

**ALCOHOLIC BEVERAGE CONTROL ACT
RESTRICTIONS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. McCoy

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address restrictions related to offering, selling, serving, furnishing, or consuming an alcoholic beverage.

Highlighted Provisions:

This bill:

- ▶ removes restrictions related to election days;
- ▶ removes requirements related to state labels and markings;
- ▶ modifies provisions related to hour restrictions and restaurant licensees;
- ▶ modifies provisions related to hour restrictions and limited restaurant licensees;
- ▶ prohibits tampering with a package of an alcoholic beverage; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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



- 28 **32A-2-103**, as last amended by Laws of Utah 2007, Chapter 329
- 29 **32A-3-106**, as last amended by Laws of Utah 2008, Chapter 266
- 30 **32A-4-106**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 31 **32A-4-307**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 32 **32A-12-212**, as last amended by Laws of Utah 2008, Chapter 391
- 33 **32A-12-219**, as renumbered and amended by Laws of Utah 1990, Chapter 23

34 REPEALS:

- 35 **32A-12-218**, as last amended by Laws of Utah 2003, Chapter 314



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

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

39 **32A-1-105. Definitions.**

40 As used in this title:

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

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

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

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

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

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

- 55 (i) except as provided in Subsection (3)(c), extract;
- 56 (ii) vinegar;
- 57 (iii) cider;
- 58 (iv) essence;

- 59 (v) tincture;
- 60 (vi) food preparation; or
- 61 (vii) an over-the-counter drug or medicine.

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

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

65 (a) at which an alcoholic beverage is:

66 (i) stored; or

67 (ii) dispensed; or

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

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

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

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

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

74 (c) Beer includes a product that:

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

76 (ii) is referred to as:

77 (A) beer;

78 (B) ale;

79 (C) porter;

80 (D) stout;

81 (E) lager; or

82 (F) a malt or malted beverage.

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

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

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

88 (ii) licensed to sell beer by:

89 (A) the commission;

- 90 (B) a local authority; or
- 91 (C) both the commission and a local authority.
- 92 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
- 93 beer to a patron for consumption off the beer retailer's premises.
- 94 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 95 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to a
- 96 patron for consumption on the beer retailer's premises, regardless of whether the business sells
- 97 beer for consumption off the beer retailer's premises.
- 98 (7) "Billboard" means a public display used to advertise including:
- 99 (a) a light device;
- 100 (b) a painting;
- 101 (c) a drawing;
- 102 (d) a poster;
- 103 (e) a sign;
- 104 (f) a signboard; or
- 105 (g) a scoreboard.
- 106 (8) "Brewer" means a person engaged in manufacturing:
- 107 (a) beer;
- 108 (b) heavy beer; or
- 109 (c) a flavored malt beverage.
- 110 (9) "Cash bar" means the service of an alcoholic beverage:
- 111 (a) at:
- 112 (i) a banquet; or
- 113 (ii) a temporary event for which a permit is issued under this title; and
- 114 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
- 115 beverage.
- 116 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 117 a bus company to a group of persons pursuant to a common purpose:
- 118 (a) under a single contract;
- 119 (b) at a fixed charge in accordance with the bus company's tariff; and
- 120 (c) for the purpose of giving the group of persons the exclusive use of the passenger

121 bus, coach, or other motor vehicle and a driver to travel together to one or more specified
122 destinations.

123 (11) "Church" means a building:

- 124 (a) set apart for the purpose of worship;
- 125 (b) in which religious services are held;
- 126 (c) with which clergy is associated; and
- 127 (d) which is tax exempt under the laws of this state.

128 (12) "Club" and "private club" means any of the following organized primarily for the
129 benefit of its members:

- 130 (a) a social club;
- 131 (b) a recreational association;
- 132 (c) a fraternal association;
- 133 (d) an athletic association; or
- 134 (e) a kindred association.

135 (13) "Commission" means the Alcoholic Beverage Control Commission.

136 (14) "Community location" means:

- 137 (a) a public or private school;
- 138 (b) a church;
- 139 (c) a public library;
- 140 (d) a public playground; or
- 141 (e) a public park.

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

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

147 (16) "Department" means the Department of Alcoholic Beverage Control.

148 (17) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
149 title:

- 150 (a) against:
- 151 (i) a permittee;

- 152 (ii) a licensee;
- 153 (iii) a manufacturer;
- 154 (iv) a supplier;
- 155 (v) an importer;
- 156 (vi) an out-of-state brewer holding a certificate of approval under Section 32A-8-101;

157 or

- 158 (vii) an officer, employee, or agent of:
 - 159 (A) a person listed in Subsections (17)(a)(i) through (vi); or
 - 160 (B) a package agent; and
- 161 (b) that is brought on the basis of a violation of this title.

162 (18) "Director," unless the context requires otherwise, means the director appointed
163 under Section 32A-1-108.

164 (19) "Distressed merchandise" means an alcoholic beverage in the possession of the
165 department that is saleable, but for some reason is unappealing to the public.

166 (20) "Flavored malt beverage" means a beverage:

- 167 (a) that contains at least .5% alcohol by volume;
- 168 (b) that is treated by processing, filtration, or another method of manufacture that is not
169 generally recognized as a traditional process in the production of a beer as described in 27
170 C.F.R. Sec. 25.55;

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

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

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

176 (21) "Guest" means a person accompanied by an active member or visitor of a club
177 who enjoys only those privileges derived from the host for the duration of the visit to the club.

