

Senator John L. Valentine proposes the following substitute bill:

ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address the regulation of alcoholic products.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ addresses new master licenses under the law enforcement quota;
- ▶ addresses the powers and duties of the commission;
- ▶ requires money be appropriated by the Legislature or provided by statute for the department to draw from the Liquor Control Fund with limited exceptions;
- ▶ clarifies who makes warrants on the funds;
- ▶ provides for Division of Finance to make year-end closing entries;
- ▶ repeals language regarding a private person conducting audits;
- ▶ requires the state auditor to perform financial audits of the department;
- ▶ requires the state auditor to distribute audits to specified individuals and entities;
- ▶ expands retail licenses eligible for conditional retail licenses and modifications for a of the period of a conditional retail license;
- ▶ creates a master full-service restaurant license;



- 26 ▶ creates a master limited-service restaurant license;
- 27 ▶ addresses guests of fraternal;
- 28 ▶ extends the effective date for the Transfer of Retail License Act; and
- 29 ▶ makes technical and conforming changes.

30 Money Appropriated in this Bill:

31 None

32 Other Special Clauses:

33 This bill provides effective dates.

34 This bill provides revisor instructions.

35 Utah Code Sections Affected:

36 AMENDS:

37 **32B-1-102**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

38 **32B-1-201**, as last amended by Laws of Utah 2011, Chapter 334

39 **32B-2-202**, as last amended by Laws of Utah 2012, Chapter 365

40 **32B-2-301**, as last amended by Laws of Utah 2012, Chapter 357

41 **32B-2-302**, as last amended by Laws of Utah 2012, Chapter 365

42 **32B-5-205**, as enacted by Laws of Utah 2010, Chapter 276

43 **32B-6-407**, as last amended by Laws of Utah 2011, Chapter 297

44 **32B-8a-201 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334

45 ENACTS:

46 **32B-6-206**, Utah Code Annotated 1953

47 **32B-6-306**, Utah Code Annotated 1953

48 Uncodified Material Affected:

49 AMENDS UNCODIFIED MATERIAL:

50 **Uncodified Section 7, Laws of Utah 2012, Fourth Special Session, Chapter 1**

51 This uncodified section affects Sections 32B-5-309 (Effective 07/01/13) and the
52 sections in Title 32B, Chapter 8a, Transfer of Retail License Act.

53 **Uncodified Section 8, Laws of Utah 2012, Fourth Special Session, Chapter 1**

54 Utah Code Sections Affected by Revisor Instructions:

55 **32B-5-309 (Superseded 07/01/13)**, as enacted by Laws of Utah 2010, Chapter 276

56 **32B-5-309 (Effective 07/01/13)**, as last amended by Laws of Utah 2011, Chapter 334

- 57 **32B-8a-101 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 58 **32B-8a-102 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 59 **32B-8a-201 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 60 **32B-8a-202 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 61 **32B-8a-203 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 62 **32B-8a-301 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 63 **32B-8a-302 (Effective 07/01/13)**, as last amended by Laws of Utah 2012, Chapter 365
- 64 **32B-8a-303 (Effective 07/01/13)**, as last amended by Laws of Utah 2012, Chapter 365
- 65 **32B-8a-401 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 66 **32B-8a-402 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 67 **32B-8a-403 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 68 **32B-8a-404 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 69 **32B-8a-501 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334
- 70 **32B-8a-502 (Effective 07/01/13)**, as enacted by Laws of Utah 2011, Chapter 334



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

73 Section 1. Section **32B-1-102** is amended to read:

74 **32B-1-102. Definitions.**

75 As used in this title:

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

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

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

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

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

83 (a) beer; or

84 (b) liquor.

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

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

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

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

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

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

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

94 (ii) vinegar;

95 (iii) cider;

96 (iv) essence;

97 (v) tincture;

98 (vi) food preparation; or

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

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

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

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

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

105 (6) "Banquet" means an event:

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

108 (i) hotel;

109 (ii) resort facility;

110 (iii) sports center; or

111 (iv) convention center;

112 (b) for which there is a contract:

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

114 and

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

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

118 (7) (a) "Bar" means a surface or structure:

- 119 (i) at which an alcoholic product is:
- 120 (A) stored; or
- 121 (B) dispensed; or
- 122 (ii) from which an alcoholic product is served.
- 123 (b) "Bar structure" means a surface or structure on a licensed premises if on or at any
- 124 place of the surface or structure an alcoholic product is:
- 125 (i) stored; or
- 126 (ii) dispensed.
- 127 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:
- 128 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
- 129 volume or 3.2% by weight; and
- 130 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 131 (b) "Beer" may or may not contain hops or other vegetable products.
- 132 (c) "Beer" includes a product that:
- 133 (i) contains alcohol in the percentages described in Subsection (8)(a); and
- 134 (ii) is referred to as:
- 135 (A) beer;
- 136 (B) ale;
- 137 (C) porter;
- 138 (D) stout;
- 139 (E) lager; or
- 140 (F) a malt or malted beverage.
- 141 (d) "Beer" does not include a flavored malt beverage.
- 142 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
- 143 Retail License Act, and Chapter 6, Part 9, Beer-only Restaurant License.
- 144 (10) "Beer retailer" means a business:
- 145 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
- 146 whether for consumption on or off the business premises; and
- 147 (b) to whom a license is issued:
- 148 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise
- 149 Beer Retailer Local Authority; or

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

152 (11) "Beer wholesaling license" means a license:

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

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

156 (12) "Billboard" means a public display used to advertise, including:

157 (a) a light device;

158 (b) a painting;

159 (c) a drawing;

160 (d) a poster;

161 (e) a sign;

162 (f) a signboard; or

163 (g) a scoreboard.

164 (13) "Brewer" means a person engaged in manufacturing:

165 (a) beer;

166 (b) heavy beer; or

167 (c) a flavored malt beverage.

168 (14) "Brewery manufacturing license" means a license issued in accordance with
169 Chapter 11, Part 5, Brewery Manufacturing License.

170 (15) "Certificate of approval" means a certificate of approval obtained from the
171 department under Section 32B-11-201.

172 (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
173 a bus company to a group of persons pursuant to a common purpose:

174 (a) under a single contract;

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

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

178 (17) "Church" means a building:

179 (a) set apart for worship;

180 (b) in which religious services are held;

- 181 (c) with which clergy is associated; and
- 182 (d) that is tax exempt under the laws of this state.
- 183 (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail
- 184 License Act, and Chapter 6, Part 4, Club License.
- 185 (b) "Club license" includes:
- 186 (i) a dining club license;
- 187 (ii) an equity club license;
- 188 (iii) a fraternal club license; or
- 189 (iv) a social club license.
- 190 (19) "Commission" means the Alcoholic Beverage Control Commission created in
- 191 Section 32B-2-201.
- 192 (20) "Commissioner" means a member of the commission.
- 193 (21) "Community location" means:
- 194 (a) a public or private school;
- 195 (b) a church;
- 196 (c) a public library;
- 197 (d) a public playground; or
- 198 (e) a public park.
- 199 (22) "Community location governing authority" means:
- 200 (a) the governing body of the community location; or
- 201 (b) if the commission does not know who is the governing body of a community
- 202 location, a person who appears to the commission to have been given on behalf of the
- 203 community location the authority to prohibit an activity at the community location.
- 204 (23) "Container" means a receptacle that contains an alcoholic product, including:
- 205 (a) a bottle;
- 206 (b) a vessel; or
- 207 (c) a similar item.
- 208 (24) "Convention center" means a facility that is:
- 209 (a) in total at least 30,000 square feet; and
- 210 (b) otherwise defined as a "convention center" by the commission by rule.
- 211 (25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a

212 dining area of a licensed premises where seating is provided to a patron for service of food.

