurant outlets at places and in numbers the commission considers proper for the  
2234 storage, sale, and consumption of wine, heavy beer, and beer on premises operated as public  
2235 restaurants.

2236 (b) The total number of limited restaurant licenses ~~[issued]~~ granted under this part may  
2237 not at any time aggregate more than that number determined by dividing the population of the  
2238 state by 9,300.

2239 (c) For purposes of this Subsection (2), population shall be determined by:

- 2240 (i) the most recent United States decennial or special census; or
- 2241 (ii) another population determination made by the United States or state governments.

2242 (3) (a) (i) The commission may ~~[issue]~~ grant seasonal limited restaurant licenses  
2243 established in areas the commission considers necessary.

2244 (ii) A seasonal limited restaurant license shall be for a period of six consecutive  
2245 months.

2246 (b) (i) A limited restaurant license ~~[issued]~~ granted for operation during a summer time  
2247 period is known as a "Seasonal A" limited restaurant license. The period of operation for a  
2248 "Seasonal A" limited restaurant license shall:

- 2249 (A) begin on May 1; and
- 2250 (B) end on October 31.

2251 (ii) A limited restaurant license ~~[issued]~~ granted for operation during a winter time  
2252 period is known as a "Seasonal B" limited restaurant license. The period of operation for a  
2253 "Seasonal B" limited restaurant license shall:

- 2254 (A) begin on November 1; and
- 2255 (B) end on April 30.

2256 (iii) In determining the number of limited restaurant licenses that the commission may  
2257 ~~[issue]~~ grant under this section:

2258 (A) a seasonal limited restaurant license is counted as [~~1~~/~~2~~] one-half of one limited  
2259 restaurant license; and

2260 (B) each "Seasonal A" limited restaurant license shall be paired with a "Seasonal B"  
2261 limited restaurant license.

2262 (c) If the location, design, and construction of a hotel may require more than one  
2263 limited restaurant sales location within the hotel to serve the public convenience, the  
2264 commission may authorize the sale of wine, heavy beer, and beer at as many as three limited  
2265 restaurant locations within the hotel under one license if:

2266 (i) the hotel has a minimum of 150 guest rooms; and

2267 (ii) all locations under the license are:

2268 (A) within the same hotel facility; and

2269 (B) on premises that are:

2270 (I) managed or operated by the licensee; and

2271 (II) owned or leased by the licensee.

2272 (d) A facility other than a hotel shall have a separate limited restaurant license for each  
2273 restaurant where wine, heavy beer, and beer are sold.

2274 (4) (a) Except as otherwise provided in this Subsection (4)[~~(b)~~, ~~(c)~~, or ~~(d)~~], the  
2275 premises of a limited restaurant license may not be established:

2276 (i) within 600 feet of a community location, as measured by the method in Subsection  
2277 (4)[~~(e)~~](f); or

2278 (ii) within 200 feet of a community location, measured in a straight line from the  
2279 nearest entrance of the proposed outlet to the nearest property boundary of the community  
2280 location.

2281 (b) With respect to the establishment of a limited restaurant license, the commission  
2282 may authorize a variance to reduce the proximity requirement of Subsection (4)(a)(i) if:

2283 (i) the local authority grants its written consent to the variance;

2284 (ii) the commission finds that alternative locations for establishing a limited restaurant  
2285 license in the community are limited;

2286 (iii) a public hearing is held in the city, town, or county, and where practical in the  
2287 neighborhood concerned;

2288 (iv) after giving full consideration to all of the attending circumstances and the policies

2289 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
2290 license would not be detrimental to the public health, peace, safety, and welfare of the  
2291 community; and

2292 (v) (A) the community location governing authority gives its written consent to the  
2293 variance; or

2294 (B) when written consent is not given by the community location governing authority,  
2295 the commission finds that the applicant has established that:

2296 (I) there is substantial unmet public demand to consume alcohol in a public setting  
2297 within the geographic boundary of the local authority in which the limited restaurant licensee is  
2298 to be located;

2299 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2300 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a limited  
2301 restaurant license; and

2302 (III) there is no reasonably viable alternative location within the geographic boundary  
2303 of the local authority in which the limited restaurant licensee is to be located for establishing a  
2304 limited restaurant license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

2305 (c) With respect to the establishment of a limited restaurant license, the commission  
2306 may authorize a variance that reduces the proximity requirement of Subsection (4)(a)(ii) if:

2307 (i) the community location at issue is:

2308 (A) a public library; or

2309 (B) a public park;

2310 (ii) the local authority grants its written consent to the variance;

2311 (iii) the commission finds that alternative locations for establishing a limited restaurant  
2312 license in the community are limited;

2313 (iv) a public hearing is held in the city, town, or county, and where practical in the  
2314 neighborhood concerned;

2315 (v) after giving full consideration to all of the attending circumstances and the policies  
2316 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
2317 limited restaurant license would not be detrimental to the public health, peace, safety, and  
2318 welfare of the community; and

2319 (vi) (A) the community location governing authority gives its written consent to the

2320 variance; or

2321 (B) when written consent is not given by the community location governing authority,  
2322 the commission finds that the applicant has established that:

2323 (I) there is substantial unmet public demand to consume alcohol in a public setting  
2324 within the geographic boundary of the local authority in which the limited restaurant licensee is  
2325 to be located;

2326 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2327 described in Subsection (4)(c)(vi)(B)(I) other than through the establishment of a limited  
2328 restaurant license; and

2329 (III) there is no reasonably viable alternative location within the geographic boundary  
2330 of the local authority in which the limited restaurant licensee is to be located for establishing a  
2331 limited restaurant license to satisfy the unmet demand described in Subsection (4)(c)(vi)(B)(I).

2332 (d) With respect to the premises of a limited restaurant license [~~issued~~] granted by the  
2333 commission that undergoes a change of ownership, the commission may waive or vary the  
2334 proximity requirements of Subsection (4)(a) in considering whether to grant a limited  
2335 restaurant license to the new owner of the premises if:

2336 (i) (A) the premises previously received a variance reducing the proximity requirement  
2337 of Subsection (4)(a)(i); or

2338 (B) the premises received a variance reducing the proximity requirement of Subsection  
2339 (4)(a)(ii) on or before May 4, 2008; or

2340 (ii) a variance from proximity requirements was otherwise allowed under this title.

2341 (e) With respect to the premises of a limited restaurant license granted by the  
2342 commission that undergoes a change of ownership, the commission shall waive or vary the  
2343 proximity requirements of Subsection (4)(a) in considering whether to grant a limited  
2344 restaurant license to the new owner of the premises if:

2345 (i) when a limited restaurant license was granted to a previous owner, the premises met  
2346 the proximity requirements of Subsection (4)(a);

2347 (ii) the premises has had a limited restaurant license at all times since the limited  
2348 restaurant license described in Subsection (4)(e)(i) was granted without a variance; and

2349 (iii) the community location located within the proximity requirements of Subsection  
2350 (4)(a) after the day on which the limited restaurant license described in Subsection (4)(e)(i) was

2351 granted.

2352           ~~[(e)]~~ (f) The 600 foot limitation as described in Subsection (4)(a)(i) is measured from  
2353 the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to  
2354 the property boundary of the community location.

2355           (5) (a) Nothing in this section prevents the commission from considering the proximity  
2356 of any educational, religious, and recreational facility, or any other relevant factor in reaching a  
2357 decision on a proposed location.

2358           (b) For purposes of this Subsection (5), "educational facility" includes:

2359           (i) a nursery school;

2360           (ii) an infant day care center; and

2361           (iii) a trade and technical school.

2362           Section 19. Section **32A-4-303** is amended to read:

2363           **32A-4-303. Application and renewal requirements.**

2364           (1) A person seeking a limited restaurant license under this part shall file a written  
2365 application with the department, in a form prescribed by the department. The application shall  
2366 be accompanied by:

2367           (a) a nonrefundable \$250 application fee;

2368           (b) an initial license fee of \$500, which is refundable if a license is not granted;

2369           (c) written consent of the local authority;

2370           (d) a copy of the applicant's current business license;

2371           (e) evidence of proximity to any community location, with proximity requirements  
2372 being governed by Section 32A-4-302;

2373           (f) a bond as specified by Section 32A-4-306;

2374           (g) a floor plan of the restaurant, including:

2375           (i) consumption areas; and

2376           (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and  
2377 beer;

2378           (h) evidence that the restaurant is carrying public liability insurance in an amount and  
2379 form satisfactory to the department;

2380           (i) evidence that the restaurant is carrying dramshop insurance coverage of at least  
2381 ~~[\$500,000]~~ \$1,000,000 per occurrence and ~~[\$1,000,000]~~ \$2,000,000 in the aggregate;

2382 (j) a signed consent form stating that the restaurant will permit any authorized  
2383 representative of the commission, department, or any law enforcement officer unrestricted right  
2384 to enter the restaurant;

2385 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
2386 company, proper verification evidencing that the person or persons signing the restaurant  
2387 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
2388 company; and

2389 (l) any other information the commission or department may require.

2390 (2) (a) [~~AH~~] A limited restaurant [~~licenses expire~~] license expires on October 31 of  
2391 each year.

2392 (b) A person desiring to renew that person's limited restaurant license shall submit:

2393 (i) a renewal fee of \$300; and

2394 (ii) a renewal application to the department no later than September 30.

2395 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
2396 the license effective on the date the existing license expires.

2397 (d) A renewal application shall be in a form as prescribed by the department.

2398 (3) To ensure compliance with Subsection 32A-4-307(25), the commission may  
2399 suspend or revoke a limited restaurant license if the limited restaurant licensee does not  
2400 immediately notify the department of any change in:

2401 (a) ownership of the restaurant;

2402 (b) for a corporate owner, the:

2403 (i) corporate officer or directors; or

2404 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
2405 corporation; or

2406 (c) for a limited liability company:

2407 (i) managers; or

2408 (ii) members owning at least 20% of the limited liability company.

2409 Section 20. Section **32A-4-307** is amended to read:

2410 **32A-4-307. Operational restrictions.**

2411 A person granted a limited restaurant license and the employees and management  
2412 personnel of the limited restaurant shall comply with the following conditions and

2413 requirements. Failure to comply may result in a suspension or revocation of the license or  
2414 other disciplinary action taken against individual employees or management personnel.

2415 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee  
2416 except from a state store or package agency.

2417 (b) Wine and heavy beer purchased from a state store or package agency may be  
2418 transported by the limited restaurant licensee from the place of purchase to the licensed  
2419 premises.

2420 (c) Payment for wine and heavy beer shall be made in accordance with rules  
2421 established by the commission.

2422 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of the  
2423 products listed in Subsection (2)(c) on the premises of the limited restaurant.

2424 (b) A product listed in Subsection (2)(c) may not be on the premises of the limited  
2425 restaurant except for use:

2426 (i) as a flavoring on a dessert; and

2427 (ii) in the preparation of a flaming food dish, drink, or dessert.

2428 (c) This Subsection (2) applies to:

2429 (i) spirituous liquor; and

2430 (ii) [~~on or after October 1, 2008;~~] a flavored malt beverage.

2431 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to  
2432 exceed five ounces per glass or individual portion.

2433 (ii) An individual portion may be served to a patron in more than one glass as long as  
2434 the total amount of wine does not exceed five ounces.

2435 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
2436 Subsection (7)~~(e)~~(g).

2437 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price  
2438 fixed by the commission to a table of four or more persons.

2439 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price  
2440 fixed by the commission to a table of less than four persons.

2441 (c) A wine service may be performed and a service charge assessed by the limited  
2442 restaurant licensee as authorized by commission rule for wine purchased at the limited  
2443 restaurant.

2444 (4) (a) Heavy beer may be served in an original container not exceeding one liter at a  
2445 price fixed by the commission.

2446 (b) A service charge may be assessed by the limited restaurant licensee as authorized  
2447 by commission rule for heavy beer purchased at the limited restaurant.

2448 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for  
2449 on-premise consumption:

2450 (A) in an open container; and

2451 (B) on draft.

2452 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
2453 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
2454 container that exceeds one liter.

2455 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

2456 (i) may do so without obtaining a separate on-premise beer retailer license from the  
2457 commission; and

2458 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
2459 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are  
2460 inconsistent with or less restrictive than the operational restrictions under this part.

2461 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
2462 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited  
2463 restaurant's:

2464 (i) limited restaurant license; and

2465 (ii) alcoholic beverage license issued by the local authority.

2466 (6) Wine, heavy beer, and beer may not be stored, served, or sold in a place other than  
2467 as designated in the limited restaurant licensee's application, unless the limited restaurant  
2468 licensee first applies for and receives approval from the department for a change of location  
2469 within the limited restaurant.

2470 (7) (a) (i) As used in this Subsection (7), and subject to Subsection (7)(a)(ii),

2471 "grandfathered bar structure" means a bar structure in a restaurant that:

2472 (A) as of May 11, 2009 has:

2473 (I) (Aa) patron seating at the bar structure;

2474 (Bb) a partition at one or more locations on the bar structure that is along the width of

2475 the bar structure; and  
2476 (Cc) facilities for the dispensing or storage of an alcoholic beverage on the portion of  
2477 the bar structure that is separated by the partition described in Subsection (7)(a)(i)(A)(I)(Bb); or  
2478 (II) (Aa) patron seating at the bar structure;  
2479 (Bb) a partition at one or more locations on the bar structure that is along the length of  
2480 the bar structure; and  
2481 (Cc) facilities for the dispensing or storage of an alcoholic beverage:  
2482 (I) on the portion of the bar structure that is separated by a partition described in  
2483 Subsection (7)(a)(i)(A)(II)(Bb); or  
2484 (Iii) adjacent to the bar structure in a manner visible to a patron sitting at the bar  
2485 structure;  
2486 (B) is not operational as of May 12, 2009 and:  
2487 (I) an applicant for a limited restaurant license under this chapter:  
2488 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;  
2489 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as  
2490 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah  
2491 Administrative Rulemaking Act; and  
2492 (Cc) is granted a limited restaurant license by the commission under this chapter by no  
2493 later than December 31, 2009; and  
2494 (II) the restaurant described in Subsection (7)(a)(i)(C)(I) has a bar structure described  
2495 in Subsection (7)(a)(i)(A);  
2496 (C) as of May 12, 2009, has no patron seating at the bar structure; or  
2497 (D) is not operational as of May 12, 2009 and:  
2498 (I) an applicant for a limited restaurant license under this chapter:  
2499 (Aa) has as of May 12, 2009, a building permit to construct the restaurant;  
2500 (Bb) is as of May 12, 2009, actively engaged in the construction of the restaurant, as  
2501 defined by rule made by the commission in accordance with Title 63G, Chapter 3, Utah  
2502 Administrative Rulemaking Act; and  
2503 (Cc) is granted a limited restaurant license by the commission under this chapter by no  
2504 later than December 31, 2009; and  
2505 (II) the restaurant described in Subsection (7)(a)(i)(D)(I) has a bar structure described

2506 in Subsection (7)(a)(i)(C).

2507 (ii) "Grandfathered bar structure" does not include a grandfathered bar structure  
 2508 described in Subsection (7)(a)(i) on or after the day on which a restaurant remodels the  
 2509 grandfathered bar structure, as defined by rule made by the commission in accordance with  
 2510 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2511 (iii) Subject to Subsection (7)(a)(ii), a grandfathered bar structure remains a  
 2512 grandfathered bar structure notwithstanding whether the restaurant undergoes a change of  
 2513 ownership.

2514 ~~[(7)(a)]~~ (b) (i) A patron may only make an alcoholic beverage purchase in a limited  
 2515 restaurant from and be served by a person employed, designated, and trained by the limited  
 2516 restaurant licensee to sell and serve an alcoholic beverage.

2517 (ii) Only a person employed, designated, and trained by a limited restaurant licensee  
 2518 may sell, serve, or deliver an alcoholic beverage to a patron of a restaurant.

2519 ~~[(ii)]~~ (iii) Notwithstanding Subsection (7)~~[(a)]~~(b)(i) or (ii), a patron who purchases  
 2520 bottled wine from an employee of the limited restaurant licensee or carries bottled wine onto  
 2521 the premises of the limited restaurant pursuant to Subsection (14) may thereafter serve wine  
 2522 from the bottle to the patron or others at the patron's table.

2523 ~~[(b) An alcoholic beverage shall be delivered by a server to the patron.]~~

2524 (c) ~~[An]~~ A patron may consume an alcoholic beverage ~~[may]~~ only ~~[be consumed];~~

2525 (i) at;

2526 (A) the patron's table ~~[or];~~

2527 (B) a counter;

2528 (C) a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); and

2529 (ii) where food is served.

2530 (d) ~~[An]~~ (i) An alcoholic beverage may not be served to or consumed by a patron at a  
 2531 bar structure that is not a grandfathered bar structure described in Subsection (7)(a)(i)(A) or  
 2532 (B).

2533 (ii) A patron who is 21 years of age or older may:

2534 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B);

2535 (B) be served an alcoholic beverage at a grandfathered bar structure described in

2536 Subsection (7)(a)(i)(A) or (B); and

2537 (C) consume an alcoholic beverage at a grandfathered bar structure described in  
2538 Subsection (7)(a)(i)(A) or (B).

2539 (iii) Except as provided in Subsection (7)(d)(iv), a limited restaurant licensee may not  
2540 permit a minor to, and a minor may not:

2541 (A) sit at a grandfathered bar structure described in Subsection (7)(a)(i)(A) or (B); or  
2542 (B) consume food or beverages at a bar structure described in Subsection (7)(a)(i)(A)  
2543 or (B).

2544 (iv) (A) A minor may be at a grandfathered bar structure described in Subsection  
2545 (7)(a)(i)(A) or (B) if the minor is employed by a limited restaurant licensee:

2546 (I) as provided in Subsection (16)(b); or  
2547 (II) to perform maintenance and cleaning services during an hour when the limited  
2548 restaurant licensee is not open for business.

2549 (B) A minor may momentarily pass by a grandfathered bar structure described in  
2550 Subsection (7)(a)(i)(A) or (B) without remaining or sitting at the bar structure en route to an  
2551 area of a limited restaurant licensee's premises in which the minor is permitted to be.

2552 (e) Except as provided in Subsection (14), a limited restaurant licensee may dispense  
2553 an alcoholic beverage only:

2554 (i) from:

2555 (A) a grandfathered bar structure;  
2556 (B) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at  
2557 the grandfathered bar structure if that area is used to dispense an alcoholic beverage or  
2558 alcoholic product as of May 12, 2009; or

2559 (C) an area that is:

2560 (I) separated from an area for the consumption of food by a restaurant patron by a solid,  
2561 opaque, permanent structural barrier such that the facilities for the dispensing or storage of an  
2562 alcoholic beverage or alcoholic product are:

2563 (Aa) not readily visible to a restaurant patron; and  
2564 (Bb) not accessible by a restaurant patron; and

2565 (II) apart from an area used for:

2566 (Aa) dining;  
2567 (Bb) staging; or

2568 (Cc) as a lobby or waiting area;

2569 (ii) if the limited restaurant licensee uses an alcoholic beverage or alcoholic product

2570 that is:

2571 (A) stored in an area described in Subsection (7)(e)(i); or

2572 (B) on the premises of the limited restaurant licensee in an area not described in

2573 Subsection (7)(e)(i) if:

2574 (I) immediately before the alcoholic beverage or alcoholic product is dispensed it is in  
2575 an unopened package;

2576 (II) the unopened package is taken to an area described in Subsection (7)(e)(i) before it  
2577 is opened; and

2578 (III) once opened, the package is kept in an area described in Subsection (7)(e)(i); and

2579 (iii) if any instrument or equipment used to dispense an alcoholic beverage is located in  
2580 an area described in Subsection (7)(e)(i).

2581 (f) (i) A limited restaurant licensee that has a grandfathered bar structure may receive a  
2582 credit for purchases from a state store or package agency if:

2583 (A) the limited restaurant licensee completes a remodel of the grandfathered bar  
2584 structure by no later than December 31, 2011;

2585 (B) the remodeling described in Subsection (7)(f)(i)(A) results in the restaurant  
2586 engaging in an activity described in Subsection (7)(e) only in an area described in Subsection  
2587 (7)(e)(i)(C);

2588 (C) the limited restaurant licensee requests the credit by no later than April 1, 2012;

2589 (D) the department determines that the limited restaurant licensee has completed a  
2590 remodel described in Subsections (7)(f)(i)(A) and (B); and

2591 (E) the department authorizes the credit, including the amount of the credit under  
2592 Subsection (7)(f)(ii), on the basis that:

2593 (I) the limited restaurant licensee complied with this Subsection (7); and

2594 (II) the aggregate of ~~Ĥ~~ ~~[att]~~ ~~Ĥ~~ credits authorized under this Subsection (7)(f) ~~Ĥ~~ ~~and~~

2594a Subsection 32A-4-106(7)(f) ~~Ĥ~~ before the

2595 current authorization does not exceed ~~Ĥ~~ ~~[\$1,090,000]~~ the amount described in Subsection

2595a (7)(f)(v)(A) ~~Ĥ~~ .

2596 (ii) The amount of the credit described in this Subsection (7)(f) is the lesser of:

2597 (A) the actual costs of the remodel as evidenced by receipts, copies of which are

2598 provided to the department as part of the request for the credit; or

- 2599 (B) \$30,000.
- 2600 (iii) For a limited restaurant licensee, a credit under this Subsection (7)(f):
- 2601 (A) begins on the day on which the department authorizes the credit under Subsection
- 2602 (7)(f)(i); and
- 2603 (B) ends the day on which the limited restaurant licensee uses all of the credit.
- 2604 (iv) The department shall by contract provide for how a package agency accounts for a
- 2605 credit purchase made at the package agency by a limited restaurant licensee under this
- 2606 Subsection (7)(f).
- 2607 (v) (A) Notwithstanding the other provisions of this Subsection (7)(f), the department
- 2608 may not authorize a credit if the aggregate of ~~it~~ ~~all~~ ~~credits~~ authorized under this
- 2608a Subsection (7)(f)
- 2609 ~~it~~ ~~before the authorization~~ and Subsection 32A-4-106(7)(f) before the department authorizes
- 2609a the credit ~~it~~ exceeds ~~it~~ :
- 2609b (I) \$1,000,000, for the aggregate of credits under this Subsection (7)(f) and Subsection
- 2609c 32A-4-106(7)(f), if the credit could be used on or before June 30, 2010; and
- 2609d (II) subject to Subsection (7)(v)(A)(I), ~~it~~
- 2609e \$1,090,000 ~~it~~ for the aggregate of all credits that can be authorized under this Subsection
- 2609f (7)(f) and Subsection 32A-4-106(7)(f) ~~it~~ .
- 2610 (B) The department shall authorize credits in the order that the department receives a
- 2611 request described in Subsection (7)(f)(i)(C) from a limited restaurant licensee requesting a
- 2612 credit under this Subsection (7)(f).
- 2613 ~~(e)~~ (g) A limited restaurant patron may have no more than two alcoholic beverages of
- 2614 any kind at a time before the patron.
- 2615 (8) (a) ~~The~~ An alcoholic beverage storage area shall remain locked at all times other
- 2616 than those hours and days when alcoholic beverage sales are authorized by law.
- 2617 (b) A limited restaurant licensee shall store an alcoholic beverage or alcoholic product
- 2618 in a storage area described in Subsection (7)(e)(i).
- 2619 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
- 2620 furnished at a limited restaurant on any day after 12 midnight or before 12 noon.
- 2621 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
- 2622 Licenses, for on-premise beer licensees.
- 2623 (10) An alcoholic beverage may not be sold except in connection with an order of food
- 2624 prepared, sold, and served at the limited restaurant.
- 2625 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to a:
- 2626 (a) minor;
- 2627 (b) person actually, apparently, or obviously intoxicated;
- 2628 (c) known habitual drunkard; or
- 2629 (d) known interdicted person.

- 2630 (12) (a) (i) Wine and heavy beer may be sold only at a price fixed by the commission.  
2631 (ii) Wine and heavy beer may not be sold at a discount price on any date or at any time.  
2632 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic  
2633 beverage to the limited restaurant licensee.  
2634 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
2635 over consumption or intoxication.  
2636 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
2637 hours of the limited restaurant licensee's business day such as a "happy hour."  
2638 (e) More than one alcoholic beverage may not be sold or served for the price of a single  
2639 alcoholic beverage.  
2640 (f) An indefinite or unlimited number of alcoholic beverages during a set period may  
2641 not be sold or served for a fixed price.  
2642 (g) A limited restaurant licensee may not engage in a public promotion involving or  
2643 offering free alcoholic beverages to the general public.  
2644 (13) An alcoholic beverage may not be purchased for a patron of the limited restaurant  
2645 by:  
2646 (a) the limited restaurant licensee; or  
2647 (b) an employee or agent of the limited restaurant licensee.  
2648 (14) (a) A person may not bring onto the premises of a limited restaurant licensee an  
2649 alcoholic beverage for on-premise consumption, except a person may bring, subject to the  
2650 discretion of the limited restaurant licensee, bottled wine onto the premises of a limited  
2651 restaurant licensee for on-premise consumption.  
2652 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or an  
2653 officer, manager, employee, or agent of a limited restaurant licensee may not allow:  
2654 (i) a person to bring onto the limited restaurant premises an alcoholic beverage for  
2655 on-premise consumption; or  
2656 (ii) consumption of an alcoholic beverage described in Subsection (14)(b)(i) on the  
2657 limited restaurant licensee's premises.  
2658 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
2659 or other representative of the limited restaurant licensee upon entering the limited restaurant.  
2660 (d) A wine service may be performed and a service charge assessed by the limited

2661 restaurant licensee as authorized by commission rule for wine carried in by a patron.

2662 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and an  
2663 employee of the limited restaurant licensee may not permit a restaurant patron to carry from the  
2664 limited restaurant premises an open container that:

2665 (i) is used primarily for drinking purposes; and

2666 (ii) contains an alcoholic beverage.

2667 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed  
2668 contents of a bottle of wine if before removal, the bottle is recorked or recapped.

2669 (16) (a) A limited restaurant licensee may not employ a minor to sell or dispense an  
2670 alcoholic beverage.

2671 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be  
2672 employed to enter the sale at a cash register or other sales recording device.

2673 (17) An employee of a limited restaurant licensee, while on duty, may not:

2674 (a) consume an alcoholic beverage; or

2675 (b) be intoxicated.

2676 (18) A charge or fee made in connection with the sale, service, or consumption of wine  
2677 or heavy beer may be stated in food or alcoholic beverage menus including:

2678 (a) a service charge; or

2679 (b) a chilling fee.

2680 (19) A limited restaurant licensee shall display in a prominent place in the restaurant:

2681 (a) the limited restaurant license that is [~~issued~~] granted by the department; and

2682 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
2683 drugs is a serious crime that is prosecuted aggressively in Utah."

2684 (20) A limited restaurant licensee may not on the premises of the restaurant:

2685 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
2686 Chapter 10, Part 11, Gambling;

2687 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
2688 Part 11, Gambling; or

2689 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
2690 the risking of something of value for a return or for an outcome when the return or outcome is  
2691 based upon an element of chance, excluding the playing of an amusement device that confers

2692 only an immediate and unrecorded right of replay not exchangeable for value.  
2693 (21) (a) A limited restaurant licensee shall maintain an expense ledger or record  
2694 showing in detail:  
2695 (i) quarterly expenditures made separately for:  
2696 (A) wine;  
2697 (B) heavy beer;  
2698 (C) beer;  
2699 (D) food; and  
2700 (E) all other items required by the department; and  
2701 (ii) sales made separately for:  
2702 (A) wine;  
2703 (B) heavy beer;  
2704 (C) beer;  
2705 (D) food; and  
2706 (E) all other items required by the department.  
2707 (b) A limited restaurant licensee shall keep a record required by Subsection (21)(a):  
2708 (i) in a form approved by the department; and  
2709 (ii) current for each three-month period.  
2710 (c) An expenditure shall be supported by:  
2711 (i) a delivery ticket;  
2712 (ii) an invoice;  
2713 (iii) a receipted bill;  
2714 (iv) a canceled check;  
2715 (v) a petty cash voucher; or  
2716 (vi) other sustaining datum or memorandum.  
2717 (d) In addition to the ledger or record maintained under Subsections (21)(a) through  
2718 (c), a limited restaurant licensee shall maintain accounting and other records and documents as  
2719 the department may require.  
2720 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly  
2721 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or  
2722 other document of the limited restaurant that is required to be made, maintained, or preserved

2723 by this title or the rules of the commission for the purpose of deceiving the commission, the  
2724 department, or an official or employee of the commission or department, is subject to:

- 2725 (i) the suspension or revocation of the limited restaurant's license; and
- 2726 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2727 (22) (a) A limited restaurant licensee may not close or cease operation for a period  
2728 longer than 240 hours, unless:

2729 (i) the limited restaurant licensee notifies the department in writing at least seven days  
2730 before the day on which the limited restaurant licensee closes or ceases operation; and

2731 (ii) the closure or cessation of operation is first approved by the department.

