

Senator John L. Valentine proposes the following substitute bill:

ALCOHOLIC BEVERAGE AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act and related provisions to address various issues concerning the regulation of alcoholic products.

Highlighted Provisions:

This bill:

- ▶ modifies definition provisions;
- ▶ provides that certain retail licenses are exempt from limitations on the number of retail licenses that may be issued at any time;
- ▶ addresses the relationship between the number of alcohol-related enforcement officers and the issuance of licenses;
- ▶ modifies the calculation of the ratio of revenue from food as compared to revenue from alcoholic products;
- ▶ requires taverns to comply with electronic verification requirements for proof of age;
- ▶ provides for the governor to appoint the chair of the Alcoholic Beverage Control Commission;
- ▶ provides for the issuance of certificates of approval for out-of-state importers and suppliers of beer, heavy beer, and flavored malt beverages;



- 26 ▶ provides for the commission with the approval of the governor and with the consent
27 of the Senate to appoint the director of the Department of Alcoholic Beverage
28 Control;
- 29 ▶ addresses prohibited interests, relationships, and actions;
- 30 ▶ creates the Alcoholic Beverage Control Act Enforcement Fund and directs how
31 money in the fund is to be expended;
- 32 ▶ consolidates language regarding warning signs required to be posted in retail
33 settings, including event permits;
- 34 ▶ addresses the size of containers of heavy beer that can be sold;
- 35 ▶ modifies fees;
- 36 ▶ permits the sale, offer for sale, or furnishing of an alcoholic product by room service
37 in other than a sealed container;
- 38 ▶ prohibits consumption of an alcoholic product on licensed premises after a specified
39 time;
- 40 ▶ removes existing restrictions on transferring licenses or locations of licenses and
41 replaces the provisions with the Transfer of Retail License Act;
- 42 ▶ addresses the discounting of an alcoholic product;
- 43 ▶ changes the numbers used to determine the number of retail licenses that may be
44 issued at any one time;
- 45 ▶ modifies requirements related to the location in restaurants of dispensing, storage,
46 and related instruments or equipment;
- 47 ▶ modifies provisions related to dining club licenses;
- 48 ▶ modifies hours of sale;
- 49 ▶ addresses the limit on the number of airport lounge licenses;
- 50 ▶ eliminates outdated language regarding grandfathered facilities for on-premise
51 banquet licenses;
- 52 ▶ enacts a new reception center license, including:
- 53 • addressing the commission's power to issue;
- 54 • addressing specific licensing requirements; and
- 55 • addressing specific operational requirements;
- 56 ▶ enacts a new beer-only restaurant license, including:

- 57 • addressing the commission's power to issue;
- 58 • addressing specific licensing requirements; and
- 59 • addressing specific operational requirements;
- 60 ▶ imposes additional requirements on on-premise beer retailers;
- 61 ▶ extends certain grandfathering for restaurant sublicenses;
- 62 ▶ prohibits event permittees from selling, offering for sale, or furnishing an indefinite
- 63 or unlimited number of alcoholic products during a set period for a fixed price
- 64 unless certain conditions are met;
- 65 ▶ clarifies provisions related to the number of drinks a patron may have before them
- 66 at an event;
- 67 ▶ requires agreements to create exclusive sales territories for beer wholesaler
- 68 licensees;
- 69 ▶ addresses when meetings of the commission may be closed;
- 70 ▶ requires alcohol training and education seminars to be taken in person;
- 71 ▶ requires the governor to comply with certain requirements under the Budgetary
- 72 Procedures Act; and
- 73 ▶ makes technical and conforming amendments.

74 **Money Appropriated in this Bill:**

- 75 This bill appropriates:
- 76 ▶ to the Department of Public Safety - Programs and Operations, as an ongoing
 - 77 appropriation:
 - 78 • from the General Fund, (\$2,900,000).

79 **Other Special Clauses:**

80 This bill provides an effective date.

81 **Utah Code Sections Affected:**

82 AMENDS:

- 83 **32B-1-102 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 84 **32B-1-201 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 85 **32B-1-402 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 86 **32B-1-407 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 87 **32B-1-602 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

- 88 **32B-1-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 89 **32B-2-201 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 90 **32B-2-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 91 **32B-2-205 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 92 **32B-2-503 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 93 **32B-2-504 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 94 **32B-2-602 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 95 **32B-2-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 96 **32B-2-606 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 97 **32B-4-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 98 **32B-4-206 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 99 **32B-4-208 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 100 **32B-4-406 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 101 **32B-4-420 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 102 **32B-4-705 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 103 **32B-5-301 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 104 **32B-5-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 105 **32B-5-305 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 106 **32B-5-307 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 107 **32B-5-309 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 108 **32B-6-102 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 109 **32B-6-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 110 **32B-6-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 111 **32B-6-204 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 112 **32B-6-205 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 113 **32B-6-302 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 114 **32B-6-303 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 115 **32B-6-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 116 **32B-6-305 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 117 **32B-6-403 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 118 **32B-6-404 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

- 119 **32B-6-405 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 120 **32B-6-406 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 121 **32B-6-502 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 122 **32B-6-503 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 123 **32B-6-504 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 124 **32B-6-603 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 125 **32B-6-604 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 126 **32B-6-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 127 **32B-6-702 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 128 **32B-6-703 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 129 **32B-6-705 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 130 **32B-6-706 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 131 **32B-8-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 132 **32B-8-204 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 133 **32B-8-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 134 **32B-8-401 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 135 **32B-8-402 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 136 **32B-9-204 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 137 **32B-9-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 138 **32B-9-305 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 139 **32B-9-405 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 140 **32B-10-303 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 141 **32B-10-304 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 142 **32B-10-403 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 143 **32B-10-404 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 144 **32B-10-503 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 145 **32B-10-603 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 146 **32B-11-201 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 147 **32B-11-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 148 **32B-11-204 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 149 **32B-11-503 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

- 150 **32B-11-604 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 151 **32B-11-605 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 152 **32B-11-608 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 153 **32B-12-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 154 **32B-12-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 155 **32B-13-202 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 156 **32B-13-203 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 157 **32B-13-301 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 158 **52-4-205**, as last amended by Laws of Utah 2010, Chapters 35, 60, and 239
- 159 **62A-15-401 (Effective 07/01/11)**, as last amended by Laws of Utah 2010, Chapter 276
- 160 **63J-1-201**, as last amended by Laws of Utah 2010, Chapter 415

161 ENACTS:

- 162 **32B-1-206**, Utah Code Annotated 1953
- 163 **32B-2-209**, Utah Code Annotated 1953
- 164 **32B-2-305**, Utah Code Annotated 1953
- 165 **32B-6-409**, Utah Code Annotated 1953
- 166 **32B-6-801**, Utah Code Annotated 1953
- 167 **32B-6-802**, Utah Code Annotated 1953
- 168 **32B-6-803**, Utah Code Annotated 1953
- 169 **32B-6-804**, Utah Code Annotated 1953
- 170 **32B-6-805**, Utah Code Annotated 1953
- 171 **32B-6-901**, Utah Code Annotated 1953
- 172 **32B-6-902**, Utah Code Annotated 1953
- 173 **32B-6-903**, Utah Code Annotated 1953
- 174 **32B-6-904**, Utah Code Annotated 1953
- 175 **32B-6-905**, Utah Code Annotated 1953
- 176 **32B-8a-101**, Utah Code Annotated 1953
- 177 **32B-8a-102**, Utah Code Annotated 1953
- 178 **32B-8a-201**, Utah Code Annotated 1953
- 179 **32B-8a-202**, Utah Code Annotated 1953
- 180 **32B-8a-203**, Utah Code Annotated 1953

- 181 **32B-8a-301**, Utah Code Annotated 1953
- 182 **32B-8a-302**, Utah Code Annotated 1953
- 183 **32B-8a-303**, Utah Code Annotated 1953
- 184 **32B-8a-401**, Utah Code Annotated 1953
- 185 **32B-8a-402**, Utah Code Annotated 1953
- 186 **32B-8a-403**, Utah Code Annotated 1953
- 187 **32B-8a-404**, Utah Code Annotated 1953
- 188 **32B-8a-501**, Utah Code Annotated 1953
- 189 **32B-8a-502**, Utah Code Annotated 1953

190 REPEALS:

- 191 **26-7-6 (Effective 07/01/11)**, as enacted by Coordination Clause, Laws of Utah 2010,
- 192 Chapter 136
- 193 **32B-4-506 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276
- 194 **32B-4-507 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276



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

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

198 **32B-1-102 (Effective 07/01/11). Definitions.**

199 As used in this title:

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

- 201 (a) at which an alcoholic product is sold at retail for consumption on the premises; and
- 202 (b) that is located at an international airport with a United States Customs office on the
- 203 premises of the international airport.

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

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

- 207 (a) beer; or
- 208 (b) liquor.

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

- 210 (i) contains at least .5% of alcohol by volume; and
- 211 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

212 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
213 in an amount equal to or greater than .5% of alcohol by volume.

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

215 (c) "Alcoholic product" does not include any of the following common items that
216 otherwise come within the definition of an alcoholic product:

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

218 (ii) vinegar;

219 (iii) cider;

220 (iv) essence;

221 (v) tincture;

222 (vi) food preparation; or

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

224 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
225 when it is used as a flavoring in the manufacturing of an alcoholic product.

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

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

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

229 (6) "Banquet" means an event:

230 (a) that is held at one or more designated locations approved by the commission in or
231 on the premises of a:

232 (i) hotel;

233 (ii) resort facility;

234 (iii) sports center; or

235 (iv) convention center;

236 (b) for which there is a contract:

237 (i) between a person operating a facility listed in Subsection (6)(a) and another person;

238 and

239 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
240 provide an alcoholic product at the event; and

241 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.

242 (7) (a) [~~Subject to Subsection (7)(b),~~] "Bar" means a [~~counter or similar~~] surface or

243 structure:

244 (i) at which an alcoholic product is:

245 (A) stored; or

246 (B) dispensed; or

247 (ii) from which an alcoholic product is served.

248 (b) [~~For purposes of a full-service restaurant license or a limited-service restaurant~~

249 ~~license,]~~ "Bar structure" means a surface or structure on [~~the premises of a restaurant]~~ a

250 licensed premises if on or at any place of the surface or structure an alcoholic product is:

251 (i) stored; or

252 (ii) dispensed.

253 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:

254 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by

255 volume or 3.2% by weight; and

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

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

258 (c) "Beer" includes a product that:

259 (i) contains alcohol in the percentages described in Subsection (8)(a); and

260 (ii) is referred to as:

261 (A) beer;

262 (B) ale;

263 (C) porter;

264 (D) stout;

265 (E) lager; or

266 (F) a malt or malted beverage.

267 (d) "Beer" does not include a flavored malt beverage.

268 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,

269 Retail License Act, and Chapter 6, Part 9, Beer-only Restaurant License.

270 [~~(9)~~] (10) "Beer retailer" means a business:

271 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,

272 whether for consumption on or off the business premises; and

273 (b) to whom a license is issued:

274 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise
275 Beer Retailer Local Authority; or

276 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
277 and Chapter 6, Part 7, On-premise Beer Retailer License.

278 ~~[(10)]~~ (11) "Beer wholesaling license" means a license:

279 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

280 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
281 retail licensees or off-premise beer retailers.

282 ~~[(11)]~~ (12) "Billboard" means a public display used to advertise, including:

283 (a) a light device;

284 (b) a painting;

285 (c) a drawing;

286 (d) a poster;

287 (e) a sign;

288 (f) a signboard; or

289 (g) a scoreboard.

290 ~~[(12)]~~ (13) "Brewer" means a person engaged in manufacturing:

291 (a) beer;

292 (b) heavy beer; or

293 (c) a flavored malt beverage.

294 ~~[(13)]~~ (14) "Brewery manufacturing license" means a license issued in accordance with
295 Chapter 11, Part 5, Brewery Manufacturing License.

296 ~~[(14)]~~ (15) "Certificate of approval" means a certificate of approval obtained from the
297 department under ~~[Subsection]~~ Section 32B-11-201~~[(4)]~~.

298 ~~[(15)]~~ (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle
299 provided by a bus company to a group of persons pursuant to a common purpose:

300 (a) under a single contract;

301 (b) at a fixed charge in accordance with the bus company's tariff; and

302 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
303 motor vehicle, and a driver to travel together to one or more specified destinations.

304 ~~[(16)]~~ (17) "Church" means a building:

- 305 (a) set apart for worship;
- 306 (b) in which religious services are held;
- 307 (c) with which clergy is associated; and
- 308 (d) that is tax exempt under the laws of this state.

309 ~~[(17)]~~ (18) (a) "Club license" means a license issued in accordance with Chapter 5,
310 Retail License Act, and Chapter 6, Part 4, Club License.

- 311 (b) "Club license" includes:
 - 312 (i) a dining club license;
 - 313 (ii) an equity club license;
 - 314 (iii) a fraternal club license; or
 - 315 (iv) a social club license.

316 ~~[(18)]~~ (19) "Commission" means the Alcoholic Beverage Control Commission created
317 in Section 32B-2-201.

318 ~~[(19)]~~ (20) "Commissioner" means a member of the commission.

319 ~~[(20)]~~ (21) "Community location" means:

- 320 (a) a public or private school;
- 321 (b) a church;
- 322 (c) a public library;
- 323 (d) a public playground; or
- 324 (e) a public park.

325 ~~[(21)]~~ (22) "Community location governing authority" means:

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

330 (23) "Container" means a receptacle that contains an alcoholic product, including:

- 331 (a) a bottle;
- 332 (b) a vessel; or
- 333 (c) a similar item.

334 ~~[(22)]~~ (24) "Convention center" means a facility that is:

- 335 (a) in total at least 30,000 square feet; and

336 (b) otherwise defined as a "convention center" by the commission by rule.
337 [~~(23)~~ For purposes of a full-service restaurant license or limited-service restaurant
338 license:]
339 [~~(a)~~ subject to Subsection ~~(23)~~(b);]
340 (25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a
341 dining area of a ~~[restaurant]~~ licensed premises where seating is provided to a patron for service
342 of food~~[-and]~~.
343 (b) "Counter" does not include a surface or structure if on or at any point of the surface
344 or structure an alcoholic product is:
345 (i) stored; or
346 (ii) dispensed.
347 [~~(24)~~ (26) "Department" means the Department of Alcoholic Beverage Control created
348 in Section 32B-2-203.
349 [~~(25)~~ (27) "Department compliance officer" means an individual who is:
350 (a) an auditor or inspector; and
351 (b) employed by the department.
352 [~~(26)~~ (28) "Department sample" means liquor that is placed in the possession of the
353 department for testing, analysis, and sampling.
354 [~~(27)~~ (29) "Dining club license" means a license issued in accordance with Chapter 5,
355 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
356 as a dining club license.
357 [~~(28)~~ (30) "Director," unless the context requires otherwise, means the director of the
358 department.
359 [~~(29)~~ (31) "Disciplinary proceeding" means an adjudicative proceeding permitted
360 under this title:
361 (a) against a person subject to administrative action; and
362 (b) that is brought on the basis of a violation of this title.
363 [~~(30)~~ For purposes of a full-service restaurant license or a limited-service restaurant
364 license, "dispense" means:]
365 (32) (a) Subject to Subsection (32)(b), "dispense" means:
366 [~~(a)~~ (i) drawing of an alcoholic product:

367 ~~[(i)]~~ (A) from an area where it is stored; or
 368 ~~[(ii)]~~ (B) as provided in Subsection 32B-6-205(12)(b)(ii) ~~[or]~~, 32B-6-305(12)(b)(ii),
 369 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and
 370 ~~[(b)]~~ (ii) using the alcoholic product described in Subsection ~~[(29)(a)]~~ (32)(a)(i) on the
 371 premises of the ~~[restaurant]~~ licensed premises to mix or prepare an alcoholic product to be
 372 furnished to a patron of the ~~[restaurant]~~ retail licensee.

373 (b) The definition of "dispense" in this Subsection (32) applies only to:

374 (i) a full-service restaurant license;

375 (ii) a limited-service restaurant license;

376 (iii) a reception center license; and

377 (iv) a beer-only restaurant license.

378 ~~[(31)]~~ (33) "Distillery manufacturing license" means a license issued in accordance
 379 with Chapter 11, Part 4, Distillery Manufacturing License.

380 ~~[(32)]~~ (34) "Distressed merchandise" means an alcoholic product in the possession of
 381 the department that is saleable, but for some reason is unappealing to the public.

382 ~~[(33)]~~ (35) "Educational facility" includes:

383 (a) a nursery school;

384 (b) an infant day care center; and

385 (c) a trade and technical school.

386 ~~[(34)]~~ (36) "Equity club license" means a license issued in accordance with Chapter 5,
 387 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
 388 as an equity club license.

389 ~~[(35)]~~ (37) "Event permit" means:

390 (a) a single event permit; or

391 (b) a temporary beer event permit.

392 (38) "Exempt license" means a license exempt under Section 32B-1-201 from being
 393 considered in determining the total number of a retail license that the commission may issue at
 394 any time.

395 ~~[(36)]~~ (39) (a) "Flavored malt beverage" means a beverage:

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

397 (ii) that is treated by processing, filtration, or another method of manufacture that is not

398 generally recognized as a traditional process in the production of a beer as described in 27
399 C.F.R. Sec. 25.55;

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

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

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

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

406 [~~37~~] (40) "Fraternal club license" means a license issued in accordance with Chapter
407 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the
408 commission as a fraternal club license.

409 [~~38~~] (41) "Full-service restaurant license" means a license issued in accordance with
410 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-service Restaurant License.

411 [~~39~~] (42) (a) "Furnish" means by any means to provide with, supply, or give an
412 individual an alcoholic product, by sale or otherwise.

413 (b) "Furnish" includes to:

414 (i) serve;

415 (ii) deliver; or

416 (iii) otherwise make available.

417 [~~40~~] (43) "Guest" means an individual who meets the requirements of Subsection
418 32B-6-407(9).

419 [~~41~~] (44) "Health care practitioner" means:

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

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

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

423 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical [Therapist]

424 Therapy Practice Act;

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

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

- 429 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
- 430 Therapy Practice Act;
- 431 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 432 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
- 433 Professional Practice Act;
- 434 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 435 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
- 436 Practice Act;
- 437 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
- 438 Hygienist Practice Act; and
- 439 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- 440 ~~[(42)]~~ (45) (a) "Heavy beer" means a product that:
- 441 (i) contains more than 4% alcohol by volume; and
- 442 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 443 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 444 ~~[(43)]~~ (46) "Hotel" is as defined by the commission by rule.
- 445 ~~[(44)]~~ (47) "Identification card" means an identification card issued under Title 53,
- 446 Chapter 3, Part 8, Identification Card Act.
- 447 ~~[(45)]~~ (48) "Industry representative" means an individual who is compensated by
- 448 salary, commission, or other means for representing and selling an alcoholic product of a
- 449 manufacturer, supplier, or importer of liquor.
- 450 ~~[(46)]~~ (49) "Industry representative sample" means liquor that is placed in the
- 451 possession of the department for testing, analysis, and sampling by a local industry
- 452 representative on the premises of the department to educate the local industry representative of
- 453 the quality and characteristics of the product.
- 454 ~~[(47)]~~ (50) "Interdicted person" means a person to whom the sale, offer for sale, or
- 455 furnishing of an alcoholic product is prohibited by:
- 456 (a) law; or
- 457 (b) court order.
- 458 ~~[(48)]~~ (51) "Intoxicated" means that a person:
- 459 (a) is significantly impaired as to the person's mental or physical functions as a result of

460 the use of:

461 (i) an alcoholic product;

462 (ii) a controlled substance;

463 (iii) a substance having the property of releasing toxic vapors; or

464 (iv) a combination of Subsections [~~(48)~~] (51)(a)(i) through (iii); and

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

467 [~~(49)~~] (52) "Investigator" means an individual who is:

468 (a) a department compliance officer; or

469 (b) a nondepartment enforcement officer.

470 [~~(50)~~] (53) "Invitee" is as defined in Section 32B-8-102.

471 [~~(51)~~] (54) "License" means:

472 (a) a retail license;

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

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

476 or

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

478 [~~(52)~~] (55) "Licensee" means a person who holds a license.

479 [~~(53)~~] (56) "Limited-service restaurant license" means a license issued in accordance
480 with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.

481 [~~(54)~~] (57) "Limousine" means a motor vehicle licensed by the state or a local
482 authority, other than a bus or taxicab:

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

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

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

489 [~~(55)~~] (58) (a) (i) "Liquor" means a liquid that:

490 (A) is:

- 491 (I) alcohol;
- 492 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 493 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 494 (IV) other drink or drinkable liquid; and
- 495 (B) (I) contains at least .5% alcohol by volume; and
- 496 (II) is suitable to use for beverage purposes.
- 497 (ii) "Liquor" includes:
- 498 (A) heavy beer;
- 499 (B) wine; and
- 500 (C) a flavored malt beverage.
- 501 (b) "Liquor" does not include beer.
- 502 [~~56~~] (59) "Liquor Control Fund" means the enterprise fund created by Section
- 503 32B-2-301.
- 504 [~~57~~] (60) "Liquor warehousing license" means a license that is issued:
- 505 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- 506 (b) to a person, other than a licensed manufacturer, who engages in the importation for
- 507 storage, sale, or distribution of liquor regardless of amount.
- 508 [~~58~~] (61) "Local authority" means:
- 509 (a) for premises that are located in an unincorporated area of a county, the governing
- 510 body of a county; or
- 511 (b) for premises that are located in an incorporated city or a town, the governing body
- 512 of the city or town.
- 513 [~~59~~] (62) "Lounge or bar area" is as defined by rule made by the commission.
- 514 (63) "Opaque" means impenetrable to sight.
- 515 [~~60~~] (64) "Manufacture" means to distill, brew, rectify, mix, compound, process,
- 516 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
- 517 others.
- 518 [~~61~~] (65) "Member" means an individual who, after paying regular dues, has full
- 519 privileges in an equity club licensee or fraternal club licensee.
- 520 [~~62~~] (66) (a) "Military installation" means a base, air field, camp, post, station, yard,
- 521 center, or homeport facility for a ship:

- 522 (i) (A) under the control of the United States Department of Defense; or
523 (B) of the National Guard;
524 (ii) that is located within the state; and
525 (iii) including a leased facility.
- 526 (b) "Military installation" does not include a facility used primarily for:
527 (i) civil works;
528 (ii) a rivers and harbors project; or
529 (iii) a flood control project.
- 530 ~~[(63)]~~ (67) "Minor" means an individual under the age of 21 years.
531 ~~[(64)]~~ (68) "Nondepartment enforcement agency" means an agency that:
532 (a) (i) is a state agency other than the department; or
533 (ii) is an agency of a county, city, or town; and
534 (b) has a responsibility to enforce one or more provisions of this title.
- 535 ~~[(65)]~~ (69) "Nondepartment enforcement officer" means an individual who is:
536 (a) a peace officer, examiner, or investigator; and
537 (b) employed by a nondepartment enforcement agency.
- 538 ~~[(66)]~~ (70) (a) "Off-premise beer retailer" means a beer retailer who is:
539 (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local
540 Authority; and
541 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
542 premises.
543 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 544 ~~[(67)]~~ (71) "On-premise banquet license" means a license issued in accordance with
545 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.
546 ~~[(68)]~~ (72) "On-premise beer retailer" means a beer retailer who is:
547 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
548 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer
549 Retailer License; and
550 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
551 premises[;]:
552 (i) regardless of whether the beer retailer sells beer for consumption off the licensed

553 premises[-]; and

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

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

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

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

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

559 (ii) on and after March 1, 2012, operating:

560 (A) as a tavern; or

561 (B) in a manner that meets the recreational amenity requirements of Subsection

562 32B-6-703(2)(e).

563 [~~(70)~~ (73) "Package agency" means a retail liquor location operated:

564 (a) under an agreement with the department; and

565 (b) by a person:

566 (i) other than the state; and

567 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package

568 Agency, to sell packaged liquor for consumption off the premises of the package agency.

569 [~~(71)~~ (74) "Package agent" means a person who holds a package agency.

570 [~~(72)~~ (75) "Patron" means an individual to whom food, beverages, or services are sold,

571 offered for sale, or furnished, or who consumes an alcoholic product including:

572 (a) a customer;

573 (b) a member;

574 (c) a guest;

575 (d) an attendee of a banquet or event;

576 (e) an individual who receives room service;

577 (f) a resident of a resort;

578 (g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102;

579 or

580 (h) an invitee.

581 [~~(73)~~ (76) "Permittee" means a person issued a permit under:

582 (a) Chapter 9, Event Permit Act; or

583 (b) Chapter 10, Special Use Permit Act.

- 584 [~~(74)~~] (77) "Person subject to administrative action" means:
- 585 (a) a licensee;
- 586 (b) a permittee;
- 587 (c) a manufacturer;
- 588 (d) a supplier;
- 589 (e) an importer;
- 590 (f) [~~an out-of-state brewer~~] one of the following holding a certificate of approval[~~;~~ ~~or~~];
- 591 (i) an out-of-state brewer;
- 592 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- 593 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 594 (g) staff of:
- 595 (i) a person listed in Subsections [~~(74)~~] (77)(a) through [~~(g)~~] (f); or
- 596 (ii) a package agent.
- 597 [~~(75)~~] (78) "Premises" means a building, enclosure, or room used in connection with
- 598 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic
- 599 product, unless otherwise defined in this title or rules made by the commission.
- 600 [~~(76)~~] (79) "Prescription" means an order issued by a health care practitioner when:
- 601 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 602 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 603 (b) the order is made in the course of that health care practitioner's professional
- 604 practice; and
- 605 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 606 [~~(77)~~] (80) (a) "Private event" means a specific social, business, or recreational event:
- 607 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
- 608 group; and
- 609 (ii) that is limited in attendance to people who are specifically designated and their
- 610 guests.
- 611 (b) "Private event" does not include an event to which the general public is invited,
- 612 whether for an admission fee or not.
- 613 [~~(78)~~] (81) (a) "Proof of age" means:
- 614 (i) an identification card;

- 615 (ii) an identification that:
- 616 (A) is substantially similar to an identification card;
- 617 (B) is issued in accordance with the laws of a state other than Utah in which the
- 618 identification is issued;
- 619 (C) includes date of birth; and
- 620 (D) has a picture affixed;
- 621 (iii) a valid driver license certificate that:
- 622 (A) includes date of birth;
- 623 (B) has a picture affixed; and
- 624 (C) is issued:
- 625 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- 626 (II) in accordance with the laws of the state in which it is issued;
- 627 (iv) a military identification card that:
- 628 (A) includes date of birth; and
- 629 (B) has a picture affixed; or
- 630 (v) a valid passport.
- 631 (b) "Proof of age" does not include a driving privilege card issued in accordance with
- 632 Section 53-3-207.
- 633 [~~79~~] (82) (a) "Public building" means a building or permanent structure that is:
- 634 (i) owned or leased by:
- 635 (A) the state; or
- 636 (B) a local government entity; and
- 637 (ii) used for:
- 638 (A) public education;
- 639 (B) transacting public business; or
- 640 (C) regularly conducting government activities.
- 641 (b) "Public building" does not include a building owned by the state or a local
- 642 government entity when the building is used by a person, in whole or in part, for a proprietary
- 643 function.
- 644 [~~80~~] (83) "Public conveyance" means a conveyance to which the public or a portion
- 645 of the public has access to and a right to use for transportation, including an airline, railroad,

646 bus, boat, or other public conveyance.

647 (84) "Reception center" means a business that:

648 (a) operates facilities that are at least 5,000 square feet; and

649 (b) has as its primary purpose the leasing of the facilities described in Subsection

650 (84)(a) to a third party for the third party's event.

651 (85) "Reception center license" means a license issued in accordance with Chapter 5,

652 Retail License Act, and Chapter 6, Part 8, Reception Center License.

653 [~~81~~] (86) (a) "Record" means information that is:

654 (i) inscribed on a tangible medium; or

655 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

656 (b) "Record" includes:

657 (i) a book;

658 (ii) a book of account;

659 (iii) a paper;

660 (iv) a contract;

661 (v) an agreement;

662 (vi) a document; or

663 (vii) a recording in any medium.

664 [~~82~~] (87) "Residence" means a person's principal place of abode within Utah.

665 [~~83~~] (88) "Resident," in relation to a resort, is as defined in Section 32B-8-102.

666 [~~84~~] (89) "Resort" is as defined in Section 32B-8-102.

667 [~~85~~] (90) "Resort facility" is as defined by the commission by rule.

668 [~~86~~] (91) "Resort license" means a license issued in accordance with Chapter 5,

669 Retail License Act, and Chapter 8, Resort License Act.

670 [~~87~~] (92) "Restaurant" means a business location:

671 (a) at which a variety of foods are prepared;

672 (b) at which complete meals are served to the general public; and

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

674 [~~88~~] (93) "Retail license" means one of the following licenses issued under this title:

675 (a) a full-service restaurant license;

676 (b) a limited-service restaurant license;

- 677 (c) a club license;
- 678 (d) an airport lounge license;
- 679 (e) an on-premise banquet license; ~~[or]~~
- 680 (f) an on-premise beer license~~[-];~~
- 681 (g) a reception center license; or
- 682 (h) a beer-only restaurant license.
- 683 ~~[(89)]~~ (94) "Room service" means furnishing an alcoholic product to a person in a
- 684 guest room of a:
 - 685 (a) hotel; or
 - 686 (b) resort facility.
- 687 ~~[(90)]~~ (95) "Serve" means to place an alcoholic product before an individual.
- 688 ~~[(91)]~~ (96) (a) "School" means a building used primarily for the general education of
- 689 minors.
 - 690 (b) "School" does not include an educational facility.
- 691 ~~[(92)]~~ (97) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby,
- 692 for consideration, an alcoholic product is either directly or indirectly transferred, solicited,
- 693 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether
- 694 done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or
- 695 the rules made by the commission.
- 696 ~~[(93)]~~ (98) "Sexually oriented entertainer" means a person who while in a state of
- 697 seminudity appears at or performs:
 - 698 (a) for the entertainment of one or more patrons;
 - 699 (b) on the premises of:
 - 700 (i) a social club licensee; or
 - 701 (ii) a tavern;
 - 702 (c) on behalf of or at the request of the licensee described in Subsection ~~[(93)]~~ (98)(b);
 - 703 (d) on a contractual or voluntary basis; and
 - 704 (e) whether or not the person is designated as:
 - 705 (i) an employee;
 - 706 (ii) an independent contractor;
 - 707 (iii) an agent of the licensee; or

708 (iv) a different type of classification.

709 [~~94~~] (99) "Single event permit" means a permit issued in accordance with Chapter 9,
710 Part 3, Single Event Permit.

711 [~~95~~] (100) "Small brewer" means a brewer who manufactures less than 60,000 barrels
712 of beer, heavy beer, and flavored malt beverages per year.

713 [~~96~~] (101) "Social club license" means a license issued in accordance with Chapter 5,
714 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
715 as a social club license.

716 [~~97~~] (102) "Special use permit" means a permit issued in accordance with Chapter 10,
717 Special Use Permit Act.

718 [~~98~~] (103) (a) "Spirituous liquor" means liquor that is distilled.

719 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
720 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

721 [~~99~~] (104) "Sports center" is as defined by the commission by rule.

722 [~~100~~] (105) (a) "Staff" means an individual who engages in activity governed by this
723 title:

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

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

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

730 (b) "Staff" includes:

731 (i) an officer;

732 (ii) a director;

733 (iii) an employee;

734 (iv) personnel management;

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

736 (vi) an operator; or

737 (vii) a representative.

738 [~~101~~] (106) "State of nudity" means:

- 739 (a) the appearance of:
- 740 (i) the nipple or areola of a female human breast;
- 741 (ii) a human genital;
- 742 (iii) a human pubic area; or
- 743 (iv) a human anus; or
- 744 (b) a state of dress that fails to opaquely cover:
- 745 (i) the nipple or areola of a female human breast;
- 746 (ii) a human genital;
- 747 (iii) a human pubic area; or
- 748 (iv) a human anus.
- 749 ~~[(102)]~~ (107) "State of seminudity" means a state of dress in which opaque clothing
- 750 covers no more than:
- 751 (a) the nipple and areola of the female human breast in a shape and color other than the
- 752 natural shape and color of the nipple and areola; and
- 753 (b) the human genitals, pubic area, and anus:
- 754 (i) with no less than the following at its widest point:
- 755 (A) four inches coverage width in the front of the human body; and
- 756 (B) five inches coverage width in the back of the human body; and
- 757 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 758 ~~[(103)]~~ (108) (a) "State store" means a facility for the sale of packaged liquor:
- 759 (i) located on premises owned or leased by the state; and
- 760 (ii) operated by a state employee.
- 761 (b) "State store" does not include:
- 762 (i) a package agency;
- 763 (ii) a licensee; or
- 764 (iii) a permittee.
- 765 ~~[(104) For purposes of a full-service restaurant license or a limited-service restaurant~~
- 766 ~~license:]~~
- 767 (109) (a) "Storage area" means an area on licensed premises where the licensee stores
- 768 an alcoholic product.
- 769 (b) "Store" means to place or maintain in a location an alcoholic product from which a

770 person draws to prepare an alcoholic product to be furnished to a patron [~~of the restaurant~~],
771 except as provided in Subsection 32B-6-205(12)(b)(ii) [~~or~~], 32B-6-305(12)(b)(ii),
772 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii).

773 [~~(105)~~] (110) "Sublicense" is as defined in Section 32B-8-102.

774 [~~(106)~~] (111) "Supplier" means a person who sells an alcoholic product to the
775 department.

776 [~~(107)~~] (112) "Tavern" means an on-premise beer retailer who is:

777 (a) issued a license by the commission in accordance with Chapter 5, Retail License
778 Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and

779 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
780 On-premise Beer Retailer License.

781 [~~(108)~~] (113) "Temporary beer event permit" means a permit issued in accordance with
782 Chapter 9, Part 4, Temporary Beer Event Permit.

783 [~~(109)~~] (114) "Temporary domicile" means the principal place of abode within Utah of
784 a person who does not have a present intention to continue residency within Utah permanently
785 or indefinitely.

786 (115) "Translucent" means a substance that allows light to pass through, but does not
787 allow an object or person to be seen through the substance.

788 [~~(110)~~] (116) "Unsaleable liquor merchandise" means a [~~package~~] container that:

789 (a) is unsaleable because the [~~package~~] container is:

790 (i) unlabeled;

791 (ii) leaky;

792 (iii) damaged;

793 (iv) difficult to open; or

794 (v) partly filled;

795 (b) (i) has faded labels or defective caps or corks;

796 (ii) has contents that are:

797 (A) cloudy;

798 (B) spoiled; or

799 (C) chemically determined to be impure; or

800 (iii) contains:

801 (A) sediment; or
802 (B) a foreign substance; or
803 (c) is otherwise considered by the department as unfit for sale.
804 ~~[(117)]~~ (117) (a) "Wine" means an alcoholic product obtained by the fermentation of
805 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or
806 not another ingredient is added.

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

809 ~~[(118)]~~ (118) "Winery manufacturing license" means a license issued in accordance
810 with Chapter 11, Part 3, Winery Manufacturing License.

811 Section 2. Section **32B-1-201 (Effective 07/01/11)** is amended to read:

812 **32B-1-201 (Effective 07/01/11). Restrictions on number of retail licenses that may**
813 **be issued -- Determining population -- Exempt licenses.**

814 (1) As used in this section:

815 (a) "Alcohol-related law enforcement officer" means a law enforcement officer
816 employed by the Department of Public Safety that has as a primary responsibility for:

817 (i) the enforcement of this title; or

818 (ii) the enforcement of Title 41, Chapter 6a, Part 5, Driving Under the Influence and
819 Reckless Driving.

820 (b) "Enforcement ratio" is the number calculated as follows:

821 (i) determine the quotient equal to the total number of quota retail licenses available
822 divided by the total number of alcohol-related law enforcement officers; and

823 (ii) round the number determined in accordance with Subsection (1)(b)(ii) up to the
824 nearest whole number.

825 (c) "Quota retail license" means:

826 (i) a full-service restaurant license;

827 (ii) a limited-service restaurant license;

828 (iii) a club license;

829 (iv) an on-premise banquet license;

830 (v) an on-premise beer retailer operating as a tavern; and

831 (vi) a reception center license.

832 (d) "Total number of alcohol-related law enforcement officers" means the total number
833 of positions designated as alcohol-related law enforcement officers that are funded as of a
834 specified date as certified by the Department of Public Safety to the department.

835 (e) "Total number of quota retail licenses available" means the number calculated by:

836 (i) determining as of a specified date for each quota retail license the number of
837 licenses that the commission may not exceed calculated by dividing the population of the state
838 by the number specified in the relevant provision for the quota retail license; and

839 (ii) adding together the numbers determined under Subsection (1)(d)(i).

840 (2) (a) Beginning on July 1, 2012, the department shall annually determine the
841 enforcement ratio as of July 1 of that year.

842 (b) If, beginning on July 1, 2012, the enforcement ratio is greater than 52, the
843 commission may not issue a quota retail license for the 12-month period beginning on the July
844 1 for which the enforcement ratio is greater than 52.

