

HEAVY BEER AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address the regulation of heavy beer.

Highlighted Provisions:

This bill:

- ▶ modifies definition provisions;
- ▶ modifies powers and duties of the commission;
- ▶ modifies powers and duties of the department;
- ▶ enacts a provision related to markup on heavy beer;
- ▶ amends a provision on unlawful sale or furnishing;
- ▶ addresses unlawful possession by licensee or permittee;
- ▶ modifies from whom a retail licensee may purchase liquor;
- ▶ amends specific operational requirements for single event permits;
- ▶ amends general operational requirements for special use permits;
- ▶ modifies specific operational requirements for a public service permit;
- ▶ addresses requirements for a certificate of approval for a brewer;
- ▶ modifies general operational requirements for a manufacturing license;
- ▶ amends authority and operational requirements for a brewery manufacturing license;
- ▶ amends provisions related to local industry representatives;
- ▶ modifies the commission's power to issue a liquor warehousing license;



- 28 ▶ modifies the commission's power to issue a beer wholesaling license;
- 29 ▶ changes application requirements for a beer wholesaling license;
- 30 ▶ modifies general operational requirements for a beer wholesaling license;
- 31 ▶ amends the Utah Beer Industry Distribution Act to include heavy beer; and
- 32 ▶ makes technical and conforming amendments.

33 Money Appropriated in this Bill:

34 None

35 Other Special Clauses:

36 None

37 Utah Code Sections Affected:

38 AMENDS:

- 39 **32B-1-102**, as last amended by Laws of Utah 2013, Chapter 349
- 40 **32B-2-202**, as last amended by Laws of Utah 2013, Chapter 349
- 41 **32B-2-204**, as enacted by Laws of Utah 2010, Chapter 276
- 42 **32B-4-401**, as enacted by Laws of Utah 2010, Chapter 276
- 43 **32B-4-417**, as enacted by Laws of Utah 2010, Chapter 276
- 44 **32B-5-303**, as last amended by Laws of Utah 2011, Chapter 307
- 45 **32B-9-305**, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 46 **32B-10-206**, as enacted by Laws of Utah 2010, Chapter 276
- 47 **32B-10-304**, as last amended by Laws of Utah 2011, Chapter 334
- 48 **32B-11-201**, as last amended by Laws of Utah 2011, Chapter 334
- 49 **32B-11-208**, as enacted by Laws of Utah 2010, Chapter 276
- 50 **32B-11-503**, as last amended by Laws of Utah 2011, Chapter 334
- 51 **32B-11-608**, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 52 **32B-12-201**, as enacted by Laws of Utah 2010, Chapter 276
- 53 **32B-13-201**, as last amended by Laws of Utah 2011, Chapter 334
- 54 **32B-13-202**, as last amended by Laws of Utah 2011, Chapter 334
- 55 **32B-13-301**, as last amended by Laws of Utah 2011, Chapter 334
- 56 **32B-14-101**, as enacted by Laws of Utah 2010, Chapter 276
- 57 **32B-14-102**, as enacted by Laws of Utah 2010, Chapter 276
- 58 **32B-14-201**, as enacted by Laws of Utah 2010, Chapter 276

59 **32B-14-302**, as enacted by Laws of Utah 2010, Chapter 276

60 **32B-14-303**, as enacted by Laws of Utah 2010, Chapter 276

61 ENACTS:

62 **32B-2-304.5**, Utah Code Annotated 1953



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

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

66 **32B-1-102. Definitions.**

67 As used in this title:

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

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

70 (b) that is located at an international airport with a United States Customs office on the

71 premises of the international airport.

72 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,

73 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

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

75 (a) beer; or

76 (b) liquor.

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

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

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

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

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

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

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

84 otherwise come within the definition of an alcoholic product:

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

86 (ii) vinegar;

87 (iii) cider;

88 (iv) essence;

89 (v) tincture;

- 90 (vi) food preparation; or
- 91 (vii) an over-the-counter medicine.
- 92 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 93 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 94 (5) "Alcohol training and education seminar" means a seminar that is:
- 95 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- 96 (b) described in Section [62A-15-401](#).
- 97 (6) "Banquet" means an event:
- 98 (a) that is held at one or more designated locations approved by the commission in or
- 99 on the premises of a:
 - 100 (i) hotel;
 - 101 (ii) resort facility;
 - 102 (iii) sports center; or
 - 103 (iv) convention center;
- 104 (b) for which there is a contract:
 - 105 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
 - 106 and
 - 107 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
 - 108 provide an alcoholic product at the event; and
 - 109 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 110 (7) (a) "Bar" means a surface or structure:
 - 111 (i) at which an alcoholic product is:
 - 112 (A) stored; or
 - 113 (B) dispensed; or
 - 114 (ii) from which an alcoholic product is served.
- 115 (b) "Bar structure" means a surface or structure on a licensed premises if on or at any
- 116 place of the surface or structure an alcoholic product is:
 - 117 (i) stored; or
 - 118 (ii) dispensed.
- 119 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:
- 120 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by

