

ALCOHOLIC BEVERAGE CONTROL AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address issues related to licensing.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "retail license";
- ▶ addresses new master licenses under the law enforcement quota;
- ▶ addresses the powers of the commission;
- ▶ prohibits multiple retail licenses at the same building under certain circumstances;
- ▶ creates a master full-service restaurant license;
- ▶ creates a master limited-service restaurant license;
- ▶ delays the enactment of the Transfer of Retail License Act and related amendments;

and

- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:



28 AMENDS:

29 **32B-1-102**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

30 **32B-1-201**, as last amended by Laws of Utah 2011, Chapter 334

31 **32B-2-202**, as last amended by Laws of Utah 2012, Chapter 365

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

33 ENACTS:

34 **32B-5-207**, Utah Code Annotated 1953

35 **32B-6-206**, Utah Code Annotated 1953

36 **32B-6-306**, Utah Code Annotated 1953

37 **Uncodified Material Affected:**

38 AMENDS UNCODIFIED MATERIAL:

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

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

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



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

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

46 **32B-1-102. Definitions.**

47 As used in this title:

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

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

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

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

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

55 (a) beer; or

56 (b) liquor.

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

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

59 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
60 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
61 in an amount equal to or greater than .5% of alcohol by volume.

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

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

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

66 (ii) vinegar;

67 (iii) cider;

68 (iv) essence;

69 (v) tincture;

70 (vi) food preparation; or

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

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

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

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

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

77 (6) "Banquet" means an event:

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

80 (i) hotel;

81 (ii) resort facility;

82 (iii) sports center; or

83 (iv) convention center;

84 (b) for which there is a contract:

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

86 and

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

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

- 90 (7) (a) "Bar" means a surface or structure:
- 91 (i) at which an alcoholic product is:
- 92 (A) stored; or
- 93 (B) dispensed; or
- 94 (ii) from which an alcoholic product is served.
- 95 (b) "Bar structure" means a surface or structure on a licensed premises if on or at any
- 96 place of the surface or structure an alcoholic product is:
- 97 (i) stored; or
- 98 (ii) dispensed.
- 99 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:
- 100 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
- 101 volume or 3.2% by weight; and
- 102 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 103 (b) "Beer" may or may not contain hops or other vegetable products.
- 104 (c) "Beer" includes a product that:
- 105 (i) contains alcohol in the percentages described in Subsection (8)(a); and
- 106 (ii) is referred to as:
- 107 (A) beer;
- 108 (B) ale;
- 109 (C) porter;
- 110 (D) stout;
- 111 (E) lager; or
- 112 (F) a malt or malted beverage.
- 113 (d) "Beer" does not include a flavored malt beverage.
- 114 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
- 115 Retail License Act, and Chapter 6, Part 9, Beer-only Restaurant License.
- 116 (10) "Beer retailer" means a business:
- 117 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
- 118 whether for consumption on or off the business premises; and
- 119 (b) to whom a license is issued:
- 120 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise

121 Beer Retailer Local Authority; or

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

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

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

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

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

129 (a) a light device;

130 (b) a painting;

131 (c) a drawing;

132 (d) a poster;

133 (e) a sign;

134 (f) a signboard; or

135 (g) a scoreboard.

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

137 (a) beer;

138 (b) heavy beer; or

139 (c) a flavored malt beverage.

140 (14) "Brewery manufacturing license" means a license issued in accordance with

141 Chapter 11, Part 5, Brewery Manufacturing License.

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

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

146 (a) under a single contract;

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

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

150 (17) "Church" means a building:

151 (a) set apart for worship;

- 152 (b) in which religious services are held;
- 153 (c) with which clergy is associated; and
- 154 (d) that is tax exempt under the laws of this state.

155 (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail
156 License Act, and Chapter 6, Part 4, Club License.

- 157 (b) "Club license" includes:
- 158 (i) a dining club license;
- 159 (ii) an equity club license;
- 160 (iii) a fraternal club license; or
- 161 (iv) a social club license.

162 (19) "Commission" means the Alcoholic Beverage Control Commission created in
163 Section 32B-2-201.

164 (20) "Commissioner" means a member of the commission.

165 (21) "Community location" means:

- 166 (a) a public or private school;
- 167 (b) a church;
- 168 (c) a public library;
- 169 (d) a public playground; or
- 170 (e) a public park.