2732 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the limited  
2733 restaurant licensee shall immediately notify the department by telephone.

2734 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or  
2735 cessation of operation for a period not to exceed 60 days.

2736 (ii) The department may extend the initial period an additional 30 days upon:

2737 (A) written request of the limited restaurant licensee; and

2738 (B) a showing of good cause.

2739 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
2740 commission approval.

2741 (d) A notice required by Subsection (22)(a) shall include:

2742 (i) the dates of closure or cessation of operation;

2743 (ii) the reason for the closure or cessation of operation; and

2744 (iii) the date on which the limited restaurant licensee will reopen or resume operation.

2745 (e) Failure of the limited restaurant licensee to provide notice and to obtain department  
2746 authorization before closure or cessation of operation results in an automatic forfeiture of:

2747 (i) the limited restaurant license; and

2748 (ii) the unused portion of the license fee for the remainder of the license year effective  
2749 immediately.

2750 (f) Failure of the limited restaurant licensee to reopen or resume operation by the  
2751 approved date results in an automatic forfeiture of:

2752 (i) the limited restaurant license; and

2753 (ii) the unused portion of the license fee for the remainder of the license year.

2754 (23) A limited restaurant licensee shall maintain at least 70% of its total restaurant  
2755 business from the sale of food, which does not include service charges.

2756 (24) A limited restaurant license may not be transferred from one location to another,  
2757 without prior written approval of the commission.

2758 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,  
2759 give, or attempt in any way to dispose of the limited restaurant license to another person  
2760 whether for monetary gain or not.

2761 (b) A limited restaurant license has no monetary value for the purpose of any type of  
2762 disposition.

2763 (26) (a) A server of wine, heavy beer, and beer in a limited restaurant licensee's  
2764 establishment shall keep a written beverage tab for each table or group that orders or consumes  
2765 an alcoholic beverage on the premises.

2766 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an  
2767 alcoholic beverage ordered or consumed.

2768 (27) A limited restaurant licensee may not make a person's willingness to serve an  
2769 alcoholic beverage a condition of employment as a server with the limited restaurant.

2770 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may  
2771 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
2772 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2773 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
2774 58-37-2; or

2775 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
2776 Section 58-37a-3.

2777 Section 21. Section **32A-4-401** is amended to read:

2778 **32A-4-401. Definitions -- Commission's power to grant licenses -- Limitations.**

2779 (1) (a) For purposes of this part:

2780 (i) "Banquet" means an event:

2781 (A) for which there is a contract:

2782 (I) between any person and a person listed in Subsection (1)(a)(i)(B); and

2783 (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide an

2784 alcoholic [~~beverages~~] beverage at the event;

2785 (B) held at one or more designated locations approved by the commission in or on the  
2786 premises of a:

2787 (I) hotel;

2788 (II) resort facility;

2789 (III) sports center; or

2790 (IV) convention center; and

2791 (C) at which food and alcoholic beverages may be sold and served.

2792 (ii) "Convention center" is ~~as~~ a facility that:

2793 (A) is in total at least 30,000 square feet; and

2794 (B) is otherwise defined as a "convention center" by the commission by rule.

2795 (iii) "Hotel" is as defined by the commission by rule.

2796 (iv) "Resort facility" is as defined by the commission by rule.

2797 (v) "Room service" means service of an alcoholic ~~[beverages]~~ beverage to a guest room

2798 of a:

2799 (A) hotel; or

2800 (B) resort facility.

2801 (vi) "Sports center" is as defined by the commission by rule.

2802 (b) The commission may ~~[issue]~~ grant an on-premise banquet license to any of the  
2803 following persons for the purpose of allowing the storage, sale, service, and consumption of an  
2804 alcoholic ~~[beverages]~~ beverage in connection with that person's banquet and room service  
2805 activities:

2806 (i) a hotel;

2807 (ii) a resort facility;

2808 (iii) a sports center; or

2809 (iv) a convention center.

2810 (c) This chapter ~~[is not intended to]~~ does not prohibit an alcoholic ~~[beverages]~~  
2811 beverage on the premises of a person listed in Subsection (1) to the extent otherwise permitted  
2812 by this title.

2813 (2) (a) Subject to this section and Subsection 32A-4a-201(2), the total number of  
2814 on-premise banquet licenses may not at any time aggregate more than that number determined  
2815 by dividing the population of the state by 30,000.

2816 (b) For purposes of this Subsection (2), the population of the state shall be determined  
2817 by:

- 2818 (i) the most recent United States decennial or special census; or
- 2819 (ii) another population determination made by the United States or state governments.

2820 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet  
2821 licensee:

2822 (a) the host of a contracted banquet may request an on-premise banquet licensee to  
2823 provide an alcoholic [~~beverages~~] beverage served at a banquet; and

2824 (b) an on-premise banquet licensee may provide [~~the~~] an alcoholic [~~beverages~~]  
2825 beverage served at a banquet.

2826 (4) At a banquet, an on-premise banquet licensee may provide:

- 2827 (a) a hosted bar; or
- 2828 (b) a cash bar.

2829 (5) Nothing in this section [~~shall prohibit~~] prohibits a qualified on-premise banquet  
2830 license applicant from applying for a package agency.

2831 (6) (a) Except as provided in Subsection (6)(b), (c), or (d), the premises of an  
2832 on-premise banquet license may not be established:

2833 (i) within 600 feet of a community location, as measured by the method in Subsection  
2834 (6)(e); or

2835 (ii) within 200 feet of a community location, measured in a straight line from the  
2836 nearest entrance of the proposed outlet to the nearest property boundary of the community  
2837 location.

2838 (b) With respect to the establishment of an on-premise banquet license, the  
2839 commission may authorize a variance to reduce the proximity requirement of Subsection  
2840 (6)(a)(i) if:

- 2841 (i) the local authority grants its written consent to the variance;
- 2842 (ii) the commission finds that alternative locations for establishing an on-premise  
2843 banquet license in the community are limited;
- 2844 (iii) the variance is authorized after a public hearing is held in the city, town, or county,  
2845 and where practical in the neighborhood concerned;
- 2846 (iv) after giving full consideration to all of the attending circumstances and the policies

2847 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
2848 license would not be detrimental to the public health, peace, safety, and welfare of the  
2849 community; and

2850 (v) (A) the community location governing authority gives its written consent to the  
2851 variance; or

2852 (B) when written consent is not given by the community location governing authority,  
2853 the commission finds that the applicant has established that:

2854 (I) there is substantial unmet public demand to consume alcohol in a public setting  
2855 within the geographic boundary of the local authority in which the on-premise banquet license  
2856 premises is to be located;

2857 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2858 described in Subsection (6)(b)(v)(B)(I) other than through the establishment of an on-premise  
2859 banquet license; and

2860 (III) there is no reasonably viable alternative location within the geographic boundary  
2861 of the local authority in which the on-premise banquet license premises is to be located for  
2862 establishing an on-premise banquet license to satisfy the unmet demand described in  
2863 Subsection (6)(b)(v)(B)(I).

2864 (c) With respect to the establishment of an on-premise banquet license, the commission  
2865 may authorize a variance that reduces the proximity requirement of Subsection (6)(a)(ii) if:

2866 (i) the community location at issue is:

2867 (A) a public library; or

2868 (B) a public park;

2869 (ii) the local authority grants its written consent to the variance;

2870 (iii) the commission finds that alternative locations for establishing an on-premise  
2871 banquet license in the community are limited;

2872 (iv) a public hearing is held in the city, town, or county, and where practical in the  
2873 neighborhood concerned;

2874 (v) after giving full consideration to all of the attending circumstances and the policies  
2875 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
2876 on-premise banquet license would not be detrimental to the public health, peace, safety, and  
2877 welfare of the community; and

2878 (vi) (A) the community location governing authority gives its written consent to the  
2879 variance; or

2880 (B) when written consent is not given by the community location governing authority,  
2881 the commission finds that the applicant has established that:

2882 (I) there is substantial unmet public demand to consume alcohol in a public setting  
2883 within the geographic boundary of the local authority in which the on-premise banquet license  
2884 premises is to be located;

2885 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2886 described in Subsection (6)(c)(vi)(B)(I) other than through the establishment of an on-premise  
2887 banquet license; and

2888 (III) there is no reasonably viable alternative location within the geographic boundary  
2889 of the local authority in which the on-premise banquet license premises is to be located for  
2890 establishing an on-premise banquet license to satisfy the unmet demand described in  
2891 Subsection (6)(c)(vi)(B)(I).

2892 (d) With respect to the premises of any on-premise banquet license [~~issued~~] granted by  
2893 the commission that undergoes a change of ownership, the commission may waive or vary the  
2894 proximity requirements of Subsection (6)(a) in considering whether to grant an on-premise  
2895 banquet license to the new owner of the premises if:

2896 (i) (A) the premises previously received a variance reducing the proximity requirement  
2897 of Subsection (6)(a)(i); or

2898 (B) the premises received a variance reducing the proximity requirement of Subsection  
2899 (6)(a)(ii) on or before May 4, 2008; or

2900 (ii) a variance from proximity requirements was otherwise allowed under this title.

2901 (e) The 600 foot limitation described in Subsection (6)(a)(i) is measured from the  
2902 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
2903 property boundary of the community location.

2904 (7) (a) Nothing in this section prevents the commission from considering the proximity  
2905 of any educational, religious, and recreational facility, or any other relevant factor in reaching a  
2906 decision on a proposed location.

2907 (b) For purposes of this Subsection (7), "educational facility" includes:

2908 (i) a nursery school;

2909 (ii) an infant day care center; and

2910 (iii) a trade and technical school.

2911 (8) (a) As used in this Subsection (8), "grandfathered facility" means a facility:

2912 (i) for which the commission granted an on-premise banquet license that is in effect on

2913 May 11, 2009, on the basis that the facility is a convention center; and

2914 (ii) that no longer qualifies as a convention center under Subsection (1)(a)(ii) solely

2915 because it is in total less than 30,000 square feet.

2916 (b) Notwithstanding Subsection (1)(a)(ii), the on-premise banquet license applicable to

2917 a grandfathered facility may be renewed until October 31, 2011, if the on-premise banquet

2918 license is qualified for the on-premise banquet license except for the requirement of Subsection

2919 (1)(a)(ii)(A).

2920 Section 22. Section **32A-4-402** is amended to read:

2921 **32A-4-402. Application and renewal requirements.**

2922 (1) (a) A person seeking an on-premise banquet license under this part shall file a

2923 written application with the department, in a form prescribed by the department. The

2924 application shall be accompanied by:

2925 (i) a nonrefundable \$250 application fee;

2926 (ii) an initial license fee of \$500, which is refundable if a license is not granted;

2927 (iii) written consent of the local authority;

2928 (iv) a copy of the applicant's current business license;

2929 (v) evidence of proximity to any community location, with proximity requirements

2930 being governed by Section 32A-4-401;

2931 (vi) a bond as specified by Section 32A-4-405;

2932 (vii) a description or floor plan and boundary map of the premises, where appropriate,

2933 of the on-premise banquet license applicant's location, designating:

2934 (A) the location at which the on-premise banquet license applicant proposes that

2935 alcoholic beverages be stored; and

2936 (B) the designated locations on the premises of the applicant from which the

2937 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and

2938 consumed;

2939 (viii) evidence that the on-premise banquet license applicant is carrying public liability

2940 insurance in an amount and form satisfactory to the department;

2941 (ix) evidence that the on-premise banquet license applicant is carrying dramshop  
2942 insurance coverage of at least [~~\$500,000~~] \$1,000,000 per occurrence and [~~\$1,000,000~~]  
2943 \$2,000,000 in the aggregate;

2944 (x) a signed consent form stating that the on-premise banquet license applicant will  
2945 permit any authorized representative of the commission, department, or any law enforcement  
2946 officer unrestricted right to enter the on-premise banquet premises;

2947 (xi) in the case of an applicant that is a partnership, corporation, or limited liability  
2948 company, proper verification evidencing that the person or persons signing the on-premise  
2949 banquet license application are authorized to so act on behalf of the partnership, corporation, or  
2950 limited liability company; and

2951 (xii) any other information the commission or department may require.

2952 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv),  
2953 and (vi) if the applicant is:

2954 (i) a state agency; or

2955 (ii) a political subdivision of the state including:

2956 (A) a county; or

2957 (B) a municipality.

2958 (2) Additional locations in or on the premises of an on-premise banquet license  
2959 applicant's business from which the on-premise banquet license applicant may propose that  
2960 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's  
2961 original application may be approved by the department upon proper application, in accordance  
2962 with guidelines approved by the commission.

2963 (3) (a) [~~At~~] An on-premise banquet [~~licenses expire~~] license expires on October 31 of  
2964 each year.

2965 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that  
2966 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed  
2967 renewal application to the department no later than September 30.

2968 (ii) A licensee is not required to submit the renewal fee if the licensee is:

2969 (A) a state agency; or

2970 (B) a political subdivision of the state including:

- 2971 (I) a county; or
- 2972 (II) a municipality.
- 2973 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
- 2974 the license effective on the date the existing license expires.
- 2975 (d) A renewal application shall be in a form as prescribed by the department.
- 2976 (4) To ensure compliance with Subsection 32A-4-406(24), the commission may
- 2977 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to
- 2978 immediately notify the department of any change in:
  - 2979 (a) ownership of the licensee;
  - 2980 (b) for a corporate owner, the:
    - 2981 (i) corporate officers or directors; or
    - 2982 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
    - 2983 corporation; or
    - 2984 (c) for a limited liability company:
      - 2985 (i) managers; or
      - 2986 (ii) members owning at least 20% of the limited liability company.

2987 Section 23. Section **32A-4a-101** is enacted to read:

2988 **CHAPTER 4a. RESORT LICENSE ACT**

2989 **Part 1. General Provisions**

2990 **32A-4a-101. Title.**

2991 This chapter is known as the "Resort License Act."

2992 Section 24. Section **32A-4a-102** is enacted to read:

2993 **32A-4a-102. Definitions.**

2994 As used in this chapter:

2995 (1) "Boundary of a resort building" means the physical boundary of the land reasonably  
2996 related to a resort building and any structure or improvement to that land as determined by the  
2997 commission.

2998 (2) "Dwelling" means a portion of a resort building:

2999 (a) owned by one or more individuals;

3000 (b) that is used or designated for use as a residence by one or more persons; and

3001 (c) that may be rented, loaned, leased, or hired out for a period of no longer than 30

3002 consecutive days by a person who uses it for a residence.

3003 (3) "Engaged in the management of the resort" may be defined by the commission by  
3004 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3005 (4) "Invitee" means an individual who in accordance with Subsection 32A-4a-305(3) is  
3006 authorized to use a resort spa by a host who is:

3007 (a) a resident; or

3008 (b) a public customer.

3009 (5) "Provisions applicable to a sublicense" means:

3010 (a) for a restaurant sublicense, Chapter 4, Part 1, Restaurant Liquor Licenses;

3011 (b) for a limited restaurant sublicense, Chapter 4, Part 3, Limited Restaurant Licenses;

3012 (c) for an on-premise banquet sublicense, Chapter 4, Part 4, On-Premises Banquet  
3013 License;

3014 (d) for a resort spa sublicense, Chapter 4a, Part 3, Resort Spa Sublicense;

3015 (e) for a club sublicense, Chapter 5, Club Licenses; and

3016 (f) for an on-premise beer retailer sublicense, Chapter 10, Beer Retailer Licenses.

3017 (6) "Public customer" means an individual who holds a customer card in accordance  
3018 with Subsection 32A-4a-305(4).

3019 (7) "Resident" means an individual who:

3020 (a) owns a dwelling located within a resort building; or

3021 (b) rents lodging accommodations for 30 consecutive days or less from:

3022 (i) an owner of a dwelling described in Subsection (7)(a); or

3023 (ii) the resort licensee.

3024 (8) "Resort" means a location:

3025 (a) on which is located one resort building; and

3026 (b) that is affiliated with a ski area that physically touches the boundary of the resort  
3027 building.

3028 (9) "Resort building" means a building:

3029 (a) that is primarily operated for the purpose of providing dwellings or lodging  
3030 accommodations;

3031 (b) that has at least 150 units that consist of a dwelling or lodging accommodations;

3032 (c) that consists of at least 400,000 square feet;

- 3033 (i) including only the building itself; and  
3034 (ii) not including areas such as above ground surface parking; and  
3035 (d) of which at least 50% of the units described in Subsection (9)(b) consist of  
3036 dwellings owned by a person other than the resort licensee.  
3037 (10) "Resort spa" means a spa, as defined by rule by the commission made in  
3038 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is within the  
3039 boundary of a resort building.  
3040 (11) "Sublicense" means:  
3041 (a) a restaurant sublicense;  
3042 (b) a limited restaurant sublicense;  
3043 (c) an on-premise banquet sublicense;  
3044 (d) a resort spa sublicense;  
3045 (e) a club sublicense; or  
3046 (f) an on-premise beer retailer sublicense.  
3047 (12) "Sublicense premises" means a building, enclosure, room, or equipment used  
3048 pursuant to a sublicense in connection with the sale, storage, service, furnishing, or  
3049 consumption of an alcoholic product, unless otherwise defined in this title or in the rules  
3050 adopted by the commission in accordance with Title 63G, Chapter 3, Utah Administrative  
3051 Rulemaking Act.  
3052 Section 25. Section **32A-4a-201** is enacted to read:  
3053 **Part 2. Licensing**  
3054 **32A-4a-201. Commission's power to license a resort -- Limitations.**  
3055 (1) (a) The commission may grant to a person a resort license for the purpose of  
3056 allowing the storage, sale, service, and consumption of an alcoholic beverage in connection  
3057 with a resort designated in the resort license if the person operates at least four sublicenses  
3058 under the resort license.  
3059 (b) A resort license shall:  
3060 (i) consist of:  
3061 (A) a general resort license; and  
3062 (B) the four or more sublicenses; and  
3063 (ii) designate the boundary of the resort building.

3064 (c) This chapter does not prohibit an alcoholic beverage on the boundary of the resort  
3065 building to the extent otherwise permitted by this title.

3066 (d) The commission may not grant a sublicense that is separate from a resort license.

3067 (2) (a) The total number of resort licenses may not at any time aggregate more than  
3068 four.

3069 (b) The commission may not include a sublicense in determining whether or not the  
3070 total number of licenses granted under the provisions applicable to the sublicense aggregate  
3071 more than a number calculated by dividing the population of the state by the number specified  
3072 in the provisions applicable to the sublicense.

3073 (c) Notwithstanding Subsection (2)(b), the commission may not grant to a person a  
3074 license under the provisions applicable to a sublicense that on May 11, 2009, was not available  
3075 because the sublicense was included in determining if the total number of licenses granted  
3076 under the provisions applicable to the sublicense aggregate more than the number calculated by  
3077 dividing the population of the state by the number specified in the provisions applicable to the  
3078 sublicense.

3079 (d) By no later than the November 2009 interim meeting of the Business and Labor  
3080 Interim Committee, the department shall:

3081 (i) report to the Business and Labor Interim Committee the number and types of  
3082 sublicenses under a resort license granted by the commission as of September 30, 2009; and

3083 (ii) recommend legislation to adjust the numbers in the provisions applicable to  
3084 sublicenses to reflect the number of sublicenses that because of the issuance of a resort license  
3085 are not included in determining whether or not the total number of licenses granted under the  
3086 provisions applicable to a sublicense aggregate more than a number calculated by dividing the  
3087 population of the state by the number specified in the provisions applicable to the sublicense.

3088 (3) (a) Except as provided in Subsection (3)(b), (c), or (d), a resort building may not be  
3089 granted if the resort building is:

3090 (i) within 600 feet of a community location, as measured by the method in Subsection  
3091 (3)(e); or

3092 (ii) within 200 feet of a community location, measured in a straight line from the  
3093 nearest entrance of the proposed outlet to the nearest property boundary of the community  
3094 location.

3095 (b) With respect to the establishment of a resort license, the commission may authorize  
3096 a variance to reduce the proximity requirement of Subsection (3)(a)(i) if:

3097 (i) the local authority grants its written consent to the variance;

3098 (ii) the commission finds that alternative locations for establishing a resort license in  
3099 the community are limited;

3100 (iii) the variance is authorized after a public hearing is held in the city, town, or county,  
3101 and where practical in the neighborhood concerned;

3102 (iv) after giving full consideration to all of the attending circumstances and the policies  
3103 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
3104 resort license would not be detrimental to the public health, peace, safety, and welfare of the  
3105 community; and

3106 (v) (A) the community location governing authority gives its written consent to the  
3107 variance; or

3108 (B) when written consent is not given by the community location governing authority,  
3109 the commission finds that the applicant has established that:

3110 (I) there is substantial unmet public demand to consume alcohol in a public setting  
3111 within the geographic boundary of the local authority in which the resort building is to be  
3112 located;

3113 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
3114 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of a resort license;  
3115 and

3116 (III) there is no reasonably viable alternative location within the geographic boundary  
3117 of the local authority in which the resort building is to be located for establishing a resort  
3118 license to satisfy the unmet demand described in Subsection (3)(b)(v)(B)(I).

3119 (c) With respect to the establishment of a resort license, the commission may authorize  
3120 a variance that reduces the proximity requirement of Subsection (3)(a)(ii) if:

3121 (i) the community location at issue is:

3122 (A) a public library; or

3123 (B) a public park;

3124 (ii) the local authority grants its written consent to the variance;

3125 (iii) the commission finds that alternative locations for establishing a resort license in

3126 the community are limited;

3127 (iv) a public hearing is held in the city, town, or county, and where practical in the  
3128 neighborhood concerned;

3129 (v) after giving full consideration to all of the attending circumstances and the policies  
3130 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
3131 resort license would not be detrimental to the public health, peace, safety, and welfare of the  
3132 community; and

3133 (vi) (A) the community location governing authority gives its written consent to the  
3134 variance; or

3135 (B) when written consent is not given by the community location governing authority,  
3136 the commission finds that the applicant has established that:

3137 (I) there is substantial unmet public demand to consume alcohol in a public setting  
3138 within the geographic boundary of the local authority in which the resort building is to be  
3139 located;

3140 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
3141 described in Subsection (3)(c)(vi)(B)(I) other than through the establishment of a resort license;  
3142 and

3143 (III) there is no reasonably viable alternative location within the geographic boundary  
3144 of the local authority in which the resort building is to be located for establishing a resort  
3145 license to satisfy the unmet demand described in Subsection (3)(c)(vi)(B)(I).

3146 (d) With respect to a resort building of a resort license granted by the commission that  
3147 undergoes a change of ownership, the commission may waive or vary the proximity  
3148 requirements of Subsection (3)(a) in considering whether to grant a resort license to the new  
3149 owner of the resort license if the resort license previously received a variance reducing the  
3150 proximity requirement of Subsection (3)(a)(i).

3151 (e) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the  
3152 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
3153 property boundary of the community location.

3154 (4) (a) Nothing in this section prevents the commission from considering the proximity  
3155 of an educational, religious, or recreational facility, or any other relevant factor in reaching a  
3156 decision on a proposed location.

3157 (b) For purposes of this Subsection (4), "educational facility" includes:  
3158 (i) a nursery school;  
3159 (ii) an infant day care center; and  
3160 (iii) a trade and technical school.  
3161 Section 26. Section **32A-4a-202** is enacted to read:  
3162 **32A-4a-202. Application and renewal requirements.**  
3163 (1) A person seeking a resort license under this chapter shall file a written application  
3164 with the department, in a form prescribed by the department. The application shall be  
3165 accompanied by:  
3166 (a) a nonrefundable \$250 application fee;  
3167 (b) an initial license fee, which is refundable if a resort license is not granted,  
3168 calculated as follows:  
3169 (i) \$10,000 if four sublicenses are being applied for under the resort license; or  
3170 (ii) if more than four sublicenses are being applied for under the resort license, the sum  
3171 of:  
3172 (A) \$10,000; and  
3173 (B) \$2,000 for each sublicense in excess of four sublicenses for which the applicant is  
3174 applying;  
3175 (c) written consent of the local authority;  
3176 (d) a copy of:  
3177 (i) the applicant's current business license; and  
3178 (ii) the current business license for each sublicense, if the business license is separate  
3179 from the applicant's business license;  
3180 (e) evidence:  
3181 (i) of proximity of the resort building to any community location, with proximity  
3182 requirements being governed by Section 32A-4a-201;  
3183 (ii) that each of the four or more sublicense premises is entirely within the boundaries  
3184 of the resort building; and  
3185 (iii) that the building designated in the application as the resort building qualifies as a  
3186 resort building as defined in Section 32A-4a-102;  
3187 (f) a bond as specified by Section 32A-4a-205;

- 3188 (g) a description and boundary map of the resort building;  
3189 (h) a description, floor plan, and boundary map of each sublicense premises  
3190 designating:  
3191 (i) any location at which the resort license applicant proposes that an alcoholic  
3192 beverage be stored; and  
3193 (ii) a designated location on the sublicense premises from which the resort license  
3194 applicant proposes that an alcoholic beverage be sold or served and consumed;  
3195 (i) evidence that the resort license applicant carries public liability insurance in an  
3196 amount and form satisfactory to the department;  
3197 (j) evidence that the resort license applicant carries dramshop insurance coverage equal  
3198 to the sum of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both  
3199 the general resort license and each sublicense;  
3200 (k) a signed consent form stating that the resort license applicant will permit any  
3201 authorized representative of the commission, department, or any law enforcement officer  
3202 unrestricted right to enter the boundary of the resort building and each sublicense premises;  
3203 (l) if an applicant is a partnership, corporation, or limited liability company, proper  
3204 verification evidencing that the one or more persons signing the resort license application are  
3205 authorized to so act on behalf of the partnership, corporation, or limited liability company; and  
3206 (m) any other information the commission or department may require.  
3207 (2) An additional location in a sublicense premises of a resort license applicant's  
3208 business from which the resort license applicant may propose that an alcoholic beverage may  
3209 be stored, sold or served, or consumed, not included in the applicant's original application, may  
3210 be approved by the department upon proper application.  
3211 (3) (a) A resort license expires on October 31 of each year.  
3212 (b) A resort licensee who wants to renew a resort license shall submit to the department  
3213 by no later than September 30:  
3214 (i) a renewal fee of \$1,000 for each sublicense under the resort license; and  
3215 (ii) a completed renewal application.  
3216 (c) A resort licensee's failure to meet a renewal requirement results in an automatic  
3217 forfeiture of the resort license and each sublicense effective on the date the existing license  
3218 expires.

