

1 **ALCOHOLIC BEVERAGE CONTROL ACT -**

2 **MODIFICATIONS**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: John L. Valentine**

6 House Sponsor: James A. Dunnigan

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Alcoholic Beverage Control Act to correct omissions or errors
11 made as part of the recodification of that act.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ reorders language;
- 15 ▶ corrects or clarifies terminology, including defining the term "container";
- 16 ▶ clarifies a formula related to the Alcoholic Beverage Enforcement and Treatment

17 Restricted Account;

- 18 ▶ clarifies references to specific licenses or sublicenses;
- 19 ▶ relocates a provision addressing advertising;
- 20 ▶ makes the provision related to a package agency posting a bond more consistent

21 with other bond requirements in the act; and

- 22 ▶ makes technical and conforming amendments.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill takes effect on July 1, 2011.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **32B-1-102 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

- 30 **32B-1-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 31 **32B-1-306 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 32 **32B-1-602 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 33 **32B-1-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 34 **32B-2-303 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 35 **32B-2-402 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276 and
- 36 amended by Laws of Utah 2010, Chapter 276, Coordination Clause
- 37 **32B-2-404 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 38 **32B-2-503 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 39 **32B-2-504 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 40 **32B-2-601 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 41 **32B-2-602 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 42 **32B-2-604 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 43 **32B-2-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 44 **32B-2-606 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 45 **32B-3-303 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 46 **32B-3-307 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 47 **32B-4-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 48 **32B-4-206 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 49 **32B-4-208 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 50 **32B-4-406 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 51 **32B-4-420 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 52 **32B-4-422 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 53 **32B-4-507 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 54 **32B-4-704 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 55 **32B-4-705 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 56 **32B-5-303 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 57 **32B-5-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

- 58 **32B-5-307 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 59 **32B-5-308 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 60 **32B-6-205 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 61 **32B-6-305 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 62 **32B-6-405 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 63 **32B-6-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 64 **32B-6-706 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 65 **32B-7-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 66 **32B-8-401 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 67 **32B-9-204 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 68 **32B-9-302 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 69 **32B-9-305 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 70 **32B-10-404 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 71 **32B-11-608 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

72 RENUMBERS AND AMENDS:

73 **32B-1-206**, (Renumbered from 32B-4-510 (Effective 07/01/11), as enacted by Laws of
74 Utah 2010, Chapter 276)



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

77 Section 1. Section **32B-1-102 (Effective 07/01/11)** is amended to read:

78 **32B-1-102 (Effective 07/01/11). Definitions.**

79 As used in this title:

80 (1) "Airport lounge" means a business location:

81 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

82 (b) that is located at an international airport with a United States Customs office on the
83 premises of the international airport.

84 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,
85 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

86 (3) "Alcoholic beverage" means the following:

87 (a) beer; or

88 (b) liquor.

89 (4) (a) "Alcoholic product" means a product that:

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

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

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

93 in an amount equal to or greater than .5% of alcohol by volume.

94 (b) "Alcoholic product" includes an alcoholic beverage.

95 (c) "Alcoholic product" does not include any of the following common items that

96 otherwise come within the definition of an alcoholic product:

97 (i) except as provided in Subsection (4)(d), an extract;

98 (ii) vinegar;

99 (iii) cider;

100 (iv) essence;

101 (v) tincture;

102 (vi) food preparation; or

103 (vii) an over-the-counter medicine.

104 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation

105 when it is used as a flavoring in the manufacturing of an alcoholic product.

106 (5) "Alcohol training and education seminar" means a seminar that is:

107 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and

108 (b) described in Section 62A-15-401.

109 (6) "Banquet" means an event:

110 (a) that is held at one or more designated locations approved by the commission in or

111 on the premises of a:

112 (i) hotel;

113 (ii) resort facility;

- 114 (iii) sports center; or
- 115 (iv) convention center;
- 116 (b) for which there is a contract:
- 117 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
- 118 and
- 119 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
- 120 provide an alcoholic product at the event; and
- 121 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 122 (7) (a) Subject to Subsection (7)(b), "bar" means a counter or similar structure:
- 123 (i) at which an alcoholic product is:
- 124 (A) stored; or
- 125 (B) dispensed; or
- 126 (ii) from which an alcoholic product is served.
- 127 (b) For purposes of a full-service restaurant license or a limited-service restaurant
- 128 license, "bar structure" means a surface or structure on the premises of a restaurant if on or at
- 129 any place of the surface or structure an alcoholic product is:
- 130 (i) stored; or
- 131 (ii) dispensed.
- 132 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:
- 133 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
- 134 volume or 3.2% by weight; and
- 135 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 136 (b) "Beer" may or may not contain hops or other vegetable products.
- 137 (c) "Beer" includes a product that:
- 138 (i) contains alcohol in the percentages described in Subsection (8)(a); and
- 139 (ii) is referred to as:
- 140 (A) beer;
- 141 (B) ale;

- 142 (C) porter;
- 143 (D) stout;
- 144 (E) lager; or
- 145 (F) a malt or malted beverage.
- 146 (d) "Beer" does not include a flavored malt beverage.
- 147 (9) "Beer retailer" means a business:
- 148 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
- 149 whether for consumption on or off the business premises; and
- 150 (b) to whom a license is issued:
- 151 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise
- 152 Beer Retailer Local Authority; or
- 153 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
- 154 and Chapter 6, Part 7, On-premise Beer Retailer License.
- 155 (10) "Beer wholesaling license" means a license:
- 156 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 157 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 158 retail licensees or off-premise beer retailers.
- 159 (11) "Billboard" means a public display used to advertise, including:
- 160 (a) a light device;
- 161 (b) a painting;
- 162 (c) a drawing;
- 163 (d) a poster;
- 164 (e) a sign;
- 165 (f) a signboard; or
- 166 (g) a scoreboard.
- 167 (12) "Brewer" means a person engaged in manufacturing:
- 168 (a) beer;
- 169 (b) heavy beer; or

- 170 (c) a flavored malt beverage.
- 171 (13) "Brewery manufacturing license" means a license issued in accordance with
172 Chapter 11, Part 5, Brewery Manufacturing License.
- 173 (14) "Certificate of approval" means a certificate of approval obtained from the
174 department under Subsection 32B-11-201(4).
- 175 (15) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
176 a bus company to a group of persons pursuant to a common purpose:
- 177 (a) under a single contract;
- 178 (b) at a fixed charge in accordance with the bus company's tariff; and
- 179 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
180 motor vehicle, and a driver to travel together to one or more specified destinations.
- 181 (16) "Church" means a building:
- 182 (a) set apart for worship;
- 183 (b) in which religious services are held;
- 184 (c) with which clergy is associated; and
- 185 (d) that is tax exempt under the laws of this state.
- 186 (17) (a) "Club license" means a license issued in accordance with Chapter 5, Retail
187 License Act, and Chapter 6, Part 4, Club License.
- 188 (b) "Club license" includes:
- 189 (i) a dining club license;
- 190 (ii) an equity club license;
- 191 (iii) a fraternal club license; or
- 192 (iv) a social club license.
- 193 (18) "Commission" means the Alcoholic Beverage Control Commission created in
194 Section 32B-2-201.
- 195 (19) "Commissioner" means a member of the commission.
- 196 (20) "Community location" means:
- 197 (a) a public or private school;

- 198 (b) a church;
- 199 (c) a public library;
- 200 (d) a public playground; or
- 201 (e) a public park.
- 202 (21) "Community location governing authority" means:
- 203 (a) the governing body of the community location; or
- 204 (b) if the commission does not know who is the governing body of a community
- 205 location, a person who appears to the commission to have been given on behalf of the
- 206 community location the authority to prohibit an activity at the community location.
- 207 (22) "Container" means a receptacle that contains an alcoholic product, including:
- 208 (a) a bottle;
- 209 (b) a vessel; or
- 210 (c) a similar item.
- 211 [~~(22)~~] (23) "Convention center" means a facility that is:
- 212 (a) in total at least 30,000 square feet; and
- 213 (b) otherwise defined as a "convention center" by the commission by rule.
- 214 [~~(23)~~] (24) For purposes of a full-service restaurant license or limited-service restaurant
- 215 license:
- 216 (a) subject to Subsection [~~(23)~~] (24)(b), "counter" means a surface or structure in a
- 217 dining area of a restaurant where seating is provided to a patron for service of food; and
- 218 (b) "counter" does not include a surface or structure if on or at any point of the surface
- 219 or structure an alcoholic product is:
- 220 (i) stored; or
- 221 (ii) dispensed.
- 222 [~~(24)~~] (25) "Department" means the Department of Alcoholic Beverage Control created
- 223 in Section 32B-2-203.
- 224 [~~(25)~~] (26) "Department compliance officer" means an individual who is:
- 225 (a) an auditor or inspector; and

226 (b) employed by the department.

227 [~~26~~] (27) "Department sample" means liquor that is placed in the possession of the
228 department for testing, analysis, and sampling.

229 [~~27~~] (28) "Dining club license" means a license issued in accordance with Chapter 5,
230 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
231 as a dining club license.

232 [~~28~~] (29) "Director," unless the context requires otherwise, means the director of the
233 department.

234 [~~29~~] (30) "Disciplinary proceeding" means an adjudicative proceeding permitted
235 under this title:

236 (a) against a person subject to administrative action; and

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

238 [~~30~~] (31) For purposes of a full-service restaurant license or a limited-service
239 restaurant license, "dispense" means:

240 (a) drawing of an alcoholic product:

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

242 (ii) as provided in Subsection 32B-6-205(12)(b)(ii) or 32B-6-305(12)(b)(ii); and

243 (b) using the alcoholic product described in Subsection [~~29~~] (30)(a) on the premises
244 of the restaurant to mix or prepare an alcoholic product to be furnished to a patron of the
245 restaurant.

246 [~~31~~] (32) "Distillery manufacturing license" means a license issued in accordance
247 with Chapter 11, Part 4, Distillery Manufacturing License.

248 [~~32~~] (33) "Distressed merchandise" means an alcoholic product in the possession of
249 the department that is saleable, but for some reason is unappealing to the public.

250 [~~33~~] (34) "Educational facility" includes:

251 (a) a nursery school;

252 (b) an infant day care center; and

253 (c) a trade and technical school.

254 [~~(34)~~] (35) "Equity club license" means a license issued in accordance with Chapter 5,
255 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
256 as an equity club license.

257 [~~(35)~~] (36) "Event permit" means:

258 (a) a single event permit; or

259 (b) a temporary beer event permit.

260 [~~(36)~~] (37) (a) "Flavored malt beverage" means a beverage:

261 (i) that contains at least .5% alcohol by volume;

262 (ii) that is treated by processing, filtration, or another method of manufacture that is not
263 generally recognized as a traditional process in the production of a beer as described in 27

264 C.F.R. Sec. 25.55;

265 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop
266 extract; and

267 (iv) (A) for which the producer is required to file a formula for approval with the
268 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

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

270 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

271 [~~(37)~~] (38) "Fraternal club license" means a license issued in accordance with Chapter
272 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the
273 commission as a fraternal club license.

274 [~~(38)~~] (39) "Full-service restaurant license" means a license issued in accordance with
275 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-service Restaurant License.

276 [~~(39)~~] (40) (a) "Furnish" means by any means to provide with, supply, or give an
277 individual an alcoholic product, by sale or otherwise.

278 (b) "Furnish" includes to:

279 (i) serve;

280 (ii) deliver; or

281 (iii) otherwise make available.

282 [~~(40)~~] (41) "Guest" means an individual who meets the requirements of Subsection
283 32B-6-407(9).

284 [~~(41)~~] (42) "Health care practitioner" means:

285 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

286 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

287 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

288 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical [~~Therapist~~]
289 Therapy Practice Act;

290 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
291 Nurse Practice Act;

292 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
293 Practice Act;

294 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
295 Therapy Practice Act;

296 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

297 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
298 Professional Practice Act;

299 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

300 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
301 Practice Act;

302 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
303 Hygienist Practice Act; and

304 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

305 [~~(42)~~] (43) (a) "Heavy beer" means a product that:

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

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

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

309 [~~(43)~~] (44) "Hotel" is as defined by the commission by rule.

310 [~~(44)~~] (45) "Identification card" means an identification card issued under Title 53,
311 Chapter 3, Part 8, Identification Card Act.

312 [~~(45)~~] (46) "Industry representative" means an individual who is compensated by
313 salary, commission, or other means for representing and selling an alcoholic product of a
314 manufacturer, supplier, or importer of liquor.

315 [~~(46)~~] (47) "Industry representative sample" means liquor that is placed in the
316 possession of the department for testing, analysis, and sampling by a local industry
317 representative on the premises of the department to educate the local industry representative of
318 the quality and characteristics of the product.

319 [~~(47)~~] (48) "Interdicted person" means a person to whom the sale, offer for sale, or
320 furnishing of an alcoholic product is prohibited by:

- 321 (a) law; or
- 322 (b) court order.

323 [~~(48)~~] (49) "Intoxicated" means that a person:

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

- 326 (i) an alcoholic product;
- 327 (ii) a controlled substance;
- 328 (iii) a substance having the property of releasing toxic vapors; or
- 329 (iv) a combination of Subsections [~~(48)~~] (49)(a)(i) through (iii); and

330 (b) exhibits plain and easily observed outward manifestations of behavior or physical
331 signs produced by the over consumption of an alcoholic product.

332 [~~(49)~~] (50) "Investigator" means an individual who is:

- 333 (a) a department compliance officer; or
- 334 (b) a nondepartment enforcement officer.

335 [~~(50)~~] (51) "Invitee" is as defined in Section 32B-8-102.

336 [~~(51)~~] (52) "License" means:

- 337 (a) a retail license;

338 (b) a license issued in accordance with Chapter 11, Manufacturing and Related
339 Licenses Act;

340 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
341 or

342 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

343 [~~52~~] (53) "Licensee" means a person who holds a license.

344 [~~53~~] (54) "Limited-service restaurant license" means a license issued in accordance
345 with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.

346 [~~54~~] (55) "Limousine" means a motor vehicle licensed by the state or a local
347 authority, other than a bus or taxicab:

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

350 (b) that is provided by a business entity to one or more individuals at a fixed charge in
351 accordance with the business entity's tariff; and

352 (c) to give the one or more individuals the exclusive use of the limousine and a driver
353 to travel to one or more specified destinations.

354 [~~55~~] (56) (a) (i) "Liquor" means a liquid that:

355 (A) is:

356 (I) alcohol;

357 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

358 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

359 (IV) other drink or drinkable liquid; and

360 (B) (I) contains at least .5% alcohol by volume; and

361 (II) is suitable to use for beverage purposes.

362 (ii) "Liquor" includes:

363 (A) heavy beer;

364 (B) wine; and

365 (C) a flavored malt beverage.

366 (b) "Liquor" does not include beer.

367 [~~56~~] (57) "Liquor Control Fund" means the enterprise fund created by Section
368 32B-2-301.

369 [~~57~~] (58) "Liquor warehousing license" means a license that is issued:

370 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and

371 (b) to a person, other than a licensed manufacturer, who engages in the importation for
372 storage, sale, or distribution of liquor regardless of amount.

373 [~~58~~] (59) "Local authority" means:

374 (a) for premises that are located in an unincorporated area of a county, the governing
375 body of a county; or

376 (b) for premises that are located in an incorporated city or a town, the governing body
377 of the city or town.

378 [~~59~~] (60) "Lounge or bar area" is as defined by rule made by the commission.

379 [~~60~~] (61) "Manufacture" means to distill, brew, rectify, mix, compound, process,
380 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
381 others.

382 [~~61~~] (62) "Member" means an individual who, after paying regular dues, has full
383 privileges in an equity club licensee or fraternal club licensee.

384 [~~62~~] (63) (a) "Military installation" means a base, air field, camp, post, station, yard,
385 center, or homeport facility for a ship:

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

387 (B) of the National Guard;

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

389 (iii) including a leased facility.

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

391 (i) civil works;

392 (ii) a rivers and harbors project; or

393 (iii) a flood control project.

394 ~~[(63)]~~ (64) "Minor" means an individual under the age of 21 years.

395 ~~[(64)]~~ (65) "Nondepartment enforcement agency" means an agency that:

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

397 (ii) is an agency of a county, city, or town; and

398 (b) has a responsibility to enforce one or more provisions of this title.

399 ~~[(65)]~~ (66) "Nondepartment enforcement officer" means an individual who is:

400 (a) a peace officer, examiner, or investigator; and

401 (b) employed by a nondepartment enforcement agency.

402 ~~[(66)]~~ (67) (a) "Off-premise beer retailer" means a beer retailer who is:

403 (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local

404 Authority; and

405 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's

406 premises.

407 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.

408 ~~[(67)]~~ (68) "On-premise banquet license" means a license issued in accordance with

409 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.

410 ~~[(68)]~~ (69) "On-premise beer retailer" means a beer retailer who is:

411 (a) authorized to sell, offer for sale, or furnish beer under a license issued in

412 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer

413 Retailer License; and

414 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's

415 premises, regardless of whether the beer retailer sells beer for consumption off the licensed

416 premises.

417 ~~[(69) "Package" means any of the following containing an alcoholic product:]~~

418 ~~[(a) a container;]~~

419 ~~[(b) a bottle;]~~

420 ~~[(c) a vessel; or]~~

421 ~~[(d) other receptacle.]~~

- 422 (70) "Package agency" means a retail liquor location operated:
423 (a) under an agreement with the department; and
424 (b) by a person:
425 (i) other than the state; and
426 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
427 Agency, to sell packaged liquor for consumption off the premises of the package agency.
428 (71) "Package agent" means a person who holds a package agency.
429 (72) "Patron" means an individual to whom food, beverages, or services are sold,
430 offered for sale, or furnished, or who consumes an alcoholic product including:
431 (a) a customer;
432 (b) a member;
433 (c) a guest;
434 (d) an attendee of a banquet or event;
435 (e) an individual who receives room service;
436 (f) a resident of a resort;
437 (g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102;
438 or
439 (h) an invitee.
440 (73) "Permittee" means a person issued a permit under:
441 (a) Chapter 9, Event Permit Act; or
442 (b) Chapter 10, Special Use Permit Act.
443 (74) "Person subject to administrative action" means:
444 (a) a licensee;
445 (b) a permittee;
446 (c) a manufacturer;
447 (d) a supplier;
448 (e) an importer;
449 (f) an out-of-state brewer holding a certificate of approval; or

450 (g) staff of:

451 (i) a person listed in Subsections (74)(a) through (g); or

452 (ii) a package agent.