845 (c) Notwithstanding Subsection (2)(b), the commission may issue a quota retail license
846 during the 12-month period described in Subsection (2)(b) beginning on the day on which a
847 sufficient number of alcohol-related law enforcement officers are employed so that if the
848 enforcement ratio is calculated, the enforcement ratio would be equal to or less than 52.

849 (d) Once the Department of Public Safety certifies under Subsection (1)(d) the total
850 number of positions designated as alcohol-related law enforcement officers that are funded as
851 of July 1, the Department of Public Safety may not use the funding for the designated
852 alcohol-related law enforcement officers for a purpose other than funding those positions.

853 (3) For purposes of determining the number of state stores that the commission may
854 establish or the number of package agencies or retail licenses that the commission may issue,
855 the commission shall determine population by:

856 [~~(1)~~] (a) the most recent United States decennial or special census; or

857 [~~(2)~~] (b) another population determination made by the United States or state
858 governments.

859 (4) The commission may not consider a retail license that meets the following
860 conditions in determining the total number of licenses available for that type of retail license
861 that the commission may issue at any time:

862 (a) the retail license was issued to a club licensee designated as a dining club as of July

863 1, 2011; and

864 (b) the dining club license is converted to another type of retail license in accordance
865 with Section 32B-6-709.

866 Section 3. Section **32B-1-206** is enacted to read:

867 **32B-1-206. Calculation of ratio of gross receipts of food to alcoholic product.**

868 In calculating the annual gross receipts of a retail license or sublicense for purposes of
869 determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food
870 or an alcoholic product, a retail licensee may not include in the calculation the money from the
871 sale of a bottle of wine by the retail licensee or under a sublicense that is in excess of \$250.

872 Section 4. Section **32B-1-402 (Effective 07/01/11)** is amended to read:

873 **32B-1-402 (Effective 07/01/11). Definitions.**

874 As used in this part:

875 [~~(1)~~] "~~Applicable licensee~~" means the following:]

876 [~~(a)~~] ~~a dining club licensee; or~~

877 [~~(b)~~] ~~a social club licensee;]~~

878 [~~(2)~~] (1) "Authorized person" means a person authorized by law to sell or otherwise
879 handle an alcoholic product.

880 [~~(3)~~] (2) "Restricted area" means a place where an alcoholic product is sold or
881 consumed, but where under this title a minor is not permitted.

882 [~~(4)~~] (3) "Statement of age" means a statement signed under Section 32B-1-405
883 verifying the age of the person signing the statement.

884 Section 5. Section **32B-1-407 (Effective 07/01/11)** is amended to read:

885 **32B-1-407 (Effective 07/01/11). Verification of proof of age by applicable**
886 **licensees.**

887 (1) As used in this section, "applicable licensee" means:

888 (a) a dining club;

889 (b) a social club; or

890 (c) a tavern.

891 [~~(1)~~] (2) Notwithstanding any other provision of this part, an applicable licensee shall
892 require that an authorized person ~~under~~ for the applicable licensee verify proof of age as
893 provided in this section.

894 ~~[(2)]~~ (3) An authorized person is required to verify proof of age under this section
895 before an individual who appears to be 35 years of age or younger:

- 896 (a) gains admittance to the premises of a social club licensee or tavern; or
- 897 (b) procures an alcoholic product on the premises of a dining club licensee.

898 ~~[(3)]~~ (4) To comply with Subsection ~~[(2)]~~ (3), an authorized person shall:

- 899 (a) request the individual present proof of age; and
- 900 (b) (i) verify the validity of the proof of age electronically under the verification
901 program created in Subsection ~~[(4)]~~ (5); or
902 (ii) if the proof of age cannot be electronically verified as provided in Subsection ~~[(3)]~~
903 (4)(b)(i), request that the individual comply with a process established by the commission by
904 rule.

905 ~~[(4)]~~ (5) The commission shall establish by rule an electronic verification program that
906 includes the following:

907 (a) the specifications for the technology used by the applicable licensee to
908 electronically verify proof of age, including that the technology display to the person described
909 in Subsection ~~[(1)]~~ (2) no more than the following for the individual who presents the proof of
910 age:

- 911 (i) the name;
- 912 (ii) the age;
- 913 (iii) the number assigned to the individual's proof of age by the issuing authority;
- 914 (iv) the birth date;
- 915 (v) the gender; and
- 916 (vi) the status and expiration date of the individual's proof of age; and

917 (b) the security measures that must be used by an applicable licensee to ensure that
918 information obtained under this section is:

- 919 (i) used by the applicable licensee only for purposes of verifying proof of age in
920 accordance with this section; and
- 921 (ii) retained by the applicable licensee for seven days after the day on which the
922 applicable licensee obtains the information.

923 ~~[(5)]~~ (6) (a) An applicable licensee may not disclose information obtained under this
924 section except as provided under this title.

925 (b) Information obtained under this section is considered a record for any purpose
926 under Chapter 5, Part 3, Retail Licensee Operational Requirements.

927 Section 6. Section **32B-1-602 (Effective 07/01/11)** is amended to read:

928 **32B-1-602 (Effective 07/01/11). Definitions.**

929 As used in this part:

930 (1) "Malted beverage" means:

931 (a) beer;

932 (b) a flavored malt beverage; and

933 (c) heavy beer.

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

936 Section 7. Section **32B-1-605 (Effective 07/01/11)** is amended to read:

937 **32B-1-605 (Effective 07/01/11). General procedure for approval.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

971 Section 8. Section **32B-2-201 (Effective 07/01/11)** is amended to read:

972 **32B-2-201 (Effective 07/01/11). Alcoholic Beverage Control Commission created.**

973 (1) There is created the "Alcoholic Beverage Control Commission." The commission is
974 the governing board over the department.

975 (2) (a) The commission is composed of five part-time commissioners appointed by the
976 governor with the consent of the Senate.

977 (b) No more than three commissioners may be of the same political party.

978 (3) (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the
979 governor shall appoint each new commissioner or reappointed commissioner to a four-year
980 term.

981 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
982 time of appointment or reappointment, adjust the length of terms to ensure that the terms of no
983 more than two commissioners expire in a fiscal year.

984 (4) (a) When a vacancy occurs on the commission for any reason, the governor shall
985 appoint a replacement for the unexpired term with the consent of the Senate.

986 (b) Unless removed in accordance with Subsection (6), a commissioner shall remain on

987 the commission after the expiration of a term until a successor is appointed by the governor,
988 with the consent of the Senate.

989 (5) A commissioner shall take the oath of office.

990 (6) (a) The governor may remove a commissioner from the commission for cause after
991 a public hearing conducted by:

992 (i) the governor; or

993 (ii) an impartial hearing examiner appointed by the governor to conduct the hearing.

994 (b) At least 10 days before the hearing described in Subsection (6)(a), the governor
995 shall provide the commissioner notice of:

996 (i) the date, time, and place of the hearing; and

997 (ii) the alleged grounds for the removal.

998 (c) The commissioner shall have an opportunity to:

999 (i) attend the hearing;

1000 (ii) present witnesses and other evidence; and

1001 (iii) confront and cross examine witnesses.

1002 (d) After a hearing under this Subsection (6):

1003 (i) the person conducting the hearing shall prepare written findings of fact and
1004 conclusions of law; and

1005 (ii) the governor shall serve a copy of the prepared findings and conclusions upon the
1006 commissioner.

1007 (e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing
1008 examiner shall issue a written recommendation to the governor in addition to complying with
1009 Subsection (6)(d).

1010 (f) A commissioner has five days from the day on which the commissioner receives the
1011 findings and conclusions described in Subsection (6)(d) to file written objections to the
1012 recommendation before the governor issues a final order.

1013 (g) The governor shall:

1014 (i) issue the final order under this Subsection (6) in writing; and

1015 (ii) serve the final order upon the commissioner.

1016 (7) (a) A commissioner may not receive compensation or benefits for the
1017 commissioner's service, but may receive per diem and expenses incurred in the performance of

1018 the commissioner's official duties at the rates established by the Division of Finance under
1019 Sections 63A-3-106 and 63A-3-107.

1020 (b) A commissioner may decline to receive per diem and expenses for the
1021 commissioner's service.

1022 [~~(8)(a)(i) The commission shall elect:~~]

1023 [~~(A) one commissioner to serve as chair;~~]

1024 (8) (a) The governor shall annually appoint the chair of the commission. A
1025 commissioner serves as chair to the commission at the pleasure of the governor.

1026 (b) The commission shall elect:

1027 [~~(B)~~] (i) another commissioner to serve as vice chair; and

1028 [~~(C)~~] (ii) other commission officers as the commission considers advisable.

1029 [~~(ii)~~] (c) A commissioner elected under Subsection (8)(b) shall serve in the office to
1030 which the commissioner is elected [~~under Subsection (8)(a)(i)~~] at the pleasure of the
1031 commission.

1032 [~~(b)~~] (9) (a) Each commissioner has equal voting rights on a commission matter when
1033 in attendance at a commission meeting.

1034 [~~(c)~~] (b) Three commissioners is a quorum for conducting commission business.

1035 [~~(d)~~] (c) A majority vote of the quorum present at a meeting is required for the
1036 commission to act.

1037 [~~(9)~~] (10) (a) The commission shall meet at least monthly, but may hold other meetings
1038 at times and places as scheduled by:

1039 (i) the commission;

1040 (ii) the chair; or

1041 (iii) three commissioners upon filing a written request for a meeting with the chair.

1042 (b) Notice of the time and place of a commission meeting shall be given to each
1043 commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public
1044 Meetings Act. A commission meeting is open to the public, except for a commission meeting
1045 or portion of a commission meeting that is closed by the commission as authorized by Sections
1046 52-4-204 and 52-4-205.

1047 Section 9. Section **32B-2-202 (Effective 07/01/11)** is amended to read:

1048 **32B-2-202 (Effective 07/01/11). Powers and duties of the commission.**

- 1049 (1) The commission shall:
- 1050 (a) act as a general policymaking body on the subject of alcoholic product control;
- 1051 (b) adopt and issue policies, rules, and procedures;
- 1052 (c) set policy by written rules that establish criteria and procedures for:
- 1053 (i) issuing, denying, not renewing, suspending, or revoking a package agency, license,
- 1054 permit, or certificate of approval; and
- 1055 (ii) determining the location of a state store, package agency, or retail licensee;
- 1056 (d) decide within the limits, and under the conditions imposed by this title, the number
- 1057 and location of state stores, package agencies, and retail licensees in the state;
- 1058 (e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses,
- 1059 permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing,
- 1060 consumption, manufacture, and distribution of an alcoholic product:
- 1061 (i) a package agency;
- 1062 (ii) a full-service restaurant license;
- 1063 (iii) a limited-service restaurant license;
- 1064 (iv) a club license;
- 1065 (v) an airport lounge license;
- 1066 (vi) an on-premise banquet license;
- 1067 (vii) a resort license, under which four or more sublicenses may be included;
- 1068 (viii) an on-premise beer retailer license;
- 1069 (ix) a reception center license;
- 1070 (x) a beer-only restaurant license;
- 1071 [~~(ix)~~] (xi) a single event permit;
- 1072 [~~(x)~~] (xii) a temporary beer event permit;
- 1073 [~~(xi)~~] (xiii) a special use permit;
- 1074 [~~(xii)~~] (xiv) a manufacturing license;
- 1075 [~~(xiii)~~] (xv) a liquor warehousing license;
- 1076 [~~(xiv)~~] (xvi) a beer wholesaling license; and
- 1077 [~~(xv)~~] an out-of-state brewer]
- 1078 (xvii) one of the following that holds a certificate of approval[;]:
- 1079 (A) an out-of-state brewer;

1080 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
1081 (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
1082 (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke one of the
1083 following conditional licenses for the purchase, storage, sale, furnishing, consumption,
1084 manufacture, and distribution of an alcoholic product:
1085 (i) a conditional full-service restaurant license; or
1086 (ii) a conditional limited-service restaurant license;
1087 (g) prescribe the duties of the department in assisting the commission in issuing a
1088 package agency, license, permit, or certificate of approval under this title;
1089 (h) to the extent a fee is not specified in this title, establish a fee allowed under this title
1090 in accordance with Section 63J-1-504;
1091 (i) fix prices at which liquor is sold that are the same at all state stores, package
1092 agencies, and retail licensees;
1093 (j) issue and distribute price lists showing the price to be paid by a purchaser for each
1094 class, variety, or brand of liquor kept for sale by the department;
1095 (k) (i) require the director to follow sound management principles; and
1096 (ii) require periodic reporting from the director to ensure that:
1097 (A) sound management principles are being followed; and
1098 (B) policies established by the commission are being observed;
1099 (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations,
1100 and matters submitted by the director to the commission; and
1101 (ii) do the things necessary to support the department in properly performing the
1102 department's duties;
1103 (m) obtain temporarily and for special purposes the services of an expert or person
1104 engaged in the practice of a profession, or a person who possesses a needed skill if:
1105 (i) considered expedient; and
1106 (ii) approved by the governor;
1107 (n) prescribe the conduct, management, and equipment of premises upon which an
1108 alcoholic product may be stored, sold, offered for sale, furnished, or consumed;
1109 (o) make rules governing the credit terms of beer sales within the state to retail
1110 licensees; and

1111 (p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take
1112 disciplinary action against a person subject to administrative action.

1113 (2) The power of the commission to do the following is plenary, except as otherwise
1114 provided by this title, and not subject to review:

1115 (a) establish a state store;

1116 (b) issue authority to act as a package agent or operate a package agency; and

1117 (c) issue or deny a license, permit, or certificate of approval.

1118 (3) If the commission is authorized or required to make a rule under this title, the
1119 commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative
1120 Rulemaking Act.

1121 Section 10. Section **32B-2-205 (Effective 07/01/11)** is amended to read:

1122 **32B-2-205 (Effective 07/01/11). Director of alcoholic beverage control.**

1123 (1) (a) The commission by a vote of four of the five commissioners, [~~and~~] with the
1124 approval of the governor, and with the consent of the Senate, shall appoint a director of
1125 alcoholic beverage control who is the administrative head of the department.

1126 (b) The director serves at the pleasure of the commission, except that the director may
1127 only be removed from office by a vote of four commissioners.

1128 (c) The director may not be a commissioner.

1129 (d) The director shall:

1130 (i) be qualified in administration;

1131 (ii) be knowledgeable by experience and training in the field of business management;

1132 and

1133 (iii) possess any other qualification prescribed by the commission.

1134 (2) The governor shall establish the director's compensation within the salary range
1135 fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

1136 (3) The director shall:

1137 (a) carry out the policies of the commission;

1138 (b) carry out the policies of the department;

1139 (c) fully inform the commission of the operations and administrative activities of the
1140 department; and

1141 (d) assist the commission in the proper discharge of the commission's duties.

1142 Section 11. Section **32B-2-209** is enacted to read:

1143 **32B-2-209. Prohibited interests, relationships, and actions.**

1144 (1) As used in this section:

1145 (a) "Applicable department employee" means a department employee who is:

1146 (i) designated as a deputy or assistant director;

1147 (ii) a chief administrative officer of a division within the department;

1148 (iii) a department compliance officer; or

1149 (iv) an employee directly performing licensing or compliance functions of the

1150 department.

1151 (b) "Immediate family" means an individual's:

1152 (i) spouse; or

1153 (ii) child who is younger than 18 years of age.

1154 (2) In addition to being subject to Title 67, Chapter 16, Utah Public Officers' and

1155 Employees' Ethics Act, an individual who is a commissioner, the director, or an applicable

1156 department employee may not:

1157 (a) have a pecuniary interest, whether as the holder of stock or other securities other
1158 than a mutual fund, in a person who applies for or holds a package agency, license, permit, or
1159 certificate under this title;

1160 (b) otherwise have a conflict of interest with a person who applies for or holds a
1161 package agency, license, permit, or certificate under this title;

1162 (c) have an office, position, or relationship, or be engaged in a business or avocation
1163 that interferes or is incompatible with the effective and objective fulfillment of the duties of
1164 office or employment;

1165 (d) have a direct business relationship with a person subject to administrative action
1166 under this title;

1167 (e) accept a gift, gratuity, emolument, or employment from:

1168 (i) a person who applies for or holds a package agency, license, permit, or certificate
1169 under this title; or

1170 (ii) an officer, agent, or employee of a person who applies for or holds a package
1171 agency, license, permit, or certificate under this title, except that a commissioner, the director,
1172 or an applicable department employee may accept a gift from an officer, agent, or employee if

- 1173 the gift is equal to or less than \$50; or
- 1174 (f) solicit, suggest, request, or recommend, directly or indirectly, the appointment of
1175 any person to any office or employment with a person who applies for or holds a package
1176 agency, license, permit, or certificate under this title.
- 1177 (3) An immediate family member of a commissioner, the director, or an applicable
1178 department employee may not:
- 1179 (a) have a pecuniary interest, whether as the holder of stock or other securities other
1180 than a mutual fund, in a person who applies for or holds a package agency, license, permit, or
1181 certificate under this title;
- 1182 (b) otherwise have a conflict of interest with a person who applies for or holds a
1183 package agency, license, permit, or certificate under this title;
- 1184 (c) have an office, position, or relationship, or be engaged in a business or avocation
1185 that interferes or is incompatible with the effective and objective fulfillment of the duties of
1186 office or employment of the commissioner, director, or applicable department employee for
1187 whom the person is immediate family;
- 1188 (d) accept a gift, gratuity, emolument, or employment from:
- 1189 (i) a person who applies for or holds a package agency, license, permit, or certificate
1190 under this title; or
- 1191 (ii) an officer, agent, or employee of a person who applies for or holds a package
1192 agency, license, permit, or certificate under this title, except that an immediate family member
1193 may accept a gift from an officer, agent, or employee if the gift is equal to or less than \$50; or
- 1194 (e) solicit, suggest, request, or recommend, directly or indirectly, the appointment of
1195 any person to any office or employment with a person who applies for or holds a package
1196 agency, license, permit, or certificate under this title.
- 1197 (4) An officer, agent, attorney, or employee of a person who applies for or holds a
1198 package agency, license, permit, or certificate under this title may not directly or indirectly
1199 solicit, request, or recommend to the governor, any state senator, the commission, or the
1200 department the appointment of any person:
- 1201 (a) as a commissioner;
- 1202 (b) as director of the department; or
- 1203 (c) to a department staff position.

1204 (5) (a) A commissioner shall disclose during a meeting of the commission a potential
1205 violation of this section, including the existence and nature of a professional, financial,
1206 business, or personal interest with a person who holds, or an applicant for, a license, permit, or
1207 certificate issued under this title that may result in a violation of this section.

1208 (b) After a commissioner makes a disclosure under Subsection (5)(a):

1209 (i) the commission may, by motion, determine whether there is a potential violation of
1210 this section;

1211 (ii) if the commission determines that there is a potential violation of this section:

1212 (A) the commission shall notify the governor; and

1213 (B) the commissioner may not vote on any matter that would result in the potential
1214 violation of this section; and

1215 (iii) if the commission determines that there is not a potential violation of this section,
1216 a commissioner may elect whether to vote on the issue that gives rise to the disclosure under
1217 Subsection (5)(a).

1218 (c) The commission shall record any declaration of a potential violation of this section
1219 in the minutes of the meeting.

1220 Section 12. Section **32B-2-305** is enacted to read:

1221 **32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.**

1222 (1) As used in this section:

1223 (a) "Alcohol-related law enforcement officer" is as defined in Section 32B-1-201.

1224 (b) "Enforcement ratio" is as defined in Section 32B-1-201.

1225 (c) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in
1226 this section.

1227 (2) There is created a restricted special revenue fund known as the "Alcoholic
1228 Beverage Control Act Enforcement Fund."

1229 (3) (a) The fund consists of:

1230 (i) deposits made under Subsection (4); and

1231 (ii) interest earned on the fund.

1232 (b) The fund shall earn interest. Interest on the fund shall be deposited into the fund.

1233 (4) After the deposit made under Section 32B-2-304, the department shall deposit 1%
1234 of the total gross revenue from the sale of liquor with the state treasurer to be credited to the

1235 fund to be used by the Department of Public Safety as provided in Subsection (5).

1236 (5) The Department of Public Safety shall expend money from the fund to supplement
1237 appropriations by the Legislature so that the Department of Public Safety maintains a sufficient
1238 number of alcohol-related law enforcement officers such that beginning on July 1, 2012, each
1239 year the enforcement ratio as of July 1 is equal to or less than the number specified in Section
1240 32B-1-201.

1241 Section 13. Section **32B-2-503 (Effective 07/01/11)** is amended to read:

1242 **32B-2-503 (Effective 07/01/11). Operational requirements for a state store.**

1243 (1) (a) A state store shall display in a prominent place in the store a sign in large letters
1244 [~~stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is~~
1245 ~~prosecuted aggressively in Utah."~~] that consists of text in the following order:

1246 (i) a header that reads: "WARNING";

1247 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
1248 can cause birth defects and permanent brain damage for the child.";

1249 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
1250 [insert most current toll-free number] with questions or for more information.";

1251 (iv) a header that reads: "WARNING"; and

1252 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
1253 serious crime that is prosecuted aggressively in Utah."

1254 (b) (i) The text described in Subsections (1)(a)(i) through (iii) shall be in a different
1255 font style than the text described in Subsections (1)(a)(iv) and (v).

1256 (ii) The warning statements in the sign described in Subsection (1)(a) shall be in the
1257 same font size.

1258 (c) The Department of Health shall work with the commission and department to
1259 facilitate consistency in the format of a sign required under this section.

1260 (2) A state store may not sell, offer for sale, or furnish liquor except at a price fixed by
1261 the commission.

1262 (3) A state store may not sell, offer for sale, or furnish liquor to:

1263 (a) a minor;

1264 (b) a person actually, apparently, or obviously intoxicated;

1265 (c) a known interdicted person; or

- 1266 (d) a known habitual drunkard.
- 1267 (4) (a) A state store employee may not:
- 1268 (i) consume an alcoholic product on the premises of a state store; or
- 1269 (ii) allow any person to consume an alcoholic product on the premises of a state store.
- 1270 (b) A violation of this Subsection (4) is a class B misdemeanor.
- 1271 (5) (a) Sale or delivery of liquor may not be made on or from the premises of a state
- 1272 store, and a state store may not be kept open for the sale of liquor:
- 1273 (i) on Sunday; or
- 1274 (ii) on a state or federal legal holiday.
- 1275 (b) Sale or delivery of liquor may be made on or from the premises of a state store, and
- 1276 a state store may be open for the sale of liquor, only on a day and during hours that the
- 1277 commission directs by rule or order.
- 1278 (6) (a) A minor may not be admitted into, or be on the premises of a state store unless
- 1279 accompanied by a person who is:
- 1280 (i) 21 years of age or older; and
- 1281 (ii) the minor's parent, legal guardian, or spouse.
- 1282 (b) A state store employee that has reason to believe that a person who is on the
- 1283 premises of a state store is under the age of 21 and is not accompanied by a person described in
- 1284 Subsection (6)(a) may:
- 1285 (i) ask the suspected minor for proof of age;
- 1286 (ii) ask the person who accompanies the suspected minor for proof of age; and
- 1287 (iii) ask the suspected minor or the person who accompanies the suspected minor for
- 1288 proof of parental, guardianship, or spousal relationship.
- 1289 (c) A state store employee shall refuse to sell liquor to the suspected minor and to the
- 1290 person who accompanies the suspected minor into the state store if the suspected minor or
- 1291 person fails to provide information specified in Subsection (6)(b).
- 1292 (d) A state store employee shall require a suspected minor and the person who
- 1293 accompanies the suspected minor into the state store to immediately leave the premises of the
- 1294 state store if the suspected minor or person fails to provide information specified in Subsection
- 1295 (6)(b).
- 1296 (7) (a) A state store may not sell, offer for sale, or furnish liquor except in a sealed

1297 [package] container.

1298 (b) A person may not open a sealed [package] container on the premises of a state
1299 store.

1300 (8) On or after October 1, 2011, a state store may not sell, offer for sale, or furnish
1301 heavy beer in a sealed container that exceeds two liters.

1302 Section 14. Section **32B-2-504 (Effective 07/01/11)** is amended to read:

1303 **32B-2-504 (Effective 07/01/11). Delivery of liquor to state store.**

1304 (1) Liquor to be sold from a state store may be transported from a warehouse
1305 authorized by the department to the state store if transported by a person authorized by the
1306 department to transport the liquor to the state store, including a common carrier.

1307 (2) A person, while in or about a vehicle in which liquor is being transported, may not
1308 open, break, or allow to be opened or broken, a [package] container containing liquor.

1309 (3) A person may not drink, use, or allow to be drunk or used, liquor while it is in
1310 transit under this section.

1311 Section 15. Section **32B-2-602 (Effective 07/01/11)** is amended to read:

1312 **32B-2-602 (Effective 07/01/11). Application requirements for a package agency.**

1313 (1) Before a person may store, sell, offer for sale, or furnish liquor in a sealed
1314 [package] container on its premises under a package agency, the person shall first obtain a
1315 package agency issued by the commission in accordance with this part.

1316 (2) To obtain a package agency, a person seeking to be the package agent under this
1317 part shall submit to the department:

1318 (a) a written application in a form prescribed by the department;

1319 (b) a nonrefundable application fee of [~~\$100~~] \$125;

1320 (c) written consent of the local authority;

1321 (d) evidence of proximity to any community location, with proximity requirements
1322 being governed by Section 32B-1-202;

1323 (e) a bond as specified by Section 32B-2-604;

1324 (f) a floor plan of the premises, including a description and highlighting of that part of
1325 the premises in which the person proposes that the package agency be located;

1326 (g) evidence that the package agency is carrying public liability insurance in an amount
1327 and form satisfactory to the department;

1328 (h) a signed consent form stating that the package agent permits any authorized
1329 representative of the commission, department, or any law enforcement officer to have
1330 unrestricted right to enter the premises of the package agency;

1331 (i) if the person applying is an entity, verification that a person who signs the package
1332 agency application is authorized to sign on behalf of the entity; and

1333 (j) any other information the commission or department may require.

1334 (3) The commission may not issue a package agency to a person who is disqualified
1335 under Section 32B-1-304.

1336 (4) The commission may not issue a package agency for premises that do not meet the
1337 proximity requirements of Section 32B-1-202.

1338 Section 16. Section **32B-2-605 (Effective 07/01/11)** is amended to read:

1339 **32B-2-605 (Effective 07/01/11). Operational requirements for package agency.**

1340 (1) (a) A person may not operate a package agency until a package agency agreement is
1341 entered into by the package agent and the department.

1342 (b) A package agency agreement shall state the conditions of operation by which the
1343 package agent and the department are bound.

1344 (c) (i) If a package agent or staff of the package agent violates this title, rules under this
1345 title, or the package agency agreement, the department may take any action against the package
1346 agent that is allowed by the package agency agreement.

1347 (ii) An action against a package agent is governed solely by its package agency
1348 agreement and may include suspension or revocation of the package agency.

1349 (iii) Notwithstanding that this part refers to "package agency" or "package agent," staff
1350 of the package agency or package agent is subject to the same requirement or prohibition.

1351 (2) (a) A package agency shall be operated by an individual who is either:

1352 (i) the package agent; or

1353 (ii) an individual designated by the package agent.

1354 (b) An individual who is a designee under this Subsection (2) shall be:

1355 (i) an employee of the package agent; and

1356 (ii) responsible for the operation of the package agency.

1357 (c) The conduct of the designee is attributable to the package agent.

1358 (d) A package agent shall submit the name of the person operating the package agency

1359 to the department for the department's approval.

1360 (e) A package agent shall state the name and title of a designee on the application for a
1361 package agency.

1362 (f) A package agent shall:

1363 (i) inform the department of a proposed change in the individual designated to operate
1364 a package agency; and

1365 (ii) receive prior approval from the department before implementing the change
1366 described in this Subsection (2)(f).

1367 (g) Failure to comply with the requirements of this Subsection (2) may result in the
1368 immediate termination of a package agency agreement.

1369 (3) (a) A package agent shall display in a prominent place in the package agency[~~:(a)~~]
1370 the record issued by the commission that designates the package agency[~~and~~].

1371 (b) A package agent that displays or stores liquor at a location visible to the public
1372 shall display in a prominent place in the package agency a sign in large letters [~~stating:~~
1373 ~~"Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted~~
1374 ~~aggressively in Utah."~~] that consists of text in the following order:

1375 (i) a header that reads: "WARNING";

1376 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
1377 can cause birth defects and permanent brain damage for the child.";

1378 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
1379 [insert most current toll-free number] with questions or for more information.";

1380 (iv) a header that reads: "WARNING"; and

1381 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
1382 serious crime that is prosecuted aggressively in Utah."

1383 (c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different
1384 font style than the text described in Subsections (3)(b)(iv) and (v).

1385 (ii) The warning statements in the sign described in Subsection (3)(b) shall be in the
1386 same font size.

1387 (d) The Department of Health shall work with the commission and department to
1388 facilitate consistency in the format of a sign required under this section.

1389 (4) A package agency may not display liquor or a price list in a window or showcase

1390 that is visible to passersby.

1391 (5) (a) A package agency may not purchase liquor from a person except from the
1392 department.

1393 (b) At the discretion of the department, liquor may be provided by the department to a
1394 package agency for sale on consignment.

1395 (6) A package agency may not store, sell, offer for sale, or furnish liquor in a place
1396 other than as designated in the package agent's application, unless the package agent first
1397 applies for and receives approval from the department for a change of location within the
1398 package agency premises.

1399 (7) A package agency may not sell, offer for sale, or furnish liquor except at a price
1400 fixed by the commission.

1401 (8) A package agency may not sell, offer for sale, or furnish liquor to:

1402 (a) a minor;

1403 (b) a person actually, apparently, or obviously intoxicated;

1404 (c) a known interdicted person; or

1405 (d) a known habitual drunkard.

1406 (9) (a) A package agency may not employ a minor to handle liquor.

1407 (b) (i) Staff of a package agency may not:

1408 (A) consume an alcoholic product on the premises of a package agency; or

1409 (B) allow any person to consume an alcoholic product on the premises of a package
1410 agency.

1411 (ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

1412 (10) (a) A package agency may not close or cease operation for a period longer than 72
1413 hours, unless:

1414 (i) the package agency notifies the department in writing at least seven days before the
1415 closing; and

1416 (ii) the closure or cessation of operation is first approved by the department.

1417 (b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package
1418 agency shall immediately notify the department by telephone.

1419 (c) (i) The department may authorize a closure or cessation of operation for a period
1420 not to exceed 60 days.

1421 (ii) The department may extend the initial period an additional 30 days upon written
1422 request of the package agency and upon a showing of good cause.

1423 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1424 commission approval.

1425 (d) The notice required by Subsection (10)(a) shall include:

1426 (i) the dates of closure or cessation of operation;

1427 (ii) the reason for the closure or cessation of operation; and

1428 (iii) the date on which the package agency will reopen or resume operation.

1429 (e) Failure of a package agency to provide notice and to obtain department
1430 authorization before closure or cessation of operation results in an automatic termination of the
1431 package agency agreement effective immediately.

1432 (f) Failure of a package agency to reopen or resume operation by the approved date
1433 results in an automatic termination of the package agency agreement effective on that date.

1434 (11) A package agency may not transfer its operations from one location to another
1435 location without prior written approval of the commission.

1436 (12) (a) A person, having been issued a package agency, may not sell, transfer, assign,
1437 exchange, barter, give, or attempt in any way to dispose of the package agency to another
1438 person, whether for monetary gain or not.

1439 (b) A package agency has no monetary value for any type of disposition.

1440 (13) (a) Subject to the other provisions of this Subsection (13):

1441 (i) sale or delivery of liquor may not be made on or from the premises of a package
1442 agency, and a package agency may not be kept open for the sale of liquor:

1443 (A) on Sunday; or

1444 (B) on a state or federal legal holiday.

1445 (ii) Sale or delivery of liquor may be made on or from the premises of a package
1446 agency, and a package agency may be open for the sale of liquor, only on a day and during
1447 hours that the commission directs by rule or order.

1448 [~~(b) Subsection (13)(a) governs unless:~~]

1449 (b) A package agency located at a manufacturing facility is not subject to Subsection
1450 (13)(a) if:

1451 (i) the package agency is located at a ~~[winery]~~ manufacturing facility licensed in

1452 accordance with Chapter 11, Manufacturing and Related Licenses Act;

1453 (ii) the [~~winery~~] manufacturing facility licensed in accordance with Chapter 11,

1454 Manufacturing and Related Licenses Act, holds:

1455 (A) a full-service restaurant license; [~~or~~]

1456 (B) a limited-service restaurant license; or

1457 (C) a beer-only restaurant license;

1458 (iii) the restaurant is located at the [~~winery~~] manufacturing facility;

1459 (iv) the restaurant sells [~~wines~~] an alcoholic product produced at the [~~winery~~]

1460 manufacturing facility;

1461 (v) the [~~winery~~] manufacturing facility:

1462 (A) owns the restaurant; or

1463 (B) operates the restaurant;

1464 (vi) the package agency only sells [~~wine~~] an alcoholic product produced at the [~~winery~~]

1465 manufacturing facility; and

1466 (vii) the package agency's days and hours of sale are the same as the days and hours of

1467 sale at the restaurant.

1468 (c) (i) Subsection (13)(a) does not apply to a package agency held by a resort licensee if

1469 the package agent that holds the package agency to sell liquor at the resort does not sell liquor

1470 in a manner similar to a state store.

1471 (ii) The commission may by rule define what constitutes a package agency that sells

1472 liquor "in a manner similar to a state store."

1473 (14) (a) Except to the extent authorized by commission rule, a minor may not be

1474 admitted into, or be on the premises of a package agency unless accompanied by a person who

1475 is:

1476 (i) 21 years of age or older; and

1477 (ii) the minor's parent, legal guardian, or spouse.

1478 (b) A package agent or staff of a package agency that has reason to believe that a

1479 person who is on the premises of a package agency is under the age of 21 and is not

1480 accompanied by a person described in Subsection (14)(a) may:

1481 (i) ask the suspected minor for proof of age;

1482 (ii) ask the person who accompanies the suspected minor for proof of age; and

1483 (iii) ask the suspected minor or the person who accompanies the suspected minor for
1484 proof of parental, guardianship, or spousal relationship.

1485 (c) A package agent or staff of a package agency shall refuse to sell liquor to the
1486 suspected minor and to the person who accompanies the suspected minor into the package
1487 agency if the minor or person fails to provide any information specified in Subsection (14)(b).

1488 (d) A package agent or staff of a package agency shall require the suspected minor and
1489 the person who accompanies the suspected minor into the package agency to immediately leave
1490 the premises of the package agency if the minor or person fails to provide information specified
1491 in Subsection (14)(b).

1492 (15) (a) A package agency ~~may not~~ shall sell, offer for sale, or furnish liquor ~~except~~
1493 in a sealed ~~package~~ container.

1494 (b) A person may not open a sealed ~~package~~ container on the premises of a package
1495 agency.

1496 (c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or
1497 furnish liquor in other than a sealed container:

1498 (i) if the package agency is the type of package agency that authorizes the package
1499 agency to sell, offer for sale, or furnish the liquor as part of room service;

1500 (ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

1501 (iii) subject to:

1502 (A) staff of the package agency providing the liquor in person only to an adult guest in
1503 the guest room;

1504 (B) staff of the package agency not leaving the liquor outside a guest room for retrieval
1505 by a guest; and

1506 (C) the same limits on the portions in which an alcoholic product may be sold by a
1507 retail licensee under Section 32B-5-304.

1508 (16) On or after October 1, 2011, a package agency may not sell, offer for sale, or
1509 furnish heavy beer in a sealed container that exceeds two liters.

1510 ~~[(16)]~~ (17) The department may pay or otherwise remunerate a package agent on any
1511 basis, including sales or volume of business done by the package agency.

1512 ~~[(17)]~~ (18) The commission may prescribe by policy or rule general operational
1513 requirements of a package agency that are consistent with this title and relate to:

- 1514 (a) physical facilities;
- 1515 (b) conditions of operation;
- 1516 (c) hours of operation;
- 1517 (d) inventory levels;
- 1518 (e) payment schedules;
- 1519 (f) methods of payment;
- 1520 (g) premises security; and
- 1521 (h) any other matter considered appropriate by the commission.

1522 Section 17. Section **32B-2-606 (Effective 07/01/11)** is amended to read:

1523 **32B-2-606 (Effective 07/01/11). Delivery of liquor to package agency.**

1524 (1) Liquor to be sold from a package agency may be transported from a warehouse or
1525 state store authorized by the department to the package agency if transported by a person
1526 authorized by the department to transport the liquor to the package agency, including a
1527 common carrier.

1528 (2) A person, while in or about a vehicle in which liquor is being transported, may not
1529 open, break, or allow to be opened or broken, a [~~package~~] container containing liquor.

1530 (3) A person may not drink, use, or allow to be drunk or used, any liquor while the
1531 liquor is in transit under this section.

1532 Section 18. Section **32B-4-203 (Effective 07/01/11)** is amended to read:

1533 **32B-4-203 (Effective 07/01/11). Authority to inspect.**

1534 (1) (a) This Subsection (1) applies to:

- 1535 (i) a commissioner;
- 1536 (ii) an authorized representative of the commission or department; or
- 1537 (iii) a law enforcement or peace officer.