- 3219 (d) A renewal application shall be in a form as prescribed by the department.
- 3220 (4) To ensure compliance with Subsection 32A-4a-401(14), the commission may
- 3221 suspend or revoke a resort license if the resort licensee fails to immediately notify the
- 3222 department of a change in:
- 3223 (a) ownership of the resort licensee;
- 3224 (b) for a corporate owner of a resort licensee, the:
- 3225 (i) corporate officers or directors; or
- 3226 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
- 3227 corporation; or
- 3228 (c) for a limited liability company owner or a resort licensee:
- 3229 (i) managers; or
- 3230 (ii) members owning at least 20% of the limited liability company.
- 3231 Section 27. Section **32A-4a-203** is enacted to read:
- 3232 **32A-4a-203. Qualifications.**
- 3233 (1) (a) The commission may not grant a license to a person who is convicted of:
- 3234 (i) a felony under a federal or state law;
- 3235 (ii) a violation of a federal or state law or local ordinance concerning the sale,
- 3236 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic
- 3237 beverage;
- 3238 (iii) a crime involving moral turpitude; or
- 3239 (iv) on two or more occasions within the five years before the day on which the resort
- 3240 license is granted, driving under the influence of alcohol, a drug, or the combined influence of
- 3241 alcohol and a drug.
- 3242 (b) For a partnership, corporation, or limited liability company, the proscription under
- 3243 Subsection (1)(a) applies if any of the following that will be engaged in the management of the
- 3244 resort is convicted of an offense described in Subsection (1)(a):
- 3245 (i) a partner;
- 3246 (ii) a managing agent;
- 3247 (iii) a manager;
- 3248 (iv) an officer;
- 3249 (v) a director;

3250 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of  
3251 the applicant corporation; or

3252 (vii) a member who owns at least 20% of the applicant limited liability company.

3253 (c) The proscription under Subsection (1)(a) applies if a person employed to act in a  
3254 supervisory or managerial capacity for the resort licensee or in relation to a sublicense is  
3255 convicted of an offense described in Subsection (1)(a).

3256 (2) Subject to Section 32A-4a-501, the commission may immediately suspend or  
3257 revoke a resort license or a sublicense, if after the day on which the resort license is granted, a  
3258 person described in Subsection (1)(a), (b), or (c):

3259 (a) is found to have been convicted of an offense described in Subsection (1)(a) before  
3260 the resort license is granted; or

3261 (b) on or after the day on which the resort license is granted:

3262 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

3263 (ii) (A) is convicted of driving under the influence of alcohol, a drug, or the combined  
3264 influence of alcohol and a drug; and

3265 (B) was convicted of driving under the influence of alcohol, a drug, or the combined  
3266 influence of alcohol and a drug within five years before the day on which the person is  
3267 convicted of the offense described in Subsection (2)(b)(ii)(A).

3268 (3) Subject to Subsection 32A-4a-501, the director may take emergency action by  
3269 immediately suspending the operation of a resort license or sublicense in accordance with Title  
3270 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal  
3271 matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):

3272 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);  
3273 or

3274 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, a  
3275 drug, or the combined influence of alcohol and a drug; and

3276 (ii) was convicted of driving under the influence of alcohol, a drug, or the combined  
3277 influence of alcohol and a drug within five years before the day on which the person is arrested  
3278 on a charge described in Subsection (3)(b)(i).

3279 (4) (a) (i) The commission may not grant a resort license to a person who has had any  
3280 type of license, agency, or permit granted under this title revoked within the three years before

3281 the day on which the application for a resort license is filed.

3282 (ii) The commission may not grant a resort license to an applicant that is a partnership,  
3283 corporation, or limited liability company if a partner, managing agent, manager, officer,  
3284 director, stockholder who holds at least 20% of the total issued and outstanding stock of an  
3285 applicant corporation, or member who owns at least 20% of an applicant limited liability  
3286 company, will engage in the management of the resort, and is or was:

3287 (A) a partner or managing agent of a partnership that had any type of license, agency,  
3288 or permit issued under this title revoked within three years prior to the day on which the  
3289 application for the resort license is filed;

3290 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%  
3291 of the total issued and outstanding stock of a corporation that had any type of license, agency,  
3292 or permit issued under this title revoked within three years before the day on which the  
3293 application for the resort license is filed; or

3294 (C) a manager or member who owns or owned at least 20% of a limited liability  
3295 company that had any type of license, agency, or permit issued under this title revoked within  
3296 three years prior to the day on which the application for the resort license is filed.

3297 (b) The commission may not grant a resort license to an applicant that is a partnership,  
3298 corporation, or limited liability company if any of the following who will engage in the  
3299 management of the resort had any type of license, agency, or permit issued under this title  
3300 revoked while acting in their individual capacity within three years before the day on which the  
3301 application for the resort license is filed:

3302 (i) a partner or managing agent of the applicant partnership;

3303 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
3304 total issued and outstanding stock of the applicant corporation; or

3305 (iii) a manager or member who owns at least 20% of the applicant limited liability  
3306 company.

3307 (c) The commission may not grant a person acting in an individual capacity a resort  
3308 license if that person was:

3309 (i) a partner or managing agent of a partnership that had any type of license, agency, or  
3310 permit granted under this title revoked within three years prior to the day on which the  
3311 application for the resort license is filed;

3312 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the  
3313 total issued and outstanding stock of a corporation that had any type of license, agency, or  
3314 permit issued under this title revoked within three years prior to the day on which the  
3315 application for the resort license is filed; or

3316 (iii) a manager or member who owned at least 20% of the limited liability company  
3317 that had any type of license, agency, or permit issued under this title revoked within three years  
3318 prior to the day on which the application for the resort license is filed.

3319 (5) (a) The commission may not grant a minor a resort license.

3320 (b) The commission may not grant a resort license to an applicant that is a partnership,  
3321 corporation, or limited liability company if any of the following is a minor:

3322 (i) a partner or managing agent of the applicant partnership;

3323 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
3324 total issued and outstanding stock of the applicant corporation; or

3325 (iii) a manager or member who owns at least 20% of the applicant limited liability  
3326 company.

3327 (6) Subject to Section 32A-4a-501, if a person to whom a resort license is granted  
3328 under this chapter no longer possesses the qualifications required by this title for obtaining the  
3329 resort license, the commission may suspend or revoke the resort license.

3330 (7) (a) A person employed to act in a supervisory or managerial capacity for a  
3331 sublicense is subject to the qualification requirements in the provisions applicable to the  
3332 sublicense.

3333 (b) If a person described under Subsection (7)(a) no longer possesses the qualifications  
3334 required by this Subsection (7), the commission may suspend or revoke the sublicense that is  
3335 part of the resort license.

3336 Section 28. Section **32A-4a-204** is enacted to read:

3337 **32A-4a-204. Commission and department duties before granting resort license.**

3338 (1) (a) Before the commission may grant a resort license, the department shall conduct  
3339 an investigation, and may hold public hearings for the purpose of gathering information and  
3340 making recommendations to the commission as to whether or not a resort license, including  
3341 each sublicense, should be granted.

3342 (b) The department shall forward the information and recommendations described in

3343 Subsection (1)(a) to the commission to aid in the commission's determination.  
3344 (2) Before granting a resort license, the commission shall:  
3345 (a) determine that the applicant complies with all basic qualifications and requirements  
3346 for making application for a resort license as provided by Sections 32A-4a-202 and  
3347 32A-4a-203;  
3348 (b) determine that the application is complete;  
3349 (c) consider, where appropriate, a location that the resort license applicant proposes to  
3350 designate for use under the resort license or a sublicense, including:  
3351 (i) the physical characteristics of the location such as:  
3352 (A) the condition of the location;  
3353 (B) square footage; and  
3354 (C) parking availability; and  
3355 (ii) operational factors such as:  
3356 (A) tourist traffic;  
3357 (B) demographics; and  
3358 (C) population to be served;  
3359 (d) consider the resort license applicant's ability to manage and operate a resort license  
3360 and the ability of any individual who will act in a supervisory or managerial capacity for a  
3361 sublicense, including:  
3362 (i) past management experience;  
3363 (ii) past alcohol license experience; and  
3364 (iii) the type of management scheme to be employed by the resort license applicant;  
3365 (e) consider the nature or type of:  
3366 (i) the resort license applicant's business operation; and  
3367 (ii) the business operation of each sublicense;  
3368 (f) subject to Subsection (3), determine that each sublicense meets the requirements  
3369 imposed under the provisions applicable to each sublicense; and  
3370 (g) consider any other factor or circumstance the commission considers necessary.  
3371 (3) (a) Subject to Subsection (3)(b), notwithstanding the requirements to obtain a  
3372 license under the provisions applicable to a sublicense, a sublicense of a resort license is not  
3373 subject to:

- 3374 (i) a requirement to submit an application or renewal application that is separate from  
3375 the resort license application;
- 3376 (ii) a requirement to carry public liability insurance or dramshop insurance coverage  
3377 that is separate from that carried by the resort licensee; or
- 3378 (iii) post a bond that is separate from the bond posted by the resort licensee.
- 3379 (b) If a resort licensee seeks to add a sublicense after its resort license is granted, the  
3380 resort licensee shall file with the department:
- 3381 (i) a nonrefundable \$250 application fee;
- 3382 (ii) an initial license fee of \$2,000, which is refundable if the sublicense is not granted;
- 3383 (iii) written consent of the local authority;
- 3384 (iv) a copy of:
- 3385 (A) the resort licensee's current business license; and
- 3386 (B) the current business license for the sublicense, if the business licensee is separate  
3387 from the resort licensee's business license;
- 3388 (v) evidence that the sublicense premises is entirely within the boundary of the resort  
3389 building;
- 3390 (vi) a description, floor plan, and boundary map of the sublicense premises  
3391 designating:
- 3392 (A) a location at which the resort license applicant proposes that an alcoholic beverage  
3393 be stored; and
- 3394 (B) a designated location on the sublicense premises from which the resort license  
3395 applicant proposes that an alcoholic beverage be sold, dispensed, served, and consumed;
- 3396 (vii) evidence that the resort license applicant carries public liability insurance in an  
3397 amount and form satisfactory to the department;
- 3398 (viii) evidence that the resort license applicant carries dramshop insurance coverage in  
3399 the amount required by Section 32A-4a-202 that covers the sublicense to be added;
- 3400 (ix) a signed consent form stating that the resort licensee will permit any authorized  
3401 representative of the commission, department, or any law enforcement officer unrestricted right  
3402 to enter the sublicense premises;
- 3403 (x) if the resort licensee is a partnership, corporation, or limited liability company,  
3404 proper verification evidencing that the one or more persons signing the sublicense application

3405 are authorized to so act on behalf of the partnership, corporation, or limited liability company;  
3406 and

3407 (xi) any other information the commission or department may require.

3408 Section 29. Section **32A-4a-205** is enacted to read:

3409 **32A-4a-205. Bond.**

3410 (1) (a) A resort licensee shall procure and post a cash or corporate surety bond payable  
3411 to the department in the penal sum of \$25,000.

3412 (b) A resort licensee shall maintain the bond described in Subsection (1)(a) for as long  
3413 as the resort licensee operates as a resort licensee.

3414 (c) A resort licensee is not required to have a separate bond for each sublicense, except  
3415 that the aggregate of any bonds posted by the resort licensee shall cover each sublicense under  
3416 the resort license.

3417 (2) A bond described in Subsection (1) shall be in a form approved by the attorney  
3418 general, conditioned upon the resort licensee's faithful compliance with this title and the rules  
3419 of the commission.

3420 (3) (a) If a bond described in Subsection (1) is canceled due to a resort licensee's  
3421 negligence, the commission may assess a \$300 reinstatement fee.

3422 (b) No part of a bond described in Subsection (1) may be withdrawn:

3423 (i) during the period a resort license is in effect; or

3424 (ii) while a revocation proceeding is pending against the resort licensee that posts the  
3425 bond.

3426 (c) A bond filed by a resort licensee may be forfeited if the resort license is revoked.

3427 Section 30. Section **32A-4a-301** is enacted to read:

3428 **Part 3. Resort Spa Sublicense**

3429 **32A-4a-301. Commission's power to grant resort spa sublicense -- Limitations.**

3430 (1) Before a resort spa may sell or allow the consumption of an alcoholic beverage on  
3431 the resort spa sublicense premises, a resort licensee or an applicant for a resort license shall  
3432 first obtain a resort spa sublicense from the commission as provided in this part.

3433 (2) The commission may grant a resort spa sublicense for the purpose of establishing a  
3434 resort spa outlet within the boundary of a resort building for the storage, sale, and consumption  
3435 of liquor on premises operated as a resort spa.

3436 (3) The resort spa sublicense premises must fall entirely within the boundary of a resort  
3437 building.

3438 Section 31. Section **32A-4a-302** is enacted to read:

3439 **32A-4a-302. Application and renewal requirements.**

3440 (1) A person seeking a resort spa sublicense under this part may not file a written  
3441 application with the department that is separate from the application of the resort license,  
3442 unless the resort spa sublicense is being sought after the granting of a resort license.

3443 (2) If a resort licensee seeks to add a resort spa sublicense after its resort license is  
3444 granted, the resort licensee shall in accordance with Subsection 32A-4a-204(3) file a written  
3445 application with the department, in a form prescribed by the department. The application shall  
3446 be accompanied by:

3447 (a) a nonrefundable \$250 application fee;

3448 (b) an initial license fee of \$2,000, which is refundable if the resort spa sublicense is  
3449 not granted;

3450 (c) written consent of the local authority;

3451 (d) a copy of:

3452 (i) the resort licensee's current business license; and

3453 (ii) a business license for the resort spa, if the business license is separate from the  
3454 resort licensee's business license;

3455 (e) evidence that the resort spa sublicense premises are entirely within the boundary of  
3456 a resort building;

3457 (f) a floor or similar plan of the resort spa, including consumption areas and the area  
3458 where the resort licensee proposes to keep, store, and sell liquor;

3459 (g) evidence that the resort licensee carries public liability insurance in an amount and  
3460 form satisfactory to the department;

3461 (h) evidence that the resort licensee's dramshop insurance coverage required under  
3462 Section 32A-4a-202 covers the resort spa sublicense;

3463 (i) a signed consent form stating that the resort licensee will permit any authorized  
3464 representative of the commission, department, or any law enforcement officer unrestricted right  
3465 to enter the resort spa sublicense premises;

3466 (j) if an applicant is a partnership, corporation, or limited liability company, proper

3467 verification evidencing that the person or persons signing the application are authorized to so  
3468 act on behalf of the partnership, corporation, or limited liability company; and

3469 (k) any other information the commission or department may require.

3470 (3) (a) A resort spa sublicense expires on October 31 of each year.

3471 (b) A resort licensee desiring to renew the resort licensee's resort spa sublicense shall  
3472 renew the resort spa sublicense as part of renewing the resort license.

3473 (c) Failure to meet the renewal requirements for a resort license results in an automatic  
3474 forfeiture of the resort spa sublicense effective on the date the resort license expires.

3475 (d) A renewal application shall be in a form as prescribed by the department.

3476 (4) To ensure compliance with Subsection 32A-4a-305(30), the commission may  
3477 suspend or revoke a resort spa sublicense if the resort licensee does not immediately notify the  
3478 department of a change described in Subsection 32A-4a-202(4).

3479 Section 32. Section **32A-4a-303** is enacted to read:

3480 **32A-4a-303. Qualifications.**

3481 (1) A person employed to act in a supervisory or managerial capacity for the resort spa  
3482 sublicense is subject to qualification requirements of Section 32A-4a-203.

3483 (2) If a person no longer possesses the qualifications required by Section 32A-4a-203  
3484 for obtaining the resort license or resort spa sublicense, the commission may suspend or revoke  
3485 the resort spa sublicense that is part of the resort license.

3486 Section 33. Section **32A-4a-304** is enacted to read:

3487 **32A-4a-304. Commission and department duties before granting a resort spa**  
3488 **sublicense.**

3489 (1) (a) If a resort licensee seeks to add a resort spa sublicense after the resort license is  
3490 granted, before the commission may grant a resort spa sublicense, the department shall conduct  
3491 an investigation and may hold public hearings for the purpose of gathering information and  
3492 making recommendations to the commission as to whether or not the resort spa sublicense  
3493 should be granted.

3494 (b) The department shall forward the information and recommendations described in  
3495 Subsection (1)(a) to the commission to aid in the commission's determination.

3496 (2) Before granting a resort spa sublicense, the commission shall:

3497 (a) determine that:

- 3498 (i) the resort licensee seeking the resort spa sublicense has complied with all basic  
3499 qualifications and requirements for making application for a resort spa sublicense as provided  
3500 by Sections 32A-4a-302 and 32A-4a-303; and
- 3501 (ii) the application is complete;
- 3502 (b) consider the location within which the resort spa outlet is located, including:
- 3503 (i) physical characteristics such as:
- 3504 (A) condition of the location;
- 3505 (B) square footage; and
- 3506 (C) parking availability; and
- 3507 (ii) operational factors such as:
- 3508 (A) tourist traffic;
- 3509 (B) demographics;
- 3510 (C) population to be served; and
- 3511 (D) the extent of and proximity to any community location;
- 3512 (c) consider the resort licensee's ability to manage and operate a resort spa sublicense  
3513 and the ability of any person who will act in a supervisory or managerial capacity for the resort  
3514 spa to manage and operate a resort spa license, including:
- 3515 (i) management experience;
- 3516 (ii) past retail liquor experience; and
- 3517 (iii) the type of management scheme employed by the resort spa;
- 3518 (d) consider the nature or type of resort spa operation under the proposed resort spa  
3519 sublicense, including:
- 3520 (i) the type of menu items offered and emphasized;
- 3521 (ii) whether the resort spa emphasizes service to an adult clientele or minors;
- 3522 (iii) the hours of operation;
- 3523 (iv) the seating capacity of the resort spa; and
- 3524 (v) the gross sales of food items; and
- 3525 (e) consider any other factors or circumstances the commission considers necessary.
- 3526 Section 34. Section **32A-4a-305** is enacted to read:
- 3527 **32A-4a-305. Operational restrictions.**
- 3528 (1) (a) A person granted a resort license and the employees and management personnel

3529 of the resort licensee or otherwise related to a resort spa sublicense shall comply with this title,  
3530 the rules of the commission, and the conditions and requirements in this section in the  
3531 operation of the resort spa.

3532 (b) Subject to Section 32A-4a-502, failure to comply with this section may result in a  
3533 suspension or revocation of the resort license or resort spa sublicense, or other disciplinary  
3534 action taken against individual employees or management personnel.

3535 (2) Subject to the other provisions of this section, a person operating under a resort spa  
3536 sublicense may not sell an alcoholic beverage to or allow a person to be admitted to or use the  
3537 resort spa sublicense premises other than:

3538 (a) a resident;

3539 (b) a public customer who holds a valid customer card issued under Subsection (4); or

3540 (c) an invitee.

3541 (3) A person operating under a resort spa sublicense may allow an individual to be  
3542 admitted to or use the resort spa sublicense premises as an invitee subject to the following  
3543 conditions:

3544 (a) the individual must be previously authorized by one of the following who agrees to  
3545 host the individual as an invitee into the resort spa:

3546 (i) a resident; or

3547 (ii) a public customer who holds a valid customer card issued under Subsection (4);

3548 (b) the individual has only those privileges derived from the individual's host for the  
3549 duration of the invitee's visit to the resort spa; and

3550 (c) a resort licensee, resort spa, or an employee of the resort licensee or resort spa may  
3551 not enter into an agreement or arrangement with a resident or public customer to  
3552 indiscriminately host a member of the general public into the resort spa as an invitee.

3553 (4) A person operating under a resort spa sublicense may issue a customer card to  
3554 allow an individual to enter and use the resort spa sublicense premises on a temporary basis  
3555 under the following conditions:

3556 (a) the resort spa may not issue a customer card for a time period that exceeds three  
3557 weeks;

3558 (b) the resort spa shall assess a fee to a public customer for a customer card;

3559 (c) the resort spa may not issue a customer card to a minor; and

- 3560 (d) a public customer may not host more than seven invitees at one time.
- 3561 (5) (a) For purposes of the resort spa sublicense, the resort licensee shall ensure that an
- 3562 expense ledger or record is maintained showing in detail:
- 3563 (i) quarterly expenditures for the resort spa separated by payments for:
- 3564 (A) malt or brewed beverage;
- 3565 (B) liquor;
- 3566 (C) food;
- 3567 (D) set-ups; and
- 3568 (E) any other item required by the department; and
- 3569 (ii) sales made separately for:
- 3570 (A) malt or brewed beverages;
- 3571 (B) liquor;
- 3572 (C) food;
- 3573 (D) set-ups; and
- 3574 (E) any other item required by the department.
- 3575 (b) For purposes of the resort spa sublicense, the resort licensee shall ensure that a
- 3576 record required by this Subsection (5) is kept:
- 3577 (i) in a form approved by the department; and
- 3578 (ii) current for each three-month period.
- 3579 (c) An expenditure under resort spa sublicense shall be supported by:
- 3580 (i) a delivery ticket;
- 3581 (ii) an invoice;
- 3582 (iii) a receipted bill;
- 3583 (iv) a canceled check;
- 3584 (v) a petty cash voucher; or
- 3585 (vi) other sustaining datum or memorandum.
- 3586 (d) In addition to a ledger or record required by Subsection (5)(a), for purposes of the
- 3587 resort spa sublicense, a resort licensee shall ensure that accounting and other records and
- 3588 documents as the department may require are maintained.
- 3589 (e) A resort licensee or an employee acting for the resort licensee or under a resort spa
- 3590 sublicense, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes an

3591 entry in a book of account or other document for a resort spa sublicense required to be made,  
3592 maintained, or preserved by this title or the rules of the commission for the purpose of  
3593 deceiving the commission, the department, or an official or employee of the commission or  
3594 department, is subject to:

3595 (i) the suspension or revocation of the resort spa sublicense; and

3596 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

3597 (f) (i) For purposes of the resort spa sublicense, the resort licensee shall ensure that a  
3598 record required by this section is kept and maintained, and a book, record, receipt, or  
3599 disbursement is maintained or used for the resort spa sublicense:

3600 (A) as the department requires; and

3601 (B) for a minimum period of three years.

3602 (ii) A record, book, receipt, or disbursement is subject to inspection by an authorized  
3603 representative of the commission and the department.

3604 (iii) A resort licensee shall allow the department, through an auditor or examiner of the  
3605 department, to audit the records for a resort spa sublicense at the times the department  
3606 considers advisable.

3607 (iv) The department shall audit the records for a resort spa sublicense at least once  
3608 annually.

3609 (6) A resort licensee shall own or lease premises suitable for the resort spa's activities.

3610 (7) (a) A resort licensee may not maintain a premises in a manner that barricades or  
3611 conceals the resort spa sublicense's operation.

3612 (b) A member of the commission, authorized department personnel, or a peace officer  
3613 shall, upon presentation of credentials, be admitted immediately to a resort spa sublicense  
3614 premises and permitted without hindrance or delay to inspect completely the entire resort spa  
3615 sublicense premises and the books and records for the resort spa sublicense, at any time during  
3616 which the resort spa sublicense is open for the transaction of business with a resident.

3617 (8) A resort spa must have food available at all times when an alcoholic beverage is  
3618 sold, served, or consumed on the resort spa sublicense premises.

3619 (9) (a) Liquor may not be purchased for a resort spa sublicense except from a state  
3620 store or package agency.

3621 (b) Liquor purchased from a state store or package agency may be transported by the

3622 resort licensee from the place of purchase to the resort spa sublicense premises.

3623 (c) Payment for liquor shall be made in accordance with rules established by the  
3624 commission.

3625 (10) A person operating under a resort spa sublicense may sell or provide a primary  
3626 spirituous liquor only in a quantity not to exceed 1.5 ounces per beverage dispensed through a  
3627 calibrated metered dispensing system approved by the department in accordance with  
3628 commission rules adopted under this title, except that:

3629 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
3630 system if used as a secondary flavoring ingredient in a beverage subject to the following  
3631 restrictions:

3632 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of  
3633 a primary spirituous liquor;

3634 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

3635 (iii) the resort licensee shall designate a location where flavorings are stored on the  
3636 floor plan provided to the department; and

3637 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

3638 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
3639 system if used:

3640 (i) as a flavoring on a dessert; and

3641 (ii) in the preparation of a flaming food dish, drink, or dessert; and

3642 (c) a person at a resort spa may have no more than:

3643 (i) 2.5 ounces of spirituous liquor at a time before the person; or

3644 (ii) two spirituous liquor drinks at a time before a resort spa patron, except that the  
3645 resort spa patron may not have two spirituous liquor drinks before the resort spa patron if one  
3646 of the spirituous liquor drinks consists only of the primary spirituous liquor for the other  
3647 spirituous liquor drink.

3648 (11) (a) (i) Wine may be sold and served by the glass or an individual portion not to  
3649 exceed five ounces per glass or individual portion.

3650 (ii) An individual portion may be served to a person in more than one glass as long as  
3651 the total amount of wine does not exceed five ounces.

3652 (iii) An individual portion of wine is considered to be one alcoholic beverage under

3653 Subsection (15)(c).

3654 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price  
3655 fixed by the commission to a table of four or more persons.

3656 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price  
3657 fixed by the commission to a table of less than four persons.

3658 (c) A wine service may be performed and a service charge assessed by a resort spa as  
3659 authorized by commission rule for wine purchased at the resort spa.

3660 (12) (a) Heavy beer may be served in an original container not exceeding one liter at a  
3661 price fixed by the commission.

3662 (b) A flavored malt beverage may be served in an original container not exceeding one  
3663 liter at a price fixed by the commission.

3664 (c) A service charge may be assessed by the resort spa for heavy beer or a flavored malt  
3665 beverage purchased at the resort spa.

3666 (13) (a) (i) Subject to Subsection (13)(a)(ii), a person operating under a resort spa  
3667 sublicense may sell beer for on-premise consumption:

3668 (A) in an open container; and

3669 (B) on draft.

3670 (ii) Beer sold pursuant to Subsection (13)(a)(i) shall be in a size of container that does  
3671 not exceed two liters, except that beer may not be sold to an individual in a size of container  
3672 that exceeds one liter.

3673 (b) (i) A person operating under a resort spa sublicense who sells beer pursuant to  
3674 Subsection (13)(a):

3675 (A) may do so without obtaining a separate on-premise beer retailer license from the  
3676 commission; and

3677 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
3678 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are  
3679 inconsistent with or less restrictive than the operational restrictions under this part.

3680 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
3681 Licenses, required by Subsection (13)(b)(i), may result in a suspension or revocation of:

3682 (A) the resort spa sublicense; and

3683 (B) an alcoholic beverage license issued by a local authority.

3684 (14) An alcoholic beverage may not be stored, served, or sold in a place other than as  
3685 designated in the resort licensee's application, unless the resort licensee first applies for and  
3686 receives approval from the department for a change of location within the resort spa.

3687 (15) (a) A person may only make an alcoholic beverage purchase in the resort spa from  
3688 and be served by a person employed, designated, and trained by the resort licensee or an agent  
3689 of the resort license to sell, dispense, and serve an alcoholic beverage.

3690 (b) Notwithstanding Subsection (15)(a), a person who purchases bottled wine from an  
3691 employee described in Subsection (15)(a) or carries bottled wine onto the resort spa sublicense  
3692 premises pursuant to Subsection (22) may thereafter serve wine from the bottle to the person or  
3693 others at the person's table.

3694 (c) An individual furnished an alcoholic beverage at a resort spa may have no more  
3695 than two alcoholic beverages of any kind at a time before the individual, subject to the  
3696 limitation of Subsection (10)(c)(ii).

3697 (16) The liquor storage area shall remain locked at all times other than those hours and  
3698 days when liquor sales and service are authorized by law.

3699 (17) (a) An alcoholic beverage may only be consumed at a table or counter.

3700 (b) An alcoholic beverage may not be served to or consumed by a person at a bar.

3701 (18) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a  
3702 resort spa after 1 a.m. or before 10 a.m.

3703 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
3704 Licenses, for on-premise beer licenses.

3705 (c) (i) Notwithstanding Subsections (18)(a) and (b), a resort spa shall remain open for  
3706 one hour after the resort spa ceases the sale and service of an alcoholic beverage during which  
3707 time a person at the resort spa may finish consuming:

3708 (A) a single drink containing spirituous liquor;

3709 (B) a single serving of wine not exceeding five ounces;

3710 (C) a single serving of heavy beer;

3711 (D) a single serving of beer not exceeding 26 ounces; or

3712 (E) a single serving of a flavored malt beverage.