178 (22) (a) "Heavy beer" means a product that:

- 179 (i) contains more than 4% alcohol by volume; and
- 180 (ii) is obtained by fermentation, infusion, or decoction of malted grain.

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

182 (23) "Hosted bar" means the service of an alcoholic beverage:

183 (a) without charge; and

184 (b) at a:

185 (i) banquet; or

186 (ii) privately hosted event.

187 (24) "Identification card" means an identification card issued under Title 53, Chapter 3,
188 Part 8, Identification Card Act.

189 (25) "Interdicted person" means a person to whom the sale, gift, or provision of an
190 alcoholic beverage is prohibited by:

191 (a) law; or

192 (b) court order.

193 (26) "Intoxicated" means that to a degree that is unlawful under Section 76-9-701 a
194 person is under the influence of:

195 (a) an alcoholic beverage;

196 (b) a controlled substance;

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

198 (d) a combination of Subsections (26)(a) through (c).

199 (27) "Licensee" means a person issued a license by the commission to sell,
200 manufacture, store, or allow consumption of an alcoholic beverage on premises owned or
201 controlled by the person.

202 (28) "Limousine" means a motor vehicle licensed by the state or a local authority, other
203 than a bus or taxicab:

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

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

209 (29) (a) (i) "Liquor" means alcohol, or an alcoholic, spirituous, vinous, fermented,
210 malt, or other liquid, or combination of liquids, a part of which is spirituous, vinous, or
211 fermented, or other drink, or drinkable liquid that:

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

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

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

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

216 (30) "Local authority" means:

217 (a) the governing body of the county if the premises are located in an unincorporated

218 area of a county; or

219 (b) the governing body of the city or town if the premises are located in an incorporated

220 city or a town.

221 (31) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or

222 otherwise make an alcoholic product for personal use or for sale or distribution to others.

223 (32) "Member" means a person who, after paying regular dues, has full privileges of a

224 club under this title.

225 (33) (a) "Military installation" means a base, air field, camp, post, station, yard, center,

226 or homeport facility for a ship:

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

228 (B) of the National Guard;

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

230 (iii) including a leased facility.

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

232 (i) civil works;

233 (ii) a rivers and harbors project; or

234 (iii) a flood control project.

235 (34) "Minor" means an individual under the age of 21 years.

236 (35) "Nude," "nudity," or "state of nudity" means:

237 (a) the appearance of:

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

239 (ii) a human genital;

240 (iii) a human pubic area; or

241 (iv) a human anus; or

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

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

244 (ii) a human genital;

245 (iii) a human pubic area; or

246 (iv) a human anus.

247 (36) "Outlet" means a location other than a state store or package agency where an
248 alcoholic beverage is sold pursuant to a license issued by the commission.

249 (37) "Package" means any of the following containing liquor:

250 (a) a container;

251 (b) a bottle;

252 (c) a vessel; or

253 (d) other receptacle.

254 (38) "Package agency" means a retail liquor location operated:

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

256 (b) by a person:

257 (i) other than the state; and

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

260 (39) "Package agent" means a person permitted by the commission to operate a
261 package agency pursuant to a contractual agreement with the department to sell liquor from
262 premises that the package agent shall provide and maintain.

263 (40) "Permittee" means a person issued a permit by the commission to perform an act
264 or exercise a privilege as specifically granted in the permit.

265 (41) "Person" means an individual, partnership, firm, corporation, limited liability
266 company, association, business trust, or other form of business enterprise, including a receiver
267 or trustee, and the plural as well as the singular number, unless the intent to give a more limited
268 meaning is disclosed by the context.

269 (42) "Premises" means a building, enclosure, room, or equipment used in connection
270 with the sale, storage, service, manufacture, distribution, or consumption of an alcoholic
271 product, unless otherwise defined in this title or in the rules adopted by the commission.

272 (43) "Prescription" means a writing in legal form, signed by a physician or dentist and
273 given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

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

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

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

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

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

283 (i) an identification card;

284 (ii) an identification that:

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

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

288 (C) includes date of birth; and

289 (D) has a picture affixed;

290 (iii) a valid driver license certificate that:

291 (A) includes date of birth;

292 (B) has a picture affixed; and

293 (C) is issued:

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

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

296 (iv) a military identification card that:

297 (A) includes date of birth; and

298 (B) has a picture affixed; or

299 (v) a valid passport.

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

302 (46) (a) "Public building" means a building or permanent structure owned or leased by
303 the state, a county, or local government entity that is used for:

304 (i) public education;

305 (ii) transacting public business; or

306 (iii) regularly conducting government activities.

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

310 (47) "Representative" means an individual who is compensated by salary, commission,
311 or other means for representing and selling an alcoholic beverage product of a manufacturer,
312 supplier, or importer of liquor including:

313 (a) wine;

314 (b) heavy beer; or

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

316 (48) "Residence" means a person's principal place of abode within Utah.

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

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

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

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

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

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

326 (i) a department sample; and

327 (ii) an industry representative sample.