1538 (b) An individual described in Subsection (1)(a):

- 1539 (i) shall be given access, ingress, and egress to and from premises or a conveyance
1540 used in the storage, sale, furnishing, manufacture, or transportation of an alcoholic product;
- 1541 (ii) may open a [~~package~~] container containing, or supposed to contain, an article sold,
1542 or exposed for sale, held in possession, or manufactured with intent to sell in violation of this
1543 title or commission rules; and
- 1544 (iii) may inspect the contents and take samples of the contents for analysis from a

1545 [package] container described in this Subsection (1).

1546 (2) The following shall assist, when requested by a person described in Subsection (1),
1547 in tracing, finding, or discovering the presence of an article prohibited by this title or
1548 commission rules to the extent assistance would not infringe upon the person's federal and state
1549 constitutional rights:

1550 (a) a dealer;

1551 (b) a clerk;

1552 (c) a bookkeeper;

1553 (d) an express agent;

1554 (e) a railroad or airline official;

1555 (f) a common or other carrier; and

1556 (g) an employee of a person listed in this Subsection (2).

1557 Section 19. Section **32B-4-206 (Effective 07/01/11)** is amended to read:

1558 **32B-4-206 (Effective 07/01/11). Searches, seizures, forfeitures, and fines.**

1559 (1) The following are subject to forfeiture pursuant to Title 24, Chapter 1, Utah
1560 Uniform Forfeiture Procedures Act:

1561 (a) an alcoholic product possessed, purchased, used, stored, sold, offered for sale,
1562 furnished, given, received, warehoused, manufactured, distributed, shipped, carried,
1563 transported, or adulterated in violation of this title or commission rules;

1564 (b) a [package] container or property used or intended for use as a [package] container
1565 for an alcoholic product in violation of this title or commission rules;

1566 (c) raw materials, products, and equipment used, or intended for use, in manufacturing,
1567 processing, delivering, importing, exporting, or adulterating an alcoholic product in violation
1568 of this title or commission rules;

1569 (d) implements, furniture, fixtures, or other personal property used or kept for a
1570 violation of this title or commission rules;

1571 (e) conveyances including an aircraft, vehicle, or vessel used or intended for use, to
1572 transport or in any manner facilitate the transportation, sale, receipt, possession, or
1573 concealment of property described in Subsection (1)(a), (b), (c), or (d); and

1574 (f) a record used or intended for use in violation of this title or commission rules.

1575 (2) (a) Property subject to forfeiture under this title may be seized by a peace officer of

1576 this state or any other person authorized by law upon process issued by a court having
1577 jurisdiction over the property in accordance with the Utah Rules of Criminal Procedure relating
1578 to search warrants or administrative warrants.

1579 (b) Notwithstanding Subsection (2)(a), seizure without process may be made when:

1580 (i) the seizure is incident to an arrest or search under a search warrant or an inspection
1581 under an administrative inspection warrant;

1582 (ii) the property subject to seizure has been the subject of a prior judgment in favor of
1583 the state in a criminal injunction or forfeiture proceeding under this title;

1584 (iii) the peace officer or other person authorized by law has probable cause to believe
1585 that the property is directly or indirectly dangerous to health or safety; or

1586 (iv) the peace officer or other person authorized by law has probable cause to believe
1587 that the property is being or has been used, intended to be used, held, or kept in violation of this
1588 title or commission rules.

1589 (3) If property is seized pursuant to a search or administrative warrant, a peace officer
1590 or other person authorized by law shall comply with the requirements of the Utah Rules of
1591 Criminal Procedure.

1592 (4) (a) If property is seized without process:

1593 (i) the peace officer or other person authorized by law shall make a return of the peace
1594 officer's or person's acts without delay directly to the district court of the county in which the
1595 property was located; and

1596 (ii) the district court shall have jurisdiction of the case.

1597 (b) A return shall describe:

1598 (i) the property seized;

1599 (ii) the place where the property is seized; and

1600 (iii) any person in apparent possession of the property.

1601 (c) A peace officer or other person described in Subsection (4)(a) shall promptly:

1602 (i) deliver a written inventory of anything seized to any person in apparent authority at
1603 the premises where the seizure is made; or

1604 (ii) post a written inventory of anything seized in a conspicuous place at the premises.

1605 (d) A written inventory under this Subsection (4) shall state the place where the
1606 property is being held.

1607 (5) Property taken or detained under this section is not repleviable but is considered in
1608 custody of the law enforcement agency making the seizure subject only to the orders of the
1609 court or the official having jurisdiction. When property is seized under this title, the
1610 appropriate person or agency may:

1611 (a) place the property under seal;

1612 (b) remove the property to a place designated by:

1613 (i) the person or agency; or

1614 (ii) the warrant under which the property is seized; or

1615 (c) take custody of the property and remove the property to an appropriate location for
1616 disposition in accordance with law.

1617 (6) When property is subject to forfeiture under this section, a proceeding shall be
1618 instituted in accordance with Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.

1619 (7) When property is ordered forfeited under Title 24, Chapter 1, Utah Uniform
1620 Forfeiture Procedures Act, by a finding of a court that no person is entitled to recover the
1621 property, the property, if an alcohol [~~package~~] container or product used as a [~~package~~]
1622 container for an alcoholic product, shall be disposed of as follows:

1623 (a) An alcoholic product shall be sold in accordance with Section 24-1-17 if the
1624 alcoholic product is:

1625 (i) unadulterated, pure, and free from crude, unrectified, or impure form of ethylic
1626 alcohol, or any other deleterious substance or liquid; and

1627 (ii) otherwise in saleable condition.

1628 (b) If the alcoholic product is impure, adulterated, or otherwise unfit for sale, the
1629 department shall destroy the alcoholic product and its [~~package~~] container under competent
1630 supervision.

1631 (8) Except when otherwise provided, a fine or forfeiture levied under this title shall be
1632 paid to the county treasurer of the county in which the prosecution occurred.

1633 Section 20. Section **32B-4-208 (Effective 07/01/11)** is amended to read:

1634 **32B-4-208 (Effective 07/01/11). Nuisances.**

1635 (1) As used in this section, "nuisance" means:

1636 (a) a room, house, building, structure, place, aircraft, vehicle, vessel, or other
1637 conveyance where an alcoholic product is possessed, purchased, used, kept, stored, sold,

1638 offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped,
1639 carried, transported, or adulterated in violation of this title; or

1640 (b) an alcoholic product, [~~package~~] container, equipment, or other property kept or
1641 used in maintaining an item or property described in Subsection (1)(a).

1642 (2) A person who maintains or assists in maintaining a nuisance is guilty of a class B
1643 misdemeanor.

1644 (3) If a person has knowledge that, or has reason to believe that the person's room,
1645 house, building, structure, place, aircraft, vehicle, vessel, or other conveyance is occupied or
1646 used as a nuisance, or allows it to be occupied or used as a nuisance, the nuisance property is
1647 subject to a lien for and may be sold to pay the fines and costs assessed against the person
1648 guilty of the common nuisance. This lien may be enforced by action in a court having
1649 jurisdiction.

1650 (4) (a) The department shall bring an action to abate a nuisance in the name of the
1651 department in a court having jurisdiction.

1652 (b) An action brought under this Subsection (4) is an action in equity.

1653 (c) The department may not be required to post a bond to initiate an action under this
1654 Subsection (4).

1655 (d) A court may issue:

1656 (i) if it appears that a nuisance exists, a temporary writ of injunction restraining the
1657 defendant from conducting or permitting the continuance of the nuisance until the conclusion
1658 of the trial; and

1659 (ii) an order restraining the defendant and any other person from removing or
1660 interfering with an alcoholic product, [~~package~~] container, equipment, or other property kept or
1661 used in violation of this title or commission rules.

1662 (e) In an action to abate or enjoin a nuisance, the court need not find that the property
1663 involved is being unlawfully used at the time of the hearing.

1664 (f) On finding that a material allegation of a petition or complaint is true, the court
1665 shall order that an alcoholic product may not be possessed, purchased, used, kept, stored, sold,
1666 offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped,
1667 carried, transported, or adulterated, in any portion of the room, house, building, structure,
1668 place, aircraft, vehicle, vessel, or other conveyance.

1669 (g) Upon judgment of a court ordering abatement of the nuisance, the court may order
1670 that the premises or conveyance in question may not be occupied or used for any purpose for
1671 one year, except under Subsection (4)(h).

1672 (h) A court may permit premises or conveyance described in Subsection (4)(g) to be
1673 occupied or used:

1674 (i) if its owner, lessee, tenant, or occupant gives bond in an appropriate amount with
1675 sufficient surety, approved by the court, payable to the state;

1676 (ii) on the condition that an alcoholic product will not be present in or on the premises
1677 or the conveyance; and

1678 (iii) on the condition that payment of the fines, costs, and damages assessed for
1679 violation of this title or commission rules will be made.

1680 (5) If a tenant of the premises uses the premises or any part of the premises in
1681 maintaining a nuisance, or knowingly permits use by another, the lease is void and the right to
1682 possession reverts to the owner or lessor who is entitled to the remedy provided by law for
1683 forcible detention of the premises.

1684 (6) A person is guilty of assisting in maintaining a nuisance as provided in Section
1685 76-10-804, if that person:

1686 (a) knowingly permits a building or premises owned or leased by the person, or under
1687 the person's control, or any part of a building or premises, to be used in maintaining a nuisance;
1688 or

1689 (b) after being notified in writing by a prosecutor or other citizen of the unlawful use,
1690 fails to take all proper measures to:

1691 (i) abate the nuisance; or

1692 (ii) remove the one or more persons from the premises.

1693 Section 21. Section **32B-4-406 (Effective 07/01/11)** is amended to read:

1694 **32B-4-406 (Effective 07/01/11). Unlawful sale, offer for sale, or furnishing of an**
1695 **alcoholic product.**

1696 (1) Except as provided in Subsection (2):

1697 (a) a person may not sell, offer for sale, or furnish beer to the general public in a
1698 ~~[package]~~ container that exceeds two liters; and

1699 (b) a person may not purchase or possess beer in a ~~[package]~~ container that exceeds

1700 two liters.

1701 (2) (a) A retail licensee may sell, offer for sale, or furnish beer on draft subject to the
1702 requirements of Section 32B-5-304.

1703 (b) A retail licensee may purchase or possess beer in a [~~package~~] container that exceeds
1704 two liters to be dispensed on draft for consumption subject to the requirements of Section
1705 32B-5-304.

1706 (c) A beer wholesaler licensee may sell, offer for sale, or furnish beer in a [~~package~~]
1707 container that exceeds two liters to a retail licensee described in Subsection (2)(a).

1708 (3) On or after October 1, 2011:

1709 (a) A person may not sell, offer for sale, or furnish heavy beer in a container that
1710 exceeds two liters.

1711 (b) A person may not purchase or possess heavy beer in a container that exceeds two
1712 liters.

1713 Section 22. Section **32B-4-420 (Effective 07/01/11)** is amended to read:

1714 **32B-4-420 (Effective 07/01/11). Unlawful adulteration.**

1715 (1) For purposes of this section, "tamper" means to do one or more of the following to
1716 the contents of a [~~package~~] container:

- 1717 (a) fortify;
- 1718 (b) adulterate;
- 1719 (c) contaminate;
- 1720 (d) dilute;
- 1721 (e) change its character or purity; or
- 1722 (f) otherwise change.

1723 (2) A person may not, for any purpose, mix or allow to be mixed with an alcoholic
1724 product sold or supplied by the person as a beverage any of the following:

- 1725 (a) a drug;
- 1726 (b) methylic alcohol;
- 1727 (c) a crude, unrectified, or impure form of ethylic alcohol; or
- 1728 (d) another deleterious substance.

1729 (3) (a) The following may not engage in an act listed in Subsection (3)(b):

- 1730 (i) a package agent;

- 1731 (ii) a retail licensee;
- 1732 (iii) a permittee;
- 1733 (iv) a beer wholesaler licensee;
- 1734 (v) a liquor warehouser licensee;
- 1735 (vi) a supplier; or
- 1736 (vii) an importer.
- 1737 (b) A person listed in Subsection (3)(a) may not:
- 1738 (i) tamper with the contents of a [~~package~~] container of alcoholic product as originally
- 1739 marketed by a manufacturer;
- 1740 (ii) refill or partly refill with any substance the contents of an original [~~package~~]
- 1741 container of alcoholic product as originally marketed by a manufacturer;
- 1742 (iii) misrepresent the brand of an alcoholic product sold or offered for sale; or
- 1743 (iv) sell or furnish a brand of alcoholic product that is not the same as that ordered by a
- 1744 purchaser without first advising the purchaser of the difference.
- 1745 Section 23. Section **32B-4-705 (Effective 07/01/11)** is amended to read:
- 1746 **32B-4-705 (Effective 07/01/11). Exclusions from tied house prohibitions.**
- 1747 (1) Notwithstanding Subsection 32B-4-704(3), a thing of value may be furnished by an
- 1748 industry member to a retailer under the conditions and within the limitations prescribed in:
- 1749 (a) this section; and
- 1750 (b) the applicable federal laws cited in this section.
- 1751 (2) The following may be furnished by an industry member:
- 1752 (a) a product display as provided in 27 C.F.R. Sec. 6.83;
- 1753 (b) point of sale advertising material or a consumer advertising specialty as provided in
- 1754 27 C.F.R. Sec. 6.84;
- 1755 (c) a thing of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;
- 1756 (d) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;
- 1757 (e) combination packaging as provided in 27 C.F.R. Sec. 6.93;
- 1758 (f) an educational seminar as provided in 27 C.F.R. Sec. 6.94;
- 1759 (g) a consumer promotion as provided in 27 C.F.R. Sec. 6.96;
- 1760 (h) an advertising service as provided in 27 C.F.R. Sec. 6.98;
- 1761 (i) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;

- 1762 (j) merchandise as provided in 27 C.F.R. Sec. 6.101; and
1763 (k) an outside sign as provided in 27 C.F.R. Sec. 6.102.
1764 (3) The following exceptions provided in federal law are not applicable:
1765 (a) the exception for a sample as provided in 27 C.F.R. Sec. 6.91;
1766 (b) the exception for a consumer tasting or sampling at a retail establishment as
1767 provided in 27 C.F.R. Sec. 6.95; and
1768 (c) the exception for participation in a retailer association activity provided in 27
1769 C.F.R. Sec. 6.100.
1770 (4) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall maintain
1771 a record:
1772 (a) of an item furnished to a retailer;
1773 (b) on the premises of the industry member; and
1774 (c) for a three-year period.
1775 (5) A sample of liquor may be provided to the department under the following
1776 conditions:
1777 (a) With the department's permission, an industry member may submit a department
1778 sample to the department for product testing, analysis, and sampling.
1779 (b) No more than two department samples of a particular type, vintage, and production
1780 lot of a particular branded product may be submitted to the department for department testing,
1781 analysis, and sampling within a consecutive 120-day period.
1782 (c) (i) A department sample may not exceed 1 liter.
1783 (ii) Notwithstanding Subsection (5)(c)(i), a department sample of the following may
1784 not exceed 1.5 liters unless that exact alcoholic product is only commercially packaged in a
1785 larger size, not to exceed 5 liters:
1786 (A) wine;
1787 (B) heavy beer; or
1788 (C) a flavored malt beverage.
1789 (d) A department sample submitted to the department:
1790 (i) shall be shipped prepaid by the industry member by common carrier; and
1791 (ii) may not be shipped by United States mail directly to the department's central
1792 administrative warehouse office.

1793 (e) A department sample may not be shipped to any other location within the state.

1794 (f) The industry member shall submit with a department sample submitted to the

1795 department a letter from the industry member that clearly:

1796 (i) identifies the product as a "department sample"; and

1797 (ii) states the FOB case price of the product.

1798 (g) (i) The department may transfer a listed item from current stock:

1799 (A) for use as a comparison control sample; or

1800 (B) to verify product spoilage as considered appropriate.

1801 (ii) The department shall charge back a sample transferred under this Subsection (5)(g)

1802 to the respective industry member.

1803 (h) The department shall:

1804 (i) account for, label, and record a department sample received or transferred;

1805 (ii) account for the department sample's disposition; and

1806 (iii) maintain a record of the sample and its disposition for a two-year period.

1807 (i) The department shall affix to each [~~package~~] container of a department sample a

1808 label clearly identifying the product as a "department sample."

1809 (j) The department shall dispose of a department sample delivered to the department or

1810 transferred from the department's current stock in one of the following ways as chosen by the

1811 department:

1812 (i) test and analyze the department sample, with the remaining contents destroyed

1813 under controlled and audited conditions established by the department;

1814 (ii) destroy the entire contents of the department sample under controlled and audited

1815 conditions established by the department; or

1816 (iii) add the department sample to the inventory of the department for sale to the

1817 public.

1818 (k) A person other than an authorized department official may not be in possession of a

1819 department sample except as otherwise provided.

1820 (l) The department shall handle a liquor item received by the department from a

1821 supplier that is not designated as a sample by the supplier, but that is an item not specifically

1822 listed on a department purchase order, in accordance with this Subsection (5).

1823 (m) The department may not use its money to pay freight or charges on a sample or a

1824 liquor item:

1825 (i) shipped to the department by a supplier; and

1826 (ii) not listed on a department purchase order.

1827 (6) A sample of beer may be provided by a beer industry member to a retailer under the

1828 conditions listed in this Subsection (6).

1829 (a) A sample of beer may be provided by an industry member only to a retailer who has

1830 not purchased the brand of beer from that industry member within the last 12 months.

1831 (b) For each retailer, the industry member may give not more than three gallons of any

1832 brand of beer, except that if a particular product is not available in a size within the quantity

1833 limitation, an industry member may furnish the next largest size.

1834 (7) An educational seminar may involve an industry member under the conditions

1835 listed in this Subsection (7).

1836 (a) An industry member may provide or participate in an educational seminar:

1837 (i) involving:

1838 (A) the department;

1839 (B) a retailer;

1840 (C) a holder of a scientific or educational special use permit;

1841 (D) another industry member; or

1842 (E) an employee of a person listed in Subsections (7)(a)(i)(A) through (D); and

1843 (ii) regarding a topic such as:

1844 (A) merchandising and product knowledge;

1845 (B) use of equipment; and

1846 (C) a tour of an alcoholic product manufacturing facility.

1847 (b) An industry member may not pay the expenses of or compensate a person who is a

1848 department employee, a retailer, or a permittee for attending a seminar or tour described in

1849 Subsection (7)(a).

1850 (8) (a) A liquor industry member may conduct a tasting of a liquor product of the

1851 industry member:

1852 (i) for the department, at the department's request; and

1853 (ii) for a licensed industry representative, but only at the department's central

1854 administrative warehouse office.

1855 (b) A liquor industry member may only use a department sample or industry
1856 representative sample when conducting a tasting of the industry member's liquor product.

1857 (c) A beer industry member may conduct a tasting of a beer product for a beer retailer
1858 either at:

1859 (i) the industry member's premises; or

1860 (ii) a retail establishment.

1861 (d) Except to the extent authorized by commission rule, an alcoholic product industry
1862 member may not conduct tasting or sampling activities with:

1863 (i) a retailer; or

1864 (ii) a member of the general public.

1865 (9) A beer industry member may participate in a beer retailer association activity to the
1866 extent authorized by 27 C.F.R. Sec. 6.100.

1867 (10) (a) An industry member may contribute to a charitable, civic, religious, fraternal,
1868 educational, or community activity, except the contribution may not be given to influence a
1869 retailer in the selection of a product that may be sold at the activity.

1870 (b) An industry member or retailer violates this Subsection (10) if:

1871 (i) the industry member's contribution influences, directly or indirectly, the retailer in
1872 the selection of a product; and

1873 (ii) a competitor's product is excluded in whole or in part from sale at the activity.

1874 (11) (a) An industry member may lease or furnish equipment listed in Subsection
1875 (11)(b) to a retailer if:

1876 (i) the equipment is leased or furnished for a special event;

1877 (ii) a reasonable rental or service fee is charged for the equipment; and

1878 (iii) the period for which the equipment is leased or furnished does not exceed 30 days.

1879 (b) This Subsection (11) applies to the following equipment:

1880 (i) a picnic pump;

1881 (ii) a cold plate;

1882 (iii) a tub;

1883 (iv) a keg box;

1884 (v) a refrigerated trailer;

1885 (vi) a refrigerated van; or

- 1886 (vii) a refrigerated draft system.
- 1887 (12) (a) A liquor industry member may assist the department in:
- 1888 (i) ordering, shipping, and delivering merchandise;
- 1889 (ii) new product notification;
- 1890 (iii) listing and delisting information;
- 1891 (iv) price quotations;
- 1892 (v) product sales analysis;
- 1893 (vi) shelf management; and
- 1894 (vii) an educational seminar.
- 1895 (b) (i) A liquor industry member may, to acquire a new listing:
- 1896 (A) solicit an order from the department; and
- 1897 (B) submit to the department a sample of the liquor industry member's products under
- 1898 Subsection (5) and price lists.
- 1899 (ii) (A) An industry member is confined to the customer areas when the industry
- 1900 member visits a state store or package agency unless otherwise approved.
- 1901 (B) An industry member is confined to the office area of a state warehouse when the
- 1902 industry member visits a state warehouse unless otherwise approved.
- 1903 (13) A beer industry member may assist a beer retailer in:
- 1904 (a) ordering, shipping, and delivering beer merchandise;
- 1905 (b) new product notification;
- 1906 (c) listing and delisting information;
- 1907 (d) price quotations;
- 1908 (e) product sales analysis;
- 1909 (f) shelf management; and
- 1910 (g) an educational seminar.
- 1911 (14) A beer industry member may, to acquire a new listing:
- 1912 (a) solicit an order from a beer retailer; and
- 1913 (b) submit to a beer retailer a sample of the beer industry member's beer products under
- 1914 Subsection (5) and price lists.
- 1915 Section 24. Section **32B-5-301 (Effective 07/01/11)** is amended to read:
- 1916 **32B-5-301 (Effective 07/01/11). General operational requirements.**

1917 (1) (a) A retail licensee and staff of a retail licensee shall comply with this title and the
1918 rules of the commission, including the relevant part under Chapter 6, Specific Retail License
1919 Act, for the specific type of retail license.

1920 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1921 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1922 (i) a retail licensee;

1923 (ii) individual staff of a retail licensee; or

1924 (iii) both a retail licensee and staff of the retail licensee.

1925 (2) (a) If there is a conflict between this part and the relevant part under Chapter 6,
1926 Specific Retail License Act, for the specific type of retail license, the relevant part under
1927 Chapter 6 governs.

1928 (b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail
1929 licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product
1930 specifically authorized by the relevant part under Chapter 6, Specific Retail License Act.

1931 (c) Notwithstanding that this part or the relevant part under Chapter 6, Specific Retail
1932 License Act, refers to "retail licensee," staff of the retail licensee is subject to the same
1933 requirement or prohibition.

1934 (3) (a) A retail licensee shall display in a prominent place in the licensed premises[
1935 ~~(a)~~] the retail license that is issued by the department[~~;~~ and].

1936 (b) A retail licensee shall display in a prominent place a sign in large letters [stating:
1937 "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted
1938 aggressively in Utah."] that consists of text in the following order:

1939 (i) a header that reads: "WARNING";

1940 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
1941 can cause birth defects and permanent brain damage for the child.";

1942 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
1943 [insert most current toll-free number] with questions or for more information.";

1944 (iv) a header that reads: "WARNING"; and

1945 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
1946 serious crime that is prosecuted aggressively in Utah."

1947 (c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different

1948 font style than the text described in Subsections (3)(b)(iv) and (v).

1949 (ii) The warning statements in the sign described in Subsection (3)(b) shall be in the
1950 same font size.

1951 (d) The Department of Health shall work with the commission and department to
1952 facilitate consistency in the format of a sign required under this section.

1953 (4) A retail licensee may not on the licensed premises:

1954 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1955 Chapter 10, Part 11, Gambling;

1956 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1957 Part 11, Gambling; or

1958 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1959 the risking of something of value for a return or for an outcome when the return or outcome is
1960 based upon an element of chance, excluding the playing of an amusement device that confers
1961 only an immediate and unrecorded right of replay not exchangeable for value.

1962 (5) A retail licensee may not knowingly allow a person on the licensed premises to, in
1963 violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
1964 Paraphernalia Act:

1965 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
1966 58-37-2; or

1967 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
1968 Section 58-37a-3.

1969 (6) Upon the presentation of credentials, at any time during which a retail licensee is
1970 open for the transaction of business, the retail licensee shall immediately:

1971 (a) admit a commissioner, authorized department employee, or law enforcement officer
1972 to the retail licensee's premises; and

1973 (b) permit, without hindrance or delay, the person described in Subsection (6)(a) to
1974 inspect completely:

1975 (i) the entire premises of the retail licensee; and

1976 (ii) the records of the retail licensee.

1977 (7) An individual may not consume an alcoholic product on the licensed premises of a
1978 retail licensee on any day during the period:

1979 (a) beginning one hour after the time of day that the period during which a retail
1980 licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises
1981 begins; and

1982 (b) ending at the time specified in the relevant part under Chapter 6, Specific Retail
1983 License Act, for the type of retail license when the retail licensee may first sell, offer for sale,
1984 or furnish an alcoholic product on the licensed premises on that day.

1985 Section 25. Section **32B-5-304 (Effective 07/01/11)** is amended to read:

1986 **32B-5-304 (Effective 07/01/11). Portions in which alcoholic product may be sold.**

1987 (1) A retail licensee may sell, offer for sale, or furnish a primary spirituous liquor only
1988 in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated
1989 metered dispensing system approved by the department in accordance with commission rules
1990 adopted under this title, except that:

1991 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1992 system if used as a secondary flavoring ingredient in a beverage subject to the following
1993 requirements:

1994 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1995 a primary spirituous liquor;

1996 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

1997 (iii) the retail licensee shall designate a location where flavorings are stored on the
1998 floor plan submitted to the department; and

1999 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

2000 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
2001 system if used:

2002 (i) as a flavoring on a dessert; and

2003 (ii) in the preparation of a flaming food dish, drink, or dessert; and

2004 (c) a patron may have no more than 2.5 ounces of spirituous liquor at a time.

2005 (2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an
2006 individual portion that does not exceed 5 ounces per glass or individual portion.

2007 (ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to
2008 a patron in more than one glass if the total amount of wine does not exceed 5 ounces.

2009 (b) (i) A retail licensee may sell, offer for sale, or furnish wine in a [package] container

2010 not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

2011 (ii) A retail licensee may sell, offer for sale, or furnish wine in a ~~[package]~~ container
2012 not to exceed 750 milliliters at a price fixed by the commission to a table of less than four
2013 persons.

2014 (3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original
2015 ~~[package]~~ container at a price fixed by the commission, except that the original ~~[package]~~
2016 container may not exceed one liter.

2017 (4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an
2018 original ~~[package]~~ container at a price fixed by the commission, except that the original
2019 ~~[package]~~ container may not exceed one liter.

2020 (5) (a) Subject to Subsection (5)(b), a retail licensee may sell, offer for sale, or furnish
2021 beer for on-premise consumption:

2022 (i) in an open original ~~[package]~~ container; and

2023 (ii) in a ~~[package]~~ container on draft.

2024 (b) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a):

2025 (i) in a size of ~~[package]~~ container that exceeds two liters; or

2026 (ii) to an individual patron in a size of ~~[package]~~ container that exceeds one liter.

2027 Section 26. Section **32B-5-305 (Effective 07/01/11)** is amended to read:

2028 **32B-5-305 (Effective 07/01/11). Pricing of alcoholic product -- Other charge.**

2029 (1) (a) A retail licensee may sell, offer for sale, or furnish liquor only at a price fixed by
2030 the commission.

2031 (b) A retail licensee may not sell ~~[liquor]~~ an alcoholic product at a discount price on
2032 any date or at any time.

2033 (2) (a) A retail licensee may not sell, offer for sale, or furnish an alcoholic product at
2034 less than the cost of the alcoholic product to the retail licensee.

2035 (b) A retail licensee may not sell, offer for sale, or furnish an alcoholic product at a
2036 special or reduced price that encourages over consumption or intoxication.

2037 (c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product at a
2038 special or reduced price for only certain hours of the retail licensee's business day, such as a
2039 "happy hour."

2040 (d) A retail licensee may not sell, offer for sale, or furnish more than one alcoholic

2041 product for the price of a single alcoholic product.

2042 (e) A retail licensee may not sell, offer for sale, or furnish an indefinite or unlimited
2043 number of alcoholic products during a set period for a fixed price.

2044 (f) A retail licensee may not engage in a promotion involving or offering a free
2045 alcoholic product to the general public.

2046 (3) As authorized by commission rule, a retail licensee may charge a patron for
2047 providing:

2048 (a) a service related to liquor purchased at the licensed premises; or

2049 (b) wine service performed for wine carried in by a patron in accordance with Section
2050 32B-5-307.

2051 Section 27. Section **32B-5-307 (Effective 07/01/11)** is amended to read:

2052 **32B-5-307 (Effective 07/01/11). Bringing onto or removing alcoholic product**
2053 **from premises.**

2054 (1) Except as provided in Subsection (3):

2055 (a) A person may not bring onto the licensed premises of a retail licensee an alcoholic
2056 product for on-premise consumption.

2057 (b) A retail licensee may not allow a person to:

2058 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or

2059 (ii) consume an alcoholic product brought onto the licensed premises by a person other
2060 than the retail licensee.

2061 (2) Except as provided in Subsection (3):

2062 (a) A person may not carry from a licensed premises of a retail licensee an open
2063 [package] container that:

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

2065 (ii) contains an alcoholic product.

2066 (b) A retail licensee may not permit a patron to carry from the licensed premises an
2067 open [package] container described in Subsection (2)(a).

2068 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for
2069 on-premise consumption if:

2070 (i) permitted by the retail licensee; and

2071 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

2072 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the
2073 patron shall deliver the bottled wine to a server or other representative of the retail licensee
2074 upon entering the licensed premises.

2075 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a
2076 wine service for a bottled wine carried onto the licensed premises in accordance with this
2077 Subsection (3).

2078 (d) A patron may remove from a licensed premises the unconsumed contents of a bottle
2079 of wine purchased in the licensed premises, or brought onto the licensed premises in
2080 accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

2081 Section 28. Section **32B-5-309 (Effective 07/01/11)** is amended to read:

2082 **32B-5-309 (Effective 07/01/11). Ceasing operation.**

2083 (1) ~~[(a)]~~ Except as provided in Subsection ~~[(1)(b)]~~ (8), a retail licensee may not close
2084 or cease operation for a period longer than 240 hours, unless:

2085 ~~[(i)]~~ (a) the retail licensee notifies the department in writing at least seven days before
2086 the day on which the retail licensee closes or ceases operation; and

2087 ~~[(ii)]~~ (b) the closure or cessation of operation is first approved by the department.

2088 ~~[(b)]~~ (2) Notwithstanding Subsection (1)~~[(a)]~~, in the case of emergency closure, a retail
2089 licensee shall immediately notify the department by telephone.

2090 ~~[(c)-(i)]~~ (3) (a) The department may authorize a closure or cessation of operation of a
2091 retail licensee for a period not to exceed 60 days.

2092 ~~[(ii)]~~ (b) The department may extend the initial period an additional 30 days upon:

2093 ~~[(A)]~~ (i) written request of the retail licensee; and

2094 ~~[(B)]~~ (ii) a showing of good cause.

2095 ~~[(d)]~~ (4) A closure or cessation of operation may not exceed a total of 90 days without
2096 commission approval.

2097 ~~[(e)]~~ (5) A notice required under this ~~[Subsection (1)]~~ section shall include:

2098 ~~[(i)]~~ (a) the dates of closure or cessation of operation;

2099 ~~[(ii)]~~ (b) the reason for the closure or cessation of operation; and

2100 ~~[(iii)]~~ (c) the date on which the retail licensee will reopen or resume operation.

2101 ~~[(f)]~~ (6) Failure of a retail licensee to provide notice and to obtain department approval
2102 before closure or cessation of operation results in an automatic forfeiture of:

2103 [(i)] (a) the retail license; and

2104 [(ii)] (b) the unused portion of the retail license fee for the remainder of the retail

2105 license year effective immediately.

2106 [(g)] (7) Failure of a retail licensee to reopen or resume operation by the approved date

2107 results in an automatic forfeiture of:

2108 [(i)] (a) the retail license; and

2109 [(ii)] (b) the unused portion of the retail license fee for the remainder of the retail

2110 license year.

2111 [~~(h) This Subsection (1)~~]

2112 (8) This section does not apply to:

2113 [(i)] (a) an on-premise beer retailer who is not a tavern; or

2114 [(ii)] (b) an airport lounge licensee.

2115 [(2) A retail licensee may not transfer a retail license from one location to another

2116 location, without prior written approval of the commission.]

2117 [(3) (a) A person, having been issued a retail license may not sell, transfer, assign,

2118 exchange, barter, give, or attempt in any way to dispose of the retail license to another person

2119 whether for monetary gain or not.]

2120 [(b) A retail license has no monetary value for any type of disposition.]

2121 Section 29. Section **32B-6-102 (Effective 07/01/11)** is amended to read:

2122 **32B-6-102 (Effective 07/01/11). Definitions.**

2123 [As used in this chapter:]

2124 [(1) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a

2125 full-service restaurant licensee or limited-service restaurant licensee that:]

2126 [(i) as of May 11, 2009, has:]

2127 [(A) patron seating at the bar structure;]

2128 [(B) a partition at one or more locations on the bar structure that is along:]

2129 [(F) the width of the bar structure; or]

2130 [(H) the length of the bar structure; and]

2131 [(C) facilities for the dispensing or storage of an alcoholic product:]

2132 [(F) on the portion of the bar structure that is separated by the partition described in

2133 Subsection (1)(a)(i)(B); or]

2134 ~~[(H) if the partition is described in Subsection (1)(a)(i)(B)(H), adjacent to the bar~~
2135 ~~structure in a manner visible to a patron sitting at the bar structure;]~~
2136 ~~[(ii) is not operational as of May 12, 2009, if:]~~
2137 ~~[(A) a person applying for a full-service restaurant license or limited-service restaurant~~
2138 ~~license:]~~
2139 ~~[(F) has as of May 12, 2009, a building permit to construct the restaurant;]~~
2140 ~~[(H) is as of May 12, 2009, actively engaged in the construction of the restaurant, as~~
2141 ~~defined by rule made by the commission; and]~~
2142 ~~[(HH) is issued the full-service restaurant license or limited-service restaurant license by~~
2143 ~~no later than December 31, 2009; and]~~
2144 ~~[(B) once constructed, the licensed premises has a bar structure described in Subsection~~
2145 ~~(1)(a)(i);]~~
2146 ~~[(iii) as of May 12, 2009, has no patron seating at the bar structure; or]~~
2147 ~~[(iv) is not operational as of May 12, 2009, if:]~~
2148 ~~[(A) a person applying for a full-service restaurant license or limited-service restaurant~~
2149 ~~license:]~~
2150 ~~[(F) has as of May 12, 2009, a building permit to construct the restaurant;]~~
2151 ~~[(H) is as of May 12, 2009, actively engaged in the construction of the restaurant, as~~
2152 ~~defined by rule made by the commission; and]~~
2153 ~~[(HH) is issued a full-service restaurant license or limited-service restaurant license by~~
2154 ~~no later than December 31, 2009; and]~~
2155 ~~[(B) once constructed, the licensed premises has a bar structure with no patron seating.]~~
2156 ~~[(b) "Grandfathered bar structure" does not include a grandfathered bar structure~~
2157 ~~described in Subsection (1)(a) on or after the day on which a restaurant remodels the~~
2158 ~~grandfathered bar structure, as defined by rule made by the commission.]~~
2159 ~~[(c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered~~
2160 ~~bar structure notwithstanding whether a restaurant undergoes a change of ownership.]~~
2161 ~~[(2) "Seating grandfathered bar structure" means a grandfathered bar structure~~
2162 ~~described in Subsection (1)(a)(i) or (ii).]~~
2163 Reserved
2164 Section 30. Section **32B-6-202 (Effective 07/01/11)** is amended to read:

2165 **32B-6-202 (Effective 07/01/11). Definitions.**

2166 [Reserved]

2167 As used in this part:

2168 (1) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a

2169 full-service restaurant licensee that:

2170 (i) as of May 11, 2009, has:

2171 (A) patron seating at the bar structure;

2172 (B) a partition at one or more locations on the bar structure that is along:

2173 (I) the width of the bar structure; or

2174 (II) the length of the bar structure; and

2175 (C) facilities for the dispensing or storage of an alcoholic product:

2176 (I) on the portion of the bar structure that is separated by the partition described in

2177 Subsection (1)(a)(i)(B); or

2178 (II) if the partition as described in Subsection (1)(a)(i)(B)(II) is adjacent to the bar

2179 structure in a manner visible to a patron sitting at the bar structure;

2180 (ii) is not operational as of May 12, 2009, if:

2181 (A) a person applying for a full-service restaurant license:

2182 (I) has as of May 12, 2009, a building permit to construct the restaurant;

2183 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as

2184 defined by rule made by the commission; and

2185 (III) is issued the full-service restaurant license by no later than December 31, 2009;

2186 and

2187 (B) once constructed, the licensed premises has a bar structure described in Subsection

2188 (1)(a)(i);

2189 (iii) as of May 12, 2009, has no patron seating at the bar structure; or

2190 (iv) is not operational as of May 12, 2009, if:

2191 (A) a person applying for a full-service restaurant license:

2192 (I) has as of May 12, 2009, a building permit to construct the restaurant;

2193 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as

2194 defined by rule made by the commission; and

2195 (III) is issued a full-service restaurant license by no later than December 31, 2009; and

2196 (B) once constructed, the licensed premises has a bar structure with no patron seating.