- 121 volume or 3.2% by weight; and
- 122 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 123 (b) "Beer" may or may not contain hops or other vegetable products.
- 124 (c) "Beer" includes a product that:
- 125 (i) contains alcohol in the percentages described in Subsection (8)(a); and
- 126 (ii) is referred to as:
- 127 (A) beer;
- 128 (B) ale;
- 129 (C) porter;
- 130 (D) stout;
- 131 (E) lager; or
- 132 (F) a malt or malted beverage.
- 133 (d) "Beer" does not include a flavored malt beverage.
- 134 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
- 135 Retail License Act, and Chapter 6, Part 9, Beer-only Restaurant License.
- 136 (10) "Beer retailer" means a business:
- 137 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
- 138 whether for consumption on or off the business premises; and
- 139 (b) to whom a license is issued:
- 140 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise
- 141 Beer Retailer Local Authority; or
- 142 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
- 143 and Chapter 6, Part 7, On-premise Beer Retailer License.
- 144 (11) "Beer wholesaling license" means a license:
- 145 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 146 (b) (i) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 147 retail licensees or off-premise beer retailers[-]; or
- 148 (ii) to import for sale, or sell heavy beer in wholesale or jobbing quantities to:
- 149 (A) one or more retail licensees who are authorized to sell, offer for sale, or furnish
- 150 heavy beer;
- 151 (B) one or more single event permittees;

- 152 (C) the department;
- 153 (D) military installations; and
- 154 (E) public service permittees.
- 155 (12) "Billboard" means a public display used to advertise, including:
- 156 (a) a light device;
- 157 (b) a painting;
- 158 (c) a drawing;
- 159 (d) a poster;
- 160 (e) a sign;
- 161 (f) a signboard; or
- 162 (g) a scoreboard.
- 163 (13) "Brewer" means a person engaged in manufacturing:
- 164 (a) beer;
- 165 (b) heavy beer; or
- 166 (c) a flavored malt beverage.
- 167 (14) "Brewery manufacturing license" means a license issued in accordance with
- 168 Chapter 11, Part 5, Brewery Manufacturing License.
- 169 (15) "Certificate of approval" means a certificate of approval obtained from the
- 170 department under Section [32B-11-201](#).
- 171 (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 172 a bus company to a group of persons pursuant to a common purpose:
- 173 (a) under a single contract;
- 174 (b) at a fixed charge in accordance with the bus company's tariff; and
- 175 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
- 176 motor vehicle, and a driver to travel together to one or more specified destinations.
- 177 (17) "Church" means a building:
- 178 (a) set apart for worship;
- 179 (b) in which religious services are held;
- 180 (c) with which clergy is associated; and
- 181 (d) that is tax exempt under the laws of this state.
- 182 (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail

183 License Act, and Chapter 6, Part 4, Club License.

184 (b) "Club license" includes:

185 (i) a dining club license;

186 (ii) an equity club license;

187 (iii) a fraternal club license; or

188 (iv) a social club license.

189 (19) "Commission" means the Alcoholic Beverage Control Commission created in

190 Section [32B-2-201](#).

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

192 (21) "Community location" means:

193 (a) a public or private school;

194 (b) a church;

195 (c) a public library;

196 (d) a public playground; or

197 (e) a public park.

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

199 (a) the governing body of the community location; or

200 (b) if the commission does not know who is the governing body of a community

201 location, a person who appears to the commission to have been given on behalf of the

202 community location the authority to prohibit an activity at the community location.

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

204 (a) a bottle;

205 (b) a vessel; or

206 (c) a similar item.

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

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

209 (b) otherwise defined as a "convention center" by the commission by rule.

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

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

- 214 (i) stored; or
- 215 (ii) dispensed.
- 216 (26) "Department" means the Department of Alcoholic Beverage Control created in
- 217 Section [32B-2-203](#).
- 218 (27) "Department compliance officer" means an individual who is:
- 219 (a) an auditor or inspector; and
- 220 (b) employed by the department.
- 221 (28) "Department sample" means liquor that is placed in the possession of the
- 222 department for testing, analysis, and sampling.
- 223 (29) "Dining club license" means a license issued in accordance with Chapter 5, Retail
- 224 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
- 225 dining club license.
- 226 (30) "Director," unless the context requires otherwise, means the director of the
- 227 department.
- 228 (31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
- 229 title:
- 230 (a) against a person subject to administrative action; and
- 231 (b) that is brought on the basis of a violation of this title.
- 232 (32) (a) Subject to Subsection (32)(b), "dispense" means:
- 233 (i) drawing of an alcoholic product:
- 234 (A) from an area where it is stored; or
- 235 (B) as provided in Subsection [32B-6-205\(12\)\(b\)\(ii\)](#), [32B-6-305\(12\)\(b\)\(ii\)](#),
- 236 [32B-6-805\(15\)\(b\)\(ii\)](#), or [32B-6-905\(12\)\(b\)\(ii\)](#); and
- 237 (ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of
- 238 the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the
- 239 retail licensee.
- 240 (b) The definition of "dispense" in this Subsection (32) applies only to:
- 241 (i) a full-service restaurant license;
- 242 (ii) a limited-service restaurant license;
- 243 (iii) a reception center license; and
- 244 (iv) a beer-only restaurant license.