213 (b) "Counter" does not include a surface or structure if on or at any point of the surface
214 or structure an alcoholic product is:

215 (i) stored; or

216 (ii) dispensed.

217 (26) "Department" means the Department of Alcoholic Beverage Control created in
218 Section 32B-2-203.

219 (27) "Department compliance officer" means an individual who is:

220 (a) an auditor or inspector; and

221 (b) employed by the department.

222 (28) "Department sample" means liquor that is placed in the possession of the
223 department for testing, analysis, and sampling.

224 (29) "Dining club license" means a license issued in accordance with Chapter 5, Retail
225 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
226 dining club license.

227 (30) "Director," unless the context requires otherwise, means the director of the
228 department.

229 (31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
230 title:

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

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

233 (32) (a) Subject to Subsection (32)(b), "dispense" means:

234 (i) drawing of an alcoholic product:

235 (A) from an area where it is stored; or

236 (B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii),
237 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

238 (ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of
239 the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the
240 retail licensee.

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

242 (i) a full-service restaurant license;

243 (ii) a limited-service restaurant license;

244 (iii) a reception center license; and

245 (iv) a beer-only restaurant license.

246 (33) "Distillery manufacturing license" means a license issued in accordance with

247 Chapter 11, Part 4, Distillery Manufacturing License.

248 (34) "Distressed merchandise" means an alcoholic product in the possession of the

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

250 (35) "Educational facility" includes:

251 (a) a nursery school;

252 (b) an infant day care center; and

253 (c) a trade and technical school.

254 (36) "Equity club license" means a license issued in accordance with Chapter 5, Retail

255 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an

256 equity club license.

257 (37) "Event permit" means:

258 (a) a single event permit; or

259 (b) a temporary beer event permit.

260 (38) "Exempt license" means a license exempt under Section 32B-1-201 from being

261 considered in determining the total number of a retail license that the commission may issue at

262 any time.

263 (39) (a) "Flavored malt beverage" means a beverage:

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

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

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

267 C.F.R. Sec. 25.55;

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

269 extract; and

270 (iv) (A) for which the producer is required to file a formula for approval with the

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

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

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

274 (40) "Fraternal club license" means a license issued in accordance with Chapter 5,
275 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
276 as a fraternal club license.

277 (41) "Full-service restaurant license" means a license issued in accordance with
278 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-service Restaurant License.

279 (42) (a) "Furnish" means by any means to provide with, supply, or give an individual
280 an alcoholic product, by sale or otherwise.

281 (b) "Furnish" includes to:

282 (i) serve;

283 (ii) deliver; or

284 (iii) otherwise make available.

285 (43) "Guest" means an individual who meets the requirements of Subsection
286 32B-6-407(9).

287 (44) "Health care practitioner" means:

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

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

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

291 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
292 Act;

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

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

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

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

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

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

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

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

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

308 (45) (a) "Heavy beer" means a product that:

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

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

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

312 (46) "Hotel" is as defined by the commission by rule.

313 (47) "Identification card" means an identification card issued under Title 53, Chapter 3,
314 Part 8, Identification Card Act.

315 (48) "Industry representative" means an individual who is compensated by salary,
316 commission, or other means for representing and selling an alcoholic product of a
317 manufacturer, supplier, or importer of liquor.

318 (49) "Industry representative sample" means liquor that is placed in the possession of
319 the department for testing, analysis, and sampling by a local industry representative on the
320 premises of the department to educate the local industry representative of the quality and
321 characteristics of the product.

322 (50) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
323 of an alcoholic product is prohibited by:

324 (a) law; or

325 (b) court order.

326 (51) "Intoxicated" means that a person:

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

329 (i) an alcoholic product;

330 (ii) a controlled substance;

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

332 (iv) a combination of Subsections (51)(a)(i) through (iii); and

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

335 (52) "Investigator" means an individual who is:

- 336 (a) a department compliance officer; or
- 337 (b) a nondepartment enforcement officer.
- 338 (53) "Invitee" is as defined in Section 32B-8-102.
- 339 (54) "License" means:
- 340 (a) a retail license;
- 341 (b) a license issued in accordance with Chapter 11, Manufacturing and Related
- 342 Licenses Act;
- 343 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 344 or
- 345 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.
- 346 (55) "Licensee" means a person who holds a license.
- 347 (56) "Limited-service restaurant license" means a license issued in accordance with
- 348 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.
- 349 (57) "Limousine" means a motor vehicle licensed by the state or a local authority, other
- 350 than a bus or taxicab:
- 351 (a) in which the driver and a passenger are separated by a partition, glass, or other
- 352 barrier;
- 353 (b) that is provided by a business entity to one or more individuals at a fixed charge in
- 354 accordance with the business entity's tariff; and
- 355 (c) to give the one or more individuals the exclusive use of the limousine and a driver
- 356 to travel to one or more specified destinations.
- 357 (58) (a) (i) "Liquor" means a liquid that:
- 358 (A) is:
- 359 (I) alcohol;
- 360 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 361 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 362 (IV) other drink or drinkable liquid; and
- 363 (B) (I) contains at least .5% alcohol by volume; and
- 364 (II) is suitable to use for beverage purposes.
- 365 (ii) "Liquor" includes:
- 366 (A) heavy beer;

- 367 (B) wine; and
- 368 (C) a flavored malt beverage.
- 369 (b) "Liquor" does not include beer.
- 370 (59) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.
- 371 (60) "Liquor warehousing license" means a license that is issued:
- 372 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- 373 (b) to a person, other than a licensed manufacturer, who engages in the importation for
- 374 storage, sale, or distribution of liquor regardless of amount.
- 375 (61) "Local authority" means:
- 376 (a) for premises that are located in an unincorporated area of a county, the governing
- 377 body of a county; or
- 378 (b) for premises that are located in an incorporated city or a town, the governing body
- 379 of the city or town.
- 380 (62) "Lounge or bar area" is as defined by rule made by the commission.
- 381 (63) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
- 382 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 383 (64) "Member" means an individual who, after paying regular dues, has full privileges
- 384 in an equity club licensee or fraternal club licensee.
- 385 (65) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
- 386 or homeport facility for a ship:
- 387 (i) (A) under the control of the United States Department of Defense; or
- 388 (B) of the National Guard;
- 389 (ii) that is located within the state; and
- 390 (iii) including a leased facility.
- 391 (b) "Military installation" does not include a facility used primarily for:
- 392 (i) civil works;
- 393 (ii) a rivers and harbors project; or
- 394 (iii) a flood control project.
- 395 (66) "Minor" means an individual under the age of 21 years.
- 396 (67) "Nondepartment enforcement agency" means an agency that:
- 397 (a) (i) is a state agency other than the department; or