2197 (b) "Grandfathered bar structure" does not include a grandfathered bar structure

2198 described in Subsection (1)(a) on or after the day on which a restaurant remodels the

2199 grandfathered bar structure, as defined by rule made by the commission.

2200 (c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered

2201 bar structure notwithstanding whether a restaurant undergoes a change of ownership.

2202 (2) "Seating grandfathered bar structure" means:

2203 (a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or

2204 (b) a bar structure grandfathered under Section 32B-6-409.

2205 Section 31. Section **32B-6-203 (Effective 07/01/11)** is amended to read:

2206 **32B-6-203 (Effective 07/01/11). Commission's power to issue full-service**

2207 **restaurant license.**

2208 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of

2209 an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a

2210 full-service restaurant license from the commission in accordance with this part.

2211 (2) The commission may issue a full-service restaurant license to establish full-service

2212 restaurant licensed premises at places and in numbers the commission considers proper for the

2213 storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises

2214 operated as a full-service restaurant.

2215 (3) Subject to Section 32B-1-201:

2216 [~~3~~] (a) The commission may not issue a total number of full-service restaurant

2217 licenses that at any time exceeds the number determined by dividing the population of the state

2218 by [~~5,200~~] 4,925.

2219 (b) The commission may issue a seasonal full-service restaurant license in accordance

2220 with Section 32B-5-206.

2221 (c) (i) If the location, design, and construction of a hotel may require more than one

2222 full-service restaurant sales location within the hotel to serve the public convenience, the

2223 commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as

2224 many as three full-service restaurant locations within the hotel under one full-service restaurant

2225 license if:

2226 (A) the hotel has a minimum of 150 guest rooms; and

2227 (B) the locations under the full-service restaurant license are:

2228 (I) within the same hotel; and

2229 (II) on premises that are managed or operated, and owned or leased, by the full-service
2230 restaurant licensee.

2231 (ii) A facility other than a hotel shall have a separate full-service restaurant license for
2232 each full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.

2233 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a
2234 full-service restaurant license for premises that do not meet the proximity requirements of
2235 Section 32B-1-202.

2236 (b) With respect to the premises of a full-service restaurant license issued by the
2237 commission that undergoes a change of ownership, the commission shall waive or vary the
2238 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
2239 full-service restaurant license to the new owner of the premises if:

2240 (i) when a full-service restaurant license was issued to a previous owner, the premises
2241 met the proximity requirements of Subsection 32B-1-202(2);

2242 (ii) the premises has had a full-service restaurant license at all times since the
2243 full-service restaurant license described in Subsection (4)(b)(i) was issued without a variance;
2244 and

2245 (iii) the community location was located within the proximity requirements of
2246 Subsection 32B-1-202(2) after the day on which the full-service restaurant license described in
2247 Subsection (4)(b)(i) was issued.

2248 Section 32. Section **32B-6-204 (Effective 07/01/11)** is amended to read:

2249 **32B-6-204 (Effective 07/01/11). Specific licensing requirements for full-service**
2250 **restaurant license.**

2251 (1) To obtain a full-service restaurant license a person shall comply with Chapter 5,
2252 Part 2, Retail Licensing Process.

2253 (2) (a) A full-service restaurant license expires on October 31 of each year.

2254 (b) To renew a person's full-service restaurant license, a person shall comply with the
2255 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
2256 September 30.

2257 (3) (a) The nonrefundable application fee for a full-service restaurant license is [~~\$250~~]

2258 \$300.

2259 (b) The initial license fee for a full-service restaurant license is [~~\$1,750~~] \$2,000.

2260 (c) The renewal fee for a full-service restaurant license is in the following amount:

2261 Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
2262 under \$5,000	[\$750] <u>\$850</u>
2263 equals or exceeds \$5,000 but less than \$10,000	[\$900] <u>\$1,050</u>
2264 equals or exceeds \$10,000 but less than \$25,000	[\$1,250] <u>\$1,500</u>
2265 equals or exceeds \$25,000	[\$1,500] <u>\$1,750</u>

2266 (4) The bond amount required for a full-service restaurant license is the penal sum of
2267 \$10,000.

2268 Section 33. Section **32B-6-205 (Effective 07/01/11)** is amended to read:

2269 **32B-6-205 (Effective 07/01/11). Specific operational requirements for a**
2270 **full-service restaurant license.**

2271 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2272 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
2273 shall comply with this section.

2274 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2275 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 2276 (i) a full-service restaurant licensee;
- 2277 (ii) individual staff of a full-service restaurant licensee; or
- 2278 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
2279 licensee.

2280 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant
2281 licensee shall display in a prominent place in the restaurant a list of the types and brand names
2282 of liquor being furnished through the full-service restaurant licensee's calibrated metered
2283 dispensing system.

2284 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee
2285 shall store an alcoholic product in a storage area described in Subsection (12)(a).

2286 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
2287 licensee's premises shall make a written beverage tab for each table or group that orders or
2288 consumes an alcoholic product on the premises.

2289 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
2290 alcoholic product ordered or consumed.

2291 (5) A person's willingness to serve an alcoholic product may not be made a condition
2292 of employment as a server with a full-service restaurant licensee.

2293 (6) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish liquor at
2294 the licensed premises on any day during the period that:

2295 (i) begins at midnight; and

2296 (ii) ends at [~~11:59~~] 11:29 a.m.

2297 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
2298 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
2299 except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before
2300 11:30 a.m. on any day.

2301 (7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant
2302 business from the sale of food, which does not include:

2303 (a) mix for an alcoholic product; or

2304 (b) a service charge.

2305 (8) (a) A full-service restaurant may not sell, offer for sale, or furnish an alcoholic
2306 product except in connection with an order for food prepared, sold, and furnished at the
2307 licensed premises.

2308 (b) A full-service restaurant shall maintain on the licensed premises adequate culinary
2309 facilities for food preparation and dining accommodations.

2310 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
2311 more than two alcoholic products of any kind at a time before the patron.

2312 (b) A patron may not have more than one spirituous liquor drink at a time before the
2313 patron.

2314 (c) An individual portion of wine is considered to be one alcoholic product under
2315 Subsection (9)(a).

2316 (10) A patron may consume an alcoholic product only:

2317 (a) at:

2318 (i) the patron's table;

2319 (ii) a counter; or

2320 (iii) a seating grandfathered bar structure; and
2321 (b) where food is served.
2322 (11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2323 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
2324 structure that is not a seating grandfathered bar structure.
2325 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
2326 may:
2327 (i) sit;
2328 (ii) be furnished an alcoholic product; and
2329 (iii) consume an alcoholic product.
2330 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
2331 full-service restaurant licensee may not permit a minor to, and a minor may not:
2332 (i) sit; or
2333 (ii) consume food or beverages.
2334 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed
2335 by a full-service restaurant licensee:
2336 (A) as provided in Subsection 32B-5-308(2); or
2337 (B) to perform maintenance and cleaning services during an hour when the full-service
2338 restaurant licensee is not open for business.
2339 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
2340 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's
2341 premises in which the minor is permitted to be.
2342 (12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee
2343 may dispense an alcoholic product only if:
2344 (a) the alcoholic product is dispensed from:
2345 (i) a grandfathered bar structure;
2346 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
2347 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
2348 12, 2009; or
2349 (iii) an area that is:
2350 (A) separated from an area for the consumption of food by a patron by a solid,

2351 ~~[opaque]~~ translucent, permanent structural barrier such that the facilities for the storage or
2352 dispensing of an alcoholic product are:

2353 (I) not readily visible to a patron; and

2354 (II) not accessible by a patron; and

2355 (B) apart from an area used:

2356 (I) for dining;

2357 (II) for staging; or

2358 (III) as a lobby or waiting area;

2359 (b) the full-service restaurant licensee uses an alcoholic product that is:

2360 (i) stored in an area described in Subsection (12)(a); or

2361 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

2362 (A) immediately before the alcoholic product is dispensed it is in an unopened

2363 ~~[package]~~ container;

2364 (B) the unopened ~~[package]~~ container is taken to an area described in Subsection

2365 (12)(a) before it is opened; and

2366 (C) once opened, the ~~[package]~~ container is stored in an area described in Subsection

2367 (12)(a); and

2368 (c) any instrument or equipment used to dispense alcoholic product is located in an

2369 area described in Subsection (12)(a).

2370 (13) A full-service restaurant licensee may state in a food or alcoholic product menu a

2371 charge or fee made in connection with the sale, service, or consumption of liquor including:

2372 (a) a set-up charge;

2373 (b) a service charge; or

2374 (c) a chilling fee.

2375 Section 34. Section **32B-6-302 (Effective 07/01/11)** is amended to read:

2376 **32B-6-302 (Effective 07/01/11). Definitions.**

2377 ~~[For purposes of this part, wine]~~

2378 As used in this part:

2379 (1) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a
2380 limited-service restaurant licensee that:

2381 (i) as of May 11, 2009, has:

2382 (A) patron seating at the bar structure;
2383 (B) a partition at one or more locations on the bar structure that is along:
2384 (I) the width of the bar structure; or
2385 (II) the length of the bar structure; and
2386 (C) facilities for the dispensing or storage of an alcoholic product:
2387 (I) on the portion of the bar structure that is separated by the partition described in
2388 Subsection (1)(a)(i)(B); or
2389 (II) if the partition as described in Subsection (1)(a)(i)(B)(II) is adjacent to the bar
2390 structure in a manner visible to a patron sitting at the bar structure;
2391 (ii) is not operational as of May 12, 2009, if:
2392 (A) a person applying for a limited-service restaurant license:
2393 (I) has as of May 12, 2009, a building permit to construct the restaurant;
2394 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2395 defined by rule made by the commission; and
2396 (III) is issued the limited-service restaurant license by no later than December 31,
2397 2009; and
2398 (B) once constructed, the licensed premises has a bar structure described in Subsection
2399 (1)(a)(i);
2400 (iii) as of May 12, 2009, has no patron seating at the bar structure; or
2401 (iv) is not operational as of May 12, 2009, if:
2402 (A) a person applying for a limited-service restaurant license:
2403 (I) has as of May 12, 2009, a building permit to construct the restaurant;
2404 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2405 defined by rule made by the commission; and
2406 (III) is issued a limited-service restaurant license by no later than December 31, 2009;
2407 and
2408 (B) once constructed, the licensed premises has a bar structure with no patron seating.
2409 (b) "Grandfathered bar structure" does not include a grandfathered bar structure
2410 described in Subsection (1)(a) on or after the day on which a restaurant remodels the
2411 grandfathered bar structure, as defined by rule made by the commission.
2412 (c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered

2413 bar structure notwithstanding whether a restaurant undergoes a change of ownership.

2414 (2) "Seating grandfathered bar structure" means:

2415 (a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or

2416 (b) a bar structure grandfathered under Section 32B-6-409.

2417 (3) "Wine" includes an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211

2418 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made in the manner of

2419 wine containing not less than 7% and not more than 24% of alcohol by volume:

2420 [~~1~~] (a) sparkling and carbonated wine;

2421 [~~2~~] (b) wine made from condensed grape must;

2422 [~~3~~] (c) wine made from other agricultural products than the juice of sound, ripe

2423 grapes;

2424 [~~4~~] (d) imitation wine;

2425 [~~5~~] (e) compounds sold as wine;

2426 [~~6~~] (f) vermouth;

2427 [~~7~~] (g) cider;

2428 [~~8~~] (h) perry; and

2429 [~~9~~] (i) sake.

2430 Section 35. Section **32B-6-303 (Effective 07/01/11)** is amended to read:

2431 **32B-6-303 (Effective 07/01/11). Commission's power to issue limited-service**
2432 **restaurant license.**

2433 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
2434 wine, heavy beer, or beer on its premises as a limited-service restaurant, the person shall first
2435 obtain a limited-service restaurant license from the commission in accordance with this part.

2436 (2) (a) The commission may issue a limited-service restaurant license to establish
2437 limited-service restaurant licensed premises at places and in numbers the commission considers
2438 proper for the storage, sale, offer for sale, furnishing, and consumption of wine, heavy beer, or
2439 beer on premises operated as a limited-service restaurant.

2440 (b) A person may not sell, offer for sale, furnish, or allow the consumption of the
2441 following on the licensed premises of a limited-service restaurant licensee:

2442 (i) spirituous liquor; or

2443 (ii) a flavored malt beverage.

2444 (3) Subject to Section 32B-1-201:

2445 [~~3~~] (a) The commission may not issue a total number of limited-service restaurant
2446 licenses that at any time exceeds the number determined by dividing the population of the state
2447 by [~~9,300~~] 8,373.

2448 (b) The commission may issue a seasonal limited-service restaurant license in
2449 accordance with Section 32B-5-206.

2450 (c) (i) If the location, design, and construction of a hotel may require more than one
2451 limited-service restaurant sales location within the hotel to serve the public convenience, the
2452 commission may authorize the sale of wine, heavy beer, and beer at as many as three
2453 limited-service restaurant locations within the hotel under one limited-service restaurant license
2454 if:

2455 (A) the hotel has a minimum of 150 guest rooms; and

2456 (B) the locations under the limited-service restaurant license are:

2457 (I) within the same hotel; and

2458 (II) on premises that are managed or operated, and owned or leased by the
2459 limited-service restaurant licensee.

2460 (ii) A facility other than a hotel shall have a separate limited-service restaurant license
2461 for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or
2462 furnished.

2463 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a
2464 limited-service restaurant license for premises that do not meet the proximity requirements of
2465 Section 32B-1-202.

2466 (b) With respect to the premises of a limited-service restaurant license issued by the
2467 commission that undergoes a change of ownership, the commission shall waive or vary the
2468 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
2469 limited-service restaurant license to the new owner of the premises if:

2470 (i) when a limited-service restaurant license was issued to a previous owner, the
2471 premises met the proximity requirements of Subsection 32B-1-202(2);

2472 (ii) the premises has had a limited-service restaurant license at all times since the
2473 limited-service restaurant license described in Subsection (4)(b)(i) was issued without a
2474 variance; and

2475 (iii) the community location was located within the proximity requirements of
2476 Subsection 32B-1-202(2) after the day on which the limited-service restaurant license
2477 described in Subsection (4)(b)(i) was issued.

2478 Section 36. Section **32B-6-304 (Effective 07/01/11)** is amended to read:

2479 **32B-6-304 (Effective 07/01/11). Specific licensing requirements for limited-service**
2480 **restaurant license.**

2481 (1) To obtain a limited-service restaurant license a person shall comply with Chapter 5,
2482 Part 2, Retail Licensing Process.

2483 (2) (a) A limited-service restaurant license expires on October 31 of each year.

2484 (b) To renew a person's limited-service restaurant license, a person shall comply with
2485 the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
2486 September 30.

2487 (3) (a) The nonrefundable application fee for a limited-service restaurant license is
2488 [~~\$250~~] \$300.

2489 (b) The initial license fee for a limited-service restaurant license is [~~\$500~~] \$750.

2490 (c) The renewal fee for a limited-service restaurant license is [~~\$300~~] \$550.

2491 (4) The bond amount required for a limited-service restaurant license is the penal sum
2492 of \$5,000.

2493 Section 37. Section **32B-6-305 (Effective 07/01/11)** is amended to read:

2494 **32B-6-305 (Effective 07/01/11). Specific operational requirements for a**
2495 **limited-service restaurant license.**

2496 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2497 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
2498 licensee shall comply with this section.

2499 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2500 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2501 (i) a limited-service restaurant licensee;

2502 (ii) individual staff of a limited-service restaurant licensee; or

2503 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
2504 licensee.

2505 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer

2506 for sale, furnish, or allow consumption of:

2507 (i) spirituous liquor; or

2508 (ii) a flavored malt beverage.

2509 (b) A product listed in Subsection (2)(a) may not be on the premises of a

2510 limited-service restaurant licensee except for use:

2511 (i) as a flavoring on a dessert; and

2512 (ii) in the preparation of a flaming food dish, drink, or dessert.

2513 (3) In addition to complying with Section 32B-5-303, a limited-service restaurant

2514 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

2515 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant

2516 licensee's premises shall make a written beverage tab for each table or group that orders or

2517 consumes an alcoholic product on the premises.

2518 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an

2519 alcoholic product ordered or consumed.

2520 (5) A person's willingness to serve an alcoholic product may not be made a condition

2521 of employment as a server with a limited-service restaurant licensee.

2522 (6) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish wine
2523 or heavy beer at the licensed premises on any day during the period that:

2524 (i) begins at midnight; and

2525 (ii) ends at [~~11:59~~] 11:29 a.m.

2526 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during
2527 the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
2528 except that a limited-service restaurant licensee may not sell, offer for sale, or furnish beer
2529 before 11:30 a.m. on any day.

2530 (7) A limited-service restaurant licensee shall maintain at least 70% of its total
2531 restaurant business from the sale of food, which does not include a service charge.

2532 (8) (a) A limited-service restaurant may not sell, offer for sale, or furnish an alcoholic
2533 product except in connection with an order for food prepared, sold, and furnished at the
2534 licensed premises.

2535 (b) A limited-service restaurant shall maintain on the licensed premises adequate
2536 culinary facilities for food preparation and dining accommodations.

2537 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
2538 more than two alcoholic products of any kind at a time before the patron.

2539 (b) An individual portion of wine is considered to be one alcoholic product under
2540 Subsection (9)(a).

2541 (10) A patron may consume an alcoholic product only:

2542 (a) at:

2543 (i) the patron's table;

2544 (ii) a counter; or

2545 (iii) a seating grandfathered bar structure; and

2546 (b) where food is served.

2547 (11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
2548 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
2549 structure that is not a seating grandfathered bar structure.

2550 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
2551 may:

2552 (i) sit;

2553 (ii) be furnished an alcoholic product; and

2554 (iii) consume an alcoholic product.

2555 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
2556 limited-service restaurant licensee may not permit a minor to, and a minor may not:

2557 (i) sit; or

2558 (ii) consume food or beverages.

2559 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed
2560 by a limited-service restaurant licensee:

2561 (A) as provided in Subsection 32B-5-308(2); or

2562 (B) to perform maintenance and cleaning services during an hour when the
2563 limited-service restaurant licensee is not open for business.

2564 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
2565 remaining or sitting at the bar structure en route to an area of a limited-service restaurant
2566 licensee's premises in which the minor is permitted to be.

2567 (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant

- 2568 licensee may dispense an alcoholic product only if:
- 2569 (a) the alcoholic product is dispensed from:
- 2570 (i) a grandfathered bar structure;
- 2571 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
2572 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
2573 12, 2009; or
- 2574 (iii) an area that is:
- 2575 (A) separated from an area for the consumption of food by a patron by a solid,
2576 [~~opaque~~] translucent, permanent structural barrier such that the facilities for the storage or
2577 dispensing of an alcoholic product are:
- 2578 (I) not readily visible to a patron; and
- 2579 (II) not accessible by a patron; and
- 2580 (B) apart from an area used:
- 2581 (I) for dining;
- 2582 (II) for staging; or
- 2583 (III) as a lobby or waiting area;
- 2584 (b) the limited-service restaurant licensee uses an alcoholic product that is:
- 2585 (i) stored in an area described in Subsection (12)(a); or
- 2586 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
- 2587 (A) immediately before the alcoholic product is dispensed it is in an unopened
2588 [~~package~~] container;
- 2589 (B) the unopened [~~package~~] container is taken to an area described in Subsection
2590 (12)(a) before it is opened; and
- 2591 (C) once opened, the [~~package~~] container is stored in an area described in Subsection
2592 (12)(a); and
- 2593 (c) any instrument or equipment used to dispense alcoholic product is located in an
2594 area described in Subsection (12)(a).
- 2595 (13) A limited-service restaurant licensee may state in a food or alcoholic product
2596 menu a charge or fee made in connection with the sale, service, or consumption of wine or
2597 heavy beer including:
- 2598 (a) a set-up charge;

2599 (b) a service charge; or

2600 (c) a chilling fee.

2601 Section 38. Section **32B-6-403 (Effective 07/01/11)** is amended to read:

2602 **32B-6-403 (Effective 07/01/11). Commission's power to issue club license.**

2603 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
2604 an alcoholic product on its premises as a club licensee, the person shall first obtain a club
2605 license from the commission in accordance with this part.

2606 (2) The commission may issue a club license to establish club licensed premises at
2607 places and in numbers the commission considers proper for the storage, sale, offer for sale,
2608 furnishing, and consumption of an alcoholic product on premises operated by a club licensee.

2609 (3) Subject to Section 32B-1-201:

2610 [~~(3)~~] (a) The commission may not issue a total number of club licenses that at any time
2611 exceeds the number determined by dividing the population of the state by 7,850.

2612 (b) The commission may issue a seasonal club license in accordance with Section
2613 32B-5-206 to:

2614 (i) a dining club licensee; or

2615 (ii) a social club licensee.

2616 (c) (i) If the location, design, and construction of a hotel may require more than one
2617 dining club license or social club license location within the hotel to serve the public
2618 convenience, the commission may authorize as many as three club license locations within the
2619 hotel under one club license if:

2620 (A) the hotel has a minimum of 150 guest rooms; and

2621 (B) all locations under the club license are:

2622 (I) within the same hotel; and

2623 (II) on premises that are managed or operated, and owned or leased, by the club
2624 licensee.

2625 (ii) A facility other than a hotel shall have a separate club license for each club license
2626 location where an alcoholic product is sold, offered for sale, or furnished.

2627 Section 39. Section **32B-6-404 (Effective 07/01/11)** is amended to read:

2628 **32B-6-404 (Effective 07/01/11). Types of club license.**

2629 (1) To obtain an equity club license, in addition to meeting the other requirements of

2630 this part, a person shall:

2631 (a) whether incorporated or unincorporated:

2632 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal
2633 purpose;

2634 (ii) have members;

2635 (iii) limit access to its licensed premises to a member or a guest of the member; and

2636 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold
2637 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

2638 (b) own, maintain, or operate a substantial recreational facility in conjunction with a
2639 club house such as:

2640 (i) a golf course; or

2641 (ii) a tennis facility;

2642 (c) have at least 50% of the total membership having:

2643 (i) full voting rights; and

2644 (ii) an equal share of the equity of the club; and

2645 (d) if there is more than one class of membership, have at least one class of

2646 membership that entitles each member in that class to:

2647 (i) full voting rights; and

2648 (ii) an equal share of the equity of the club.

2649 (2) To obtain a fraternal club license, in addition to meeting the other requirements of

2650 this part, a person shall:

2651 (a) whether incorporated or unincorporated:

2652 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal
2653 purpose;

2654 (ii) have members;

2655 (iii) limit access to its licensed premises to a member or a guest of the member; and

2656 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold
2657 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

2658 (b) have no capital stock;

2659 (c) exist solely for:

2660 (i) the benefit of its members and their beneficiaries; and

2661 (ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal,
2662 patriotic, or religious purpose for the benefit of its members or the public, carried on through
2663 voluntary activity of its members in their local lodges;

2664 (d) have a representative form of government;

2665 (e) have a lodge system in which:

2666 (i) there is a supreme governing body;

2667 (ii) subordinate to the supreme governing body are local lodges, however designated,
2668 into which individuals are admitted as members in accordance with the laws of the fraternal;

2669 (iii) the local lodges are required by the laws of the fraternal to hold regular meetings at
2670 least monthly; and

2671 (iv) the local lodges regularly engage in one or more programs involving member
2672 participation to implement the purposes of Subsection (2)(c); and

2673 (f) own or lease a building or space in a building used for lodge activities.

2674 (3) To obtain a dining club license, in addition to meeting the other requirements of
2675 this part, a person shall:

2676 (a) maintain at least [~~50%~~] the following percentages of its total club business from the
2677 sale of food, not including [~~;~~ ~~(i)~~] mix for alcoholic products[~~;~~], or [~~(ii)~~] service charges[~~;~~ ~~and~~];

2678 (i) for a dining club license that is issued an original license on or after July 1, 2011,
2679 60%;

2680 (ii) for a dining club license that is issued on or before June 30, 2011:

2681 (A) 50% on or before June 30, 2012; and

2682 (B) 60% on and after July 1, 2012; and

2683 (b) obtain a determination by the commission that the person will operate as a dining
2684 club licensee, as part of which the commission may consider:

2685 (i) the square footage and seating capacity of the premises;

2686 (ii) what portion of the square footage and seating capacity will be used for a dining
2687 area in comparison to the portion that will be used as a lounge or bar area;

2688 (iii) whether full meals including appetizers, main courses, and desserts are served;

2689 (iv) whether the person will maintain adequate on-premise culinary facilities to prepare
2690 full meals, except a person who is located on the premise of a hotel or resort facility may use
2691 the culinary facilities of the hotel or resort facility;

- 2692 (v) whether the entertainment provided at the club is suitable for minors; and
2693 (vi) the club management's ability to manage and operate a dining club license
2694 including:
- 2695 (A) management experience;
 - 2696 (B) past dining club licensee or restaurant management experience; and
 - 2697 (C) the type of management scheme used by the dining club license.
- 2698 (4) To obtain a social club license, a person is required to meet the requirements of this
2699 part except those listed in Subsection (1), (2), or (3).
- 2700 (5) (a) At the time that the commission issues a club license, the commission shall
2701 designate the type of club license for which the person qualifies.
- 2702 (b) If requested by a club licensee, the commission may approve a change in the type of
2703 club license in accordance with rules made by the commission.
- 2704 (6) To the extent not prohibited by law, this part does not prevent a dining club
2705 licensee or social club licensee from restricting access to the club's licensed premises on the
2706 basis of an individual:
- 2707 (a) paying a fee; or
 - 2708 (b) agreeing to being on a list of individuals who have access to the club's licensed
2709 premises.
- 2710 Section 40. Section **32B-6-405 (Effective 07/01/11)** is amended to read:
2711 **32B-6-405 (Effective 07/01/11). Specific licensing requirements for club license.**
- 2712 (1) To obtain a club license, in addition to complying with Chapter 5, Part 2, Retail
2713 Licensing Process, a person shall submit with the written application:
- 2714 (a) (i) a statement as to whether the person is seeking to qualify as:
 - 2715 (A) an equity club licensee;
 - 2716 (B) a fraternal club licensee;
 - 2717 (C) a dining club licensee; or
 - 2718 (D) a social club licensee; and
 - 2719 (ii) evidence that the person meets the requirements for the type of club license for
2720 which the person is applying;
 - 2721 (b) evidence that the person operates club premises where a variety of food is prepared
2722 and served in connection with dining accommodations; and

2723 (c) if the person is applying for an equity club license or fraternal club license, a copy
2724 of the club's bylaws or house rules, and an amendment to those records.

2725 (2) The commission may refuse to issue a club license to a person for an equity club
2726 license or fraternal club license if the commission determines that a provision of the person's
2727 bylaws or house rules, or amendments to those records is not:

2728 (a) reasonable; and

2729 (b) consistent with:

2730 (i) the declared nature and purpose of the club licensee; and

2731 (ii) the purposes of this part.

2732 (3) (a) A club license expires on June 30 of each year.

2733 (b) To renew a club license, a person shall comply with the requirements of Chapter 5,
2734 Part 2, Retail Licensing Process, by no later than May 31.

2735 (4) (a) The nonrefundable application fee for a club license is [~~\$250~~] \$300.

2736 (b) The initial license fee for a club license is [~~\$2,500~~] \$2,750.

2737 (c) The renewal fee for a club license is [~~\$1,600~~] \$2,000.

2738 (5) The bond amount required for a full-service restaurant license is the penal sum of
2739 \$10,000.

2740 Section 41. Section **32B-6-406 (Effective 07/01/11)** is amended to read:

2741 **32B-6-406 (Effective 07/01/11). Specific operational requirements for a club**
2742 **license.**

2743 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2744 Requirements, a club licensee and staff of the club licensee shall comply with this section.

2745 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2746 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2747 (i) a club licensee;

2748 (ii) individual staff of a club licensee; or

2749 (iii) both a club licensee and staff of the club licensee.

2750 (2) In addition to complying with Subsection 32B-5-301(3), a club licensee shall
2751 display in a prominent place in the club licensed premises a list of the types and brand names of
2752 liquor being furnished through the club licensee's calibrated metered dispensing system.

2753 (3) (a) In addition to complying with Section 32B-5-302, a club licensee shall maintain

2754 for a minimum of three years:

2755 (i) a record required by Section 32B-5-302; and

2756 (ii) a record maintained or used by the club licensee, as the department requires.

2757 (b) Section 32B-1-205 applies to a record required to be made, maintained, or used in

2758 accordance with this Subsection (3).

2759 (c) The department shall audit the records of a club licensee at least once annually.

2760 (4) (a) A club licensee may not sell, offer for sale, or furnish liquor on the licensed

2761 premises on any day during a period that:

2762 (i) begins at 1 a.m.; and

2763 (ii) ends at 9:59 a.m.

2764 (b) A club licensee may sell, offer for sale, or furnish beer during the hours specified in

2765 Part 7, On-premise Beer Retailer License, for an on-premise beer retailer license.

2766 (c) (i) Notwithstanding Subsections (4)(a) and (b), a club licensee shall keep its

2767 licensed premises open for one hour after the club licensee ceases the sale and furnishing of an

2768 alcoholic product during which time a patron of the club licensee may finish consuming:

2769 (A) a single drink containing spirituous liquor;

2770 (B) a single serving of wine not exceeding five ounces;

2771 (C) a single serving of heavy beer;

2772 (D) a single serving of beer not exceeding 26 ounces; or

2773 (E) a single serving of a flavored malt beverage.

2774 (ii) A club licensee is not required to remain open:

2775 (A) after all patrons have vacated the premises; or

2776 (B) during an emergency.

2777 [~~(d) A club licensee may not allow a patron to remain on the licensed premises of the~~

2778 ~~club licensee to consume an alcoholic product on the licensed premises during a period that:]~~

2779 [~~(i) begins at 2 a.m.; and]~~

2780 [~~(ii) ends at 9:59 a.m.]~~

2781 (5) (a) A minor may not be admitted into, use, or be in:

2782 (i) a lounge or bar area of the premises of:

2783 (A) an equity club licensee;

2784 (B) a fraternal club licensee; or

- 2785 (C) a dining club licensee; or
2786 (ii) the premises of:
2787 (A) a dining club licensee unless accompanied by an individual who is 21 years of age
2788 or older; or
2789 (B) a social club licensee, except to the extent provided for under Section 32B-6-406.1.
2790 (b) Notwithstanding Section 32B-5-308, a club licensee may not employ a minor to:
2791 (i) work in a lounge or bar area of an equity club licensee, fraternal club licensee, or
2792 dining club licensee; or
2793 (ii) handle an alcoholic product.
2794 (c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed
2795 premises of a social club licensee.
2796 (d) Nothing in this part or Section 32B-5-308 precludes a local authority from being
2797 more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a
2798 club licensee.
2799 (6) A club licensee shall have food available at all times when an alcoholic product is
2800 sold, offered for sale, furnished, or consumed on the licensed premises.
2801 (7) (a) Subject to the other provisions of this Subsection (7), a patron may not have
2802 more than two alcoholic products of any kind at a time before the patron.
2803 (b) A patron may not have two spirituous liquor drinks before the club licensee patron
2804 if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other
2805 spirituous liquor drink.
2806 (c) An individual portion of wine is considered to be one alcoholic product under
2807 Subsection (7)(a).
2808 (8) A club licensee shall have available on the premises for a patron to review at the
2809 time that the patron requests it, a written alcoholic product price list or a menu containing the
2810 price of an alcoholic product sold, offered for sale, or furnished by the club licensee including:
2811 (a) a set-up charge;
2812 (b) a service charge; or
2813 (c) a chilling fee.
2814 (9) Subject to Section 32B-5-309, a club licensee may not temporarily rent or
2815 otherwise temporarily lease its premises to a person unless:

2816 (a) the person to whom the club licensee rents or leases the premises agrees in writing
2817 to comply with this title as if the person is the club licensee, except for a requirement related to
2818 making or maintaining a record; and

2819 (b) the club licensee takes reasonable steps to ensure that the person complies with this
2820 section as provided in Subsection (9)(a).

2821 (10) If a club licensee is an equity club licensee or fraternal club licensee, the club
2822 licensee shall comply with Section 32B-6-407.

2823 (11) If a club licensee is a dining club licensee or social club licensee, the club licensee
2824 shall comply with Section 32B-1-407.

2825 (12) (a) A club licensee shall own or lease premises suitable for the club licensee's
2826 activities.

2827 (b) A club licensee may not maintain licensed premises in a manner that barricades or
2828 conceals the club licensee's operation.

2829 Section 42. Section **32B-6-409** is enacted to read:

2830 **32B-6-409. Conversion from dining club license to different type of retail license.**

2831 (1) In accordance with this section, a dining club licensee may convert its dining club
2832 license to a different type of retail license, including a different type of club license during the
2833 time period:

2834 (a) beginning on July 1, 2011; and

2835 (b) ending on June 30, 2013.

2836 (2) A dining club licensee may convert its dining license only to a retail license for
2837 which the dining club licensee qualifies.

2838 (3) The commission shall provide a procedure for a dining club to convert to a different
2839 type of retail license as provided in this section by rule made in accordance with Title 63G,
2840 Chapter 3, Utah Administrative Rulemaking Act.

2841 (4) After a dining club license is converted to another type of retail license, the retail
2842 licensee shall operate under the provisions relevant to the type of retail license held by the retail
2843 licensee, except that, in accordance with Section 32B-1-201, the retail license is not considered
2844 in determining the total number of licenses available for that type of retail license.

2845 (5) If a dining club license is converted to full-service restaurant license,
2846 limited-service restaurant license, or beer-only restaurant license, the bar structure of the dining

2847 club is considered:

2848 (a) a seating grandfathered bar structure for purposes of a full-service restaurant license
2849 or a limited-service restaurant license; or

2850 (b) a grandfathered bar structure for purposes of a beer-only restaurant license.

2851 Section 43. Section **32B-6-502 (Effective 07/01/11)** is amended to read:

2852 **32B-6-502 (Effective 07/01/11). Definitions.**

2853 [Reserved]

2854 As used in this chapter, "total passengers" means the number of total passengers in a
2855 calendar year that is reported in the most current comprehensive annual financial report for the
2856 airport in which an airport lounge is located.

2857 Section 44. Section **32B-6-503 (Effective 07/01/11)** is amended to read:

2858 **32B-6-503 (Effective 07/01/11). Commission's power to issue airport lounge**
2859 **license.**

2860 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
2861 an alcoholic product on its premises as an airport lounge licensee, the person shall first obtain
2862 an airport lounge license from the commission in accordance with this part.

2863 (2) The commission may issue an airport lounge license to establish airport lounge
2864 licensed premises beyond the security point at an international airport and in the numbers the
2865 commission considers proper for the storage, sale, offer for sale, furnishing, and consumption
2866 of an alcoholic product on licensed premises operated as an airport lounge.

2867 (3) (a) The commission may not issue a total number of airport lounge licenses for an
2868 international airport that at any time exceed one [lounge per terminal plus one lounge per
2869 concourse located beyond the security point at that international airport] airport lounge license
2870 for each 2,500,000 of total passengers at the international airport.

2871 (b) Notwithstanding Subsection (3)(a), the commission may not reduce the total
2872 number of airport lounge licenses unless:

2873 (i) the commission determines that the number of total passengers is reduced by more
2874 than 25% from the last day on which the commission determined the total number of airport
2875 lounge licenses allowed for that international airport under this Subsection (3); and

2876 (ii) the reduction can be accomplished without the international airport terminating a
2877 lease for an airport lounge before:

- 2878 (A) the expiration of the lease;
- 2879 (B) the airport lounge undergoes a change of ownership; or
- 2880 (C) the airport lounge ceases operations.

2881 Section 45. Section **32B-6-504 (Effective 07/01/11)** is amended to read:

2882 **32B-6-504 (Effective 07/01/11). Specific licensing requirements for airport lounge**
2883 **license.**

2884 (1) To obtain an airport lounge license, in addition to complying with Chapter 5, Part
2885 2, Retail Licensing Process, a person shall submit with the written application:

2886 (a) both the written consent of the local authority and the written consent of the airport
2887 authority; and

2888 (b) a copy of the sign proposed to be used by the airport lounge licensee on its licensed
2889 premises to inform the public that alcoholic products are sold and consumed on the licensed
2890 premises.

2891 (2) (a) An airport lounge license expires on October 31 of each year.

2892 (b) To renew a person's airport lounge license, a person shall comply with the renewal
2893 requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

2894 (3) (a) The nonrefundable application fee for an airport lounge license is [~~\$250~~] \$300.

2895 (b) The initial license fee for an airport lounge license is [~~\$7,000~~] \$8,000.

2896 (c) The renewal fee for an airport lounge license is [~~\$5,000~~] \$6,000.