453 (75) "Premises" means a building, enclosure, or room used in connection with the
454 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
455 unless otherwise defined in this title or rules made by the commission.

456 (76) "Prescription" means an order issued by a health care practitioner when:

457 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
458 to prescribe a controlled substance, other drug, or device for medicinal purposes;

459 (b) the order is made in the course of that health care practitioner's professional
460 practice; and

461 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

462 (77) (a) "Private event" means a specific social, business, or recreational event:

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

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

467 (b) "Private event" does not include an event to which the general public is invited,
468 whether for an admission fee or not.

469 (78) (a) "Proof of age" means:

470 (i) an identification card;

471 (ii) an identification that:

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

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

475 (C) includes date of birth; and

476 (D) has a picture affixed;

477 (iii) a valid driver license certificate that:

- 478 (A) includes date of birth;
- 479 (B) has a picture affixed; and
- 480 (C) is issued:
- 481 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- 482 (II) in accordance with the laws of the state in which it is issued;
- 483 (iv) a military identification card that:
- 484 (A) includes date of birth; and
- 485 (B) has a picture affixed; or
- 486 (v) a valid passport.
- 487 (b) "Proof of age" does not include a driving privilege card issued in accordance with
- 488 Section 53-3-207.

- 489 (79) (a) "Public building" means a building or permanent structure that is:
- 490 (i) owned or leased by:
- 491 (A) the state; or
- 492 (B) a local government entity; and
- 493 (ii) used for:
- 494 (A) public education;
- 495 (B) transacting public business; or
- 496 (C) regularly conducting government activities.
- 497 (b) "Public building" does not include a building owned by the state or a local
- 498 government entity when the building is used by a person, in whole or in part, for a proprietary
- 499 function.

500 (80) "Public conveyance" means a conveyance to which the public or a portion of the
501 public has access to and a right to use for transportation, including an airline, railroad, bus,
502 boat, or other public conveyance.

- 503 (81) (a) "Record" means information that is:
- 504 (i) inscribed on a tangible medium; or
- 505 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

- 506 (b) "Record" includes:
- 507 (i) a book;
- 508 (ii) a book of account;
- 509 (iii) a paper;
- 510 (iv) a contract;
- 511 (v) an agreement;
- 512 (vi) a document; or
- 513 (vii) a recording in any medium.
- 514 (82) "Residence" means a person's principal place of abode within Utah.
- 515 (83) "Resident," in relation to a resort, is as defined in Section 32B-8-102.
- 516 (84) "Resort" is as defined in Section 32B-8-102.
- 517 (85) "Resort facility" is as defined by the commission by rule.
- 518 (86) "Resort license" means a license issued in accordance with Chapter 5, Retail
- 519 License Act, and Chapter 8, Resort License Act.
- 520 (87) "Restaurant" means a business location:
- 521 (a) at which a variety of foods are prepared;
- 522 (b) at which complete meals are served to the general public; and
- 523 (c) that is engaged primarily in serving meals to the general public.
- 524 (88) "Retail license" means one of the following licenses issued under this title:
- 525 (a) a full-service restaurant license;
- 526 (b) a limited-service restaurant license;
- 527 (c) a club license;
- 528 (d) an airport lounge license;
- 529 (e) an on-premise banquet license; or
- 530 (f) an on-premise beer license.
- 531 (89) "Room service" means furnishing an alcoholic product to a person in a guest room
- 532 of a:
- 533 (a) hotel; or

534 (b) resort facility.

535 (90) "Serve" means to place an alcoholic product before an individual.

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

537 (b) "School" does not include an educational facility.

538 (92) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
539 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
540 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
541 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
542 made by the commission.

543 (93) "Sexually oriented entertainer" means a person who while in a state of seminudity
544 appears at or performs:

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

546 (b) on the premises of:

547 (i) a social club licensee; or

548 (ii) a tavern;

549 (c) on behalf of or at the request of the licensee described in Subsection (93)(b);

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

551 (e) whether or not the person is designated as:

552 (i) an employee;

553 (ii) an independent contractor;

554 (iii) an agent of the licensee; or

555 (iv) a different type of classification.

556 (94) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3,
557 Single Event Permit.

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

560 (96) "Social club license" means a license issued in accordance with Chapter 5, Retail
561 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a

562 social club license.

563 (97) "Special use permit" means a permit issued in accordance with Chapter 10,
564 Special Use Permit Act.

565 (98) (a) "Spirituous liquor" means liquor that is distilled.

566 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
567 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

568 (99) "Sports center" is as defined by the commission by rule.

569 (100) (a) "Staff" means an individual who engages in activity governed by this title:

570 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
571 holder;

572 (ii) at the request of the business, including a package agent, licensee, permittee, or
573 certificate holder; or

574 (iii) under the authority of the business, including a package agent, licensee, permittee,
575 or certificate holder.

576 (b) "Staff" includes:

577 (i) an officer;

578 (ii) a director;

579 (iii) an employee;

580 (iv) personnel management;

581 (v) an agent of the licensee, including a managing agent;

582 (vi) an operator; or

583 (vii) a representative.

584 (101) "State of nudity" means:

585 (a) the appearance of:

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

587 (ii) a human genital;

588 (iii) a human pubic area; or

589 (iv) a human anus; or

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

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

592 (ii) a human genital;

593 (iii) a human pubic area; or

594 (iv) a human anus.

595 (102) "State of seminudity" means a state of dress in which opaque clothing covers no
596 more than:

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

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

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

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

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

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

604 (103) (a) "State store" means a facility for the sale of packaged liquor:

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

606 (ii) operated by a state employee.

607 (b) "State store" does not include:

608 (i) a package agency;

609 (ii) a licensee; or

610 (iii) a permittee.

611 (104) For purposes of a full-service restaurant license or a limited-service restaurant
612 license:

613 (a) "Storage area" means an area on licensed premises where the licensee stores an
614 alcoholic product.

615 (b) "Store" means to place or maintain in a location an alcoholic product from which a
616 person draws to prepare an alcoholic product to be furnished to a patron of the restaurant,
617 except as provided in Subsection 32B-6-205(12)(b)(ii) or 32B-6-305(12)(b)(ii).

- 618 (105) "Sublicense" is as defined in Section 32B-8-102.
- 619 (106) "Supplier" means a person who sells an alcoholic product to the department.
- 620 (107) "Tavern" means an on-premise beer retailer who is:
- 621 (a) issued a license by the commission in accordance with Chapter 5, Retail License
- 622 Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and
- 623 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
- 624 On-premise Beer Retailer License.
- 625 (108) "Temporary beer event permit" means a permit issued in accordance with
- 626 Chapter 9, Part 4, Temporary Beer Event Permit.
- 627 (109) "Temporary domicile" means the principal place of abode within Utah of a
- 628 person who does not have a present intention to continue residency within Utah permanently or
- 629 indefinitely.
- 630 (110) "Unsaleable liquor merchandise" means a [~~package~~] container that:
- 631 (a) is unsaleable because the [~~package~~] container is:
- 632 (i) unlabeled;
- 633 (ii) leaky;
- 634 (iii) damaged;
- 635 (iv) difficult to open; or
- 636 (v) partly filled;
- 637 (b) (i) has faded labels or defective caps or corks;
- 638 (ii) has contents that are:
- 639 (A) cloudy;
- 640 (B) spoiled; or
- 641 (C) chemically determined to be impure; or
- 642 (iii) contains:
- 643 (A) sediment; or
- 644 (B) a foreign substance; or
- 645 (c) is otherwise considered by the department as unfit for sale.

646 (111) (a) "Wine" means an alcoholic product obtained by the fermentation of the
647 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
648 another ingredient is added.

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

651 (112) "Winery manufacturing license" means a license issued in accordance with
652 Chapter 11, Part 3, Winery Manufacturing License.

653 Section 2. Section **32B-1-203 (Effective 07/01/11)** is amended to read:

654 **32B-1-203 (Effective 07/01/11). Licensee compliance with other laws.**

655 (1) A licensee and a person applying for a license shall comply with the applicable
656 federal and state laws pertaining to payment of taxes and contributions to unemployment and
657 insurance funds to which the licensee or person may be subject.

658 (2) The commission:

659 (a) may not issue a license to a person who violates this section; and

660 (b) may [~~not renew,~~] suspend, [~~or~~] revoke, or not renew the license of a licensee who
661 violates this section.

662 Section 3. Section **32B-1-206**, which is renumbered from Section 32B-4-510 (Effective
663 07/01/11) is renumbered and amended to read:

664 [~~32B-4-510 (Effective 07/01/11)]. **32B-1-206. Advertising prohibited --**~~

665 **Exceptions.**

666 (1) (a) The department may not advertise liquor, except:

667 (i) the department may provide for an appropriate sign in the window or on the front of
668 a state store or package agency denoting that it is a state authorized liquor retail facility;

669 (ii) the department or a package agency may provide a printed price [~~lists~~] list to the
670 public;

671 (iii) the department may authorize the use of price posting and floor stacking of liquor
672 within a state store;

673 (iv) subject to Subsection (1)(b), the department may provide a listing of the address

674 and telephone number of a state store in one or more printed or electronic directories available
675 to the general public; and

676 (v) subject to Subsection (1)(b), a package agency may provide a listing of its address
677 and telephone number in one or more printed or electronic directories available to the general
678 public.

679 (b) A listing under Subsection (1)(a)(iv) or (v) in the business or yellow pages of a
680 telephone directory may not be displayed in an advertisement or other promotional format.

681 (2) (a) The department may not advertise an alcoholic product on a billboard.

682 (b) A package agency may not advertise an alcoholic product on a billboard, except to
683 the extent allowed by the commission by rule.

684 (3) (a) The department may not display liquor or a price [~~lists~~] list in a window or
685 showcase visible to passersby.

686 (b) A package agency may not display liquor or a price [~~lists~~] list in a window or
687 showcase visible to passersby, except to the extent allowed by the commission by rule.

688 (4) Except to the extent prohibited by this title, the advertising of an alcoholic product
689 is allowed under guidelines established by the commission by rule.

690 (5) The advertising or use of any means or media to offer an alcoholic product to the
691 general public without charge is prohibited.

692 Section 4. Section **32B-1-306 (Effective 07/01/11)** is amended to read:

693 **32B-1-306 (Effective 07/01/11). Use of information from a criminal background**
694 **check.**

695 The commission or department may use information obtained pursuant to Section
696 32B-1-305 only for one or more of the following purposes:

697 (1) enforcing this title;

698 (2) determining whether an individual is convicted of any of the following offenses
699 that disqualify the individual under this title from acting in a capacity described in Subsection
700 32B-1-305(2):

701 (a) a felony under federal law or state law;

702 (b) a violation of a federal law, state law, or local ordinance concerning the sale, offer
703 for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic
704 product;

705 (c) a crime involving moral turpitude; or

706 (d) on two or more occasions within the previous five years, driving under the
707 influence of alcohol, drugs, or the combined influence of alcohol and drugs;

708 (3) determining whether an individual fails to accurately disclose the [person's]
709 individual's criminal history on an application or document filed with the department or
710 commission;

711 (4) approving or denying an application for employment with the department;

712 (5) taking disciplinary action against a department employee, including possible
713 termination of employment;

714 (6) issuing or denying an application to operate a package agency;

715 (7) issuing or denying an application for a license;

716 (8) issuing or denying the renewal of a package agency agreement;

717 (9) issuing or denying the renewal of a license;

718 (10) suspending the operation of a package agency;

719 (11) terminating a package agency contract; or

720 (12) suspending or revoking a license.

721 Section 5. Section **32B-1-602 (Effective 07/01/11)** is amended to read:

722 **32B-1-602 (Effective 07/01/11). Definitions.**

723 As used in this part:

724 (1) "Malted beverage" means:

725 (a) beer;

726 (b) a flavored malt beverage; and

727 (c) heavy beer.

728 (2) "Packaging" means the outer packaging that is visible to a consumer such as a
729 carton, case, or other wrapper of a [package] container.

730 Section 6. Section **32B-1-605 (Effective 07/01/11)** is amended to read:

731 **32B-1-605 (Effective 07/01/11). General procedure for approval.**

732 (1) To obtain approval of the label and packaging of a malted beverage, the
733 manufacturer of the malted beverage shall submit an application to the department for
734 approval.

735 (2) The application described in Subsection (1) shall be on a form approved by the
736 department and include the following:

737 (a) a copy of a federal certificate of label approval from the Department of Treasury,
738 Tax and Trade Bureau, for each brand and label for which the manufacturer is seeking
739 approval;

740 (b) a complete set of original labels for each size of [package] container of the malted
741 beverage;

742 (c) a description of the size of the [package] container on which a label will be placed;

743 (d) a description of each type of [package] container of the malted beverage; and

744 (e) a description of any packaging for the malted beverage.

745 (3) The department may assess a reasonable fee for reviewing a label and packaging for
746 approval.

747 (4) (a) The department shall notify a manufacturer within 30 days after the day on
748 which the manufacturer submits an application whether the label and packaging is approved or
749 denied.

750 (b) If the department determines that an unusual circumstance requires additional time,
751 the department may extend the time period described in Subsection (4)(a).

752 (5) A manufacturer shall obtain the approval of the department of a revision of a
753 previously approved label and packaging before a malted beverage using the revised label and
754 packaging may be distributed or sold in this state.

755 (6) (a) The department may revoke a label and packaging previously approved upon a
756 finding that the label and packaging is not in compliance with this title or rules of the
757 commission.

758 (b) The department shall notify the person who applies for the approval of a label and
759 packaging at least five business days before the day on which a label and packaging approval is
760 considered revoked.

761 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written
762 argument or evidence to the department on why the revocation should not occur.

763 (7) A manufacturer that applies for approval of a label and packaging may appeal a
764 denial or revocation of a label and packaging approval to the commission.

765 Section 7. Section **32B-2-303 (Effective 07/01/11)** is amended to read:

766 **32B-2-303 (Effective 07/01/11). Purchase of liquor.**

767 (1) The department may not purchase or stock spirituous liquor in a [package]
768 container smaller than 200 milliliters, except as otherwise allowed by the commission.

769 (2) (a) An order by the department for the purchase of liquor, or a cancellation by the
770 department of an order of liquor:

771 (i) shall be executed in writing by the department; and

772 (ii) is not valid or binding unless executed in writing.

773 (b) The department shall maintain a copy of an order or cancellation on file for at least
774 three years.

775 (c) An electronic record satisfies Subsections (2)(a) and (b) pursuant to Title 46,
776 Chapter 4, Uniform Electronic Transactions Act.

777 Section 8. Section **32B-2-402 (Effective 07/01/11)** is amended to read:

778 **32B-2-402 (Effective 07/01/11). Definitions -- Calculations.**

779 (1) As used in this part:

780 (a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted
781 Account created in Section 32B-2-403.

782 (b) "Advisory council" means the Utah Substance Abuse Advisory Council created in
783 Section 63M-7-301.

784 (c) "Alcohol-related offense" means:

785 (i) a violation of:

- 786 (A) Section 41-6a-502; or
- 787 (B) an ordinance that complies with the requirements of:
- 788 (I) Subsection 41-6a-510(1); or
- 789 (II) Section 76-5-207; or
- 790 (ii) an offense involving the illegal:
- 791 (A) sale of an alcoholic product;
- 792 (B) consumption of an alcoholic product;
- 793 (C) distribution of an alcoholic product;
- 794 (D) transportation of an alcoholic product; or
- 795 (E) possession of an alcoholic product.
- 796 (d) "Annual conviction time period" means the time period that:
- 797 (i) begins on July 1 and ends on June 30; and
- 798 (ii) immediately precedes the fiscal year for which an appropriation under this part is
- 799 made.
- 800 (e) "Municipality" means:
- 801 (i) a city; or
- 802 (ii) a town.
- 803 (2) For purposes of ~~[this part]~~ Subsection 32B-2-404(1)(b)(iii), the number of ~~[state~~
- 804 ~~stores, package agencies, and retail licensees]~~ premises located within the limits of a
- 805 municipality or county:
- 806 (a) is the number determined by the department to be so located;
- 807 (b) includes the aggregate number of premises of the following:
- 808 (i) a state store;
- 809 (ii) a package agency; and
- 810 (iii) a retail licensee~~[-, except for an on-premise beer retailer];~~ and
- 811 (c) for a county, consists only of the number located within an unincorporated area of
- 812 the county.
- 813 (3) The department shall determine:

814 (a) a population figure according to the most current population estimate prepared by
815 the Utah Population Estimates Committee;

816 (b) a county's population for the 25% distribution to municipalities and counties under
817 Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated
818 areas of the county; and

819 (c) a county's population for the 25% distribution to counties under Subsection
820 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of
821 a municipality.

822 (4) (a) A conviction occurs in the municipality or county that actually prosecutes the
823 offense to judgment.

824 (b) If a conviction is based upon a guilty plea, the conviction is considered to occur in
825 the municipality or county that, except for the guilty plea, would have prosecuted the offense.

826 Section 9. Section **32B-2-404 (Effective 07/01/11)** is amended to read:

827 **32B-2-404 (Effective 07/01/11). Alcoholic Beverage Enforcement and Treatment**
828 **Restricted Account distribution.**

829 (1) (a) The money deposited into the account under Section 32B-2-403 shall be
830 distributed to municipalities and counties:

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

834 (ii) as provided in this Subsection (1).

835 (b) The amount appropriated from the account shall be distributed as follows:

836 (i) 25% to municipalities and counties on the basis of the percentage of the state
837 population residing in each municipality and county;

838 (ii) 30% to municipalities and counties on the basis of each municipality's and county's
839 percentage of the statewide convictions for all alcohol-related offenses;

840 (iii) 20% to municipalities and counties on the basis of the percentage of the [state
841 stores, package agencies, liquor licensees, and beer licensees] following in the state that are

842 located in each municipality and county~~;~~ and];

843 (A) state stores;

844 (B) package agencies;

845 (C) retail licensees; and

846 (D) off-premise beer retailers; and

847 (iv) 25% to the counties for confinement and treatment purposes authorized by this part
848 on the basis of the percentage of the state population located in each county.