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

330 (i) wine;

331 (ii) heavy beer; or

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

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

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

- 338 (ii) including:
- 339 (A) wine;
- 340 (B) heavy beer; or
- 341 (C) [~~on or after October 1, 2008,~~] a flavored malt beverage.
- 342 (52) (a) "School" means a building used primarily for the general education of minors.
- 343 (b) "School" does not include:
- 344 (i) a nursery school;
- 345 (ii) an infant day care center; or
- 346 (iii) a trade or technical school.
- 347 (53) "Sell," "sale," and "to sell" means a transaction, exchange, or barter whereby, for
- 348 consideration, an alcoholic beverage is either directly or indirectly transferred, solicited,
- 349 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether
- 350 done by a person as a principal, proprietor, or as an agent, servant, or employee, unless
- 351 otherwise defined in this title or the rules made by the commission.
- 352 (54) "Seminude," "seminudity," or "state of seminudity" means a state of dress in
- 353 which opaque clothing covers no more than:
- 354 (a) the nipple and areola of the female human breast in a shape and color other than the
- 355 natural shape and color of the nipple and areola; and
- 356 (b) the human genitals, pubic area, and anus:
- 357 (i) with no less than the following at its widest point:
- 358 (A) four inches coverage width in the front of the human body; and
- 359 (B) five inches coverage width in the back of the human body; and
- 360 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 361 (55) "Sexually oriented entertainer" means a person who while in a state of seminudity
- 362 appears at or performs:
- 363 (a) for the entertainment of one or more patrons;
- 364 (b) on the premises of:
- 365 (i) a class D private club as defined in Subsection 32A-5-101(3); or
- 366 (ii) a tavern;
- 367 (c) on behalf of or at the request of the licensee described in Subsection (55)(b);
- 368 (d) on a contractual or voluntary basis; and

- 369 (e) whether or not the person is designated:
- 370 (i) an employee of the licensee described in Subsection (55)(b);
- 371 (ii) an independent contractor of the licensee described in Subsection (55)(b);
- 372 (iii) an agent of the licensee described in Subsection (55)(b); or
- 373 (iv) otherwise of the licensee described in Subsection (55)(b).
- 374 (56) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
- 375 beer, heavy beer, and flavored malt beverages per year.
- 376 (57) (a) "Spirituous liquor" means liquor that is distilled.
- 377 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27
- 378 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.
- 379 [~~(58) (a) "State label" means the official label designated by the commission affixed to~~
- 380 ~~a liquor container sold in the state.]~~
- 381 [~~(b) "State label" includes the department identification mark and inventory control~~
- 382 ~~number.]~~
- 383 [~~(59)~~ (58) (a) "State store" means a facility for the sale of package liquor:
- 384 (i) located on premises owned or leased by the state; and
- 385 (ii) operated by a state employee.
- 386 (b) "State store" does not apply to a:
- 387 (i) licensee;
- 388 (ii) permittee; or
- 389 (iii) package agency.
- 390 [~~(60)~~ (59) "Supplier" means a person selling an alcoholic beverage to the department.
- 391 [~~(61)~~ (60) (a) "Tavern" means a business establishment that is:
- 392 (i) engaged primarily in the retail sale of beer to a public patron for consumption on the
- 393 establishment's premises; and
- 394 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.
- 395 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the
- 396 revenue of the sale of food, although food need not be sold in the establishment:
- 397 (i) a beer bar;
- 398 (ii) a parlor;
- 399 (iii) a lounge;

- 400 (iv) a cabaret; or
- 401 (v) a nightclub.

402 [~~(62)~~] (61) "Temporary domicile" means the principal place of abode within Utah of a
403 person who does not have a present intention to continue residency within Utah permanently or
404 indefinitely.

405 [~~(63)~~] (62) "Unsaleable liquor merchandise" means merchandise that:

406 (a) is unsaleable because the merchandise is:

- 407 (i) unlabeled;
- 408 (ii) leaky;
- 409 (iii) damaged;
- 410 (iv) difficult to open; or
- 411 (v) partly filled;

412 (b) is in a container:

- 413 (i) having faded labels or defective caps or corks;
- 414 (ii) in which the contents are:
 - 415 (A) cloudy;
 - 416 (B) spoiled; or
 - 417 (C) chemically determined to be impure; or

418 (iii) that contains:

- 419 (A) sediment; or
- 420 (B) a foreign substance; or
- 421 (c) is otherwise considered by the department as unfit for sale.

422 [~~(64)~~] (63) "Visitor" means an individual that in accordance with Section 32A-5-107
423 holds limited privileges in a private club by virtue of a visitor card.

424 [~~(65)~~] (64) "Warehouser" means a person, other than a licensed manufacturer, engaged
425 in the importation for sale, storage, or distribution of liquor regardless of amount.

426 [~~(66)~~] (65) (a) "Wholesaler" means a person engaged in the importation for sale, or in
427 the sale of beer in wholesale or jobbing quantities to one or more retailers.

428 (b) Notwithstanding Subsection [~~(66)~~] (65)(a), "wholesaler" does not include a small
429 brewer selling beer manufactured by that brewer.

430 [~~(67)~~] (66) (a) "Wine" means an alcoholic beverage obtained by the fermentation of the

431 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
432 another ingredient is added.