2897 (4) The bond amount required for an airport lounge license is the penal sum of
2898 \$10,000.

2899 (5) An airport lounge license is not subject to the proximity requirements of Section
2900 32B-1-202.

2901 Section 46. Section **32B-6-603 (Effective 07/01/11)** is amended to read:

2902 **32B-6-603 (Effective 07/01/11). Commission's power to issue on-premise banquet**
2903 **license -- Contracts as host.**

2904 (1) (a) Before a person may store, sell, offer for sale, furnish, or allow the consumption
2905 of an alcoholic product in connection with the person's banquet and room service activities at
2906 one of the following, the person shall first obtain an on-premise banquet license in accordance
2907 with this part:

2908 (i) a hotel;

- 2909 (ii) a resort facility;
- 2910 (iii) a sports center; or
- 2911 (iv) a convention center.

2912 (b) This part does not prohibit an alcoholic product on the premises of a person listed
2913 in Subsection (1)(a) to the extent otherwise permitted by this title.

2914 (c) This section does not prohibit a person who applies for an on-premise banquet
2915 license to also apply for a package agency if otherwise qualified.

2916 (2) The commission may issue an on-premise banquet license to establish on-premise
2917 banquet licensees in the numbers the commission considers proper for the storage, sale, offer
2918 for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room
2919 service activities operated by an on-premise banquet licensee.

2920 (3) ~~[The]~~ Subject to Section 32B-1-201, the commission may not issue a total number
2921 of on-premise banquet licenses that at any time exceed the number determined by dividing the
2922 population of the state by 30,000.

2923 ~~[(4)(a) As used in this Subsection (4), "grandfathered facility" means a facility:]~~

2924 ~~[(i) for which the commission issued an on-premise banquet license that is in effect on
2925 May 11, 2009, on the basis that the facility is a convention center; and]~~

2926 ~~[(ii) that no longer qualifies as a convention center as defined in Section 32B-1-102
2927 solely because it is in total less than 30,000 square feet.]~~

2928 ~~[(b) Notwithstanding the definition of "convention center" in Section 32B-1-102, an
2929 on-premise banquet license applicable to a grandfathered facility may be renewed until October
2930 31, 2011, if the on-premise banquet licensee is qualified for an on-premise banquet license
2931 except for the requirement that the facility be in total at least 30,000 square feet.]~~

2932 ~~[(5)]~~ (4) Pursuant to a contract between the host of a banquet and an on-premise
2933 banquet licensee:

2934 (a) the host of the banquet may request an on-premise banquet licensee to provide an
2935 alcoholic product served at the banquet; and

2936 (b) an on-premise banquet licensee may provide an alcoholic product served at the
2937 banquet.

2938 ~~[(6)]~~ (5) At a banquet, an on-premise banquet licensee may furnish an alcoholic
2939 product:

2940 (a) without charge to a patron at a banquet, except that the host of the banquet shall pay
2941 for an alcoholic product furnished at the banquet; or

2942 (b) with a charge to a patron at the banquet.

2943 Section 47. Section **32B-6-604 (Effective 07/01/11)** is amended to read:

2944 **32B-6-604 (Effective 07/01/11). Specific licensing requirements for an on-premise**
2945 **banquet license.**

2946 (1) To obtain an on-premise banquet license a person shall comply with Chapter 5, Part
2947 2, Retail Licensing Process.

2948 (2) (a) An on-premise banquet license expires on October 31 of each year.

2949 (b) To renew a person's on-premise banquet license, a person shall comply with the
2950 requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

2951 (3) (a) The nonrefundable application fee for an on-premise banquet license is [~~\$250~~]
2952 \$300.

2953 (b) The initial license fee for an on-premise banquet license is [~~\$500~~] \$750.

2954 (c) The renewal fee for an on-premise banquet license is [~~\$500~~] \$750.

2955 (4) The bond amount required for an on-premise banquet license is the penal sum of
2956 \$10,000.

2957 (5) Notwithstanding the other provisions of this part, if an applicant is a state agency or
2958 political subdivision of the state it is not required to:

2959 (a) pay an application fee, initial license fee, or renewal fee;

2960 (b) obtain the written consent of the local authority;

2961 (c) submit a copy of the applicant's current business license; or

2962 (d) post a bond as specified by Section 32B-5-204.

2963 (6) Notwithstanding Subsection 32B-5-303(3), the department may approve an
2964 additional location in or on the licensed premises of an on-premise banquet licensee from
2965 which the on-premise banquet licensee may store, sell, offer for sale, furnish, or allow the
2966 consumption of an alcoholic product that is not included in its original application only:

2967 (a) upon proper application by an on-premise banquet licensee; and

2968 (b) in accordance with guidelines approved by the commission.

2969 Section 48. Section **32B-6-605 (Effective 07/01/11)** is amended to read:

2970 **32B-6-605 (Effective 07/01/11). Specific operational requirements for on-premise**

2971 **banquet license.**

2972 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2973 Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee
2974 shall comply with this section.

2975 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2976 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2977 (i) an on-premise banquet licensee;

2978 (ii) individual staff of an on-premise banquet licensee; or

2979 (iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

2980 (2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and
2981 (5) for the entire premises of the hotel, resort facility, sports center, or convention center that is
2982 the basis for the on-premise banquet license.

2983 (3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee
2984 shall provide the department with advance notice of a scheduled banquet in accordance with
2985 rules made by the commission.

2986 (b) Any of the following may conduct a random inspection of a banquet:

2987 (i) an authorized representative of the commission or the department; or

2988 (ii) a law enforcement officer.

2989 (4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall
2990 make and maintain the records the commission or department requires.

2991 (b) Section 32B-1-205 applies to a record required to be made or maintained in
2992 accordance with this Subsection (4).

2993 (5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may
2994 sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the
2995 location of the banquet.

2996 (b) A host of a banquet, a patron, or a person other than the on-premise banquet
2997 licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from
2998 the premises of the banquet.

2999 (c) Notwithstanding Section 32B-5-307, a patron at a banquet may not bring an
3000 alcoholic product into or onto, or remove an alcoholic product from the premises of a banquet.

3001 (6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at

3002 the banquet following the conclusion of the banquet.

3003 (b) At the conclusion of a banquet, an on-premise banquet licensee shall:

3004 (i) destroy an opened and unused alcoholic product that is not saleable, under
3005 conditions established by the department; and

3006 (ii) return to the on-premise banquet licensee's approved locked storage area any:

3007 (A) opened and unused alcoholic product that is saleable; and

3008 (B) unopened [~~package~~] container of an alcoholic product.

3009 (c) Except as provided in Subsection (6)(b) with regard to an open or sealed [~~package~~]
3010 container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet
3011 licensee:

3012 (i) shall store the alcoholic product in the on-premise banquet licensee's approved
3013 locked storage area; and

3014 (ii) may use the alcoholic product at more than one banquet.

3015 (7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not
3016 employ a minor to sell, furnish, or dispense an alcoholic product in connection with the
3017 on-premise banquet licensee's banquet and room service activities.

3018 (8) An on-premise banquet licensee may not sell, offer for sale, or furnish an alcoholic
3019 product at a banquet or in connection with room service any day during a period that:

3020 (a) begins at 1 a.m.; and

3021 (b) ends at 9:59 a.m.

3022 (9) An on-premise banquet licensee shall maintain at least 50% of its total annual
3023 banquet gross receipts from the sale of food, not including:

3024 (a) mix for an alcoholic product; and

3025 (b) a charge in connection with the furnishing of an alcoholic product.

3026 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
3027 more than two alcoholic products of any kind at a time before the patron.

3028 (b) A patron may not have more than one spirituous liquor drink at a time before the
3029 patron.

3030 (c) An individual portion of wine is considered to be one alcoholic product under
3031 Subsection (10)(a).

3032 (11) (a) An on-premise banquet licensee shall supervise and direct a person involved in

3033 the sale, offer for sale, or furnishing of an alcoholic product.

3034 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
3035 shall complete an alcohol training and education seminar.

3036 (12) A staff person of an on-premise banquet licensee shall remain at the banquet at all
3037 times when an alcoholic product is sold, offered for sale, furnished, or consumed at the
3038 banquet.

3039 (13) (a) Room service of an alcoholic product to a guest room of a hotel or resort
3040 facility shall be provided in person by staff of an on-premise banquet licensee only to an adult
3041 guest in the guest room.

3042 (b) An alcoholic product may not be left outside a guest room for retrieval by a guest.

3043 [~~(c) An on-premise banquet licensee may only provide an alcoholic product for room
3044 service in a sealed package.~~]

3045 Section 49. Section **32B-6-702 (Effective 07/01/11)** is amended to read:

3046 **32B-6-702 (Effective 07/01/11). Definitions.**

3047 [Reserved]

3048 As used in this part, "recreational amenity" is defined by the commission by rule made
3049 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. A rule made
3050 under this section shall define "recreational amenity" to be one or more of the following or an
3051 activity substantially similar to one of the following:

3052 (1) a billiard parlor;

3053 (2) a pool parlor;

3054 (3) a bowling facility;

3055 (4) a golf course;

3056 (5) miniature golf;

3057 (6) a golf driving range;

3058 (7) a tennis club;

3059 (8) a sports facility that hosts professional sporting events and has a seating capacity
3060 equal to or greater than 6,500;

3061 (9) a concert venue that has a seating capacity equal to or greater than 6,500;

3062 (10) one of the following if owned by a government agency:

3063 (a) a convention center;

- 3064 (b) a fair facility;
- 3065 (c) an equestrian park;
- 3066 (d) a theater; or
- 3067 (e) a concert venue;
- 3068 (11) an amusement park;
- 3069 (a) with one or more permanent amusement rides; and
- 3070 (b) located on at least 50 acres;
- 3071 (12) a ski resort; or
- 3072 (13) a venue for live entertainment if the venue:
- 3073 (a) is not regularly open for more than five hours on any day;
- 3074 (b) is operated so that food is available whenever beer is sold, offered for sale, or
- 3075 furnished at the venue; and
- 3076 (c) is operated so that no more than 15% of its total annual receipts are from the sale of
- 3077 beer.

3078 Section 50. Section **32B-6-703 (Effective 07/01/11)** is amended to read:

3079 **32B-6-703 (Effective 07/01/11). Commission's power to issue on-premise beer**
3080 **retailer license.**

3081 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
3082 beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise
3083 beer retailer license from the commission in accordance with this part.

3084 (2) (a) The commission may issue an on-premise beer retailer license to establish
3085 on-premise beer retailer licensed premises at places and in numbers as the commission
3086 considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on
3087 premises operated as an on-premise beer retailer.

3088 (b) At the time that the commission issues an on-premise beer retailer license, the
3089 commission shall designate whether the on-premise beer retailer is a tavern.

3090 (c) The commission may change its designation of whether an on-premise beer retailer
3091 is a tavern in accordance with rules made by the commission.

3092 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission
3093 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of
3094 beer for consumption on the establishment's premises.

- 3095 (ii) In making a determination under this Subsection (2)(d), the commission shall
3096 consider:
- 3097 (A) whether the on-premise beer retailer will operate as one of the following:
- 3098 (I) a beer bar;
- 3099 (II) a parlor;
- 3100 (III) a lounge;
- 3101 (IV) a cabaret; or
- 3102 (V) a nightclub;
- 3103 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):
- 3104 (I) whether the on-premise beer retailer will sell food in the establishment; and
- 3105 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
3106 will exceed the revenue of the sale of food;
- 3107 (C) whether full meals including appetizers, main courses, and desserts will be served;
- 3108 (D) the square footage and seating capacity of the premises;
- 3109 (E) what portion of the square footage and seating capacity will be used for a dining
3110 area in comparison to the portion that will be used as a lounge or bar area;
- 3111 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
3112 full meals, except a person that is located on the premises of a hotel or resort facility may use
3113 the culinary facilities of the hotel or resort facility;
- 3114 (G) whether the entertainment provided on the premises of the beer retailer will be
3115 suitable for minors; and
- 3116 (H) the beer retailer management's ability to manage and operate an on-premise beer
3117 retailer license including:
- 3118 (I) management experience;
- 3119 (II) past beer retailer management experience; and
- 3120 (III) the type of management scheme that will be used by the beer retailer.
- 3121 (e) On or after March 1, 2012:
- 3122 (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall
3123 maintain at least 70% of its total gross revenues from business directly related to a recreational
3124 amenity on or directly adjoining the licensed premises of the beer retailer.
- 3125 (ii) The commission may not license a person as an on-premise beer retailer if the

3126 person does not:

3127 (A) meet the requirements of Subsection (2)(e); or

3128 (B) operate as a tavern.

3129 (iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July
3130 1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1,
3131 2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an
3132 on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).

3133 (B) If an on-premise beer retailer fails to notify the department as required by
3134 Subsection (2)(e)(i)(A), the on-premise beer retailer's license expires as of February 29, 2012,
3135 and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer
3136 retailer is required to apply as a new licensee.

3137 (3) Subject to Section 32B-1-201:

3138 ~~[(3)]~~ (a) The commission may not issue a total number of on-premise beer retailer
3139 licenses that are taverns that at any time exceeds the number determined by dividing the
3140 population of the state by ~~[30,500]~~ 54,147.

3141 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
3142 in accordance with Section 32B-5-206.

3143 (4) (a) Unless otherwise provided in Subsection (4)(b):

3144 (i) only one on-premise beer retailer license is required for each building or resort
3145 facility owned or leased by the same person; and

3146 (ii) a separate license is not required for each retail beer dispensing location in the
3147 same building or on the same resort premises owned or operated by the same person.

3148 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
3149 building or resort facility operates in the same manner.

3150 (ii) If each retail beer dispensing location does not operate in the same manner:

3151 (A) one on-premise beer retailer license designated as a tavern is required for the
3152 locations in the same building or on the same resort premises that operate as a tavern; and

3153 (B) one on-premise beer retailer license is required for the locations in the same
3154 building or on the same resort premises that do not operate as a tavern.

3155 Section 51. Section **32B-6-705 (Effective 07/01/11)** is amended to read:

3156 **32B-6-705 (Effective 07/01/11). Specific licensing requirements for on-premise**

3157 **beer retailer license.**

3158 (1) To obtain an on-premise beer retailer license a person shall comply with Chapter 5,
3159 Part 2, Retail Licensing Process, except that an on-premise beer retailer is required to carry
3160 dramshop insurance coverage in accordance with Section 32B-5-201 only if the on-premise
3161 beer retailer sells more than \$5,000 of beer annually.

3162 (2) (a) An on-premise beer retailer license expires on the last day of February each
3163 year.

3164 (b) To renew a person's on-premise beer retailer license, a person shall comply with the
3165 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than January
3166 31.

3167 (3) (a) The nonrefundable application fee for an on-premise beer retailer license is
3168 [~~\$250~~] \$300.

3169 (b) (i) The initial license fee for an on-premise beer retailer license that is not a tavern
3170 is [~~\$150~~] \$300.

3171 (ii) The initial license fee for an on-premise beer retailer license that is a tavern is
3172 [~~\$1,250~~] \$1,500.

3173 (c) (i) The renewal fee for an on-premise beer retailer license that is not a tavern is
3174 [~~\$200~~] \$350.

3175 (ii) The renewal fee for an on-premise beer retailer license that is a tavern is [~~\$1,000~~]
3176 \$1,250.

3177 (4) The bond amount required for an on-premise beer retailer license is the penal sum
3178 of \$2,000.

3179 (5) Notwithstanding the other provisions of this part, if an applicant is a state agency or
3180 political subdivision of the state it is not required to:

3181 (a) pay an application fee, initial license fee, or renewal fee;

3182 (b) obtain the written consent of the local authority;

3183 (c) submit a copy of the applicant's current business license; or

3184 (d) post a bond as specified by Section 32B-5-204.

3185 Section 52. Section **32B-6-706 (Effective 07/01/11)** is amended to read:

3186 **32B-6-706 (Effective 07/01/11). Specific operational requirements for on-premise**
3187 **beer retailer license.**

3188 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3189 Requirements, an on-premise beer retailer and staff of the on-premise beer retailer shall comply
3190 with this section.

3191 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3192 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3193 (i) an on-premise beer retailer;

3194 (ii) individual staff of an on-premise beer retailer; or

3195 (iii) both an on-premise beer retailer and staff of the on-premise beer retailer.

3196 (2) (a) An on-premise beer retailer is not subject to Section 32B-5-302, but shall make
3197 and maintain the records the department requires.

3198 (b) Section 32B-1-205 applies to a record required to be made or maintained in
3199 accordance with this Subsection (2).

3200 (3) Notwithstanding Section 32B-5-303, an on-premise beer retailer may not store or
3201 sell liquor on its licensed premises.

3202 (4) Beer sold in a sealed [~~package~~] container by an on-premise beer retailer may be
3203 removed from the on-premise beer retailer premises in the sealed [~~package~~] container.

3204 (5) [~~(a)~~] Only an on-premise beer retailer that operates as a tavern is subject to
3205 [~~Subsection~~] Section 32B-5-309[~~(4)~~].

3206 [~~(b) An on-premise beer retailer is subject to Subsections 32B-5-309(2) and (3)~~
3207 ~~regardless of whether it operates as a tavern.~~]

3208 (6) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at its
3209 licensed premises during a period that:

3210 (i) begins at 1 a.m.; and

3211 (ii) ends at 9:59 a.m.

3212 (b) (i) Notwithstanding Subsection [~~(5)~~] (6)(a), a tavern shall remain open for one hour
3213 after the tavern ceases the sale and furnishing of beer during which time a patron of the tavern
3214 may finish consuming a single serving of beer not exceeding 26 ounces.

3215 (ii) A tavern is not required to remain open:

3216 (A) after all patrons have vacated the premises; or

3217 (B) during an emergency.

3218 [~~(c) A tavern may not allow a patron to remain on the licensed premises to consume~~

3219 beer on the licensed premises during a period that:]

3220 [(i) begins at 2 a.m.; and]

3221 [(ii) ends at 9:59 a.m.]

3222 (7) Notwithstanding Section 32B-5-308, a minor may not be on the premises of a
3223 tavern.

3224 (8) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the
3225 purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases
3226 from:

3227 (A) a beer wholesaler licensee; or

3228 (B) a small brewer that manufactures the beer.

3229 (ii) Violation of Subsection (8)(a) is a class A misdemeanor.

3230 (b) (i) If an on-premise beer retailer purchases beer under this Subsection (8) from a
3231 beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer
3232 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
3233 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by
3234 the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

3235 (ii) Violation of Subsection (8)(b)(i) is a class B misdemeanor.

3236 (9) A tavern shall comply with Section 32B-1-407.

3237 Section 53. Section **32B-6-801** is enacted to read:

3238 **Part 8. Reception Center License**

3239 **32B-6-801. Title.**

3240 This part is known as "Reception Center License."

3241 Section 54. Section **32B-6-802** is enacted to read:

3242 **32B-6-802. Definitions.**

3243 Reserved

3244 Section 55. Section **32B-6-803** is enacted to read:

3245 **32B-6-803. Commission's power to issue reception center license.**

3246 (1) Before a person may store, sell, offer for sale, or furnish an alcoholic product on its
3247 premises as a reception center, the person shall first obtain a reception center license from the
3248 commission in accordance with this part.

3249 (2) The commission may issue a reception center license to establish reception center

3250 licensed premises at places and in numbers the commission considers proper for the storage,
3251 sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated
3252 as a reception center.

3253 (3) Subject to Section 32B-1-201, the commission may not issue a total number of
3254 reception center licenses that at any time exceeds the number determined by dividing the
3255 population of the state by 56,313.

3256 (4) The commission may not issue a reception center license for premises that do not
3257 meet the proximity requirements of Section 32B-1-202.

3258 Section 56. Section **32B-6-804** is enacted to read:

3259 **32B-6-804. Specific licensing requirements for reception center license.**

3260 (1) To obtain a reception center license a person shall comply with Chapter 5, Part 2,
3261 Retail Licensing Process.

3262 (2) (a) A reception center license expires on October 31 of each year.

3263 (b) To renew a person's reception center license, a person shall comply with the
3264 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
3265 September 30.

3266 (3) (a) The nonrefundable application fee for a reception center license is \$300.

3267 (b) The initial license fee for a reception center license is \$750.

3268 (c) The renewal fee for a reception center license is \$750.

3269 (4) The bond amount required for a reception center license is the penal sum of
3270 \$10,000.

3271 Section 57. Section **32B-6-805** is enacted to read:

3272 **32B-6-805. Specific operational requirements for a reception center license.**

3273 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3274 Requirements, a reception center licensee and staff of the reception center licensee shall
3275 comply with this section.

3276 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3277 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3278 (i) a reception center licensee;

3279 (ii) individual staff of a reception center licensee; or

3280 (iii) both a reception center licensee and staff of the reception center licensee.

3281 (2) In addition to complying with Section 32B-5-303, a reception center licensee shall
3282 store an alcoholic product in a storage area described in Subsection (15)(a).

3283 (3) (a) For the purpose described in Subsection (3)(b), a reception center licensee shall
3284 provide the following with advance notice of a scheduled event in accordance with rules made
3285 by the commission:

3286 (i) the department; and

3287 (ii) the local law enforcement agency responsible for the enforcement of this title in the
3288 jurisdiction where the reception center is located.

3289 (b) Any of the following may conduct a random inspection of an event:

3290 (i) an authorized representative of the commission or the department; or

3291 (ii) a law enforcement officer.

3292 (4) (a) Except as otherwise provided in this title, a reception center licensee may sell,
3293 offer for sale, or furnish an alcoholic product at an event only for consumption at the reception
3294 center's licensed premises.

3295 (b) A host of an event, a patron, or a person other than the reception center licensee or
3296 staff of the reception center licensee, may not remove an alcoholic product from the reception
3297 center's licensed premises.

3298 (c) Notwithstanding Section 32B-5-307, a patron at an event may not bring an
3299 alcoholic product into or onto, or remove an alcoholic product from, the reception center.

3300 (5) (a) A reception center licensee may not leave an unsold alcoholic product at an
3301 event following the conclusion of the event.

3302 (b) At the conclusion of an event, a reception center licensee shall:

3303 (i) destroy an opened and unused alcoholic product that is not saleable, under
3304 conditions established by the department; and

3305 (ii) return to the reception center licensee's approved locked storage area any:

3306 (A) opened and unused alcoholic product that is saleable; and

3307 (B) unopened container of an alcoholic product.

3308 (c) Except as provided in Subsection (5)(b) with regard to an open or sealed container
3309 of an alcoholic product not sold or consumed at an event, a reception center licensee:

3310 (i) shall store the alcoholic product in accordance with Subsection (2); and

3311 (ii) may use the alcoholic product at more than one event.

3312 (6) Notwithstanding Section 32B-5-308, a reception center licensee may not employ a
3313 minor in connection with an event at the reception center at which food is not made available.

3314 (7) A person's willingness to serve an alcoholic product may not be made a condition
3315 of employment as a server with a reception center licensee.

3316 (8) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
3317 product at the licensed premises on any day during the period that:

3318 (a) begins at 1 a.m.; and

3319 (b) ends at 9:59 a.m.

3320 (9) A reception center licensee may not maintain in excess of 30% of its total annual
3321 receipts from the sale of an alcoholic product, which includes:

3322 (a) mix for an alcoholic product; or

3323 (b) a charge in connection with the furnishing of an alcoholic product.

3324 (10) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
3325 product at an event at which a minor is present unless the reception center licensee makes food
3326 available at all times when an alcoholic product is sold, offered for sale, furnished, or
3327 consumed during the event.

3328 (11) (a) Subject to the other provisions of this Subsection (11), a patron may not have
3329 more than two alcoholic products of any kind at a time before the patron.

3330 (b) An individual portion of wine is considered to be one alcoholic product under
3331 Subsection (11)(a).

3332 (12) (a) A reception center licensee shall supervise and direct a person involved in the
3333 sale, offer for sale, or furnishing of an alcoholic product.

3334 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
3335 shall complete an alcohol training and education seminar.

3336 (13) A staff person of a reception center licensee shall remain at an event at all times
3337 when an alcoholic product is sold, offered for sale, furnished, or consumed at the event.

3338 (14) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
3339 product to a patron, and a patron may not consume an alcoholic product at a bar structure.

3340 (15) Except as provided in Subsection (16), a reception center licensee may dispense
3341 an alcoholic product only if:

3342 (a) the alcoholic product is dispensed from an area that is:

3343 (i) separated from an area for the consumption of food by a patron by a solid,
3344 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
3345 an alcoholic product are:

3346 (A) not readily visible to a patron; and

3347 (B) not accessible by a patron; and

3348 (ii) apart from an area used:

3349 (A) for staging; or

3350 (B) as a lobby or waiting area;

3351 (b) the reception center licensee uses an alcoholic product that is:

3352 (i) stored in an area described in Subsection (15)(a); or

3353 (ii) in an area not described in Subsection (15)(a) on the licensed premises and:

3354 (A) immediately before the alcoholic product is dispensed it is in an unopened

3355 container;

3356 (B) the unopened container is taken to an area described in Subsection (15)(a) before it

3357 is opened; and

3358 (C) once opened, the container is stored in an area described in Subsection (15)(a); and

3359 (c) any instrument or equipment used to dispense an alcoholic product is located in an
3360 area described in Subsection (15)(a).

3361 (16) A reception center licensee may dispense an alcoholic product from a mobile
3362 -serving area that:

3363 (a) is moved only by staff of the reception center licensee;

3364 (b) is capable of being moved by only one individual; and

3365 (c) is no larger than 6 feet long and 30 inches wide.

3366 (17) (a) A reception center licensee may not have an event on the licensed premises
3367 except pursuant to a contract between a third party host of the event and the reception center
3368 licensee under which the reception center licensee provides an alcoholic product sold, offered
3369 for sale, or furnished at an event.

3370 (b) At an event, a reception center licensee may furnish an alcoholic product:

3371 (i) without charge to a patron, except that the third party host of the event shall pay for
3372 an alcoholic product furnished at the event; or

3373 (ii) with a charge to a patron at the event.

3374 (18) A reception center licensee shall have culinary facilities that are:

3375 (a) adequate to prepare a full meal; and

3376 (b) (i) located on the licensed premises; or

3377 (ii) under the same control as the reception center licensee.

3378 Section 58. Section **32B-6-901** is enacted to read:

3379 **Part 9. Beer-only Restaurant License**

3380 **32B-6-901. Title.**

3381 This part is known as "Beer-only Restaurant License."

3382 Section 59. Section **32B-6-902** is enacted to read:

3383 **32B-6-902. Definitions.**

3384 (1) (a) As used in this part, "grandfathered bar structure" means a bar structure in a
3385 licensed premises of a beer-only restaurant licensee that:

3386 (i) as of January 1, 2011:

3387 (A) is operational; and

3388 (B) has facilities for the dispensing or storage of an alcoholic product that do not meet
3389 the requirements of Subsection 32B-6-905(12)(a)(ii);

3390 (ii) is not operational as of January 1, 2011, if a person applying for the beer-only
3391 restaurant license:

3392 (A) has as of January 1, 2011, a building permit to construct the restaurant;

3393 (B) is as of January 1, 2011, actively engaged in the construction of the restaurant, as
3394 defined by rule made by the commission;

3395 (C) is issued the beer-only license by no later than December 31, 2011; and

3396 (D) once constructed, will have a bar structure that does not meet the requirements of
3397 Subsection 32B-6-905(12)(a)(ii); or

3398 (iii) is a bar structure grandfathered under Section 32B-6-409.

3399 (b) "Grandfathered bar structure" does not include a grandfathered bar structure
3400 described in Subsection (1)(a) on or after the day on which a restaurant remodels the
3401 grandfathered bar structure, as defined by rule made by the commission.

3402 (2) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered
3403 bar structure notwithstanding whether a restaurant undergoes a change of ownership.

3404 Section 60. Section **32B-6-903** is enacted to read:

3405 **32B-6-903. Commission's power to issue beer-only restaurant license.**

3406 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
3407 beer on its premises as a beer-only restaurant, the person shall first obtain a beer-only
3408 restaurant license from the commission in accordance with this part.

3409 (2) (a) The commission may issue a beer-only restaurant license to establish beer-only
3410 restaurant licensed premises at places and in numbers the commission considers proper for the
3411 storage, sale, offer for sale, furnishing, and consumption of beer on premises operated as a
3412 beer-only restaurant.

3413 (b) A person may not sell, offer for sale, furnish, or allow the consumption of liquor on
3414 the licensed premises of a beer-only restaurant licensee.

3415 (3) (a) Only one beer-only restaurant license is required for each building or resort
3416 facility owned or leased by the same person.

3417 (b) A separate license is not required for each beer-only restaurant license dispensing
3418 location in the same building or on the same resort premises owned or operated by the same
3419 person.

3420 (4) (a) Except as provided in Subsection (4)(b) or (c), the commission may not issue a
3421 beer-only restaurant license for premises that do not meet the proximity requirements of
3422 Section 32B-1-202.

3423 (b) With respect to the premises of a beer-only restaurant license issued by the
3424 commission that undergoes a change of ownership, the commission shall waive or vary the
3425 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
3426 beer-only restaurant license to the new owner of the premises if:

3427 (i) when a beer-only restaurant license was issued to a previous owner, the premises
3428 met the proximity requirements of Subsection 32B-1-202(2);

3429 (ii) the premises has had a beer-only restaurant license at all times since the beer-only
3430 restaurant license described in Subsection (4)(b)(i) was issued without a variance; and

3431 (iii) the community location was located within the proximity requirements of
3432 Subsection 32B-1-202(2) after the day on which the beer-only restaurant license described in
3433 Subsection (4)(b)(i) was issued.

3434 (c) The location of the licensed premises of an on-premise beer retailer who is licensed
3435 as of July 1, 2011, is grandfathered and not required to meet the proximity requirements of

3436 Section 32B-1-202 if the on-premise beer retailer obtains a beer-only restaurant license by not
3437 later than March 1, 2012. A location grandfathered under this Subsection (4)(c) is considered
3438 grandfathered notwithstanding that the beer-only restaurant license undergoes a change of
3439 ownership.

3440 Section 61. Section **32B-6-904** is enacted to read:

3441 **32B-6-904. Specific licensing requirements for beer-only restaurant license.**

3442 (1) To obtain a beer-only restaurant license a person shall comply with Chapter 5, Part
3443 2, Retail Licensing Process.

3444 (2) (a) A beer-only restaurant license expires the last day of February of each year.

3445 (b) To renew a person's beer-only restaurant license, a person shall comply with the
3446 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than January
3447 31.

3448 (3) (a) The nonrefundable application fee for a beer-only restaurant license is \$300.

3449 (b) The initial license fee for a beer-only restaurant license is \$750.

3450 (c) The renewal fee for a beer-only restaurant license is \$550.

3451 (4) The bond amount required for a beer-only restaurant license is the penal sum of
3452 \$5,000.

3453 Section 62. Section **32B-6-905** is enacted to read:

3454 **32B-6-905. Specific operational requirements for a beer-only restaurant license.**

3455 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3456 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
3457 shall comply with this section.

3458 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3459 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3460 (i) a beer-only restaurant licensee;

3461 (ii) individual staff of a beer-only restaurant licensee; or

3462 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

3463 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
3464 sale, furnish, or allow consumption of liquor.

3465 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

3466 (i) as a flavoring on a dessert; and

3467 (ii) in the preparation of a flaming food dish, drink, or dessert.

3468 (3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee
3469 shall store beer in a storage area described in Subsection (12)(a).

3470 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall
3471 make a written beverage tab for each table or group that orders or consumes an alcoholic
3472 product on the premises.

3473 (b) A beverage tab required by this Subsection (4) shall list the type and amount of
3474 beer ordered or consumed.

3475 (5) A person's willingness to serve beer may not be made a condition of employment as
3476 a server with a beer-only restaurant licensee.

3477 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during the
3478 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer,
3479 except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before
3480 11:30 a.m. on any day.

3481 (7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant
3482 business from the sale of food, which does not include a service charge.

3483 (8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except in
3484 connection with an order for food prepared, sold, and furnished at the licensed premises.

3485 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary
3486 facilities for food preparation and dining accommodations.

3487 (9) A patron may not have more than two beers at a time before the patron.

3488 (10) A patron may consume a beer only:

3489 (a) at:

3490 (i) the patron's table;

3491 (ii) a grandfathered bar structure; or

3492 (iii) a counter; and

3493 (b) where food is served.

3494 (11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to
3495 a patron, and a patron may not consume an alcoholic product at a bar structure.

3496 (b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who
3497 is 21 years of age or older may:

3498 (i) sit;
3499 (ii) be furnished a beer; and
3500 (iii) consume a beer.
3501 (c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a
3502 beer-only restaurant licensee may not permit a minor to, and a minor may not:
3503 (i) sit; or
3504 (ii) consume food or beverages.
3505 (d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a
3506 beer-only restaurant licensee:
3507 (A) as provided in Subsection 32B-5-308(2); or
3508 (B) to perform maintenance and cleaning services during an hour when the beer-only
3509 restaurant licensee is not open for business.
3510 (ii) A minor may momentarily pass by a grandfathered bar structure without remaining
3511 or sitting at the bar structure en route to an area of a beer-only restaurant licensee's premises in
3512 which the minor is permitted to be.
3513 (12) A beer-only restaurant licensee may dispense a beer only if:
3514 (a) the beer is dispensed from an area that is:
3515 (i) a grandfathered bar structure; or
3516 (ii) separated from an area for the consumption of food by a patron by a solid,
3517 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
3518 an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart
3519 from an area used for dining, for staging, or as a lobby or waiting area;
3520 (b) the beer-only restaurant licensee uses a beer that is:
3521 (i) stored in an area described in Subsection (12)(a); or
3522 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
3523 (A) immediately before the beer is dispensed it is in an unopened container;
3524 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
3525 is opened; and
3526 (C) once opened, the container is stored in an area described in Subsection (12)(a); and
3527 (c) any instrument or equipment used to dispense the beer is located in an area
3528 described in Subsection (12)(a).

- 3529 Section 63. Section **32B-8-202 (Effective 07/01/11)** is amended to read:
- 3530 **32B-8-202 (Effective 07/01/11). Specific licensing requirements for resort license.**
- 3531 (1) To obtain a resort license, in addition to complying with Chapter 5, Part 2, Retail
- 3532 Licensing Process, a person shall submit with the written application:
- 3533 (a) the current business license for each sublicense, if the business license is separate
- 3534 from the person's business license;
- 3535 (b) evidence:
- 3536 (i) of proximity of the resort building to any community location, with proximity
- 3537 requirements being governed by Section 32B-1-202;
- 3538 (ii) that each of the four or more sublicense premises is entirely within the boundaries
- 3539 of the resort building; and
- 3540 (iii) that the building designated in the application as the resort building qualifies as a
- 3541 resort building;
- 3542 (c) a description and boundary map of the resort building;
- 3543 (d) a description, floor plan, and boundary map of each sublicense premises
- 3544 designating:
- 3545 (i) any location at which the person proposes that an alcoholic product be stored; and
- 3546 (ii) a designated location on the sublicense premises from which the person proposes
- 3547 that an alcoholic product be sold, furnished, or consumed;
- 3548 (e) evidence that the resort license person carries dramshop insurance coverage equal
- 3549 to the sum of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both
- 3550 the general resort license and each sublicense; and
- 3551 (f) a signed consent form stating that the person will permit any authorized
- 3552 representative of the commission, department, or any law enforcement officer to have
- 3553 unrestricted right to enter the boundary of the resort building and each sublicense premises.
- 3554 (2) (a) A resort license expires on October 31 of each year.
- 3555 (b) To renew a person's resort license, the person shall comply with the requirements of
- 3556 Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.
- 3557 (3) (a) The nonrefundable application fee for a resort license is [~~\$250~~] \$300.
- 3558 (b) The initial license fee for a resort license is calculated as follows:
- 3559 (i) \$10,000 if four sublicenses are being applied for under the resort license; or

3560 (ii) if more than four sublicenses are being applied for under the resort license, the sum
3561 of:

3562 (A) \$10,000; and

3563 (B) \$2,000 for each sublicense in excess of four sublicenses for which the person is
3564 applying.

3565 (c) The renewal fee for a resort license is \$1,000 for each sublicense under the resort
3566 license.

3567 (4) (a) The bond amount required for a resort license is the penal sum of \$25,000.

3568 (b) A resort licensee is not required to have a separate bond for each sublicense, except
3569 that the aggregate of the bonds posted by the resort licensee shall cover each sublicense under
3570 the resort license.

3571 (5) The commission may not issue a resort license for a resort building that does not
3572 meet the proximity requirements of Section 32B-1-202.

3573 Section 64. Section **32B-8-204 (Effective 07/01/11)** is amended to read:

3574 **32B-8-204 (Effective 07/01/11). Commission and department duties before issuing**
3575 **resort license.**

3576 (1) Before the issuance of a resort license, the department shall comply with the
3577 requirements of Subsection [~~32B-8-202~~] 32B-5-203(1) in relation to the resort license and each
3578 sublicense.