849 (c) (i) Except as provided in Subsection (1)(c)(ii), if a municipality does not have a law
850 enforcement agency:

851 (A) the municipality may not receive money under this part; and

852 (B) the State Tax Commission:

853 (I) may not distribute the money the municipality would receive but for the
854 municipality not having a law enforcement agency to that municipality; and

855 (II) shall distribute the money that the municipality would have received but for it not
856 having a law enforcement agency to the county in which the municipality is located for use by
857 the county in accordance with this part.

858 (ii) If the advisory council finds that a municipality described in Subsection (1)(c)(i)
859 demonstrates that the municipality can use the money that the municipality is otherwise eligible
860 to receive in accordance with this part, the advisory council may direct the State Tax
861 Commission to distribute the money to the municipality.

862 (2) To determine the distribution required by Subsection (1)(b)(ii), the State Tax
863 Commission shall annually:

864 (a) for an annual conviction time period:

865 (i) multiply by two the total number of convictions in the state obtained during the
866 annual conviction time period for violation of:

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

868 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or
869 Section 76-5-207; and

870 (ii) add to the number calculated under Subsection (2)(a)(i) the number of convictions
871 obtained during the annual conviction time period for the alcohol-related offenses other than
872 the alcohol-related offenses described in Subsection (2)(a)(i);

873 (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum
874 obtained in Subsection (2)(a); and

875 (c) multiply the amount calculated under Subsection (2)(b), by the number of
876 convictions obtained in each municipality and county during the annual conviction time period
877 for alcohol-related offenses.

878 (3) By not later than September 1 each year:

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

882 (b) the advisory council shall notify the State Tax Commission of any municipality that
883 does not have a law enforcement agency.

884 (4) By not later than December 1 of each year, the advisory council shall notify the
885 State Tax Commission for the fiscal year of appropriation of:

886 (a) a municipality that may receive a distribution under Subsection (1)(c)(ii);

887 (b) a county that may receive a distribution allocated to a municipality described in
888 Subsection (1)(c)(i);

889 (c) a municipality or county that may not receive a distribution because the advisory
890 council has suspended the payment under Subsection 32B-2-405(2)(a); and

891 (d) a municipality or county that receives a distribution because the suspension of
892 payment has been cancelled under Subsection 32B-2-405(2).

893 (5) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax
894 Commission shall annually distribute to each municipality and county the portion of the
895 appropriation that the municipality or county is eligible to receive under this part, except for
896 any municipality or county that the advisory council notifies the State Tax Commission in
897 accordance with Subsection (4) may not receive a distribution in that fiscal year.

898 (b) (i) The State Tax Commission shall prepare forms for use by a municipality or
899 county in applying for a distribution under this part.

900 (ii) A form described in this Subsection (5) may require the submission of information
901 the State Tax Commission considers necessary to enable the State Tax Commission to comply
902 with this part.

903 Section 10. Section **32B-2-503 (Effective 07/01/11)** is amended to read:

904 **32B-2-503 (Effective 07/01/11). Operational requirements for a state store.**

905 (1) A state store shall display in a prominent place in the store a sign in large letters
906 stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is
907 prosecuted aggressively in Utah."

908 (2) A state store may not sell, offer for sale, or furnish liquor except at a price fixed by
909 the commission.

910 (3) A state store may not sell, offer for sale, or furnish liquor to:

911 (a) a minor;

912 (b) a person actually, apparently, or obviously intoxicated;

913 (c) a known interdicted person; or

914 (d) a known habitual drunkard.

915 (4) (a) A state store employee may not:

916 (i) consume an alcoholic product on the premises of a state store; or

917 (ii) allow any person to consume an alcoholic product on the premises of a state store.

918 (b) A violation of this Subsection (4) is a class B misdemeanor.

919 (5) (a) Sale or delivery of liquor may not be made on or from the premises of a state
920 store, and a state store may not be kept open for the sale of liquor:

921 (i) on Sunday; or

922 (ii) on a state or federal legal holiday.

923 (b) Sale or delivery of liquor may be made on or from the premises of a state store, and
924 a state store may be open for the sale of liquor, only on a day and during hours that the
925 commission directs by rule or order.

926 (6) (a) A minor may not be admitted into, or be on the premises of a state store unless
927 accompanied by a person who is:

- 928 (i) 21 years of age or older; and
- 929 (ii) the minor's parent, legal guardian, or spouse.

930 (b) A state store employee that has reason to believe that a person who is on the
931 premises of a state store is under the age of 21 and is not accompanied by a person described in
932 Subsection (6)(a) may:

- 933 (i) ask the suspected minor for proof of age;
- 934 (ii) ask the person who accompanies the suspected minor for proof of age; and
- 935 (iii) ask the suspected minor or the person who accompanies the suspected minor for
936 proof of parental, guardianship, or spousal relationship.

937 (c) A state store employee shall refuse to sell liquor to the suspected minor and to the
938 person who accompanies the suspected minor into the state store if the suspected minor or
939 person fails to provide information specified in Subsection (6)(b).

940 (d) A state store employee shall require a suspected minor and the person who
941 accompanies the suspected minor into the state store to immediately leave the premises of the
942 state store if the suspected minor or person fails to provide information specified in Subsection
943 (6)(b).

944 (7) (a) A state store may not sell, offer for sale, or furnish liquor except in a sealed
945 ~~[package]~~ container.

946 (b) A person may not open a sealed ~~[package]~~ container on the premises of a state
947 store.

948 Section 11. Section **32B-2-504 (Effective 07/01/11)** is amended to read:

949 **32B-2-504 (Effective 07/01/11). Delivery of liquor to state store.**

950 (1) Liquor to be sold from a state store may be transported from a warehouse
951 authorized by the department to the state store if transported by a person authorized by the
952 department to transport the liquor to the state store, including a common carrier.

953 (2) A person, while in or about a vehicle in which liquor is being transported, may not

954 open, break, or allow to be opened or broken, a [~~package~~] container containing liquor.

955 (3) A person may not drink, use, or allow to be drunk or used, liquor while it is in
956 transit under this section.

957 Section 12. Section **32B-2-601 (Effective 07/01/11)** is amended to read:

958 **32B-2-601 (Effective 07/01/11). Commission's power to issue package agency.**

959 (1) (a) The commission may, when the commission considers proper, issue authority to
960 operate as a package agency by directing the department to enter into a package agency
961 agreement with a person to sell, offer for sale, or furnish liquor in sealed [~~packages~~] containers
962 from premises other than those owned or leased by the state.

963 (b) The commission shall authorize a person to operate a package agency by issuing a
964 record that designates the person in charge of the package agency as a "package agent."

965 (2) (a) Subject to this Subsection (2), the commission may not issue a total number of
966 package agencies that at any time exceeds the number determined by dividing the population of
967 the state by 18,000.

968 (b) (i) The commission may issue a seasonal package agency in an area the commission
969 considers proper.

970 (ii) A seasonal package agency shall be for a period of six consecutive months.

971 (iii) A seasonal package agency issued for operation during a summer time period is
972 known as a "Seasonal A" package agency. The period of operation for a Seasonal A package
973 agency shall:

974 (A) begin on May 1; and

975 (B) end on October 31.

976 (iv) A seasonal package agency issued for operation during a winter time period is
977 known as a "Seasonal B" package agency. The period of operation for a Seasonal B package
978 agency shall:

979 (A) begin on November 1; and

980 (B) end on April 30.

981 (v) In determining the number of package agencies that the commission may issue

982 under this section:

983 (A) a seasonal package agency is counted as one-half of one package agency; and

984 (B) each Seasonal A package agency shall be paired with a Seasonal B package agency.

985 (c) (i) If the location, design, and construction of a hotel may require more than one
986 package agency sales location to serve the public convenience, the commission may authorize a
987 single package agent to sell liquor at as many as three locations within the hotel under one
988 package agency if:

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

990 (B) all locations under the package agency are:

991 (I) within the same hotel; and

992 (II) on premises that are managed or operated, and owned or leased, by the package
993 agent.

994 (ii) A facility other than a hotel shall have a separate package agency for each location
995 where liquor may be sold, offered for sale, or furnished.

996 (3) (a) A package agent, under the direction of the department, is responsible for
997 implementing and enforcing this title and the rules adopted under this title to the extent this
998 title and the rules relate to the conduct of the package agency and a package agency's sale of
999 liquor.

1000 (b) A package agent may not be a state employee. A package agent may not be
1001 construed to be a state employee or otherwise entitled to any benefit of employment from the
1002 state.

1003 (c) A package agent, when selling liquor from a package agency, is considered an agent
1004 of the state only to the extent specifically expressed in the package agency agreement.

1005 (4) The commission may prescribe by rule one or more types of package agencies
1006 issued under this part that are consistent with this title.

1007 Section 13. Section **32B-2-602 (Effective 07/01/11)** is amended to read:

1008 **32B-2-602 (Effective 07/01/11). Application requirements for a package agency.**

1009 (1) Before a person may store, sell, offer for sale, or furnish liquor in a sealed

1010 [package] container on its premises under a package agency, the person shall first obtain a
1011 package agency issued by the commission in accordance with this part.

1012 (2) To obtain a package agency, a person seeking to be the package agent under this
1013 part shall submit to the department:

1014 (a) a written application in a form prescribed by the department;

1015 (b) a nonrefundable application fee of \$100;

1016 (c) written consent of the local authority;

1017 (d) evidence of proximity to any community location, with proximity requirements
1018 being governed by Section 32B-1-202;

1019 (e) a bond as specified by Section 32B-2-604;

1020 (f) a floor plan of the premises, including a description and highlighting of that part of
1021 the premises in which the person proposes that the package agency be located;

1022 (g) evidence that the package agency is carrying public liability insurance in an amount
1023 and form satisfactory to the department;

1024 (h) a signed consent form stating that the package agent permits any authorized
1025 representative of the commission, department, or any law enforcement officer to have
1026 unrestricted right to enter the premises of the package agency;

1027 (i) if the person applying is an entity, verification that a person who signs the package
1028 agency application is authorized to sign on behalf of the entity; and

1029 (j) any other information the commission or department may require.

1030 (3) The commission may not issue a package agency to a person who is disqualified
1031 under Section 32B-1-304.

1032 (4) The commission may not issue a package agency for premises that do not meet the
1033 proximity requirements of Section 32B-1-202.

1034 Section 14. Section **32B-2-604 (Effective 07/01/11)** is amended to read:

1035 **32B-2-604 (Effective 07/01/11). Bond related to package agency.**

1036 (1) (a) A package agent who has a consignment liquor inventory owned by the state
1037 shall post a consignment surety bond payable to the department in the amount of the

1038 consignment inventory.

1039 (b) A consignment surety bond shall be conditioned upon a package agent's return of
1040 the unsold consignment liquor inventory at the termination of a package agency agreement.

1041 (2) (a) A package agent that owns the package agency's liquor inventory shall post a
1042 cash bond or surety bond:

1043 (i) in the penal amount fixed by the department, except that the penal amount shall be
1044 at least \$1,000; and

1045 (ii) payable to the department.

1046 (3) A package agent shall procure and maintain the bond required under this section for
1047 as long as the package agent continues to operate as a package agent.

1048 (4) A bond required under this section shall be:

1049 (a) in a form approved by the attorney general; and

1050 (b) conditioned upon the package agent's faithful compliance with this title, the rules of
1051 the commission, and the package agency agreement.

1052 (5) (a) If a surety bond posted by a package agency under this section is canceled due to
1053 the package agent's or package agency's negligence, the department may assess a \$300
1054 reinstatement fee.

1055 (b) No part of a bond posted by a package agent under this section may be withdrawn:

1056 (i) during the period the package agency is in effect; or

1057 (ii) while a revocation of the package agency is pending against the package agent.

1058 (6) (a) A bond posted under this section by a package agent may be forfeited if the
1059 package agency is revoked.

1060 (b) Notwithstanding Subsection (6)(a), the department may make a claim against a
1061 bond posted by a package agent for money owed the department under this title without the
1062 commission first revoking the package agency.

1063 Section 15. Section **32B-2-605 (Effective 07/01/11)** is amended to read:

1064 **32B-2-605 (Effective 07/01/11). Operational requirements for package agency.**

1065 (1) (a) A person may not operate a package agency until a package agency agreement is

1066 entered into by the package agent and the department.

1067 (b) A package agency agreement shall state the conditions of operation by which the
1068 package agent and the department are bound.

1069 (c) (i) If a package agent or staff of the package agent violates this title, rules under this
1070 title, or the package agency agreement, the department may take any action against the package
1071 agent that is allowed by the package agency agreement.

1072 (ii) An action against a package agent is governed solely by its package agency
1073 agreement and may include suspension or revocation of the package agency.

1074 (iii) Notwithstanding that this part refers to "package agency" or "package agent," staff
1075 of the package agency or package agent is subject to the same requirement or prohibition.

1076 (2) (a) A package agency shall be operated by an individual who is either:

1077 (i) the package agent; or

1078 (ii) an individual designated by the package agent.

1079 (b) An individual who is a designee under this Subsection (2) shall be:

1080 (i) an employee of the package agent; and

1081 (ii) responsible for the operation of the package agency.

1082 (c) The conduct of the designee is attributable to the package agent.

1083 (d) A package agent shall submit the name of the person operating the package agency
1084 to the department for the department's approval.

1085 (e) A package agent shall state the name and title of a designee on the application for a
1086 package agency.

1087 (f) A package agent shall:

1088 (i) inform the department of a proposed change in the individual designated to operate
1089 a package agency; and

1090 (ii) receive prior approval from the department before implementing the change
1091 described in this Subsection (2)(f).

1092 (g) Failure to comply with the requirements of this Subsection (2) may result in the
1093 immediate termination of a package agency agreement.

- 1094 (3) A package agent shall display in a prominent place in the package agency:
1095 (a) the record issued by the commission that designates the package agency; and
1096 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1097 drugs is a serious crime that is prosecuted aggressively in Utah."
1098 (4) A package agency may not display liquor or a price list in a window or showcase
1099 that is visible to passersby.
1100 (5) (a) A package agency may not purchase liquor from a person except from the
1101 department.
1102 (b) At the discretion of the department, liquor may be provided by the department to a
1103 package agency for sale on consignment.
1104 (6) A package agency may not store, sell, offer for sale, or furnish liquor in a place
1105 other than as designated in the package agent's application, unless the package agent first
1106 applies for and receives approval from the department for a change of location within the
1107 package agency premises.
1108 (7) A package agency may not sell, offer for sale, or furnish liquor except at a price
1109 fixed by the commission.
1110 (8) A package agency may not sell, offer for sale, or furnish liquor to:
1111 (a) a minor;
1112 (b) a person actually, apparently, or obviously intoxicated;
1113 (c) a known interdicted person; or
1114 (d) a known habitual drunkard.
1115 (9) (a) A package agency may not employ a minor to handle liquor.
1116 (b) (i) Staff of a package agency may not:
1117 (A) consume an alcoholic product on the premises of a package agency; or
1118 (B) allow any person to consume an alcoholic product on the premises of a package
1119 agency.
1120 (ii) Violation of this Subsection (9)(b) is a class B misdemeanor.
1121 (10) (a) A package agency may not close or cease operation for a period longer than 72

1122 hours, unless:

1123 (i) the package agency notifies the department in writing at least seven days before the
1124 closing; and

1125 (ii) the closure or cessation of operation is first approved by the department.

1126 (b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package
1127 agency shall immediately notify the department by telephone.

1128 (c) (i) The department may authorize a closure or cessation of operation for a period
1129 not to exceed 60 days.

1130 (ii) The department may extend the initial period an additional 30 days upon written
1131 request of the package agency and upon a showing of good cause.

1132 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1133 commission approval.

1134 (d) The notice required by Subsection (10)(a) shall include:

1135 (i) the dates of closure or cessation of operation;

1136 (ii) the reason for the closure or cessation of operation; and

1137 (iii) the date on which the package agency will reopen or resume operation.

1138 (e) Failure of a package agency to provide notice and to obtain department
1139 authorization before closure or cessation of operation results in an automatic termination of the
1140 package agency agreement effective immediately.

1141 (f) Failure of a package agency to reopen or resume operation by the approved date
1142 results in an automatic termination of the package agency agreement effective on that date.

1143 (11) A package agency may not transfer its operations from one location to another
1144 location without prior written approval of the commission.

1145 (12) (a) A person, having been issued a package agency, may not sell, transfer, assign,
1146 exchange, barter, give, or attempt in any way to dispose of the package agency to another
1147 person, whether for monetary gain or not.

1148 (b) A package agency has no monetary value for any type of disposition.

1149 (13) (a) Subject to the other provisions of this Subsection (13):

1150 (i) sale or delivery of liquor may not be made on or from the premises of a package
1151 agency, and a package agency may not be kept open for the sale of liquor:

1152 (A) on Sunday; or

1153 (B) on a state or federal legal holiday.

1154 (ii) Sale or delivery of liquor may be made on or from the premises of a package
1155 agency, and a package agency may be open for the sale of liquor, only on a day and during
1156 hours that the commission directs by rule or order.

1157 (b) Subsection (13)(a) governs unless:

1158 (i) the package agency is located at a winery licensed in accordance with Chapter 11,
1159 Manufacturing and Related Licenses Act;

1160 (ii) the winery licensed in accordance with Chapter 11, Manufacturing and Related
1161 Licenses Act, holds:

1162 (A) a full-service restaurant license; or

1163 (B) a limited-service restaurant license;

1164 (iii) the restaurant is located at the winery;

1165 (iv) the restaurant sells wines produced at the winery;

1166 (v) the winery:

1167 (A) owns the restaurant; or

1168 (B) operates the restaurant;

1169 (vi) the package agency only sells wine produced at the winery; and

1170 (vii) the package agency's days and hours of sale are the same as the days and hours of
1171 sale at the restaurant.

1172 (c) (i) Subsection (13)(a) does not apply to a package agency held by a resort licensee if
1173 the package agent that holds the package agency to sell liquor at the resort does not sell liquor
1174 in a manner similar to a state store.

1175 (ii) The commission may by rule define what constitutes a package agency that sells
1176 liquor "in a manner similar to a state store."

1177 (14) (a) Except to the extent authorized by commission rule, a minor may not be

1178 admitted into, or be on the premises of a package agency unless accompanied by a person who
1179 is:

- 1180 (i) 21 years of age or older; and
- 1181 (ii) the minor's parent, legal guardian, or spouse.

1182 (b) A package agent or staff of a package agency that has reason to believe that a
1183 person who is on the premises of a package agency is under the age of 21 and is not
1184 accompanied by a person described in Subsection (14)(a) may:

- 1185 (i) ask the suspected minor for proof of age;
- 1186 (ii) ask the person who accompanies the suspected minor for proof of age; and
- 1187 (iii) ask the suspected minor or the person who accompanies the suspected minor for
1188 proof of parental, guardianship, or spousal relationship.