- 398 (ii) is an agency of a county, city, or town; and
- 399 (b) has a responsibility to enforce one or more provisions of this title.
- 400 (68) "Nondepartment enforcement officer" means an individual who is:
- 401 (a) a peace officer, examiner, or investigator; and
- 402 (b) employed by a nondepartment enforcement agency.
- 403 (69) (a) "Off-premise beer retailer" means a beer retailer who is:
- 404 (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local
- 405 Authority; and
- 406 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 407 premises.
- 408 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 409 (70) "On-premise banquet license" means a license issued in accordance with Chapter
- 410 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.
- 411 (71) "On-premise beer retailer" means a beer retailer who is:
- 412 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 413 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer
- 414 Retailer License; and
- 415 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 416 premises:
- 417 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 418 premises; and
- 419 (ii) on and after March 1, 2012, operating:
- 420 (A) as a tavern; or
- 421 (B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).
- 422 (72) "Opaque" means impenetrable to sight.
- 423 (73) "Package agency" means a retail liquor location operated:
- 424 (a) under an agreement with the department; and
- 425 (b) by a person:
- 426 (i) other than the state; and
- 427 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
- 428 Agency, to sell packaged liquor for consumption off the premises of the package agency.

429 (74) "Package agent" means a person who holds a package agency.

430 (75) "Patron" means an individual to whom food, beverages, or services are sold,

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

432 (a) a customer;

433 (b) a member;

434 (c) a guest;

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

436 (e) an individual who receives room service;

437 (f) a resident of a resort;

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

439 or

440 (h) an invitee.

441 (76) "Permittee" means a person issued a permit under:

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

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

444 (77) "Person subject to administrative action" means:

445 (a) a licensee;

446 (b) a permittee;

447 (c) a manufacturer;

448 (d) a supplier;

449 (e) an importer;

450 (f) one of the following holding a certificate of approval:

451 (i) an out-of-state brewer;

452 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

453 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

454 (g) staff of:

455 (i) a person listed in Subsections (77)(a) through (f); or

456 (ii) a package agent.

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

- 460 (79) "Prescription" means an order issued by a health care practitioner when:
- 461 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 462 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 463 (b) the order is made in the course of that health care practitioner's professional
- 464 practice; and
- 465 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 466 (80) (a) "Private event" means a specific social, business, or recreational event:
- 467 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
- 468 group; and
- 469 (ii) that is limited in attendance to people who are specifically designated and their
- 470 guests.
- 471 (b) "Private event" does not include an event to which the general public is invited,
- 472 whether for an admission fee or not.
- 473 (81) (a) "Proof of age" means:
- 474 (i) an identification card;
- 475 (ii) an identification that:
- 476 (A) is substantially similar to an identification card;
- 477 (B) is issued in accordance with the laws of a state other than Utah in which the
- 478 identification is issued;
- 479 (C) includes date of birth; and
- 480 (D) has a picture affixed;
- 481 (iii) a valid driver license certificate that:
- 482 (A) includes date of birth;
- 483 (B) has a picture affixed; and
- 484 (C) is issued:
- 485 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- 486 (II) in accordance with the laws of the state in which it is issued;
- 487 (iv) a military identification card that:
- 488 (A) includes date of birth; and
- 489 (B) has a picture affixed; or
- 490 (v) a valid passport.

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

493 (82) (a) "Public building" means a building or permanent structure that is:

494 (i) owned or leased by:

495 (A) the state; or

496 (B) a local government entity; and

497 (ii) used for:

498 (A) public education;

499 (B) transacting public business; or

500 (C) regularly conducting government activities.

501 (b) "Public building" does not include a building owned by the state or a local
502 government entity when the building is used by a person, in whole or in part, for a proprietary
503 function.

504 (83) "Public conveyance" means a conveyance to which the public or a portion of the
505 public has access to and a right to use for transportation, including an airline, railroad, bus,
506 boat, or other public conveyance.

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

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

509 (b) has as its primary purpose the leasing of the facilities described in Subsection
510 (84)(a) to a third party for the third party's event.

511 (85) "Reception center license" means a license issued in accordance with Chapter 5,
512 Retail License Act, and Chapter 6, Part 8, Reception Center License.

513 (86) (a) "Record" means information that is:

514 (i) inscribed on a tangible medium; or

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

516 (b) "Record" includes:

517 (i) a book;

518 (ii) a book of account;

519 (iii) a paper;

520 (iv) a contract;

521 (v) an agreement;

- 522 (vi) a document; or
- 523 (vii) a recording in any medium.
- 524 (87) "Residence" means a person's principal place of abode within Utah.
- 525 (88) "Resident," in relation to a resort, is as defined in Section 32B-8-102.
- 526 (89) "Resort" is as defined in Section 32B-8-102.
- 527 (90) "Resort facility" is as defined by the commission by rule.
- 528 (91) "Resort license" means a license issued in accordance with Chapter 5, Retail
- 529 License Act, and Chapter 8, Resort License Act.
- 530 (92) "Restaurant" means a business location:
- 531 (a) at which a variety of foods are prepared;
- 532 (b) at which complete meals are served to the general public; and
- 533 (c) that is engaged primarily in serving meals to the general public.
- 534 (93) "Retail license" means one of the following licenses issued under this title:
- 535 (a) a full-service restaurant license;
- 536 (b) a master full-service restaurant license;
- 537 [~~(b)~~] (c) a limited-service restaurant license;
- 538 (d) a master limited-service restaurant license;
- 539 [~~(c)~~] (e) a club license;
- 540 [~~(d)~~] (f) an airport lounge license;
- 541 [~~(e)~~] (g) an on-premise banquet license;
- 542 [~~(f)~~] (h) an on-premise beer license;
- 543 [~~(g)~~] (i) a reception center license; or
- 544 [~~(h)~~] (j) a beer-only restaurant license.
- 545 (94) "Room service" means furnishing an alcoholic product to a person in a guest room
- 546 of a:
- 547 (a) hotel; or
- 548 (b) resort facility.
- 549 (95) "Serve" means to place an alcoholic product before an individual.
- 550 (96) (a) "School" means a building used primarily for the general education of minors.
- 551 (b) "School" does not include an educational facility.
- 552 (97) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for

553 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
554 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
555 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
556 made by the commission.

557 (98) "Sexually oriented entertainer" means a person who while in a state of seminudity
558 appears at or performs:

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

560 (b) on the premises of:

561 (i) a social club licensee; or

562 (ii) a tavern;

563 (c) on behalf of or at the request of the licensee described in Subsection (98)(b);

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

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

566 (i) an employee;

567 (ii) an independent contractor;

568 (iii) an agent of the licensee; or

569 (iv) a different type of classification.

