

**ALCOHOL AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Alcoholic Beverage Control Act to modify the number of available licenses for certain retail licenses.

**Highlighted Provisions:**

This bill:

- ▶ modifies the enforcement ratio;
- ▶ modifies the number of available full-service restaurant licenses;
- ▶ modifies the number of available club licenses that are not dining club licenses;
- ▶ establishes the number of available dining club licenses; and
- ▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2012.

**Utah Code Sections Affected:**

AMENDS:

**32B-1-201**, as last amended by Laws of Utah 2011, Chapter 334

**32B-6-203**, as last amended by Laws of Utah 2011, Chapter 334

**32B-6-403**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

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

29 Section 1. Section **32B-1-201** is amended to read:

30 **32B-1-201. Restrictions on number of retail licenses that may be issued --**

31 **Determining population -- Exempt licenses.**

32 (1) As used in this section:

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

35 (i) the enforcement of this title; or

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

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

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

41 (ii) round the number determined in accordance with Subsection (1)(b)~~(f)~~(i) up to the  
42 nearest whole number.

43 (c) "Quota retail license" means:

44 (i) a full-service restaurant license;

45 (ii) a limited-service restaurant license;

46 (iii) a club license;

47 (iv) an on-premise banquet license;

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

49 (vi) a reception center license.

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

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

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

57 (ii) adding together the numbers determined under Subsection (1)~~(d)~~(e)(i).

58 (2) (a) Beginning on July 1, 2012, the department shall annually determine the

59 enforcement ratio as of July 1 of that year.

60 (b) If, beginning on July 1, 2012, the enforcement ratio is greater than [52] 55, the  
61 commission may not issue a quota retail license for the 12-month period beginning on the July  
62 1 for which the enforcement ratio is greater than [52] 55.

63 (c) Notwithstanding Subsection (2)(b), the commission may issue a quota retail license  
64 during the 12-month period described in Subsection (2)(b) beginning on the day on which a  
65 sufficient number of alcohol-related law enforcement officers are employed so that if the  
66 enforcement ratio is calculated, the enforcement ratio would be equal to or less than [52] 55.

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

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

74 (a) the most recent United States decennial or special census; or

75 (b) another population determination made by the United States or state governments.

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

79 (a) the retail license was issued to a club licensee designated as a dining club as of July  
80 1, 2011; and

81 (b) the dining club license is converted to another type of retail license in accordance  
82 with Section 32B-6-409.

83 Section 2. Section **32B-6-203** is amended to read:

84 **32B-6-203. Commission's power to issue full-service restaurant license.**

85 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of  
86 an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a  
87 full-service restaurant license from the commission in accordance with this part.

88 (2) The commission may issue a full-service restaurant license to establish full-service  
89 restaurant licensed premises at places and in numbers the commission considers proper for the

90 storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises  
91 operated as a full-service restaurant.

92 (3) Subject to Section 32B-1-201:

93 (a) The commission may not issue a total number of full-service restaurant licenses that  
94 at any time exceeds the number determined by dividing the population of the state by [~~4,925~~]  
95 4,839.

96 (b) The commission may issue a seasonal full-service restaurant license in accordance  
97 with Section 32B-5-206.

98 (c) (i) If the location, design, and construction of a hotel may require more than one  
99 full-service restaurant sales location within the hotel to serve the public convenience, the  
100 commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as  
101 many as three full-service restaurant locations within the hotel under one full-service restaurant  
102 license if:

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

104 (B) the locations under the full-service restaurant license are:

105 (I) within the same hotel; and

106 (II) on premises that are managed or operated, and owned or leased, by the full-service  
107 restaurant licensee.

108 (ii) A facility other than a hotel shall have a separate full-service restaurant license for  
109 each full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.

110 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a  
111 full-service restaurant license for premises that do not meet the proximity requirements of  
112 Section 32B-1-202.

113 (b) With respect to the premises of a full-service restaurant license issued by the  
114 commission that undergoes a change of ownership, the commission shall waive or vary the  
115 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a  
116 full-service restaurant license to the new owner of the premises if:

117 (i) when a full-service restaurant license was issued to a previous owner, the premises  
118 met the proximity requirements of Subsection 32B-1-202(2);

119 (ii) the premises has had a full-service restaurant license at all times since the  
120 full-service restaurant license described in Subsection (4)(b)(i) was issued without a variance;

121 and

122 (iii) the community location was located within the proximity requirements of  
123 Subsection 32B-1-202(2) after the day on which the full-service restaurant license described in  
124 Subsection (4)(b)(i) was issued.

125 Section 3. Section **32B-6-403** is amended to read:

126 **32B-6-403. Commission's power to issue club license.**

127 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of  
128 an alcoholic product on its premises as a club licensee, the person shall first obtain a club  
129 license from the commission in accordance with this part.

130 (2) The commission may issue a club license to establish club licensed premises at  
131 places and in numbers the commission considers proper for the storage, sale, offer for sale,  
132 furnishing, and consumption of an alcoholic product on premises operated by a club licensee.

133 (3) Subject to Section 32B-1-201:

134 (a) The commission may not issue a total number of:

135 (i) club licenses that are not dining club licenses that at any time exceeds the number  
136 determined by dividing the population of the state by [~~7,850;~~ 9,580; or

137 (ii) dining club licenses that at any time exceed the number determined by dividing the  
138 population of the state by 22,658.

139 (b) The commission may issue a seasonal club license in accordance with Section  
140 32B-5-206 to:

141 (i) a dining club licensee; or

142 (ii) a social club licensee.

143 (c) (i) If the location, design, and construction of a hotel may require more than one  
144 dining club license or social club license location within the hotel to serve the public  
145 convenience, the commission may authorize as many as three club license locations within the  
146 hotel under one club license if:

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

148 (B) all locations under the club license are:

149 (I) within the same hotel; and

150 (II) on premises that are managed or operated, and owned or leased, by the club  
151 licensee.

152 (ii) A facility other than a hotel shall have a separate club license for each club license  
153 location where an alcoholic product is sold, offered for sale, or furnished.

154 (d) When a business establishment undergoes a change of ownership, the commission  
155 may issue a club license to the new owner of the business establishment notwithstanding that  
156 there is no club license available under Subsection (3)(a) if:

157 (i) the primary business activity at the business establishment before and after the  
158 change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

159 (ii) before the change of ownership there are two or more licensed premises on the  
160 business establishment that operate under a retail license, with at least one of the retail licenses  
161 being a club license;

162 (iii) subject to Subsection (3)(e), the licensed premises of the club license issued under  
163 this Subsection (3)(d) is at the same location where the club license licensed premises was  
164 located before the change of ownership; and

165 (iv) the person who is the new owner of the business establishment qualifies for the  
166 club license, except for there being no club license available under Subsection (3)(a).

167 (e) If a club licensee of a club license issued under Subsection (3)(d) requests a change  
168 of location, the club licensee may retain the club license after the change of location only if on  
169 the day on which the club licensee seeks a change of location a club license is available under  
170 Subsection (3)(a).

171 Section 4. **Effective date.**

172 This bill takes effect on July 1, 2012.

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**Legislative Review Note**  
**as of 2-3-12 12:08 PM**

**Office of Legislative Research and General Counsel**