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

435 Section 2. Section **32A-1-109** is amended to read:

436 **32A-1-109. Powers and duties of the director.**

437 Subject to the powers and responsibilities vested in the commission by this title the
438 director shall:

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

443 (2) within the general policies, directives, rules, and procedures of the commission~~;~~;

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

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

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

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

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

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

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

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

- 462 (a) a department office;
463 (b) a warehouse;
464 (c) a state store;
465 (d) a package agency; and
466 (e) a licensee;
467 (5) within the policies, directives, rules, and procedures approved by the commission
468 and provisions of law, buy, import, keep for sale, sell and control the sale, storage, service,
469 transportation, and delivery of an alcoholic [products] product;
470 (6) prepare for commission approval:
471 (a) one or more recommendations regarding the location, establishment, relocation, and
472 closure of [~~state stores and package agencies~~] a state store or package agency;
473 (b) one or more recommendations regarding the issuance, suspension, nonrenewal, and
474 revocation of [~~licenses and permits~~] a license or permit;
475 (c) an annual [~~budgets~~] budget, proposed legislation, and one or more reports as
476 required by law and sound business principles;
477 (d) one or more plans for reorganizing divisions of the department and [~~their~~] the
478 functions of the divisions;
479 (e) one or more manuals containing [~~all~~] commission and department policies,
480 directives, rules, and procedures;
481 (f) an inventory control system;
482 (g) any other [~~reports and recommendations~~] report or recommendation as may be
483 requested by the commission;
484 (h) one or more rules governing the credit terms of the sale of beer [~~sales~~] to a beer
485 retailer [~~licensees~~] licensee;
486 (i) one or more rules governing the calibration, maintenance, and regulation of a
487 calibrated metered dispensing [~~systems~~] system;
488 (j) one or more rules governing the posting of a list of types and brand names of liquor
489 [~~being~~] served through a calibrated metered dispensing [~~systems~~] system;
490 (k) one or more price lists issued and distributed showing the price to be paid for each
491 class, variety, or brand of liquor kept for sale at a state [~~stores, package agencies, and outlets~~]
492 store, package agency, or outlet;

493 (1) one or more directives prescribing the books of account kept by the department and
 494 by a state [stores, package agencies, and outlets;] store, package agency, or outlet; and

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

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

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

501 [~~8~~] adopt internal departmental policies, directives, rules, and procedures relating to
 502 department personnel matters and the day-to-day operation of the department that are
 503 consistent with those of the commission;]

504 [~~9~~] (8) keep a current copy of [~~the manuals containing~~] a manual that contains the
 505 rules and policies of the department and commission available for public inspection;

506 [~~10~~] (9) (a) after consultation with the governor, determine whether an alcoholic
 507 [~~products~~] product should not be sold, offered for sale, or otherwise furnished in an area of the
 508 state during a period of emergency that is proclaimed by the governor to exist in that area; and

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

511 [~~11~~] (10) perform other duties required by the commission and by law.

512 Section 3. Section **32A-2-103** is amended to read:

513 **32A-2-103. Operational restrictions.**

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

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

516 (2) (a) An officer, agent, clerk, or employee of a state store may not consume or allow
 517 to be consumed by any person [~~any~~] an alcoholic beverage on the premises of a state store.

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

519 [~~3~~] All liquor sold shall be in packages that are properly marked and labeled in
 520 accordance with the rules adopted under this title.]

521 [~~4~~] (3) Liquor may not be sold except at prices fixed by the commission.

522 [~~5~~] (4) Liquor may not be sold, delivered, or furnished to [~~any~~] a:

523 (a) minor;

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

525 (c) known habitual drunkard; or

526 (d) known interdicted person.

527 ~~[(6)]~~ (5) Sale or delivery of liquor may not be made on or from the premises of ~~[any]~~ a
528 state store, nor may ~~[any]~~ a state store be kept open for the sale of liquor:

529 (a) on Sunday;

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

531 ~~[(c) on any day on which any regular general election, regular primary election, or~~
532 ~~statewide special election is held;]~~

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

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

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

543 ~~[(8)]~~ (7) (a) A minor may not be admitted into, or be on the premises of a state store
544 unless accompanied by a person who is:

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

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

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

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

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

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

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

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

563 Section 4. Section **32A-3-106** is amended to read:

564 **32A-3-106. Operational restrictions.**

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

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

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

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

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

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

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

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

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

584 ~~[(6)]~~ (5) A package agency may not display liquor or price lists in windows or
585 showcases visible to passersby.

586 [~~7~~] (6) (a) An officer, agent, clerk, or employee of a package agency may not
587 consume or allow to be consumed by any person any alcoholic beverage on the premises of a
588 package agency.

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

590 [~~8~~] (7) Liquor may not be sold except at prices fixed by the commission.

591 [~~9~~] (8) Liquor may not be sold, delivered, or furnished to any:

592 (a) minor;

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

594 (c) known habitual drunkard; or

595 (d) known interdicted person.

596 [~~10~~] (9) (a) Subject to Subsection [~~10~~] (9)(b), sale or delivery of liquor may not be
597 made on or from the premises of any package agency nor may any package agency be kept
598 open for the sale of liquor:

599 (i) (A) on Sunday; or

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

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

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

603 (i) the package agency is located at a winery licensed under Chapter 8, Manufacturing
604 Licenses;

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

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

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

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

609 (iv) the restaurant described in Subsection [~~10~~] (9)(b)(ii) sells wines produced at the
610 winery;

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

612 (A) owns the restaurant; or

613 (B) operates the restaurant;

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

615 (vii) the package agency's days and hours of sale are the same as the days and hours of
616 sale at the restaurant described in Subsection [~~10~~] (9)(b)(ii).

617 ~~[(c) (i) In addition to the requirements of Subsection (10)(a), the sale or delivery of~~
 618 ~~liquor may not be made on or from the premises of a package agency described in Subsection~~
 619 ~~(10)(c)(ii) and a package agency described in Subsection (10)(c)(ii) may not be open for the~~
 620 ~~sale of liquor until after the polls are closed.]~~

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

622 ~~[(f) a regular general election;]~~

623 ~~[(H) a regular primary election; or]~~

624 ~~[(HH) a statewide special election; or]~~

625 ~~[(B) on a day on which is held a municipal, local district, special service district, or~~
 626 ~~school election if:]~~

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

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

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

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

638 ~~[(H)]~~ (10) The package agency certificate issued by the commission shall be
 639 permanently posted in a conspicuous place in the package agency.