3713 (ii) A resort spa is not required to remain open:

3714 (A) after all persons have vacated the resort spa sublicense premises; or

- 3715 (B) during an emergency.
- 3716 (d) Between the hours of 2 a.m. and 10 a.m. a person operating under a resort spa  
3717 sublicense may not allow a person to remain on the resort spa sublicense premises to consume  
3718 an alcoholic beverage on the resort spa sublicense premises.
- 3719 (19) An alcoholic beverage may not be sold, served, or otherwise furnished to a:
- 3720 (a) minor;
- 3721 (b) person actually, apparently, or obviously intoxicated;
- 3722 (c) known habitual drunkard; or
- 3723 (d) known interdicted person.
- 3724 (20) (a) (i) Liquor may be sold only at a price fixed by the commission.
- 3725 (ii) Liquor may not be sold at a discount price on any date or at any time.
- 3726 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic  
3727 beverage for the resort spa sublicense.
- 3728 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
3729 over consumption or intoxication.
- 3730 (d) The price of a single serving of a primary spirituous liquor shall be the same  
3731 whether served as a single drink or in conjunction with another alcoholic beverage.
- 3732 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain  
3733 hours of the resort spa's business day such as a "happy hour."
- 3734 (f) More than one alcoholic beverage may not be sold or served for the price of a single  
3735 alcoholic beverage.
- 3736 (g) An indefinite or unlimited number of alcoholic beverages may not be sold or served  
3737 during a set period for a fixed price.
- 3738 (h) A person operating under a resort spa sublicense may not engage in a promotion  
3739 involving or offering a free alcoholic beverage to a person at the resort spa.
- 3740 (21) An alcoholic beverage may not be purchased for a person at the resort spa by:
- 3741 (a) the resort licensee; or
- 3742 (b) an employee or agent of the resort licensee or resort spa.
- 3743 (22) (a) A person may not bring onto the resort spa sublicense premises an alcoholic  
3744 beverage for on-premise consumption, except that a person may bring, subject to the discretion  
3745 of the resort licensee, bottled wine onto the resort spa sublicense premises for on-premise

3746 consumption.

3747 (b) Except as provided in Subsection (22)(a), a person operating under a resort spa  
3748 sublicense including an officer, manager, employee, or agent of a resort spa or resort licensee  
3749 may not allow a person to bring onto the resort spa sublicense premises an alcoholic beverage  
3750 for consumption on the resort spa license premises.

3751 (c) If bottled wine is carried in by a person, the person shall deliver the wine to a server  
3752 or other representative of the resort spa upon entering the resort spa.

3753 (d) A wine service may be performed and a service charge assessed by the resort spa as  
3754 authorized by commission rule for wine carried in by a person.

3755 (23) (a) Except as provided in Subsection (23)(b), a person operating under a resort spa  
3756 sublicense or an employee of that person may not permit a person to carry from the resort spa  
3757 sublicense premises an open container that:

3758 (i) is used primarily for drinking purposes; and

3759 (ii) contains an alcoholic beverage.

3760 (b) A person may remove the unconsumed contents of a bottle of wine, if before  
3761 removal, the bottle is recorked or recapped.

3762 (24) (a) A minor may not be admitted into, use, or be on:

3763 (i) the sublicense premises of a resort spa unless accompanied by a person 21 years of  
3764 age or older; or

3765 (ii) a lounge or bar area, as defined by commission rule, of the resort spa sublicense  
3766 premises.

3767 (b) (i) Except as provided in Subsection (24)(b)(ii), a resort licensee or a person  
3768 operating under a resort spa sublicense may not employ a minor to:

3769 (A) sell, dispense, or handle an alcoholic beverage; or

3770 (B) work in a lounge or bar area of the resort spa sublicense premises.

3771 (ii) A resort licensee or a person operating under a resort spa sublicense may employ a  
3772 minor who is at least 16 years of age to enter the sale at a cash register or other sales recording  
3773 device, except that a minor may not work in a lounge or bar area of the resort spa sublicense  
3774 premises.

3775 (25) An employee for a resort spa, while on duty, may not:

3776 (a) consume an alcoholic beverage; or

- 3777 (b) be intoxicated.
- 3778 (26) (a) A person operating under a resort spa sublicense shall have available on the
- 3779 resort spa sublicense premises for a person to review at the time that the customer requests it, a
- 3780 written alcoholic beverage price list or a menu containing the price of an alcoholic beverage
- 3781 sold or served by the resort spa including:
- 3782 (i) a set-up charge;
- 3783 (ii) a service charge; or
- 3784 (iii) a chilling fee.
- 3785 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
- 3786 may be stated in food or alcoholic beverage menus including:
- 3787 (i) a set-up charge;
- 3788 (ii) a service charge; or
- 3789 (iii) a chilling fee.
- 3790 (27) For purposes of the resort spa sublicense, the resort licensee shall ensure that the
- 3791 following are displayed in a prominent place in the resort spa:
- 3792 (a) the resort spa sublicense that is issued by the department;
- 3793 (b) a list of the types and brand names of liquor being served through its calibrated
- 3794 metered dispensing system; and
- 3795 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 3796 drugs is a serious crime that is prosecuted aggressively in Utah."
- 3797 (28) A person operating under a resort spa sublicense may not on the resort spa
- 3798 sublicense premises:
- 3799 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
- 3800 Chapter 10, Part 11, Gambling;
- 3801 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
- 3802 Part 11, Gambling; or
- 3803 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 3804 the risking of something of value for a return or for an outcome when the return or outcome is
- 3805 based upon an element of chance, excluding the playing of an amusement device that confers
- 3806 only an immediate and unrecorded right of replay not exchangeable for value.
- 3807 (29) A resort spa sublicense may not be transferred from one location to another

3808 location, without prior written approval of the commission.

3809 (30) (a) A resort licensee, may not sell, transfer, assign, exchange, barter, give, or  
3810 attempt in any way to dispose of the resort spa sublicense to another person, whether for  
3811 monetary gain or not.

3812 (b) A resort spa sublicense has no monetary value for the purpose of any type of  
3813 disposition.

3814 (31) A person operating under a resort spa sublicense or an employee of that person  
3815 may not knowingly allow a person on the resort spa sublicense premises to, in violation of Title  
3816 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3817 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
3818 58-37-2; or

3819 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
3820 Section 58-37a-3.

3821 Section 35. Section **32A-4a-401** is enacted to read:

3822 **Part 4. Operational Requirements**

3823 **32A-4a-401. Operational restrictions for resort license.**

3824 (1) (a) A person granted a resort license and the employees and management personnel  
3825 of the resort licensee including those operating under a sublicense shall comply with this title,  
3826 the rules of the commission, and the conditions and requirements in this section.

3827 (b) Subject to Section 32A-4a-502, failure to comply with this section may result in a  
3828 suspension or revocation of the resort license or a sublicense, or other disciplinary action taken  
3829 against individual employees or management personnel.

3830 (2) (a) A resort licensee may not offer for sale, sell, serve, or otherwise furnish an  
3831 alcoholic beverage except:

3832 (i) on a sublicense premises;

3833 (ii) pursuant to a permit issued under this title; or

3834 (iii) under a package agency agreement with the department, subject to Chapter 3,  
3835 Package Agencies.

3836 (b) A resort licensee who offers for sale, sells, serves, or otherwise furnishes an  
3837 alcoholic beverage as provided in Subsection (2)(a), shall offer for sale, sell, or furnish the  
3838 alcoholic beverage:

3839 (i) if on a sublicense premises, in accordance with the operational requirements under  
3840 the provisions applicable to the sublicense, except as provided in Section 32A-4a-402;

3841 (ii) if under a permit issued under this title, in accordance with the operational  
3842 requirements under the provisions applicable to the permit; and

3843 (iii) if as a package agency, in accordance with the contract with the department and  
3844 Chapter 3, Package Agencies.

3845 (3) A person involved in the sale or service of an alcoholic beverage under a resort  
3846 license shall:

3847 (a) be under the supervision and direction of the resort licensee; and

3848 (b) complete the seminar provided for in Section 62A-15-401.

3849 (4) (a) A resort licensee may not purchase liquor except from a state store or package  
3850 agency.

3851 (b) Liquor purchased by a resort licensee in accordance with this Subsection (4) may be  
3852 transported by the resort licensee from the place of purchase to the boundary of the resort  
3853 building.

3854 (c) A resort licensee shall pay for liquor in accordance with rules made by the  
3855 commission.

3856 (5) An alcoholic beverage may not be stored, served, or sold in a place other than as  
3857 designated in the resort licensee's application, except that an additional location in the  
3858 boundary of the resort building may be approved in accordance with guidelines approved by  
3859 the commission.

3860 (6) An alcoholic beverage storage area on the boundary of the resort building shall  
3861 remain locked at all times other than those hours and days when alcoholic beverage sales are  
3862 authorized by law.

3863 (7) A resort licensee may not engage in a public promotion involving or offering a free  
3864 alcoholic beverage to the general public.

3865 (8) A resort licensee may not on the boundary of the resort building:

3866 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
3867 Chapter 10, Part 11, Gambling;

3868 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
3869 Part 11, Gambling; or

3870 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
3871 the risking of something of value for a return or for an outcome when the return or outcome is  
3872 based upon an element of chance, excluding the playing of an amusement device that confers  
3873 only an immediate and unrecorded right of replay not exchangeable for value.

3874 (9) (a) A resort licensee shall maintain accounting and such other records and  
3875 documents as the commission or department may require.

3876 (b) A resort licensee or person acting for the resort licensee, who knowingly forges,  
3877 falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or other  
3878 document of the resort licensee required to be made, maintained, or preserved by this title or  
3879 the rules of the commission for the purpose of deceiving the commission, the department, or an  
3880 official or employee of the commission or department, is subject to:

3881 (i) the suspension or revocation of the resort license; and

3882 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

3883 (10) (a) Subject to Subsection (10)(b), a resort license shall operate in a manner so that  
3884 at least 70% of the annual aggregate of the gross receipts related to the sale of food or  
3885 beverages for the resort license and each of its sublicenses is from the sale of food, not  
3886 including:

3887 (i) mix for an alcoholic beverage; and

3888 (ii) a charge in connection with the service of an alcoholic beverage.

3889 (b) In calculating the annual aggregate of the gross receipts described in Subsection  
3890 (10)(a), a resort licensee is not required to include in the calculation monies from the sale of a  
3891 bottle of wine by the retail licensee or under a sublicense in excess of \$250.

3892 (11) (a) Room service of an alcoholic beverage to a lodging accommodation of a resort  
3893 licensee shall be provided in person by a resort licensee employee only to an adult occupant in  
3894 the lodging accommodation.

3895 (b) An alcoholic beverage may not be left outside a lodging accommodation for  
3896 retrieval by an occupant.

3897 (c) A resort licensee may only provide an alcoholic beverage for room service in a  
3898 sealed container.

3899 (12) A resort licensee or an employee of the resort licensee may not knowingly allow a  
3900 person on the boundary of the resort building to, in violation of Title 58, Chapter 37, Utah

3901 Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:  
3902 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
3903 58-37-2; or  
3904 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
3905 Section 58-37a-3.  
3906 (13) A person may not transfer a resort license from one business location to another  
3907 location without prior written approval of the commission.  
3908 (14) (a) A resort licensee may not sell, transfer, assign, exchange, barter, give, or  
3909 attempt in any way to dispose of the license to another person, whether for monetary gain or  
3910 not.  
3911 (b) A resort license has no monetary value for the purpose of any type of disposition.  
3912 (15) (a) A resort licensee may not close or cease operation of a resort licensee for a  
3913 period longer than 240 hours, unless:  
3914 (i) the resort licensee notifies the department in writing at least seven days before the  
3915 day on which the resort licensee closes or ceases operation; and  
3916 (ii) the closure or cessation of operation is first approved by the department.  
3917 (b) Notwithstanding Subsection (15)(a), in the case of emergency closure, the resort  
3918 licensee shall immediately notify the department by telephone.  
3919 (c) (i) The department may authorize a closure or cessation of operation for a period  
3920 not to exceed 60 days.  
3921 (ii) The department may extend the initial period an additional 30 days upon:  
3922 (A) written request of the resort licensee; and  
3923 (B) a showing of good cause.  
3924 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
3925 commission approval.  
3926 (d) The notice required by Subsection (15)(a) shall include:  
3927 (i) the dates of closure or cessation of operation;  
3928 (ii) the reason for the closure or cessation of operation; and  
3929 (iii) the date on which the resort licensee will reopen or resume operation.  
3930 (e) Failure of the resort licensee to provide notice and to obtain department  
3931 authorization before closure or cessation of operation results in an automatic forfeiture of:

3932 (i) the resort license; and  
3933 (ii) the unused portion of the resort license fee for the remainder of the license year  
3934 effective immediately.

3935 (f) Failure of the resort licensee to reopen or resume operation by the approved date  
3936 results in an automatic forfeiture of:

3937 (i) the resort licence; and  
3938 (ii) the unused portion of the resort license fee for the remainder of the license year.

3939 Section 36. Section **32A-4a-402** is enacted to read:

3940 **32A-4a-402. Operational restrictions for a sublicense.**

3941 (1) A person operating under a sublicense is subject to the operational restrictions  
3942 under the provisions applicable to the sublicense except that, notwithstanding a requirement in  
3943 the provisions applicable to the sublicense, a person operating under the sublicense is not  
3944 subject to a requirement that a certain percentage of the gross receipts for the sublicense be  
3945 from the sale of food, except to the extent that the gross receipts for the sublicense are included  
3946 in calculating the percentages under Subsection 32A-4a-401(10).

3947 (2) Subject to Section 32A-4a-502, for purposes of interpreting an operational  
3948 restriction imposed by the provisions applicable to a sublicense:

3949 (a) a requirement imposed on a person operating under a sublicense applies to the  
3950 resort licensee; and

3951 (b) a requirement imposed on an employee or agent of a person operating under a  
3952 sublicense applies to an employee or agent of the resort licensee.

3953 Section 37. Section **32A-4a-501** is enacted to read:

3954 **Part 5. Enforcement**

3955 **32A-4a-501. Enforcement of qualifications for a resort license or sublicense.**

3956 (1) The commission or department may not take an action described in Subsection (2)  
3957 with regard to a resort license unless the person who is found not to meet the qualifications of  
3958 Section 32A-4a-203 is one of the following who is engaged in the management of the resort:

3959 (a) a partner;

3960 (b) a managing agent;

3961 (c) a manager;

3962 (d) an officer;

3963           (e) a director;  
3964           (f) a stockholder who holds at least 20% of the total issued and outstanding stock of the  
3965 applicant corporation;  
3966           (g) a member who owns at least 20% of the applicant limited liability company; or  
3967           (h) a person employed to act in a supervisory or managerial capacity for the resort  
3968 licensee.  
3969           (2) Subsection (1) applies to:  
3970           (a) the commission immediately suspending or revoking a resort license, if after the  
3971 day on which the resort license is granted, a person described in Subsection 32A-4a-203(1)(a),  
3972 (b), or (c):  
3973           (i) is found to have been convicted of an offense described in Subsection  
3974 32A-4a-203(1)(a) before the resort license is granted; or  
3975           (ii) on or after the day on which the resort license is granted:  
3976           (A) is convicted of an offense described in Subsection 32A-4a-203(1)(a)(i), (ii), or (iii);  
3977 or  
3978           (B) (I) is convicted of driving under the influence of alcohol, a drug, or the combined  
3979 influence of alcohol and a drug; and  
3980           (II) was convicted of driving under the influence of alcohol, a drug, or the combined  
3981 influence of alcohol and a drug within five years before the day on which the person is  
3982 convicted of the offense described in Subsection 32A-4a-203(2)(b)(ii)(A);  
3983           (b) the director taking an emergency action by immediately suspending the operation of  
3984 a resort license in accordance with Title 63G, Chapter 4, Administrative Procedures Act, for  
3985 the period during which the criminal matter is being adjudicated if a person described in  
3986 Subsection 32A-4a-203(1)(a), (b), or (c):  
3987           (i) is arrested on a charge for an offense described in Subsection 32A-4a-203(1)(a)(i),  
3988 (ii), or (iii); or  
3989           (ii) (A) is arrested on a charge for the offense of driving under the influence of alcohol,  
3990 a drug, or the combined influence of alcohol and a drug; and  
3991           (B) was convicted of driving under the influence of alcohol, a drug, or the combined  
3992 influence of alcohol and a drug within five years before the day on which the person is arrested  
3993 on a charge described in Subsection (2)(b)(i); and

3994 (c) the commission suspending or revoking a resort license because a person to whom a  
3995 resort license is granted under this chapter no longer possesses the qualifications required by  
3996 this title for obtaining the resort license.

3997 (3) This section does not prevent the commission from suspending or revoking a  
3998 sublicense that is part of a resort license if a person employed to act in a supervisory or  
3999 managerial capacity for a sublicense no longer meets the qualification requirements in the  
4000 provisions applicable to the sublicense.

4001 Section 38. Section **32A-4a-502** is enacted to read:

4002 **32A-4a-502. Enforcement of operational restrictions for a resort license or**  
4003 **sublicense.**

4004 (1) (a) Except as provided in Subsection (2) and in addition to Subsection (3), failure  
4005 by a person described in Subsection (1)(b) to comply with this chapter or an operational  
4006 restriction under a provision applicable to a sublicense may result in:

4007 (i) a suspension or revocation of the resort license;

4008 (ii) a fine or other administrative sanction permitted under this title; or

4009 (iii) other disciplinary action taken against an individual employee or management  
4010 personnel of a resort licensee.

4011 (b) This Subsection (1) applies to:

4012 (i) a resort licensee;

4013 (ii) a person operating under a sublicense;

4014 (iii) an employee of a resort licensee or other person operating under a sublicense;

4015 (iv) an agent of a resort licensee or other person operating under a sublicense; or

4016 (v) personnel management of a resort licensee or other person operating under a  
4017 sublicense.

4018 (2) (a) Notwithstanding the other provisions of this chapter and Section 32A-1-119, if  
4019 the failure to comply with this chapter described in Subsection (1) relates to an offer to sell,  
4020 sell, service, or furnishing of an alcoholic beverage on a sublicense premises, a resort licensee  
4021 or an individual member of the resort licensee's management personnel is subject to a sanction  
4022 described in Subsection (1), only if the commission finds that:

4023 (i) during the three years before the day on which the commission makes the finding,  
4024 there is three or more disciplinary proceedings against any person operating under a sublicense

4025 of the resort licensee for failure to comply with an operational restriction applicable to the  
4026 sublicense; and

4027 (ii) the resort licensee has not taken reasonable steps to prevent persons operating  
4028 under a sublicense of the resort licensee from failing to comply with operational restrictions  
4029 applicable to the sublicense.

4030 (b) This Subsection (2) applies if the three or more disciplinary proceedings described  
4031 in Subsection (2)(a) are against:

4032 (i) the same person operating under a sublicense of the resort licensee; or

4033 (ii) two or more different persons operating under a sublicense of the resort licensee.

4034 (3) An operational restriction applicable to a person operating under a sublicense is  
4035 enforced as provided by the provisions applicable to the sublicense.

4036 Section 39. Section **32A-4a-503** is enacted to read:

4037 **32A-4a-503. Enforcement of Nuisance Licensee Act.**

4038 Chapter 15a, Nuisance Licensee Act, applies to a resort license only if three or more of  
4039 the sublicenses of the resort license have not been renewed under Chapter 15a, Nuisance  
4040 Licensee Act, within three years from the day on which a resort licensee applies for the renewal  
4041 of its resort license.

4042 Section 40. Section **32A-5-101** is amended to read:

4043 **CHAPTER 5. CLUB LICENSES**

4044 **32A-5-101. Commission's power to license clubs -- Limitations.**

4045 (1) As used in this chapter:

4046 (a) "Club license" means a license granted under this chapter.

4047 (b) "Club licensee" means a person granted a club license under this chapter.

4048 (c) "Dining club licensee" means a person who qualifies as a club licensee under  
4049 Subsection (3)(a)(ii)(C).

4050 (d) "Equity club licensee" means a person who qualifies as a club licensee under  
4051 Subsection (3)(a)(ii)(A).

4052 (e) "Fraternal club licensee" means a person who qualifies as a club licensee under  
4053 Subsection (3)(a)(ii)(B).

4054 (f) "Social club licensee" means a person who qualifies as a club licensee under  
4055 Subsection (3)(a)(ii)(D).

4056            ~~[(1)]~~ (2) Before a ~~[private club]~~ person may sell or allow the consumption of an  
 4057 alcoholic ~~[beverages]~~ beverage on its premises as a club licensee, the ~~[private club]~~ person  
 4058 shall first obtain a license from the commission as provided in this chapter.

4059            ~~[(2)]~~ (3) (a) The commission may grant ~~[private club licenses to social clubs,~~  
 4060 ~~recreational, athletic, or kindred associations that desire to maintain premises upon which~~  
 4061 ~~alcoholic beverages may be stored, sold, served, and consumed.]~~ a club license to a person that:

4062            ~~[(3) At the time the commission grants a private club license the commission shall~~  
 4063 ~~designate whether the private club license qualifies as a class A, B, C, or D license as defined~~  
 4064 ~~in Subsections (3)(a) through (d).]~~

4065            ~~[(a) A "class A licensee" is a private club licensee that:]~~

4066            ~~(i)~~ (i) meets the requirements of this chapter; and

4067            ~~(ii) (A)~~ (ii) (A) for an equity club licensee, meets the following requirements:

4068            ~~(I)~~ (I) whether incorporated or unincorporated:

4069            ~~(Aa)~~ (Aa) is organized and operated solely for a social, recreational, patriotic, or fraternal  
 4070 purpose;

4071            ~~(Bb)~~ (Bb) has members;

4072            ~~(Cc)~~ (Cc) limits access to its premises to a member or a guest of the member; and

4073            ~~(Dd)~~ (Dd) desires to maintain premises upon which an alcoholic beverage may be stored,  
 4074 sold to, served to, and consumed by a member or a guest of a member;

4075            ~~[(ii)]~~ (II) owns, maintains, or operates a substantial recreational facility in conjunction  
 4076 with a club house such as:

4077            ~~[(A)]~~ (Aa) a golf course; or

4078            ~~[(B)]~~ (Bb) a tennis facility;

4079            ~~[(iii)]~~ (III) has at least 50% of the total membership having:

4080            ~~[(A)]~~ (Aa) full voting rights; and

4081            ~~[(B)]~~ (Bb) an equal share of the equity of the club; and

4082            ~~[(iv)]~~ (IV) if there is more than one class of membership, has at least one class of  
 4083 membership that entitles each member in that class to:

4084            ~~[(A)]~~ (Aa) full voting rights; and

4085            ~~[(B)]~~ (Bb) an equal share of the equity of the club[-];

4086            ~~[(b) A "class B licensee" is a private club licensee that:]~~

4087 ~~[(i) meets the requirements of this chapter;]~~  
4088 (B) for a fraternal club licensee, meets the following requirements:  
4089 (I) whether incorporated or unincorporated:  
4090 (Aa) is organized and operated solely for a social, recreational, patriotic, or fraternal  
4091 purpose;  
4092 (Bb) has members;  
4093 (Cc) limits access to its premises to a member or a guest of the member; and  
4094 (Dd) desires to maintain premises upon which an alcoholic beverage may be stored,  
4095 sold to, served to, and consumed by a member or a guest of a member;  
4096 ~~[(ii) (II) has no capital stock;~~  
4097 ~~[(iii) (III) exists solely for:~~  
4098 ~~[(A) (Aa) the benefit of its members and their beneficiaries; and~~  
4099 ~~[(B) (Bb) a lawful social, intellectual, educational, charitable, benevolent, moral,~~  
4100 ~~fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on~~  
4101 ~~through voluntary activity of its members in their local lodges;~~  
4102 ~~[(iv) (IV) has a representative form of government; and~~  
4103 ~~[(v) (V) has a lodge system in which:~~  
4104 ~~[(A) (Aa) there is a supreme governing body;~~  
4105 ~~[(B) (Bb) subordinate to the supreme governing body are local lodges, however~~  
4106 ~~designated, into which individuals are admitted as members in accordance with the laws of the~~  
4107 ~~fraternal;~~  
4108 ~~[(C) (Cc) the local lodges are required by the laws of the fraternal to hold regular~~  
4109 ~~meetings at least monthly; [and]~~  
4110 ~~[(D) (Dd) the local lodges regularly engage in one or more programs involving~~  
4111 ~~member participation to implement the purposes of Subsection (3)~~[(b)(iii)-] (a)(ii)(B)(III); and~~~~  
4112 (Ee) owns or leases a building or space in a building used for lodge activities;  
4113 (C) for a dining club licensee, meets the following requirements:  
4114 ~~[(c) A "class C licensee" is a private club licensee that:]~~  
4115 ~~[(i) meets the requirements of this chapter;]~~  
4116 ~~[(ii) is a dining club, as] (I) is determined by the commission [in accordance with~~  
4117 Subsection (4); and] to be a dining club licensee, as part of which the commission may

4118 consider:

4119 (Aa) the square footage and seating capacity of an applicant;

4120 (Bb) what portion of the square footage and seating capacity will be used for a dining  
4121 area in comparison to the portion that will be used as a bar area;

4122 (Cc) whether full meals including appetizers, main courses, and desserts are served;

4123 (Dd) whether the applicant will maintain adequate on-premise culinary facilities to  
4124 prepare full meals, except an applicant that is located on the premise of a hotel or resort facility  
4125 may use the culinary facilities of the hotel or resort facility;

4126 (Ee) whether the entertainment provided at the club is suitable for minors; and

4127 (Ff) the club management's ability to manage and operate a dining club license  
4128 including management experience, past dining club licensee or restaurant management  
4129 experience, and the type of management scheme employed by the dining club license; and

4130 [(iii)] (II) maintains at least 50% of its total [private] club business from the sale of  
4131 food, not including:

4132 [(A)] (Aa) mix for alcoholic beverages; or

4133 [(B)] (Bb) service charges[.]; or

4134 [(d) A "class D licensee" is a private club licensee that:]

4135 [(i) meets the requirements of this chapter; and]

4136 (D) for a social club licensee:

4137 [(ii) (A)] (I) does not meet the requirements of a [class A, B, or C] license under

4138 Subsections (3)(a)(ii)(A) through (C); or

4139 [(B)] (II) seeks to qualify as a [class D] social club licensee.

4140 [(4) In determining whether an applicant is a dining club under Subsection (3)(c), the  
4141 commission:]

4142 [(a) shall determine whether the applicant maintains at least 50% of its total private  
4143 club business from the sale of food, not including:]

4144 [(i) mix for alcoholic beverages;]

4145 [(ii) service charges; or]

4146 [(iii) membership and visitor card fees; and]

4147 [(b) may consider:]

4148 [(i) the square footage and seating capacity of the applicant;]

4149 ~~[(ii) what portion of the square footage and seating capacity will be used for a dining~~  
4150 ~~area in comparison to the portion that will be used as a bar area;]~~

4151 ~~[(iii) whether full meals including appetizers, main courses, and desserts are served;]~~

4152 ~~[(iv) whether the applicant will maintain adequate on-premise culinary facilities to~~  
4153 ~~prepare full meals, except an applicant that is located on the premise of a hotel or resort facility~~  
4154 ~~may use the culinary facilities of the hotel or resort facility;]~~

4155 ~~[(v) whether the entertainment provided at the club is suitable for minors; and]~~

4156 ~~[(vi) the club management's ability to manage and operate a dining club including:]~~

4157 ~~[(A) management experience;]~~

4158 ~~[(B) past dining club or restaurant management experience; and]~~

4159 ~~[(C) the type of management scheme employed by the private club.]~~

4160 (b) At the time that the commission grants a club license, the commission shall  
4161 designate the type of club license for which the person qualifies.

4162 ~~[(5)]~~ (4) (a) A ~~[private]~~ club licensee or ~~[any]~~ an officer, director, managing agent, or  
4163 employee of a ~~[private]~~ club licensee may not store, sell, serve, or permit consumption of an  
4164 alcoholic ~~[beverages]~~ beverage upon the premises of the club licensee, under a permit issued by  
4165 local authority or otherwise, unless a ~~[private]~~ club license is first ~~[issued]~~ granted by the  
4166 commission.

4167 (b) Violation of this Subsection ~~[(5)]~~ (4) is a class B misdemeanor.