245 (33) "Distillery manufacturing license" means a license issued in accordance with
246 Chapter 11, Part 4, Distillery Manufacturing License.

247 (34) "Distressed merchandise" means an alcoholic product in the possession of the
248 department that is saleable, but for some reason is unappealing to the public.

249 (35) "Educational facility" includes:

250 (a) a nursery school;

251 (b) an infant day care center; and

252 (c) a trade and technical school.

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

256 (37) "Event permit" means:

257 (a) a single event permit; or

258 (b) a temporary beer event permit.

259 (38) "Exempt license" means a license exempt under Section [32B-1-201](#) from being
260 considered in determining the total number of a retail license that the commission may issue at
261 any time.

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

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

264 (ii) that is treated by processing, filtration, or another method of manufacture that is not
265 generally recognized as a traditional process in the production of a beer as described in 27
266 C.F.R. Sec. 25.55;

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

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

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

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

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

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

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

280 (b) "Furnish" includes to:

281 (i) serve;

282 (ii) deliver; or

283 (iii) otherwise make available.

284 (43) "Guest" means an individual who meets the requirements of Subsection
285 [32B-6-407\(9\)](#).

286 (44) "Health care practitioner" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

- 307 (45) (a) "Heavy beer" means a product that:
- 308 (i) contains more than 4% alcohol by volume; and
- 309 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 310 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 311 (46) "Hotel" is as defined by the commission by rule.
- 312 (47) "Identification card" means an identification card issued under Title 53, Chapter 3,
- 313 Part 8, Identification Card Act.
- 314 (48) "Industry representative" means an individual who is compensated by salary,
- 315 commission, or other means for representing and selling an alcoholic product of a
- 316 manufacturer, supplier, or importer of liquor.
- 317 (49) "Industry representative sample" means liquor that is placed in the possession of
- 318 the department for testing, analysis, and sampling by a local industry representative on the
- 319 premises of the department to educate the local industry representative of the quality and
- 320 characteristics of the product.
- 321 (50) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
- 322 of an alcoholic product is prohibited by:
- 323 (a) law; or
- 324 (b) court order.
- 325 (51) "Intoxicated" means that a person:
- 326 (a) is significantly impaired as to the person's mental or physical functions as a result of
- 327 the use of:
- 328 (i) an alcoholic product;
- 329 (ii) a controlled substance;
- 330 (iii) a substance having the property of releasing toxic vapors; or
- 331 (iv) a combination of Subsections (51)(a)(i) through (iii); and
- 332 (b) exhibits plain and easily observed outward manifestations of behavior or physical
- 333 signs produced by the over consumption of an alcoholic product.
- 334 (52) "Investigator" means an individual who is:
- 335 (a) a department compliance officer; or
- 336 (b) a nondepartment enforcement officer.
- 337 (53) "Invitee" is as defined in Section [32B-8-102](#).

- 338 (54) "License" means:
- 339 (a) a retail license;
- 340 (b) a license issued in accordance with Chapter 11, Manufacturing and Related
- 341 Licenses Act;
- 342 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 343 or
- 344 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.
- 345 (55) "Licensee" means a person who holds a license.
- 346 (56) "Limited-service restaurant license" means a license issued in accordance with
- 347 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.
- 348 (57) "Limousine" means a motor vehicle licensed by the state or a local authority, other
- 349 than a bus or taxicab:
- 350 (a) in which the driver and a passenger are separated by a partition, glass, or other
- 351 barrier;
- 352 (b) that is provided by a business entity to one or more individuals at a fixed charge in
- 353 accordance with the business entity's tariff; and
- 354 (c) to give the one or more individuals the exclusive use of the limousine and a driver
- 355 to travel to one or more specified destinations.
- 356 (58) (a) (i) "Liquor" means a liquid that:
- 357 (A) is:
- 358 (I) alcohol;
- 359 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 360 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 361 (IV) other drink or drinkable liquid; and
- 362 (B) (I) contains at least .5% alcohol by volume; and
- 363 (II) is suitable to use for beverage purposes.
- 364 (ii) "Liquor" includes:
- 365 (A) heavy beer;
- 366 (B) wine; and
- 367 (C) a flavored malt beverage.
- 368 (b) "Liquor" does not include beer.

369 (59) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

370 (60) "Liquor warehousing license" means a license that is issued:

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

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

374 (61) "Local authority" means:

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

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

379 (62) "Lounge or bar area" is as defined by rule made by the commission.

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

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

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

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

387 (B) of the National Guard;

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

389 (iii) including a leased facility.

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

391 (i) civil works;

392 (ii) a rivers and harbors project; or

393 (iii) a flood control project.

394 (66) "Minor" means an individual under the age of 21 years.