1189 (c) A package agent or staff of a package agency shall refuse to sell liquor to the
1190 suspected minor and to the person who accompanies the suspected minor into the package
1191 agency if the minor or person fails to provide any information specified in Subsection (14)(b).

1192 (d) A package agent or staff of a package agency shall require the suspected minor and
1193 the person who accompanies the suspected minor into the package agency to immediately leave
1194 the premises of the package agency if the minor or person fails to provide information specified
1195 in Subsection (14)(b).

1196 (15) (a) A package agency may not sell, offer for sale, or furnish liquor except in a
1197 sealed [~~package~~] container.

1198 (b) A person may not open a sealed [~~package~~] container on the premises of a package
1199 agency.

1200 (16) The department may pay or otherwise remunerate a package agent on any basis,
1201 including sales or volume of business done by the package agency.

1202 (17) The commission may prescribe by policy or rule general operational requirements
1203 of a package agency that are consistent with this title and relate to:

- 1204 (a) physical facilities;
- 1205 (b) conditions of operation;

- 1206 (c) hours of operation;
- 1207 (d) inventory levels;
- 1208 (e) payment schedules;
- 1209 (f) methods of payment;
- 1210 (g) premises security; and
- 1211 (h) any other matter considered appropriate by the commission.

1212 Section 16. Section **32B-2-606 (Effective 07/01/11)** is amended to read:

1213 **32B-2-606 (Effective 07/01/11). Delivery of liquor to package agency.**

1214 (1) Liquor to be sold from a package agency may be transported from a warehouse or
1215 state store authorized by the department to the package agency if transported by a person
1216 authorized by the department to transport the liquor to the package agency, including a
1217 common carrier.

1218 (2) A person, while in or about a vehicle in which liquor is being transported, may not
1219 open, break, or allow to be opened or broken, a ~~[package]~~ container containing liquor.

1220 (3) A person may not drink, use, or allow to be drunk or used, any liquor while the
1221 liquor is in transit under this section.

1222 Section 17. Section **32B-3-303 (Effective 07/01/11)** is amended to read:

1223 **32B-3-303 (Effective 07/01/11). Acts making a person subject to this part.**

1224 (1) One or more of the following acts constitute a nuisance activity:

1225 (a) a single felony conviction within the last two years of:

1226 (i) a retail licensee; or

1227 (ii) supervisory or managerial level staff of the retail licensee;

1228 (b) a single conviction under Title 58, Chapter 37, Utah Controlled Substances Act:

1229 (i) (A) of a retail licensee; or

1230 (B) staff of the retail licensee;

1231 (ii) within the last two years; and

1232 (iii) made on the basis of an act that occurs on the licensed premises;

1233 (c) three or more convictions of patrons of a retail licensee under Title 58, Chapter 37,

1234 Utah Controlled Substances Act, if:

1235 (i) the convictions are made on the basis of an act that occurs on the licensed premises;

1236 and

1237 (ii) there is evidence that the retail licensee knew or should have known of the illegal

1238 activity;

1239 (d) a single conviction within the last two years of a retail licensee or staff of the retail

1240 licensee that is made on the basis of:

1241 (i) pornographic and harmful materials:

1242 (A) that violate Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and

1243 Performances; and

1244 (B) if the violation occurs on the licensed premises;

1245 (ii) prostitution;

1246 (iii) engaging in or permitting gambling, as defined and proscribed in Title 76, Chapter

1247 10, Part 11, Gambling, on the licensed premises;

1248 (iv) having any video gaming device, as defined and proscribed by Title 76, Chapter

1249 10, Part 11, Gambling, on the licensed premises;

1250 (v) on the licensed premises engaging in or permitting a contest, game, gaming

1251 scheme, or gaming device that requires the risking of something of value for a return or for an

1252 outcome when the return or outcome is based upon an element of chance, excluding the playing

1253 of an amusement device that confers only an immediate and unrecorded right of replay not

1254 exchangeable for value;

1255 (vi) a disturbance of the peace that occurs on the licensed premises; or

1256 (vii) disorderly conduct that occurs on the licensed premises; or

1257 (e) three or more adjudicated violations of this title within the last two years by a retail

1258 licensee or by staff of the retail licensee that result in a criminal citation or an administrative

1259 referral to the department relating to:

1260 (i) the sale, offer for sale, or furnishing of [~~alcohol~~] an alcoholic product to a minor;

1261 (ii) the sale, offer for sale, or furnishing of [~~alcohol~~] an alcoholic product to a person

1262 actually, apparently, or obviously intoxicated;

1263 (iii) the sale, offer for sale, or furnishing of [~~alcohol~~] an alcoholic product after the
1264 lawful hours for the sale or furnishing; or

1265 (iv) acts or conduct on the licensed premises contrary to the public welfare and morals
1266 involving lewd acts or lewd entertainment prohibited by this title.

1267 (2) For purposes of Subsection (1), in the case of a retail licensee that is a partnership,
1268 corporation, or limited liability company, a conviction under Subsection (1)(c) includes a
1269 conviction of any of the following for an offense described in Subsection (1)(c):

1270 (a) a partner;

1271 (b) a managing agent;

1272 (c) a manager;

1273 (d) an officer;

1274 (e) a director;

1275 (f) a stockholder who holds at least 20% of the total issued and outstanding stock of a
1276 corporate retail licensee; or

1277 (g) a member who owns at least 20% of a limited liability company retail licensee.

1278 Section 18. Section **32B-3-307 (Effective 07/01/11)** is amended to read:

1279 **32B-3-307 (Effective 07/01/11). Hearing on formal objections to renewal.**

1280 (1) Upon receipt of a formal objection that meets the requirements of Section
1281 32B-3-306, the department shall:

1282 (a) issue a notice of agency action; and

1283 (b) serve on the retail licensee no later than 30 days before the expiration of the retail
1284 licensee's license:

1285 (i) the notice of agency action; and

1286 (ii) a copy of the formal objection.

1287 (2) (a) A retail licensee against whom a notice of agency action is served under
1288 Subsection (1) may request a hearing.

1289 (b) The request for hearing described in Subsection (2)(a) shall be:

1290 (i) in writing; and
1291 (ii) filed with the commission within 10 days of the day on which the notice of agency
1292 action is served on the retail licensee.

1293 (c) If a retail licensee fails to file a request for hearing in accordance with this
1294 Subsection (2), the commission may not renew the license of the retail licensee.

1295 (3) (a) Upon receipt of a request for hearing meeting the requirements of Subsection
1296 (2), the department shall immediately schedule a hearing that shall be:

1297 (i) held no later than 10 days before the expiration date of the retail licensee's license;
1298 and

1299 (ii) electronically recorded by the department.

1300 (b) The retail licensee or an objecting governmental entity, at its own expense, may
1301 have a reporter approved by the department prepare a transcript from the department's record of
1302 the hearing.

1303 (c) (i) The department shall present information at the hearing that supports a finding
1304 that a nuisance activity occurred.

1305 (ii) The information described in Subsection (3)(c)(i) shall be made a part of the record
1306 of the hearing.

1307 (d) A retail licensee shall:

1308 (i) have the opportunity to challenge or explain whether any of the nuisance activity
1309 that forms the basis for the formal objection occurred; and

1310 (ii) be permitted to:

1311 (A) testify;

1312 (B) present evidence; and

1313 (C) comment on the issues at the hearing.

1314 (4) (a) A hearing held under this ~~chapter~~ part shall be conducted under the authority
1315 of the commission.

1316 (b) The commission is responsible for rendering a final order on whether a retail
1317 licensee's license shall be renewed.

- 1318 (c) Notwithstanding Subsections (4)(a) and (b), the commission may appoint a
1319 necessary hearing examiner to administer the hearing process.
- 1320 (d) The commission or the hearing examiner appointed by the commission shall serve
1321 as the presiding officer at a hearing held under this section.
- 1322 (e) The presiding officer at a hearing held under this section:
- 1323 (i) shall evaluate:
- 1324 (A) the information presented at the hearing in support of the formal objection; and
1325 (B) any explanation and evidence offered by the retail licensee; and
- 1326 (ii) may consider such factors as:
- 1327 (A) the length of time the retail licensee has operated the licensed premises;
1328 (B) the condition of the licensed premises;
1329 (C) whether the retail licensee knew or should have known of the nuisance activity in
1330 question;
- 1331 (D) whether the retail licensee failed to:
- 1332 (I) make a substantial effort to correct the nuisance activity; and
1333 (II) work with law enforcement to curtail the nuisance activity;
- 1334 (E) whether the nuisance activity has been ongoing or temporary;
1335 (F) whether the retail licensee or the retail licensee's staff:
- 1336 (I) initiated contact with the law enforcement agency on the nuisance activity; and
1337 (II) cooperated with the law enforcement agency's investigation; and
1338 (G) whether prior efforts to stop the nuisance activity by the community or the retail
1339 licensee have been unsuccessful.
- 1340 (5) An order issued under this section shall:
- 1341 (a) be based on the evidence presented at the hearing; and
1342 (b) state whether:
- 1343 (i) the continued operation of the licensed premises will endanger the public health,
1344 peace, safety, welfare, or morals of the community; and
1345 (ii) the retail license should or should not be renewed.

1346 (6) (a) If the presiding officer is a hearing examiner appointed by the commission, the
1347 hearing officer shall issue a signed order in writing that:

1348 (i) complies with Subsection (5);

1349 (ii) recommends to the commission whether the retail license should or should not be
1350 renewed;

1351 (iii) states the reasons for the hearing officer's decision; and

1352 (iv) notifies the retail licensee and the objecting governmental entity that the hearing
1353 examiner's order will be considered by the commission at the next regularly scheduled meeting
1354 of the commission.

1355 (b) The department shall promptly mail a copy of the hearing examiner's order to:

1356 (i) the retail licensee; and

1357 (ii) any objecting governmental entity.

1358 (c) The commission at its next regularly scheduled meeting after receipt of a hearing
1359 examiner's order, shall decide whether to renew or not renew the retail license on the basis of:

1360 (i) the record and evidence presented at the hearing; and

1361 (ii) the hearing examiner's recommendation.

1362 (7) (a) As an alternative to ordering that a retail license not be renewed under this
1363 section, the commission may conditionally renew a retail license by requiring that:

1364 (i) the retail licensee and the licensed premises be closely monitored during the
1365 licensing year by:

1366 (A) the department;

1367 (B) local government officials; and

1368 (C) law enforcement; and

1369 (ii) the matter be reviewed before the next renewal period.

1370 (b) The commission may conditionally renew a retail license contingent on a person
1371 listed in Subsection (7)(b)(ii) divesting all interest in the retail licensed business if:

1372 (i) the retail licensee is a partnership, corporation, or limited liability company; and

1373 (ii) the formal objection filed under this section is filed solely on the basis of a felony

1374 conviction:

1375 (A) of:

1376 (I) a partner;

1377 (II) a managing agent;

1378 (III) a manager;

1379 (IV) an officer;

1380 (V) a director;

1381 (VI) a stockholder who holds at least 20% of the total issued and outstanding stock of a

1382 corporate licensee; or

1383 (VII) a member who owns at least 20% of a limited liability company licensee; and

1384 (B) for illegal activity that occurred off of the licensed premises.

1385 (8) (a) In accordance with this section, the commission shall issue a written order

1386 setting forth the commission's decision and the reason for the commission's decision.

1387 (b) The order described in Subsection (8)(a) is considered final on the date the order

1388 becomes effective.

1389 (c) The department shall serve a copy of the order on the retail licensee.

1390 (9) A retail licensee whose retail license is not renewed by order of the commission

1391 may seek judicial review under the procedures provided in Section 32B-3-207.

1392 (10) A retail licensee whose retail license is not renewed may not reapply for a license

1393 under this title for three years from the date the retail license is not renewed.

1394 Section 19. Section **32B-4-203 (Effective 07/01/11)** is amended to read:

1395 **32B-4-203 (Effective 07/01/11). Authority to inspect.**

1396 (1) (a) This Subsection (1) applies to:

1397 (i) a commissioner;

1398 (ii) an authorized representative of the commission or department; or

1399 (iii) a law enforcement or peace officer.

1400 (b) An individual described in Subsection (1)(a):

1401 (i) shall be given access, ingress, and egress to and from premises or a conveyance

1402 used in the storage, sale, furnishing, manufacture, or transportation of an alcoholic product;

1403 (ii) may open a ~~[package]~~ container containing, or supposed to contain, an article sold,
1404 or exposed for sale, held in possession, or manufactured with intent to sell in violation of this
1405 title or commission rules; and

1406 (iii) may inspect the contents and take samples of the contents for analysis from a
1407 ~~[package]~~ container described in this Subsection (1).

1408 (2) The following shall assist, when requested by a person described in Subsection (1),
1409 in tracing, finding, or discovering the presence of an article prohibited by this title or
1410 commission rules to the extent assistance would not infringe upon the person's federal and state
1411 constitutional rights:

1412 (a) a dealer;

1413 (b) a clerk;

1414 (c) a bookkeeper;

1415 (d) an express agent;

1416 (e) a railroad or airline official;

1417 (f) a common or other carrier; and

1418 (g) an employee of a person listed in this Subsection (2).

1419 Section 20. Section **32B-4-206 (Effective 07/01/11)** is amended to read:

1420 **32B-4-206 (Effective 07/01/11). Searches, seizures, forfeitures, and fines.**

1421 (1) The following are subject to forfeiture pursuant to Title 24, Chapter 1, Utah
1422 Uniform Forfeiture Procedures Act:

1423 (a) an alcoholic product possessed, purchased, used, stored, sold, offered for sale,
1424 furnished, given, received, warehoused, manufactured, distributed, shipped, carried,
1425 transported, or adulterated in violation of this title or commission rules;

1426 (b) a ~~[package]~~ container or property used or intended for use as a ~~[package]~~ container
1427 for an alcoholic product in violation of this title or commission rules;

1428 (c) raw materials, products, and equipment used, or intended for use, in manufacturing,
1429 processing, delivering, importing, exporting, or adulterating an alcoholic product in violation

1430 of this title or commission rules;

1431 (d) implements, furniture, fixtures, or other personal property used or kept for a
1432 violation of this title or commission rules;

1433 (e) conveyances including an aircraft, vehicle, or vessel used or intended for use, to
1434 transport or in any manner facilitate the transportation, sale, receipt, possession, or
1435 concealment of property described in Subsection (1)(a), (b), (c), or (d); and

1436 (f) a record used or intended for use in violation of this title or commission rules.

1437 (2) (a) Property subject to forfeiture under this title may be seized by a peace officer of
1438 this state or any other person authorized by law upon process issued by a court having
1439 jurisdiction over the property in accordance with the Utah Rules of Criminal Procedure relating
1440 to search warrants or administrative warrants.

1441 (b) Notwithstanding Subsection (2)(a), seizure without process may be made when:

1442 (i) the seizure is incident to an arrest or search under a search warrant or an inspection
1443 under an administrative inspection warrant;

1444 (ii) the property subject to seizure has been the subject of a prior judgment in favor of
1445 the state in a criminal injunction or forfeiture proceeding under this title;

1446 (iii) the peace officer or other person authorized by law has probable cause to believe
1447 that the property is directly or indirectly dangerous to health or safety; or

1448 (iv) the peace officer or other person authorized by law has probable cause to believe
1449 that the property is being or has been used, intended to be used, held, or kept in violation of this
1450 title or commission rules.

1451 (3) If property is seized pursuant to a search or administrative warrant, a peace officer
1452 or other person authorized by law shall comply with the requirements of the Utah Rules of
1453 Criminal Procedure.

1454 (4) (a) If property is seized without process:

1455 (i) the peace officer or other person authorized by law shall make a return of the peace
1456 officer's or person's acts without delay directly to the district court of the county in which the
1457 property was located; and

- 1458 (ii) the district court shall have jurisdiction of the case.
- 1459 (b) A return shall describe:
- 1460 (i) the property seized;
- 1461 (ii) the place where the property is seized; and
- 1462 (iii) any person in apparent possession of the property.
- 1463 (c) A peace officer or other person described in Subsection (4)(a) shall promptly:
- 1464 (i) deliver a written inventory of anything seized to any person in apparent authority at
- 1465 the premises where the seizure is made; or
- 1466 (ii) post a written inventory of anything seized in a conspicuous place at the premises.
- 1467 (d) A written inventory under this Subsection (4) shall state the place where the
- 1468 property is being held.
- 1469 (5) Property taken or detained under this section is not repleviable but is considered in
- 1470 custody of the law enforcement agency making the seizure subject only to the orders of the
- 1471 court or the official having jurisdiction. When property is seized under this title, the
- 1472 appropriate person or agency may:
- 1473 (a) place the property under seal;
- 1474 (b) remove the property to a place designated by:
- 1475 (i) the person or agency; or
- 1476 (ii) the warrant under which the property is seized; or
- 1477 (c) take custody of the property and remove the property to an appropriate location for
- 1478 disposition in accordance with law.
- 1479 (6) When property is subject to forfeiture under this section, a proceeding shall be
- 1480 instituted in accordance with Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.
- 1481 (7) When property is ordered forfeited under Title 24, Chapter 1, Utah Uniform
- 1482 Forfeiture Procedures Act, by a finding of a court that no person is entitled to recover the
- 1483 property, the property, if an alcohol [~~package~~] container or product used as a [~~package~~]
- 1484 container for an alcoholic product, shall be disposed of as follows:
- 1485 (a) An alcoholic product shall be sold in accordance with Section 24-1-17 if the

1486 alcoholic product is:

1487 (i) unadulterated, pure, and free from crude, unrectified, or impure form of ethylic
1488 alcohol, or any other deleterious substance or liquid; and

1489 (ii) otherwise in saleable condition.

1490 (b) If the alcoholic product is impure, adulterated, or otherwise unfit for sale, the
1491 department shall destroy the alcoholic product and its [~~package~~] container under competent
1492 supervision.

1493 (8) Except when otherwise provided, a fine or forfeiture levied under this title shall be
1494 paid to the county treasurer of the county in which the prosecution occurred.