570 (99) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3,
571 Single Event Permit.

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

574 (101) "Social club license" means a license issued in accordance with Chapter 5, Retail
575 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
576 social club license.

577 (102) "Special use permit" means a permit issued in accordance with Chapter 10,
578 Special Use Permit Act.

579 (103) (a) "Spirituous liquor" means liquor that is distilled.

580 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
581 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

582 (104) "Sports center" is as defined by the commission by rule.

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

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

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

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

590 (b) "Staff" includes:

591 (i) an officer;

592 (ii) a director;

593 (iii) an employee;

594 (iv) personnel management;

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

596 (vi) an operator; or

597 (vii) a representative.

598 (106) "State of nudity" means:

599 (a) the appearance of:

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

601 (ii) a human genital;

602 (iii) a human pubic area; or

603 (iv) a human anus; or

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

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

606 (ii) a human genital;

607 (iii) a human pubic area; or

608 (iv) a human anus.

609 (107) "State of seminudity" means a state of dress in which opaque clothing covers no
610 more than:

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

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

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

- 615 (A) four inches coverage width in the front of the human body; and
- 616 (B) five inches coverage width in the back of the human body; and
- 617 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 618 (108) (a) "State store" means a facility for the sale of packaged liquor:
- 619 (i) located on premises owned or leased by the state; and
- 620 (ii) operated by a state employee.
- 621 (b) "State store" does not include:
- 622 (i) a package agency;
- 623 (ii) a licensee; or
- 624 (iii) a permittee.
- 625 (109) (a) "Storage area" means an area on licensed premises where the licensee stores
- 626 an alcoholic product.
- 627 (b) "Store" means to place or maintain in a location an alcoholic product from which a
- 628 person draws to prepare an alcoholic product to be furnished to a patron, except as provided in
- 629 Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or
- 630 32B-6-905(12)(b)(ii).
- 631 (110) "Sublicense" is as defined in Section 32B-8-102.
- 632 (111) "Supplier" means a person who sells an alcoholic product to the department.
- 633 (112) "Tavern" means an on-premise beer retailer who is:
- 634 (a) issued a license by the commission in accordance with Chapter 5, Retail License
- 635 Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and
- 636 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
- 637 On-premise Beer Retailer License.
- 638 (113) "Temporary beer event permit" means a permit issued in accordance with
- 639 Chapter 9, Part 4, Temporary Beer Event Permit.
- 640 (114) "Temporary domicile" means the principal place of abode within Utah of a
- 641 person who does not have a present intention to continue residency within Utah permanently or
- 642 indefinitely.
- 643 (115) "Translucent" means a substance that allows light to pass through, but does not
- 644 allow an object or person to be seen through the substance.
- 645 (116) "Unsaleable liquor merchandise" means a container that:

646 (a) is unsaleable because the container is:

647 (i) unlabeled;

648 (ii) leaky;

649 (iii) damaged;

650 (iv) difficult to open; or

651 (v) partly filled;

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

653 (ii) has contents that are:

654 (A) cloudy;

655 (B) spoiled; or

656 (C) chemically determined to be impure; or

657 (iii) contains:

658 (A) sediment; or

659 (B) a foreign substance; or

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

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

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

666 (118) "Winery manufacturing license" means a license issued in accordance with
667 Chapter 11, Part 3, Winery Manufacturing License.

668 Section 2. Section **32B-1-201** is amended to read:

669 **32B-1-201. Restrictions on number of retail licenses that may be issued --**

670 **Determining population -- Exempt licenses.**

671 (1) As used in this section:

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

674 (i) the enforcement of this title; or

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

- 677 (b) "Enforcement ratio" is the number calculated as follows:
- 678 (i) determine the quotient equal to the sum of the total number of quota retail licenses
679 available and the total number of licensed premises operating under a master full-service
680 restaurant license or under a master limited-service restaurant license divided by the total
681 number of alcohol-related law enforcement officers; and
- 682 (ii) round the number determined in accordance with Subsection (1)(b)(ii) up to the
683 nearest whole number.
- 684 (c) "Quota retail license" means:
- 685 (i) a full-service restaurant license;
- 686 (ii) a limited-service restaurant license;
- 687 (iii) a club license;
- 688 (iv) an on-premise banquet license;
- 689 (v) an on-premise beer retailer operating as a tavern; and
- 690 (vi) a reception center license.
- 691 (d) "Total number of alcohol-related law enforcement officers" means the total number
692 of positions designated as alcohol-related law enforcement officers that are funded as of a
693 specified date as certified by the Department of Public Safety to the department.
- 694 (e) "Total number of quota retail licenses available" means the number calculated by:
- 695 (i) determining as of a specified date for each quota retail license the number of
696 licenses that the commission may not exceed calculated by dividing the population of the state
697 by the number specified in the relevant provision for the quota retail license; and
- 698 (ii) adding together the numbers determined under Subsection (1)(d)(i).
- 699 (2) (a) Beginning on July 1, 2012, the department shall annually determine the
700 enforcement ratio as of July 1 of that year.
- 701 (b) If, beginning on July 1, 2012, the enforcement ratio is greater than 52, the
702 commission may not issue a quota retail license for the 12-month period beginning on the July
703 1 for which the enforcement ratio is greater than 52.
- 704 (c) Notwithstanding Subsection (2)(b), the commission may issue a quota retail license
705 during the 12-month period described in Subsection (2)(b) beginning on the day on which a
706 sufficient number of alcohol-related law enforcement officers are employed so that if the
707 enforcement ratio is calculated, the enforcement ratio would be equal to or less than 52.

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

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

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

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

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

720 (a) the retail license was issued to a club licensee designated as a dining club as of July
721 1, 2011; and

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

724 Section 3. Section **32B-2-202** is amended to read:

725 **32B-2-202. Powers and duties of the commission.**

726 (1) The commission shall:

727 (a) consistent with the policy established by the Legislature by statute, act as a general
728 policymaking body on the subject of alcoholic product control;

729 (b) adopt and issue policies, rules, and procedures;

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

731 (i) issuing, denying, not renewing, suspending, or revoking a package agency, license,
732 permit, or certificate of approval; and

733 (ii) determining the location of a state store, package agency, or retail licensee;

734 (d) decide within the limits, and under the conditions imposed by this title, the number
735 and location of state stores, package agencies, and retail licensees in the state;

736 (e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses,
737 permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing,
738 consumption, manufacture, and distribution of an alcoholic product:

- 739 (i) a package agency;
- 740 (ii) a full-service restaurant license;
- 741 (iii) a master full-service restaurant license;
- 742 [~~(iii)~~] (iv) a limited-service restaurant license;
- 743 (v) a master limited-service restaurant license;
- 744 [~~(iv)~~] (vi) a club license;
- 745 [~~(v)~~] (vii) an airport lounge license;
- 746 [~~(vi)~~] (viii) an on-premise banquet license;
- 747 [~~(vii)~~] (ix) a resort license, under which four or more sublicenses may be included;
- 748 [~~(viii)~~] (x) an on-premise beer retailer license;
- 749 [~~(ix)~~] (xi) a reception center license;
- 750 [~~(x)~~] (xii) a beer-only restaurant license;
- 751 [~~(xi)~~] (xiii) subject to Subsection (4), a single event permit;
- 752 [~~(xii)~~] (xiv) subject to Subsection (4), a temporary beer event permit;
- 753 [~~(xiii)~~] (xv) a special use permit;
- 754 [~~(xiv)~~] (xvi) a manufacturing license;
- 755 [~~(xv)~~] (xvii) a liquor warehousing license;
- 756 [~~(xvi)~~] (xviii) a beer wholesaling license; and
- 757 [~~(xvii)~~] (xix) one of the following that holds a certificate of approval:
- 758 (A) an out-of-state brewer;
- 759 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
- 760 (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
- 761 (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke [~~one of the~~
- 762 ~~following~~] conditional licenses for the purchase, storage, sale, furnishing, consumption,
- 763 manufacture, and distribution of an alcoholic product[-];
- 764 [~~(i) a conditional full-service restaurant license; or~~]
- 765 [~~(ii) a conditional limited-service restaurant license;~~]
- 766 (g) prescribe the duties of the department in assisting the commission in issuing a
- 767 package agency, license, permit, or certificate of approval under this title;
- 768 (h) to the extent a fee is not specified in this title, establish a fee allowed under this title
- 769 in accordance with Section 63J-1-504;

770 (i) fix prices at which liquor is sold that are the same at all state stores, package
771 agencies, and retail licensees;

772 (j) issue and distribute price lists showing the price to be paid by a purchaser for each
773 class, variety, or brand of liquor kept for sale by the department;

774 (k) (i) require the director to follow sound management principles; and
775 (ii) require periodic reporting from the director to ensure that:
776 (A) sound management principles are being followed; and
777 (B) policies established by the commission are being observed;

778 (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations,
779 and matters submitted by the director to the commission; and
780 (ii) do the things necessary to support the department in properly performing the
781 department's duties;

782 (m) obtain temporarily and for special purposes the services of an expert or person
783 engaged in the practice of a profession, or a person who possesses a needed skill if:
784 (i) considered expedient; and
785 (ii) approved by the governor;

786 (n) prescribe the conduct, management, and equipment of premises upon which an
787 alcoholic product may be stored, sold, offered for sale, furnished, or consumed;

788 (o) make rules governing the credit terms of beer sales within the state to retail
789 licensees; and

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

792 (2) Consistent with the policy established by the Legislature by statute, the power of
793 the commission to do the following is plenary, except as otherwise provided by this title, and
794 not subject to review:

795 (a) establish a state store;
796 (b) issue authority to act as a package agent or operate a package agency; and
797 (c) issue or deny a license, permit, or certificate of approval.

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

801 (4) Notwithstanding Subsections (1)(e)(xi) and (xii), the director or deputy director
802 may issue an event permit in accordance with Chapter 9, Event Permit Act.

803 Section 4. Section **32B-2-301** is amended to read:

804 **32B-2-301. State property -- Liquor Control Fund -- Markup Holding Fund.**

805 (1) The following are property of the state:

806 (a) the money received in the administration of this title, except as otherwise provided;

807 and

808 (b) property acquired, administered, possessed, or received by the department.

809 (2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

810 (b) Except as provided in Sections 32B-3-205 and 32B-2-304, money received in the
811 administration of this title shall be transferred to the Liquor Control Fund.

812 (3) (a) There is created an enterprise fund known as the "Markup Holding Fund."

813 (b) In accordance with Section 32B-2-304, the State Tax Commission shall deposit
814 revenue remitted to the State Tax Commission from the markup imposed under Section
815 32B-2-304 into the Markup Holding Fund.

816 (c) Money deposited into the Markup Holding Fund may be expended:

817 (i) to the extent appropriated by the Legislature; and

818 (ii) to fund the deposits required by Subsection 32B-2-304(4) and Subsection
819 32B-2-305(4).

820 ~~[(4) The state treasurer shall by warrant draw from the Liquor Control Fund and, to the~~
821 ~~extent appropriated by the Legislature, from the Markup Holding Fund, the expenses, debts,~~
822 ~~and liabilities incurred by the department in connection with the administration of this title or~~
823 ~~any other expense necessary for the administration of this title, including:]~~

824 ~~[(a) salaries;]~~

825 ~~[(b) premiums, if any, on a bond for which the department pays premiums; and]~~

826 ~~[(c) an expenditure incurred in establishing, operating, or maintaining a state store or~~
827 ~~package agency.]~~

828 (4) The department may draw from the Liquor Control Fund only to the extent
829 appropriated by the Legislature or provided for by statute, except that the department may draw
830 by warrant without an appropriation from the Liquor Control Fund for an expenditure that is
831 directly incurred by the department:

832 (a) to purchase an alcoholic product;

833 (b) to transport an alcoholic product from the supplier to a warehouse of the
834 department; and

835 (c) for variances related to an alcoholic product.

836 (5) The department shall transfer annually from the Liquor Control Fund and the State
837 Tax Commission shall transfer annually from the Markup Holding Fund to the General Fund a
838 sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer
839 of money under this Subsection (5). The transfers shall be calculated by no later than
840 September 1 and made by no later than September 30 after a fiscal year. The Division of
841 Finance may make year-end closing entries in the Liquor Control Fund and the Markup
842 Holding Fund in order to comply with Subsection 51-5-6(2).

843 (6) (a) By the end of each day, the department shall:

844 (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

845 (ii) report the deposit to the state treasurer.

846 (b) A commissioner or department employee is not personally liable for a loss caused
847 by the default or failure of a qualified depository.

848 (c) Money deposited in a qualified depository is entitled to the same priority of
849 payment as other public funds of the state.

850 (7) If the cash balance of the Liquor Control Fund is not adequate to cover a warrant
851 drawn against the Liquor Control Fund by the [~~state treasurer~~] department, the cash resources
852 of the General Fund may be used to the extent necessary. At no time may the fund equity of
853 the Liquor Control Fund fall below zero.

854 Section 5. Section **32B-2-302** is amended to read:

855 **32B-2-302. Exempt from Division of Finance -- Application of procurement --**
856 **External audits.**

857 (1) (a) The laws that govern the Division of Finance are not applicable to the
858 department in the purchase and sale of an alcoholic product.

859 (b) The department is exempt from Title 63G, Chapter 6, Utah Procurement Code, for
860 the purchase of an alcoholic product. The department is subject to Title 63G, Chapter 6, Utah
861 Procurement Code, for any purchase other than for an alcoholic product.

862 (2) The state auditor shall:

863 (a) ~~[select a private person to]~~ annually perform a financial audit of the department's
864 accounts~~[- subject to the commission approving the private person selected to perform the~~
865 ~~financial audit]; and~~

866 ~~[(b) notify the governor of the private person selected to perform the financial audit;~~
867 ~~and]~~

868 ~~[(c)]~~ (b) determine the scope and focus of the financial audit in an open meeting of the
869 commission before the audit commences.