171 (22) "Community location governing authority" means:

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

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

- 177 (a) a bottle;
- 178 (b) a vessel; or
- 179 (c) a similar item.

180 (24) "Convention center" means a facility that is:

- 181 (a) in total at least 30,000 square feet; and
- 182 (b) otherwise defined as a "convention center" by the commission by rule.

183 (25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a
184 dining area of a licensed premises where seating is provided to a patron for service of food.

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

187 (i) stored; or

188 (ii) dispensed.

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

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

192 (a) an auditor or inspector; and

193 (b) employed by the department.

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

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

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

201 (31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
202 title:

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

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

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

206 (i) drawing of an alcoholic product:

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

208 (B) as provided in Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii),

209 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

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

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

- 214 (i) a full-service restaurant license;
- 215 (ii) a limited-service restaurant license;
- 216 (iii) a reception center license; and
- 217 (iv) a beer-only restaurant license.
- 218 (33) "Distillery manufacturing license" means a license issued in accordance with
- 219 Chapter 11, Part 4, Distillery Manufacturing License.
- 220 (34) "Distressed merchandise" means an alcoholic product in the possession of the
- 221 department that is saleable, but for some reason is unappealing to the public.
- 222 (35) "Educational facility" includes:
- 223 (a) a nursery school;
- 224 (b) an infant day care center; and
- 225 (c) a trade and technical school.
- 226 (36) "Equity club license" means a license issued in accordance with Chapter 5, Retail
- 227 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an
- 228 equity club license.
- 229 (37) "Event permit" means:
- 230 (a) a single event permit; or
- 231 (b) a temporary beer event permit.
- 232 (38) "Exempt license" means a license exempt under Section 32B-1-201 from being
- 233 considered in determining the total number of a retail license that the commission may issue at
- 234 any time.
- 235 (39) (a) "Flavored malt beverage" means a beverage:
- 236 (i) that contains at least .5% alcohol by volume;
- 237 (ii) that is treated by processing, filtration, or another method of manufacture that is not
- 238 generally recognized as a traditional process in the production of a beer as described in 27
- 239 C.F.R. Sec. 25.55;
- 240 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop
- 241 extract; and
- 242 (iv) (A) for which the producer is required to file a formula for approval with the
- 243 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or
- 244 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

245 (b) "Flavored malt beverage" is considered liquor for purposes of this title.
246 (40) "Fraternal club license" means a license issued in accordance with Chapter 5,
247 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
248 as a fraternal club license.

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

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

253 (b) "Furnish" includes to:

254 (i) serve;

255 (ii) deliver; or

256 (iii) otherwise make available.

257 (43) "Guest" means an individual who meets the requirements of Subsection
258 32B-6-407(9).

259 (44) "Health care practitioner" means:

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

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

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

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

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

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

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

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

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

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

275 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical

276 Practice Act;

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

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

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

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

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

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

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

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

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

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

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

296 (a) law; or

297 (b) court order.

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

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

301 (i) an alcoholic product;

302 (ii) a controlled substance;

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

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

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

- 307 (52) "Investigator" means an individual who is:
- 308 (a) a department compliance officer; or
- 309 (b) a nondepartment enforcement officer.
- 310 (53) "Invitee" is as defined in Section 32B-8-102.
- 311 (54) "License" means:
- 312 (a) a retail license;
- 313 (b) a license issued in accordance with Chapter 11, Manufacturing and Related
- 314 Licenses Act;
- 315 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 316 or
- 317 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.
- 318 (55) "Licensee" means a person who holds a license.
- 319 (56) "Limited-service restaurant license" means a license issued in accordance with
- 320 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.
- 321 (57) "Limousine" means a motor vehicle licensed by the state or a local authority, other
- 322 than a bus or taxicab:
- 323 (a) in which the driver and a passenger are separated by a partition, glass, or other
- 324 barrier;
- 325 (b) that is provided by a business entity to one or more individuals at a fixed charge in
- 326 accordance with the business entity's tariff; and
- 327 (c) to give the one or more individuals the exclusive use of the limousine and a driver
- 328 to travel to one or more specified destinations.
- 329 (58) (a) (i) "Liquor" means a liquid that:
- 330 (A) is:
- 331 (I) alcohol;
- 332 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 333 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 334 (IV) other drink or drinkable liquid; and
- 335 (B) (I) contains at least .5% alcohol by volume; and
- 336 (II) is suitable to use for beverage purposes.
- 337 (ii) "Liquor" includes:

- 338 (A) heavy beer;
- 339 (B) wine; and
- 340 (C) a flavored malt beverage.
- 341 (b) "Liquor" does not include beer.
- 342 (59) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.
- 343 (60) "Liquor warehousing license" means a license that is issued:
- 344 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- 345 (b) to a person, other than a licensed manufacturer, who engages in the importation for
- 346 storage, sale, or distribution of liquor regardless of amount.
- 347 (61) "Local authority" means:
- 348 (a) for premises that are located in an unincorporated area of a county, the governing
- 349 body of a county; or
- 350 (b) for premises that are located in an incorporated city or a town, the governing body
- 351 of the city or town.
- 352 (62) "Lounge or bar area" is as defined by rule made by the commission.
- 353 (63) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
- 354 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 355 (64) "Member" means an individual who, after paying regular dues, has full privileges
- 356 in an equity club licensee or fraternal club licensee.
- 357 (65) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
- 358 or homeport facility for a ship:
- 359 (i) (A) under the control of the United States Department of Defense; or
- 360 (B) of the National Guard;
- 361 (ii) that is located within the state; and
- 362 (iii) including a leased facility.
- 363 (b) "Military installation" does not include a facility used primarily for:
- 364 (i) civil works;
- 365 (ii) a rivers and harbors project; or
- 366 (iii) a flood control project.
- 367 (66) "Minor" means an individual under the age of 21 years.
- 368 (67) "Nondepartment enforcement agency" means an agency that:

- 369 (a) (i) is a state agency other than the department; or
- 370 (ii) is an agency of a county, city, or town; and
- 371 (b) has a responsibility to enforce one or more provisions of this title.
- 372 (68) "Nondepartment enforcement officer" means an individual who is:
- 373 (a) a peace officer, examiner, or investigator; and
- 374 (b) employed by a nondepartment enforcement agency.
- 375 (69) (a) "Off-premise beer retailer" means a beer retailer who is:
- 376 (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local
- 377 Authority; and
- 378 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 379 premises.
- 380 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 381 (70) "On-premise banquet license" means a license issued in accordance with Chapter
- 382 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.
- 383 (71) "On-premise beer retailer" means a beer retailer who is:
- 384 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 385 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer
- 386 Retailer License; and
- 387 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 388 premises:
- 389 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 390 premises; and
- 391 (ii) on and after March 1, 2012, operating:
- 392 (A) as a tavern; or
- 393 (B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).
- 394 (72) "Opaque" means impenetrable to sight.
- 395 (73) "Package agency" means a retail liquor location operated:
- 396 (a) under an agreement with the department; and
- 397 (b) by a person:
- 398 (i) other than the state; and
- 399 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package

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

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

402 (75) "Patron" means an individual to whom food, beverages, or services are sold,
403 offered for sale, or furnished, or who consumes an alcoholic product including:

404 (a) a customer;

405 (b) a member;

406 (c) a guest;

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

408 (e) an individual who receives room service;

409 (f) a resident of a resort;

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

411 or

412 (h) an invitee.

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

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

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

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

417 (a) a licensee;

418 (b) a permittee;

419 (c) a manufacturer;

420 (d) a supplier;

421 (e) an importer;

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

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

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

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

426 (g) staff of:

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

428 (ii) a package agent.

429 (78) "Premises" means a building, enclosure, or room used in connection with the
430 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,

431 unless otherwise defined in this title or rules made by the commission.

432 (79) "Prescription" means an order issued by a health care practitioner when:

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

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

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

438 (80) (a) "Private event" means a specific social, business, or recreational event:

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

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

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

445 (81) (a) "Proof of age" means:

446 (i) an identification card;

447 (ii) an identification that:

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

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

451 (C) includes date of birth; and

452 (D) has a picture affixed;

453 (iii) a valid driver license certificate that:

454 (A) includes date of birth;

455 (B) has a picture affixed; and

456 (C) is issued:

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

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

459 (iv) a military identification card that:

460 (A) includes date of birth; and

461 (B) has a picture affixed; or

462 (v) a valid passport.

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

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

466 (i) owned or leased by:

467 (A) the state; or

468 (B) a local government entity; and

469 (ii) used for:

470 (A) public education;

471 (B) transacting public business; or

472 (C) regularly conducting government activities.