4168 ~~[(6)]~~ (5) (a) Subject to the other provisions of this Subsection ~~[(6)]~~ (5) and Subsection  
4169 32A-4a-201(2), the commission may ~~[issue private]~~ grant club licenses at places and in  
4170 numbers as the commission considers necessary.

4171 (b) The total number of ~~[private]~~ club licenses may not at any time aggregate more than  
4172 that number determined by dividing the population of the state by 7,850.

4173 (c) For purposes of this Subsection ~~[(6)]~~ (5), population shall be determined by:

4174 (i) the most recent United States decennial or special census; or

4175 (ii) another population determination made by the United States or state governments.

4176 (d) (i) The commission may issue seasonal ~~[private]~~ club licenses to be established in  
4177 areas the commission considers necessary~~[-]~~ to:

4178 (A) a dining club licensee; or

4179 (B) a social club licensee.

4180 (ii) A seasonal [private] club license shall be for a period of six consecutive months.

4181 (iii) A [private] club license issued for operation during a summer time period is  
4182 known as a "Seasonal A" [private] club license. The period of operation for a "Seasonal A"  
4183 club license shall:

4184 (A) begin on May 1; and

4185 (B) end on October 31.

4186 (iv) A [private] club license issued for operation during a winter time period is known  
4187 as a "Seasonal B" [private] club license. The period of operation for a "Seasonal B" club  
4188 license shall:

4189 (A) begin on November 1; and

4190 (B) end on April 30.

4191 (v) In determining the number of [private] club licenses that the commission may issue  
4192 under this section:

4193 (A) a seasonal [private] club license is counted as [~~1/2~~] one-half of one [private] club  
4194 license; and

4195 (B) each "Seasonal A" club license shall be paired with a "Seasonal B" club license.

4196 (e) (i) If the location, design, and construction of a hotel may require more than one  
4197 [private] club license location within the hotel to serve the public convenience, the commission  
4198 may authorize as many as three [private] club license locations within the hotel under one club  
4199 license if:

4200 (A) the hotel has a minimum of 150 guest rooms; and

4201 (B) all locations under the club license are:

4202 (I) within the same hotel facility; and

4203 (II) on premises [~~which~~] that are:

4204 (Aa) managed or operated by the club licensee; and

4205 (Bb) owned or leased by the club licensee.

4206 (ii) A facility other than a hotel may not have more than one [private] club license  
4207 location under a single [private] club license.

4208 [~~(7)~~] (6) (a) Except as provided in Subsection [~~(7)~~] (6)(b), (c), or (d), the premises of a  
4209 [private] club license may not be established:

4210 (i) within 600 feet of a community location, as measured by the method in Subsection

4211 [(7)] (6)(e); or

4212 (ii) within 200 feet of a community location, measured in a straight line from the  
4213 nearest entrance of the proposed outlet to the nearest property boundary of the community  
4214 location.

4215 (b) With respect to the establishment of a [private] club license, the commission may  
4216 authorize a variance to reduce the proximity requirement of Subsection [(7)] (6)(a)(i) if:

4217 (i) the local authority grants its written consent to the variance;

4218 (ii) the commission finds that alternative locations for establishing a [private] club  
4219 license in the community are limited;

4220 (iii) a public hearing is held in the city, town, or county, and where practical in the  
4221 neighborhood concerned;

4222 (iv) after giving full consideration to all of the attending circumstances and the policies  
4223 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
4224 club license would not be detrimental to the public health, peace, safety, and welfare of the  
4225 community; and

4226 (v) (A) the community location governing authority gives its written consent to the  
4227 variance; or

4228 (B) when written consent is not given by the community location governing authority,  
4229 the commission finds that the applicant has established that:

4230 (I) there is substantial unmet public demand to consume alcohol in a public setting  
4231 within the geographic boundary of the local authority in which the [private] club licensee is to  
4232 be located;

4233 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
4234 described in Subsection [(7)] (6)(b)(v)(B)(I) other than through the establishment of a [private]  
4235 club licensee; and

4236 (III) there is no reasonably viable alternative location within the geographic boundary  
4237 of the local authority in which the [private] club licensee is to be located for establishing a  
4238 [private] club license to satisfy the unmet demand described in Subsection [(7)] (6)(b)(v)(B)(I).

4239 (c) With respect to the establishment of a [private] club license, the commission may  
4240 authorize a variance that reduces the proximity requirement of Subsection [(7)] (6)(a)(ii) if:

4241 (i) the community location at issue is:

- 4242 (A) a public library; or
- 4243 (B) a public park;
- 4244 (ii) the local authority grants its written consent to the variance;
- 4245 (iii) the commission finds that alternative locations for establishing a [private] club
- 4246 license in the community are limited;
- 4247 (iv) a public hearing is held in the city, town, or county, and where practical in the
- 4248 neighborhood concerned;
- 4249 (v) after giving full consideration to all of the attending circumstances and the policies
- 4250 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
- 4251 [private] club license would not be detrimental to the public health, peace, safety, and welfare
- 4252 of the community; and
- 4253 (vi) (A) the community location governing authority gives its written consent to the
- 4254 variance; or
- 4255 (B) when written consent is not given by the community location governing authority,
- 4256 the commission finds that the applicant has established that:
- 4257 (I) there is substantial unmet public demand to consume alcohol in a public setting
- 4258 within the geographic boundary of the local authority in which the [private] club licensee is to
- 4259 be located;
- 4260 (II) there is no reasonably viable alternative for satisfying substantial unmet demand
- 4261 described in Subsection [(7)] (6)(c)(vi)(B)(I) other than through the establishment of a [private]
- 4262 club license; and
- 4263 (III) there is no reasonably viable alternative location within the geographic boundary
- 4264 of the local authority in which the [private] club licensee is to be located for establishing a
- 4265 [private] club license to satisfy the unmet demand described in Subsection [(7)]
- 4266 (6)(c)(vi)(B)(I).
- 4267 (d) With respect to the premises of a [private] club license issued by the commission
- 4268 that undergoes a change of ownership, the commission may waive or vary the proximity
- 4269 requirements of Subsection [(7)] (6)(a) in considering whether to grant a [private] club license
- 4270 to the new owner of the premises if:
- 4271 (i) (A) the premises previously received a variance reducing the proximity requirement
- 4272 of Subsection [(7)] (6)(a)(i); or

4273 (B) the premises received a variance reducing the proximity requirement of Subsection  
4274 [~~(7)~~] (6)(a)(ii) on or before May 4, 2008; or

4275 (ii) a variance from proximity requirements was otherwise allowed under this title.

4276 (e) The 600 foot limitation described in Subsection [~~(7)~~] (6)(a)(i) is measured from the  
4277 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
4278 property boundary of the community location.

4279 [~~(8)~~] (7) (a) Nothing in this section prevents the commission from considering the  
4280 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
4281 reaching a decision on whether to issue a [~~private~~] club license.

4282 (b) For purposes of this Subsection [~~(8)~~] (7), "educational facility" includes:

4283 (i) a nursery school;

4284 (ii) infant day care center; and

4285 (iii) a trade and technical school.

4286 [~~(9)~~] (8) If requested by a [~~private~~] club licensee, the commission may approve a  
4287 change in the [~~class~~] type of [~~private~~] club license in accordance with rules made by the  
4288 commission.

4289 (9) To the extent not prohibited by law other than this chapter, this chapter does not  
4290 prevent a dining club licensee or social club licensee from restricting access to the club license  
4291 premises on the basis of an individual:

4292 (a) paying a fee; or

4293 (b) agreeing to being on a list of individuals who have access to the club license  
4294 premises.

4295 Section 41. Section **32A-5-102** is amended to read:

4296 **32A-5-102. Application and renewal requirements.**

4297 (1) A [~~club~~] person seeking a [~~class A, B, C, or D private~~] club license under this  
4298 chapter shall file a written application with the department in a form prescribed by the  
4299 department. The application shall be accompanied by:

4300 (a) a nonrefundable \$250 application fee;

4301 (b) an initial license fee of \$2,500, which is refundable if a club license is not granted;

4302 (c) written consent of the local authority;

4303 (d) a copy of the applicant's current business license;

- 4304 (e) evidence of proximity to any community location, with proximity requirements  
4305 being governed by Section 32A-5-101;
- 4306 (f) evidence that the applicant operates a club where a variety of food is prepared and  
4307 served in connection with dining accommodations;
- 4308 (g) a bond as specified by Section 32A-5-106;
- 4309 (h) a floor plan of the club license premises, including;
- 4310 (i) consumption areas; and
- 4311 (ii) the area where the applicant proposes to keep and store liquor;
- 4312 (i) evidence that the club is carrying public liability insurance in an amount and form  
4313 satisfactory to the department;
- 4314 (j) evidence that the club is carrying dramshop insurance coverage of at least  
4315 ~~[\$500,000]~~ \$1,000,000 per occurrence and ~~[\$1,000,000]~~ \$2,000,000 in the aggregate;
- 4316 (k) if the applicant is applying for an equity club license or fraternal club license, a  
4317 copy of the club's bylaws or house rules, and any amendments to those documents~~[, which shall~~  
4318 ~~be kept on file with the department at all times]~~;
- 4319 (l) a signed consent form stating that the club licensee and its management will permit  
4320 any authorized representative of the commission, department, or any law enforcement officer  
4321 unrestricted right to enter the club license premises;
- 4322 (m) (i) a statement as to whether the ~~[private club]~~ applicant is seeking to qualify as [a  
4323 ~~class A, B, C, or D private club licensee; and]~~;
- 4324 (A) an equity club licensee;
- 4325 (B) a fraternal club licensee;
- 4326 (C) a dining club licensee; or
- 4327 (D) a social club licensee; and
- 4328 (ii) evidence that the ~~[private club]~~ applicant meets the requirements for the  
4329 ~~[classification]~~ type of club license described in Subsection (1)(m)(i) for which the [club]  
4330 applicant is applying;
- 4331 (n) in the case of a partnership, corporation, or limited liability company applicant,  
4332 proper verification evidencing that the person or persons signing the ~~[private]~~ club license  
4333 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
4334 company; and

4335 (o) any other information the commission or department may require.

4336 (2) (a) The commission may refuse to issue a club license to an applicant for an equity  
4337 club licensee or fraternal club licensee if the commission determines that any provisions of the  
4338 [~~club's~~] applicant's bylaws or house rules, or amendments to those documents are not:

4339 (i) reasonable; and

4340 (ii) consistent with:

4341 (A) the declared nature and purpose of the applicant; and

4342 (B) the purposes of this chapter.

4343 (b) [~~Club~~] An equity club licensee's or fraternal club licensee's bylaws or house rules  
4344 shall include provisions respecting the following:

4345 (i) standards of eligibility for members;

4346 (ii) limitation of members, consistent with the nature and purpose of the [~~private~~] club;

4347 (iii) the period for which dues are paid, and the date upon which the period expires;

4348 (iv) provisions for [~~dropping members~~] removing a member from the club membership  
4349 for the nonpayment of dues or other cause; and

4350 (v) provisions for guests [~~or visitors, if any, and for the issuance and use of visitor~~  
4351 ~~cards~~].

4352 (c) An equity club licensee or fraternal club licensee shall keep its bylaws or house  
4353 rules, and any amendments to those documents, on file with the department at all times.

4354 (3) (a) [~~All private club licenses expire~~] A club license expires on June 30 of each year.

4355 (b) A person desiring to renew that person's [~~private~~] club license shall submit by no  
4356 later than May 31:

4357 (i) a completed renewal application to the department; and

4358 (ii) a renewal fee [~~in the following amount:~~] of \$1,600.

4359 [~~Gross Cost of Liquor in Previous License Year for the Licensee — Renewal Fee]~~

4360 [~~under \$10,000 ————— \$1,000]~~

4361 [~~equals or exceeds \$10,000 but less than \$25,000 ————— \$1,250]~~

4362 [~~equals or exceeds \$25,000 but less than \$75,000 ————— \$1,750]~~

4363 [~~equals or exceeds \$75,000 ————— \$2,250]~~

4364 (c) Failure to meet the renewal requirements [~~shall result~~] results in an automatic  
4365 forfeiture of the club license effective on the date the existing club license expires.

4366 (d) A renewal application shall be in a form as prescribed by the department.

4367 (4) To ensure compliance with Subsection 32A-5-107[(40)] (26), the commission may  
4368 suspend or revoke [~~any private~~] a club license if the [~~private~~] club licensee does not  
4369 immediately notify the department of any change in:

4370 (a) ownership of the club licensee;

4371 (b) for a corporate owner, the:

4372 (i) corporate officers or directors; or

4373 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
4374 corporation; or

4375 (c) for a limited liability company:

4376 (i) managers; or

4377 (ii) members owning at least 20% of the limited liability company.

4378 Section 42. Section **32A-5-103 (Effective 07/01/09)** is amended to read:

4379 **32A-5-103 (Effective 07/01/09). Qualifications.**

4380 (1) (a) The commission may not grant a [~~private~~] club license to a person who has been  
4381 convicted of:

4382 (i) a felony under a federal or state law;

4383 (ii) a violation of a federal or state law or local ordinance concerning the sale,  
4384 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

4385 (iii) a crime involving moral turpitude; or

4386 (iv) on two or more occasions within the five years before the day on which the license  
4387 is granted, driving under the influence of alcohol, a drug, or the combined influence of alcohol  
4388 and a drug.

4389 (b) In the case of a partnership, corporation, or limited liability company, the  
4390 proscription under Subsection (1)(a) applies if any of the following has been convicted of an  
4391 offense described in Subsection (1)(a):

4392 (i) a partner;

4393 (ii) a managing agent;

4394 (iii) a manager;

4395 (iv) an officer;

4396 (v) a director;

4397 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of  
4398 the applicant corporation; or

4399 (vii) a member who owns at least 20% of the applicant limited liability company.

4400 (c) The proscription under Subsection (1)(a) applies if a person employed to act in a  
4401 supervisory or managerial capacity for a [private] club has been convicted of an offense  
4402 described in Subsection (1)(a).

4403 (2) The commission may immediately suspend or revoke a [private] club license if  
4404 after the day on which the [private] club license is granted, a person described in Subsection  
4405 (1)(a), (b), or (c):

4406 (a) is found to have been convicted of an offense described in Subsection (1)(a) prior to  
4407 the club license being granted; or

4408 (b) on or after the day on which the club license is granted:

4409 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

4410 (ii) (A) is convicted of driving under the influence of alcohol, a drug, or the combined  
4411 influence of alcohol and a drug; and

4412 (B) was convicted of driving under the influence of alcohol, a drug, or the combined  
4413 influence of alcohol and a drug within five years before the day on which the person is  
4414 convicted of the offense described in Subsection (2)(b)(ii)(A).

4415 (3) The director may take emergency action by immediately suspending the operation  
4416 of a [private] club license according to the procedures and requirements of Title 63G, Chapter  
4417 4, Administrative Procedures Act, for the period during which the criminal matter is being  
4418 adjudicated if a person described in Subsection (1)(a), (b), or (c):

4419 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);  
4420 or

4421 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, a  
4422 drug, or the combined influence of alcohol and a drug; and

4423 (ii) was convicted of driving under the influence of alcohol, a drug, or the combined  
4424 influence of alcohol and a drug within five years before the day on which the person is arrested  
4425 on a charge described in Subsection (3)(b)(i).

4426 (4) (a) (i) The commission may not grant a [private] club license to a person who has  
4427 had any type of license, agency, or permit issued under this title revoked within the last three

4428 years.

4429 (ii) The commission may not grant a [private] club license to an applicant that is a  
4430 partnership, corporation, or limited liability company if a partner, managing agent, manager,  
4431 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock  
4432 of an applicant corporation, or member who owns at least 20% of an applicant limited liability  
4433 company is or was:

4434 (A) a partner or managing agent of a partnership that had any type of license, agency,  
4435 or permit issued under this title revoked within the last three years;

4436 (B) a managing agent, officer, director, or a stockholder who holds or held at least 20%  
4437 of the total issued and outstanding stock of a corporation that had any type of license, agency,  
4438 or permit issued under this title revoked within the last three years; or

4439 (C) a manager or member who owns or owned at least 20% of a limited liability  
4440 company that had any type of license, agency, or permit issued under this title revoked within  
4441 the last three years.

4442 (b) An applicant that is a partnership, corporation, or limited liability company may not  
4443 be granted a [private] club license if any of the following had any type of license, agency, or  
4444 permit issued under this title revoked while acting in that person's individual capacity within  
4445 the last three years:

4446 (i) a partner or managing agent of the applicant partnership;

4447 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
4448 total issued and outstanding stock of the applicant corporation; or

4449 (iii) a manager or member who owned at least 20% of the applicant limited liability  
4450 company.

4451 (c) A person acting in an individual capacity may not be granted a [private] club  
4452 license if that person was:

4453 (i) a partner or managing agent of a partnership that had any type of license, agency, or  
4454 permit issued under this title revoked within the last three years;

4455 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the  
4456 total issued and outstanding stock of a corporation that had any type of license, agency, or  
4457 permit issued under this title revoked within the last three years; or

4458 (iii) a manager or member of a limited liability company who owned at least 20% of

4459 the limited liability company that had any type of license, agency, or permit issued under this  
4460 title revoked within the last three years.

4461 (5) (a) A minor may not be granted a ~~[private]~~ club license.

4462 (b) The commission may not grant a ~~[private]~~ club license to an applicant that is a  
4463 partnership, corporation, or limited liability company if any of the following is a minor:

4464 (i) a partner or managing agent of the applicant partnership;

4465 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
4466 total issued and outstanding stock of the applicant corporation; or

4467 (iii) a manager or member who owns at least 20% of the applicant limited liability  
4468 company.

4469 (6) If a person ~~[or entity]~~ to whom a club license ~~[has been issued]~~ is granted under this  
4470 chapter no longer possesses the qualifications required by this title for obtaining that license,  
4471 the commission may suspend or revoke that license.

4472 (7) The commission may not grant a ~~[private]~~ club license to an applicant who is not  
4473 lawfully present in the United States.

4474 Section 43. Section **32A-5-104** is amended to read:

4475 **32A-5-104. Commission and department duties before granting licenses.**

4476 (1) (a) Before a ~~[private]~~ club license may be granted by the commission, the  
4477 department shall conduct an investigation and may hold public hearings for the purpose of  
4478 gathering information and making recommendations to the commission as to whether or not a  
4479 club license should be granted.

4480 (b) The department shall forward the information and recommendations described in  
4481 Subsection (1)(a) to the commission to aid in the commission's determination.

4482 (2) Before ~~[issuing a private]~~ granting a club license, the commission shall:

4483 (a) determine that:

4484 (i) the applicant has complied with all basic qualifications and requirements for making  
4485 application for a club license as provided by Sections 32A-5-102 and 32A-5-103; and

4486 (ii) the application is complete;

4487 (b) determine ~~[whether the applicant qualifies as a class A, B, C, or D private club~~  
4488 ~~licensee]~~ the type of club license for which the applicant qualifies;

4489 (c) consider the locality within which the proposed ~~[private]~~ club license outlet is

- 4490 located including:
- 4491 (i) physical characteristics such as:
- 4492 (A) condition of the premises;
- 4493 (B) square footage; and
- 4494 (C) parking availability; and
- 4495 (ii) operational factors such as:
- 4496 (A) tourist traffic;
- 4497 (B) proximity to and density of other state stores, package agencies, and licensed
- 4498 outlets;
- 4499 (C) demographics;
- 4500 (D) population to be served; and
- 4501 (E) the extent of and proximity to any community location;
- 4502 (d) consider the club license management's ability to manage and operate a [private]
- 4503 club license, including:
- 4504 (i) management experience;
- 4505 (ii) past retail liquor experience; and
- 4506 (iii) the type of management scheme employed by the [private] club licensee;
- 4507 (e) consider the nature or type of [private] club [operation] operations of the proposed
- 4508 [liquor] club licensee, including:
- 4509 (i) the type of menu items offered and emphasized;
- 4510 (ii) the hours of operation;
- 4511 (iii) the seating capacity of the [facility] premises; and
- 4512 (iv) the gross sales of food items; and
- 4513 (f) consider any other factor or circumstance the commission considers necessary.
- 4514 Section 44. Section **32A-5-106** is amended to read:
- 4515 **32A-5-106. Bond.**
- 4516 (1) Each [private] club [liquor] licensee shall post a cash or corporate surety bond in
- 4517 the penal sum of \$10,000 payable to the department, which the club licensee has procured and
- 4518 must maintain for so long as the club licensee continues to operate as a [private] club [liquor]
- 4519 licensee.
- 4520 (2) The bond shall be in a form approved by the attorney general, conditioned upon

4521 [the] a club licensee's faithful compliance with this title and the rules of the commission.

4522 (3) (a) If [the] a \$10,000 corporate surety bond is canceled due to [the] a club licensee's  
4523 negligence, a \$300 reinstatement fee may be assessed.

4524 (b) No part of any cash or corporate bond [~~so~~] posted under this section may be  
4525 withdrawn;

4526 (i) during the period the club license is in effect[-]; or

4527 (ii) while revocation proceedings are pending against the club licensee.

4528 (c) A bond filed by a club licensee may be forfeited if the club license is finally  
4529 revoked.

4530 Section 45. Section **32A-5-107** is amended to read:

4531 **32A-5-107. Operational restrictions.**

4532 A [~~club~~] person granted a [~~private~~] club license and the employees, management  
4533 personnel, and members of [the] an equity club licensee or fraternal club licensee shall comply  
4534 with the following conditions and requirements. Failure to comply may result in a suspension  
4535 or revocation of the [~~private~~] club license or other disciplinary action taken against individual  
4536 employees or management personnel.

4537 (1) [~~A private~~] An equity club licensee or fraternal club licensee shall comply with the  
4538 following:

4539 (a) A club licensee shall have a governing body that:

4540 [~~(a)~~] (i) consists of three or more members of the [~~private~~] club; and

4541 [~~(b)~~] (ii) holds regular meetings to:

4542 [(i)] (A) review membership applications; and

4543 [(ii)] (B) conduct other business as required by the bylaws or house rules of the  
4544 [~~private~~] club.

4545 [(2)-(a) A private] (b) A club licensee may admit an individual as a member only on  
4546 written application signed by the applicant, subject to:

4547 (i) the applicant paying an application fee [~~as required by Subsection (4)~~]; and

4548 (ii) investigation, vote, and approval of a quorum of the governing body.

4549 [~~(b)-(i) An~~] (c) A club licensee shall:

4550 (i) record an admission of a member [~~shall be recorded~~] in the official minutes of a  
4551 regular meeting of the governing body[-]; and

4552 (ii) ~~[An application,]~~ whether approved or disapproved, ~~[shall be filed]~~ file an  
4553 application as a part of the official records of the ~~[private]~~ club licensee.

4554 ~~[(c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an~~  
4555 ~~applicant and immediately accord the applicant temporary privileges of a member until the~~  
4556 ~~governing body completes its investigation and votes on the application, subject to the~~  
4557 ~~following conditions:]~~

4558 ~~[(i) the applicant shall:]~~

4559 ~~[(A) submit a written application; and]~~

4560 ~~[(B) pay the application fee required by Subsection (4);]~~

4561 ~~[(ii) the governing body votes on the application at its next meeting, which shall take~~  
4562 ~~place no later than 31 days following the day on which the application is submitted; and]~~

4563 ~~[(iii) the applicant's temporary membership privileges terminate if the governing body~~  
4564 ~~disapproves the application.]]~~

4565 (d) The spouse of a member of ~~[any class of private]~~ a club licensee has the rights and  
4566 privileges of the member:

4567 (i) to the extent permitted by the bylaws or house rules of the ~~[private]~~ club licensee;

4568 and

4569 (ii) except to the extent restricted by this title.

4570 (e) ~~[The]~~ A minor child of a member of ~~[a class A private]~~ a club licensee has the  
4571 rights and privileges of the member:

4572 (i) to the extent permitted by the bylaws or house rules of the ~~[private]~~ club licensee;

4573 and

4574 (ii) except to the extent restricted by this title.

4575 ~~[(3) (a) A private]~~ (f) A club licensee shall maintain a current and complete  
4576 membership record showing:

4577 (i) the date of application of a proposed member;

4578 (ii) a member's address;

4579 (iii) the date the governing body approved a member's admission;

4580 (iv) the date initiation fees and dues are assessed and paid; and

4581 (v) the serial number of the membership card issued to a member.

4582 ~~[(b) A]~~ (g) A club licensee shall keep a current record ~~[shall be kept]~~ indicating when

4583 a member is ~~[dropped]~~ removed as a member or resigns.

4584 ~~[(4)(a) A private]~~ (h) A club licensee shall establish in the [private] club licensee's  
4585 bylaws or house rules application fees and membership dues[?].

4586 ~~[(i) as established by commission rules; and]~~

4587 ~~[(ii) that are collected from all members.]~~

4588 ~~[(b) An application fee:]~~

4589 ~~[(i) may not be less than \$4;]~~

4590 ~~[(ii) shall be paid when the applicant applies for membership; and]~~

4591 ~~[(iii) at the discretion of the private club, may be credited toward membership dues if~~  
4592 ~~the governing body approves the applicant as a member.]~~

4593 ~~[(5)(a) A private]~~ (i) A club licensee may, in its discretion, allow an individual to be  
4594 admitted to or use the [private] club license premises as a guest [only under] subject to the  
4595 following conditions:

4596 (i) the individual is allowed to use the club license premises only to the extent  
4597 permitted by the club licensee's bylaws or house rules;

4598 ~~[(i) a guest]~~ (ii) the individual must be previously authorized by [one of the following]  
4599 a member of the club who agrees to host the individual as a guest into the [private] club[?];

4600 ~~[(A) an active member of the private club; or]~~

4601 ~~[(B) a holder of a current visitor card;]~~

4602 ~~[(ii) a guest must be known by the guest's host based on a preexisting bonafide business~~  
4603 ~~or personal relationship with the host before the guest's admittance to the private club;]~~

4604 ~~[(iii) a guest must be accompanied by the guest's host for the duration of the guest's visit~~  
4605 ~~to the private club;]~~

4606 ~~[(iv) a guest's host must remain on the private club premises for the duration of the~~  
4607 ~~guest's visit to the private club;]~~

4608 ~~[(v) a guest's host is responsible for the cost of services extended to the guest;]~~

4609 ~~[(vi) a guest]~~ (iii) the individual has only those privileges derived from the [guest's]  
4610 individual's host for the duration of the [guest's] individual's visit to the [private] club license  
4611 premises; and

4612 ~~[(vii) an employee of the private club, while on duty, may not act as a host for a guest;]~~

4613 ~~[(viii) an employee of the private club, while on duty, may not attempt to locate a~~

4614 ~~member or current visitor card holder to serve as a host for a guest with whom the member or~~  
4615 ~~visitor card holder has no acquaintance based on a preexisting bonafide business or personal~~  
4616 ~~relationship prior to the guest's arrival at the private club; and]~~

4617 ~~[(ix) a private]~~ (iv) a club licensee or an employee of the [private] club licensee may  
4618 not enter into an agreement or arrangement with a club member [~~or holder of a current visitor~~  
4619 ~~card]~~ to indiscriminately host a member of the general public into the [private] club license  
4620 premises as a guest.

4621 ~~[(b)]~~ (j) Notwithstanding Subsection ~~[(5)(a), previous authorization is not required]~~  
4622 (1)(i), an individual may be allowed as a guest in a club license premises without a host if:

4623 ~~[(i) the private club licensee is a class B private club; and]~~

4624 (i) (A) the club licensee is an equity club licensee; and

4625 (B) the individual is a member of an equity club licensee that has reciprocal guest  
4626 privileges with the equity club licensee for which the individual is a guest; or

4627 (ii) (A) the club licensee is a fraternal club licensee; and

4628 ~~[(ii) the guest]~~ (B) the individual is a member of the same fraternal organization as the  
4629 [~~private~~] fraternal club licensee for which the individual is a guest.