640 ~~[(H2)]~~ (11) Each package agent shall display in a prominent place in the package
 641 agency a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs
 642 is a serious crime that is prosecuted aggressively in Utah."

643 ~~[(H3)]~~ (12) (a) A package agency may not close or cease operation for a period longer
 644 than 72 hours, unless:

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

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

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

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

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

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

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

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

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

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

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

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

665 [~~(14)~~] (13) Liquor may not be stored or sold in any place other than as designated in the
666 package agent's application, unless the package agent first applies for and receives approval
667 from the department for a change of location within the package agency premises.

668 [~~(15)~~] (14) (a) Except to the extent authorized by commission rule, a minor may not be
669 admitted into, or be on the premises of a package agency unless accompanied by a person who
670 is:

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

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

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

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

677 (ii) ask the person who accompanied the suspected minor for proof of age; and

678 (iii) ask the suspected minor or the person who accompanied the suspected minor for

679 proof of parental, guardianship, or spousal relationship.

680 (c) Any package agent or employee of a package agency shall refuse to sell liquor to
681 the suspected minor and to the person who accompanied the suspected minor into the package
682 agency if they fail to provide any of the information specified in Subsection [~~(15)~~] (14)(b).

683 (d) Any package agent or employee of a package agency shall require the suspected
684 minor and the person who accompanied the suspected minor into the package agency to
685 immediately leave the premises of the package agency if they fail to provide any of the
686 information specified in Subsection [~~(15)~~] (14)(b).

687 [~~(16)~~] (15) A package agency may not transfer its operations from one location to
688 another without prior written approval of the commission.

689 [~~(17)~~] (16) (a) A person, having been granted a package agency, may not sell, transfer,
690 assign, exchange, barter, give, or attempt in any way to dispose of the package agency to any
691 other person, whether for monetary gain or not.

692 (b) A package agency has no monetary value for the purpose of any type of disposition.

693 Section 5. Section **32A-4-106** is amended to read:

694 **32A-4-106. Operational restrictions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

740 (b) A flavored malt beverage may be served in an original container not exceeding one

741 liter at a price fixed by the commission.

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

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

746 (A) in an open container; and

747 (B) on draft.

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

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

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

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

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

760 (i) state liquor license; and

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

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

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

769 (ii) Notwithstanding Subsection (7)(a)(i), a patron who purchases bottled wine from an
770 employee of the restaurant or carries bottled wine onto the premises of the restaurant pursuant
771 to Subsection (14) may thereafter serve wine from the bottle to the patron or others at the

772 patron's table.

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

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

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

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

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

780 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
781 restaurant of a restaurant liquor licensee on any day [~~after 12 midnight or before 12 noon~~]
782 between the hours of 1 a.m. and 10 a.m.

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

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

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

788 (a) minor;

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

790 (c) known habitual drunkard; or

791 (d) known interdicted person.

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

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

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

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

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

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

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

803 not be sold or served for a fixed price.

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

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

807 (a) the restaurant liquor licensee; or

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

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

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

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

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

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

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

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

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

827 (ii) contains an alcoholic beverage.

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

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

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

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

837 (a) consume an alcoholic beverage; or

838 (b) be intoxicated.

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

841 (a) a set-up charge;

842 (b) a service charge; or

843 (c) a chilling fee.

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

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

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

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

850 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor
851 licensee:

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

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

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

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

862 (i) quarterly expenditures made separately for:

863 (A) malt or brewed beverages;

864 (B) set-ups;

- 865 (C) liquor;
- 866 (D) food; and
- 867 (E) all other items required by the department; and
- 868 (ii) sales made separately for:
 - 869 (A) malt or brewed beverages;
 - 870 (B) set-ups;
 - 871 (C) food; and
 - 872 (D) all other items required by the department.
- 873 (b) A restaurant liquor licensee shall keep a record required by Subsection (21)(a):
 - 874 (i) in a form approved by the department; and
 - 875 (ii) current for each three-month period.
- 876 (c) An expenditure shall be supported by:
 - 877 (i) a delivery ticket;
 - 878 (ii) an invoice;
 - 879 (iii) a receipted bill;
 - 880 (iv) a canceled check;
 - 881 (v) a petty cash voucher; or
 - 882 (vi) other sustaining datum or memorandum.
- 883 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant
- 884 liquor licensee shall maintain accounting and other records and documents as the department
- 885 may require.
- 886 (e) A restaurant liquor licensee or person acting for the restaurant, who knowingly
- 887 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or
- 888 other document of the restaurant that is required to be made, maintained, or preserved by this
- 889 title or the rules of the commission for the purpose of deceiving the commission or the
- 890 department, or an official or employee of the commission or department, is subject to:
 - 891 (i) the suspension or revocation of the restaurant's liquor license; and
 - 892 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 893 (22) (a) A restaurant liquor licensee may not close or cease operation for a period
- 894 longer than 240 hours, unless:
 - 895 (i) the restaurant liquor licensee notifies the department in writing at least seven days