870 (3) Every two years, beginning for fiscal year 2013-14, the state auditor shall conduct
871 an audit of the department's:

872 (a) management operations, best practices, and efficiency; and

873 (b) ethics and statutory compliance.

874 (4) In addition to complying with Subsections (2) and (3), the state auditor may engage
875 in an activity related to the department or commission allowed under Utah Constitution, Article
876 VII, Section 15 or Title 67, Chapter 3, Auditor.

877 (5) The ~~[commission]~~ state auditor shall forward an audit report issued under
878 Subsection (2) or (3) to the following by no later than 30 days after the day on which the audit
879 report is made:

880 (a) the governor;

881 (b) the Legislative Management Committee;

882 (c) the director; and

883 (d) the legislative auditor general.

884 Section 6. Section **32B-5-205** is amended to read:

885 **32B-5-205. Conditional retail license.**

886 (1) As used in this section:

887 (a) "Conditional retail license" means a retail license that:

888 ~~[(i) is for one of the following:]~~

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

890 ~~[(B) a limited-service restaurant license;]~~

891 ~~[(ii)]~~ (i) conditions the holder's ability to sell, offer for sale, furnish, or allow the
892 consumption of an alcoholic product on its licensed premises on the person submitting to the
893 department a copy of the holder's current business license before obtaining a valid retail

894 license; and

895 ~~[(iii)]~~ (ii) provides that the holder will be issued a valid retail license if the holder
896 complies with the requirements of Subsection (3).

897 (b) "Valid retail license" means a retail license issued pursuant to this part under which
898 the holder is permitted to sell, offer for sale, furnish, or allow the consumption of an alcoholic
899 product on its licensed premises.

900 (2) Subject to the requirements of this section, the commission may issue a conditional
901 retail license to a person if the person:

902 (a) meets the requirements to obtain the retail license for which the person is applying
903 except the requirement to submit a copy of the person's current business license; and

904 (b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic
905 product on its licensed premises before obtaining a valid retail license.

906 (3) (a) A conditional retail license becomes a valid retail license on the day on which
907 the department notifies the person who holds the conditional retail license that the department
908 finds that the person has complied with Subsection (3)(b).

909 (b) For a conditional retail license to become a valid retail license, a person who holds
910 the conditional retail license shall:

911 (i) submit to the department a copy of the person's current business license; and

912 (ii) provide to the department evidence satisfactory to the department that:

913 (A) there has been no change in the information submitted to the commission as part of
914 the person's application for a retail license; and

915 (B) the person continues to qualify for the retail license.

916 (4) (a) A conditional retail license expires ~~[six]~~ nine months after the day on which the
917 commission issues the conditional retail license, unless the conditional retail license becomes a
918 valid retail license before that day.

919 (b) Notwithstanding Subsection (4)(a), the commission may extend the time period of a
920 conditional retail license an additional three months if the holder of the conditional license can
921 show to the satisfaction of the commission that the holder of the conditional license:

922 (i) has an active building permit related to the licensed premises; and

923 (ii) is engaged in a good faith effort to pursue completion within the three-month
924 period.

925 Section 7. Section **32B-6-206** is enacted to read:

926 **32B-6-206. Master full-service restaurant license.**

927 (1) (a) The commission may issue a master full-service restaurant license that
928 authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an
929 alcoholic product on premises at multiple locations as full-service restaurants if the person
930 applying for the master full-service restaurant license:

931 (i) owns each of the full-service restaurants;

932 (ii) except for the fee requirements, establishes to the satisfaction of the commission
933 that each location of a full-service restaurant under the master full-service restaurant license
934 separately meets the requirements of this part; and

935 (iii) the master full-service restaurant license includes at least five full-service
936 restaurant locations.

937 (b) The person seeking a master full-service restaurant license shall designate which
938 full-service restaurant locations the person seeks to have under the master full-service
939 restaurant license.

940 (c) A full-service restaurant location under a master full-service restaurant license is
941 considered separately licensed for purposes of this title, except as provided in this section.

942 (2) A master full-service restaurant license and each location designated under
943 Subsection (1) are considered a single full-service restaurant license for purposes of Subsection
944 32B-6-203(3)(a).

945 (3) (a) A master full-service restaurant license expires on October 31 of each year.

946 (b) To renew a person's full-service restaurant license, a person shall comply with the
947 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
948 September 30.

949 (4) (a) The nonrefundable application fee for a master full-service restaurant license is
950 \$330.

951 (b) The initial license fee for a master full-service restaurant license is \$10,000 plus a
952 separate initial license fee for each newly licensed full-service restaurant license under the
953 master full-service restaurant license determined in accordance with Subsection
954 32B-6-204(3)(b).

955 (c) The renewal fee for a master full-service restaurant license is \$1,000 plus a separate

956 renewal fee for each full-service license under the master full-service restaurant license
957 determined in accordance with Subsection 32B-6-204(3)(c).

958 (5) A new location may be added to a master full-service restaurant license after the
959 master full-service restaurant license is issued if:

960 (a) the master full-service restaurant licensee pays a nonrefundable application fee of
961 \$330; and

962 (b) including payment of the initial license fee, the location separately meets the
963 requirements of this part.

964 (6) (a) A master full-service restaurant licensee shall notify the department of a change
965 in the persons managing a location covered by a master full-service restaurant license:

966 (i) immediately, if the management personnel is not management personnel at a
967 location covered by the master full-service restaurant licensee at the time of the change; or

968 (ii) within 30 days of the change, if the master full-service restaurant licensee is
969 transferring management personnel from one location to another location covered by the master
970 full-service restaurant licensee.

971 (b) A location covered by a master full-service restaurant license shall keep its own
972 records on its premises so that the department may audit the records.

973 (c) A master full-service restaurant licensee may not transfer alcoholic products
974 between different locations covered by the master full-service restaurant license.

975 (7) (a) If there is a violation of this title at a location covered by a master full-service
976 restaurant license, the violation may result in disciplinary action in accordance with Chapter 3,
977 Disciplinary Actions and Enforcement Act, against:

978 (i) the single location under a master full-service restaurant license;

979 (ii) individual staff of the location under the master full-service restaurant license; or

980 (iii) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).

981 (b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in
982 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a
983 master full-service restaurant licensee or individual staff of the master full-service restaurant
984 licensee if during a period beginning on November 1 and ending October 31:

985 (i) at least 25% of the locations covered by the master full-service restaurant license
986 have been found by the commission to have committed a serious or grave violation of this title,

987 as defined by rule made by the commission; or

988 (ii) at least 50% of the locations covered by the master full-service restaurant license
989 have been found by the commission to have violated this title.

990 (8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah
991 Administrative Rulemaking Act, to establish how a person may apply for a master full-service
992 restaurant license under this section.