4630 ~~[(6) A private club may, in its discretion, issue a visitor card to allow an individual to~~  
4631 ~~enter and use the private club premises on a temporary basis under the following conditions:]~~

4632 ~~[(a) a visitor card shall be issued for a period not to exceed three weeks;]~~

4633 ~~[(b) a fee of not less than \$4 shall be assessed for a visitor card that is issued;]~~

4634 ~~[(c) a visitor card may not be issued to a minor;]~~

4635 ~~[(d) a holder of a visitor card may not host more than seven guests at one time;]~~

4636 ~~[(e) a visitor card issued shall include:]~~

4637 ~~[(i) the visitor's full name and signature;]~~

4638 ~~[(ii) the date the visitor card is issued;]~~

4639 ~~[(iii) the date the visitor card expires;]~~

4640 ~~[(iv) the club's name; and]~~

4641 ~~[(v) the serial number of the visitor card; and]~~

4642 ~~[(f) (i) the private club shall maintain a current record of the issuance of a visitor card~~  
4643 ~~on the private club premises; and]~~

4644 ~~[(ii) the record described in Subsection (6)(f)(i) shall:]~~

4645 ~~[(A) be available for inspection by the department; and]~~  
4646 ~~[(B) include:]~~  
4647 ~~[(F) the name of the person to whom the visitor card is issued;]~~  
4648 ~~[(H) the date the visitor card is issued;]~~  
4649 ~~[(III) the date the visitor card expires; and]~~  
4650 ~~[(IV) the serial number of the visitor card.]~~  
4651 ~~[(7) A private]~~ (k) A club licensee may not sell an alcoholic beverage to or allow a  
4652 patron to be admitted to or use the ~~[private]~~ club license premises other than:  
4653 ~~[(a)]~~ (i) a member; or  
4654 (ii) a guest under Subsection (1)(i) or (j).  
4655 ~~[(b) a visitor who holds a valid visitor card issued under Subsection (6); or]~~  
4656 ~~[(c) a guest of: (i) a member; or (ii) a holder of a valid visitor card.]~~  
4657 ~~[(8)(a)]~~ (l) A minor may not be: ~~[(i)]~~ a member, officer, director, or trustee of a  
4658 ~~[private]~~ club~~;~~ licensee.  
4659 ~~[(ii) issued a visitor card;]~~  
4660 ~~[(iii) admitted into, use, or be on the premises of a lounge or bar area, as defined by~~  
4661 ~~commission rule, of a private club except to the extent authorized under Subsection (8)(c)(ii);]~~  
4662 (m) (i) A club licensee shall maintain a minute book that is posted currently by the club  
4663 licensee.  
4664 (ii) The minute book required by this Subsection (1)(m) shall contain the minutes of a  
4665 regular or special meeting of the governing body.  
4666 (n) A club licensee shall maintain a membership list.  
4667 (o) A club licensee shall maintain a current copy of the club licensee's current bylaws  
4668 and current house rules.  
4669 (p) Public advertising related to a club licensee by the following shall clearly identify a  
4670 club as being "a club for members":  
4671 (i) the club licensee;  
4672 (ii) an employee or agent of the club licensee; or  
4673 (iii) a person under a contract or agreement with the club licensee.  
4674 ~~[(iv) admitted into, use, or be on the premises of a class D private club:]~~  
4675 ~~[(A) that operates as a sexually oriented business as defined by local ordinance; or]~~

4676 ~~[(B) when a sexually oriented entertainer is performing on the premises; or]~~  
4677 ~~[(v) admitted into, use, or be on the premises of a class D private club except to the~~  
4678 ~~extent authorized under Subsections (8)(b) through (g).]~~  
4679 ~~[(b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private~~  
4680 ~~club, a minor may be admitted into, use, or be on the premises of a class D private club under~~  
4681 ~~the following circumstances:]~~  
4682 ~~[(i) during a period when no alcoholic beverages are sold, served, otherwise furnished,~~  
4683 ~~or consumed on the premises, but in no event later than 1 p.m.;~~]  
4684 ~~[(ii) when accompanied at all times by a member or holder of a current visitor card~~  
4685 ~~who is the minor's parent, legal guardian, or spouse; and]~~  
4686 ~~[(iii) the private club has a full kitchen and is licensed by the local jurisdiction as a~~  
4687 ~~food service provider.]~~  
4688 ~~[(c) A class D private club may employ a minor on the premises of the private club if:]~~  
4689 ~~[(i) the parent or legal guardian of the minor owns or operates the class D private club;~~  
4690 ~~or]~~  
4691 ~~[(ii) the minor performs maintenance and cleaning services during the hours when the~~  
4692 ~~private club is not open for business.]~~  
4693 (2) (a) A minor may not be admitted into, use, or be on:  
4694 (i) a lounge or bar area, as defined by commission rule, of the premises of:  
4695 (A) an equity club licensee;  
4696 (B) a fraternal club licensee; or  
4697 (C) a dining club licensee; or  
4698 (ii) the premises of ~~H~~ :  
4698a (A) a dining club licensee unless accompanied by an individual who is 21 years of age or  
4698b older; or  
4698c (B) ~~H~~ a social club licensee, except to the extent provided for under  
4699 Subsection (2)(d).  
4700 (b) (i) Except as provided in Subsection (2)(b)(ii), a club licensee may not employ a  
4701 minor to:  
4702 (A) sell, dispense, or handle an alcoholic beverage; or  
4703 (B) work in a lounge or bar area of an equity club licensee, fraternal club licensee, or  
4704 dining club licensee.  
4705 (ii) An equity club licensee or dining club licensee may employ a minor who is at least  
4706 16 years of age to enter the sale at a cash register or other sales recording device, except that a

4707 minor may not work in a lounge or bar area of the club licensee.

4708 (c) A minor may not be employed on the premises of a social club licensee.

4709 (d) (i) [~~Subject to Subsection (8)(d)(ii), a~~] A minor who is at least 18 years of age may

4710 be admitted into, use, or be on the premises of a dance or concert hall if:

4711 (A) the dance or concert hall is located:

4712 (I) on the premises of a [~~class D private~~] social club licensee; or

4713 (II) on the property that immediately adjoins the premises of and is operated by a [~~class~~

4714 ~~D private~~] social club licensee; and

4715 (B) the social club licensee holds a permit to operate a dance or concert hall that was

4716 granted on or before May 11, 2009:

4717 (I) on the basis of the operational requirements described in Subsection (2)(d)(ii); and

4718 (II) when the social club licensee was licensed as a class D private club.

4719 [~~(B) the commission issues the class D private club a permit to operate a minor dance~~

4720 ~~or concert hall based on the criteria described in Subsection (8)(d)(iii).]~~

4721 [~~(ii) If the dance or concert hall is located on the premises of a class D private club, a~~

4722 ~~minor must be properly hosted in accordance with Subsection (5) by:]~~

4723 [~~(A) a member; or]~~

4724 [~~(B) a holder of a current visitor card.]~~

4725 [~~(iii) The commission may issue a minor dance or concert hall permit if:]~~

4726 (ii) A social club licensee that holds a dance or concert hall permit shall operate in such

4727 a way that:

4728 (A) the [~~private club's~~] social club licensee's lounge, bar, [~~and~~] or other area for

4729 alcoholic beverage consumption [area] is:

4730 (I) not accessible to a minor;

4731 (II) clearly defined; and

4732 (III) separated from the dance or concert hall area by one or more walls, multiple floor

4733 levels, or other substantial physical barriers;

4734 (B) a bar or dispensing area is not visible to a minor;

4735 (C) consumption of an alcoholic beverage may not occur in:

4736 (I) the dance or concert hall area; or

4737 (II) an area of the [~~private~~] social club license premises accessible to a minor;

4738 (D) the [~~private~~] social club licensee maintains sufficient security personnel to prevent  
 4739 the passing of beverages from the [~~private club's~~] social club licensee's lounge, bar, or [an]  
 4740 other area for alcoholic beverage consumption [~~area~~] to:

4741 (I) the dance or concert hall area; or

4742 (II) an area of the [~~private~~] social club license premises accessible to a minor;

4743 (E) there are one or more separate entrances, exits, and restroom facilities from the  
 4744 [~~private club's~~] social club licensee's lounge, bar, [and] or other area for alcoholic beverage  
 4745 consumption [~~areas~~] than for:

4746 (I) the dance or concert hall area; or

4747 (II) an area accessible to a minor; and

4748 (F) the [~~private~~] social club licensee complies with any other restrictions imposed by  
 4749 the commission by rule.

4750 [~~(e)~~] (iii) A minor under 18 years of age who is accompanied at all times by a parent or  
 4751 legal guardian [~~who is a member or holder of a current visitor card~~] may be admitted into, use,  
 4752 or be on the premises of a concert hall described in Subsection [~~(8)(d)(i)~~] (2)(d)(ii) if:

4753 [(i)] (A) the requirements of Subsection [~~(8)~~] (2)(d) are met; and

4754 [(ii)] (B) signage, product, and dispensing equipment containing recognition of an  
 4755 alcoholic beverage is not visible to the minor.

4756 [(f)] (iv) A minor under 18 years of age but who is 14 years of age or older who is not  
 4757 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of  
 4758 a concert hall described in Subsection [~~(8)(d)(i)~~] (2)(d)(ii) if:

4759 [(i)] (A) the requirements of Subsections [~~(8)(d) and (8)(e)(ii)~~] (2)(d)(ii) and (iii) are  
 4760 met; and

4761 [(ii)] (B) there is no alcoholic beverage, sales, service, or consumption on the premises  
 4762 of the [~~class D private~~] social club licensee.

4763 [(g)] (v) The commission may suspend or revoke a [~~minor~~] dance or concert permit  
 4764 issued to a [~~class D private~~] social club licensee and suspend or revoke the license of the [~~class~~  
 4765 ~~D private~~] social club licensee if:

4766 [(i)] (A) the [~~private~~] social club licensee fails to comply with the restrictions in this  
 4767 Subsection [~~(8)(d), (e), or (f)~~] (2)(d);

4768 [(ii)] (B) the [~~private~~] social club licensee sells, serves, or otherwise furnishes an

4769 alcoholic beverage to a minor;

4770           [(iii)] (C) the [~~private~~] social club licensee or a supervisory or managerial level  
4771 employee of the [~~private~~] social club licensee is convicted under Title 58, Chapter 37, Utah  
4772 Controlled Substances Act, on the basis of an activity that occurs on:

4773           [(A)] (I) the licensed premises; or

4774           [(B)] (II) the dance or concert hall that is located on property that immediately adjoins  
4775 the premises of and is operated by the [~~class D private~~] social club licensee;

4776           [(iv)] (D) there are three or more convictions of patrons of the [~~private~~] social club  
4777 licensee under Title 58, Chapter 37, Utah Controlled Substances Act, [~~based on~~] on the basis of  
4778 activities that occur on:

4779           [(A)] (I) the licensed premises; or

4780           [(B)] (II) the dance or concert hall that is located on property that immediately adjoins  
4781 the premises of and is operated by the [~~class D private~~] social club licensee;

4782           [(v)] (E) there is more than one conviction:

4783           [(A)] (I) of:

4784           [(F)] (Aa) the [~~private~~] social club licensee;

4785           [(H)] (Bb) an employee of the [~~private~~] social club licensee;

4786           [(HH)] (Cc) an entertainer contracted by the [~~private~~] social club licensee; or

4787           [(IV)] (Dd) a patron of the [~~private~~] social club licensee; and

4788           [(B)] (II) made on the basis of a lewd act or lewd entertainment prohibited by this title  
4789 that occurs on:

4790           [(F)] (A) the licensed premises; or

4791           [(H)] (B) the dance or concert hall that is located on property that immediately adjoins  
4792 the premises of and is operated by the [~~class D private~~] social club licensee; or

4793           [(vi)] (F) the commission finds acts or conduct contrary to the public welfare and  
4794 morals involving lewd acts or lewd entertainment prohibited by this title that occurs on:

4795           [(A)] (I) the licensed premises; or

4796           [(B)] (II) the dance or concert hall that is located on property that immediately adjoins  
4797 the premises of and is operated by the [~~class D private~~] social club licensee.

4798           [(h)] (vi) Nothing in this Subsection [(8)] (2) prohibits a [~~class D private~~] social club  
4799 licensee from selling, serving, or otherwise furnishing an alcoholic beverage in a dance or

4800 concert area located on the [~~private~~] social club license premises on days and times when the  
 4801 [~~private~~] social club licensee does not allow a minor into those areas.

4802 [~~(i)~~] (e) Nothing in [~~Subsections (8)(a) through (g)~~] this Subsection (2) precludes a  
 4803 local authority from being more restrictive of a minor's admittance to, use of, or presence on  
 4804 the premises of a [~~private~~] club licensee.

4805 [~~(9)~~] (3) (a) A [~~private~~] club license shall maintain an expense ledger or record showing  
 4806 in detail [~~all~~]:

4807 (i) quarterly expenditures separated by payments for:

4808 [~~(i)~~] (A) malt or brewed beverages;

4809 [~~(ii)~~] (B) liquor;

4810 [~~(iii)~~] (C) food;

4811 [~~(iv)~~] detailed payroll;

4812 [~~(v)~~] entertainment;

4813 [~~(vi)~~] rent;

4814 [~~(vii)~~] utilities;

4815 [~~(viii)~~] supplies; and

4816 [~~(ix)~~] other expenditures.

4817 (D) set-ups; and

4818 (E) any other item required by the department; and

4819 (ii) sales made separately for:

4820 (A) malt or brewed beverages;

4821 (B) liquor;

4822 (C) food;

4823 (D) set-ups; and

4824 (E) any other item required by the department.

4825 (b) A [~~private~~] club licensee shall keep a record required by this Subsection [~~(9)~~] (3):

4826 (i) in a form approved by the department; and

4827 [~~(ii)~~] balanced each month.

4828 (ii) current for each three-month period.

4829 (c) An expenditure of a club licensee shall be supported by:

4830 (i) a delivery ticket;

4831 (ii) an invoice;

4832 (iii) a receipted bill;

4833 (iv) a canceled check;

4834 (v) a petty cash voucher; or

4835 (vi) other sustaining datum or memorandum.

4836 ~~[(d) An invoice or receipted bill for the current calendar or fiscal year documenting a~~

4837 ~~purchase made by the private club shall be maintained.]~~

4838 ~~[(10) (a) A private club shall maintain a minute book that is posted currently by the~~

4839 ~~private club.]~~

4840 ~~[(b) The minute book required by this Subsection (10) shall contain the minutes of a~~

4841 ~~regular or special meeting of the governing body.]~~

4842 ~~[(c) A private club shall maintain a membership list.]~~

4843 ~~[(11) (a) A private club shall maintain a current copy of the private club's current~~

4844 ~~bylaws and current house rules:]~~

4845 ~~[(b) A change in the bylaws or house rules:]~~

4846 ~~[(i) is not effective unless submitted to the department within ten days after adoption;~~

4847 ~~and]~~

4848 ~~[(ii) becomes effective 15 days after received by the department unless rejected by the~~

4849 ~~department before the expiration of the 15-day period.]~~

4850 ~~[(12) A private club] (d) In addition to a ledger or record required by Subsection (3)(a),~~

4851 a club licensee shall maintain accounting and other records and documents as the department

4852 may require.

4853 ~~[(13) (e) A [private] club licensee or person acting for the [private] club licensee, who~~

4854 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of

4855 account or other document of the [private] club licensee required to be made, maintained, or

4856 preserved by this title or the rules of the commission for the purpose of deceiving the

4857 commission, the department, or an official or employee of the commission or department, is

4858 subject to:

4859 ~~[(a) (i) the suspension or revocation of the [private club's] club license; and~~

4860 ~~[(b) (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.~~

4861 ~~[(14) (a) (f) A [private] club licensee shall maintain and keep a record required by this~~

4862 section and a book, record, receipt, or disbursement maintained or used by the club licensee, as  
4863 the department requires, for a minimum period of three years.

4864 ~~[(b)]~~ (g) A record, book, receipt, or disbursement is subject to inspection by an  
4865 authorized representative of the commission and the department.

4866 ~~[(c)]~~ (h) A [~~private~~] club licensee shall allow the department, through an auditor or  
4867 examiner of the department, to audit the records of the [~~private~~] club licensee at times the  
4868 department considers advisable.

4869 ~~[(d)]~~ (i) The department shall audit the records of the [~~private~~] club licensee at least  
4870 once annually.

4871 ~~[(15)]~~ (4) (a) A [~~private~~] club licensee shall own or lease premises suitable for the  
4872 [~~private club's~~] club licensee's activities.

4873 ~~[(16)-(a)]~~ (b) A [~~private~~] club licensee may not maintain [~~facilities~~] premises in a  
4874 manner that barricades or conceals the [~~private~~] club licensee's operation.

4875 ~~[(b)]~~ (c) A member of the commission, authorized department personnel, or a peace  
4876 officer shall, upon presentation of credentials, be admitted immediately to the [~~private~~] club  
4877 license premises and permitted without hindrance or delay to inspect completely the entire  
4878 [~~private~~] club license premises and the books and records of the [~~private~~] club licensee, at any  
4879 time during which the [~~private~~] club licensee is open for the transaction of business to its  
4880 members.

4881 ~~[(17) Public advertising related to a private club licensee by the following shall clearly  
4882 identify a private club as being "a private club for members":]~~

4883 ~~[(a) the private club licensee;]~~

4884 ~~[(b) an employee or agent of the private club licensee; or]~~

4885 ~~[(c) a person under a contract or agreement with the private club licensee.]~~

4886 ~~[(18) A private]~~ (5) A club licensee must have food available at all times when an  
4887 alcoholic beverage is sold, served, or consumed on the premises.

4888 ~~[(19)]~~ (6) (a) [~~Liquor may not be purchased by a private~~] A club licensee may not  
4889 purchase liquor except from a state store or package agency.

4890 (b) Liquor purchased from a state store or package agency may be transported by the  
4891 [~~private~~] club licensee from the place of purchase to the licensed premises.

4892 (c) Payment for liquor shall be made in accordance with rules established by the

4893 commission.

4894           ~~[(20)]~~ (7) A ~~[private]~~ club licensee may sell or provide a primary spirituous liquor only  
4895 in a quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered  
4896 dispensing system approved by the department in accordance with commission rules adopted  
4897 under this title, except that:

4898           (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
4899 system if used as a secondary flavoring ingredient in a beverage subject to the following  
4900 restrictions:

4901           (i) the secondary ingredient may be dispensed only in conjunction with the purchase of  
4902 a primary spirituous liquor;

4903           (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

4904           (iii) the ~~[private]~~ club licensee shall designate a location where flavorings are stored on  
4905 the floor plan provided to the department; and

4906           (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

4907           (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
4908 system if used:

4909           (i) as a flavoring on a dessert; and

4910           (ii) in the preparation of a flaming food dish, drink, or dessert;

4911           (c) a ~~[private]~~ club licensee patron may have no more than 2.5 ounces of spirituous  
4912 liquor at a time before the ~~[private]~~ club licensee patron~~[-]; and~~

4913           (d) a ~~[private]~~ club licensee patron may have no more than two spirituous liquor drinks  
4914 at a time before the ~~[private]~~ club licensee patron, except that a ~~[private]~~ club licensee patron  
4915 may not have two spirituous liquor drinks before the ~~[private]~~ club licensee patron if one of the  
4916 spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous  
4917 liquor drink.

4918           ~~[(21)]~~ (8) (a) (i) Wine may be sold and served by the glass or an individual portion not  
4919 to exceed five ounces per glass or individual portion.

4920           (ii) An individual portion may be served to a patron in more than one glass as long as  
4921 the total amount of wine does not exceed five ounces.

4922           (iii) An individual portion of wine is considered to be one alcoholic beverage under  
4923 Subsection ~~[(25)]~~ (12)(c).

4924 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price  
4925 fixed by the commission to a table of four or more persons.

4926 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price  
4927 fixed by the commission to a table of less than four persons.

4928 (c) A wine service may be performed and a service charge assessed by the [private]  
4929 club licensee as authorized by commission rule for wine purchased at the [private] club license  
4930 premises.

4931 [~~22~~] (9) (a) Heavy beer may be served in an original container not exceeding one liter  
4932 at a price fixed by the commission.

4933 (b) A flavored malt beverage may be served in an original container not exceeding one  
4934 liter at a price fixed by the commission.

4935 (c) A service charge may be assessed by the [private] club licensee for heavy beer or a  
4936 flavored malt beverage purchased at the [private] club license premises.

4937 [~~23~~] (10) (a) (i) Subject to Subsection [~~23~~] (10)(a)(ii), a [private] club licensee may  
4938 sell beer for on-premise consumption:

4939 (A) in an open container; and

4940 (B) on draft.

4941 (ii) Beer sold pursuant to Subsection [~~23~~] (10)(a)(i) shall be in a size of container that  
4942 does not exceed two liters, except that beer may not be sold to an individual patron in a size of  
4943 container that exceeds one liter.

4944 (b) (i) A [private] club licensee that sells beer pursuant to Subsection [~~23~~] (10)(a):

4945 (A) may do so without obtaining a separate on-premise beer retailer license from the  
4946 commission; and

4947 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
4948 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are  
4949 inconsistent with or less restrictive than the operational restrictions under this chapter.

4950 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
4951 Licenses, required by Subsection [~~23~~] (10)(b)(i) may result in a suspension or revocation of  
4952 the [~~private club's~~] club licensee's:

4953 (A) state liquor license; and

4954 (B) alcoholic beverage license issued by the local authority.

4955           ~~[(24)]~~ (11) An alcoholic beverage may not be stored, served, or sold in a place other  
4956 than as designated in the ~~[private]~~ club licensee's application, unless the ~~[private]~~ club licensee  
4957 first applies for and receives approval from the department for a change of location within the  
4958 ~~[private]~~ club license.

4959           ~~[(25)]~~ (12) (a) A patron may only make an alcoholic beverage purchase in the ~~[private]~~  
4960 club license premises from and be served by a person employed, designated, and trained by the  
4961 ~~[private]~~ club licensee to sell, dispense, and serve an alcoholic beverage.

4962           (b) Notwithstanding Subsection ~~[(25)]~~ (12)(a), a patron who purchases bottled wine  
4963 from an employee of the ~~[private]~~ club licensee or carries bottled wine onto the premises of the  
4964 ~~[private]~~ club licensee pursuant to Subsection ~~[(31)]~~ (18) may thereafter serve wine from the  
4965 bottle to the patron or others at the patron's table.

4966           (c) A ~~[private]~~ club licensee patron may have no more than two alcoholic beverages of  
4967 any kind at a time before the ~~[private]~~ club licensee patron, subject to the limitation of  
4968 Subsection ~~[(20)]~~ (7)(d).

4969           ~~[(26)]~~ (13) The liquor storage area shall remain locked at all times other than those  
4970 hours and days when liquor sales and service are authorized by law.

4971           ~~[(27)]~~ (14) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished  
4972 at a ~~[private]~~ club license premises on any day after 1 a.m. or before 10 a.m.

4973           (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
4974 Licenses, for on-premise beer licenses.

4975           (c) (i) Notwithstanding Subsections ~~[(27)]~~ (14)(a) and (b), a ~~[private]~~ club license  
4976 premises shall remain open for one hour after the ~~[private]~~ club licensee ceases the sale and  
4977 service of an alcoholic beverage during which time a patron of the ~~[private]~~ club licensee may  
4978 finish consuming:

4979           (A) a single drink containing spirituous liquor;

4980           (B) a single serving of wine not exceeding five ounces;

4981           (C) a single serving of heavy beer;

4982           (D) a single serving of beer not exceeding 26 ounces; or

4983           (E) a single serving of a flavored malt beverage.

4984           (ii) A ~~[private]~~ club licensee is not required to remain open:

4985           (A) after all patrons have vacated the premises; or

4986 (B) during an emergency.

4987 (d) Between the hours of 2 a.m. and 10 a.m. on any day a [~~private~~] club licensee may  
4988 not allow a patron to remain on the premises of the [~~private~~] club licensee to consume an  
4989 alcoholic beverage on the premises.

4990 [~~(28)~~] (15) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

4991 (a) minor;

4992 (b) person actually, apparently, or obviously intoxicated;

4993 (c) known habitual drunkard; or

4994 (d) known interdicted person.

4995 [~~(29)~~] (16) (a) (i) Liquor may be sold only at a price fixed by the commission.

4996 (ii) Liquor may not be sold at a discount price on any date or at any time.

4997 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic  
4998 beverage to the [~~private~~] club licensee.

4999 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
5000 over consumption or intoxication.

5001 (d) The price of a single serving of a primary spirituous liquor shall be the same  
5002 whether served as a single drink or in conjunction with another alcoholic beverage.

5003 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain  
5004 hours of the [~~private club's~~] club licensee's business day such as a "happy hour."

5005 (f) More than one alcoholic beverage may not be sold or served for the price of a single  
5006 alcoholic beverage.

5007 (g) An indefinite or unlimited number of alcoholic beverages may not be sold or served  
5008 during a set period for a fixed price.

5009 (h) A [~~private~~] club licensee may not engage in a promotion involving or offering free  
5010 alcoholic beverages to patrons of the [~~private~~] club licensee.

5011 [~~(30)~~] (17) An alcoholic beverage may not be purchased for a patron of the [~~private~~]  
5012 club licensee by:

5013 (a) the [~~private~~] club licensee; or

5014 (b) an employee or agent of the [~~private~~] club licensee.

5015 [~~(31)~~] (18) (a) A person may not bring onto the premises of a [~~private~~] club licensee an  
5016 alcoholic beverage for on-premise consumption, except a person may bring, subject to the

5017 discretion of the club licensee, bottled wine onto the premises of a [~~private~~] club licensee for  
5018 on-premise consumption.

5019 (b) Except bottled wine under Subsection [~~(31)~~] (18)(a), a [~~private~~] club licensee or an  
5020 officer, manager, employee, or agent of a [~~private~~] club licensee may not allow:

5021 (i) a person to bring onto the [~~private~~] club license premises an alcoholic beverage for  
5022 consumption on the [~~private~~] club license premises; or

5023 (ii) consumption of an alcoholic beverage described in Subsection [~~(31)~~] (18)(b)(i) on  
5024 the premises of the [~~private~~] club licensee.

5025 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
5026 or other representative of the [~~private~~] club licensee upon entering the [~~private~~] club license  
5027 premises.

5028 (d) A wine service may be performed and a service charge assessed by the [~~private~~]  
5029 club licensee as authorized by commission rule for wine carried in by a patron.

5030 [~~(32)~~] (19) (a) Except as provided in Subsection [~~(32)~~] (19)(b), a [~~private~~] club licensee  
5031 or an employee of the [~~private~~] club licensee may not permit a patron of the [~~private~~] club  
5032 licensee to carry from the [~~private~~] club license premises an open container that:

5033 (i) is used primarily for drinking purposes; and

5034 (ii) contains an alcoholic beverage.

5035 (b) A patron may remove the unconsumed contents of a bottle of wine if before  
5036 removal, the bottle is recorked or recapped.

5037 [~~(33)~~] (a) ~~A minor may not be employed by a class A, B, or C private club licensee to~~  
5038 ~~sell, dispense, or handle an alcoholic beverage.]~~

5039 [~~(b)~~ ~~Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may~~  
5040 ~~be employed by a class A or C private club licensee to enter the sale at a cash register or other~~  
5041 ~~sales recording device.]~~

5042 [~~(c)~~ ~~Except to the extent authorized in Subsection (8)(c), a minor may not be employed~~  
5043 ~~by or be on the premises of a class D private club.]~~

5044 [~~(d)~~ ~~A minor may not be employed to work in a lounge or bar area of a class A, B, or C~~  
5045 ~~private club licensee.]~~

5046 [~~(34)~~] (20) An employee of a [~~private~~] club licensee, while on duty, may not:

5047 (a) consume an alcoholic beverage; or

5048 (b) be intoxicated.

5049 [~~(35)~~] (21) A [private] club licensee shall have available on the premises for a patron to  
5050 review at the time that the [customer] patron requests it, a written alcoholic beverage price list  
5051 or a menu containing the price of an alcoholic beverage sold or served by the [private] club  
5052 licensee including:

5053 (a) a set-up charge;

5054 (b) a service charge; or

5055 (c) a chilling fee.