896 before the day on which the restaurant liquor licensee closes or ceases operation; and
897 (ii) the closure or cessation of operation is first approved by the department.
898 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the
899 restaurant liquor licensee shall immediately notify the department by telephone.
900 (c) (i) The department may authorize a closure or cessation of operation for a period
901 not to exceed 60 days.
902 (ii) The department may extend the initial period an additional 30 days upon:
903 (A) written request of the restaurant liquor licensee; and
904 (B) a showing of good cause.
905 (iii) A closure or cessation of operation may not exceed a total of 90 days without
906 commission approval.
907 (d) A notice shall include:
908 (i) the dates of closure or cessation of operation;
909 (ii) the reason for the closure or cessation of operation; and
910 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.
911 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department
912 authorization before closure or cessation of operation results in an automatic forfeiture of:
913 (i) the license; and
914 (ii) the unused portion of the license fee for the remainder of the license year effective
915 immediately.
916 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the
917 approved date results in an automatic forfeiture of:
918 (i) the license; and
919 (ii) the unused portion of the license fee for the remainder of the license year.
920 (23) A restaurant liquor licensee shall maintain at least 70% of its total restaurant
921 business from the sale of food, which does not include mix for an alcoholic beverage or service
922 charges.
923 (24) A restaurant liquor license may not be transferred from one location to another,
924 without prior written approval of the commission.
925 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,
926 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license

927 to another person whether for monetary gain or not.

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

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

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

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

939 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
940 58-37-2; or

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

943 Section 6. Section **32A-4-307** is amended to read:

944 **32A-4-307. Operational restrictions.**

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

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

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

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

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

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

- 960 (i) as a flavoring on a dessert; and
- 961 (ii) in the preparation of a flaming food dish, drink, or dessert.

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

- 963 (i) spirituous liquor; and
- 964 (ii) ~~[on or after October 1, 2008,]~~ a flavored malt beverage.

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

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

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

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

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

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

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

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

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

- 984 (A) in an open container; and
- 985 (B) on draft.

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

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

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

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

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

998 (i) limited restaurant license; and

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

1000 (6) Wine, heavy beer, and beer may not be stored, served, or sold in a place other than
1001 as designated in the limited restaurant licensee's application, unless the limited restaurant
1002 licensee first applies for and receives approval from the department for a change of location
1003 within the limited restaurant.

1004 (7) (a) (i) A patron may only make an alcoholic beverage purchase in a limited
1005 restaurant from and be served by a person employed, designated, and trained by the limited
1006 restaurant licensee to sell and serve an alcoholic beverage.

1007 (ii) Notwithstanding Subsection (7)(a)(i), a patron who purchases bottled wine from an
1008 employee of the limited restaurant licensee or carries bottled wine onto the premises of the
1009 limited restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the
1010 patron or others at the patron's table.

1011 (b) An alcoholic beverage shall be delivered by a server to the patron.

1012 (c) An alcoholic beverage may only be consumed at the patron's table or counter.

1013 (d) An alcoholic beverage may not be served to or consumed by a patron at a bar.

1014 (e) A limited restaurant patron may have no more than two alcoholic beverages of any
1015 kind at a time before the patron.

1016 (8) The alcoholic beverage storage area shall remain locked at all times other than
1017 those hours and days when alcoholic beverage sales are authorized by law.

1018 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
1019 furnished at a limited restaurant on any day [~~after 12 midnight or before 12 noon~~] between the

1020 hours of 1 a.m. and 10 a.m.

1021 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1022 Licenses, for on-premise beer licensees.

1023 (10) An alcoholic beverage may not be sold except in connection with an order of food
1024 prepared, sold, and served at the limited restaurant.

1025 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to a:

1026 (a) minor;

1027 (b) person actually, apparently, or obviously intoxicated;

1028 (c) known habitual drunkard; or

1029 (d) known interdicted person.

1030 (12) (a) (i) Wine and heavy beer may be sold only at a price fixed by the commission.

1031 (ii) Wine and heavy beer may not be sold at a discount price on any date or at any time.

1032 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
1033 beverage to the limited restaurant licensee.

1034 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1035 over consumption or intoxication.

1036 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1037 hours of the limited restaurant licensee's business day such as a "happy hour."

1038 (e) More than one alcoholic beverage may not be sold or served for the price of a single
1039 alcoholic beverage.

1040 (f) An indefinite or unlimited number of alcoholic beverages during a set period may
1041 not be sold or served for a fixed price.

1042 (g) A limited restaurant licensee may not engage in a public promotion involving or
1043 offering free alcoholic beverages to the general public.

1044 (13) An alcoholic beverage may not be purchased for a patron of the limited restaurant
1045 by:

1046 (a) the limited restaurant licensee; or

1047 (b) an employee or agent of the limited restaurant licensee.

1048 (14) (a) A person may not bring onto the premises of a limited restaurant licensee an
1049 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1050 discretion of the limited restaurant licensee, bottled wine onto the premises of a limited

1051 restaurant licensee for on-premise consumption.

1052 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or an
1053 officer, manager, employee, or agent of a limited restaurant licensee may not allow:

1054 (i) a person to bring onto the limited restaurant premises an alcoholic beverage for
1055 on-premise consumption; or

1056 (ii) consumption of an alcoholic beverage described in Subsection (14)(b)(i) on the
1057 limited restaurant licensee's premises.

1058 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1059 or other representative of the limited restaurant licensee upon entering the limited restaurant.

1060 (d) A wine service may be performed and a service charge assessed by the limited
1061 restaurant licensee as authorized by commission rule for wine carried in by a patron.

1062 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and an
1063 employee of the limited restaurant licensee may not permit a restaurant patron to carry from the
1064 limited restaurant premises an open container that:

1065 (i) is used primarily for drinking purposes; and

1066 (ii) contains an alcoholic beverage.