3579 (2) Before issuing a resort license, in addition to considering the factors described in
3580 Section 32B-8-202, the commission shall:

3581 (a) consider the resort license person's ability to manage and operate a resort license
3582 and the ability of any individual who will act in a supervisory or managerial capacity for a
3583 sublicense, including:

3584 (i) past management experience;

3585 (ii) past alcoholic product license experience; and

3586 (iii) the type of management scheme to be used by the resort license person;

3587 (b) consider the nature or type of:

3588 (i) the person's business operation of the resort license; and

3589 (ii) the business operation of each sublicense; and

3590 (c) subject to Subsection (3), determine that each sublicense meets the requirements

3591 imposed under the provisions applicable to each sublicense.

3592 (3) (a) Subject to Subsection (3)(b), notwithstanding the requirements to obtain a retail
3593 license under the provisions applicable to a sublicense, a sublicense of a resort license is not
3594 subject to:

3595 (i) a requirement to submit an application or renewal application that is separate from
3596 the resort license application;

3597 (ii) a requirement to carry public liability insurance or dramshop insurance coverage
3598 that is separate from that carried by the resort licensee; or

3599 (iii) a requirement to post a bond that is separate from the bond posted by the resort
3600 licensee.

3601 (b) If a resort licensee seeks to add a sublicense after its resort license is issued, the
3602 resort licensee shall file with the department:

3603 (i) a nonrefundable [~~\$250~~] \$300 application fee;

3604 (ii) an initial license fee of [~~\$2,000~~] \$2,250, which is refundable if the sublicense is not
3605 issued;

3606 (iii) written consent of the local authority;

3607 (iv) a copy of:

3608 (A) the resort licensee's current business license; and

3609 (B) the current business license for the sublicense, if the business licensee is separate
3610 from the resort licensee's business license;

3611 (v) evidence that the sublicense premises is entirely within the boundary of the resort
3612 building;

3613 (vi) a description, floor plan, and boundary map of the sublicense premises
3614 designating:

3615 (A) any location at which the person proposes that an alcoholic product be stored; and

3616 (B) any designated location on the sublicense premises from which the person proposes
3617 that an alcoholic product be sold, furnished, or consumed;

3618 (vii) evidence that the person carries public liability insurance in an amount and form
3619 satisfactory to the department;

3620 (viii) evidence that the person carries dramshop insurance coverage in the amount
3621 required by Section 32B-8-202 that covers the sublicense to be added;

3622 (ix) a signed consent form stating that the resort licensee will permit any authorized
3623 representative of the commission, department, or any law enforcement officer to have
3624 unrestricted right to enter the sublicense premises;

3625 (x) if the resort licensee is an entity, proper verification evidencing that a person who
3626 signs the application is authorized to sign on behalf of the entity; and

3627 (xi) any other information the commission or department may require.

3628 Section 65. Section **32B-8-304 (Effective 07/01/11)** is amended to read:

3629 **32B-8-304 (Effective 07/01/11). Specific operational requirements for resort spa**
3630 **sublicense.**

3631 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3632 Requirements, a resort licensee, staff of the resort licensee, or a person otherwise related to a
3633 resort spa sublicense shall comply with this section.

3634 (b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a)
3635 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and
3636 Enforcement Act, against:

3637 (i) a retail licensee;

3638 (ii) staff of the retail licensee;

3639 (iii) a person otherwise related to a resort spa sublicense; or

3640 (iv) any combination of the persons listed in this Subsection (1)(b).

3641 [~~(2) A person operating under a resort spa sublicense shall display in a prominent place~~
3642 ~~in the resort spa a list of the types and brand names of liquor being furnished through its~~
3643 ~~calibrated metered dispensing system.]~~

3644 [(~~3~~) (2)] (a) For purposes of the resort spa sublicense, the resort licensee shall ensure
3645 that a record required by this title is maintained, and a record is maintained or used for the
3646 resort spa sublicense:

3647 (i) as the department requires; and

3648 (ii) for a minimum period of three years.

3649 (b) A record is subject to inspection by an authorized representative of the commission
3650 and the department.

3651 (c) A resort licensee shall allow the department, through an auditor or examiner of the
3652 department, to audit the records for a resort spa sublicense at the times the department

3653 considers advisable.

3654 (d) The department shall audit the records for a resort spa sublicense at least once
3655 annually.

3656 (e) Section 32B-1-205 applies to a record required to be made, maintained, or used in
3657 accordance with this Subsection ~~[(3)]~~ (2).

3658 ~~[(4)]~~ (3) (a) A person operating under a resort spa sublicense may not sell, offer for
3659 sale, or furnish liquor at a resort spa during a period that:

3660 (i) begins at 1 a.m.; and

3661 (ii) ends at 9:59 a.m.

3662 (b) A person operating under a resort spa sublicense may sell, offer for sale, or furnish
3663 beer during the hours specified in Chapter 6, Part 7, On-premise Beer Retailer License, for an
3664 on-premise beer retailer.

3665 (c) (i) Notwithstanding Subsections ~~[(4)]~~ (3)(a) and (b), a resort spa shall remain open
3666 for one hour after the resort spa ceases the sale and furnishing of an alcoholic product during
3667 which time a person at the resort spa may finish consuming:

3668 (A) a single drink containing spirituous liquor;

3669 (B) a single serving of wine not exceeding five ounces;

3670 (C) a single serving of heavy beer;

3671 (D) a single serving of beer not exceeding 26 ounces; or

3672 (E) a single serving of a flavored malt beverage.

3673 (ii) A resort spa is not required to remain open:

3674 (A) after all persons have vacated the resort spa sublicense premises; or

3675 (B) during an emergency.

3676 ~~[(d) A person operating under a resort spa sublicense may not allow a person to remain
3677 on the resort spa sublicense premises to consume an alcoholic product on the resort spa
3678 sublicense premises during a period that:]~~

3679 ~~[(i) begins at 2 a.m.; and]~~

3680 ~~[(ii) ends at 9:59 a.m.]~~

3681 ~~[(5)]~~ (4) A minor may not be admitted into, use, or be on:

3682 (a) the sublicense premises of a resort spa unless accompanied by a person 21 years of
3683 age or older; or

3684 (b) a lounge or bar area of the resort spa sublicense premises.

3685 [~~(6)~~] (5) A resort spa shall have food available at all times when an alcoholic product is
3686 sold, offered for sale, furnished, or consumed on the resort spa sublicense premises.

3687 [~~(7)~~] (6) (a) Subject to the other provisions of this Subsection [~~(7)~~] (6), a patron may
3688 not have more than two alcoholic products of any kind at a time before the patron.

3689 (b) A resort spa patron may not have two spirituous liquor drinks before the resort spa
3690 patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for
3691 the other spirituous liquor drink.

3692 (c) An individual portion of wine is considered to be one alcoholic product under this
3693 Subsection [~~(7)~~] (6).

3694 [~~(8)~~] (7) (a) An alcoholic product may only be consumed at a table or counter.

3695 (b) An alcoholic product may not be served to or consumed by a patron at a bar.

3696 [~~(9)~~] (8) (a) A person operating under a resort spa sublicense shall have available on
3697 the resort spa sublicense premises for a patron to review at the time that the patron requests it, a
3698 written alcoholic product price list or a menu containing the price of an alcoholic product sold
3699 or furnished by the resort spa including:

3700 (i) a set-up charge;

3701 (ii) a service charge; or

3702 (iii) a chilling fee.

3703 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
3704 may be stated in food or alcoholic product menus including:

3705 (i) a set-up charge;

3706 (ii) a service charge; or

3707 (iii) a chilling fee.

3708 [~~(10)~~] (9) (a) A resort licensee shall own or lease premises suitable for the resort spa's
3709 activities.

3710 (b) A resort licensee may not maintain premises in a manner that barricades or conceals
3711 the resort spa sublicense's operation.

3712 [~~(11)~~] (10) Subject to the other provisions of this section, a person operating under a
3713 resort spa sublicense may not sell an alcoholic product to or allow a person to be admitted to or
3714 use the resort spa sublicense premises other than:

- 3715 (a) a resident;
- 3716 (b) a public customer who holds a valid customer card issued under Subsection [~~(13)~~
3717 (12)]; or
- 3718 (c) an invitee.
- 3719 [~~(12)~~] (11) A person operating under a resort spa sublicense may allow an individual to
3720 be admitted to or use the resort spa sublicense premises as an invitee subject to the following
3721 conditions:
- 3722 (a) the individual must be previously authorized by one of the following who agrees to
3723 host the individual as an invitee into the resort spa:
- 3724 (i) a resident; or
- 3725 (ii) a public customer as described in Subsection [~~(11)~~] (10);
- 3726 (b) the individual has only those privileges derived from the individual's host for the
3727 duration of the invitee's visit to the resort spa; and
- 3728 (c) a resort licensee, resort spa, or staff of the resort licensee or resort spa may not enter
3729 into an agreement or arrangement with a resident or public customer to indiscriminately host a
3730 member of the general public into the resort spa as an invitee.
- 3731 [~~(13)~~] (12) A person operating under a resort spa sublicense may issue a customer card
3732 to allow an individual to enter and use the resort spa sublicense premises on a temporary basis
3733 under the following conditions:
- 3734 (a) the resort spa may not issue a customer card for a time period that exceeds three
3735 weeks;
- 3736 (b) the resort spa shall assess a fee to a public customer for a customer card;
- 3737 (c) the resort spa may not issue a customer card to a minor; and
- 3738 (d) a public customer may not host more than seven invitees at one time.
- 3739 Section 66. Section **32B-8-401 (Effective 07/01/11)** is amended to read:
- 3740 **32B-8-401 (Effective 07/01/11). Specific operational requirements for resort**
3741 **license.**
- 3742 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3743 Requirements, a resort licensee, staff of the resort licensee, and a person otherwise operating
3744 under a sublicense shall comply with this section.
- 3745 (b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a)

3746 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and
3747 Enforcement Act, against:

- 3748 (i) a resort licensee;
- 3749 (ii) individual staff of a resort licensee;
- 3750 (iii) a person otherwise operating under a sublicense;
- 3751 (iv) individual staff of a person otherwise operating under a sublicense; or
- 3752 (v) any combination of the persons listed in this Subsection (1)(b).

3753 (2) (a) A resort licensee may not sell, offer for sale, or furnish an alcoholic product
3754 except:

- 3755 (i) on a sublicense premises;
- 3756 (ii) pursuant to a permit issued under this title; or
- 3757 (iii) under a package agency agreement with the department, subject to Chapter 2, Part
3758 6, Package Agency.

3759 (b) A resort licensee who sells, offers for sale, or furnishes an alcoholic product as
3760 provided in Subsection (2)(a), shall sell, offer for sale, or furnish the alcoholic product:

- 3761 (i) if on a sublicense premises, in accordance with the operational requirements under
3762 the provisions applicable to the sublicense, except as provided in Section 32B-8-402;
- 3763 (ii) if under a permit issued under this title, in accordance with the operational
3764 requirements under the provisions applicable to the permit; and
- 3765 (iii) if as a package agency, in accordance with the contract with the department and
3766 Chapter 2, Part 6, Package Agency.

3767 (3) A resort licensee shall comply with Subsections 32B-5-301(4) and (5) within the
3768 boundary of the resort building.

3769 (4) ~~[(a) Subject to Subsection (4)(b), a]~~ A resort licensee shall operate in a manner so
3770 that at least 70% of the annual aggregate of the gross receipts related to the sale of food or
3771 beverages for the resort license and each of its sublicenses is from the sale of food, not
3772 including:

- 3773 ~~[(i)]~~ (a) mix for an alcoholic product; and
- 3774 ~~[(ii)]~~ (b) a charge in connection with the service of an alcoholic product.

3775 ~~[(b) In calculating the annual aggregate of the gross receipts described in Subsection~~
3776 ~~(4)(a), a resort licensee is not required to include in the calculation money from the sale of a~~

3777 ~~bottle of wine by the resort licensee or under a sublicense in excess of \$250.]~~

3778 (5) (a) A resort licensee shall supervise and direct a person involved in the sale, offer
3779 for sale, or furnishing of an alcoholic product under a resort license.

3780 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
3781 under a resort license shall complete the alcohol training and education seminar.

3782 (6) (a) Room service of an alcoholic product to a lodging accommodation of a resort
3783 licensee shall be provided in person by staff of a resort licensee only to an adult occupant in the
3784 lodging accommodation.

3785 (b) An alcoholic product may not be left outside a lodging accommodation for retrieval
3786 by an occupant.

3787 ~~[(c) A resort licensee may only provide an alcoholic product for room service in a~~
3788 ~~sealed package.]~~

3789 Section 67. Section **32B-8-402 (Effective 07/01/11)** is amended to read:

3790 **32B-8-402 (Effective 07/01/11). Specific operational requirements for a**
3791 **sublicense.**

3792 (1) A person operating under a sublicense is subject to the operational requirements
3793 under the provisions applicable to the sublicense except that[-];

3794 (a) notwithstanding a requirement in the provisions applicable to the sublicense, a
3795 person operating under the sublicense is not subject to a requirement that a certain percentage
3796 of the gross receipts for the sublicense be from the sale of food, except to the extent that the
3797 gross receipts for the sublicense are included in calculating the percentages under Subsection
3798 32B-8-401(4)[-]; and

3799 (b) notwithstanding Section 32B-6-202 or 32B-6-302, a bar structure in a licensed
3800 premises operated under a full-service restaurant sublicense or limited-service restaurant
3801 sublicense is considered a grandfathered bar structure if the resort license that includes the
3802 full-service restaurant sublicense or limited-service restaurant sublicense is issued by no later
3803 than December 31, 2010.

3804 (2) Subject to Section 32B-8-502, for purposes of interpreting an operational
3805 requirement imposed by the provisions applicable to a sublicense:

3806 (a) a requirement imposed on a person operating under a sublicense applies to the
3807 resort licensee; and

3808 (b) a requirement imposed on staff of a person operating under a sublicense applies to
3809 staff of the resort licensee.

3810 Section 68. Section **32B-8a-101** is enacted to read:

3811 **CHAPTER 8a. TRANSFER OF RETAIL LICENSE ACT**

3812 **Part 1. General Provisions**

3813 **32B-8a-101. Title.**

3814 This chapter is known as the "Transfer of Retail License Act."

3815 Section 69. Section **32B-8a-102** is enacted to read:

3816 **32B-8a-102. Definitions.**

3817 As used in this chapter:

3818 (1) "Business entity" means a corporation, partnership, limited liability company, sole
3819 proprietorship, or similar entity.

3820 (2) "Transfer fee" means a fee described in Section 32B-8a-303.

3821 (3) "Transferee" means a person who intends to hold a retail license after the transfer of
3822 the retail license if the transfer is approved by the commission under this chapter.

3823 (4) "Transferor" means a retail licensee who intends to transfer a retail license held by
3824 the retail licensee if the transfer is approved by the commission under this chapter.

3825 Section 70. Section **32B-8a-201** is enacted to read:

3826 **Part 2. Transferability of Retail License**

3827 **32B-8a-201. Transferability of retail license.**

3828 (1) (a) A retail license is separate from other property of a retail licensee.

3829 (b) Notwithstanding Subsection (1)(a), the Legislature may terminate or modify the
3830 existence of any type of retail license.

3831 (c) Except as provided in this chapter, a person may not:

3832 (i) transfer a retail license from one location to another location; or

3833 (ii) sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the
3834 retail license to another person whether for monetary gain or not.

3835 (d) If approved by the commission and subject to the requirements of this chapter, a
3836 retail licensee may transfer a retail license:

3837 (i) from the retail licensee to another person, regardless of whether it is for the same
3838 premises; and

3839 (ii) from one premises of the retail licensee to another premises of the retail licensee.

3840 (2) (a) The commission may not approve the transfer of a retail license that results in a
3841 transferee holding a different type of retail license than is held by the transferor.

3842 (b) The commission may not approve the transfer of a retail license from one location
3843 to another location, if the location of the premises to which the retail license would be
3844 transferred is in a different county than the location of the licensed premises of the retail license
3845 being transferred.

3846 (3) The commission may not approve the transfer of a retail license if the transferee:

3847 (a) is not eligible to hold the same type of retail license as the retail license to be
3848 transferred at the premises to which the retail license would be transferred; or

3849 (b) is delinquent in the payment of any of the following that arises in full or in part out
3850 of the operation of a retail license:

3851 (i) a tax, fee, or charge due under this title or Title 59, Revenue and Taxation; or

3852 (ii) an amount due under Title 35A, Chapter 4, Employment Security Act.

3853 Section 71. Section **32B-8a-202** is enacted to read:

3854 **32B-8a-202. Effect of transfer of ownership of business entity.**

3855 (1) (a) When the ownership of 51% or more of the shares of stock of a corporation is
3856 acquired by or transferred to one or more persons who did not hold the ownership of 51% of
3857 those shares of stock on the date a retail license is issued to the corporation, the corporation
3858 shall comply with this chapter to transfer the retail license to the corporation as if the
3859 corporation is newly constituted.

3860 (b) When there is a new general partner or when the ownership of 51% or more of the
3861 capital or profits of a limited partnership is acquired by or transferred to one or more persons as
3862 general or limited partners and who did not hold ownership of 51% or more of the capital or
3863 profits of the limited partnership on the date a retail license is issued to the limited partnership,
3864 the limited partnership shall comply with this chapter to transfer the retail license to the limited
3865 partnership as if the limited partnership is newly constituted.

3866 (c) When the ownership of 51% or more of the interests in a limited liability company
3867 is acquired by or transferred to one or more persons as members who did not hold ownership of
3868 51% or more of the interests in the limited liability company on the date a retail license is
3869 issued to the limited liability company, the limited liability company shall comply with this

3870 chapter to transfer the retail license to the limited liability company as if the limited liability
3871 company is newly constituted.

3872 (2) A business entity may not transfer a retail license under this section unless, before
3873 the filing of the transfer application with the department, the business entity initiating the
3874 transfer complies with Section 32B-8a-301.

3875 (3) If a business entity fails to comply with this section within 30 days of the day on
3876 which the event described in Subsection (1) occurs, the business entity's retail license is
3877 automatically forfeited.

3878 Section 72. Section **32B-8a-203** is enacted to read:

3879 **32B-8a-203. Operational requirements for transferee.**

3880 (1) A transferee shall begin operations of the retail license within 30 days from the day
3881 on which a transfer is approved by the commission, except that the department may grant an
3882 extension of this time period not to exceed 30 days.

3883 (2) If a transferee fails to begin operations of the retail license within the time period
3884 required by Subsection (1), the retail license is forfeited and the commission may issue the
3885 retail license to another person.

3886 (3) A transferee shall begin operations of the retail license at the location to which the
3887 transfer applies before the transferee may seek a transfer of the retail license to a different
3888 location.

3889 Section 73. Section **32B-8a-301** is enacted to read:

3890 **Part 3. Process for Transferring a Retail License**

3891 **32B-8a-301. Notice of intended transfer.**

3892 (1) To transfer a retail license, at least 10 days before the filing of a transfer application
3893 with the department, the transferee shall file a notice of intended transfer with the department
3894 that states the following:

3895 (a) the name and address of the transferor;

3896 (b) the name and address of the transferee;

3897 (c) the type of retail license intended to be transferred;

3898 (d) the address of the premises to which the retail license is issued;

3899 (e) the address of the premises to which the retail license will be transferred;

3900 (f) an agreement between the transferor and the transferee that the consideration for the

3901 transfer of the retail license, if any, is to be paid only after the transfer is approved by the
3902 commission; and

3903 (g) any other information the commission or department may require.

3904 (2) Notwithstanding Subsection (1), a notice of intended transfer filed by a business
3905 entity for a transfer under Section 32B-8a-202, shall state the following:

3906 (a) the name and address of the business entity;

3907 (b) the name and address of the one or more persons acquiring ownership of 51% or
3908 more of the:

3909 (i) stock of the corporation;

3910 (ii) capital or profits of the limited partnership; or

3911 (iii) interest in a limited liability company;

3912 (c) the kind of retail license intended to be transferred;

3913 (d) the address of the one or more premises to which a retail license:

3914 (i) has been issued; and

3915 (ii) will be transferred; and

3916 (e) any other information the commission or department may require.

3917 Section 74. Section **32B-8a-302** is enacted to read:

3918 **32B-8a-302. Application -- Approval process.**

3919 (1) To obtain the transfer of a retail license from a retail licensee, the transferee shall
3920 file a transfer application with the department that includes:

3921 (a) an application in the form provided by the department;

3922 (b) a statement as to whether the consideration, if any, to be paid to the transferor
3923 includes payment for any or all of the following:

3924 (i) inventory;

3925 (ii) fixtures; and

3926 (iii) transfer of the retail license;

3927 (c) a copy of the notice of intended transfer; and

3928 (d) (i) an application fee of \$300; and

3929 (ii) a transfer fee determined in accordance with Section 32B-8a-303.

3930 (2) (a) (i) Before the commission may approve the transfer of a retail license, the

3931 department shall conduct an investigation and may hold public hearings to gather information

3932 and make recommendations to the commission as to whether the transfer of the retail license
3933 should be approved.

3934 (ii) The department shall forward the information and recommendations described in
3935 this Subsection (2)(a) to the commission to aid in the commission's determination.

3936 (b) Before approving a transfer, the commission shall:

3937 (i) determine that the transferee filed a complete application;

3938 (ii) determine that the transferee is eligible to hold the type of retail license that is to be
3939 transferred at the premises to which the retail license would be transferred;

3940 (iii) determine that the transferee is not delinquent in the payment of an amount
3941 described in Subsection 32B-8a-201(3);

3942 (iv) determine that the transferee is not disqualified under Section 32B-1-304;

3943 (v) consider the locality within which the proposed licensed premises is located,
3944 including the factors listed in Section 32B-5-206 for the issuance of a retail license;

3945 (vi) consider the transferee's ability to manage and operate the retail license to be
3946 transferred, including the factors listed in Section 32B-5-202 for the issuance of a retail license;

3947 (vii) consider the nature or type of retail licensee operation of the transferee, including
3948 the factors listed in Section 32B-5-202 for the issuance of a retail license;

3949 (viii) if the transfer involves consideration, determine that the transferee and transferor
3950 have complied with Part 4, Protection of Creditors; and

3951 (ix) consider any other factor the commission considers necessary.

3952 (3) (a) Except as provided in Subsection (3)(b), the commission may not approve the
3953 transfer of a retail license to premises that do not meet the proximity requirements of Section
3954 32B-1-202.

3955 (b) If after a transfer of a retail license the transferee operates the same type of retail
3956 license at the same location as did the transferor, the commission may waive or vary the
3957 proximity requirements of Subsection 32B-1-202(2) in considering whether to approve the
3958 transfer under the same circumstances that the commission may waive or vary the proximity
3959 requirements in accordance with Subsection 32B-1-202(4) when considering whether to issue a
3960 retail license.

3961 Section 75. Section **32B-8a-303** is enacted to read:

3962 **32B-8a-303. Transfer fees.**

- 3963 (1) Except as otherwise provided in this section, the department shall charge the
3964 following transfer fees:
- 3965 (a) for a transfer of a retail license from a retail licensee to another person, the transfer
3966 fee equals the initial license fee amount specified in the relevant part under Chapter 6, Specific
3967 Retail License Act, for the type of retail license that is being transferred;
- 3968 (b) for the transfer of a retail license from one premises to another premises of the
3969 same retail licensee, the transfer fee equals the renewal fee amount specified in the relevant
3970 part under Chapter 6, Specific Retail License Act, for the type of retail license that is being
3971 transferred;
- 3972 (c) subject to Subsections (1)(d) and (2), for a transfer described in Section
3973 32B-8a-202, the transfer fee equals the renewal fee amount specified in the relevant part under
3974 Chapter 6, Specific Retail License Act, for the type of retail license that is being transferred;
- 3975 (d) for a transfer of a retail license to include the parent or child of a retail licensee,
3976 when no consideration is given for the transfer, the transfer fee is one-half of the amount
3977 described in Subsection (1)(a); and
- 3978 (e) for one of the following transfers, the transfer fee is one-half of the amount
3979 described in Subsection (1)(a):
- 3980 (i) a retail license of one spouse to the other spouse when the transfer application is
3981 made before the entry of a final decree of divorce;
- 3982 (ii) a retail license of a deceased retail licensee to:
- 3983 (A) the one or more surviving partners of the deceased retail licensee;
- 3984 (B) the executor, administrator, or conservator of the estate of the deceased retail
3985 licensee; or
- 3986 (C) the surviving spouse of the deceased retail licensee, if the deceased retail licensee
3987 leaves no estate to be administered;
- 3988 (iii) a retail license of a minor ward, incompetent person, or conservatee by or to the
3989 conservator or guardian for the minor ward, incompetent person, or conservatee who is the
3990 retail licensee;
- 3991 (iv) a retail license of a debtor in a bankruptcy case by or to the trustee of a bankrupt
3992 estate of the retail licensee;
- 3993 (v) a retail license of a person for whose estate a receiver is appointed may be

- 3994 transferred by or to a receiver of the estate of the retail licensee;
- 3995 (vi) a retail license of an assignor for the benefit of creditors by or to an assignee for
- 3996 the benefit of creditors of a licensee with the consent of the assignor;
- 3997 (vii) a retail license transferred to a revocable living trust if the retail licensee is the
- 3998 trustee of the revocable living trust;
- 3999 (viii) a retail license transferred between partners when no new partner is being
- 4000 licensed;
- 4001 (ix) a retail license transferred between corporations whose outstanding shares of stock
- 4002 are owned by the same individuals;
- 4003 (x) upon compliance with Section 32B-8a-202, a retail license to a corporation whose
- 4004 entire stock is owned by:
- 4005 (A) the transferor; or
- 4006 (B) the spouse of the transferor;
- 4007 (xi) upon compliance with Section 32B-8a-202, a retail license to a limited liability
- 4008 company whose entire membership consists of:
- 4009 (A) the transferor; or
- 4010 (B) the spouse of the transferor; or
- 4011 (xii) a retail license transferred from a corporation to a person who owns, or whose
- 4012 spouse owns, the entire stock of the corporation.
- 4013 (2) If there are multiple and simultaneous transfers of retail licenses under Section
- 4014 32B-8a-202, a transfer fee described in Subsection (1)(c) is required for only one of the retail
- 4015 licenses being transferred.
- 4016 (3) (a) Except as provided in Subsection (3)(b), a transfer fee required under
- 4017 Subsection (1) is due for a transfer subsequent to a transfer under Subsection (1)(e)(xiii) if the
- 4018 subsequent transfer is of 51% of the stock in a corporation to which a retail license is
- 4019 transferred by a retail licensee or the spouse of a retail licensee.
- 4020 (b) If the transfer of stock described in Subsection (3)(a) is from a parent to the parent's
- 4021 child or grandchild, the transfer fee is one-half of the amount described in Subsection (1)(a).
- 4022 (4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.
- 4023 Section 76. Section **32B-8a-401** is enacted to read:

4024 **Part 4. Protection of Creditors**

4025 **32B-8a-401. Notification of creditors -- Escrow -- Priority of payments.**

4026 (1) Before the filing of a transfer application with the department, if the intended
4027 transfer of a retail license involves consideration:

4028 (a) the transferor shall provide the transferee a list of creditors who have a claim
4029 against the transferor;

4030 (b) the transferee shall provide a copy of the notice of intended transfer to each creditor
4031 on the list provided under Subsection (1)(a);

4032 (c) the transferor and the transferee shall establish an escrow with a person who is not a
4033 party to the transfer to act as escrow holder;

4034 (d) the transferee shall deposit with the escrow holder the full amount of the
4035 consideration; and

4036 (e) the transferor and transferee shall enter into an agreement that:

4037 (i) the consideration is deposited with the escrow holder;

4038 (ii) requires the escrow holder to distribute the consideration within a reasonable time
4039 after the completion of the transfer of the retail license; and

4040 (iii) directs the escrow holder to distribute the consideration in accordance with
4041 Subsection (2).

4042 (2) Subject to the other requirements of this section, if a creditor with a claim against
4043 the transferor files the claim with the escrow holder before the escrow holder is notified by the
4044 department that the transfer is approved, the escrow holder shall distribute the consideration in
4045 the following order:

4046 (a) to the payment of:

4047 (i) the United States for a claim based on income or withholding taxes; and

4048 (ii) a claim based on a tax other than specified in Subsection 32B-8a-201(3);

4049 (b) to the payment of a claim for wages, salaries, or fringe benefits earned or accrued
4050 by an employee of the transferor before the transfer or opening of the escrow for the transfer of
4051 the retail license;

4052 (c) to the payment of a claim of a secured creditor to the extent of the proceeds that
4053 arise from the sale of the security;

4054 (d) to the payment of a claim on a mechanics liens;

4055 (e) to the payment of:

- 4056 (i) escrow fees;
 - 4057 (ii) a claim for prevailing brokerage fees for services rendered; and
 - 4058 (iii) a claim for reasonable attorney fees for services rendered;
 - 4059 (f) to the payment of claims:
 - 4060 (i) of a landlord, to the extent of proceeds on past due rent or lease requirements;
 - 4061 (ii) for goods sold and delivered to the retail licensee for resale at the transferor's
 - 4062 licensed premises; and
 - 4063 (iii) for services rendered, performed, or supplied in connection with the operation of
 - 4064 the transferor's licensed business; and
 - 4065 (g) to the payment of other types of claims that are reduced to court-ordered judgments,
 - 4066 including a claim for court-ordered support of a minor child; and
 - 4067 (h) to the payment of all other claims.
- 4068 Section 77. Section **32B-8a-402** is enacted to read:
- 4069 **32B-8a-402. Duties of escrow holder.**
- 4070 (1) To act as an escrow holder under Section 32B-8a-401, a person shall comply with
- 4071 Title 7, Chapter 22, Regulation of Independent Escrow Agents.
- 4072 (2) Not more than 10 days after receiving a claim from a creditor, an escrow holder
- 4073 shall acknowledge receipt of the claim.
- 4074 (3) (a) Not more than 10 days after a retail license is transferred and before the
- 4075 distribution of the consideration held by an escrow holder, the escrow holder shall advise each
- 4076 creditor who files a claim against the escrow whether there is sufficient consideration in the
- 4077 escrow to pay all creditors in full.
- 4078 (b) If the consideration in an escrow is sufficient to pay all creditors in full, the escrow
- 4079 holder shall advise each creditor of the date on or before which payment will be made.
- 4080 (c) If there are not sufficient assets to pay all creditors in full, the escrow holder shall
- 4081 advise each creditor who filed a claim of the following:
- 4082 (i) the total assets placed in escrow with the escrow holder;
 - 4083 (ii) the nature of each asset;
 - 4084 (iii) the name of each creditor who filed a claim against the escrow and the amount of
 - 4085 the claim;
 - 4086 (iv) the amount the escrow holder proposes to pay each creditor; and

- 4087 (v) the date on or before which the escrow holder will pay each creditor.
4088 (4) An escrow holder may not release money in the escrow in exchange for:
4089 (a) a promissory note; or
4090 (b) any other consideration of less value to the creditors than the money exchanged.
4091 (5) If sufficient assets are not available in the escrow for the payment of the claims in
4092 full, the escrow holder shall pay the claims pro rata.
4093 (6) If the retail licensee who transfers the retail license disputes a claim, the escrow
4094 holder shall:
4095 (a) notify the creditor making the claim;
4096 (b) retain the amount to be paid to the creditor under this section for a period of 25
4097 days; and
4098 (c) to the extent that creditors do not successfully recover the amount described in
4099 Subsection (6)(b) in accordance with this part, pay the amount to the retail licensee.
4100 (7) An escrow holder shall distribute the money in the escrow account after the
4101 payments made under Subsections 32B-8a-401(2) and this section within a reasonable time
4102 after the completion of the transfer of the retail license.

4103 Section 78. Section **32B-8a-403** is enacted to read:

4104 **32B-8a-403. Statement by transferee.**

4105 (1) Within 30 days after the filing of a transfer application under Section 32B-8a-302
4106 for transfer of a retail license, the transferee shall file with the department a statement executed
4107 under penalty of perjury that the consideration as set forth in the escrow agreement required by
4108 Section 32B-8a-401 is deposited with the escrow holder.

4109 (2) At the time the statement described in Subsection (1) is filed with the department,
4110 the transferee shall submit a copy of the statement to:

- 4111 (a) the transferee; and
4112 (b) the escrow holder.

4113 (3) The department may extend the 30-day period specified by this section for a period
4114 not to exceed an additional 30 days, except that a retail license may not be transferred until the
4115 statement required by this section is received by the department.

4116 (4) This section does not apply to a transfer for which a guaranty of payment is filed
4117 pursuant to Section 32B-8a-404.

4118 Section 79. Section **32B-8a-404** is enacted to read:

4119 **32B-8a-404. When escrow not required.**

4120 (1) Notwithstanding the other provisions of this part, an escrow is not required to be
4121 established in connection with the transfer of a retail license if:

4122 (a) a business entity files with the department a guaranty of full, prompt, and faithful
4123 payment of all claims of a creditor of the retail licensee; and

4124 (b) the guaranty described in Subsection (1)(a) is accepted in writing by the creditors
4125 listed in Subsection 32B-8a-401(2).

4126 (2) A transfer of a retail license described in Subsection (1) is not considered complete
4127 until:

4128 (a) the guarantor pays all creditors' claims in full; and

4129 (b) the guarantor files with the department a statement executed under penalty of
4130 perjury that all conditions of the transfer have been satisfied.

4131 (3) Payment of a claim by a guarantor shall be made in United States currency or by
4132 certified check in a manner acceptable to the creditors.

4133 (4) This section applies only in the case of a transfer in which the guarantor business
4134 entity has a net worth on a consolidated basis, according to its most recent audited financial
4135 statement, of not less than \$5,000,000.

4136 Section 80. Section **32B-8a-501** is enacted to read:

4137 **Part 5. Prohibited Activities**

4138 **32B-8a-501. License not to be pledged as security -- Prohibited transfers.**

4139 (1) A retail licensee may not enter into any agreement under which the retail licensee
4140 pledges the retail license as security for a loan or as security for the fulfillment of any
4141 agreement.

4142 (2) A retail licensee may not transfer a retail license if the transfer is to:

4143 (a) satisfy a loan or to fulfill an agreement entered into more than 90 days preceding
4144 the date on which the transfer application is filed;

4145 (b) gain or establish a preference to or for any creditor of the transferor, except as
4146 provided by Section 32B-8a-202; or

4147 (c) defraud or injure a creditor of the transferor.

4148 (3) A retail licensee may not transfer a retail license except in accordance with this

4149 chapter.

4150 Section 81. Section **32B-8a-502** is enacted to read:

4151 **32B-8a-502. Effect of transfer in violation of this chapter.**

4152 (1) If a retail license is transferred in violation of this chapter, the commission may:

4153 (a) void the transfer; and

4154 (b) require the retail license to be forfeited.

4155 (2) Subsection (1) is in addition to any other penalty under this title that is applicable to
4156 the person who violates this chapter.

4157 Section 82. Section **32B-9-204 (Effective 07/01/11)** is amended to read:

4158 **32B-9-204 (Effective 07/01/11). General operational requirements for an event**
4159 **permit.**

4160 (1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or
4161 furnishing of an alcoholic product at an event for which an event permit is issued, shall comply
4162 with this title and rules of the commission.

4163 (b) Failure to comply as provided in Subsection (1)(a):

4164 (i) may result in:

4165 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
4166 Enforcement Act, against:

4167 (I) an event permittee;

4168 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
4169 product at the event; or

4170 (III) any combination of the persons listed in this Subsection (1)(b);

4171 (B) immediate revocation of the event permit;

4172 (C) forfeiture of a bond; or

4173 (D) immediate seizure of an alcoholic product present at the event; and

4174 (ii) if the event permit is revoked, disqualifies the event permittee from applying for an
4175 event permit for a period of three years from the date of revocation of the event permit.

4176 (c) An alcoholic product seized under this Subsection (1) shall be returned to the event
4177 permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.

4178 (2) (a) If there is a conflict between this part and the relevant part under this chapter for
4179 the specific type of special use permit held by the special use permittee, the relevant part

4180 governs.

4181 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an
4182 event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the
4183 relevant part under this chapter for the type of event permit that is held by the event permittee.

4184 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
4185 event permit held by an event permittee refers to "event permittee," a person involved in the
4186 storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the
4187 event permit is issued is subject to the same requirement or prohibition.

4188 (3) An event permittee shall display a copy of the event permit in a prominent place in
4189 the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.

4190 (4) An event permittee may not on the premises of the event:

4191 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
4192 Chapter 10, Part 11, Gambling;

4193 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
4194 Part 11, Gambling; or

4195 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
4196 the risking of something of value for a return or for an outcome when the return or outcome is
4197 based upon an element of chance, excluding the playing of an amusement device that confers
4198 only an immediate and unrecorded right of replay not exchangeable for value.

4199 (5) An event permittee may not knowingly allow a person at an event to, in violation of
4200 Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
4201 Paraphernalia Act:

4202 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
4203 58-37-2; or

4204 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
4205 Section 58-37a-3.

4206 (6) An event permittee may not sell, offer for sale, or furnish beer except beer
4207 purchases from:

4208 (a) a beer wholesaler licensee;

4209 (b) a beer retailer; or

4210 (c) a small brewer.

4211 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the
4212 consumption of an alcoholic product purchased for an event in a location other than that
4213 described in the application and designated on the event permit unless the event permittee first
4214 applies for and receives approval from the commission for a change of location.