5056 [~~(36)~~] (22) A [private] club licensee shall display in a prominent place in the [private]  
5057 club license premises:

5058 (a) the [private] club license that is issued by the department;

5059 (b) a list of the types and brand names of liquor being served through [its] the club  
5060 licensee's calibrated metered dispensing system; and

5061 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
5062 drugs is a serious crime that is prosecuted aggressively in Utah."

5063 [~~(37)~~] (23) A [private] club licensee may not on the premises of the [private] club  
5064 licensee:

5065 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
5066 Chapter 10, Part 11, Gambling;

5067 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,  
5068 Part 11, Gambling; or

5069 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
5070 the risking of something of value for a return or for an outcome when the return or outcome is  
5071 based upon an element of chance, excluding the playing of an amusement device that confers  
5072 only an immediate and unrecorded right of replay not exchangeable for value.

5073 [~~(38)~~] (24) (a) A [private] club licensee may not close or cease operation for a period  
5074 longer than 240 hours, unless:

5075 (i) the [private] club licensee notifies the department in writing at least seven days  
5076 before the day on which the [private] club licensee closes or ceases operation; and

5077 (ii) the closure or cessation of operation is first approved by the department.

5078 (b) Notwithstanding Subsection [~~(38)~~] (24)(a), in the case of emergency closure, the

5079 [private] club licensee shall immediately notify the department by telephone.

5080 (c) (i) The department may authorize a closure or cessation of operation for a period  
5081 not to exceed 60 days.

5082 (ii) The department may extend the initial period an additional 30 days upon:

5083 (A) written request of the [private] club licensee; and

5084 (B) a showing of good cause.

5085 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
5086 commission approval.

5087 (d) The notice required by Subsection [~~38~~] (24)(a) shall include:

5088 (i) the dates of closure or cessation of operation;

5089 (ii) the reason for the closure or cessation of operation; and

5090 (iii) the date on which the [private] club licensee will reopen or resume operation.

5091 (e) Failure of the [private] club licensee to provide notice and to obtain department  
5092 authorization before closure or cessation of operation results in an automatic forfeiture of:

5093 (i) the [private] club license; and

5094 (ii) the unused portion of the [private] club license fee for the remainder of the license  
5095 year effective immediately.

5096 (f) Failure of the [private] club licensee to reopen or resume operation by the approved  
5097 date results in an automatic forfeiture of:

5098 (i) the [private] club license; and

5099 (ii) the unused portion of the [private] club license fee for the remainder of the license  
5100 year.

5101 [~~39~~] (25) A [private] club license may not be transferred from one location to another  
5102 [person] location, without prior written approval of the commission.

5103 [~~40~~] (26) (a) A [private] club licensee, may not sell, transfer, assign, exchange, barter,  
5104 give, or attempt in any way to dispose of the [private] club license to another person, whether  
5105 for monetary gain or not.

5106 (b) A [private] club license has no monetary value for the purpose of any type of  
5107 disposition.

5108 (27) Subject to Subsections (25) and (26), a club licensee may not temporarily rent or  
5109 otherwise temporarily lease its premises to a person unless:

5110 (a) the person to whom the club licensee rents or leases the premises agrees in writing  
5111 to comply with this section as if the person is the club licensee, except for a requirement related  
5112 to maintaining a book, document, or similar record; and

5113 (b) the club licensee takes reasonable steps to ensure that the person complies with this  
5114 section as provided in Subsection (26)(a).

5115 (28) A dining club licensee or social club licensee shall comply with Section  
5116 32A-1-304.5.

5117 ~~[(41)]~~ (29) A [private] club licensee or an employee of the [private] club licensee may  
5118 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
5119 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

5120 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
5121 58-37-2; or

5122 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
5123 Section 58-37a-3.

5124 Section 46. Section **32A-5-109** is enacted to read:

5125 **32A-5-109. Transition in types of clubs.**

5126 (1) (a) If a private club licensee is a class C private club licensee as of June 30, 2009, it  
5127 renews its license in accordance with Section 32A-5-102, and it continues to meet the  
5128 qualifications of a class C private club licensee:

5129 (i) the class C private club licensee shall pay a renewal fee of \$1,600; and

5130 (ii) effective July 1, 2009, the class C private club licensee is automatically converted  
5131 to a dining club licensee.

5132 (b) If a private club licensee is a class D private club licensee as of June 30, 2009, it  
5133 renews its license in accordance with Section 32A-5-102, and it continues to meet the  
5134 qualifications of a class D private club licensee:

5135 (i) the class D private club licensee shall pay a renewal fee of \$1,600; and

5136 (ii) effective July 1, 2009, the class D private club licensee is automatically converted  
5137 to a social club licensee.

5138 (c) Notwithstanding Subsection (1)(a) or (b), if at the time of renewal a class C private  
5139 club licensee or class D private club licensee requests to convert effective July 1, 2009, to a  
5140 different type of club license than that provided in Subsection (1)(a) or (b), the commission

5141 may approve a change in the type of club license in accordance with rules made by the  
5142 commission.

5143 (2) A conversion under this section does not require a redetermination of applicable  
5144 proximity requirements.

5145 Section 47. Section **32A-9-103** is amended to read:

5146 **32A-9-103. Qualifications.**

5147 (1) (a) The commission may not grant a warehousing license to any person who has  
5148 been convicted of:

5149 (i) a felony under any federal or state law;

5150 (ii) any federal or state law or local ordinance concerning the sale, manufacture,  
5151 distribution, warehousing, adulteration, or transportation of alcoholic beverages;

5152 (iii) any crime involving moral turpitude; or

5153 (iv) on two or more occasions within the five years before the day on which the license  
5154 is granted, driving under the influence of alcohol, any drug, or the combined influence of  
5155 alcohol and any drug.

5156 (b) In the case of a partnership, corporation, or limited liability company the  
5157 proscription under Subsection (1)(a) applies if any of the following has been convicted of any  
5158 offense described in Subsection (1)(a):

5159 (i) a partner;

5160 (ii) a managing agent;

5161 (iii) a manager;

5162 (iv) an officer;

5163 (v) a director;

5164 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of  
5165 the applicant corporation; or

5166 (vii) a member who owns at least 20% of the applicant limited liability company.

5167 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a  
5168 supervisory or managerial capacity for the warehouse has been convicted of any offense  
5169 described in Subsection (1)(a).

5170 (2) The commission may immediately suspend or revoke a warehousing license if after  
5171 the day on which the warehousing license is granted, a person described in Subsection (1)(a),

5172 (b), or (c):

5173 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior  
5174 to the license being granted; or

5175 (b) on or after the day on which the license is granted:

5176 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

5177 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the  
5178 combined influence of alcohol and any drug; and

5179 (B) was convicted of driving under the influence of alcohol, any drug, or the combined  
5180 influence of alcohol and any drug within five years before the day on which the person is  
5181 convicted of the offense described in Subsection (2)(b)(ii)(A).

5182 (3) The director may take emergency action by immediately suspending the operation  
5183 of the warehousing license according to the procedures and requirements of Title 63G, Chapter  
5184 4, Administrative Procedures Act, for the period during which the criminal matter is being  
5185 adjudicated if a person described in Subsection (1)(a), (b), or (c):

5186 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);  
5187 or

5188 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,  
5189 any drug, or the combined influence of alcohol and any drug; and

5190 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined  
5191 influence of alcohol and any drug within five years before the day on which the person is  
5192 arrested on a charge described in Subsection (3)(b)(i).

5193 (4) (a) (i) The commission may not grant a warehousing license to any person who has  
5194 had any type of license, agency, or permit issued under this title revoked within the last three  
5195 years.

5196 (ii) The commission may not grant a warehousing license to an applicant that is a  
5197 partnership, corporation, or limited liability company if any partner, managing agent, manager,  
5198 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock  
5199 of an applicant corporation, or member who owns at least 20% of an applicant limited liability  
5200 company is or was:

5201 (A) a partner or managing agent of any partnership that had any type of license, agency,  
5202 or permit issued under this title revoked within the last three years;

5203 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%  
5204 of the total issued and outstanding stock of any corporation that had any type of license,  
5205 agency, or permit issued under this title revoked within the last three years; or

5206 (C) a manager or member who owns or owned at least 20% of any limited liability  
5207 company that had any type of license, agency, or permit issued under this title revoked within  
5208 the last three years.

5209 (b) An applicant that is a partnership, corporation, or limited liability company may not  
5210 be granted a warehousing license if any of the following had any type of license, agency, or  
5211 permit issued under this title revoked while acting in that person's individual capacity within  
5212 the last three years:

5213 (i) any partner or managing agent of the applicant partnership;

5214 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the  
5215 total issued and outstanding stock of the applicant corporation; or

5216 (iii) any manager or member who owns at least 20% of the applicant limited liability  
5217 company.

5218 (c) A person acting in an individual capacity may not be granted a warehousing license  
5219 if that person was:

5220 (i) a partner or managing agent of a partnership that had any type of license, agency, or  
5221 permit issued under this title revoked within the last three years;

5222 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the  
5223 total issued and outstanding stock of a corporation that had any type of license, agency, or  
5224 permit issued under this title revoked within the last three years; or

5225 (iii) any manager or member who owned at least 20% of a limited liability company  
5226 that had any type of license, agency, or permit issued under this title revoked within the last  
5227 three years.

5228 (5) (a) A minor may not be:

5229 (i) granted a warehousing license; or

5230 (ii) employed by a warehouse to handle liquor.

5231 (b) The commission may not grant a warehousing license to an applicant that is a  
5232 partnership, corporation, or limited liability company if any of the following is a minor:

5233 (i) a partner or managing agent of the applicant partnership;

5234 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
5235 total issued and outstanding stock of the applicant corporation; or

5236 (iii) a manager or member who owns at least 20% of the applicant limited liability  
5237 company.

5238 (6) A person, through any officer, director, representative, agent, or employee, or  
5239 otherwise, either directly or indirectly, may not hold at the same time both a warehousing  
5240 license and any other kind of license, agency, or permit issued under [~~Title 32A,~~] Chapter 3, 4,  
5241 4a, 5, 6, or 7, or Chapter 10, Part 2.

5242 (7) If any person to whom a license [~~has been issued~~] is granted under this chapter no  
5243 longer possesses the qualifications required by this title for obtaining that license, the  
5244 commission may suspend or revoke that license.

5245 Section 48. Section **32A-10-201** is amended to read:

5246 **32A-10-201. Commission's power to grant licenses -- Limitations.**

5247 (1) Before an establishment may sell beer at retail for on-premise consumption, it shall  
5248 first obtain:

5249 (a) an on-premise beer retailer license from the commission as provided in this part;  
5250 and

5251 (b) (i) a license issued by the local authority, as provided in Section 32A-10-101, to  
5252 sell beer at retail for on-premise consumption; or

5253 (ii) other written consent of the local authority to sell beer at retail for on-premise  
5254 consumption.

5255 (2) (a) Subject to the requirements of this section and Subsection 32A-4a-201(2), the  
5256 commission may [~~issue~~] grant on-premise beer retailer licenses for the purpose of establishing  
5257 on-premise beer retailer outlets at places and in numbers as it considers proper for the storage,  
5258 sale, and consumption of beer on premises operated as on-premise beer retailer outlets.

5259 (b) Notwithstanding Subsection (2)(a), the total number of on-premise beer retailer  
5260 licenses that are taverns may not at any time aggregate more than that number determined by  
5261 dividing the population of the state by 30,500.

5262 (c) For purposes of this Subsection (2), the population of the state shall be determined  
5263 by:

5264 (i) the most recent United States decennial special census; or

5265 (ii) another population determination made by the United States or state governments.

5266 (d) (i) The commission may issue seasonal licenses for taverns established in areas the  
5267 commission considers necessary.

5268 (ii) A seasonal license for taverns shall be for a period of six consecutive months.

5269 (iii) An on-premise beer retailer license for a tavern issued for operation during a  
5270 summer time period is known as a "Seasonal A" on-premise beer retailer license for a tavern.

5271 The period of operation for a "Seasonal A" on-premise beer retailer license for a tavern shall:

5272 (A) begin on May 1; and

5273 (B) end on October 31.

5274 (iv) An on-premise beer retailer license for a tavern [~~issued~~] granted for operation  
5275 during a winter time period is known as a "Seasonal B" on-premise beer retailer license for a  
5276 tavern. The period of operation for a "Seasonal B" on-premise beer retailer license for a tavern  
5277 shall:

5278 (A) begin on November 1; and

5279 (B) end on April 30.

5280 (v) In determining the number of tavern licenses that the commission may [~~issue~~] grant  
5281 under this section:

5282 (A) a seasonal on-premise beer retailer license for a tavern is counted as [~~1/2~~] one-half  
5283 of one on-premise beer retailer license for a tavern; and

5284 (B) each "Seasonal A" on-premise beer retailer license for a tavern shall be paired with  
5285 a "Seasonal B" on-premise beer retailer license for a tavern.

5286 (3) (a) Except as provided in Subsection (3)(b), (c), or (d), the premises of an  
5287 on-premise beer retailer license may not be established:

5288 (i) within 600 feet of a community location, as measured by the method in Subsection  
5289 (3)(e); or

5290 (ii) within 200 feet of a community location, measured in a straight line from the  
5291 nearest entrance of the proposed outlet to the nearest property boundary of the community  
5292 location.

5293 (b) With respect to the establishment of an on-premise beer retailer license, the  
5294 commission may authorize a variance to reduce the proximity requirement of Subsection

5295 (3)(a)(i) if:

- 5296 (i) the local authority grants its written consent to the variance;
- 5297 (ii) the commission finds that alternative locations for establishing an on-premise beer  
5298 retailer license in the community are limited;
- 5299 (iii) a public hearing is held in the city, town, or county, and where practical, in the  
5300 neighborhood concerned;
- 5301 (iv) after giving full consideration to all of the attending circumstances and the policies  
5302 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
5303 license would not be detrimental to the public health, peace, safety, and welfare of the  
5304 community; and
- 5305 (v) (A) the community location governing authority gives its written consent to the  
5306 variance; or
- 5307 (B) when written consent is not given by the community location governing authority,  
5308 the commission finds that the applicant has established that:
- 5309 (I) there is substantial unmet public demand to consume alcohol in a public setting  
5310 within the geographic boundary of the local authority in which the on-premise beer retailer  
5311 licensee is to be located;
- 5312 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
5313 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of an on-premise  
5314 beer retailer license; and
- 5315 (III) there is no reasonably viable alternative location within the geographic boundary  
5316 of the local authority in which the on-premise beer retailer licensee is to be located for  
5317 establishing an on-premise beer retailer license to satisfy the unmet demand described in  
5318 Subsection (3)(b)(v)(B)(I).
- 5319 (c) With respect to the establishment of an on-premise beer retailer license, the  
5320 commission may authorize a variance that reduces the proximity requirement of Subsection  
5321 (3)(a)(ii) if:
- 5322 (i) the community location at issue is:
- 5323 (A) a public library; or
- 5324 (B) a public park;
- 5325 (ii) the local authority grants its written consent to the variance;
- 5326 (iii) the commission finds that alternative locations for establishing an on-premise beer

5327 retailer license in the community are limited;

5328 (iv) a public hearing is held in the city, town, or county, and where practical in the  
5329 neighborhood concerned;

5330 (v) after giving full consideration to all of the attending circumstances and the policies  
5331 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
5332 on-premise beer retailer license would not be detrimental to the public health, peace, safety,  
5333 and welfare of the community; and

5334 (vi) (A) the community location governing authority gives its written consent to the  
5335 variance; or

5336 (B) when written consent is not given by the community location governing authority,  
5337 the commission finds that the applicant has established that:

5338 (I) there is substantial unmet public demand to consume alcohol in a public setting  
5339 within the geographic boundary of the local authority in which the on-premise beer retailer  
5340 licensee is to be located;

5341 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
5342 described in Subsection (3)(c)(vi)(B)(I) other than through the establishment of an on-premise  
5343 beer retailer license; and

5344 (III) there is no reasonably viable alternative location within the geographic boundary  
5345 of the local authority in which the on-premise beer retailer licensee is to be located for  
5346 establishing an on-premise beer retailer license to satisfy the unmet demand described in  
5347 Subsection (3)(c)(vi)(B)(I).

5348 (d) (i) With respect to an on-premise beer retailer license [~~issued~~] granted by the  
5349 commission before July 1, 1991, to an establishment that undergoes a change in ownership  
5350 after that date, the commission may waive or vary the proximity requirements of this  
5351 Subsection (3) in considering whether to grant an on-premise retailer beer license to the new  
5352 owner.

5353 (ii) With respect to the premises of an on-premise beer retailer license [~~issued~~] granted  
5354 by the commission that undergoes a change of ownership, the commission may waive or vary  
5355 the proximity requirements of Subsection (3)(a) in considering whether to grant an on-premise  
5356 beer retailer license to the new owner of the premises if:

5357 (A) (I) the premises previously received a variance from the proximity requirement of

5358 Subsection (3)(a)(i); or

5359 (II) the premises received a variance from the proximity requirement of Subsection  
5360 (3)(a)(ii) on or before May 4, 2008; or

5361 (B) a variance from proximity requirements was otherwise allowed under this title.

5362 (e) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the  
5363 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
5364 property boundary of the community location.

5365 (4) (a) Nothing in this section prevents the commission from considering the proximity  
5366 of any educational, religious, and recreational facility, or any other relevant factor in reaching a  
5367 decision on a proposed location.

5368 (b) For purposes of this Subsection (4), "educational facility" includes:

5369 (i) a nursery school;

5370 (ii) an infant day care center; and

5371 (iii) a trade and technical school.

5372 Section 49. Section **32A-10-202** is amended to read:

5373 **32A-10-202. Application and renewal requirements.**

5374 (1) A person seeking an on-premise beer retailer license under this chapter shall file a  
5375 written application with the department, in a form prescribed by the department. The  
5376 application shall be accompanied by:

5377 (a) a nonrefundable \$250 application fee;

5378 (b) an initial license fee that is refundable if a license is not granted in the following  
5379 amount:

5380 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial  
5381 license fee is \$150; or

5382 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is  
5383 \$1,250;

5384 (c) written consent of the local authority or a license to sell beer at retail for on-premise  
5385 consumption granted by the local authority under Section 32A-10-101;

5386 (d) a copy of the applicant's current business license;

5387 (e) evidence of proximity to any community location, with proximity requirements  
5388 being governed by Section 32A-10-201;

- 5389 (f) a bond as specified by Section 32A-10-205;
- 5390 (g) a floor plan of the premises, including consumption areas and the area where the
- 5391 applicant proposes to keep, store, and sell beer;
- 5392 (h) evidence that the on-premise beer retailer licensee is carrying public liability
- 5393 insurance in an amount and form satisfactory to the department;
- 5394 (i) for a licensee that sells more than \$5,000 of beer annually, evidence that the
- 5395 on-premise beer retailer licensee is carrying dramshop insurance coverage of at least
- 5396 ~~[\$500,000]~~ \$1,000,000 per occurrence and ~~[\$1,000,000]~~ \$2,000,000 in the aggregate;
- 5397 (j) a signed consent form stating that the on-premise beer retailer licensee will permit
- 5398 any authorized representative of the commission, department, or any peace officer unrestricted
- 5399 right to enter the licensee premises;
- 5400 (k) in the case of an applicant that is a partnership, corporation, or limited liability
- 5401 company, proper verification evidencing that the person or persons signing the on-premise beer
- 5402 retailer licensee application are authorized to so act on the behalf of the partnership,
- 5403 corporation, or limited liability company; and
- 5404 (l) any other information the department may require.
- 5405 (2) (a) ~~[A] An~~ An on-premise beer retailer ~~[licenses expire]~~ license expires on the last
- 5406 day of February of each year.
- 5407 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the
- 5408 person's on-premise beer retailer license shall submit by no later than January 31:
- 5409 (A) a completed renewal application to the department; and
- 5410 (B) a renewal fee in the following amount:
- 5411 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee
- 5412 is \$200; or
- 5413 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
- 5414 \$1,000.
- 5415 (ii) A licensee is not required to submit a renewal fee if the licensee is:
- 5416 (A) a state agency; or
- 5417 (B) a political subdivision of the state including:
- 5418 (I) a county; or
- 5419 (II) a municipality.

5420 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
5421 the license, effective on the date the existing license expires.

5422 (d) A renewal statement shall be in a form as prescribed by the department.

5423 (3) To ensure compliance with Subsection 32A-10-206(17), the commission may  
5424 suspend or revoke a beer retailer license if a beer retailer licensee does not immediately notify  
5425 the department of any change in:

5426 (a) ownership of the beer retailer;

5427 (b) for a corporate owner, the:

5428 (i) corporate officers or directors; and

5429 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
5430 corporation; or

5431 (c) for a limited liability company:

5432 (i) managers; or

5433 (ii) members owning at least 20% of the limited liability company.

5434 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and  
5435 (f) if the applicant is:

5436 (a) a state agency; or

5437 (b) a political subdivision of the state including:

5438 (i) a county; or

5439 (ii) a municipality.

5440 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer  
5441 license is required for each building or resort facility owned or leased by the same applicant.

5442 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each  
5443 retail beer dispensing outlet located in the same building or on the same resort premises owned  
5444 or operated by the same applicant.

5445 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets  
5446 in the building or resort facility operate in the same manner.

5447 (ii) If the condition described in Subsection (5)(c)(i) is not met:

5448 (A) one state on-premise beer retailer tavern license is required for all outlets in the  
5449 same building or on the same resort premises that operate as a tavern; and

5450 (B) one state on-premise beer retailer license is required for all outlets in the same

5451 building or on the same resort premises that do not operate as a tavern.

5452 Section 50. Section **32A-12-101** is amended to read:

5453 **32A-12-101. Applicability of Utah Criminal Code.**

5454 Except as otherwise provided, Title 76, Chapters 1, 2, 3, and 4[, ~~the Utah Criminal~~  
5455 ~~Code, relating to principles of construction, jurisdiction, venue, limitations of actions, multiple~~  
5456 ~~prosecutions, double jeopardy, burdens of proof, definitions, principles of criminal~~  
5457 ~~responsibility, punishments, and inchoate offenses apply to any criminal offense defined in this~~  
5458 ~~title, except as otherwise provided~~], apply to the prosecution of a criminal offense defined in  
5459 this chapter or expressly identified as a criminal offense in this title.

5460 Section 51. Section **32A-12-102** is amended to read:

5461 **32A-12-102. Special burdens of proof -- Inferences and presumptions.**

5462 (1) In [any] a prosecution of an offense defined in this title or in [any] a proceeding  
5463 brought to enforce this title:

5464 (a) it is not necessary that the state or commission establish:

5465 (i) the precise description or quantity of [the] an alcoholic [beverages] beverage or  
5466 alcoholic product; or [products or]

5467 (ii) the precise consideration, if any, given or received for [the] an alcoholic [beverages  
5468 or products] beverage or alcoholic product;

5469 (b) there is an inference, absent proof to the contrary, that [the] an alcoholic beverage  
5470 or alcoholic product in question is an alcoholic beverage or alcoholic product if the witness  
5471 describes it:

5472 (i) as an alcoholic beverage or alcoholic product;

5473 (ii) by a name that is commonly applied to an alcoholic beverage or alcoholic product;

5474 or

5475 (iii) as intoxicating;

5476 (c) if it is alleged that an association or corporation has violated this title, the fact of the  
5477 incorporation of the association or corporation is presumed absent proof to the contrary;

5478 (d) a certificate or report signed or purporting to be signed by any state chemist,  
5479 assistant state chemist, or state crime laboratory chemist, as to the analysis or ingredients of  
5480 [any] an alcoholic beverage or alcoholic product is:

5481 (i) prima facie evidence:

5482 (A) of the facts stated in that certificate or report; and

5483 (B) of the authority of the person giving or making the report; and

5484 (ii) admissible in evidence without any proof of appointment or signature absent proof  
5485 to the contrary; and

5486 (e) a copy of entries made in the records of the United States internal revenue collector,  
5487 certified by the collector or a qualified notary public, showing the payment of the United States  
5488 internal revenue special tax for the manufacture or sale of an alcoholic [~~beverages or products~~  
5489 beverage or alcoholic product is prima facie evidence of the manufacture or sale by the party  
5490 named in the entry within the period set forth in the record.

5491 (2) (a) In proving the unlawful sale, disposal, gift, or purchase, gratuitous or otherwise,  
5492 or consumption of an alcoholic [~~beverages or products~~ beverage or alcoholic product, it is not  
5493 necessary that the state or commission establish that any money or other consideration actually  
5494 passed or that an alcoholic beverage or alcoholic product was actually consumed if the court or  
5495 trier of fact is satisfied that:

5496 (i) a transaction in the nature of a sale, disposal, gift, or purchase actually occurred; or

5497 (ii) [~~any~~] consumption of an alcoholic [~~beverages or products~~ beverage or alcoholic  
5498 product was about to occur.

5499 (b) Proof of consumption or intended consumption of an alcoholic beverage or  
5500 alcoholic product on premises on which consumption is prohibited, by some person not  
5501 authorized to consume an alcoholic [~~beverages or products~~ beverage or alcoholic product on  
5502 those premises, is evidence that an alcoholic beverage or alcoholic product was sold or given to  
5503 or purchased by the person consuming, about to consume, or carrying away the alcoholic  
5504 beverage or alcoholic product as against the occupant of the premises.

5505 (3) For purposes of a provision applicable under this chapter to a retail licensee or  
5506 officer, manager, employee, or agent of a retail licensee, the provision is applicable to a resort  
5507 licensee or a person operating under a sublicense of the resort licensee.

5508 (4) Notwithstanding the other provisions of this chapter, a criminal offense identified  
5509 in this title as a criminal offense may not be enforced under this chapter if the criminal offense  
5510 relates to a violation:

5511 (a) of a provision in this title related to intoxication or becoming intoxicated; and

5512 (b) if the violation is first investigated by a law enforcement officer, as defined in

5513 Section 53-13-103, who has not received training regarding the requirements of this title  
5514 related to responsible alcoholic beverage sale or service.

5515 Section 52. Section **32A-12-104** is amended to read:

5516 **32A-12-104. Violation of title a misdemeanor.**

5517 [~~Any person who violates this title~~]

5518 (1) Unless otherwise provided in this title, a person is guilty of a class B  
5519 misdemeanor[~~unless otherwise provided in this title.~~] if that person violates:

5520 (a) this chapter; or

5521 (b) a provision of this title that is expressly identified as a criminal offense.

5522 (2) This section is not applicable to an adjudicative proceeding under Section  
5523 32A-1-119, but only:

5524 (a) makes a violation described in Subsection (1) a criminal offense; and

5525 (b) establishes a penalty for a violation described in Subsection (1) that is prosecuted  
5526 criminally.

5527 Section 53. Section **32A-12-209.5** is amended to read:

5528 **32A-12-209.5. Unlawful admittance or attempt to gain admittance by minor.**

5529 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the  
5530 premises of:

5531 (a) a tavern; or

5532 (b) a [~~class D private club~~] social club licensee, except to the extent authorized by  
5533 Subsection 32A-5-107[~~(8)~~](2)(d).

5534 (2) A minor who violates this section is guilty of a class C misdemeanor.

5535 (3) When a minor who is at least 18 years old, but younger than 21 years old, is found  
5536 by a court to have violated this section:

5537 (a) if the violation is the minor's first violation of this section, the court may suspend  
5538 the minor's driving privileges; or

5539 (b) if the violation is the minor's second or subsequent violation of this section, the  
5540 court shall suspend the minor's driving privileges.

5541 (4) When a minor who is at least 13 years old, but younger than 18 years old, is found  
5542 by a court to have violated this section, [~~the provisions regarding suspension of the driver's~~  
5543 ~~license under~~] Section 78A-6-606 [~~apply~~] applies to the violation.

5544 (5) When the court issues an order suspending a person's driving privileges for a  
5545 violation of this section, the Driver License Division shall suspend the person's license under  
5546 Section 53-3-219.

5547 (6) When the Department of Public Safety receives the arrest or conviction record of a  
5548 person for a driving offense committed while the person's license is suspended pursuant to this  
5549 section, the ~~[department]~~ Department of Public Safety shall extend the suspension for an  
5550 additional like period of time.