1067 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
1068 contents of a bottle of wine if before removal, the bottle is recorked or recapped.

1069 (16) (a) A limited restaurant licensee may not employ a minor to sell or dispense an
1070 alcoholic beverage.

1071 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
1072 employed to enter the sale at a cash register or other sales recording device.

1073 (17) An employee of a limited restaurant licensee, while on duty, may not:

1074 (a) consume an alcoholic beverage; or

1075 (b) be intoxicated.

1076 (18) A charge or fee made in connection with the sale, service, or consumption of wine
1077 or heavy beer may be stated in food or alcoholic beverage menus including:

1078 (a) a service charge; or

1079 (b) a chilling fee.

1080 (19) A limited restaurant licensee shall display in a prominent place in the restaurant:

1081 (a) the limited restaurant license that is issued by the department; and

1082 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1083 drugs is a serious crime that is prosecuted aggressively in Utah."

1084 (20) A limited restaurant licensee may not on the premises of the restaurant:

1085 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1086 Chapter 10, Part 11, Gambling;

1087 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1088 Part 11, Gambling; or

1089 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1090 the risking of something of value for a return or for an outcome when the return or outcome is
1091 based upon an element of chance, excluding the playing of an amusement device that confers
1092 only an immediate and unrecorded right of replay not exchangeable for value.

1093 (21) (a) A limited restaurant licensee shall maintain an expense ledger or record
1094 showing in detail:

1095 (i) quarterly expenditures made separately for:

1096 (A) wine;

1097 (B) heavy beer;

1098 (C) beer;

1099 (D) food; and

1100 (E) all other items required by the department; and

1101 (ii) sales made separately for:

1102 (A) wine;

1103 (B) heavy beer;

1104 (C) beer;

1105 (D) food; and

1106 (E) all other items required by the department.

1107 (b) A limited restaurant licensee shall keep a record required by Subsection (21)(a):

1108 (i) in a form approved by the department; and

1109 (ii) current for each three-month period.

1110 (c) An expenditure shall be supported by:

1111 (i) a delivery ticket;

1112 (ii) an invoice;

- 1113 (iii) a receipted bill;
- 1114 (iv) a canceled check;
- 1115 (v) a petty cash voucher; or
- 1116 (vi) other sustaining datum or memorandum.
- 1117 (d) In addition to the ledger or record maintained under Subsections (21)(a) through
- 1118 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
- 1119 the department may require.
- 1120 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly
- 1121 forges, falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or
- 1122 other document of the limited restaurant that is required to be made, maintained, or preserved
- 1123 by this title or the rules of the commission for the purpose of deceiving the commission, the
- 1124 department, or an official or employee of the commission or department, is subject to:
- 1125 (i) the suspension or revocation of the limited restaurant's license; and
- 1126 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1127 (22) (a) A limited restaurant licensee may not close or cease operation for a period
- 1128 longer than 240 hours, unless:
- 1129 (i) the limited restaurant licensee notifies the department in writing at least seven days
- 1130 before the day on which the limited restaurant licensee closes or ceases operation; and
- 1131 (ii) the closure or cessation of operation is first approved by the department.
- 1132 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, the limited
- 1133 restaurant licensee shall immediately notify the department by telephone.
- 1134 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or
- 1135 cessation of operation for a period not to exceed 60 days.
- 1136 (ii) The department may extend the initial period an additional 30 days upon:
- 1137 (A) written request of the limited restaurant licensee; and
- 1138 (B) a showing of good cause.
- 1139 (iii) A closure or cessation of operation may not exceed a total of 90 days without
- 1140 commission approval.
- 1141 (d) A notice required by Subsection (22)(a) shall include:
- 1142 (i) the dates of closure or cessation of operation;
- 1143 (ii) the reason for the closure or cessation of operation; and

1144 (iii) the date on which the limited restaurant licensee will reopen or resume operation.

1145 (e) Failure of the limited restaurant licensee to provide notice and to obtain department
1146 authorization before closure or cessation of operation results in an automatic forfeiture of:

1147 (i) the limited restaurant license; and

1148 (ii) the unused portion of the license fee for the remainder of the license year effective
1149 immediately.

1150 (f) Failure of the limited restaurant licensee to reopen or resume operation by the
1151 approved date results in an automatic forfeiture of:

1152 (i) the limited restaurant license; and

1153 (ii) the unused portion of the license fee for the remainder of the license year.

1154 (23) A limited restaurant licensee shall maintain at least 70% of its total restaurant
1155 business from the sale of food, which does not include service charges.

1156 (24) A limited restaurant license may not be transferred from one location to another,
1157 without prior written approval of the commission.

1158 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,
1159 give, or attempt in any way to dispose of the limited restaurant license to another person
1160 whether for monetary gain or not.

1161 (b) A limited restaurant license has no monetary value for the purpose of any type of
1162 disposition.

1163 (26) (a) A server of wine, heavy beer, and beer in a limited restaurant licensee's
1164 establishment shall keep a written beverage tab for each table or group that orders or consumes
1165 an alcoholic beverage on the premises.

1166 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an
1167 alcoholic beverage ordered or consumed.

1168 (27) A limited restaurant licensee may not make a person's willingness to serve an
1169 alcoholic beverage a condition of employment as a server with the limited restaurant.

1170 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may
1171 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
1172 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1173 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1174 58-37-2; or

1175 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1176 Section 58-37a-3.