395 (67) "Nondepartment enforcement agency" means an agency that:

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

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

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

399 (68) "Nondepartment enforcement officer" means an individual who is:

- 400 (a) a peace officer, examiner, or investigator; and
- 401 (b) employed by a nondepartment enforcement agency.
- 402 (69) (a) "Off-premise beer retailer" means a beer retailer who is:
- 403 (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local
- 404 Authority; and
- 405 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 406 premises.
- 407 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 408 (70) "On-premise banquet license" means a license issued in accordance with Chapter
- 409 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.
- 410 (71) "On-premise beer retailer" means a beer retailer who is:
- 411 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 412 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer
- 413 Retailer License; and
- 414 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 415 premises:
- 416 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 417 premises; and
- 418 (ii) on and after March 1, 2012, operating:
- 419 (A) as a tavern; or
- 420 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 421 (72) "Opaque" means impenetrable to sight.
- 422 (73) "Package agency" means a retail liquor location operated:
- 423 (a) under an agreement with the department; and
- 424 (b) by a person:
- 425 (i) other than the state; and
- 426 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
- 427 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 428 (74) "Package agent" means a person who holds a package agency.
- 429 (75) "Patron" means an individual to whom food, beverages, or services are sold,
- 430 offered for sale, or furnished, or who consumes an alcoholic product including:

- 431 (a) a customer;
- 432 (b) a member;
- 433 (c) a guest;
- 434 (d) an attendee of a banquet or event;
- 435 (e) an individual who receives room service;
- 436 (f) a resident of a resort;
- 437 (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#);

438 or

- 439 (h) an invitee.
- 440 (76) "Permittee" means a person issued a permit under:

- 441 (a) Chapter 9, Event Permit Act; or
- 442 (b) Chapter 10, Special Use Permit Act.

- 443 (77) "Person subject to administrative action" means:

- 444 (a) a licensee;
- 445 (b) a permittee;
- 446 (c) a manufacturer;
- 447 (d) a supplier;
- 448 (e) an importer;
- 449 (f) one of the following holding a certificate of approval:
 - 450 (i) an out-of-state brewer;
 - 451 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - 452 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 453 (g) staff of:
 - 454 (i) a person listed in Subsections (77)(a) through (f); or
 - 455 (ii) a package agent.

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

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

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

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

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

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

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

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

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

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

473 (i) an identification card;

474 (ii) an identification that:

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

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

478 (C) includes date of birth; and

479 (D) has a picture affixed;

480 (iii) a valid driver license certificate that:

481 (A) includes date of birth;

482 (B) has a picture affixed; and

483 (C) is issued:

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

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

486 (iv) a military identification card that:

487 (A) includes date of birth; and

488 (B) has a picture affixed; or

489 (v) a valid passport.

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

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

- 493 (i) owned or leased by:
- 494 (A) the state; or
- 495 (B) a local government entity; and
- 496 (ii) used for:
- 497 (A) public education;
- 498 (B) transacting public business; or
- 499 (C) regularly conducting government activities.
- 500 (b) "Public building" does not include a building owned by the state or a local
- 501 government entity when the building is used by a person, in whole or in part, for a proprietary
- 502 function.
- 503 (83) "Public conveyance" means a conveyance to which the public or a portion of the
- 504 public has access to and a right to use for transportation, including an airline, railroad, bus,
- 505 boat, or other public conveyance.
- 506 (84) "Reception center" means a business that:
- 507 (a) operates facilities that are at least 5,000 square feet; and
- 508 (b) has as its primary purpose the leasing of the facilities described in Subsection
- 509 (84)(a) to a third party for the third party's event.
- 510 (85) "Reception center license" means a license issued in accordance with Chapter 5,
- 511 Retail License Act, and Chapter 6, Part 8, Reception Center License.
- 512 (86) (a) "Record" means information that is:
- 513 (i) inscribed on a tangible medium; or
- 514 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- 515 (b) "Record" includes:
- 516 (i) a book;
- 517 (ii) a book of account;
- 518 (iii) a paper;
- 519 (iv) a contract;
- 520 (v) an agreement;
- 521 (vi) a document; or
- 522 (vii) a recording in any medium.
- 523 (87) "Residence" means a person's principal place of abode within Utah.

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

555 made by the commission.

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

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

559 (b) on the premises of:

560 (i) a social club licensee; or

561 (ii) a tavern;

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

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

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

565 (i) an employee;

566 (ii) an independent contractor;

567 (iii) an agent of the licensee; or

568 (iv) a different type of classification.

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

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

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

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

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

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

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

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

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

585 (ii) at the request of the business, including a package agent, licensee, permittee, or

586 certificate holder; or

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

589 (b) "Staff" includes:

590 (i) an officer;

591 (ii) a director;

592 (iii) an employee;

593 (iv) personnel management;

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

595 (vi) an operator; or

596 (vii) a representative.

597 (106) "State of nudity" means:

598 (a) the appearance of:

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

600 (ii) a human genital;

601 (iii) a human pubic area; or

602 (iv) a human anus; or

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

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

605 (ii) a human genital;

606 (iii) a human pubic area; or

607 (iv) a human anus.

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

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

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

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

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

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

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

617 (108) (a) "State store" means a facility for the sale of packaged liquor:

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

619 (ii) operated by a state employee.

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

621 (i) a package agency;

622 (ii) a licensee; or

623 (iii) a permittee.