4215 (8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or
4216 furnish beer for on-premise consumption:

4217 (i) in an open original [~~package~~] container; and

4218 (ii) in a [~~package~~] container on draft.

4219 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to
4220 Subsection (8)(a):

4221 (i) in a size of [~~package~~] container that exceeds two liters; or

4222 (ii) to an individual patron in a size of [~~package~~] container that exceeds one liter.

4223 (9) (a) An event permittee may not sell or offer for sale an alcoholic product at less
4224 than the cost of the alcoholic product to the event permittee.

4225 (b) An event permittee may not sell an alcoholic product at a discount price on any date
4226 or at any time.

4227 [~~(b)~~] (c) An event permittee may not sell or offer for sale an alcoholic product at a price
4228 that encourages over consumption or intoxication.

4229 [~~(c)~~] (d) An event permittee may not sell or offer for sale an alcoholic product at a
4230 special or reduced price for only certain hours of the day of an event.

4231 [~~(d)~~] (e) An event permittee may not sell, offer for sale, or furnish more than one
4232 alcoholic product at the price of a single alcoholic product.

4233 (f) An event permittee, or a person operating, selling, offering, or furnishing an
4234 alcoholic product under an event permit, may not sell, offer for sale, or furnish an indefinite or
4235 unlimited number of alcoholic products during a set period for a fixed price, unless:

4236 (i) the alcoholic product is served to a patron who is seated;

4237 (ii) food is available whenever the alcoholic product is sold, offered for sale, or
4238 furnished; and

4239 (iii) no person advertises that at the event a person may be sold or furnished an
4240 indefinite or unlimited number of alcoholic products during a set period for a fixed price.

4241 [~~(e)~~] (g) An event permittee may not engage in a public promotion involving or

4242 offering a free alcoholic product to the general public.

4243 (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

4244 (a) a minor;

4245 (b) a person actually, apparently, or obviously intoxicated;

4246 (c) a known interdicted person; or

4247 (d) a known habitual drunkard.

4248 (11) (a) An alcoholic product is considered under the control of the event permittee
4249 during an event.

4250 (b) A patron at an event may not bring an alcoholic product onto the premises of the
4251 event.

4252 (12) An event permittee may not permit a patron to carry from the premises an open
4253 ~~[package]~~ container that:

4254 (a) is used primarily for drinking purposes; and

4255 (b) contains an alcoholic product.

4256 (13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at
4257 an event is considered under the supervision and direction of the event permittee.

4258 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at
4259 an event may not, while on duty:

4260 (i) consume an alcoholic product; or

4261 (ii) be intoxicated.

4262 (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an
4263 event.

4264 (15) The location specified in an event permit may not be changed without prior
4265 written approval of the commission.

4266 (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or
4267 attempt in any way to dispose of the event permit to another person whether for monetary gain
4268 or not.

4269 (17) (a) An event permittee may not sell, offer for sale, furnish, or allow the
4270 consumption of an alcoholic product during a period that:

4271 (i) begins at 1 a.m.; and

4272 (ii) ends at 9:59 a.m.

4273 (b) This Subsection (17) does not preclude a local authority from being more restrictive
4274 with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic
4275 product at an event.

4276 (18) A patron may have no more than one alcoholic product of any kind at a time
4277 before the patron.

4278 (19) (a) An event permittee shall display, in a prominent place, a sign in large letters
4279 that consists of text in the following order:

4280 (i) a header that reads: "WARNING";

4281 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
4282 can cause birth defects and permanent brain damage for the child.";

4283 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at
4284 [insert most current toll-free number] with questions or for more information.";

4285 (iv) a header that reads: "WARNING"; and

4286 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a
4287 serious crime that is prosecuted aggressively in Utah."

4288 (b) (i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different
4289 font style than the text described in Subsections (19)(a)(iv) and (v).

4290 (ii) The warning statements in the sign described in Subsection (19)(a) shall be in the
4291 same font size.

4292 (c) The Department of Health shall work with the commission and department to
4293 facilitate consistency in the format of a sign required under this section.

4294 Section 83. Section **32B-9-304 (Effective 07/01/11)** is amended to read:

4295 **32B-9-304 (Effective 07/01/11). Specific permitting requirements for single event**
4296 **permit.**

4297 (1) To obtain a single event permit, in addition to complying with Part 2, Event
4298 Permitting General Provisions, an entity described in Subsection 32B-9-303(2)(a) shall state in
4299 its written application:

4300 (a) the purpose of the entity described in Subsection 32B-9-303(2)(a);

4301 (b) the time period under Subsection 32B-9-303(3)(a)(i)(A) or (B) for which the entity
4302 is applying; and

4303 (c) if submitting the first request for a single event permit in a calendar year, whether it

4304 is requesting to be under Subsection 32B-9-303(4)(a) or (b).

4305 (2) The application fee for a single event permit is [~~\$100~~] \$125.

4306 (3) The bond amount required for a single event permit is the penal sum of \$1,000.

4307 Section 84. Section **32B-9-305 (Effective 07/01/11)** is amended to read:

4308 **32B-9-305 (Effective 07/01/11). Specific operational requirements for single event**
4309 **permit.**

4310 (1) (a) In addition to complying with Section 32B-9-204, a single event permittee or a
4311 person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the
4312 event shall comply with this section.

4313 (b) Failure to comply as provided in Subsection (1)(a):

4314 (i) may result in:

4315 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and

4316 Enforcement Act, against:

4317 (I) a single event permittee;

4318 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
4319 product at the event; or

4320 (III) any combination of persons listed in this Subsection (1)(b);

4321 (B) immediate revocation of the single event permit;

4322 (C) forfeiture of a bond; or

4323 (D) immediate seizure of an alcoholic product present at the event; and

4324 (ii) if the single event permit is revoked, disqualifies the single event permittee from
4325 applying for a single event permit or temporary beer event permit for a period of three years
4326 from the date of revocation of the single event permit.

4327 (c) An alcoholic product seized under this Subsection (1) shall be returned to the single
4328 event permittee after an event if forfeiture proceedings are not instituted under Section
4329 32B-4-206.

4330 (2) (a) A single event permittee shall make and maintain an expense and revenue
4331 ledger or record showing:

4332 (i) expenditures made for:

4333 (A) liquor;

4334 (B) beer;

- 4335 (C) set-ups; and
- 4336 (D) an ingredient or component of an alcoholic product other than a set-up; and
- 4337 (ii) the revenue from the sale of an alcoholic product.
- 4338 (b) Section 32B-1-205 applies to a record required to be made or maintained in
- 4339 accordance with this Subsection (2).
- 4340 (3) A single event permittee shall purchase liquor stored, sold, offered for sale,
- 4341 furnished, or consumed at an event from a state store or package agency.
- 4342 (4) (a) A single event permittee may not sell, offer for sale, or furnish a primary
- 4343 spirituous liquor in a quantity that exceeds 1.5 ounces per beverage, except that additional
- 4344 spirituous liquor may be used in a beverage if:
- 4345 (i) used as a secondary flavoring ingredient;
- 4346 (ii) used in conjunction with the primary spirituous liquor;
- 4347 (iii) the secondary ingredient is not the only spirituous liquor in the beverage; and
- 4348 (iv) subject to Subsection 32B-9-204(18):
- 4349 [~~(iv)~~] (A) a patron has no more than 2.5 ounces of spirituous liquor at a time before the
- 4350 patron; and
- 4351 [~~(iv)~~] (B) a patron has no more than one spirituous liquor drink at a time before the
- 4352 patron.
- 4353 (b) Spirituous liquor need not be dispensed through a calibrated metered dispensing
- 4354 system.
- 4355 (5) (a) A single event permittee may sell, offer for sale, or furnish wine by the glass or
- 4356 an individual portion, except that a glass or individual portion may not exceed five ounces.
- 4357 (b) A single event permittee may furnish an individual portion served to a patron in
- 4358 more than one glass if the total amount of wine does not exceed five ounces.
- 4359 (c) An individual portion of wine is considered to be one alcoholic product under
- 4360 Subsection 32B-9-204[~~(12)~~](18).
- 4361 (d) A single event permittee may sell, offer for sale, or furnish wine in a [~~package~~]
- 4362 container not exceeding 1.5 liters at a price fixed by the commission.
- 4363 (6) A single event permittee may sell, offer for sale, or furnish heavy beer in an original
- 4364 [~~package~~] container at a price fixed by the commission, except that the original [~~package~~]
- 4365 container may not exceed one liter.

4366 (7) A single event permittee may sell, offer for sale, or furnish a flavored malt beverage
4367 in an original [~~package~~] container at a price fixed by the commission, except that the original
4368 [~~package~~] container may not exceed one liter.

4369 (8) [~~(a)~~] A single event permittee may sell liquor only at a price fixed by the
4370 commission.

4371 [~~(b) A single event permittee may not sell liquor at a discount price on any date or at~~
4372 ~~any time.~~]

4373 (9) A single event permittee may perform a service and assess a service charge as
4374 authorized by commission rule for liquor purchased at an event.

4375 Section 85. Section **32B-9-405 (Effective 07/01/11)** is amended to read:

4376 **32B-9-405 (Effective 07/01/11). Specific permitting requirements for temporary**
4377 **beer event permit issued by commission.**

4378 (1) To obtain a temporary beer event permit, in addition to complying with Part 2,
4379 Event Permitting General Provisions, a person shall state in the person's written application the
4380 purpose of the event for which the person seeks a temporary beer event permit.

4381 (2) The application fee for a beer permit is [~~\$75~~] \$100.

4382 (3) The bond amount required for a beer permit is the penal sum of \$500.

4383 Section 86. Section **32B-10-303 (Effective 07/01/11)** is amended to read:

4384 **32B-10-303 (Effective 07/01/11). Specific application and renewal requirements**
4385 **for public service permit.**

4386 (1) To obtain a public service permit, in addition to complying with Section
4387 32B-10-202, a person shall submit to the department:

4388 (a) a statement of the total of regularly numbered flights, trains, buses, boats, or other
4389 types of public conveyance for which the person plans to use the special use permit;

4390 (b) a floor plan of any room or facility in which the person plans to establish a
4391 hospitality room where the sale, offer for sale, or furnishing of an alcoholic product is made to
4392 a patron then in transit, using the host company's airline, railroad, bus, boat, or other public
4393 conveyance; and

4394 (c) evidence of proximity of a proposed hospitality room to the arrival and departure
4395 area used by a person traveling on the host company's airline, railroad, bus, boat, or other
4396 public conveyance.

- 4397 (2) (a) The nonrefundable application fee for a public service permit is [~~\$50~~] \$75.
- 4398 (b) The initial permit fee for a public service permit is [~~\$200~~] \$250.
- 4399 (c) The bond amount required for a public service permittee is the penal sum of \$1,000.
- 4400 (3) (a) To renew a public service permit, a person shall comply with Section
- 4401 32B-10-203.
- 4402 (b) The renewal fee for a public service permit is \$30 for each regularly numbered
- 4403 passenger airplane flight, passenger train, bus, boat, or any other regularly scheduled public
- 4404 conveyance upon which an alcoholic product is sold, offered for sale, or furnished.
- 4405 Section 87. Section **32B-10-304 (Effective 07/01/11)** is amended to read:
- 4406 **32B-10-304 (Effective 07/01/11). Specific operational requirements for a public**
- 4407 **service permit.**
- 4408 (1) (a) In addition to complying with Section 32B-10-206, a public service permittee
- 4409 and staff of the public service permittee shall comply with this section.
- 4410 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
- 4411 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
- 4412 (i) a public service permittee;
- 4413 (ii) individual staff of a public service permittee; or
- 4414 (iii) both a public service permittee and staff of the public service permittee.
- 4415 (2) (a) A public service permittee whose public conveyances operate on an interstate
- 4416 basis may do the following:
- 4417 (i) purchase an alcoholic product outside of the state;
- 4418 (ii) bring an alcoholic product purchased outside of the state into the state; and
- 4419 (iii) sell, offer for sale, and furnish an alcoholic product purchased outside of the state
- 4420 to a passenger traveling on the public service permittee's public conveyance for consumption
- 4421 while en route on the public conveyance.
- 4422 (b) A public service permittee whose public conveyance operates solely within the
- 4423 state, to sell, offer for sale, or furnish to a passenger traveling on the public service permittee's
- 4424 public conveyance for consumption while en route on the public conveyance, shall purchase:
- 4425 (i) liquor from a state store or package agency; and
- 4426 (ii) beer from a beer wholesaler licensee.
- 4427 (3) (a) A public service permittee may establish a hospitality room in which an

4428 alcoholic product may be stored, sold, offered for sale, furnished, and consumed, if:

4429 (i) the room is located within a depot, terminal, or similar facility adjacent to and
4430 servicing the public service permittee's airline, railroad, bus, boat, or other public conveyance;

4431 (ii) the room is completely enclosed and the interior is not visible to the public;

4432 (iii) the sale, offer for sale, or furnishing of an alcoholic product is made only to a
4433 person:

4434 (A) then in transit using the host company's airline, railroad, bus line, or other public
4435 conveyance; and

4436 (B) holding a valid boarding pass or similar travel document issued by the host
4437 company; and

4438 (iv) (A) liquor is purchased from:

4439 (I) a state store; or

4440 (II) a package agency; and

4441 (B) beer is purchased from a beer wholesaler licensee.

4442 (b) (i) A public service permittee operating a hospitality room shall display in a
4443 prominent place in the hospitality room, a sign in large letters [~~stating: "Warning: Driving~~
4444 ~~under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in~~
4445 ~~Utah."~~] that consists of text in the following order:

4446 (A) a header that reads: "WARNING";

4447 (B) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
4448 can cause birth defects and permanent brain damage for the child.";

4449 (C) a statement in smaller font that reads: "Call the Utah Department of Health at
4450 [insert most current toll-free number] with questions or for more information.";

4451 (D) a header that reads: "WARNING"; and

4452 (E) a warning statement that reads: "Driving under the influence of alcohol or drugs is
4453 a serious crime that is prosecuted aggressively in Utah."

4454 (ii) (A) The text described in Subsections (3)(b)(i)(A) through (C) shall be in a
4455 different font style than the text described in Subsections (3)(b)(i)(D) and (E).

4456 (B) The warning statements in the sign described in Subsection (3)(b)(i) shall be in the
4457 same font size.

4458 (iii) The Department of Health shall work with the commission and department to

4459 facilitate consistency in the format of a sign required under this section.

4460 (c) A hospitality room shall be operated in accordance with this chapter and rules
4461 adopted by the commission.

4462 Section 88. Section **32B-10-403 (Effective 07/01/11)** is amended to read:

4463 **32B-10-403 (Effective 07/01/11). Specific application requirements for industrial**
4464 **or manufacturing use permit.**

4465 (1) To obtain an industrial or manufacturing use permit, in addition to complying with
4466 Section 32B-10-202, a person shall submit to the department:

4467 (a) a floor plan of the immediate area within the premises in which the person proposes
4468 that an alcoholic product be used, mixed, stored, sold, offered for sale, furnished, or consumed;
4469 and

4470 (b) if the person is applying for an industrial or manufacturing use permit to produce
4471 gasohol or any alcoholic product, evidence that the person has:

4472 (i) an approved Notice of Registration of Distilled Spirits Plant; and

4473 (ii) the appropriate permit from the federal Alcohol and Tobacco Tax and Trade
4474 Bureau.

4475 (2) (a) The nonrefundable application fee for an industrial or manufacturing use permit
4476 is [~~\$50~~] \$75.

4477 (b) The one-time special use permit fee for an industrial or manufacturing use permit is
4478 [~~\$200~~] \$250.

4479 (c) The bond amount required for an industrial or manufacturing use permit is the
4480 penal sum of \$1,000.

4481 Section 89. Section **32B-10-404 (Effective 07/01/11)** is amended to read:

4482 **32B-10-404 (Effective 07/01/11). Specific operational requirements for industrial**
4483 **or manufacturing use permit.**

4484 (1) (a) In addition to complying with Section 32B-10-206, an industrial or
4485 manufacturing use permittee and staff of the industrial or manufacturing use permittee shall
4486 comply with this section.

4487 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
4488 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

4489 (i) an industrial or manufacturing use permittee;

4490 (ii) individual staff of an industrial or manufacturing use permittee; or
4491 (iii) an industrial or manufacturing use permittee and staff of the industrial or
4492 manufacturing use permittee.

4493 (2) An industrial or manufacturing use permittee may produce for lawful use and sale
4494 the following:

4495 (a) vinegar;

4496 (b) preserved nonintoxicating cider;

4497 (c) a food preparation;

4498 (d) a United States Pharmacopoeia or national formulary preparation in conformity
4499 with Title 58, Chapters 17b, 37, 37a, 37b, and 37c, if the preparation:

4500 (i) conforms to standards established by:

4501 (A) the Department of Agriculture and Food; and

4502 (B) the Department of Health; and

4503 (ii) contains no more alcohol than is necessary to preserve or extract the medicinal,
4504 flavoring, or perfumed properties of the treated substances; and

4505 (e) wood and denatured alcohol if manufactured in compliance with the formulas and
4506 regulations under Title 27, C.F.R. Parts 19, 20, and 21.

4507 (3) (a) An industrial or manufacturing use permittee that produces patent or proprietary
4508 medicines containing alcohol may sell or offer for sale the medicines in the original and
4509 unbroken [~~package~~] container if the medicine contains sufficient medication to prevent its use
4510 as an alcoholic product.

4511 (b) An industrial or manufacturing use permittee described in this Subsection (3) shall,
4512 upon request by the department, provide a sufficient sample of the medicine to enable the
4513 department to have the medicine analyzed for purposes of this section.

4514 Section 90. Section **32B-10-503 (Effective 07/01/11)** is amended to read:

4515 **32B-10-503 (Effective 07/01/11). Specific application requirements for scientific**
4516 **or educational use permit.**

4517 (1) To obtain a scientific or educational use permit, a person shall comply with Section
4518 32B-10-202.

4519 (2) The one-time special use permit fee for a scientific or educational use permit is
4520 [~~\$100~~] \$125.

4521 Section 91. Section **32B-10-603 (Effective 07/01/11)** is amended to read:

4522 **32B-10-603 (Effective 07/01/11). Specific application requirements for religious**
4523 **wine use permit.**

4524 (1) To purchase an alcoholic product from the department at the department's cost plus
4525 freight charges, a religious organization shall obtain a religious wine use permit.

4526 (2) To obtain a religious wine permit, a person shall comply with Section 32B-10-202.

4527 (3) The one-time special use permit fee for a religious wine use permit is [~~\$100~~] \$125.

4528 Section 92. Section **32B-11-201 (Effective 07/01/11)** is amended to read:

4529 **32B-11-201 (Effective 07/01/11). Commission's power to issue a manufacturing**
4530 **license -- Certificates of approval.**

4531 (1) (a) Except as provided in Section 32B-11-202, before a person may manufacture an
4532 alcoholic product in this state, the person shall obtain an alcoholic product manufacturing
4533 license issued by the commission in accordance with this part.

4534 (b) A separate license is required for each place of storage, sale, and manufacture of an
4535 alcoholic product.

4536 (c) A violation of this Subsection (1) is a class B misdemeanor.

4537 (2) The commission may issue an alcoholic product manufacturing license to a
4538 manufacturer whose business is located in this state for the storage, sale, and manufacture of an
4539 alcoholic product for each type of manufacturing license provided by this chapter.

4540 (3) The types of manufacturing licenses issued under this chapter are known as:

4541 (a) a winery manufacturing license;

4542 (b) a distillery manufacturing license; and

4543 (c) a brewery manufacturing license.

4544 (4) (a) A brewer located outside the state is not required to be licensed under this
4545 chapter.

4546 (b) A brewer described in Subsection (4)(a) shall obtain a certificate of approval from
4547 the department before selling or delivering:

4548 (i) beer to a beer wholesaler licensee in this state;

4549 (ii) a flavored malt beverage to:

4550 (A) the department; or

4551 (B) a military installation; or

- 4552 (iii) if a small brewer, beer to one of the following in the state:
- 4553 (A) a beer wholesaler licensee;
- 4554 (B) a beer retailer; or
- 4555 (C) an event permittee.
- 4556 (c) To obtain a certificate of approval, a brewer shall submit to the department:
- 4557 (i) a written application in a form prescribed by the department;
- 4558 (ii) a nonrefundable [~~\$50~~] \$75 application fee;
- 4559 (iii) an initial certificate of approval fee of [~~\$250~~] \$300 that is refundable if a
- 4560 certificate of approval is not issued;
- 4561 (iv) evidence of authority from the federal Alcohol and Tobacco Tax and Trade Bureau
- 4562 of the United States Department of the Treasury to brew beer, heavy beer, or a flavored malt
- 4563 beverage; and
- 4564 (v) any other information the commission or department may require.
- 4565 (d) (i) [~~A~~] One of the following shall sign and verify a written application under this
- 4566 Subsection (4) [~~shall be signed and verified~~] by oath or affirmation [~~by~~]:
- 4567 (A) a partner if the brewer is a partnership; or
- 4568 (B) an executive officer, manager, or person specifically authorized by a corporation or
- 4569 limited liability company to sign the application.
- 4570 (ii) A brewer filing an application shall attach to the application written evidence of the
- 4571 authority of the person described in Subsection (4)(d)(i) to sign the application.
- 4572 (e) (i) A certificate of approval under this Subsection (4) expires on December 31 of
- 4573 each year.
- 4574 (ii) A brewer desiring to renew its certificate of approval shall submit to the
- 4575 department by no later than November 30 of the year the certificate of approval expires:
- 4576 (A) a completed renewal application in the form prescribed by the department; and
- 4577 (B) a renewal [~~fee~~] fee of [~~\$200~~] \$250.
- 4578 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
- 4579 certificate of approval effective on the date the existing certificate of approval expires.
- 4580 (5) (a) An importer or supplier of beer, heavy beer, or flavored malt beverages who is
- 4581 not required to be licensed under this title shall obtain a certificate of approval from the
- 4582 department before selling or delivering:

- 4583 (i) beer to a beer wholesaler licensee in this state; or
4584 (ii) heavy beer or a flavored malt beverage to:
4585 (A) the department; or
4586 (B) a military installation.
4587 (b) To obtain a certificate of approval, an importer or supplier described in Subsection
4588 (5)(a) shall submit to the department:
4589 (i) a written application in a form prescribed by the department;
4590 (ii) a nonrefundable \$75 application fee;
4591 (iii) an initial certificate of approval fee of \$300 that is refundable if a certificate of
4592 approval is not issued;
4593 (iv) evidence of authority from the federal Alcohol and Tobacco Tax and Trade Bureau
4594 of the United States Department of the Treasury to brew beer, heavy beer, or a flavored malt
4595 beverage; and
4596 (v) any other information the commission or department may require.
4597 (c) (i) One of the following shall sign and verify a written application under this
4598 Subsection (5) by oath or affirmation:
4599 (A) a partner if the importer or supplier is a partnership; or
4600 (B) an executive officer, manager, or person specifically authorized by a corporation or
4601 limited liability company to sign the application.
4602 (ii) An importer or supplier filing an application under this Subsection (5) shall attach
4603 to the application written evidence of the authority of the person described in Subsection
4604 (5)(c)(i) to sign the application.
4605 (d) (i) A certificate of approval under this Subsection (5) expires on December 31 of
4606 each year.
4607 (ii) An importer or supplier desiring to renew its certificate of approval shall submit to
4608 the department by no later than November 30 of the year the certificate of approval expires:
4609 (A) a completed renewal application in the form prescribed by the department; and
4610 (B) a renewal fee of \$250.
4611 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
4612 certificate of approval effective on the date the existing certificate of approval expires.
4613 (6) (a) Subject to Subsection (7), a brewer, importer, or supplier required to hold a

4614 certificate of approval under this section may not distribute beer in this state except under a
4615 written agreement with a beer wholesaler licensee in this state.

4616 (b) An agreement described in Subsection (6)(a) shall:

4617 (i) create a restricted exclusive sales territory that is mutually agreed upon by the
4618 persons entering into the agreement;

4619 (ii) designate the one or more brands that may be distributed in the sales territory; and

4620 (iii) set forth the exact geographical area of the sales territory.

4621 (c) A brewer, importer of beer, or supplier of beer may have more than one agreement
4622 described in this Subsection (6) if each brand of the brewer, importer, or supplier distributed in
4623 the state is covered by one exclusive sales territory.

4624 (d) A brewer, importer of beer, or supplier of beer may not enter into an agreement
4625 with more than one beer wholesaler licensee to distribute the same brand of beer in the same
4626 sales territory or any portion of the sales territory.

4627 (7) A small brewer is not subject to the requirements of Subsection (6).

4628 Section 93. Section **32B-11-203 (Effective 07/01/11)** is amended to read:

4629 **32B-11-203 (Effective 07/01/11). Application requirements for a manufacturing**
4630 **license.**

4631 To obtain an alcoholic product manufacturing license, a person shall submit to the
4632 department:

4633 (1) a written application in a form prescribed by the department;

4634 (2) a nonrefundable application fee of [~~\$250~~] \$300;

4635 (3) an initial license fee of [~~\$3,250~~] \$3,800:

4636 (a) unless otherwise provided in this chapter; and

4637 (b) that is refundable if a license is not issued;

4638 (4) written consent of the local authority;

4639 (5) a statement of the purpose for which the person has applied for the manufacturing
4640 license;

4641 (6) evidence that the person is authorized by the United States to manufacture an
4642 alcoholic product;

4643 (7) a bond as specified by Section 32B-11-207;

4644 (8) evidence that the person is carrying public liability insurance in an amount and

4645 form satisfactory to the department;

4646 (9) a signed consent form stating that the manufacturing licensee will permit any
4647 authorized representative of the commission, department, or any law enforcement officer to
4648 have unrestricted right to enter the licensed premises;

4649 (10) if the person is an entity, proper verification evidencing that a person who signs
4650 the application is authorized to sign on behalf of the entity; and

4651 (11) any other information the commission or department may require.

4652 Section 94. Section **32B-11-204 (Effective 07/01/11)** is amended to read:

4653 **32B-11-204 (Effective 07/01/11). Renewal requirements for a manufacturing**
4654 **license.**

4655 (1) A manufacturing license expires on December 31 of each year.

4656 (2) To renew a manufacturing license, a person shall submit by no later than November
4657 30 of the year the license expires:

4658 (a) a completed renewal application to the department, in a form prescribed by the
4659 department; and

4660 (b) a renewal fee in the following amount of:

4661 (i) [~~\$2,500~~] \$2,900, except for a wine manufacturing license described in Subsection
4662 (2)(b)(ii); or

4663 (ii) [~~\$1,200~~] \$1,400 for a winery manufacturing license if the winery manufacturing
4664 licensee produces less than 20,000 gallons of wine in the calendar year preceding the year in
4665 which the manufacturing licensee seeks renewal.

4666 (3) Failure to meet the renewal requirements results in an automatic forfeiture of a
4667 manufacturing license effective on the date the existing manufacturing license expires.

4668 Section 95. Section **32B-11-503 (Effective 07/01/11)** is amended to read:

4669 **32B-11-503 (Effective 07/01/11). Specific authority and operational requirements**
4670 **for brewery manufacturing license.**

4671 (1) A brewery manufacturing license allows a brewery manufacturing licensee to:

4672 (a) store, manufacture, brew, transport, or export beer, heavy beer, and flavored malt
4673 beverages;

4674 (b) sell heavy beer and a flavored malt beverage to:

4675 (i) the department;

- 4676 (ii) a military installation; or
4677 (iii) an out-of-state customer;
4678 (c) sell beer to a beer wholesaler licensee;
4679 (d) in the case of a small brewer, in accordance with Subsection (5), sell beer
4680 manufactured by the small brewer to:
4681 (i) a retail licensee;
4682 (ii) an off-premise beer retailer; or
4683 (iii) an event permittee; and
4684 (e) warehouse on its premises an alcoholic product that the brewery manufacturing
4685 licensee manufactures or purchases for manufacturing purposes.
- 4686 (2) A brewery manufacturing licensee may not sell the following to a person within the
4687 state except the department or a military installation:
4688 (a) heavy beer; or
4689 (b) a flavored malt beverage.
- 4690 (3) If considered necessary, the commission or department may require:
4691 (a) the alteration of the plant, equipment, or licensed premises;
4692 (b) the alteration or removal of any unsuitable alcoholic product-making equipment or
4693 material;
4694 (c) a brewery manufacturing licensee to clean, disinfect, ventilate, or otherwise
4695 improve the sanitary and working conditions of the plant, licensed premises, and equipment; or
4696 (d) that a record pertaining to the materials and ingredients used in the manufacture of
4697 an alcoholic product be available to the commission or department upon request.
- 4698 (4) A brewery manufacturing licensee may not permit any beer, heavy beer, or flavored
4699 malt beverage to be consumed on the licensed premises, except under the circumstances
4700 described in this Subsection (4).
4701 (a) A brewery manufacturing licensee may allow its off-duty staff to consume beer,
4702 heavy beer, or a flavored malt beverage on its premises without charge.
4703 (b) A brewery manufacturing licensee may allow a person who can lawfully purchase
4704 the following for wholesale or retail distribution to consume a bona fide sample of the brewery
4705 manufacturing licensee's product on the licensed premises:
4706 (i) beer;

4707 (ii) heavy beer; or

4708 (iii) a flavored malt beverage.

4709 (c) (i) A brewery manufacturing licensee may operate on its licensed premises a retail
4710 facility allowing consumption on premises of beer in a bottle or on draft if food is also
4711 available.

4712 (ii) A retail facility located on the licensed premises of a brewery manufacturing
4713 licensee shall be operated or supervised by the brewery manufacturing licensee.

4714 (iii) In operating a retail facility under this Subsection (4)(c), a brewery manufacturing
4715 licensee shall comply with the requirements of Chapter 7, Part 2, Off-premise Beer Retailer
4716 Local Authority.

4717 (5) (a) A small brewer shall own, lease, or maintain and control a warehouse facility
4718 located in this state for the storage of beer to be sold to a person described in Subsection (1)(d)
4719 if the small brewer:

4720 (i) (A) (I) is located in this state; and

4721 (II) holds a brewery manufacturing license; or

4722 (B) (I) is located outside this state; and

4723 (II) holds a certificate of approval to sell beer in this state; and

4724 (ii) sells beer manufactured by the small brewer directly to a person described in
4725 Subsection (1)(d).

4726 (b) A small brewer may not sell beer to a person described in Subsection (1)(d) unless
4727 the beer:

4728 (i) is manufactured by the small brewer; and

4729 (ii) is first placed in the small brewer's warehouse facility in this state.

4730 (c) (i) A small brewer warehouse shall make and maintain complete beer importation,
4731 inventory, tax, distribution, sales records, and other records as the department and State Tax
4732 Commission may require.

4733 (ii) The records described in Subsection (5)(c)(i) are subject to inspection by:

4734 (A) the department; and

4735 (B) the State Tax Commission.

4736 (iii) Section 32B-1-205 applies to a record required to be made or maintained in
4737 accordance with this Subsection (5), except that the provision is considered to include an action

4738 described in Section 32B-1-205 made for the purpose of deceiving the State Tax Commission,
4739 or an official or employee of the State Tax Commission.

4740 (6) Subject to Subsection (7):

4741 (a) A brewery manufacturing licensee may not sell beer in this state except under a
4742 written agreement with a beer wholesaler licensee in this state.

4743 (b) An agreement described in Subsection (6)(a) shall:

4744 (i) create a restricted exclusive sales territory that is mutually agreed upon by the
4745 persons entering into the agreement;

4746 (ii) designate the one or more brands that may be distributed in the sales territory; and

4747 (iii) set forth the exact geographical area of the sales territory.

4748 (c) A brewery manufacturing licensee may have more than one agreement described in
4749 this Subsection (6) if each brand of the brewery manufacturing licensee is covered by one
4750 exclusive sales territory.

4751 (d) A brewery manufacturing licensee may not enter into an agreement with more than
4752 one beer wholesaler licensee to distribute the same brand of beer in the same sales territory or
4753 any portion of the sales territory.

4754 (7) A small brewer is not subject to the requirements of Subsection (6).

4755 Section 96. Section **32B-11-604 (Effective 07/01/11)** is amended to read:

4756 **32B-11-604 (Effective 07/01/11). Application for local industry representative**
4757 **license.**

4758 (1) To obtain a local industry representative license, a person shall submit to the
4759 department:

4760 (a) a written application in a form prescribed by the department;

4761 (b) a nonrefundable [~~\$50~~] \$75 application fee;

4762 (c) an initial license fee of [~~\$100~~] \$125, which is refundable if a local industry
4763 representative license is not issued;

4764 (d) verification that the person is:

4765 (i) a resident of Utah;

4766 (ii) a Utah partnership;

4767 (iii) a Utah corporation; or

4768 (iv) a Utah limited liability company;

4769 (e) an affidavit stating the name and address of any manufacturer, supplier, or importer
4770 the person will represent;

4771 (f) a signed consent form stating that the local industry representative will permit any
4772 authorized representative of the commission, department, or any law enforcement officer to
4773 have an unrestricted right to enter, during normal business hours, the specific premises where
4774 the local industry representative conducts business;

4775 (g) if the person is an entity, proper verification evidencing that a person who signs the
4776 application is authorized to sign on behalf of the entity; and

4777 (h) any other information the commission or department may require.

4778 (2) A local industry representative licensee is not required to pay an additional license
4779 fee to represent more than one manufacturer, supplier, or importer.

4780 Section 97. Section **32B-11-605 (Effective 07/01/11)** is amended to read:

4781 **32B-11-605 (Effective 07/01/11). Renewal requirements for local industry**
4782 **representative license.**

4783 (1) A local industry representative license expires on December 31 of each year.

4784 (2) To renew a local industry representative license, a person shall submit to the
4785 department by no later than November 30 of the year the license expires:

4786 (a) a completed renewal application in a form prescribed by the department;

4787 (b) a renewal fee of [~~\$100~~] \$125; and

4788 (c) an affidavit stating the name and address of any manufacturer, supplier, or importer
4789 the local industry representative licensee represents at the time of submitting the renewal
4790 application.

4791 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
4792 local industry representative license effective on the date the existing local industry
4793 representative license expires.

4794 Section 98. Section **32B-11-608 (Effective 07/01/11)** is amended to read:

4795 **32B-11-608 (Effective 07/01/11). Operational requirements for local industry**
4796 **representative license.**

4797 (1) (a) A local industry representative licensee, staff of the local industry representative
4798 licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the
4799 state, shall comply with this title and rules of the commission.