1495 Section 21. Section **32B-4-208 (Effective 07/01/11)** is amended to read:

1496 **32B-4-208 (Effective 07/01/11). Nuisances.**

1497 (1) As used in this section, "nuisance" means:

1498 (a) a room, house, building, structure, place, aircraft, vehicle, vessel, or other
1499 conveyance where an alcoholic product is possessed, purchased, used, kept, stored, sold,
1500 offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped,
1501 carried, transported, or adulterated in violation of this title; or

1502 (b) an alcoholic product, [~~package~~] container, equipment, or other property kept or
1503 used in maintaining an item or property described in Subsection (1)(a).

1504 (2) A person who maintains or assists in maintaining a nuisance is guilty of a class B
1505 misdemeanor.

1506 (3) If a person has knowledge that, or has reason to believe that the person's room,
1507 house, building, structure, place, aircraft, vehicle, vessel, or other conveyance is occupied or
1508 used as a nuisance, or allows it to be occupied or used as a nuisance, the nuisance property is
1509 subject to a lien for and may be sold to pay the fines and costs assessed against the person
1510 guilty of the common nuisance. This lien may be enforced by action in a court having
1511 jurisdiction.

1512 (4) (a) The department shall bring an action to abate a nuisance in the name of the
1513 department in a court having jurisdiction.

- 1514 (b) An action brought under this Subsection (4) is an action in equity.
- 1515 (c) The department may not be required to post a bond to initiate an action under this
1516 Subsection (4).
- 1517 (d) A court may issue:
- 1518 (i) if it appears that a nuisance exists, a temporary writ of injunction restraining the
1519 defendant from conducting or permitting the continuance of the nuisance until the conclusion
1520 of the trial; and
- 1521 (ii) an order restraining the defendant and any other person from removing or
1522 interfering with an alcoholic product, [~~package~~] container, equipment, or other property kept or
1523 used in violation of this title or commission rules.
- 1524 (e) In an action to abate or enjoin a nuisance, the court need not find that the property
1525 involved is being unlawfully used at the time of the hearing.
- 1526 (f) On finding that a material allegation of a petition or complaint is true, the court
1527 shall order that an alcoholic product may not be possessed, purchased, used, kept, stored, sold,
1528 offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped,
1529 carried, transported, or adulterated, in any portion of the room, house, building, structure,
1530 place, aircraft, vehicle, vessel, or other conveyance.
- 1531 (g) Upon judgment of a court ordering abatement of the nuisance, the court may order
1532 that the premises or conveyance in question may not be occupied or used for any purpose for
1533 one year, except under Subsection (4)(h).
- 1534 (h) A court may permit premises or conveyance described in Subsection (4)(g) to be
1535 occupied or used:
- 1536 (i) if its owner, lessee, tenant, or occupant gives bond in an appropriate amount with
1537 sufficient surety, approved by the court, payable to the state;
- 1538 (ii) on the condition that an alcoholic product will not be present in or on the premises
1539 or the conveyance; and
- 1540 (iii) on the condition that payment of the fines, costs, and damages assessed for
1541 violation of this title or commission rules will be made.

1542 (5) If a tenant of the premises uses the premises or any part of the premises in
1543 maintaining a nuisance, or knowingly permits use by another, the lease is void and the right to
1544 possession reverts to the owner or lessor who is entitled to the remedy provided by law for
1545 forcible detention of the premises.

1546 (6) A person is guilty of assisting in maintaining a nuisance as provided in Section
1547 76-10-804, if that person:

1548 (a) knowingly permits a building or premises owned or leased by the person, or under
1549 the person's control, or any part of a building or premises, to be used in maintaining a nuisance;
1550 or

1551 (b) after being notified in writing by a prosecutor or other citizen of the unlawful use,
1552 fails to take all proper measures to:

1553 (i) abate the nuisance; or

1554 (ii) remove the one or more persons from the premises.

1555 Section 22. Section **32B-4-406 (Effective 07/01/11)** is amended to read:

1556 **32B-4-406 (Effective 07/01/11). Unlawful sale, offer for sale, or furnishing of**
1557 **beer.**

1558 (1) Except as provided in Subsection (2):

1559 (a) a person may not sell, offer for sale, or furnish beer to the general public in a
1560 [~~package~~] container that exceeds two liters; and

1561 (b) a person may not purchase or possess beer in a [~~package~~] container that exceeds
1562 two liters.

1563 (2) (a) A retail licensee may sell, offer for sale, or furnish beer on draft subject to the
1564 requirements of Section 32B-5-304.

1565 (b) A retail licensee may purchase or possess beer in a [~~package~~] container that exceeds
1566 two liters to be dispensed on draft for consumption subject to the requirements of Section
1567 32B-5-304.

1568 (c) A beer wholesaler licensee may sell, offer for sale, or furnish beer in a [~~package~~]
1569 container that exceeds two liters to a retail licensee described in Subsection (2)(a).

1570 Section 23. Section **32B-4-420 (Effective 07/01/11)** is amended to read:

1571 **32B-4-420 (Effective 07/01/11). Unlawful adulteration.**

1572 (1) For purposes of this section, "tamper" means to do one or more of the following to
1573 the contents of a [~~package~~] container:

- 1574 (a) fortify;
- 1575 (b) adulterate;
- 1576 (c) contaminate;
- 1577 (d) dilute;
- 1578 (e) change its character or purity; or
- 1579 (f) otherwise change.

1580 (2) A person may not, for any purpose, mix or allow to be mixed with an alcoholic
1581 product sold or supplied by the person as a beverage any of the following:

- 1582 (a) a drug;
- 1583 (b) methylic alcohol;
- 1584 (c) a crude, unrectified, or impure form of ethylic alcohol; or
- 1585 (d) another deleterious substance.

1586 (3) (a) The following may not engage in an act listed in Subsection (3)(b):

- 1587 (i) a package agent;
- 1588 (ii) a retail licensee;
- 1589 (iii) a permittee;
- 1590 (iv) a beer wholesaler licensee;
- 1591 (v) a liquor warehouse licensee;
- 1592 (vi) a supplier; or
- 1593 (vii) an importer.

1594 (b) A person listed in Subsection (3)(a) may not:

- 1595 (i) tamper with the contents of a [~~package~~] container of alcoholic product as originally
1596 marketed by a manufacturer;
- 1597 (ii) refill or partly refill with any substance the contents of an original [~~package~~]

1598 container of alcoholic product as originally marketed by a manufacturer;

1599 (iii) misrepresent the brand of an alcoholic product sold or offered for sale; or

1600 (iv) sell or furnish a brand of alcoholic product that is not the same as that ordered by a
1601 purchaser without first advising the purchaser of the difference.

1602 Section 24. Section **32B-4-422 (Effective 07/01/11)** is amended to read:

1603 **32B-4-422 (Effective 07/01/11). Unlawful dispensing.**

1604 (1) For purposes of this section:

1605 (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

1606 (b) "Primary spirituous liquor" does not include a secondary alcoholic product used as
1607 a flavoring in conjunction with the primary distilled spirit in a beverage.

1608 (2) A retail licensee licensed under this title to sell, offer for sale, or furnish spirituous
1609 liquor for consumption on the licensed premises, or staff of the retail licensee may not:

1610 (a) sell, offer for sale, or furnish a primary spirituous liquor to a person on the licensed
1611 premises except in a quantity that does not exceed 1.5 ounces per beverage dispensed through a
1612 calibrated metered dispensing system approved by the department;

1613 (b) sell, offer for sale, or furnish more than a total of 2.5 ounces of spirituous liquor per
1614 beverage;

1615 (c) allow a person on the licensed premises to have more than a total of 2.5 ounces of
1616 spirituous liquor at a time; or

1617 (d) (i) except as provided in Subsection (2)(d)(ii), allow a person to have more than
1618 two spirituous liquor beverages at a time; or

1619 (ii) allow a person on the premises of the following to have more than one spirituous
1620 liquor beverage at a time:

1621 (A) a full-service restaurant licensee;

1622 (B) a person operating under a full-service restaurant sublicense;

1623 (C) an on-premise banquet licensee;

1624 (D) a person operating under an on-premise banquet [~~license~~] sublicense; or

1625 (E) a single event permittee.

1626 (3) A violation of this section is a class C misdemeanor.

1627 Section 25. Section **32B-4-507 (Effective 07/01/11)** is amended to read:

1628 **32B-4-507 (Effective 07/01/11). Interfering with manufacturer, supplier, or**
1629 **importer.**

1630 (1) Except as provided in Subsection (2), a commissioner, the director, or a department
1631 employee may not directly or indirectly participate in any manner, by recommendation or
1632 otherwise, in the appointment, employment, or termination of appointment or employment of
1633 staff by:

- 1634 (a) a manufacturer of liquor;
- 1635 (b) a supplier of liquor to the department; or
- 1636 (c) an importer of liquor to the department.

1637 (2) A person described in Subsection (1) may participate in the appointment,
1638 employment, or termination of appointment or employment to:

- 1639 (a) determine qualifications for licensing in accordance with Chapter 11,
1640 Manufacturing and Related Licenses Act; or
- 1641 (b) enforce compliance with this title.

1642 Section 26. Section **32B-4-704 (Effective 07/01/11)** is amended to read:

1643 **32B-4-704 (Effective 07/01/11). Tied house -- Prohibitions.**

1644 (1) (a) It is unlawful for an industry member, directly or indirectly, or through an
1645 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or from
1646 the department to the exclusion in whole or in part of a product sold or offered for sale by
1647 another person by acquiring or holding an interest in a license with respect to the premises of a
1648 retailer, except when the license is held by a retailer that is completely owned by the industry
1649 member.

1650 (b) Interest in a retail license includes an interest acquired by a corporate official,
1651 partner, employee, or other representative of the industry member.

1652 (c) An interest in a retail license acquired by a separate corporation in which the
1653 industry member or the industry member's officials hold ownership or are otherwise affiliated

1654 is an interest in a retail license.

1655 (d) Less than complete ownership of a retail business by an industry member
1656 constitutes an interest in a retail license within the meaning of Subsection (1)(a).

1657 (2) (a) It is unlawful for an industry member, directly or indirectly, or through an
1658 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or from
1659 the department to the exclusion in whole or in part of a product sold or offered for sale by
1660 another person by acquiring an interest in real or personal property owned, occupied, or used
1661 by the retailer in the conduct of the retailer's business.

1662 (b) For purposes of Subsection (2)(a):

1663 (i) "interest" does not include complete ownership of a retail business by an industry
1664 member;

1665 (ii) interest in retail property includes an interest acquired by a corporate official,
1666 partner, employee, or other representative of the industry member;

1667 (iii) any interest in a retail license acquired by a separate corporation in which the
1668 industry member or its officials hold ownership or are otherwise affiliated is an interest in the
1669 retailer's property;

1670 (iv) less than complete ownership of a retail business by an industry member
1671 constitutes an interest in retail property;

1672 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry
1673 member constitutes an interest in the retailer's property; and

1674 (vi) the renting of display space by an industry member at a retail establishment
1675 constitutes an interest in the retailer's property.

1676 (3) (a) Subject to Section 32B-4-705, it is unlawful for an industry member, directly or
1677 indirectly, or through an affiliate, to induce a retailer to purchase an alcoholic product from the
1678 industry member or from the department to the exclusion in whole or in part of a product sold
1679 or offered for sale by another person by furnishing, giving, renting, lending, or selling to the
1680 retailer equipment, a fixture, a sign, supplies, money, a service, or other thing of value.

1681 (b) (i) For purposes of this Subsection (3), indirect inducement includes:

1682 (A) furnishing a thing of value to a third party when the benefit resulting from the thing
1683 of value flows to an individual retailer; and

1684 (B) making a payment for advertising to a retailer association or a display company
1685 when the resulting benefits flow to an individual retailer.

1686 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

1687 (A) the thing of value is furnished to a retailer by the third party without the knowledge
1688 or intent of the industry member; or

1689 (B) the industry member does not reasonably foresee that the thing of value would be
1690 furnished to a retailer.

1691 (c) Anything that may lawfully be furnished, given, rented, lent, or sold by industry
1692 members to retailers under Section 32B-4-705 may be furnished directly by a third party to a
1693 retailer.

1694 (d) (i) A transaction in which equipment is sold to a retailer by an industry member,
1695 except as provided in Section 32B-4-705, is the selling of equipment within the meaning of
1696 Subsection (3)(a) regardless of how the equipment is sold.

1697 (ii) The negotiation by an industry member of a special price to a retailer for equipment
1698 from an equipment company is the furnishing of a thing of value within the meaning of
1699 Subsection (3)(a).

1700 (e) The furnishing of free warehousing by delaying delivery of an alcoholic product
1701 beyond the time that payment for the product is received, or if a retailer is purchasing on credit,
1702 delaying final delivery of products beyond the close of the period of time for which credit is
1703 lawfully extended, is the furnishing of a service or thing of value within the meaning of
1704 Subsection (3)(a).

1705 (f) A financial, legal, administrative, or influential assistance given a retailer by an
1706 industry member in the retailer's acquisition of the retailer's license is the furnishing of a
1707 service or thing of value within the meaning of Subsection (3)(a).

1708 (4) It is unlawful for an industry member, directly or indirectly, or through an affiliate,
1709 to induce a retailer to purchase an alcoholic product from the industry member or from the

1710 department to the exclusion in whole or in part of a product sold or offered for sale by another
1711 person by paying or crediting the retailer for an advertising, display, or distribution service:

1712 (a) as defined in and to the extent restricted by 27 C.F.R. Sec. 6.51 through 6.56; and

1713 (b) subject to the exceptions:

1714 (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

1715 (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

1716 (5) It is unlawful for an industry member, directly or indirectly, or through an affiliate,
1717 to induce a retailer to purchase an alcoholic product from the industry member or from the
1718 department to the exclusion in whole or in part of a product sold or offered for sale by another
1719 person by guaranteeing a loan or the repayment of a financial obligation of the retailer.

1720 (6) (a) It is unlawful for an industry member, directly or indirectly, or through an
1721 affiliate, to induce a retailer to purchase beer from the industry member to the exclusion in
1722 whole or in part of a beer product sold or offered for sale by another person by extending to a
1723 retailer credit for a period in excess of 15 days from the date of delivery to the date of full legal
1724 discharge from all indebtedness arising from the transaction by the retailer paying cash or its
1725 equivalent, unless:

1726 (i) beer purchased or delivered during the first 15 days of any month is paid for in cash
1727 or its equivalent on or before the 25th day of the same month; and

1728 (ii) beer purchased or delivered after the 15th day of any month is paid for in cash or its
1729 equivalent on or before the 10th day of the next succeeding month.

1730 (b) A first party in-state check is considered cash payment if the check is:

1731 (i) honored on presentment; and

1732 (ii) received under the terms prescribed in Subsection (6)(a).

1733 (c) An extension of credit for product purchased by an industry member to a retailer
1734 whose account is in arrears does not constitute a violation of Subsection (6)(a) if the retailer
1735 pays in advance or on delivery an amount equal to or greater than the value of each order,
1736 regardless of the manner in which the industry member applies the payment in its records.

1737 (7) (a) It is unlawful for an industry member, directly or indirectly, or through an

1738 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or from
1739 the department to the exclusion in whole or in part of a product sold or offered for sale by
1740 another person by requiring:

- 1741 (i) the department to take and dispose of a certain quota of a product; or
- 1742 (ii) a beer retailer to take and dispose of a certain quota of a beer product.

1743 (b) (i) It is an unlawful means to induce to require:

- 1744 (A) the department to purchase one product in order to purchase another product; or
- 1745 (B) a beer retailer to purchase one beer product in order to purchase another beer

1746 product.

1747 (ii) This Subsection (7)(b) includes:

1748 (A) the requirement to take a minimum quantity of a product in standard packaging in
1749 order to obtain the same product in some type of premium [~~package~~] container such as:

- 1750 (I) a distinctive decanter; or
- 1751 (II) a wooden or tin box; or

1752 (B) combination sales if one or more products may be purchased only in combination
1753 with another product and not individually.

1754 (c) This Subsection (7) does not preclude the selling, at a special combination price, of
1755 two or more kinds or brands of products so long as the department or beer retailer:

- 1756 (i) has the option of purchasing either product at the usual price; and
- 1757 (ii) is not required to purchase a product the department or beer retailer does not want.

1758 (d) An industry member may package and distribute an alcoholic product in
1759 combination with other nonalcoholic items.

1760 (e) A combination package shall be designed to be delivered intact to the consumer and
1761 the additional cost incurred by the industry member shall be included in the cost to the
1762 department or beer retailer.

1763 Section 27. Section **32B-4-705 (Effective 07/01/11)** is amended to read:

1764 **32B-4-705 (Effective 07/01/11). Exclusions from tied house prohibitions.**

1765 (1) Notwithstanding Subsection 32B-4-704(3), a thing of value may be furnished by an

1766 industry member to a retailer under the conditions and within the limitations prescribed in:

1767 (a) this section; and

1768 (b) the applicable federal laws cited in this section.

1769 (2) The following may be furnished by an industry member:

1770 (a) a product display as provided in 27 C.F.R. Sec. 6.83;

1771 (b) point of sale advertising material or a consumer advertising specialty as provided in

1772 27 C.F.R. Sec. 6.84;

1773 (c) a thing of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;

1774 (d) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;

1775 (e) combination packaging as provided in 27 C.F.R. Sec. 6.93;

1776 (f) an educational seminar as provided in 27 C.F.R. Sec. 6.94;

1777 (g) a consumer promotion as provided in 27 C.F.R. Sec. 6.96;

1778 (h) an advertising service as provided in 27 C.F.R. Sec. 6.98;

1779 (i) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;

1780 (j) merchandise as provided in 27 C.F.R. Sec. 6.101; and

1781 (k) an outside sign as provided in 27 C.F.R. Sec. 6.102.

1782 (3) The following exceptions provided in federal law are not applicable:

1783 (a) the exception for a sample as provided in 27 C.F.R. Sec. 6.91;

1784 (b) the exception for a consumer tasting or sampling at a retail establishment as

1785 provided in 27 C.F.R. Sec. 6.95; and

1786 (c) the exception for participation in a retailer association activity provided in 27

1787 C.F.R. Sec. 6.100.

1788 (4) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall maintain

1789 a record:

1790 (a) of an item furnished to a retailer;

1791 (b) on the premises of the industry member; and

1792 (c) for a three-year period.

1793 (5) A sample of liquor may be provided to the department under the following

1794 conditions:

1795 (a) With the department's permission, an industry member may submit a department
1796 sample to the department for product testing, analysis, and sampling.