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

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

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

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

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

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

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

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

486 (i) inscribed on a tangible medium; or

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

488 (b) "Record" includes:

489 (i) a book;

490 (ii) a book of account;

491 (iii) a paper;

492 (iv) a contract;

- 493 (v) an agreement;
- 494 (vi) a document; or
- 495 (vii) a recording in any medium.
- 496 (87) "Residence" means a person's principal place of abode within Utah.
- 497 (88) "Resident," in relation to a resort, is as defined in Section 32B-8-102.
- 498 (89) "Resort" is as defined in Section 32B-8-102.
- 499 (90) "Resort facility" is as defined by the commission by rule.
- 500 (91) "Resort license" means a license issued in accordance with Chapter 5, Retail
- 501 License Act, and Chapter 8, Resort License Act.
- 502 (92) "Restaurant" means a business location:
- 503 (a) at which a variety of foods are prepared;
- 504 (b) at which complete meals are served to the general public; and
- 505 (c) that is engaged primarily in serving meals to the general public.
- 506 (93) "Retail license" means one of the following licenses issued under this title:
- 507 (a) a full-service restaurant license;
- 508 (b) a master full-service restaurant license;
- 509 ~~(b)~~ (c) a limited-service restaurant license;
- 510 (d) a master limited-service restaurant license;
- 511 ~~(e)~~ (e) a club license;
- 512 ~~(f)~~ (f) an airport lounge license;
- 513 ~~(g)~~ (g) an on-premise banquet license;
- 514 ~~(h)~~ (h) an on-premise beer license;
- 515 ~~(i)~~ (i) a reception center license; or
- 516 ~~(j)~~ (j) a beer-only restaurant license.
- 517 (94) "Room service" means furnishing an alcoholic product to a person in a guest room
- 518 of a:
- 519 (a) hotel; or
- 520 (b) resort facility.
- 521 (95) "Serve" means to place an alcoholic product before an individual.
- 522 (96) (a) "School" means a building used primarily for the general education of minors.
- 523 (b) "School" does not include an educational facility.

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

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

- 531 (a) for the entertainment of one or more patrons;
- 532 (b) on the premises of:
 - 533 (i) a social club licensee; or
 - 534 (ii) a tavern;
- 535 (c) on behalf of or at the request of the licensee described in Subsection (98)(b);
- 536 (d) on a contractual or voluntary basis; and
- 537 (e) whether or not the person is designated as:
 - 538 (i) an employee;
 - 539 (ii) an independent contractor;
 - 540 (iii) an agent of the licensee; or
 - 541 (iv) a different type of classification.

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

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

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

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

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

552 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
553 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

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

- 555 (105) (a) "Staff" means an individual who engages in activity governed by this title:
556 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
557 holder;
558 (ii) at the request of the business, including a package agent, licensee, permittee, or
559 certificate holder; or
560 (iii) under the authority of the business, including a package agent, licensee, permittee,
561 or certificate holder.
- 562 (b) "Staff" includes:
563 (i) an officer;
564 (ii) a director;
565 (iii) an employee;
566 (iv) personnel management;
567 (v) an agent of the licensee, including a managing agent;
568 (vi) an operator; or
569 (vii) a representative.
- 570 (106) "State of nudity" means:
571 (a) the appearance of:
572 (i) the nipple or areola of a female human breast;
573 (ii) a human genital;
574 (iii) a human pubic area; or
575 (iv) a human anus; or
576 (b) a state of dress that fails to opaquely cover:
577 (i) the nipple or areola of a female human breast;
578 (ii) a human genital;
579 (iii) a human pubic area; or
580 (iv) a human anus.
- 581 (107) "State of seminudity" means a state of dress in which opaque clothing covers no
582 more than:
583 (a) the nipple and areola of the female human breast in a shape and color other than the
584 natural shape and color of the nipple and areola; and
585 (b) the human genitals, pubic area, and anus:

- 586 (i) with no less than the following at its widest point:
- 587 (A) four inches coverage width in the front of the human body; and
- 588 (B) five inches coverage width in the back of the human body; and
- 589 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 590 (108) (a) "State store" means a facility for the sale of packaged liquor:
- 591 (i) located on premises owned or leased by the state; and
- 592 (ii) operated by a state employee.
- 593 (b) "State store" does not include:
- 594 (i) a package agency;
- 595 (ii) a licensee; or
- 596 (iii) a permittee.
- 597 (109) (a) "Storage area" means an area on licensed premises where the licensee stores
- 598 an alcoholic product.
- 599 (b) "Store" means to place or maintain in a location an alcoholic product from which a
- 600 person draws to prepare an alcoholic product to be furnished to a patron, except as provided in
- 601 Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or
- 602 32B-6-905(12)(b)(ii).
- 603 (110) "Sublicense" is as defined in Section 32B-8-102.
- 604 (111) "Supplier" means a person who sells an alcoholic product to the department.
- 605 (112) "Tavern" means an on-premise beer retailer who is:
- 606 (a) issued a license by the commission in accordance with Chapter 5, Retail License
- 607 Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and
- 608 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
- 609 On-premise Beer Retailer License.
- 610 (113) "Temporary beer event permit" means a permit issued in accordance with
- 611 Chapter 9, Part 4, Temporary Beer Event Permit.
- 612 (114) "Temporary domicile" means the principal place of abode within Utah of a
- 613 person who does not have a present intention to continue residency within Utah permanently or
- 614 indefinitely.
- 615 (115) "Translucent" means a substance that allows light to pass through, but does not
- 616 allow an object or person to be seen through the substance.

617 (116) "Unsaleable liquor merchandise" means a container that:

618 (a) is unsaleable because the container is:

619 (i) unlabeled;

620 (ii) leaky;

621 (iii) damaged;

622 (iv) difficult to open; or

623 (v) partly filled;

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

625 (ii) has contents that are:

626 (A) cloudy;

627 (B) spoiled; or

628 (C) chemically determined to be impure; or

629 (iii) contains:

630 (A) sediment; or

631 (B) a foreign substance; or

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

633 (117) (a) "Wine" means an alcoholic product obtained by the fermentation of the

634 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not

635 another ingredient is added.

636 (b) "Wine" is considered liquor for purposes of this title, except as otherwise provided

637 in this title.

638 (118) "Winery manufacturing license" means a license issued in accordance with

639 Chapter 11, Part 3, Winery Manufacturing License.

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

641 **32B-1-201. Restrictions on number of retail licenses that may be issued --**

642 **Determining population -- Exempt licenses.**

643 (1) As used in this section:

644 (a) "Alcohol-related law enforcement officer" means a law enforcement officer

645 employed by the Department of Public Safety that has as a primary responsibility:

646 (i) the enforcement of this title; or

647 (ii) the enforcement of Title 41, Chapter 6a, Part 5, Driving Under the Influence and

648 Reckless Driving.

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

650 (i) determine the quotient equal to the sum of the total number of quota retail licenses
651 available and the total number of licensed premises operating under a master full-service
652 restaurant license or under a master limited-service restaurant license divided by the total
653 number of alcohol-related law enforcement officers; and

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

656 (c) "Quota retail license" means:

657 (i) a full-service restaurant license;

658 (ii) a limited-service restaurant license;

659 (iii) a club license;

660 (iv) an on-premise banquet license;

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

662 (vi) a reception center license.

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

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

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

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

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

673 (b) If, beginning on July 1, 2012, the enforcement ratio is greater than 52, the
674 commission may not issue a quota retail license for the 12-month period beginning on the July
675 1 for which the enforcement ratio is greater than 52.

676 (c) Notwithstanding Subsection (2)(b), the commission may issue a quota retail license
677 during the 12-month period described in Subsection (2)(b) beginning on the day on which a
678 sufficient number of alcohol-related law enforcement officers are employed so that if the

679 enforcement ratio is calculated, the enforcement ratio would be equal to or less than 52.

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

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

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

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

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

692 (a) the retail license was issued to a club licensee designated as a dining club as of July
693 1, 2011; and

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

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

697 **32B-2-202. Powers and duties of the commission.**

698 (1) The commission shall:

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

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

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

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

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

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

708 (e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses,
709 permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing,

710 consumption, manufacture, and distribution of an alcoholic product:

711 (i) a package agency;

712 (ii) a full-service restaurant license;

713 (iii) a master full-service restaurant license;

714 [~~(iii)~~] (iv) a limited-service restaurant license;

715 (v) a master limited-service restaurant license;

716 [~~(iv)~~] (vi) a club license;

717 [~~(v)~~] (vii) an airport lounge license;