624 (109) (a) "Storage area" means an area on licensed premises where the licensee stores

625 an alcoholic product.

626 (b) "Store" means to place or maintain in a location an alcoholic product from which a

627 person draws to prepare an alcoholic product to be furnished to a patron, except as provided in

628 Subsection [32B-6-205\(12\)\(b\)\(ii\)](#), [32B-6-305\(12\)\(b\)\(ii\)](#), [32B-6-805\(15\)\(b\)\(ii\)](#), or

629 [32B-6-905\(12\)\(b\)\(ii\)](#).

630 (110) "Sublicense" is as defined in Section [32B-8-102](#).

631 (111) "Supplier" means a person who sells an alcoholic product to the department.

632 (112) "Tavern" means an on-premise beer retailer who is:

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

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

637 (113) "Temporary beer event permit" means a permit issued in accordance with
638 Chapter 9, Part 4, Temporary Beer Event Permit.

639 (114) "Temporary domicile" means the principal place of abode within Utah of a
640 person who does not have a present intention to continue residency within Utah permanently or
641 indefinitely.

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

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

645 (a) is unsaleable because the container is:

646 (i) unlabeled;

647 (ii) leaky;

- 648 (iii) damaged;
- 649 (iv) difficult to open; or
- 650 (v) partly filled;
- 651 (b) (i) has faded labels or defective caps or corks;
- 652 (ii) has contents that are:
 - 653 (A) cloudy;
 - 654 (B) spoiled; or
 - 655 (C) chemically determined to be impure; or
- 656 (iii) contains:
 - 657 (A) sediment; or
 - 658 (B) a foreign substance; or
 - 659 (c) is otherwise considered by the department as unfit for sale.
- 660 (117) (a) "Wine" means an alcoholic product obtained by the fermentation of the
- 661 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
- 662 another ingredient is added.
- 663 (b) "Wine" is considered liquor for purposes of this title, except as otherwise provided
- 664 in this title.
- 665 (118) "Winery manufacturing license" means a license issued in accordance with
- 666 Chapter 11, Part 3, Winery Manufacturing License.
- 667 Section 2. Section **32B-2-202** is amended to read:
- 668 **32B-2-202. Powers and duties of the commission.**
- 669 (1) The commission shall:
 - 670 (a) consistent with the policy established by the Legislature by statute, act as a general
 - 671 policymaking body on the subject of alcoholic product control;
 - 672 (b) adopt and issue policies, rules, and procedures;
 - 673 (c) set policy by written rules that establish criteria and procedures for:
 - 674 (i) issuing, denying, not renewing, suspending, or revoking a package agency, license,
 - 675 permit, or certificate of approval; and
 - 676 (ii) determining the location of a state store, package agency, or retail licensee;
 - 677 (d) decide within the limits, and under the conditions imposed by this title, the number
 - 678 and location of state stores, package agencies, and retail licensees in the state;

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

682 (i) a package agency;

683 (ii) a full-service restaurant license;

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

685 (iv) a limited-service restaurant license;

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

687 (vi) a club license;

688 (vii) an airport lounge license;

689 (viii) an on-premise banquet license;

690 (ix) a resort license, under which four or more sublicenses may be included;

691 (x) an on-premise beer retailer license;

692 (xi) a reception center license;

693 (xii) a beer-only restaurant license;

694 (xiii) subject to Subsection (4), a single event permit;

695 (xiv) subject to Subsection (4), a temporary beer event permit;

696 (xv) a special use permit;

697 (xvi) a manufacturing license;

698 (xvii) a liquor warehousing license;

699 (xviii) a beer wholesaling license; and

700 (xix) one of the following that holds a certificate of approval:

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

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

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

704 (f) in accordance with Section [32B-5-205](#), issue, deny, suspend, or revoke conditional
705 licenses for the purchase, storage, sale, furnishing, consumption, manufacture, and distribution
706 of an alcoholic product;

707 (g) prescribe the duties of the department in assisting the commission in issuing a
708 package agency, license, permit, or certificate of approval under this title;

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

710 in accordance with Section [63J-1-504](#);

711 (i) fix prices at which liquor is sold that are the same at all state stores, package
712 agencies, and retail licensees[;], except that, subject to Section [32B-2-304.5](#), the commission
713 may not set the price at which a beer wholesaler licensee may sell heavy beer;

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

716 (k) (i) require the director to follow sound management principles; and

717 (ii) require periodic reporting from the director to ensure that:

718 (A) sound management principles are being followed; and

719 (B) policies established by the commission are being observed;

720 (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations,
721 and matters submitted by the director to the commission; and

722 (ii) do the things necessary to support the department in properly performing the
723 department's duties;

724 (m) obtain temporarily and for special purposes the services of an expert or person
725 engaged in the practice of a profession, or a person who possesses a needed skill if:

726 (i) considered expedient; and

727 (ii) approved by the governor;

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

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

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

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

737 (a) establish a state store;

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

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

740 (3) If the commission is authorized or required to make a rule under this title, the

741 commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative
742 Rulemaking Act.