993 Section 8. Section **32B-6-306** is enacted to read:

994 **32B-6-306. Master limited-service restaurant license.**

995 (1) (a) The commission may issue a master limited-service restaurant license that
996 authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an
997 alcoholic product on premises at multiple locations as limited-service restaurants if the person
998 applying for the master limited-service restaurant license:

999 (i) owns each of the limited-service restaurants;

1000 (ii) except for the fee requirements, establishes to the satisfaction of the commission
1001 that each location of a limited-service restaurant under the master limited-service restaurant
1002 license separately meets the requirements of this part; and

1003 (iii) the master limited-service restaurant includes at least five limited-service
1004 restaurant locations.

1005 (b) The person seeking a master limited-service restaurant license shall designate
1006 which limited-service restaurant locations the person seeks to have under the master
1007 limited-service restaurant license.

1008 (c) A limited-service restaurant location under a master limited-service restaurant
1009 license is considered separately licensed for purposes of this title, except as provided in this
1010 section.

1011 (2) A master limited-service restaurant license and each location under Subsection (1)
1012 are considered a single limited-service restaurant license for purposes of Subsection
1013 32B-6-303(3)(a).

1014 (3) (a) A master limited-service restaurant license expires on October 31 of each year.

1015 (b) To renew a person's master limited-service restaurant license, a person shall comply
1016 with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
1017 September 30.

1018 (4) (a) The nonrefundable application fee for a master limited-service restaurant license
1019 is \$330.

1020 (b) The initial license fee for a master limited-service restaurant license is \$5,000 plus
1021 a separate initial license fee for each newly licensed limited-service restaurant license under the
1022 master limited-service restaurant license determined in accordance with Subsection
1023 32B-6-304(3)(b).

1024 (c) The renewal fee for a master limited-service restaurant license is \$500 plus a
1025 separate renewal fee for each limited-service license under the master limited-service restaurant
1026 license determined in accordance with Subsection 32B-6-304(3)(c).

1027 (5) A new location may be added to a master limited-service restaurant license after the
1028 master limited-service restaurant license is issued if:

1029 (a) the master limited-service restaurant licensee pays a nonrefundable application fee
1030 of \$330; and

1031 (b) including payment of the initial license fee, the location separately meets the
1032 requirements of this part.

1033 (6) (a) A master limited-service restaurant licensee shall notify the department of a
1034 change in the persons managing a location covered by a master limited-service restaurant
1035 license:

1036 (i) immediately, if the management personnel is not management personnel at a
1037 location covered by the master limited-service restaurant licensee at the time of the change; or

1038 (ii) within 30 days of the change, if the master limited-service restaurant licensee is
1039 transferring management personnel from one location to another location covered by the master
1040 limited-service restaurant licensee.

1041 (b) A location covered by a master limited-service restaurant license shall keep its own
1042 records on its premises so that the department may audit the records.

1043 (c) A master limited-service restaurant licensee may not transfer alcoholic products
1044 between different locations covered by the master limited-service restaurant license.

1045 (7) (a) If there is a violation of this title at a location covered by a master
1046 limited-service restaurant license, the violation may result in disciplinary action in accordance
1047 with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1048 (i) the single location under a master limited-service restaurant license;

1049 (ii) individual staff of the location under the master limited-service restaurant licence;

1050 or

1051 (iii) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).

1052 (b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in
1053 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a
1054 master limited-service restaurant licensee or individual staff of the master limited-service
1055 restaurant licensee if during a period beginning on November 1 and ending October 31:

1056 (i) at least 25% of the locations covered by the master limited-service restaurant license
1057 have been found by the commission to have committed a serious or grave violation of this title,
1058 as defined by rule made by the commission; or

1059 (ii) at least 50% of the locations covered by the master limited-service restaurant
1060 license have been found by the commission to have violated this title.

1061 (8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah
1062 Administrative Rulemaking Act, to establish how a person may apply for a master
1063 limited-service restaurant license under this section.

1064 Section 9. Section **32B-6-407** is amended to read:

1065 **32B-6-407. Specific operational requirements for equity club license or fraternal**
1066 **club license.**

1067 (1) For purposes of this section only:

1068 (a) "Club licensee" means an equity club licensee or fraternal club licensee.

1069 (b) "Club licensee" does not include a dining club licensee or social club licensee.

1070 (2) (a) A club licensee shall have a governing body that:

1071 (i) consists of three or more members of the club; and

1072 (ii) holds regular meetings to:

1073 (A) review membership applications; and

1074 (B) conduct other business as required by the bylaws or house rules of the club.

1075 (b) (i) A club licensee shall maintain a minute book that is posted currently by the club
1076 licensee.

1077 (ii) The minute book required by this Subsection (2) shall contain the minutes of a
1078 regular or special meeting of the governing body.

1079 (3) A club licensee may admit an individual as a member only on written application

1080 signed by the person, subject to:

1081 (a) the person paying an application fee; and

1082 (b) investigation, vote, and approval of a quorum of the governing body.

1083 (4) A club licensee shall:

1084 (a) record an admission of a member in the official minutes of a regular meeting of the
1085 governing body; and

1086 (b) whether approved or disapproved, file an application as a part of the official records
1087 of the club licensee.

1088 (5) The spouse of a member of a club licensee has the rights and privileges of the
1089 member:

1090 (a) to the extent permitted by the bylaws or house rules of the club licensee; and

1091 (b) except to the extent restricted by this title.

1092 (6) A minor child of a member of a club licensee has the rights and privileges of the
1093 member:

1094 (a) to the extent permitted by the bylaws or house rules of the club licensee; and

1095 (b) except to the extent restricted by this title.

1096 (7) A club licensee shall maintain:

1097 (a) a current and complete membership record showing:

1098 (i) the date of application of a proposed member;

1099 (ii) a member's address;

1100 (iii) the date the governing body approved a member's admission;

1101 (iv) the date initiation fees and dues are assessed and paid; and

1102 (v) the serial number of the membership card issued to a member;

1103 (b) a membership list; and

1104 (c) a current record indicating when a member is removed as a member or resigns.

1105 (8) (a) A club licensee shall have bylaws or house rules that include provisions
1106 respecting the following:

1107 (i) standards of eligibility for members;

1108 (ii) limitation of members, consistent with the nature and purpose of the club;

1109 (iii) the period for which dues are paid, and the date upon which the period expires;

1110 (iv) provisions for removing a member from the club membership for the nonpayment

1111 of dues or other cause;

1112 (v) provisions for guests; and

1113 (vi) application fees and membership dues.

1114 (b) A club licensee shall maintain a current copy of the club licensee's current bylaws
1115 and current house rules.

1116 (c) A club licensee shall maintain its bylaws or house rules, and any amendments to
1117 those records, on file with the department at all times.

1118 (9) A club licensee may, in its discretion, allow an individual to be admitted to or use
1119 the club licensed premises as a guest subject to the following conditions:

1120 (a) the individual is allowed to use the club licensee premises only to the extent
1121 permitted by the club licensee's bylaws or house rules;

1122 (b) the individual shall be previously authorized by a member of the club who agrees to
1123 host the individual as a guest into the club;

1124 (c) the individual has only those privileges derived from the individual's host for the
1125 duration of the individual's visit to the club licensee premises; and

1126 (d) a club licensee or staff of the club licensee may not enter into an agreement or
1127 arrangement with a club member to indiscriminately host a member of the general public into
1128 the club licensee premises as a guest.