1797 (b) No more than two department samples of a particular type, vintage, and production
1798 lot of a particular branded product may be submitted to the department for department testing,
1799 analysis, and sampling within a consecutive 120-day period.

1800 (c) (i) A department sample may not exceed 1 liter.

1801 (ii) Notwithstanding Subsection (5)(c)(i), a department sample of the following may
1802 not exceed 1.5 liters unless that exact alcoholic product is only commercially packaged in a
1803 larger size, not to exceed 5 liters:

1804 (A) wine;

1805 (B) heavy beer; or

1806 (C) a flavored malt beverage.

1807 (d) A department sample submitted to the department:

1808 (i) shall be shipped prepaid by the industry member by common carrier; and

1809 (ii) may not be shipped by United States mail directly to the department's central
1810 administrative warehouse office.

1811 (e) A department sample may not be shipped to any other location within the state.

1812 (f) The industry member shall submit with a department sample submitted to the
1813 department a letter from the industry member that clearly:

1814 (i) identifies the product as a "department sample"; and

1815 (ii) states the FOB case price of the product.

1816 (g) (i) The department may transfer a listed item from current stock:

1817 (A) for use as a comparison control sample; or

1818 (B) to verify product spoilage as considered appropriate.

1819 (ii) The department shall charge back a sample transferred under this Subsection (5)(g)
1820 to the respective industry member.

1821 (h) The department shall:

- 1822 (i) account for, label, and record a department sample received or transferred;
- 1823 (ii) account for the department sample's disposition; and
- 1824 (iii) maintain a record of the sample and its disposition for a two-year period.
- 1825 (i) The department shall affix to each [~~package~~] container of a department sample a
- 1826 label clearly identifying the product as a "department sample."
- 1827 (j) The department shall dispose of a department sample delivered to the department or
- 1828 transferred from the department's current stock in one of the following ways as chosen by the
- 1829 department:
- 1830 (i) test and analyze the department sample, with the remaining contents destroyed
- 1831 under controlled and audited conditions established by the department;
- 1832 (ii) destroy the entire contents of the department sample under controlled and audited
- 1833 conditions established by the department; or
- 1834 (iii) add the department sample to the inventory of the department for sale to the
- 1835 public.
- 1836 (k) A person other than an authorized department official may not be in possession of a
- 1837 department sample except as otherwise provided.
- 1838 (l) The department shall handle a liquor item received by the department from a
- 1839 supplier that is not designated as a sample by the supplier, but that is an item not specifically
- 1840 listed on a department purchase order, in accordance with this Subsection (5).
- 1841 (m) The department may not use its money to pay freight or charges on a sample or a
- 1842 liquor item:
- 1843 (i) shipped to the department by a supplier; and
- 1844 (ii) not listed on a department purchase order.
- 1845 (6) A sample of beer may be provided by a beer industry member to a retailer under the
- 1846 conditions listed in this Subsection (6).
- 1847 (a) A sample of beer may be provided by an industry member only to a retailer who has
- 1848 not purchased the brand of beer from that industry member within the last 12 months.
- 1849 (b) For each retailer, the industry member may give not more than three gallons of any

1850 brand of beer, except that if a particular product is not available in a size within the quantity
1851 limitation, an industry member may furnish the next largest size.

1852 (7) An educational seminar may involve an industry member under the conditions
1853 listed in this Subsection (7).

1854 (a) An industry member may provide or participate in an educational seminar:

1855 (i) involving:

1856 (A) the department;

1857 (B) a retailer;

1858 (C) a holder of a scientific or educational special use permit;

1859 (D) another industry member; or

1860 (E) an employee of a person listed in Subsections (7)(a)(i)(A) through (D); and

1861 (ii) regarding a topic such as:

1862 (A) merchandising and product knowledge;

1863 (B) use of equipment; and

1864 (C) a tour of an alcoholic product manufacturing facility.

1865 (b) An industry member may not pay the expenses of or compensate a person who is a
1866 department employee, a retailer, or a permittee for attending a seminar or tour described in
1867 Subsection (7)(a).

1868 (8) (a) A liquor industry member may conduct a tasting of a liquor product of the
1869 industry member:

1870 (i) for the department, at the department's request; and

1871 (ii) for a licensed industry representative, but only at the department's central
1872 administrative warehouse office.

1873 (b) A liquor industry member may only use a department sample or industry
1874 representative sample when conducting a tasting of the industry member's liquor product.

1875 (c) A beer industry member may conduct a tasting of a beer product for a beer retailer
1876 either at:

1877 (i) the industry member's premises; or

- 1878 (ii) a retail establishment.
- 1879 (d) Except to the extent authorized by commission rule, an alcoholic product industry
- 1880 member may not conduct tasting or sampling activities with:
- 1881 (i) a retailer; or
- 1882 (ii) a member of the general public.
- 1883 (9) A beer industry member may participate in a beer retailer association activity to the
- 1884 extent authorized by 27 C.F.R. Sec. 6.100.
- 1885 (10) (a) An industry member may contribute to a charitable, civic, religious, fraternal,
- 1886 educational, or community activity, except the contribution may not be given to influence a
- 1887 retailer in the selection of a product that may be sold at the activity.
- 1888 (b) An industry member or retailer violates this Subsection (10) if:
- 1889 (i) the industry member's contribution influences, directly or indirectly, the retailer in
- 1890 the selection of a product; and
- 1891 (ii) a competitor's product is excluded in whole or in part from sale at the activity.
- 1892 (11) (a) An industry member may lease or furnish equipment listed in Subsection
- 1893 (11)(b) to a retailer if:
- 1894 (i) the equipment is leased or furnished for a special event;
- 1895 (ii) a reasonable rental or service fee is charged for the equipment; and
- 1896 (iii) the period for which the equipment is leased or furnished does not exceed 30 days.
- 1897 (b) This Subsection (11) applies to the following equipment:
- 1898 (i) a picnic pump;
- 1899 (ii) a cold plate;
- 1900 (iii) a tub;
- 1901 (iv) a keg box;
- 1902 (v) a refrigerated trailer;
- 1903 (vi) a refrigerated van; or
- 1904 (vii) a refrigerated draft system.
- 1905 (12) (a) A liquor industry member may assist the department in:

- 1906 (i) ordering, shipping, and delivering merchandise;
- 1907 (ii) new product notification;
- 1908 (iii) listing and delisting information;
- 1909 (iv) price quotations;
- 1910 (v) product sales analysis;
- 1911 (vi) shelf management; and
- 1912 (vii) an educational seminar.
- 1913 (b) (i) A liquor industry member may, to acquire a new listing:
- 1914 (A) solicit an order from the department; and
- 1915 (B) submit to the department a sample of the liquor industry member's products under
- 1916 Subsection (5) and price lists.
- 1917 (ii) (A) An industry member is confined to the customer areas when the industry
- 1918 member visits a state store or package agency unless otherwise approved.
- 1919 (B) An industry member is confined to the office area of a state warehouse when the
- 1920 industry member visits a state warehouse unless otherwise approved.
- 1921 (13) A beer industry member may assist a beer retailer in:
- 1922 (a) ordering, shipping, and delivering beer merchandise;
- 1923 (b) new product notification;
- 1924 (c) listing and delisting information;
- 1925 (d) price quotations;
- 1926 (e) product sales analysis;
- 1927 (f) shelf management; and
- 1928 (g) an educational seminar.
- 1929 (14) A beer industry member may, to acquire a new listing:
- 1930 (a) solicit an order from a beer retailer; and
- 1931 (b) submit to a beer retailer a sample of the beer industry member's beer products under
- 1932 Subsection (5) and price lists.
- 1933 Section 28. Section **32B-5-303 (Effective 07/01/11)** is amended to read:

1934 **32B-5-303 (Effective 07/01/11). Purchase and storage of an alcoholic product by a**
1935 **retail licensee.**

1936 (1) (a) A retail licensee may not purchase liquor except from a state store or package
1937 agency.

1938 (b) A retail licensee may transport liquor purchased from a state store or package
1939 agency from the place of purchase to the licensed premises.

1940 (c) A retail licensee shall pay for liquor in accordance with rules established by the
1941 commission.

1942 (2) (a) (i) A [~~beer retailer~~] retail licensee may not purchase, acquire, possess for the
1943 purpose of resale, or sell beer except beer that the [~~beer retailer~~] retail licensee purchases from:

1944 (A) a beer wholesaler licensee; or

1945 (B) a small brewer that manufactures the beer.

1946 (ii) Violation of this Subsection (2)(a) is a class A misdemeanor.

1947 (b) (i) If a [~~beer retailer~~] retail licensee purchases beer under Subsection (2)(a) from a
1948 beer wholesaler licensee, the [~~beer retailer~~] retail licensee shall purchase beer only from a beer
1949 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
1950 in which the [~~beer retailer~~] retail licensee is located, unless an alternate wholesaler is
1951 authorized by the department to sell to the [~~beer retailer~~] retail licensee as provided in Section
1952 32B-13-301.

1953 (ii) Violation of Subsection (2)(b) is a class B misdemeanor.

1954 (3) A retail licensee may not store, sell, offer for sale, or furnish an alcoholic product in
1955 a place other than as designated in the retail licensee's application, unless the retail licensee
1956 first applies for and receives approval from the department for a change of location within the
1957 licensed premises.

1958 (4) A liquor storage area shall remain locked at all times other than those hours and
1959 days when liquor sales are authorized by law.

1960 Section 29. Section **32B-5-304 (Effective 07/01/11)** is amended to read:

1961 **32B-5-304 (Effective 07/01/11). Portions in which alcoholic product may be sold.**

1962 (1) A retail licensee may sell, offer for sale, or furnish a primary spirituous liquor only
1963 in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated
1964 metered dispensing system approved by the department in accordance with commission rules
1965 adopted under this title, except that:

1966 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1967 system if used as a secondary flavoring ingredient in a beverage subject to the following
1968 requirements:

1969 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1970 a primary spirituous liquor;

1971 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

1972 (iii) the retail licensee shall designate a location where flavorings are stored on the
1973 floor plan submitted to the department; and

1974 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

1975 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1976 system if used:

1977 (i) as a flavoring on a dessert; and

1978 (ii) in the preparation of a flaming food dish, drink, or dessert; and

1979 (c) a patron may have no more than 2.5 ounces of spirituous liquor at a time.

1980 (2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an
1981 individual portion that does not exceed 5 ounces per glass or individual portion.

1982 (ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to
1983 a patron in more than one glass if the total amount of wine does not exceed 5 ounces.

1984 (b) (i) A retail licensee may sell, offer for sale, or furnish wine in a ~~[package]~~ container
1985 not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

1986 (ii) A retail licensee may sell, offer for sale, or furnish wine in a ~~[package]~~ container
1987 not to exceed 750 milliliters at a price fixed by the commission to a table of less than four
1988 persons.

1989 (3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original

1990 [package] container at a price fixed by the commission, except that the original [package]
1991 container may not exceed one liter.

1992 (4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an
1993 original [package] container at a price fixed by the commission, except that the original
1994 [package] container may not exceed one liter.

1995 (5) (a) Subject to Subsection (5)(b), a retail licensee may sell, offer for sale, or furnish
1996 beer for on-premise consumption:

1997 (i) in an open original [package] container; and

1998 (ii) in a [package] container on draft.

1999 (b) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a):

2000 (i) in a size of [package] container that exceeds two liters; or

2001 (ii) to an individual patron in a size of [package] container that exceeds one liter.

2002 Section 30. Section **32B-5-307 (Effective 07/01/11)** is amended to read:

2003 **32B-5-307 (Effective 07/01/11). Bringing onto or removing alcoholic product**
2004 **from premises.**

2005 (1) Except as provided in Subsection (3):

2006 (a) A person may not bring onto the licensed premises of a retail licensee an alcoholic
2007 product for on-premise consumption.

2008 (b) A retail licensee may not allow a person to:

2009 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or

2010 (ii) consume an alcoholic product brought onto the licensed premises by a person other
2011 than the retail licensee.

2012 (2) Except as provided in Subsection (3):

2013 (a) A person may not carry from a licensed premises of a retail licensee an open
2014 [package] container that:

2015 (i) is used primarily for drinking purposes; and

2016 (ii) contains an alcoholic product.

2017 (b) A retail licensee may not permit a patron to carry from the licensed premises an

2018 open [package] container described in Subsection (2)(a).

2019 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for
2020 on-premise consumption if:

2021 (i) permitted by the retail licensee; and

2022 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

2023 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the
2024 patron shall deliver the bottled wine to a server or other representative of the retail licensee
2025 upon entering the licensed premises.

2026 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a
2027 wine service for a bottled wine carried onto the licensed premises in accordance with this
2028 Subsection (3).

2029 (d) A patron may remove from a licensed premises the unconsumed contents of a bottle
2030 of wine purchased in the licensed premises, or brought onto the licensed premises in
2031 accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

2032 Section 31. Section **32B-5-308 (Effective 07/01/11)** is amended to read:

2033 **32B-5-308 (Effective 07/01/11). Requirements on staff or others on premises --**
2034 **Employing a minor.**

2035 (1) Staff of a retail licensee, while on duty, may not:

2036 (a) consume an alcoholic product; or

2037 (b) be intoxicated.

2038 (2) (a) A retail licensee may not employ a minor to sell, offer for sale, furnish, or
2039 dispense an alcoholic product.

2040 (b) Notwithstanding Subsection (2)(a), unless otherwise prohibited in the provisions
2041 related to the specific type of retail license, a retail licensee may employ a minor who is at least
2042 16 years of age to enter the sale at a cash register or other sales recording device.

2043 Section 32. Section **32B-6-205 (Effective 07/01/11)** is amended to read:

2044 **32B-6-205 (Effective 07/01/11). Specific operational requirements for a**
2045 **full-service restaurant license.**

2046 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2047 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
2048 shall comply with this section.

2049 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2050 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2051 (i) a full-service restaurant licensee;

2052 (ii) individual staff of a full-service restaurant licensee; or

2053 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
2054 licensee.

2055 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant
2056 licensee shall display in a prominent place in the restaurant a list of the types and brand names
2057 of liquor being furnished through the full-service restaurant licensee's calibrated metered
2058 dispensing system.

2059 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee
2060 shall store an alcoholic product in a storage area described in Subsection (12)(a).

2061 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
2062 licensee's premises shall make a written beverage tab for each table or group that orders or
2063 consumes an alcoholic product on the premises.

2064 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
2065 alcoholic product ordered or consumed.

2066 (5) A person's willingness to serve an alcoholic product may not be made a condition
2067 of employment as a server with a full-service restaurant licensee.

2068 (6) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish liquor at
2069 the licensed premises on any day during the period that:

2070 (i) begins at midnight; and

2071 (ii) ends at 11:59 a.m.

2072 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
2073 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer.

2074 (7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant
2075 business from the sale of food, which does not include:

- 2076 (a) mix for an alcoholic product; or
- 2077 (b) a service charge.

2078 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2079 alcoholic product except in connection with an order for food prepared, sold, and furnished at
2080 the licensed premises.

2081 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate
2082 culinary facilities for food preparation and dining accommodations.

2083 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
2084 more than two alcoholic products of any kind at a time before the patron.

2085 (b) A patron may not have more than one spirituous liquor drink at a time before the
2086 patron.

2087 (c) An individual portion of wine is considered to be one alcoholic product under
2088 Subsection (9)(a).

2089 (10) A patron may consume an alcoholic product only:

- 2090 (a) at:
 - 2091 (i) the patron's table;
 - 2092 (ii) a counter; or
 - 2093 (iii) a seating grandfathered bar structure; and
- 2094 (b) where food is served.

2095 (11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2096 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
2097 structure that is not a seating grandfathered bar structure.

2098 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
2099 may:

- 2100 (i) sit;
- 2101 (ii) be furnished an alcoholic product; and

- 2102 (iii) consume an alcoholic product.
- 2103 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
- 2104 full-service restaurant licensee may not permit a minor to, and a minor may not:
 - 2105 (i) sit; or
 - 2106 (ii) consume food or beverages.
- 2107 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed
- 2108 by a full-service restaurant licensee:
 - 2109 (A) as provided in Subsection 32B-5-308(2); or
 - 2110 (B) to perform maintenance and cleaning services during an hour when the full-service
 - 2111 restaurant licensee is not open for business.
 - 2112 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
 - 2113 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's
 - 2114 premises in which the minor is permitted to be.
- 2115 (12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee
- 2116 may dispense an alcoholic product only if:
 - 2117 (a) the alcoholic product is dispensed from:
 - 2118 (i) a grandfathered bar structure;
 - 2119 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
 - 2120 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
 - 2121 12, 2009; or
 - 2122 (iii) an area that is:
 - 2123 (A) separated from an area for the consumption of food by a patron by a solid, opaque,
 - 2124 permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic
 - 2125 product are:
 - 2126 (I) not readily visible to a patron; and
 - 2127 (II) not accessible by a patron; and
 - 2128 (B) apart from an area used:
 - 2129 (I) for dining;

- 2130 (II) for staging; or
- 2131 (III) as a lobby or waiting area;
- 2132 (b) the full-service restaurant licensee uses an alcoholic product that is:
- 2133 (i) stored in an area described in Subsection (12)(a); or
- 2134 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
- 2135 (A) immediately before the alcoholic product is dispensed it is in an unopened
- 2136 ~~[package]~~ container;
- 2137 (B) the unopened ~~[package]~~ container is taken to an area described in Subsection
- 2138 (12)(a) before it is opened; and
- 2139 (C) once opened, the ~~[package]~~ container is stored in an area described in Subsection
- 2140 (12)(a); and
- 2141 (c) any instrument or equipment used to dispense alcoholic product is located in an
- 2142 area described in Subsection (12)(a).
- 2143 (13) A full-service restaurant licensee may state in a food or alcoholic product menu a
- 2144 charge or fee made in connection with the sale, service, or consumption of liquor including:
- 2145 (a) a set-up charge;
- 2146 (b) a service charge; or
- 2147 (c) a chilling fee.
- 2148 Section 33. Section **32B-6-305 (Effective 07/01/11)** is amended to read:
- 2149 **32B-6-305 (Effective 07/01/11). Specific operational requirements for a**
- 2150 **limited-service restaurant license.**
- 2151 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
- 2152 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
- 2153 licensee shall comply with this section.
- 2154 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
- 2155 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
- 2156 (i) a limited-service restaurant licensee;
- 2157 (ii) individual staff of a limited-service restaurant licensee; or

2158 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
2159 licensee.