743 (4) Notwithstanding Subsections (1)(e)(xiii) and (xiv), the director or deputy director
744 may issue an event permit in accordance with Chapter 9, Event Permit Act.

745 Section 3. Section **32B-2-204** is amended to read:

746 **32B-2-204. Powers and duties of the department -- Immunity.**

747 (1) (a) The department shall control liquor merchandise inventory including:

748 [~~(a)~~] (i) listing and delisting a product;

749 [~~(b)~~] (ii) the procedures for testing a new product;

750 [~~(c)~~] (iii) purchasing policy;

751 [~~(d)~~] (iv) turnover requirements for a regularly coded product to be continued; and

752 [~~(e)~~] (v) the disposition of discontinued, distressed, or unsaleable merchandise.

753 (b) The department shall list and delist heavy beer that may be sold by a beer
754 wholesaler licensee.

755 (2) (a) The department shall report to the governor on the administration of this title:

756 (i) as the governor may require; and

757 (ii) annually by no later than November 30, for the fiscal year ending June 30 of the
758 year in which the report is made.

759 (b) A report under this Subsection (2) shall contain:

760 (i) a statement of the nature and amount of the business transacted by the department
761 during the year;

762 (ii) a statement of the department's assets and liabilities including a profit and loss
763 account, and other accounts and matters necessary to show the results of operations of the
764 department for the year;

765 (iii) general information on the application of this title in the state; and

766 (iv) any other information requested by the governor.

767 (c) The department shall submit a copy of a report described in this Subsection (2) to
768 the Legislature.

769 (3) The department shall maintain insurance against loss on each motor vehicle
770 operated by it on any public highway. A motor vehicle shall be covered for:

771 (a) liability imposed by law upon the department for damages from bodily injuries

772 suffered by one or more persons by reason of the ownership, maintenance, or use of the motor
773 vehicle; and

774 (b) liability or loss from damage to or destruction of property of any description,
775 including liability of the department for the resultant loss of use of the property, which results
776 from accident due to the ownership, maintenance, or use of the motor vehicle.

777 (4) (a) The department may sue, be sued, and defend in a proceeding, in a court of law
778 or otherwise, in the name of the department.

779 (b) An action may not be taken:

780 (i) against the commission; or

781 (ii) in the name of a commissioner.

782 (5) The department is liable to respond in damages in a case if a private corporation
783 under the same circumstances would be liable.

784 (6) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies in an action
785 commenced against the department for damages sustained as a result of department ownership,
786 maintenance, or use of a motor vehicle under Subsections (4) and (5).

787 (b) In an action described in Subsection (6)(a), the commission and each commissioner
788 are immune from suit.

789 Section 4. Section **32B-2-304.5** is enacted to read:

790 **32B-2-304.5. Heavy beer price -- Remittance of markup.**

791 (1) For purposes of this section:

792 (a) "Landed case cost" means:

793 (i) the cost of the product; and

794 (ii) inbound shipping costs incurred by a beer wholesaler licensee.

795 (b) "Landed case cost" does not include:

796 (i) the outbound shipping cost from a warehouse of the beer wholesaler licensee to a
797 retail licensee; or

798 (ii) the tax imposed under Title 59, Chapter 15, Beer Tax.

799 (2) (a) A beer wholesaler licensee shall mark up above the landed case cost of heavy
800 beer sold by the beer wholesaler licensee within the state at an amount not less than the markup
801 required of the department under Section [32B-2-304](#).

802 (b) If a beer wholesaler licensee sells heavy beer to the department, the heavy beer is

803 subject to only the markup imposed by the department.

804 (3) (a) A beer wholesaler licensee shall collect the markup and remit the markup
805 collected by the beer wholesaler licensee under this section:

806 (i) to the State Tax Commission monthly on or before the last day of the month
807 immediately following the last day of the previous month; and

808 (ii) using a form prescribed by the State Tax Commission.

809 (b) The State Tax Commission shall deposit revenues remitted to it under Subsection
810 (3)(a) into the Markup Holding Fund created in Section [32B-2-301](#).

811 (c) The assessment, collection, and refund of a markup under this section shall be in
812 accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

813 (d) A beer wholesaler licensee, if it fails to comply with this Subsection (3), is subject
814 to penalties as provided in Section [59-1-401](#) and interest as provided in Section [59-1-402](#).

815 (e) The State Tax Commission may make rules, in accordance with Title 63G, Chapter
816 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (3).

817 Section 5. Section **32B-4-401** is amended to read:

818 **32B-4-401. Unlawful sale or furnishing.**

819 (1) It is unlawful for a retail licensee, a permittee, or staff of a retail licensee or
820 permittee to keep for sale, or to directly or indirectly, sell, offer for sale, or furnish to another,
821 an alcoholic product, except as otherwise provided by this title.