1129 (10) Notwithstanding Subsection (9), an individual may be allowed as a guest in a club
1130 licensed premises without a host if:

1131 (a) (i) the club licensee is an equity club licensee; and

1132 (ii) the individual is a member of an equity club licensee that has reciprocal guest
1133 privileges with the equity club licensee for which the individual is a guest; [~~or~~]

1134 (b) (i) the club licensee is a fraternal club licensee; and

1135 (ii) the individual is a member of the same fraternal organization as the fraternal club
1136 licensee for which the individual is a guest[~~;~~]; or

1137 (c) (i) the club licensee is a fraternal club licensee that holds the fraternal club license
1138 on July 1, 2013;

1139 (ii) the club licensee's bylaws permit guests in the club licensed premises without a
1140 host except that a minor may not be admitted as a guest without a host; and

1141 (iii) the club licensee maintains 60% of its total club business from the sale of food, not

1142 including mix for alcoholic products, or service charges.

1143 (11) Unless the patron is a member or guest, a club licensee may not:

1144 (a) sell, offer for sale, or furnish an alcoholic product to the patron; or

1145 (b) allow the patron to be admitted to or use the licensed premises.

1146 (12) A minor may not be a member, officer, director, or trustee of a club licensee.

1147 [~~(13) Public advertising related to a club licensee by the following shall clearly identify~~

1148 ~~a club as being "a club for members":]~~

1149 [~~(a) the club licensee;~~

1150 [~~(b) staff of the club licensee; or]~~

1151 [~~(c) a person under a contract or agreement with the club licensee.]~~

1152 Section 10. Section **32B-8a-201 (Effective 07/01/13)** is amended to read:

1153 **32B-8a-201 (Effective 07/01/13). Transferability of retail license.**

1154 (1) (a) A retail license is separate from other property of a retail licensee.

1155 (b) Notwithstanding Subsection (1)(a), the Legislature may terminate or modify the

1156 existence of any type of retail license.

1157 (c) Except as provided in this chapter, a person may not:

1158 (i) transfer a retail license from one location to another location; or

1159 (ii) sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the

1160 retail license to another person whether for monetary gain or not.

1161 (d) If approved by the commission and subject to the requirements of this chapter, a

1162 retail licensee may transfer a retail license:

1163 (i) from the retail licensee to another person, regardless of whether it is for the same

1164 premises; and

1165 (ii) from one premises of the retail licensee to another premises of the retail licensee.

1166 (2) (a) The commission may not approve the transfer of a retail license that results in a

1167 transferee holding a different type of retail license than is held by the transferor.

1168 (b) The commission may not approve the transfer of a retail license from one location

1169 to another location, if the location of the premises to which the retail license would be

1170 transferred is in a different county than the location of the licensed premises of the retail license

1171 being transferred.

1172 (3) The commission may not approve the transfer of a retail license if the transferee:

1173 (a) is not eligible to hold the same type of retail license as the retail license to be
1174 transferred at the premises to which the retail license would be transferred; or

1175 (b) is delinquent in the payment of any of the following that arises in full or in part out
1176 of the operation of a retail license:

1177 (i) a tax, fee, or charge due under this title or Title 59, Revenue and Taxation; or
1178 (ii) an amount due under Title 35A, Chapter 4, Employment Security Act.

1179 (4) This chapter does not apply to a:

1180 (a) master full-service restaurant license; or

1181 (b) master limited-service restaurant license.

1182 Section 11. **Uncodified Section 7, Laws of Utah 2012, Fourth Special Session,**
1183 **Chapter 1** is amended to read:

1184 Section 7. **Uncodified Section 110, Laws of Utah 2011, Chapter 334** is amended to
1185 read:

1186 Section 110. **Effective date.**

1187 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2011.

1188 (2) (a) The repeal of Subsection 32B-6-603(4) [~~Effective 07/01/11~~] in this bill takes
1189 effect on November 1, 2011.

1190 (b) Title 32B, Chapter 6, Part 8, Reception Center License, enacted by this bill takes
1191 effect on November 1, 2011.

1192 (c) Title 32B, Chapter 6, Part 9, Beer-only Restaurant License, enacted by this bill
1193 takes effect on March 1, 2012.

1194 (d) The following take effect on July 1, [~~2013~~] 2014:

1195 (i) Section 32B-5-309 [~~Effective 07/01/11~~] (Effective 07/01/13) as amended by this
1196 bill; and

1197 (ii) Title 32B, Chapter 8a, Transfer of Retail License Act, enacted by this bill.

1198 Section 12. **Uncodified Section 8, Laws of Utah 2012, Fourth Special Session,**
1199 **Chapter 1** is amended to read:

1200 Section 8. **Uncodified Section 24, Laws of Utah 2012, Chapter 365** is amended to
1201 read:

1202 Section 24. **Effective date.**

1203 This bill takes effect on July 1, 2012, except that the amendments made to Section

1204 32B-8a-302 [~~Effective 07/01/12~~] (Effective 07/01/13), and Section 32B-8a-303 [~~Effective~~
1205 ~~07/01/12~~] (Effective 07/01/13), in this bill take effect on July 1, [~~2013~~] 2014.

1206 Section 13. **Effective date.**

1207 (1) Except as provided in Subsection (2), this bill takes effect on May 14, 2013.

1208 (2) The actions to Section 32B-8a-201 (Effective 07/01/13) take effect on July 1, 2014.

1209 Section 14. **Revisor instructions.**

1210 The Legislature intends that the Office of Legislative Research and General Counsel, in
1211 preparing the Utah Code database for publication do the following:

1212 (1) change the superseding date in Section 32B-5-309 (Superseded 07/01/13) from July
1213 1, 2013 to July 1, 2014;

1214 (2) change the effective date in Section 32B-5-309 (Effective 07/01/13) from July 1,
1215 2013 to July 1, 2014; and

1216 (3) change the effective date from July 1, 2013 to July 1, 2014 in the following
1217 sections:

1218 (a) Section 32B-8a-101 (Effective 07/01/13);

1219 (b) Section 32B-8a-102 (Effective 07/01/13);

1220 (c) Section 32B-8a-201 (Effective 07/01/13);

1221 (d) Section 32B-8a-202 (Effective 07/01/13);

1222 (e) Section 32B-8a-203 (Effective 07/01/13);

1223 (f) Section 32B-8a-301 (Effective 07/01/13);

1224 (g) Section 32B-8a-302 (Effective 07/01/13);

1225 (h) Section 32B-8a-303 (Effective 07/01/13);

1226 (i) Section 32B-8a-401 (Effective 07/01/13);

1227 (j) Section 32B-8a-402 (Effective 07/01/13);

1228 (k) Section 32B-8a-403 (Effective 07/01/13);

1229 (l) Section 32B-8a-404 (Effective 07/01/13);

1230 (m) Section 32B-8a-501 (Effective 07/01/13); and

1231 (n) Section 32B-8a-502 (Effective 07/01/13).