2160 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer
2161 for sale, furnish, or allow consumption of:

2162 (i) spirituous liquor; or

2163 (ii) a flavored malt beverage.

2164 (b) A product listed in Subsection (2)(a) may not be on the premises of a
2165 limited-service restaurant licensee except for use:

2166 (i) as a flavoring on a dessert; and

2167 (ii) in the preparation of a flaming food dish, drink, or dessert.

2168 (3) In addition to complying with Section 32B-5-303, a limited-service restaurant
2169 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

2170 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant
2171 licensee's premises shall make a written beverage tab for each table or group that orders or
2172 consumes an alcoholic product on the premises.

2173 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
2174 alcoholic product ordered or consumed.

2175 (5) A person's willingness to serve an alcoholic product may not be made a condition
2176 of employment as a server with a limited-service restaurant licensee.

2177 (6) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish wine
2178 or heavy beer at the licensed premises on any day during the period that:

2179 (i) begins at midnight; and

2180 (ii) ends at 11:59 a.m.

2181 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during
2182 the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer.

2183 (7) A limited-service restaurant licensee shall maintain at least 70% of its total
2184 restaurant business from the sale of food, which does not include a service charge.

2185 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an

2186 alcoholic product except in connection with an order for food prepared, sold, and furnished at
2187 the licensed premises.

2188 (b) A limited-service restaurant licensee shall maintain on the licensed premises
2189 adequate culinary facilities for food preparation and dining accommodations.

2190 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
2191 more than two alcoholic products of any kind at a time before the patron.

2192 (b) An individual portion of wine is considered to be one alcoholic product under
2193 Subsection (9)(a).

2194 (10) A patron may consume an alcoholic product only:

2195 (a) at:

2196 (i) the patron's table;

2197 (ii) a counter; or

2198 (iii) a seating grandfathered bar structure; and

2199 (b) where food is served.

2200 (11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
2201 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
2202 structure that is not a seating grandfathered bar structure.

2203 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
2204 may:

2205 (i) sit;

2206 (ii) be furnished an alcoholic product; and

2207 (iii) consume an alcoholic product.

2208 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
2209 limited-service restaurant licensee may not permit a minor to, and a minor may not:

2210 (i) sit; or

2211 (ii) consume food or beverages.

2212 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed
2213 by a limited-service restaurant licensee:

2214 (A) as provided in Subsection 32B-5-308(2); or

2215 (B) to perform maintenance and cleaning services during an hour when the
2216 limited-service restaurant licensee is not open for business.

2217 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
2218 remaining or sitting at the bar structure en route to an area of a limited-service restaurant
2219 licensee's premises in which the minor is permitted to be.

2220 (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant
2221 licensee may dispense an alcoholic product only if:

2222 (a) the alcoholic product is dispensed from:

2223 (i) a grandfathered bar structure;

2224 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
2225 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
2226 12, 2009; or

2227 (iii) an area that is:

2228 (A) separated from an area for the consumption of food by a patron by a solid, opaque,
2229 permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic
2230 product are:

2231 (I) not readily visible to a patron; and

2232 (II) not accessible by a patron; and

2233 (B) apart from an area used:

2234 (I) for dining;

2235 (II) for staging; or

2236 (III) as a lobby or waiting area;

2237 (b) the limited-service restaurant licensee uses an alcoholic product that is:

2238 (i) stored in an area described in Subsection (12)(a); or

2239 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

2240 (A) immediately before the alcoholic product is dispensed it is in an unopened

2241 [~~package~~] container;

2242 (B) the unopened [~~package~~] container is taken to an area described in Subsection
2243 (12)(a) before it is opened; and

2244 (C) once opened, the [~~package~~] container is stored in an area described in Subsection
2245 (12)(a); and

2246 (c) any instrument or equipment used to dispense alcoholic product is located in an
2247 area described in Subsection (12)(a).

2248 (13) A limited-service restaurant licensee may state in a food or alcoholic product
2249 menu a charge or fee made in connection with the sale, service, or consumption of wine or
2250 heavy beer including:

2251 (a) a set-up charge;

2252 (b) a service charge; or

2253 (c) a chilling fee.

2254 Section 34. Section **32B-6-405 (Effective 07/01/11)** is amended to read:

2255 **32B-6-405 (Effective 07/01/11). Specific licensing requirements for club license.**

2256 (1) To obtain a club license, in addition to complying with Chapter 5, Part 2, Retail
2257 Licensing Process, a person shall submit with the written application:

2258 (a) (i) a statement as to whether the person is seeking to qualify as:

2259 (A) an equity club licensee;

2260 (B) a fraternal club licensee;

2261 (C) a dining club licensee; or

2262 (D) a social club licensee; and

2263 (ii) evidence that the person meets the requirements for the type of club license for
2264 which the person is applying;

2265 (b) evidence that the person operates club premises where a variety of food is prepared
2266 and served in connection with dining accommodations; and

2267 (c) if the person is applying for an equity club license or fraternal club license, a copy
2268 of the club's bylaws or house rules, and an amendment to those records.

2269 (2) The commission may refuse to issue a club license to a person for an equity club

2270 license or fraternal club license if the commission determines that a provision of the person's
2271 bylaws or house rules, or amendments to those records is not:

2272 (a) reasonable; and

2273 (b) consistent with:

2274 (i) the declared nature and purpose of the club licensee; and

2275 (ii) the purposes of this part.

2276 (3) (a) A club license expires on June 30 of each year.

2277 (b) To renew a club license, a person shall comply with the requirements of Chapter 5,
2278 Part 2, Retail Licensing Process, by no later than May 31.

2279 (4) (a) The nonrefundable application fee for a club license is \$250.

2280 (b) The initial license fee for a club license is \$2,500.

2281 (c) The renewal fee for a club license is \$1,600.

2282 (5) The bond amount required for a [~~full-service restaurant~~] club license is the penal
2283 sum of \$10,000.

2284 Section 35. Section **32B-6-605 (Effective 07/01/11)** is amended to read:

2285 **32B-6-605 (Effective 07/01/11). Specific operational requirements for on-premise**
2286 **banquet license.**

2287 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2288 Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee
2289 shall comply with this section.

2290 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2291 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2292 (i) an on-premise banquet licensee;

2293 (ii) individual staff of an on-premise banquet licensee; or

2294 (iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

2295 (2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and
2296 (5) for the entire premises of the hotel, resort facility, sports center, or convention center that is
2297 the basis for the on-premise banquet license.

2298 (3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee
2299 shall provide the department with advance notice of a scheduled banquet in accordance with
2300 rules made by the commission.

2301 (b) Any of the following may conduct a random inspection of a banquet:

2302 (i) an authorized representative of the commission or the department; or

2303 (ii) a law enforcement officer.

2304 (4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall
2305 make and maintain the records the commission or department requires.

2306 (b) Section 32B-1-205 applies to a record required to be made or maintained in
2307 accordance with this Subsection (4).

2308 (5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may
2309 sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the
2310 location of the banquet.

2311 (b) A host of a banquet, a patron, or a person other than the on-premise banquet
2312 licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from
2313 the premises of the banquet.

2314 (c) Notwithstanding Section 32B-5-307, a patron at a banquet may not bring an
2315 alcoholic product into or onto, or remove an alcoholic product from the premises of a banquet.

2316 (6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at
2317 the banquet following the conclusion of the banquet.

2318 (b) At the conclusion of a banquet, an on-premise banquet licensee shall:

2319 (i) destroy an opened and unused alcoholic product that is not saleable, under
2320 conditions established by the department; and

2321 (ii) return to the on-premise banquet licensee's approved locked storage area any:

2322 (A) opened and unused alcoholic product that is saleable; and

2323 (B) unopened [~~package~~] container of an alcoholic product.

2324 (c) Except as provided in Subsection (6)(b) with regard to an open or sealed [~~package~~]
2325 container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet

2326 licensee:

2327 (i) shall store the alcoholic product in the on-premise banquet licensee's approved
2328 locked storage area; and

2329 (ii) may use the alcoholic product at more than one banquet.

2330 (7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not
2331 employ a minor to sell, furnish, or dispense an alcoholic product in connection with the
2332 on-premise banquet licensee's banquet and room service activities.

2333 (8) An on-premise banquet licensee may not sell, offer for sale, or furnish an alcoholic
2334 product at a banquet or in connection with room service any day during a period that:

2335 (a) begins at 1 a.m.; and

2336 (b) ends at 9:59 a.m.

2337 (9) An on-premise banquet licensee shall maintain at least 50% of its total annual
2338 banquet gross receipts from the sale of food, not including:

2339 (a) mix for an alcoholic product; and

2340 (b) a charge in connection with the furnishing of an alcoholic product.

2341 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
2342 more than two alcoholic products of any kind at a time before the patron.

2343 (b) A patron may not have more than one spirituous liquor drink at a time before the
2344 patron.

2345 (c) An individual portion of wine is considered to be one alcoholic product under
2346 Subsection (10)(a).

2347 (11) (a) An on-premise banquet licensee shall supervise and direct a person involved in
2348 the sale, offer for sale, or furnishing of an alcoholic product.

2349 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
2350 shall complete an alcohol training and education seminar.

2351 (12) A staff person of an on-premise banquet licensee shall remain at the banquet at all
2352 times when an alcoholic product is sold, offered for sale, furnished, or consumed at the
2353 banquet.

2354 (13) (a) Room service of an alcoholic product to a guest room of a hotel or resort
2355 facility shall be provided in person by staff of an on-premise banquet licensee only to an adult
2356 guest in the guest room.

2357 (b) An alcoholic product may not be left outside a guest room for retrieval by a guest.

2358 (c) An on-premise banquet licensee may only provide an alcoholic product for room
2359 service in a sealed [package] container.

2360 Section 36. Section **32B-6-706 (Effective 07/01/11)** is amended to read:

2361 **32B-6-706 (Effective 07/01/11). Specific operational requirements for on-premise**
2362 **beer retailer license.**

2363 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2364 Requirements, an on-premise beer retailer and staff of the on-premise beer retailer shall comply
2365 with this section.

2366 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2367 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2368 (i) an on-premise beer retailer;

2369 (ii) individual staff of an on-premise beer retailer; or

2370 (iii) both an on-premise beer retailer and staff of the on-premise beer retailer.

2371 (2) (a) An on-premise beer retailer is not subject to Section 32B-5-302, but shall make
2372 and maintain the records the department requires.

2373 (b) Section 32B-1-205 applies to a record required to be made or maintained in
2374 accordance with this Subsection (2).

2375 (3) Notwithstanding Section 32B-5-303, an on-premise beer retailer may not store or
2376 sell liquor on its licensed premises.

2377 (4) Beer sold in a sealed [package] container by an on-premise beer retailer may be
2378 removed from the on-premise beer retailer premises in the sealed [package] container.

2379 (5) (a) Only an on-premise beer retailer that operates as a tavern is subject to
2380 Subsection 32B-5-309(1).

2381 (b) An on-premise beer retailer is subject to Subsections 32B-5-309(2) and (3)

2382 regardless of whether it operates as a tavern.

2383 (6) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at its
2384 licensed premises during a period that:

2385 (i) begins at 1 a.m.; and

2386 (ii) ends at 9:59 a.m.

2387 (b) (i) Notwithstanding Subsection (5)(a), a tavern shall remain open for one hour after
2388 the tavern ceases the sale and furnishing of beer during which time a patron of the tavern may
2389 finish consuming a single serving of beer not exceeding 26 ounces.

2390 (ii) A tavern is not required to remain open:

2391 (A) after all patrons have vacated the premises; or

2392 (B) during an emergency.

2393 (c) A tavern may not allow a patron to remain on the licensed premises to consume
2394 beer on the licensed premises during a period that:

2395 (i) begins at 2 a.m.; and

2396 (ii) ends at 9:59 a.m.

2397 (7) Notwithstanding Section 32B-5-308, a minor may not be on the premises of a
2398 tavern.

2399 (8) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the
2400 purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases
2401 from:

2402 (A) a beer wholesaler licensee; or

2403 (B) a small brewer that manufactures the beer.

2404 (ii) Violation of Subsection (8)(a) is a class A misdemeanor.

2405 (b) (i) If an on-premise beer retailer purchases beer under this Subsection (8) from a
2406 beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer
2407 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
2408 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by
2409 the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

2410 (ii) Violation of Subsection (8)(b)(i) is a class B misdemeanor.

2411 Section 37. Section **32B-7-202 (Effective 07/01/11)** is amended to read:

2412 **32B-7-202 (Effective 07/01/11). General operational requirements for off-premise**
2413 **beer retailer.**

2414 (1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply
2415 with this section.

2416 (b) Failure to comply with this section may result in a suspension or revocation of a
2417 local license.

2418 (2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the
2419 purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases
2420 from:

2421 (A) a beer wholesaler licensee; or

2422 (B) a small brewer that manufactures the beer.

2423 (ii) A violation of Subsection (2)(a) is a class A misdemeanor.

2424 (b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a
2425 beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer
2426 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
2427 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by
2428 the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

2429 (ii) A violation of Subsection (2)(b) is a class B misdemeanor.

2430 (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a
2431 [package] container larger than two liters.

2432 (4) A minor may not sell beer on the licensed premises of an off-premise beer retailer
2433 unless:

2434 (a) the sale is done under the supervision of a person 21 years of age or older who is on
2435 the licensed premises; and

2436 (b) the minor is at least 16 years of age.

2437 (5) (a) Subject to the other provisions of this Subsection (5), an off-premise beer

2438 retailer shall:

2439 (i) display beer sold by the off-premise beer retailer in an area that is visibly separate
2440 and distinct from the area where nonalcoholic beverages are displayed; and

2441 (ii) display a sign in the area described in Subsection (5)(a)(i) that:

2442 (A) is prominent;

2443 (B) is easily readable by a consumer;

2444 (C) meets the requirements for format established by the commission by rule; and

2445 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain
2446 alcohol. Please read the label carefully."

2447 (b) Notwithstanding Subsection (5)(a), a nonalcoholic beer may be displayed with beer
2448 if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

2449 (c) The requirements of this Subsection (5) apply to beer notwithstanding that it is
2450 labeled, packaged, or advertised as:

2451 (i) a malt cooler; or

2452 (ii) a beverage that may provide energy.

2453 (d) The commission shall define by rule what constitutes an "area that is visibly
2454 separate and distinct from the area where a nonalcoholic beverage is displayed."

2455 (e) A violation of this Subsection (5) is an infraction.

2456 (6) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or
2457 who sells beer to a patron for consumption off the premises of the off-premise beer retailer
2458 shall wear a unique identification badge:

2459 (i) on the front of the staff's clothing;

2460 (ii) visible above the waist;

2461 (iii) bearing the staff's:

2462 (A) first or last name;

2463 (B) initials; or

2464 (C) unique identification in letters or numbers; and

2465 (iv) with the number or letters on the unique identification badge being sufficiently

2466 large to be clearly visible and identifiable while engaging in or directly supervising the retail
2467 sale of beer.

2468 (b) An off-premise beer retailer shall make and maintain a record of each current staff's
2469 unique identification badge assigned by the off-premise beer retailer that includes the staff's:

2470 (i) full name;

2471 (ii) address; and

2472 (iii) (A) driver license number; or

2473 (B) similar identification number.

2474 (c) An off-premise beer retailer shall make available a record required to be made or
2475 maintained under this Subsection (6) for immediate inspection by:

2476 (i) a peace officer; or

2477 (ii) a representative of the local authority that issues the off-premise beer retailer
2478 license.

2479 (d) A local authority may impose a fine of up to \$250 against an off-premise beer
2480 retailer that does not comply or require its staff to comply with this Subsection (6).

2481 Section 38. Section **32B-8-401 (Effective 07/01/11)** is amended to read:

2482 **32B-8-401 (Effective 07/01/11). Specific operational requirements for resort**
2483 **license.**

2484 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2485 Requirements, a resort licensee, staff of the resort licensee, and a person otherwise operating
2486 under a sublicense shall comply with this section.

2487 (b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a)
2488 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and
2489 Enforcement Act, against:

2490 (i) a resort licensee;

2491 (ii) individual staff of a resort licensee;

2492 (iii) a person otherwise operating under a sublicense;

2493 (iv) individual staff of a person otherwise operating under a sublicense; or

2494 (v) any combination of the persons listed in this Subsection (1)(b).
2495 (2) (a) A resort licensee may not sell, offer for sale, or furnish an alcoholic product
2496 except:
2497 (i) on a sublicense premises;
2498 (ii) pursuant to a permit issued under this title; or
2499 (iii) under a package agency agreement with the department, subject to Chapter 2, Part
2500 6, Package Agency.
2501 (b) A resort licensee who sells, offers for sale, or furnishes an alcoholic product as
2502 provided in Subsection (2)(a), shall sell, offer for sale, or furnish the alcoholic product:
2503 (i) if on a sublicense premises, in accordance with the operational requirements under
2504 the provisions applicable to the sublicense, except as provided in Section 32B-8-402;
2505 (ii) if under a permit issued under this title, in accordance with the operational
2506 requirements under the provisions applicable to the permit; and
2507 (iii) if as a package agency, in accordance with the contract with the department and
2508 Chapter 2, Part 6, Package Agency.
2509 (3) A resort licensee shall comply with Subsections 32B-5-301(4) and (5) within the
2510 boundary of the resort building.
2511 (4) (a) Subject to Subsection (4)(b), a resort licensee shall operate in a manner so that
2512 at least 70% of the annual aggregate of the gross receipts related to the sale of food or
2513 beverages for the resort license and each of its sublicenses is from the sale of food, not
2514 including:
2515 (i) mix for an alcoholic product; and
2516 (ii) a charge in connection with the service of an alcoholic product.
2517 (b) In calculating the annual aggregate of the gross receipts described in Subsection
2518 (4)(a), a resort licensee is not required to include in the calculation money from the sale of a
2519 bottle of wine by the resort licensee or under a sublicense in excess of \$250.
2520 (5) (a) A resort licensee shall supervise and direct a person involved in the sale, offer
2521 for sale, or furnishing of an alcoholic product under a resort license.

2522 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
2523 under a resort license shall complete the alcohol training and education seminar.

2524 (6) (a) Room service of an alcoholic product to a lodging accommodation of a resort
2525 licensee shall be provided in person by staff of a resort licensee only to an adult occupant in the
2526 lodging accommodation.