5551 Section 54. Section **32A-12-212** is amended to read:

5552 **32A-12-212. Unlawful possession -- Exceptions.**

5553 (1) A person may not have or possess within this state ~~[any]~~ liquor unless authorized  
5554 by this title or the rules of the commission, except that:

5555 (a) a person who clears United States Customs when entering this country may have or  
5556 possess for personal consumption and not for sale or resale, a maximum of two liters of liquor  
5557 purchased from without the United States;

5558 (b) a person who moves the person's residence to this state from outside of this state  
5559 may have or possess for personal consumption and not for sale or resale, liquor previously  
5560 purchased outside the state and brought into this state during the move, if:

5561 (i) the person ~~[first]~~ obtains department approval before moving the liquor into the  
5562 state; and

5563 ~~[(ii) the department affixes the official state label to the liquor; and]~~

5564 ~~[(iii)]~~ (ii) the person pays the department a reasonable administrative handling fee as  
5565 determined by the commission;

5566 (c) a person who as a beneficiary inherits as part of an estate liquor that is located  
5567 outside the state, may have or possess the liquor and transport or cause the liquor to be  
5568 transported into the state if:

5569 (i) the person ~~[first]~~ obtains department approval before moving the liquor into the  
5570 state;

5571 (ii) the person provides sufficient documentation to the department to establish the  
5572 person's legal right to the liquor as a beneficiary; and

5573 ~~[(iii) the department affixes the official state label to the liquor; and]~~

5574 ~~[(iv)]~~ (iii) the person pays the department a reasonable administrative handling fee as

5575 determined by the commission; or

5576 (d) a person may transport, have, or possess liquor if:

5577 (i) the person transports, has, or possesses the liquor:

5578 (A) for personal household use and consumption; and

5579 (B) not for:

5580 (I) sale;

5581 (II) resale;

5582 (III) gifting to another; or

5583 (IV) consumption on a premise licensed by the commission;

5584 (ii) the liquor is purchased from a store or outlet on a military installation; and

5585 (iii) the maximum amount the person transports, has, or possesses under this

5586 Subsection (1)(d) is:

5587 (A) two liters of:

5588 (I) spirituous liquor;

5589 (II) wine; or

5590 (III) a combination of spirituous liquor and wine; and

5591 (B) (I) one case of heavy beer that does not exceed 288 ounces; or

5592 (II) ~~[on or after October 1, 2008,]~~ one case of a flavored malt beverage that does not  
5593 exceed 288 ounces.

5594 (2) (a) Approval under Subsection (1)(b) may be obtained by a person who:

5595 (i) is transferring the person's permanent residence to this state; or

5596 (ii) maintains separate residences both in and out of this state.

5597 (b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more  
5598 than once.

5599 Section 55. Section **32A-12-213** is amended to read:

5600 **32A-12-213. Unlawful bringing onto premises for consumption.**

5601 (1) Except as provided in Subsection (3), a person may not bring for on-premise  
5602 consumption ~~[any]~~ an alcoholic beverage onto the premises of ~~[any]~~:

5603 (a) a licensed or unlicensed restaurant;

5604 (b) a licensed or unlicensed ~~[private]~~ club;

5605 (c) an airport lounge licensee;

5606 (d) an on-premise banquet licensee;

5607 (e) an on-premise beer retailer licensee;

5608 (f) a resort licensee;

5609 (g) a sublicense of a resort licensee;

5610 ~~[(f)]~~ (h) an event where an alcoholic ~~[beverages are]~~ beverage is sold or served under a

5611 single event permit or temporary special event beer permit issued under this title; or

5612 ~~[(g)]~~ (i) any establishment open to the general public.

5613 (2) Except as provided in Subsection (3), ~~[a licensed or unlicensed restaurant or private~~

5614 ~~club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer licensee, or~~

5615 ~~holder of a single event permit or temporary special event beer permit issued under this title, or~~

5616 ~~its officers, managers, employees, or agents]~~ the following may not allow a person to bring

5617 onto its premises ~~[any]~~ an alcoholic beverage for on-premise consumption or allow

5618 consumption of ~~[any such]~~ an alcoholic beverage brought onto its premises in violation of this

5619 section[-:];

5620 (a) a licensed or unlicensed restaurant;

5621 (b) a licensed or unlicensed club;

5622 (c) an airport lounge licensee;

5623 (d) an on-premise banquet licensee;

5624 (e) a resort licensee in relationship to:

5625 (i) the boundary of a resort building; or

5626 (ii) a sublicense premises;

5627 (f) a person operating a sublicense of a resort license;

5628 (g) an on-premise beer retailer licensee;

5629 (h) a holder of a single event permit or temporary special event beer permit issued

5630 under this title; or

5631 (i) an officer, manager, employee, or agent of a person listed in Subsections (2)(a)

5632 through (h).

5633 (3) (a) A person may bring bottled wine onto the premises of ~~[any]~~ a restaurant liquor

5634 licensee, limited restaurant licensee, resort spa sublicense, or ~~[private]~~ club licensee and

5635 consume the wine pursuant to the applicable restrictions contained in Subsection

5636 32A-4-106(14), 32A-4-307(14), 32A-4a-305(22), or 32A-5-107~~[(31);]~~ (18).

5637 (b) [a] A passenger of a limousine may bring onto, have, and consume [~~any~~] an  
5638 alcoholic beverage on the limousine if:

5639 (i) the travel of the limousine begins and ends at:

5640 (A) the residence of the passenger;

5641 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

5642 (C) the temporary domicile of the passenger; and

5643 (ii) the driver of the limousine is separated from the passengers by partition or other  
5644 means approved by the department[;].

5645 (c) [a] A passenger of a chartered bus may bring onto, have, and consume [~~any~~] an  
5646 alcoholic beverage on the chartered bus:

5647 (i) (A) but may consume only during travel to a specified destination of the chartered  
5648 bus and not during travel back to the place where the travel begins; or

5649 (B) if the travel of the chartered bus begins and ends at:

5650 (I) the residence of the passenger;

5651 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

5652 (III) the temporary domicile of the passenger; and

5653 (ii) the chartered bus has a nondrinking designee other than the driver traveling on the  
5654 chartered bus to monitor consumption[~~; and~~].

5655 (d) [a] A person may bring onto any premises, have, and consume [~~any~~] an alcoholic  
5656 beverage at a privately hosted event that is not open to the general public.

5657 (4) Except as provided in Subsection (3)(c)(i)(A), the consumption of an alcoholic  
5658 [~~beverages in limousines and chartered buses~~] beverage in a limousine or chartered bus is not  
5659 allowed if the limousine or chartered bus drops off [~~passengers at locations from which they~~  
5660 ~~depart in private vehicles~~] a passenger at a location from which the passenger departs in a  
5661 private vehicle.

5662 Section 56. Section **32A-12-219** is amended to read:

5663 **32A-12-219. Unlawful adulteration -- Licensing tampering.**

5664 (1) For purposes of this section, "tamper" means to do one or more of the following to  
5665 the contents of a package:

5666 (a) fortify;

5667 (b) adulterate;

- 5668 (c) contaminate;  
 5669 (d) dilute;  
 5670 (e) change its character or purity; or  
 5671 (f) otherwise change.  
 5672 (2) A person may not, for any purpose, mix or allow to be mixed [~~any drug, methylic~~  
 5673 alcohol, any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious  
 5674 substance or liquid] with an alcoholic beverage sold or supplied by the person as a beverage[:]  
 5675 any of the following:  
 5676 (a) a drug;  
 5677 (b) methylic alcohol;  
 5678 (c) a crude, unrectified, or impure form of ethylic alcohol; or  
 5679 (d) another deleterious substance.  
 5680 (3) (a) The following may not engage in an act listed in Subsection (3)(b):  
 5681 (i) a retail licensee;  
 5682 (ii) a permittee;  
 5683 (iii) a package agent;  
 5684 (iv) a beer wholesaler;  
 5685 (v) a supplier;  
 5686 (vi) an importer; or  
 5687 (vii) a warehouse.  
 5688 (b) A person listed in Subsection (3)(a) may not:  
 5689 (i) tamper with the contents of a package of alcoholic beverage as originally marketed  
 5690 by a manufacturer;  
 5691 (ii) refill or partly refill with any substance the contents of an original package of  
 5692 alcoholic beverage as originally marketed by a manufacturer;  
 5693 (iii) misrepresent the brand of an alcoholic beverage sold or offered for sale; or  
 5694 (iv) sell or serve a brand of alcoholic beverage that is not the same as that ordered by a  
 5695 purchaser without first advising the purchaser of the difference.  
 5696 Section 57. Section **32A-12-222** is amended to read:  
 5697 **32A-12-222. Unlawful dispensing.**  
 5698 (1) For purposes of this section:

5699 (a) "primary spirituous liquor" means the main distilled spirit in a beverage; and

5700 (b) "primary spirituous liquor" does not include a secondary alcoholic product used as  
5701 a flavoring in conjunction with the primary distilled spirit in the beverage.

5702 (2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous  
5703 liquor for consumption on the licensed premises, or an officer, manager, employee, or agent of  
5704 the licensee may not:

5705 (a) sell, serve, dispense, or otherwise furnish a primary spirituous liquor to a person on  
5706 the licensed premises except in a quantity that does not exceed 1.5 ounces per beverage  
5707 dispensed through a calibrated metered dispensing system approved by the department;

5708 (b) sell, serve, dispense, or otherwise furnish more than a total of 2.5 ounces of  
5709 spirituous liquor per beverage;

5710 (c) allow ~~[any]~~ a person on the licensed premises to have more than a total of 2.5  
5711 ounces of spirituous liquor at a time;

5712 (d) allow ~~[any]~~ a person on the premises of the following to have more than one  
5713 spirituous liquor beverage at a time:

5714 (i) a restaurant liquor licensee;

5715 (ii) an on-premise banquet licensee; ~~[or]~~

5716 (iii) one of the following sublicenses of a resort license:

5717 (A) a restaurant sublicense; or

5718 (B) a limited restaurant sublicense; or

5719 ~~[(iii)]~~ (iv) a single event permittee; or

5720 (e) allow ~~[any]~~ a person to have more than two spirituous liquor beverages at a time in  
5721 violation of:

5722 (i) Subsection 32A-4-206(2)(d); ~~[or]~~

5723 (ii) Subsection 32A-4a-305(10)(c)(ii); or

5724 ~~[(ii)]~~ (iii) Subsection 32A-5-107~~[(20)]~~(7)(d).

5725 (3) A violation of this section is a class C misdemeanor.

5726 Section 58. Section **32A-12-301** is amended to read:

5727 **32A-12-301. Operating without a license or permit.**

5728 (1) (a) A person may not operate the following businesses without first obtaining a  
5729 license under this title if the business allows a ~~[patron, customer, member, guest, visitor, or~~

5730 ~~other person~~ person described in Subsection (1)(b) to purchase or consume an alcoholic  
 5731 beverage on the premises of the business:

5732 ~~[(a)]~~ (i) a restaurant;

5733 ~~[(b)]~~ (ii) an airport lounge;

5734 ~~[(c)]~~ (iii) a ~~[private]~~ club license;

5735 (iv) a resort;

5736 ~~[(d)]~~ (v) an on-premise beer retailer outlet;

5737 ~~[(e)]~~ (vi) on-premise banquet premises; or

5738 ~~[(f)]~~ (vii) a business similar to one listed in Subsections (1)(a)(i) through ~~[(e)]~~ (vi).

5739 (b) Subsection (1)(a) applies if one of the following is allowed to purchase or consume  
 5740 an alcoholic beverage on the premises of the business:

5741 (i) a patron;

5742 (ii) a customer;

5743 (iii) a member;

5744 (iv) a guest;

5745 (v) a resident of a resort;

5746 (vi) a holder of a customer card under Chapter 4a, Part 3, Resort Spa Sublicense; or

5747 (vii) an invitee.

5748 (2) A person conducting an event or function that is open to the general public may not  
 5749 directly or indirectly sell, offer to sell, or otherwise furnish an alcoholic beverage to a person  
 5750 attending the event or function without first obtaining a permit under this title.

5751 (3) A person conducting a privately hosted event or private social function may not  
 5752 directly or indirectly sell or offer to sell an alcoholic beverage to a person attending the  
 5753 privately hosted event or private social function without first obtaining a permit under this title.

5754 (4) A person may not operate the following businesses without first obtaining a license  
 5755 under this title:

5756 (a) a winery manufacturer;

5757 (b) a distillery manufacturer;

5758 (c) a brewery manufacturer;

5759 (d) a local industry representative of:

5760 (i) a manufacturer of an alcoholic beverage;

- 5761 (ii) a supplier of an alcoholic beverage; or
- 5762 (iii) an importer of an alcoholic beverage;
- 5763 (e) a liquor warehouse; or
- 5764 (f) a beer wholesaler.

5765 (5) A person may not operate a public conveyance in this state without first obtaining a  
5766 public service permit under this title if that public conveyance allows a person to purchase or  
5767 consume an alcoholic beverage or alcoholic product:

- 5768 (a) on the public conveyance; or
- 5769 (b) on the premises of a hospitality room located with a depot, terminal, or similar  
5770 facility at which a service is provided to a patron of the public conveyance.

5771 Section 59. Section **32A-14a-102** is amended to read:

5772 **32A-14a-102. Liability for injuries and damage resulting from distribution of**  
5773 **alcoholic beverages -- Causes of action -- Statute of limitations -- Employee protections.**

5774 (1) (a) Except as provided in Section 32A-14a-103, a person described in Subsection  
5775 (1)(b) is liable for:

- 5776 (i) any and all injury and damage, except punitive damages to:
- 5777 (A) any third person; or
- 5778 (B) the heir, as defined in Section 78B-3-105, of that third person; or
- 5779 (ii) for the death of a third person.

5780 (b) A person is liable under Subsection (1)(a) if:

- 5781 (i) the person directly gives, sells, or otherwise provides an alcoholic beverage:
- 5782 (A) to a person described in Subsection (1)(b)(ii); and
- 5783 (B) as part of the commercial sale, storage, service, manufacture, distribution, or  
5784 consumption of alcoholic products;

5785 (ii) those actions cause the intoxication of:

- 5786 (A) any individual under the age of 21 years;
- 5787 (B) any individual who is apparently under the influence of intoxicating alcoholic  
5788 products or drugs;

5789 (C) any individual whom the person furnishing the alcoholic beverage knew or should  
5790 have known from the circumstances was under the influence of intoxicating alcoholic  
5791 beverages or products or drugs; or

5792 (D) any individual who is a known interdicted person; and  
5793 (iii) the injury or death described in Subsection (1)(a) results from the intoxication of  
5794 the individual who is provided the alcoholic beverage.

5795 (2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable  
5796 for:

5797 (i) any and all injury and damage, except punitive damages to:  
5798 (A) any third person; or  
5799 (B) the heir, as defined in Section 78B-3-105, of that third person; or  
5800 (ii) for the death of the third person.

5801 (b) A person is liable under Subsection (2)(a) if:  
5802 (i) that person directly gives or otherwise provides an alcoholic beverage to an  
5803 individual who the person knows or should have known is under the age of 21 years;  
5804 (ii) those actions caused the intoxication of the individual provided the alcoholic  
5805 beverage;

5806 (iii) the injury or death described in Subsection (2)(a) results from the intoxication of  
5807 the individual who is provided the alcoholic beverage; and  
5808 (iv) the person is not liable under Subsection (1), because the person did not directly  
5809 give or provide the alcoholic beverage as part of the commercial sale, storage, service,  
5810 manufacture, distribution, or consumption of alcoholic products.

5811 (3) Except for a violation of Subsection (2), an employer is liable for the actions of its  
5812 employees in violation of this chapter.

5813 (4) A person who suffers an injury under Subsection (1) or (2) has a cause of action  
5814 against the person who provided the alcoholic beverage in violation of Subsection (1) or (2).

5815 (5) If a person having rights or liabilities under this chapter dies, the rights or liabilities  
5816 provided by this chapter survive to or against that person's estate.

5817 (6) The total amount that may be awarded to any person pursuant to a cause of action  
5818 for injury and damage under this chapter that arises after [~~January 1, 1998~~] January 1, 2010, is  
5819 limited to [~~\$500,000~~] \$1,000,000 and the aggregate amount which may be awarded to all  
5820 persons injured as a result of one occurrence is limited to [~~\$1,000,000~~] \$2,000,000.

5821 (7) An action based upon a cause of action under this chapter shall be commenced  
5822 within two years after the date of the injury and damage.

5823 (8) (a) Nothing in this chapter precludes any cause of action or additional recovery  
5824 against the person causing the injury.

5825 (b) Any cause of action or additional recovery against the person causing the injury and  
5826 damage, which action is not brought under this chapter, is exempt from the damage cap in  
5827 Subsection (6).

5828 (c) Any cause of action brought under this chapter is exempt from Sections 78B-5-817  
5829 through 78B-5-823.

5830 (9) This section does not apply to a business licensed under Chapter 10, Part 1, General  
5831 Provisions, to sell beer at retail only for off-premise consumption.

5832 Section 60. Section **32A-14a-103** is amended to read:

5833 **32A-14a-103. Employee protected in exercising judgment.**

5834 (1) An employer may not sanction or terminate the employment of an employee of a  
5835 restaurant, airport lounge, ~~[private]~~ on-premise banquet licensee, resort, club licensee,  
5836 on-premise beer retailer, or any other establishment serving an alcoholic ~~[beverages]~~ beverage  
5837 as a result of the employee having exercised the employee's independent judgment to refuse to  
5838 sell an alcoholic ~~[beverages]~~ beverage to ~~[any]~~ a person the employee considers to meet one or  
5839 more of the conditions described in Subsection 32A-14a-102(1).

5840 (2) ~~[Any]~~ An employer who terminates an employee or imposes sanctions on the  
5841 employee contrary to this section is considered to have discriminated against that employee and  
5842 is subject to the conditions and penalties set forth in Title 34A, Chapter 5, Utah  
5843 Antidiscrimination Act.

5844 Section 61. Section **53-10-305** is amended to read:

5845 **53-10-305. Duties of bureau chief.**

5846 The bureau chief, with the consent of the commissioner, shall do the following:

5847 (1) conduct in conjunction with the state boards of education and higher education in  
5848 state schools, colleges, and universities, an educational program concerning alcoholic products,  
5849 and work in conjunction with civic organizations, churches, local units of government, and  
5850 other organizations in the prevention of alcoholic product and drug violations;

5851 (2) coordinate law enforcement programs throughout the state and accumulate and  
5852 disseminate information related to the prevention, detection, and control of violations of this  
5853 chapter and Title 32A, Alcoholic Beverage Control Act, as it relates to storage or consumption

5854 of alcoholic beverages on premises maintained by [~~social clubs, recreational, athletic, and~~  
5855 ~~kindred associations~~] a club licensee, or a person required to be licensed as a club licensee, as  
5856 defined in Section 32A-1-105;

5857 (3) make inspections and investigations as required by the commission and the  
5858 Department of Alcoholic Beverage Control;

5859 (4) perform other acts as may be necessary or appropriate concerning control of the use  
5860 of alcoholic beverages and products and drugs; and

5861 (5) make reports and recommendations to the Legislature, the governor, the  
5862 commissioner, the commission, and the Department of Alcoholic Beverage Control as may be  
5863 required or requested.

5864 Section 62. **Repealer.**

5865 This bill repeals:

5866 Section **32A-12-218, Unlawful labeling or lack of label.**

5867 Section 63. **Study of penalties for violations related to minors.**

5868 (1) As used in this section:

5869 (a) "Commission" means the Alcoholic Beverage Commission created in Section  
5870 32A-1-106.

5871 (b) "Violation related to a minor" means a violation under Title 32A, Alcoholic  
5872 Beverage Control Act, that is, in whole or in part, based on a licensee, permittee, or an  
5873 employee or agent of the licensee or permittee:

5874 (i) selling, serving, or otherwise furnishing an alcoholic product to a minor;

5875 (ii) purchasing or otherwise obtaining an alcoholic product for a minor;

5876 (iii) permitting a minor to consume an alcoholic product;

5877 (iv) permitting a minor to gain admittance to an area into which a minor is not  
5878 permitted under Title 32A, Alcoholic Beverage Control Act; or

5879 (v) offering or providing employment to a minor that under Title 32A, Alcoholic  
5880 Beverage Control Act, may not be obtained by a minor.

5881 (2) (a) The commission shall review the penalties imposed by the commission for a  
5882 violation related to a minor beginning on January 1, 2005 and ending December 31, 2008.

5883 (b) The commission shall address in its review the following:

5884 (i) trends, if any, in the severity of the penalties;

- 5885 (ii) circumstances affecting the penalties imposed;  
 5886 (iii) the purpose and effectiveness of the penalties;  
 5887 (iv) other issues as determined by the commission; and  
 5888 (v) whether the commission should recommend legislative action related to the  
 5889 imposition of a penalty.
- 5890 (c) The commission shall report its findings and recommendations described in  
 5891 Subsection (2)(b) to the Business and Labor Interim Committee on or before the October 2009  
 5892 interim meeting.
- 5893 Section 64. **Effective date.**
- 5894 (1) This bill takes effect on May 12, 2009 except:
- 5895 (a) the amendments in this bill to the following take effect on July 1, 2009:
- 5896 (i) Section 32A-5-101;  
 5897 (ii) Section 32A-5-102, except for Subsection 32A-5-102(1)(j);  
 5898 (iii) Section 32A-5-103 (Effective 07/01/09);  
 5899 (iv) Section 32A-5-104;  
 5900 (v) Section 32A-5-106; ~~§~~ → [and] ← ~~§~~  
 5901 (vi) Section 32A-5-107;
- 5901a **~~§~~ → (vii) Section 11-10-1;**
- 5901b **(viii) Section 26-38-2;**
- 5901c **(ix) Section 26-38-3;**
- 5901d **(x) Subsections 32A-1-105(12), (23), (35), and the existing (64) that defines a "visitor";**
- 5901e **(xi) Section 32A-1-304.5;**
- 5901f **(xii) Section 32A-1-603;**
- 5901g **(xiii) Section 32A-12-209.5; and**
- 5901h **(xiv) Section 53-10-305; ←~~§~~**
- 5902 (b) the amendments in this bill to the following take effect on January 1, 2010:
- 5903 (i) Section 32A-4-102;  
 5904 (ii) Section 32A-4-202;  
 5905 (iii) Section 32A-4-303;  
 5906 (iv) Section 32A-4-402;  
 5907 (v) Section 32A-10-202; and  
 5908 (vi) Section 32A-14a-102 and  
 5909 (c) Subsection 32A-5-102(1)(j) takes effect on July 1, 2010.  
 5910 (2) During the 2009 interim, the Business and Labor Interim Committee shall:

5911            (a) study whether or not a club licensee can reasonably obtain dramshop insurance  
5912 coverage of the amounts required by the amendments in this bill to Subsection  
5913 32A-5-102(1)(j); and

5914            (b) make a recommendation to the Legislature regarding any changes to Subsection  
5915 32A-5-102(1)(j) for consideration during the 2010 General Session.

5916 Section 65. **Revisor instructions for S.B. 187.**

5917 If this S.B. 187 passes, it is the intent of the Legislature that the Office of Legislative  
5918 Research and General Counsel in preparing the Utah Code database that takes effect July 1,  
5919 2009, for publication replace "private club" or "private club licensee" with "club licensee" in  
5920 any new language added to the Utah Code by legislation passed during the 2009 General  
5921 Session, if the context of the terms clearly indicates that the terms "private club" or "private  
5922 club licensee" refer to a private club licensed under Title 32A, Chapter 5.

5923 Section 66. **Coordinating S.B. 187 with H.B. 349 -- Merging amendments.**

5924 If this S.B. 187 and H.B. 349, Heavy Beer Amendments, both pass, it is the intent of the  
5925 Legislature that the Office of Legislative Research and General Counsel in preparing the Utah  
5926 Code database for publication:

5927 (1) treat this coordination clause as superseding the coordination clause in H.B. 349  
5928 between this bill and H.B. 349;

5929 (2) modify Subsection 32A-4a-305(9)(a) enacted in this bill to read:

5930 "(9)(a) Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling Act, a person  
5931 operating under a resort spa sublicense may not purchase liquor except from a state store or  
5932 package agency.";

5933 (3) modify Subsection 32A-4a-305(12) enacted in this bill to read:

5934 "(12)(a) A person operating under a resort spa sublicense may serve heavy beer:

5935 (i) at a price fixed by the commission; and

5936 (ii) (A) in an original container not exceeding one liter; or

5937 (B) subject to Subsection (12)(c):

5938 (I) in an open container; and

5939 (II) on draft.

5940 (b) A flavored malt beverage may be served in an original container not exceeding one  
5941 liter at a price fixed by the commission.

5942 (c) A person operating under a resort spa sublicense shall sell heavy beer sold pursuant  
5943 to Subsection (12)(a)(ii)(B) in a size of container that does not exceed two liters, except that  
5944 heavy beer may not be sold to an individual patron in a size of container that exceeds one liter.

5945 (d) A service charge may be assessed by a person operating under a resort spa  
5946 sublicense for heavy beer or a flavored malt beverage purchased at the resort spa sublicense

5947 premises.":

5948 (4) modify Subsection 32A-4a-401(4)(a) enacted in this bill to read:

5949 "(4)(a) Except as provided in Chapter 11, Part 2, Heavy Beer Wholesaling Act, a resort  
5950 licensee may not purchase liquor except from a state store or package agency.":

5951 (5) insert into Section 32A-11-202, enacted in H.B. 349, a new Subsection (1)(e) to  
5952 read "(e) a resort licensee;" and renumber the remaining subsections of Subsection (1)  
5953 accordingly;

5954 (6) modify the Subsection 32A-11-202(1)(e) enacted in H.B. 349, to read "(f) club  
5955 licensee;"

5956 (7) modify 32A-11-203, enacted in H.B. 349 as follows:

5957 (a) insert "and" after Subsection (2);

5958 (b) delete Subsection (3); and

5959 (c) renumber Subsection (4) to Subsection (3);

5960 (8) insert into Subsection 32A-12-201(1)(e), as amended H.B. 349, a new Subsection  
5961 (1)(e)(v) to read "(v) a resort licensee;" and renumber the remaining subsections of Subsection  
5962 (1)(e) accordingly;

5963 (9) modify the Subsection 32A-12-201(1)(e)(v) enacted in H.B. 349 to read "(vi) a club  
5964 licensee;"

5965 (10) insert into Subsection 32A-12-201(3)(a)(v), as amended in H.B. 349, a new  
5966 Subsection (3)(a)(v)(E) to read "(E) a resort licensee;" and renumber the remaining subsections  
5967 of Subsection (3)(a)(v) accordingly; and

5968 (11) modify the Subsection 32A-12-201(3)(a)(v)(E) enacted in H.B. 349 to read "(F) a  
5969 club licensee;" and

5970 (12) have the repeal of Section 32A-12-218 in this bill supersede the amendments to  
5971 that section in H.B. 349.

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**S.B. 187 1st Sub. (Green) - Alcohol Amendments - As Amended**

**Fiscal Note**

2009 General Session  
State of Utah

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**State Impact**

Enacting this bill reduces Department of Alcoholic Beverage Control current expense and personal service costs by \$950,000 per year. An additional day of operation in a year in which a statewide election occurs will generate profit of approximately \$140,000 for that year, every other year. Additional revenue will be generated from new licensees of \$50,000 in FY 2010 and \$20,000 in FY 2011. Transition credits authorized by the bill will reduce Liquor Control Fund revenue by no more than \$1,000,000 in FY 2010 and \$1,090,000 overall. If the statutory credit cap is reached in the first year of implementation (FY 2010) - a year in which no statewide election occurs - the net impact on the Liquor Control Fund would be zero. The net impact the following year would be revenue to the General Fund of \$1,020,000.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	\$0	\$1,020,000
Liquor Control Fund	\$0	(\$950,000)	(\$950,000)	\$0	(\$950,000)	\$0
<b>Total</b>	<b>\$0</b>	<b>(\$950,000)</b>	<b>(\$950,000)</b>	<b>\$0</b>	<b>(\$950,000)</b>	<b>\$1,020,000</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals. Businesses and individuals may be impacted due to changes in the proposed statutes.

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