718 [~~(vi)~~] (viii) an on-premise banquet license;

719 [~~(vii)~~] (ix) a resort license, under which four or more sublicenses may be included;

720 [~~(viii)~~] (x) an on-premise beer retailer license;

721 [~~(ix)~~] (xi) a reception center license;

722 [~~(x)~~] (xii) a beer-only restaurant license;

723 [~~(xi)~~] (xiii) subject to Subsection (4), a single event permit;

724 [~~(xii)~~] (xiv) subject to Subsection (4), a temporary beer event permit;

725 [~~(xiii)~~] (xv) a special use permit;

726 [~~(xiv)~~] (xvi) a manufacturing license;

727 [~~(xv)~~] (xvii) a liquor warehousing license;

728 [~~(xvi)~~] (xviii) a beer wholesaling license; and

729 [~~(xvii)~~] (xix) one of the following that holds a certificate of approval:

730 (A) an out-of-state brewer;

731 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and

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

733 (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke one of the

734 following conditional licenses for the purchase, storage, sale, furnishing, consumption,

735 manufacture, and distribution of an alcoholic product:

736 (i) a conditional full-service restaurant license; or

737 (ii) a conditional limited-service restaurant license;

738 (g) prescribe the duties of the department in assisting the commission in issuing a

739 package agency, license, permit, or certificate of approval under this title;

740 (h) to the extent a fee is not specified in this title, establish a fee allowed under this title

741 in accordance with Section 63J-1-504;

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

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

746 (k) (i) require the director to follow sound management principles; and
747 (ii) require periodic reporting from the director to ensure that:
748 (A) sound management principles are being followed; and
749 (B) policies established by the commission are being observed;

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

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

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

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

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

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

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

770 (3) If the commission is authorized or required to make a rule under this title, the
771 commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative

772 Rulemaking Act.

773 (4) Notwithstanding Subsections (1)(e)[~~(xi)~~](xiii) and [~~(xii)~~] (xiv), the director or
774 deputy director may issue an event permit in accordance with Chapter 9, Event Permit Act.

775 Section 4. Section **32B-5-207** is enacted to read:

776 **32B-5-207. Multiple retail licenses at same building.**

777 (1) (a) On or after the effective date of this bill, the commission may not issue to a
778 retail licensee more than one type of retail license for the same building unless the commission
779 determines that:

780 (i) (A) the licensed premises for each retail license is in a separate room within the
781 building; and

782 (B) the requirements for each retail license are met; or

783 (ii) (A) the different retail licenses are operational at different days or hours;

784 (B) the retail licensee posts a notice that is conspicuous and states the days and hours
785 for each retail license that operates on the premises; and

786 (C) the requirements for each retail license are met.

787 (b) The commission may define "separate room" by rule made in accordance with Title
788 63G, Chapter 3, Utah Administrative Rulemaking Act.

789 (2) (a) Notwithstanding Subsection (1), if on the effective date of this bill a retail
790 licensee has more than one type of retail license within a building in a manner that violates
791 Subsection (1), the retail licensee may operate under the different types of retail licenses until
792 January 1, 2015.

793 (b) By no later than January 1, 2015, the retail licensee shall:

794 (i) choose which retail license the retail licensee wants to retain, subject to being
795 qualified to continue to hold the retail license; and

796 (ii) let expire or return to the commission a retail license that the retail licensee has
797 chosen not to retain.

798 Section 5. Section **32B-6-206** is enacted to read:

799 **32B-6-206. Master full-service restaurant license.**

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

803 applying for the master full-service restaurant license:

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

805 (ii) except for the fee requirements, establishes to the satisfaction of the commission

806 that each location of a full-service restaurant under the master full-service restaurant license

807 separately meets the requirements of this part.

808 (b) The person seeking a master full-service restaurant license shall designate which

809 full-service restaurant locations the person seeks to have under the master full-service

810 restaurant license.

811 (c) A full-service restaurant location under a master full-service restaurant license is

812 considered separately licensed for purposes of this title, except as provided in this section.

813 (2) A master full-service restaurant license and each location designated under

814 Subsection (1) are considered a single full-service restaurant license for purposes of Subsection

815 32B-6-203(3)(a).

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

817 (b) To renew a person's full-service restaurant license, a person shall comply with the

818 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than

819 September 30.

820 (4) (a) The nonrefundable application fee for a master full-service restaurant license is

821 \$330.