822 (2) It is unlawful for a person in the business of selling liquor, a manufacturer, a
823 supplier, an importer of liquor, or staff of the person, manufacturer, supplier, or importer to
824 sell, ship, transport, or cause to be sold, shipped, or transported liquor from an out-of-state
825 location directly or indirectly into this state except to the extent authorized by this title to:

826 (a) the department;

827 (b) a military installation;

828 (c) a holder of a special use permit, to the extent authorized in the special use permit;

829 [or]

830 (d) a liquor warehouse licensee licensed to distribute and transport liquor to:

831 (i) the department; or

832 (ii) an out-of-state wholesaler or retailer[-]; or

833 (e) a beer wholesaler licensee to distribute and transport heavy beer to:

834 (i) a retail licensee authorized to sell, offer for sale, or furnish heavy beer;

835 (ii) a single event permittee;

836 (iii) the department;

837 (iv) a military installation; or

838 (v) a public service permittee.

839 (3) (a) It is unlawful for a person in the business of selling beer, a manufacturer, a
840 supplier, an importer of beer, or staff of the person, manufacturer, or importer to sell, ship,
841 transport, or cause to be sold, shipped, or transported beer from an out-of-state location directly
842 or indirectly into this state except to the extent authorized by this title to:

843 (i) a beer wholesaler licensee;

844 (ii) a military installation; or

845 (iii) a holder of a special use permit, to the extent authorized in the special use permit.

846 (b) Subsection (3)(a) does not preclude a small brewer that holds a certificate of
847 approval from selling, shipping, or transporting beer to the extent authorized by Subsection
848 [32B-11-503\(5\)](#) directly to:

849 (i) a beer retailer; or

850 (ii) an event permittee.

851 (4) (a) It is unlawful for a manufacturer, supplier, or importer of liquor in this state, or
852 staff of the manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold,
853 shipped, or transported liquor directly or indirectly to a person in this state except to the extent
854 authorized by this title to:

855 (i) the department;

856 (ii) a military installation;

857 (iii) a holder of a special use permit, to the extent authorized in the special use permit;

858 [or]

859 (iv) a liquor warehouser licensee who is licensed to distribute and transport liquor to:

860 (A) the department; or

861 (B) an out-of-state wholesaler or retailer[-]; or

862 (v) a beer wholesaler licensee to distribute and transport heavy beer to:

863 (A) a retail licensee authorized to sell, offer for sale, or furnish heavy beer;

864 (B) a single event permittee;

865 (C) the department;

866 (D) a military installation; or

867 (E) a public service permittee.

868 (b) Subsection (4)(a) does not preclude a winery manufacturing licensee located in this
869 state from selling wine to a person on its winery premises:

870 (i) to the extent authorized by Subsection 32B-11-303(4)(c); or

871 (ii) under a package agency issued by the commission on the winery premises.

872 (5) (a) It is unlawful for a manufacturer, supplier, or importer of beer in this state, or
873 staff of the manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold,
874 shipped, or transported beer directly or indirectly to a person in this state except to the extent
875 authorized by this title to:

876 (i) a beer wholesaler licensee;

877 (ii) a military installation; or

878 (iii) a holder of a special use permit, to the extent authorized in the special use permit.

879 (b) Subsection (5)(a) does not preclude:

880 (i) a small brewer who is a brewery manufacturing licensee located in this state from
881 selling, shipping, and transporting beer to the extent authorized by Subsection 32B-11-503(5)
882 directly to one of the following in this state:

883 (A) a beer retailer; or

884 (B) an event permittee; or

885 (ii) a brewery manufacturing licensee from selling beer to a person on its
886 manufacturing premises under Subsection 32B-11-503(4)(c).

887 (6) It is unlawful for a person other than a person described in Subsection (2) or (3) to
888 sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic product from an
889 out-of-state location directly or indirectly into this state, except as otherwise provided by this
890 title.

891 (7) It is unlawful for a person in this state other than a person described in Subsection
892 (4) or (5) to sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic
893 product directly or indirectly to another person in this state, except as otherwise provided by
894 this title.

895 (8) (a) A violation of Subsection (1) is a class B misdemeanor, except when otherwise

896 provided by this title.

897 (b) A violation of Subsection (2), (3), (4), or (5) is a third degree felony.

898 (c) A violation of Subsection (6) or (7) is a class B misdemeanor.

899 Section 6. Section **32B-4-417** is amended to read:

900 **32B-4-417. Unlawful possession by licensee or permittee.**

901 Except as authorized by Section **32B-4-415**, other provisions of this title, or the rules of
902 the commission, a licensee or permittee may not possess, store, or allow consumption of liquor
903 on its premises if the liquor is not purchased from:

904 (1) the department;

905 (2) a state store; [or]

906 (3) a package agency[-]; or

907 (4) in the case of heavy beer, a beer wholesaler licensee.

908 Section 7. Section **32B-5-303** is amended to read:

909 **32B-5-303. Purchase and storage of an alcoholic product by a retail licensee.**

910 (1) (a) A retail licensee may not purchase liquor except from:

911 (i) a state store [or];

912 (ii) a package agency[-]; or

913 (iii) in the case of heavy beer, a beer wholesaler licensee.