1177 Section 7. Section **32A-12-212** is amended to read:

1178 **32A-12-212. Unlawful possession -- Exceptions.**

1179 (1) A person may not have or possess within this state [~~any~~] liquor unless authorized
1180 by this title or the rules of the commission, except that:

1181 (a) a person who clears United States Customs when entering this country may have or
1182 possess for personal consumption and not for sale or resale, a maximum of two liters of liquor
1183 purchased from without the United States;

1184 (b) a person who moves the person's residence to this state from outside of this state
1185 may have or possess for personal consumption and not for sale or resale, liquor previously
1186 purchased outside the state and brought into this state during the move, if:

1187 (i) the person [~~first~~] obtains department approval before moving the liquor into the
1188 state; and

1189 [~~(ii) the department affixes the official state label to the liquor; and]~~

1190 [~~(iii)~~] (ii) the person pays the department a reasonable administrative handling fee as
1191 determined by the commission;

1192 (c) a person who as a beneficiary inherits as part of an estate liquor that is located
1193 outside the state, may have or possess the liquor and transport or cause the liquor to be
1194 transported into the state if:

1195 (i) the person [~~first~~] obtains department approval before moving the liquor into the
1196 state;

1197 (ii) the person provides sufficient documentation to the department to establish the
1198 person's legal right to the liquor as a beneficiary; and

1199 [~~(iii) the department affixes the official state label to the liquor; and]~~

1200 [~~(iv)~~] (iii) the person pays the department a reasonable administrative handling fee as
1201 determined by the commission; or

1202 (d) a person may transport, have, or possess liquor if:

1203 (i) the person transports, has, or possesses the liquor:

1204 (A) for personal household use and consumption; and

1205 (B) not for:

- 1206 (I) sale;
- 1207 (II) resale;
- 1208 (III) gifting to another; or
- 1209 (IV) consumption on a premise licensed by the commission;
- 1210 (ii) the liquor is purchased from a store or outlet on a military installation; and
- 1211 (iii) the maximum amount the person transports, has, or possesses under this

1212 Subsection (1)(d) is:

- 1213 (A) two liters of:
 - 1214 (I) spirituous liquor;
 - 1215 (II) wine; or
 - 1216 (III) a combination of spirituous liquor and wine; and
- 1217 (B) (I) one case of heavy beer that does not exceed 288 ounces; or
- 1218 (II) ~~[on or after October 1, 2008,]~~ one case of a flavored malt beverage that does not
- 1219 exceed 288 ounces.

- 1220 (2) (a) Approval under Subsection (1)(b) may be obtained by a person who:
 - 1221 (i) is transferring the person's permanent residence to this state; or
 - 1222 (ii) maintains separate residences both in and out of this state.
- 1223 (b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more
- 1224 than once.

1225 Section 8. Section **32A-12-219** is amended to read:

1226 **32A-12-219. Unlawful adulteration -- Licensing tampering.**

1227 (1) For purposes of this section, "tamper" means to do one or more of the following to
1228 the contents of a package:

- 1229 (a) fortify;
- 1230 (b) adulterate;
- 1231 (c) contaminate;
- 1232 (d) dilute;
- 1233 (e) change its character or purity; or
- 1234 (f) otherwise change.

1235 (2) A person may not, for any purpose, mix or allow to be mixed [any drug, methylic
1236 alcohol, any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious

1237 ~~substance or liquid~~] with an alcoholic beverage sold or supplied by the person as a beverage[-]
1238 any of the following:
1239 (a) a drug;
1240 (b) methylic alcohol;
1241 (c) a crude, unrectified, or impure form of ethylic alcohol; or
1242 (d) another deleterious substance.
1243 (3) (a) The following may not engage in an act listed in Subsection (3)(b):
1244 (i) a retail licensee;
1245 (ii) a permittee;
1246 (iii) a package agent;
1247 (iv) a beer wholesaler;
1248 (v) a supplier;
1249 (vi) an importer; or
1250 (vii) a warehouse.
1251 (b) A person listed in Subsection (3)(a) may not:
1252 (i) tamper with the contents of a package of alcoholic beverage as originally marketed
1253 by a manufacturer;
1254 (ii) refill or partly refill with any substance the contents of an original package of
1255 alcoholic beverage as originally marketed by a manufacturer;
1256 (iii) misrepresent the brand of an alcoholic beverage sold or offered for sale; or
1257 (iv) sell or serve a brand of alcoholic beverage that is not the same as that ordered by a
1258 purchaser without first advising the purchaser of the difference.

Section 9. **Repealer.**

This bill repeals:

Section **32A-12-218, Unlawful labeling or lack of label.**

Legislative Review Note
as of 1-14-09 5:24 PM

Office of Legislative Research and General Counsel

S.B. 106 - Alcoholic Beverage Control Act Restrictions

Fiscal Note

2009 General Session

State of Utah

State Impact

Enacting this bill reduces Department of Alcoholic Beverage Control current expense and personal service costs by \$950,000. Staying open an additional day will generate extra revenue. On an average day, the system generates \$140,000 in profits on \$621,000 in revenue. Profit increases are transferred to the General Fund. Some additional yet undeterminable profit and sales tax may occur as result of longer restaurant hours.

	<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	\$1,090,000	\$1,090,000
Liquor Control Fund	\$0	(\$950,000)	(\$950,000)	\$0	\$0	\$0
Total	\$0	(\$950,000)	(\$950,000)	\$0	\$1,090,000	\$1,090,000

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits businesses or local governments. Individuals may benefit from this change in statute.