822 (b) The initial license fee for a master full-service restaurant license is \$10,000 plus a

823 separate initial license fee for each newly licensed full-service restaurant license under the

824 master full-service restaurant license determined in accordance with Subsection

825 32B-6-204(3)(b).

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

827 renewal fee for each full-service license under the master full-service restaurant license

828 determined in accordance with Subsection 32B-6-204(3)(c).

829 (5) A new location may be added to a master full-service restaurant license after the

830 master full-service restaurant license is issued if:

831 (a) the master full-service restaurant licensee pays a nonrefundable application fee of

832 \$330; and

833 (b) including payment of the initial license fee, the location separately meets the

834 requirements of this part.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

865 **32B-6-306. Master limited-service restaurant license.**

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

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

871 (ii) except for the fee requirements, establishes to the satisfaction of the commission
872 that each location of a limited-service restaurant under the master limited-service restaurant
873 license separately meets the requirements of this part.

874 (b) The person seeking a master limited-service restaurant license shall designate
875 which limited-service restaurant locations the person seeks to have under the master
876 limited-service restaurant license.

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

880 (2) A master limited-service restaurant license and each location under Subsection (1)
881 are considered a single limited-service restaurant license for purposes of Subsection
882 32B-6-303(3)(a).

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

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

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

889 (b) The initial license fee for a master limited-service restaurant license is \$5,000 plus
890 a separate initial license fee for each newly licensed limited-service restaurant license under the
891 master limited-service restaurant license determined in accordance with Subsection
892 32B-6-304(3)(b).

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

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

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

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

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

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

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

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

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

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

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

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

919 or

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

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

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

927 as defined by rule made by the commission; or

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

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

933 Section 7. Section **32B-8a-201 (Effective 07/01/13)** is amended to read:

934 **32B-8a-201 (Effective 07/01/13). Transferability of retail license.**

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

936 (b) Notwithstanding Subsection (1)(a), the Legislature may terminate or modify the
937 existence of any type of retail license.

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

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

940 (ii) sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the
941 retail license to another person whether for monetary gain or not.

942 (d) If approved by the commission and subject to the requirements of this chapter, a
943 retail licensee may transfer a retail license:

944 (i) from the retail licensee to another person, regardless of whether it is for the same
945 premises; and

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

947 (2) (a) The commission may not approve the transfer of a retail license that results in a
948 transferee holding a different type of retail license than is held by the transferor.

949 (b) The commission may not approve the transfer of a retail license from one location
950 to another location, if the location of the premises to which the retail license would be
951 transferred is in a different county than the location of the licensed premises of the retail license
952 being transferred.

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

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

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

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

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

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

962 (b) master limited-service restaurant license.

963 Section 8. **Uncodified Section 7, Laws of Utah 2012, Fourth Special Session,**

964 **Chapter 1** is amended to read:

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

967 Section 110. **Effective date.**

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

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

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

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

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

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

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

979 Section 9. **Uncodified Section 8, Laws of Utah 2012, Fourth Special Session,**

980 **Chapter 1** is amended to read:

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

983 Section 24. **Effective date.**

984 This bill takes effect on July 1, 2012, except that the amendments made to Section
985 32B-8a-302 [~~Effective 07/01/12~~] (Effective 07/01/13), and Section 32B-8a-303 [~~Effective~~
986 ~~07/01/12~~] (Effective 07/01/13), in this bill take effect on July 1, [~~2013~~] 2014.

987 Section 10. **Effective date.**

988 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members

989 elected to each house, this bill takes effect upon approval by the governor, or the day following
990 the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's
991 signature, or in the case of a veto, the date of veto override.

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

993 Section 11. **Revisor instructions.**

994 (1) The Legislature intends that the Office of Legislative Research and General
995 Counsel, in preparing the Utah Code database for publication, change the effective date in
996 Section 32B-5-309 (Effective 07/01/13) and the sections in Title 32B, Chapter 8a, Transfer of
997 Retail License Act, from July 1, 2013, to July 1, 2014.

998 (2) The Legislature intends that the Office of Legislative Research and General
999 Counsel, in preparing the Utah Code database for publication, replace the language in Section
1000 32B-5-207, "the effective date of this bill," with the bill's actual effective date.

Legislative Review Note
as of 2-4-13 6:21 PM

Office of Legislative Research and General Counsel