2527 (b) An alcoholic product may not be left outside a lodging accommodation for retrieval
2528 by an occupant.

2529 (c) A resort licensee may only provide an alcoholic product for room service in a
2530 sealed [package] container.

2531 Section 39. Section **32B-9-204 (Effective 07/01/11)** is amended to read:

2532 **32B-9-204 (Effective 07/01/11). General operational requirements for an event**
2533 **permit.**

2534 (1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or
2535 furnishing of an alcoholic product at an event for which an event permit is issued, shall comply
2536 with this title and rules of the commission.

2537 (b) Failure to comply as provided in Subsection (1)(a):

2538 (i) may result in:

2539 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
2540 Enforcement Act, against:

2541 (I) an event permittee;

2542 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
2543 product at the event; or

2544 (III) any combination of the persons listed in this Subsection (1)(b);

2545 (B) immediate revocation of the event permit;

2546 (C) forfeiture of a bond; or

2547 (D) immediate seizure of an alcoholic product present at the event; and

2548 (ii) if the event permit is revoked, disqualifies the event permittee from applying for an
2549 event permit for a period of three years from the date of revocation of the event permit.

2550 (c) An alcoholic product seized under this Subsection (1) shall be returned to the event
2551 permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.

2552 (2) (a) If there is a conflict between this part and the relevant part under this chapter for
2553 the specific type of special use permit held by the special use permittee, the relevant part
2554 governs.

2555 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an
2556 event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the
2557 relevant part under this chapter for the type of event permit that is held by the event permittee.

2558 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
2559 event permit held by an event permittee refers to "event permittee," a person involved in the
2560 storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the
2561 event permit is issued is subject to the same requirement or prohibition.

2562 (3) An event permittee shall display a copy of the event permit in a prominent place in
2563 the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.

2564 (4) An event permittee may not on the premises of the event:

2565 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
2566 Chapter 10, Part 11, Gambling;

2567 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2568 Part 11, Gambling; or

2569 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2570 the risking of something of value for a return or for an outcome when the return or outcome is
2571 based upon an element of chance, excluding the playing of an amusement device that confers
2572 only an immediate and unrecorded right of replay not exchangeable for value.

2573 (5) An event permittee may not knowingly allow a person at an event to, in violation of
2574 Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
2575 Paraphernalia Act:

2576 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
2577 58-37-2; or

2578 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
2579 Section 58-37a-3.

2580 (6) An event permittee may not sell, offer for sale, or furnish beer except beer
2581 purchases from:

2582 (a) a beer wholesaler licensee;

2583 (b) a beer retailer; or

2584 (c) a small brewer.

2585 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the
2586 consumption of an alcoholic product purchased for an event in a location other than that
2587 described in the application and designated on the event permit unless the event permittee first
2588 applies for and receives approval from the commission for a change of location.

2589 (8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or
2590 furnish beer for on-premise consumption:

2591 (i) in an open original [~~package~~] container; and

2592 (ii) in a [~~package~~] container on draft.

2593 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to
2594 Subsection (8)(a):

2595 (i) in a size of [~~package~~] container that exceeds two liters; or

2596 (ii) to an individual patron in a size of [~~package~~] container that exceeds one liter.

2597 (9) (a) An event permittee may not sell or offer for sale an alcoholic product at less
2598 than the cost of the alcoholic product to the event permittee.

2599 (b) An event permittee may not sell or offer for sale an alcoholic product at a price that
2600 encourages over consumption or intoxication.

2601 (c) An event permittee may not sell or offer for sale an alcoholic product at a special or
2602 reduced price for only certain hours of the day of an event.

2603 (d) An event permittee may not sell, offer for sale, or furnish more than one alcoholic
2604 product at the price of a single alcoholic product.

2605 (e) An event permittee may not engage in a public promotion involving or offering a

2606 free alcoholic product to the general public.

2607 (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

2608 (a) a minor;

2609 (b) a person actually, apparently, or obviously intoxicated;

2610 (c) a known interdicted person; or

2611 (d) a known habitual drunkard.

2612 (11) (a) An alcoholic product is considered under the control of the event permittee
2613 during an event.

2614 (b) A patron at an event may not bring an alcoholic product onto the premises of the
2615 event.

2616 (12) An event permittee may not permit a patron to carry from the premises an open
2617 ~~package~~ container that:

2618 (a) is used primarily for drinking purposes; and

2619 (b) contains an alcoholic product.

2620 (13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at
2621 an event is considered under the supervision and direction of the event permittee.

2622 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at
2623 an event may not, while on duty:

2624 (i) consume an alcoholic product; or

2625 (ii) be intoxicated.

2626 (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an
2627 event.

2628 (15) The location specified in an event permit may not be changed without prior
2629 written approval of the commission.

2630 (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or
2631 attempt in any way to dispose of the event permit to another person whether for monetary gain
2632 or not.

2633 (17) (a) An event permittee may not sell, offer for sale, furnish, or allow the

2634 consumption of an alcoholic product during a period that:

2635 (i) begins at 1 a.m.; and

2636 (ii) ends at 9:59 a.m.

2637 (b) This Subsection (17) does not preclude a local authority from being more restrictive
2638 with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic
2639 product at an event.

2640 (18) A patron may have no more than one alcoholic product of any kind at a time
2641 before the patron.

2642 Section 40. Section **32B-9-302 (Effective 07/01/11)** is amended to read:

2643 **32B-9-302 (Effective 07/01/11). Definitions.**

2644 As used in this [chapter] part:

2645 (1) "120 hour single event permit" means a single event permit that authorizes under
2646 this part the storage, sale, offering for sale, furnishing, and consumption of liquor for a period
2647 not to exceed 120 consecutive hours.

2648 (2) "72 hour single event permit" means a single event permit that authorizes under this
2649 part the storage, sale, offering for sale, furnishing, and consumption of liquor for a period not
2650 to exceed 72 consecutive hours.

2651 (3) "Single event permit" means:

2652 (a) a 120 hour single event permit; and

2653 (b) a 72 hour single event permit.

2654 Section 41. Section **32B-9-305 (Effective 07/01/11)** is amended to read:

2655 **32B-9-305 (Effective 07/01/11). Specific operational requirements for single event**
2656 **permit.**

2657 (1) (a) In addition to complying with Section 32B-9-204, a single event permittee or a
2658 person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the
2659 event shall comply with this section.

2660 (b) Failure to comply as provided in Subsection (1)(a):

2661 (i) may result in:

2662 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
2663 Enforcement Act, against:

2664 (I) a single event permittee;
2665 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
2666 product at the event; or

2667 (III) any combination of persons listed in this Subsection (1)(b);

2668 (B) immediate revocation of the single event permit;

2669 (C) forfeiture of a bond; or

2670 (D) immediate seizure of an alcoholic product present at the event; and

2671 (ii) if the single event permit is revoked, disqualifies the single event permittee from
2672 applying for a single event permit or temporary beer event permit for a period of three years
2673 from the date of revocation of the single event permit.

2674 (c) An alcoholic product seized under this Subsection (1) shall be returned to the single
2675 event permittee after an event if forfeiture proceedings are not instituted under Section
2676 32B-4-206.

2677 (2) (a) A single event permittee shall make and maintain an expense and revenue
2678 ledger or record showing:

2679 (i) expenditures made for:

2680 (A) liquor;

2681 (B) beer;

2682 (C) set-ups; and

2683 (D) an ingredient or component of an alcoholic product other than a set-up; and

2684 (ii) the revenue from the sale of an alcoholic product.

2685 (b) Section 32B-1-205 applies to a record required to be made or maintained in
2686 accordance with this Subsection (2).

2687 (3) A single event permittee shall purchase liquor stored, sold, offered for sale,
2688 furnished, or consumed at an event from a state store or package agency.

2689 (4) (a) A single event permittee may not sell, offer for sale, or furnish a primary

2690 spirituous liquor in a quantity that exceeds 1.5 ounces per beverage, except that additional
2691 spirituous liquor may be used in a beverage if:

- 2692 (i) used as a secondary flavoring ingredient;
 - 2693 (ii) used in conjunction with the primary spirituous liquor;
 - 2694 (iii) the secondary ingredient is not the only spirituous liquor in the beverage;
 - 2695 (iv) a patron has no more than 2.5 ounces of spirituous liquor at a time before the
2696 patron; and
 - 2697 (v) a patron has no more than one spirituous liquor drink at a time before the patron.
- 2698 (b) Spirituous liquor need not be dispensed through a calibrated metered dispensing
2699 system.

2700 (5) (a) A single event permittee may sell, offer for sale, or furnish wine by the glass or
2701 an individual portion, except that a glass or individual portion may not exceed five ounces.

2702 (b) A single event permittee may furnish an individual portion served to a patron in
2703 more than one glass if the total amount of wine does not exceed five ounces.

2704 (c) An individual portion of wine is considered to be one alcoholic product under
2705 Subsection 32B-9-204(12).

2706 (d) A single event permittee may sell, offer for sale, or furnish wine in a [~~package~~]
2707 container not exceeding 1.5 liters at a price fixed by the commission.

2708 (6) A single event permittee may sell, offer for sale, or furnish heavy beer in an original
2709 [~~package~~] container at a price fixed by the commission, except that the original [~~package~~]
2710 container may not exceed one liter.

2711 (7) A single event permittee may sell, offer for sale, or furnish a flavored malt beverage
2712 in an original [~~package~~] container at a price fixed by the commission, except that the original
2713 [~~package~~] container may not exceed one liter.

2714 (8) (a) A single event permittee may sell liquor only at a price fixed by the
2715 commission.

2716 (b) A single event permittee may not sell liquor at a discount price on any date or at
2717 any time.

2718 (9) A single event permittee may perform a service and assess a service charge as
2719 authorized by commission rule for liquor purchased at an event.

2720 Section 42. Section **32B-10-404 (Effective 07/01/11)** is amended to read:

2721 **32B-10-404 (Effective 07/01/11). Specific operational requirements for industrial**
2722 **or manufacturing use permit.**

2723 (1) (a) In addition to complying with Section 32B-10-206, an industrial or
2724 manufacturing use permittee and staff of the industrial or manufacturing use permittee shall
2725 comply with this section.

2726 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2727 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2728 (i) an industrial or manufacturing use permittee;

2729 (ii) individual staff of an industrial or manufacturing use permittee; or

2730 (iii) an industrial or manufacturing use permittee and staff of the industrial or
2731 manufacturing use permittee.

2732 (2) An industrial or manufacturing use permittee may produce for lawful use and sale
2733 the following:

2734 (a) vinegar;

2735 (b) preserved nonintoxicating cider;

2736 (c) a food preparation;

2737 (d) a United States Pharmacopoeia or national formulary preparation in conformity
2738 with Title 58, Chapters 17b, 37, 37a, 37b, and 37c, if the preparation:

2739 (i) conforms to standards established by:

2740 (A) the Department of Agriculture and Food; and

2741 (B) the Department of Health; and

2742 (ii) contains no more alcohol than is necessary to preserve or extract the medicinal,
2743 flavoring, or perfumed properties of the treated substances; and

2744 (e) wood and denatured alcohol if manufactured in compliance with the formulas and
2745 regulations under Title 27, C.F.R. Parts 19, 20, and 21.

2746 (3) (a) An industrial or manufacturing use permittee that produces patent or proprietary
2747 medicines containing alcohol may sell or offer for sale the medicines in the original and
2748 unbroken [~~package~~] container if the medicine contains sufficient medication to prevent its use
2749 as an alcoholic product.

2750 (b) An industrial or manufacturing use permittee described in this Subsection (3) shall,
2751 upon request by the department, provide a sufficient sample of the medicine to enable the
2752 department to have the medicine analyzed for purposes of this section.

2753 Section 43. Section **32B-11-608 (Effective 07/01/11)** is amended to read:

2754 **32B-11-608 (Effective 07/01/11). Operational requirements for local industry**
2755 **representative license.**

2756 (1) (a) A local industry representative licensee, staff of the local industry representative
2757 licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the
2758 state, shall comply with this title and rules of the commission.

2759 (b) If a person knowingly violates Subsection (1)(a):

2760 (i) the violation may result in disciplinary action in accordance with Chapter 3,
2761 Disciplinary Actions and Enforcement Act, against:

2762 (A) a local industry representative licensee;

2763 (B) individual staff of a local industry representative licensee; or

2764 (C) both a local industry representative licensee and staff of the local industry
2765 representative licensee; and

2766 (ii) if the conditions of Subsection (1)(c) are met, the commission may order:

2767 (A) the removal of the manufacturer's, supplier's, or importer's products from the
2768 department's sales list; and

2769 (B) a suspension of the department's purchase of those products for a period
2770 determined by the commission.

2771 (c) Subsection (1)(b)(ii) applies if the manufacturer, supplier, or importer:

2772 (i) directly commits the violation; or

2773 (ii) solicits, requests, commands, encourages, or intentionally aides another to engage

2774 in the violation.

2775 (2) A local industry representative licensee shall display its license in the local industry
2776 representative licensee's principal place of business.

2777 (3) (a) A local industry representative licensee shall maintain on file with the
2778 department a current accounts list of the names and addresses of the manufacturers, suppliers,
2779 and importers the local industry representative licensee represents.

2780 (b) A local industry representative licensee shall notify the department in writing of a
2781 change to its accounts list within 14 days from the date the local industry representative
2782 licensee:

2783 (i) acquires the account of a manufacturer, supplier, or importer; or

2784 (ii) loses the account of a manufacturer, supplier, or importer.

2785 (4) (a) A local industry representative licensee shall make and maintain the records the
2786 department requires for at least three years.

2787 (b) Section 32B-1-205 applies to a record required to be made or maintained in
2788 accordance with this Subsection (4).

2789 (5) Staff of a local industry representative licensee may not be:

2790 (a) a retail licensee that sells, offers for sale, or furnishes liquor;

2791 (b) staff of a retail licensee that sells, offers for sale, or furnishes liquor; or

2792 (c) a minor.

2793 (6) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
2794 give, or attempt in any way to dispose of the license to another person, whether for monetary
2795 gain or not.

2796 (b) A local industry representative license has no monetary value for any type of
2797 disposition.

2798 (7) A local industry representative licensee, staff of the local industry representative
2799 licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the
2800 state:

2801 (a) only to the extent authorized by Chapter 4, Criminal Offenses and Procedure Act,

- 2802 may:
- 2803 (i) assist the department in:
- 2804 (A) ordering, shipping, and delivering merchandise;
- 2805 (B) providing new product notification;
- 2806 (C) obtaining listing and delisting information;
- 2807 (D) receiving price quotations;
- 2808 (E) providing product sales analysis;
- 2809 (F) conducting shelf management; and
- 2810 (G) conducting educational seminars; and
- 2811 (ii) to acquire new listings:
- 2812 (A) solicit orders from the department; and
- 2813 (B) submit to the department price lists and samples of the products of the
- 2814 manufacturer, supplier, or importer;
- 2815 (b) may not sell liquor within the state except to:
- 2816 (i) the department; and
- 2817 (ii) a military installation;
- 2818 (c) may not ship or transport, or cause to be shipped or transported, liquor into this
- 2819 state or from one place to another within this state;
- 2820 (d) may not sell or furnish any liquor to any person within this state other than to:
- 2821 (i) the department; or
- 2822 (ii) a military installation;
- 2823 (e) except as otherwise provided, may not advertise a product the local industry
- 2824 representative licensee represents in violation of this title or any other federal or state law;
- 2825 (f) shall comply with the trade practices provided in Chapter 4, Part 7, Trade Practices
- 2826 Act; and
- 2827 (g) may only provide a sample of a product of the manufacturer, supplier, or importer
- 2828 for tasting and sampling purposes as provided in Section 32B-4-705 by the department.
- 2829 (8) A local industry representative licensee may, to become educated as to the quality

2830 and characteristics of a liquor that the licensee represents, taste and analyze an industry
2831 representative sample under the conditions listed in this Subsection (8).

2832 (a) A local industry representative licensee may not receive more than two industry
2833 representative samples of a particular type, vintage, and production lot of a particular branded
2834 product within a consecutive 120-day period.

2835 (b) (i) An industry representative sample of liquor may not exceed one liter.

2836 (ii) Notwithstanding Subsection (8)(b)(i), an industry representative sample of the
2837 following may not exceed 1.5 liters unless that exact product is only commercially packaged in
2838 a larger size, not to exceed 5 liters:

2839 (A) wine;

2840 (B) heavy beer; or

2841 (C) a flavored malt beverage.

2842 (c) An industry representative sample may only be of a product not presently listed on
2843 the department's sales list.

2844 (d) (i) An industry representative sample shall be shipped:

2845 (A) prepaid by the manufacturer, supplier, or importer;

2846 (B) by common carrier and not via United States mail; and

2847 (C) directly to the department's central administrative warehouse office.

2848 (ii) An industry representative sample may not be shipped to any other location within
2849 the state.

2850 (e) An industry representative sample shall be accompanied by a letter from the
2851 manufacturer, supplier, or importer:

2852 (i) clearly identifying the product as an "industry representative sample"; and

2853 (ii) clearly stating:

2854 (A) the FOB case price of the product; and

2855 (B) the name of the local industry representative for whom it is intended.

2856 (f) The department shall assess a reasonable handling, labeling, and storage fee for
2857 each industry representative sample received.

2858 (g) The department shall affix to a [~~package~~] container a label clearly identifying the
2859 product as an "industry representative sample."

2860 (h) The department shall:

2861 (i) account for and record each industry representative sample received;

2862 (ii) account for the industry representative sample's disposition; and

2863 (iii) maintain a record of the industry representative sample and its disposition for a
2864 two-year period.

2865 (i) An industry representative sample may not leave the premises of the department's
2866 central administrative warehouse office.

2867 (j) A local industry representative licensee's and a local industry representative
2868 licensee's staff may, at regularly scheduled days and times established by the department, taste
2869 and analyze one or more industry representative samples on the premises of the department's
2870 central administrative warehouse office.

2871 (k) The department shall destroy the unused contents of an opened product remaining
2872 after a product is sampled under controlled and audited conditions established by the
2873 department.

2874 (l) An industry representative sample that is not tasted within 30 days of receipt by the
2875 department shall be disposed of at the discretion of the department in one of the following
2876 ways:

2877 (i) the contents destroyed under controlled and audited conditions established by the
2878 department; or

2879 (ii) added to the inventory of the department for sale to the public.

2880 **Section 44. Effective date.**

2881 This bill takes effect on July 1, 2011.