- 4800 (b) If a person knowingly violates Subsection (1)(a):
- 4801 (i) the violation may result in disciplinary action in accordance with Chapter 3,
- 4802 Disciplinary Actions and Enforcement Act, against:
- 4803 (A) a local industry representative licensee;
- 4804 (B) individual staff of a local industry representative licensee; or
- 4805 (C) both a local industry representative licensee and staff of the local industry
- 4806 representative licensee; and
- 4807 (ii) if the conditions of Subsection (1)(c) are met, the commission may order:
- 4808 (A) the removal of the manufacturer's, supplier's, or importer's products from the
- 4809 department's sales list; and
- 4810 (B) a suspension of the department's purchase of those products for a period
- 4811 determined by the commission.
- 4812 (c) Subsection (1)(b)(ii) applies if the manufacturer, supplier, or importer:
- 4813 (i) directly commits the violation; or
- 4814 (ii) solicits, requests, commands, encourages, or intentionally aides another to engage
- 4815 in the violation.
- 4816 (2) A local industry representative licensee shall display its license in the local industry
- 4817 representative licensee's principal place of business.
- 4818 (3) (a) A local industry representative licensee shall maintain on file with the
- 4819 department a current accounts list of the names and addresses of the manufacturers, suppliers,
- 4820 and importers the local industry representative licensee represents.
- 4821 (b) A local industry representative licensee shall notify the department in writing of a
- 4822 change to its accounts list within 14 days from the date the local industry representative
- 4823 licensee:
- 4824 (i) acquires the account of a manufacturer, supplier, or importer; or
- 4825 (ii) loses the account of a manufacturer, supplier, or importer.
- 4826 (4) (a) A local industry representative licensee shall make and maintain the records the
- 4827 department requires for at least three years.
- 4828 (b) Section 32B-1-205 applies to a record required to be made or maintained in
- 4829 accordance with this Subsection (4).
- 4830 (5) Staff of a local industry representative licensee may not be:

- 4831 (a) a retail licensee that sells, offers for sale, or furnishes liquor;
- 4832 (b) staff of a retail licensee that sells, offers for sale, or furnishes liquor; or
- 4833 (c) a minor.
- 4834 (6) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
- 4835 give, or attempt in any way to dispose of the license to another person, whether for monetary
- 4836 gain or not.
- 4837 (b) A local industry representative license has no monetary value for any type of
- 4838 disposition.
- 4839 (7) A local industry representative licensee, staff of the local industry representative
- 4840 licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the
- 4841 state:
- 4842 (a) only to the extent authorized by Chapter 4, Criminal Offenses and Procedure Act,
- 4843 may:
- 4844 (i) assist the department in:
- 4845 (A) ordering, shipping, and delivering merchandise;
- 4846 (B) providing new product notification;
- 4847 (C) obtaining listing and delisting information;
- 4848 (D) receiving price quotations;
- 4849 (E) providing product sales analysis;
- 4850 (F) conducting shelf management; and
- 4851 (G) conducting educational seminars; and
- 4852 (ii) to acquire new listings:
- 4853 (A) solicit orders from the department; and
- 4854 (B) submit to the department price lists and samples of the products of the
- 4855 manufacturer, supplier, or importer;
- 4856 (b) may not sell liquor within the state except to:
- 4857 (i) the department; and
- 4858 (ii) a military installation;
- 4859 (c) may not ship or transport, or cause to be shipped or transported, liquor into this
- 4860 state or from one place to another within this state;
- 4861 (d) may not sell or furnish any liquor to any person within this state other than to:

- 4862 (i) the department; or
4863 (ii) a military installation;
4864 (e) except as otherwise provided, may not advertise a product the local industry
4865 representative licensee represents in violation of this title or any other federal or state law;
4866 (f) shall comply with the trade practices provided in Chapter 4, Part 7, Trade Practices
4867 Act; and
4868 (g) may only provide a sample of a product of the manufacturer, supplier, or importer
4869 for tasting and sampling purposes as provided in Section 32B-4-705 by the department.
4870 (8) A local industry representative licensee may, to become educated as to the quality
4871 and characteristics of a liquor that the licensee represents, taste and analyze an industry
4872 representative sample under the conditions listed in this Subsection (8).
4873 (a) A local industry representative licensee may not receive more than two industry
4874 representative samples of a particular type, vintage, and production lot of a particular branded
4875 product within a consecutive 120-day period.
4876 (b) (i) An industry representative sample of liquor may not exceed one liter.
4877 (ii) Notwithstanding Subsection (8)(b)(i), an industry representative sample of the
4878 following may not exceed 1.5 liters unless that exact product is only commercially packaged in
4879 a larger size, not to exceed 5 liters:
4880 (A) wine;
4881 (B) heavy beer; or
4882 (C) a flavored malt beverage.
4883 (c) An industry representative sample may only be of a product not presently listed on
4884 the department's sales list.
4885 (d) (i) An industry representative sample shall be shipped:
4886 (A) prepaid by the manufacturer, supplier, or importer;
4887 (B) by common carrier and not via United States mail; and
4888 (C) directly to the department's central administrative warehouse office.
4889 (ii) An industry representative sample may not be shipped to any other location within
4890 the state.
4891 (e) An industry representative sample shall be accompanied by a letter from the
4892 manufacturer, supplier, or importer:

- 4893 (i) clearly identifying the product as an "industry representative sample"; and
4894 (ii) clearly stating:
4895 (A) the FOB case price of the product; and
4896 (B) the name of the local industry representative for whom it is intended.
4897 (f) The department shall assess a reasonable handling, labeling, and storage fee for
4898 each industry representative sample received.
4899 (g) The department shall affix to a [~~package~~] container a label clearly identifying the
4900 product as an "industry representative sample."
4901 (h) The department shall:
4902 (i) account for and record each industry representative sample received;
4903 (ii) account for the industry representative sample's disposition; and
4904 (iii) maintain a record of the industry representative sample and its disposition for a
4905 two-year period.
4906 (i) An industry representative sample may not leave the premises of the department's
4907 central administrative warehouse office.
4908 (j) A local industry representative licensee's and a local industry representative
4909 licensee's staff may, at regularly scheduled days and times established by the department, taste
4910 and analyze one or more industry representative samples on the premises of the department's
4911 central administrative warehouse office.
4912 (k) The department shall destroy the unused contents of an opened product remaining
4913 after a product is sampled under controlled and audited conditions established by the
4914 department.
4915 (l) An industry representative sample that is not tasted within 30 days of receipt by the
4916 department shall be disposed of at the discretion of the department in one of the following
4917 ways:
4918 (i) the contents destroyed under controlled and audited conditions established by the
4919 department; or
4920 (ii) added to the inventory of the department for sale to the public.
4921 Section 99. Section **32B-12-202 (Effective 07/01/11)** is amended to read:
4922 **32B-12-202 (Effective 07/01/11). Application requirements for liquor**
4923 **warehousing license.**

4924 To obtain a liquor warehousing license, a person shall submit to the department:

4925 (1) a written application in a form prescribed by the department;

4926 (2) a nonrefundable [~~\$250~~] \$300 application fee;

4927 (3) an initial license fee of [~~\$750~~] \$850, which is refundable if a liquor warehousing

4928 license is not issued;

4929 (4) written consent of the local authority;

4930 (5) a copy of the person's current business license;

4931 (6) a bond as specified by Section 32B-12-206;

4932 (7) a floor plan of the person's warehouse, including the area in which the person

4933 proposes that liquor be stored;

4934 (8) evidence that the person is carrying public liability insurance in an amount and

4935 form satisfactory to the department;

4936 (9) a signed consent form stating that the liquor warehousing licensee will permit any

4937 authorized representative of the commission, department, or any law enforcement officer to

4938 have unrestricted right to enter the licensed premises;

4939 (10) if the person is an entity, proper verification evidencing that a person who signs

4940 the application is authorized to sign on behalf of the entity; and

4941 (11) any other information the commission or department may require.

4942 Section 100. Section **32B-12-203 (Effective 07/01/11)** is amended to read:

4943 **32B-12-203 (Effective 07/01/11). Renewal requirements for liquor warehousing**

4944 **license.**

4945 (1) A liquor warehousing license expires on December 31 of each year.

4946 (2) To renew a liquor warehousing license, a person shall submit to the department by

4947 no later than November 30 of the year the license expires:

4948 (a) a completed renewal application in a form prescribed by the department; and

4949 (b) a renewal fee of [~~\$1,000~~] \$1,200.

4950 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the

4951 liquor warehousing license effective on the date the existing liquor warehousing license

4952 expires.

4953 Section 101. Section **32B-13-202 (Effective 07/01/11)** is amended to read:

4954 **32B-13-202 (Effective 07/01/11). Application requirements for beer wholesaling**

4955 **license.**

4956 To obtain a beer wholesaling license, a person shall submit to the department:

- 4957 (1) a written application in a form prescribed by the department;
- 4958 (2) a nonrefundable [~~\$250~~] \$300 application fee;
- 4959 (3) an initial license fee of [~~\$2,000~~] \$2,300 that is refundable if a beer wholesaling
- 4960 license is not issued;
- 4961 (4) written consent of the local authority;
- 4962 (5) a copy of the person's current business license;
- 4963 (6) a bond as specified in Section 32B-13-206;
- 4964 (7) a statement of the brands of beer the person is authorized to sell and distribute;
- 4965 (8) a statement of the [~~geographical areas~~] one or more sales territories in which the
- 4966 person is authorized [~~by the beer manufacturer~~] to sell and distribute beer under an agreement
- 4967 required by Section 32B-11-201 or 32B-11-503;
- 4968 (9) evidence that the person is carrying public liability insurance in an amount and
- 4969 form satisfactory to the department;
- 4970 (10) a signed consent form stating that the beer wholesaling licensee will permit any
- 4971 authorized representative of the commission, department, or any law enforcement officer to
- 4972 have unrestricted right to enter the licensed premises;
- 4973 (11) if the person is an entity, proper verification evidencing that a person who signs
- 4974 the application is authorized to sign on behalf of the entity; and
- 4975 (12) any other information that the commission or department may require.

4976 Section 102. Section **32B-13-203 (Effective 07/01/11)** is amended to read:

4977 **32B-13-203 (Effective 07/01/11). Renewal requirements for beer wholesaling**
4978 **license.**

- 4979 (1) A beer wholesaling license expires on December 31 of each year.
- 4980 (2) To renew a beer wholesaling license, a person shall submit to the department by no
- 4981 later than November 30 of the year the license expires:

- 4982 (a) a completed renewal application in a form prescribed by the department; and
- 4983 (b) a renewal fee in the following amount:

4984 Case Sales in Previous License Year for the Licensee	Renewal Fee
4985 under 500,000 cases	[\$1,000] <u>\$1,200</u>

4986 equals or exceeds 500,000 cases but less than 1,000,000 cases [~~\$2,000~~] \$2,350
4987 equals or exceeds 1,000,000 cases [~~\$3,000~~] \$3,500.

4988 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
4989 beer wholesaling license effective on the date the existing beer wholesaling license expires.

4990 Section 103. Section **32B-13-301 (Effective 07/01/11)** is amended to read:

4991 **32B-13-301 (Effective 07/01/11). General operational requirements for beer**
4992 **wholesaling license.**

4993 (1) (a) A beer wholesaler licensee and staff of the beer wholesaler licensee shall
4994 comply with this title and the rules of the commission.

4995 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
4996 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

4997 (i) a beer wholesaler licensee;

4998 (ii) individual staff of a beer wholesaler licensee; or

4999 (iii) both a beer wholesaler licensee and staff of the beer wholesaler licensee.

5000 (2) (a) A beer wholesaler licensee shall make and maintain the records required by the
5001 department.

5002 (b) Section 32B-1-205 applies to a record required to be made or maintained in
5003 accordance with this Subsection (2).

5004 (3) A beer wholesaler licensee may not employ a minor to handle an alcoholic product.

5005 (4) A beer wholesaler licensee may not sell, transfer, assign, exchange, barter, give, or
5006 attempt in any way to dispose of the beer wholesaling license to a person, whether for monetary
5007 gain or not, unless it is done:

5008 (a) in accordance with the commission rules; and

5009 (b) after written consent is given by the commission.

5010 (5) A beer wholesaler licensee may not wholesale a beer manufactured within the state
5011 by a brewer who is not licensed by the commission as a brewery manufacturing licensee.

5012 (6) A beer wholesaler licensee may not wholesale a beer manufactured out of state by a
5013 brewer who has not obtained a certificate of approval from the department.

5014 (7) (a) A beer wholesaler licensee may not sell or distribute beer to a person within the
5015 state except to:

5016 (i) a retail licensee;

5017 (ii) an off-premise beer retailer; or

5018 (iii) an event permittee.

5019 (b) A violation of this Subsection (7) is a class A misdemeanor.

5020 (8) (a) A beer wholesaler licensee may not sell or distribute a beer to a person who sells
5021 the beer at retail outside of [~~the geographic area~~] a sales territory designated on its application
5022 and authorized by an agreement described in Subsection 32B-13-202(8), except that if a beer
5023 wholesaler licensee is temporarily unable to supply a person within the beer wholesaler
5024 licensee's authorized [~~geographical area~~] sales territory, the department may grant temporary
5025 authority to another beer wholesaler licensee who distributes the same brand in another [~~area~~]
5026 sales territory to supply:

5027 (i) a retail licensee; or

5028 (ii) an off-premise beer retailer.

5029 (b) A violation of this Subsection (8) is a class B misdemeanor.

5030 (9) (a) A beer wholesaler licensee shall own, lease, or otherwise control and maintain a
5031 warehouse facility located in this state for the receipt, storage, and further distribution of beer
5032 sold by the beer wholesaler licensee to a person within the state.

5033 (b) A beer wholesaler licensee may not sell beer to a person in this state, other than the
5034 department, unless the beer is first:

5035 (i) physically removed from the vehicle used to transport the beer from the supplier to
5036 the beer wholesaler licensee; and

5037 (ii) delivered into the actual possession and control of the beer wholesaler licensee in
5038 its warehouse or other facility.

5039 (10) A beer wholesaler licensee may not sell or distribute an alcoholic product that has
5040 not had its label and packaging approved by the department in accordance with Chapter 1, Part
5041 6, Malted Beverage Act.

5042 (11) The commission may prescribe by policy or rule, consistent with this title, the
5043 general operational requirements of a beer wholesaling licensee relating to:

5044 (a) physical facilities; and

5045 (b) the conditions of importation, purchase, storage, sale, offering for sale, distribution,
5046 or transportation of beer within the state.

5047 Section 104. Section **52-4-205** is amended to read:

5048 **52-4-205. Purposes of closed meetings.**

5049 (1) A closed meeting described under Section 52-4-204 may only be held for:

5050 (a) discussion of the character, professional competence, or physical or mental health
5051 of an individual;

5052 (b) strategy sessions to discuss collective bargaining;

5053 (c) strategy sessions to discuss pending or reasonably imminent litigation;

5054 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
5055 including any form of a water right or water shares, if public discussion of the transaction
5056 would:

5057 (i) disclose the appraisal or estimated value of the property under consideration; or

5058 (ii) prevent the public body from completing the transaction on the best possible terms;

5059 (e) strategy sessions to discuss the sale of real property, including any form of a water
5060 right or water shares, if:

5061 (i) public discussion of the transaction would:

5062 (A) disclose the appraisal or estimated value of the property under consideration; or

5063 (B) prevent the public body from completing the transaction on the best possible terms;

5064 (ii) the public body previously gave public notice that the property would be offered for
5065 sale; and5066 (iii) the terms of the sale are publicly disclosed before the public body approves the
5067 sale;

5068 (f) discussion regarding deployment of security personnel, devices, or systems;

5069 (g) investigative proceedings regarding allegations of criminal misconduct;

5070 (h) as relates to the Independent Legislative Ethics Commission, conducting business
5071 relating to the receipt or review of ethics complaints;5072 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
5073 Subsection 52-4-204(1)(a)(iii)(B);5074 (j) as relates to a county legislative body, discussing commercial information as
5075 defined in Section 59-1-404; [or]5076 (k) as relates to the Alcoholic Beverage Control Commission issuing a retail license
5077 under Title 32B, Alcoholic Beverage Control Act, after receiving public input in a public
5078 meeting in support or opposition to the commission issuing the retail license, discussing one or

5079 more of the following factors in a closed meeting:

5080 (i) a factor the commission is required to consider under Section 32B-5-203 or that is
 5081 specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail
 5082 license at issue;

5083 (ii) the availability of a retail license under a quota;

5084 (iii) the length of time the applicant has waited for a retail license;

5085 (iv) an opening date for the applicant;

5086 (v) whether the applicant is a seasonal business;

5087 (vi) whether the location of the applicant has been previously licensed or is a new
 5088 location;

5089 (vii) whether the application involves a change of ownership of an existing location;

5090 (viii) whether the applicant holds other alcohol licenses at any location;

5091 (ix) whether the applicant has a violation history or a pending violation;

5092 (x) projected alcohol sales for the applicant as it relates to the extent to which the retail
 5093 license will be used;

5094 (xi) whether the applicant is a small or entrepreneurial business that would benefit the
 5095 community in which it would be located;

5096 (xii) the nature of entertainment the applicant proposes; or

5097 (xiii) public input in support or opposition to granting the retail license; or

5098 [~~(k)~~] (1) a purpose for which a meeting is required to be closed under Subsection (2).

5099 (2) The following meetings shall be closed:

5100 (a) a meeting of the Health and Human Services Interim Committee to review a fatality
 5101 review report described in Subsection 62A-16-301(1)(a), and the responses to the report
 5102 described in Subsections 62A-16-301(2) and (4); and

5103 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

5104 (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the
 5105 responses to the report described in Subsections 62A-16-301(2) and (4); or

5106 (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5).

5107 (3) A public body may not interview a person applying to fill an elected position in a
 5108 closed meeting.

5109 Section 105. Section **62A-15-401 (Effective 07/01/11)** is amended to read:

- 5110 **62A-15-401 (Effective 07/01/11). Alcohol training and education seminar.**
- 5111 (1) As used in this part:
- 5112 (a) "Instructor" means a person that directly provides the instruction during an alcohol
- 5113 training and education seminar for a seminar provider.
- 5114 (b) "Licensee" means a person who is:
- 5115 (i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act;
- 5116 and
- 5117 (B) engaged in the retail sale of an alcoholic product for consumption on the premises
- 5118 of the licensee; or
- 5119 (ii) a business that is:
- 5120 (A) a new or renewing licensee licensed by a city, town, or county; and
- 5121 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.
- 5122 (c) "Off-premise beer retailer" is as defined in Section 32B-1-102.
- 5123 (d) "Seminar provider" means a person other than the division who provides an alcohol
- 5124 training and education seminar meeting the requirements of this section.
- 5125 (2) (a) This section applies to an individual who, as defined by the board by rule:
- 5126 (i) manages operations at the premises of a licensee engaged in the retail sale of an
- 5127 alcoholic product for consumption on the premises of the licensee;
- 5128 (ii) supervises the serving of an alcoholic product to a customer for consumption on the
- 5129 premises of a licensee;
- 5130 (iii) serves an alcoholic product to a customer for consumption on the premises of a
- 5131 licensee;
- 5132 (iv) directly supervises the sale of beer to a customer for consumption off the premises
- 5133 of an off-premise beer retailer; or
- 5134 (v) sells beer to a customer for consumption off the premises of an off-premise beer
- 5135 retailer.
- 5136 (b) If the individual does not have a valid record that the individual has completed an
- 5137 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:
- 5138 (i) (A) complete an alcohol training and education seminar within 30 days of the
- 5139 following if the individual is described in Subsections (2)(a)(i) through (iii):
- 5140 (I) if the individual is an employee, the day the individual begins employment;

5141 (II) if the individual is an independent contractor, the day the individual is first hired;
5142 or

5143 (III) if the individual holds an ownership interest in the licensee, the day that the
5144 individual first engages in an activity that would result in that individual being required to
5145 complete an alcohol training and education seminar; or

5146 (B) complete an alcohol training and education seminar within the time periods
5147 specified in Subsection 32B-5-404(1) if the individual is described in Subsections (2)(a)(iv)
5148 and (v); and

5149 (ii) pay a fee:

5150 (A) to the seminar provider; and

5151 (B) that is equal to or greater than the amount established under Subsection (4)(h).

5152 (c) An individual shall have a valid record that the individual completed an alcohol
5153 training and education seminar within the time period provided in this Subsection (2) to engage
5154 in an activity described in Subsection (2)(a).

5155 (d) A record that an individual has completed an alcohol training and education
5156 seminar is valid for:

5157 (i) three years from the day on which the record is issued for an individual described in
5158 Subsection (2)(a)(i), (ii), or (iii); and

5159 (ii) five years from the day on which the record is issued for an individual described in
5160 Subsection (2)(a)(iv) or (v).

5161 (e) On and after July 1, 2011, to be considered as having completed an alcohol training
5162 and education seminar, an individual shall:

5163 (i) attend the alcohol training and education seminar and take any test required to
5164 demonstrate completion of the alcohol training and education seminar in the physical presence
5165 of an instructor of the seminar provider; or

5166 (ii) complete the alcohol training and education seminar and take any test required to
5167 demonstrate completion of the alcohol training and education seminar through an online course
5168 or testing program that meets the requirements described in Subsection (2)(f).

5169 (f) The board shall by rule made in accordance with Title 63G, Chapter 3, Utah
5170 Administrative Rulemaking Act, establish one or more requirements for an online course or
5171 testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of

5172 the online course or testing program. In developing the requirements by rule the board shall
5173 consider whether to require:

5174 (i) authentication that the an individual accurately identifies the individual as taking the
5175 online course or test;

5176 (ii) measures to ensure that an individual taking the online course or test is focused on
5177 training material throughout the entire training period;

5178 (iii) measures to track the actual time an individual taking the online course or test is
5179 actively engaged online;

5180 (iv) a seminar provider to provide technical support, such as requiring a telephone
5181 number, email, or other method of communication that allows an individual taking the online
5182 course or test to receive assistance if the individual is unable to participate online because of
5183 technical difficulties;

5184 (v) a test to meet quality standards, including randomization of test questions and
5185 maximum time limits to take a test;

5186 (vi) a seminar provider to have a system to reduce fraud as to who completes an online
5187 course or test, such as requiring a distinct online certificate with information printed on the
5188 certificate that identifies the person taking the online course or test, or requiring measures to
5189 inhibit duplication of a certificate;

5190 (vii) measures for the board to audit online courses or tests;

5191 (viii) measures to allow an individual taking an online course or test to provide an
5192 evaluation of the online course or test;

5193 (ix) a seminar provider to track the Internet protocol address or similar electronic
5194 location of an individual who takes an online course or test;

5195 (x) an individual who takes an online course or test to use of an e-signature; or

5196 (xi) a seminar provider to invalidate a certificate if the seminar provider learns that the
5197 certificate does not accurately reflect the individual who took the online course or test.

5198 (3) (a) A licensee may not permit an individual who is not in compliance with
5199 Subsection (2) to:

5200 (i) serve or supervise the serving of an alcoholic product to a customer for
5201 consumption on the premises of the licensee;

5202 (ii) engage in any activity that would constitute managing operations at the premises of

5203 a licensee that engages in the retail sale of an alcoholic product for consumption on the
5204 premises of the licensee;

5205 (iii) directly supervise the sale of beer to a customer for consumption off the premises
5206 of an off-premise beer retailer; or

5207 (iv) sell beer to a customer for consumption off the premises of an off-premise beer
5208 retailer.

5209 (b) A licensee that violates Subsection (3)(a) is subject to Section 32B-5-403.

5210 (4) The division shall:

5211 (a) (i) provide alcohol training and education seminars; or
5212 (ii) certify one or more seminar providers;

5213 (b) establish the curriculum for an alcohol training and education seminar that includes
5214 the following subjects:

5215 (i) (A) alcohol as a drug; and
5216 (B) alcohol's effect on the body and behavior;

5217 (ii) recognizing the problem drinker or signs of intoxication;

5218 (iii) an overview of state alcohol laws related to responsible beverage sale or service,
5219 as determined in consultation with the Department of Alcoholic Beverage Control;

5220 (iv) dealing with the problem customer, including ways to terminate sale or service;
5221 and

5222 (v) for those supervising or engaging in the retail sale of an alcoholic product for
5223 consumption on the premises of a licensee, alternative means of transportation to get the
5224 customer safely home;

5225 (c) recertify each seminar provider every three years;

5226 (d) monitor compliance with the curriculum described in Subsection (4)(b);

5227 (e) maintain for at least five years a record of every person who has completed an
5228 alcohol training and education seminar;

5229 (f) provide the information described in Subsection (4)(e) on request to:

5230 (i) the Department of Alcoholic Beverage Control;

5231 (ii) law enforcement; or

5232 (iii) a person licensed by the state or a local government to sell an alcoholic product;

5233 (g) provide the Department of Alcoholic Beverage Control on request a list of any

5234 seminar provider certified by the division; and

5235 (h) establish a fee amount for each person attending an alcohol training and education
5236 seminar that is sufficient to offset the division's cost of administering this section.

5237 (5) The board shall by rule made in accordance with Title 63G, Chapter 3, Utah

5238 Administrative Rulemaking Act:

5239 (a) define what constitutes under this section an individual who:

5240 (i) manages operations at the premises of a licensee engaged in the retail sale of an
5241 alcoholic product for consumption on the premises of the licensee;

5242 (ii) supervises the serving of an alcoholic product to a customer for consumption on the
5243 premises of a licensee;

5244 (iii) serves an alcoholic product to a customer for consumption on the premises of a
5245 licensee;

5246 (iv) directly supervises the sale of beer to a customer for consumption off the premises
5247 of an off-premise beer retailer; or

5248 (v) sells beer to a customer for consumption off the premises of an off-premise beer
5249 retailer;

5250 (b) establish criteria for certifying and recertifying a seminar provider; and

5251 (c) establish guidelines for the manner in which an instructor provides an alcohol
5252 education and training seminar.

5253 (6) A seminar provider shall:

5254 (a) obtain recertification by the division every three years;

5255 (b) ensure that an instructor used by the seminar provider:

5256 (i) follows the curriculum established under this section; and

5257 (ii) conducts an alcohol training and education seminar in accordance with the
5258 guidelines established by rule;

5259 (c) ensure that any information provided by the seminar provider or instructor of a
5260 seminar provider is consistent with:

5261 (i) the curriculum established under this section; and

5262 (ii) this section;

5263 (d) provide the division with the names of all persons who complete an alcohol training
5264 and education seminar provided by the seminar provider;

5265 (e) (i) collect a fee for each person attending an alcohol training and education seminar
5266 in accordance with Subsection (2); and

5267 (ii) forward to the division the portion of the fee that is equal to the amount described
5268 in Subsection (4)(h); and

5269 (f) issue a record to an individual that completes an alcohol training and education
5270 seminar provided by the seminar provider.

5271 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,
5272 Administrative Procedures Act, the division finds that a seminar provider violates this section
5273 or that an instructor of the seminar provider violates this section, the division may:

5274 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;

5275 (ii) revoke the certification of the seminar provider;

5276 (iii) require the seminar provider to take corrective action regarding an instructor; or

5277 (iv) prohibit the seminar provider from using an instructor until such time that the
5278 seminar provider establishes to the satisfaction of the division that the instructor is in
5279 compliance with Subsection (6)(b).

5280 (b) The division may certify a seminar provider whose certification is revoked:

5281 (i) no sooner than 90 days from the date the certification is revoked; and

5282 (ii) if the seminar provider establishes to the satisfaction of the division that the
5283 seminar provider will comply with this section.

5284 Section 106. Section **63J-1-201** is amended to read:

5285 **63J-1-201. Governor to submit budget to Legislature -- Contents -- Preparation --**
5286 **Appropriations based on current tax laws and not to exceed estimated revenues.**

5287 (1) The governor shall deliver, not later than 30 days before the date the Legislature
5288 convenes in the annual general session, a confidential draft copy of the governor's proposed
5289 budget recommendations to the Office of the Legislative Fiscal Analyst.

5290 (2) (a) The governor shall, within the first three days of the annual general session of
5291 the Legislature, submit to the presiding officer of each house of the Legislature:

5292 (i) a proposed budget for the ensuing fiscal year;

5293 (ii) a schedule for all of the proposed appropriations of the budget, with each
5294 appropriation clearly itemized and classified;

5295 (iii) the statement described in Subsection (2)(c); and

- 5296 (iv) as applicable, a document showing proposed expenditures and estimated revenues
5297 that are based on changes in state tax laws or rates.
- 5298 (b) The proposed budget shall include:
- 5299 (i) a projection of estimated revenues and expenditures for the next fiscal year;
- 5300 (ii) the source of all direct, indirect, and in-kind matching funds for all federal grants or
5301 assistance programs included in the budget;
- 5302 (iii) a complete plan of proposed expenditures and estimated revenues for the next
5303 fiscal year that is based upon the current fiscal year state tax laws and rates;
- 5304 (iv) an itemized estimate of the proposed appropriations for:
- 5305 (A) the Legislative Department as certified to the governor by the president of the
5306 Senate and the speaker of the House;
- 5307 (B) the Executive Department;
- 5308 (C) the Judicial Department as certified to the governor by the state court
5309 administrator;
- 5310 (D) payment and discharge of the principal and interest of the indebtedness of the state;
- 5311 (E) the salaries payable by the state under the Utah Constitution or under law for the
5312 lease agreements planned for the next fiscal year;
- 5313 (F) other purposes that are set forth in the Utah Constitution or under law; and
- 5314 (G) all other appropriations;
- 5315 (v) for each line item, the average annual dollar amount of staff funding associated
5316 with all positions that were vacant during the last fiscal year; and
- 5317 (vi) deficits or anticipated deficits.
- 5318 (c) The budget shall be accompanied by a statement showing:
- 5319 (i) the revenues and expenditures for the last fiscal year;
- 5320 (ii) the current assets, liabilities, and reserves, surplus or deficit, and the debts and
5321 funds of the state;
- 5322 (iii) an estimate of the state's financial condition as of the beginning and the end of the
5323 period covered by the budget;
- 5324 (iv) a complete analysis of lease with an option to purchase arrangements entered into
5325 by state agencies;
- 5326 (v) the recommendations for each state agency for new full-time employees for the

5327 next fiscal year, which shall also be provided to the State Building Board as required by
5328 Subsection 63A-5-103(2);

5329 (vi) any explanation that the governor may desire to make as to the important features
5330 of the budget and any suggestion as to methods for the reduction of expenditures or increase of
5331 the state's revenue; and

5332 (vii) information detailing certain fee increases as required by Section 63J-1-504.

5333 (3) (a) (i) For the purpose of preparing and reporting the proposed budget, the governor
5334 shall require the proper state officials, including all public and higher education officials, all
5335 heads of executive and administrative departments and state institutions, bureaus, boards,
5336 commissions, and agencies expending or supervising the expenditure of the state money, and
5337 all institutions applying for state money and appropriations, to provide itemized estimates of
5338 revenues and expenditures.

5339 (ii) The governor may also require other information under these guidelines and at
5340 times as the governor may direct, which may include a requirement for program productivity
5341 and performance measures, where appropriate, with emphasis on outcome indicators.

5342 (b) The governor may require representatives of public and higher education, state
5343 departments and institutions, and other institutions or individuals applying for state
5344 appropriations to attend budget meetings.

5345 (c) (i) (A) In submitting the budgets for the Departments of Health and Human
5346 Services and the Office of the Attorney General, the governor shall consider a separate
5347 recommendation in the governor's budget for funds to be contracted to:

5348 (I) local mental health authorities under Section 62A-15-110;

5349 (II) local substance abuse authorities under Section 62A-15-110;

5350 (III) area agencies under Section 62A-3-104.2;

5351 (IV) programs administered directly by and for operation of the Divisions of Substance
5352 Abuse and Mental Health and Aging and Adult Services;

5353 (V) local health departments under Title 26A, Chapter 1, Local Health Departments;
5354 and

5355 (VI) counties for the operation of Children's Justice Centers under Section 67-5b-102.

5356 (B) In the governor's budget recommendations under Subsections (3)(c)(i)(A)(I), (II),
5357 and (III), the governor shall consider an amount sufficient to grant local health departments,

5358 local mental health authorities, local substance abuse authorities, and area agencies the same
5359 percentage increase for wages and benefits that the governor includes in the governor's budget
5360 for persons employed by the state.

5361 (C) If the governor does not include in the governor's budget an amount sufficient to
5362 grant the increase described in Subsection (3)(c)(i)(B), the governor shall include a message to
5363 the Legislature regarding the governor's reason for not including that amount.

5364 (ii) (A) In submitting the budget for the Department of Agriculture, the governor shall
5365 consider an amount sufficient to grant local conservation districts and Utah Association of
5366 Conservation District employees the same percentage increase for wages and benefits that the
5367 governor includes in the governor's budget for persons employed by the state.

5368 (B) If the governor does not include in the governor's budget an amount sufficient to
5369 grant the increase described in Subsection (3)(c)(ii)(A), the governor shall include a message to
5370 the Legislature regarding the governor's reason for not including that amount.

5371 (iii) (A) In submitting the budget for the Utah State Office of Rehabilitation and the
5372 Division of Services for People with Disabilities, the Division of Child and Family Services,
5373 and the Division of Juvenile Justice Services within the Department of Human Services, the
5374 governor shall consider an amount sufficient to grant employees of corporations that provide
5375 direct services under contract with those divisions, the same percentage increase for
5376 cost-of-living that the governor includes in the governor's budget for persons employed by the
5377 state.

5378 (B) If the governor does not include in the governor's budget an amount sufficient to
5379 grant the increase described in Subsection (3)(c)(iii)(A), the governor shall include a message
5380 to the Legislature regarding the governor's reason for not including that amount.

5381 (iv) (A) The Families, Agencies, and Communities Together Council may propose a
5382 budget recommendation to the governor for collaborative service delivery systems operated
5383 under Section 63M-9-402, as provided under Subsection 63M-9-201(4)(e).

5384 (B) The Legislature may, through a specific program schedule, designate funds
5385 appropriated for collaborative service delivery systems operated under Section 63M-9-402.

5386 (v) The governor shall include in the governor's budget the state's portion of the budget
5387 for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah
5388 Communications Agency Network Act.

5389 (vi) (A) The governor shall include a separate recommendation in the governor's
5390 budget for funds to maintain the operation and administration of the Utah Comprehensive
5391 Health Insurance Pool.

5392 (B) In making the recommendation, the governor may consider:

5393 (I) actuarial analysis of growth or decline in enrollment projected over a period of at
5394 least three years;

5395 (II) actuarial analysis of the medical and pharmacy claims costs projected over a period
5396 of at least three years;

5397 (III) the annual Medical Care Consumer Price Index;

5398 (IV) the annual base budget for the pool established by the Commerce and Revenue
5399 Appropriations Subcommittee for each fiscal year;

5400 (V) the growth or decline in insurance premium taxes and fees collected by the State
5401 Tax Commission and the Insurance Department; and

5402 (VI) the availability of surplus General Fund revenue under Section 63J-1-312 and
5403 Subsection 59-14-204(5)(b).

5404 (vii) (A) In submitting the budget for the Department of Public Safety, the governor
5405 shall include a separate recommendation in the governor's budget for maintaining a sufficient
5406 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to
5407 or below the number specified in Subsection 32B-1-201(2).

5408 (B) If the governor does not include in the governor's budget an amount sufficient to
5409 maintain the number of alcohol-related law enforcement officers described in Subsection
5410 (3)(c)(vii)(A), the governor shall include a message to the Legislature regarding the governor's
5411 reason for not including that amount.

5412 (d) (i) The governor may revise all estimates, except those relating to the Legislative
5413 Department, the Judicial Department, and those providing for the payment of principal and
5414 interest to the state debt and for the salaries and expenditures specified by the Utah
5415 Constitution or under the laws of the state.

5416 (ii) The estimate for the Legislative Department, as certified by the presiding officers
5417 of both houses, shall be included in the budget without revision by the governor.

5418 (iii) The estimate for the Judicial Department, as certified by the state court
5419 administrator, shall also be included in the budget without revision, but the governor may make

5420 separate recommendations on the estimate.

5421 (e) The total appropriations requested for expenditures authorized by the budget may
5422 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing
5423 fiscal year.

5424 (4) In considering the factors in Subsections (3)(c)(vi)(B)(I), (II), and (III) and
5425 Subsections (5)(b)(ii)(A), (B), and (C), the governor and the Legislature may consider the
5426 actuarial data and projections prepared for the board of the Utah Comprehensive Health
5427 Insurance Pool as it develops its financial statements and projections for each fiscal year.

5428 (5) (a) In adopting a budget for each fiscal year, the Legislature shall consider an
5429 amount sufficient to grant local health departments, local mental health authorities, local
5430 substance abuse authorities, area agencies on aging, conservation districts, and Utah
5431 Association of Conservation District employees the same percentage increase for wages and
5432 benefits that is included in the budget for persons employed by the state.

5433 (b) (i) In adopting a budget each year for the Utah Comprehensive Health Insurance
5434 Pool, the Legislature shall determine an amount that is sufficient to fund the pool for each
5435 fiscal year.

5436 (ii) When making a determination under Subsection (5)(b)(i), the Legislature shall
5437 consider factors it determines are appropriate, which may include:

5438 (A) actuarial analysis of growth or decline in enrollment projected over a period of at
5439 least three years;

5440 (B) actuarial analysis of the medical and pharmacy claims costs projected over a period
5441 of at least three years;

5442 (C) the annual Medical Care Consumer Price Index;

5443 (D) the annual base budget for the pool established by the Commerce and Revenue
5444 Appropriations Subcommittee for each fiscal year;

5445 (E) the growth or decline in insurance premium taxes and fees collected by the tax
5446 commission and the insurance department from the previous fiscal year; and

5447 (F) the availability of surplus General Fund revenue under Section 63J-1-312 and
5448 Subsection 59-14-204(5)(b).

5449 (iii) The funds appropriated by the Legislature to fund the Utah Comprehensive Health
5450 Insurance Pool as determined under Subsection (5)(b)(i):

5451 (A) shall be deposited into the fund established by Section 31A-29-120; and
 5452 (B) are restricted and are to be used to maintain the operation, administration, and
 5453 management of the Utah Comprehensive Health Insurance Pool created by Section
 5454 31A-29-104.

5455 (6) If any item of the budget as enacted is held invalid upon any ground, the invalidity
 5456 does not affect the budget itself or any other item in it.

5457 Section 107. **Repealer.**

5458 This bill repeals:

5459 Section **26-7-6 (Effective 07/01/11), Alcohol retailers to post warnings related to**
 5460 **consumption of alcohol and pregnancy.**

5461 Section **32B-4-506 (Effective 07/01/11), Conflicting interests.**

5462 Section **32B-4-507 (Effective 07/01/11), Interfering with manufacturer, supplier, or**
 5463 **importer.**

5464 Section 108. **Appropriation.**

5465 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
 5466 following sums of money are appropriated from resources not otherwise appropriated out of the
 5467 funds or accounts indicated for the fiscal year beginning July 1, 2011, and ending June 30,
 5468 2012. These are additions to amounts previously appropriated for fiscal year 2012.

5469 To Department of Public Safety - Programs and Operations

5470 From General Fund (\$2,900,000)

5471 Schedule of Programs:

5472 Highway Patrol -- Special Services (\$2,900,000)

5473 Section 109. **Effective date.**

5474 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2011.

5475 (2) (a) The repeal of Subsection 32B-6-603(4) (Effective 07/01/11) in this bill takes
 5476 effect on November 1, 2011.

5477 (b) Title 32B, Chapter 6, Part 8, Reception Center License, enacted by this bill takes
 5478 effect on November 1, 2011.

5479 (c) Title 32B, Chapter 6, Part 9, Beer-only Restaurant License, enacted by this bill
 5480 takes effect on March 1, 2012.

5481 (d) The following take effect on July 1, 2012:

5482

(i) Section 32B-5-309 (Effective 07/01/11) as amended by this bill; and

5483

(ii) Title 32B, Chapter 8a, Transfer of Retail License Act, enacted by this bill.