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

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

918 (2) (a) (i) A retail licensee may not purchase, acquire, possess for the purpose of resale,
919 or sell beer except beer that the retail licensee purchases from:

920 (A) a beer wholesaler licensee; or

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

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

923 (b) (i) If a retail licensee purchases beer under Subsection (2)(a) from a beer wholesaler
924 licensee, the retail licensee shall purchase beer only from a beer wholesaler licensee who is
925 designated by the manufacturer to sell beer in the geographical area in which the retail licensee
926 is located, unless an alternate wholesaler is authorized by the department to sell to the retail

927 licensee as provided in Section 32B-13-301.

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

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

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

935 Section 8. Section 32B-9-305 is amended to read:

936 **32B-9-305. Specific operational requirements for single event permit.**

937 (1) (a) In addition to complying with Section 32B-9-204, a single event permittee or a
938 person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the
939 event shall comply with this section.

940 (b) Failure to comply as provided in Subsection (1)(a):

941 (i) may result in:

942 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
943 Enforcement Act, against:

944 (I) a single event permittee;

945 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
946 product at the event; or

947 (III) any combination of persons listed in this Subsection (1)(b);

948 (B) immediate revocation of the single event permit;

949 (C) forfeiture of a bond; or

950 (D) immediate seizure of an alcoholic product present at the event; and

951 (ii) if the single event permit is revoked, disqualifies the single event permittee from
952 applying for a single event permit or temporary beer event permit for a period of three years
953 from the date of revocation of the single event permit.

954 (c) An alcoholic product seized under this Subsection (1) shall be returned to the single
955 event permittee after an event if forfeiture proceedings are not instituted under Section
956 32B-4-206.

957 (2) (a) A single event permittee shall make and maintain an expense and revenue

958 ledger or record showing:

959 (i) expenditures made for:

960 (A) liquor;

961 (B) beer;

962 (C) set-ups; and

963 (D) an ingredient or component of an alcoholic product other than a set-up; and

964 (ii) the revenue from the sale of an alcoholic product.

965 (b) Section 32B-1-205 applies to a record required to be made or maintained in

966 accordance with this Subsection (2).

967 (3) A single event permittee shall purchase liquor stored, sold, offered for sale,

968 furnished, or consumed at an event from:

969 (a) a state store [or];

970 (b) a package agency; or

971 (c) in the case of heavy beer, a beer wholesaler licensee.

972 (4) (a) A single event permittee may not sell, offer for sale, or furnish a primary

973 spirituous liquor in a quantity that exceeds 1.5 ounces per beverage, except that additional

974 spirituous liquor may be used in a beverage if:

975 (i) used as a secondary flavoring ingredient;

976 (ii) used in conjunction with the primary spirituous liquor;

977 (iii) the secondary ingredient is not the only spirituous liquor in the beverage; and

978 (iv) subject to Subsection 32B-9-204(18):

979 (A) a patron has no more than 2.5 ounces of spirituous liquor at a time before the

980 patron; and

981 (B) a patron has no more than one spirituous liquor drink at a time before the patron.

982 (b) Spirituous liquor need not be dispensed through a calibrated metered dispensing

983 system.

984 (5) (a) A single event permittee may sell, offer for sale, or furnish wine by the glass or

985 an individual portion, except that a glass or individual portion may not exceed five ounces.

986 (b) A single event permittee may furnish an individual portion served to a patron in

987 more than one glass if the total amount of wine does not exceed five ounces.

988 (c) An individual portion of wine is considered to be one alcoholic product under

989 Subsection [32B-9-204](#)(18).

990 (d) A single event permittee may sell, offer for sale, or furnish wine in a container not
991 exceeding 1.5 liters at a price fixed by the commission.

992 (6) A single event permittee may sell, offer for sale, or furnish heavy beer in an original
993 container at a price fixed by the commission, except that the original container may not exceed
994 one liter.

995 (7) A single event permittee may sell, offer for sale, or furnish a flavored malt beverage
996 in an original container at a price fixed by the commission, except that the original container
997 may not exceed one liter.

998 (8) A single event permittee may sell liquor only at a price fixed by the commission.

999 (9) A single event permittee may perform a service and assess a service charge as
1000 authorized by commission rule for liquor purchased at an event.

1001 Section 9. Section **32B-10-206** is amended to read:

1002 **32B-10-206. General operational requirements for special use permit.**

1003 (1) (a) A special use permittee and staff of the special use permittee shall comply with
1004 this title and rules of the commission, including the relevant part of the chapter that applies to
1005 the type of special use permit held by the special use permittee.

1006 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1007 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1008 (i) a special use permittee;

1009 (ii) individual staff of a special use permittee; or

1010 (iii) a special use permittee and staff of the special use permittee.

1011 (c) The commission may suspend or revoke a special use permit with or without cause.

1012 (2) (a) If there is a conflict between this part and the relevant part under this chapter for
1013 the specific type of special use permit, the relevant part under this chapter governs.

1014 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a
1015 special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or
1016 manufacture an alcoholic product authorized for the special use permit that is held by the
1017 special use permittee.

1018 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
1019 special use permit held by a special use permittee refers to "special use permittee," a person

1020 involved in the purchase, use, store, sell, offer for sale, allow consumption, or manufacture of
1021 an alcoholic product for which the special use permit is issued is subject to the same
1022 requirement or prohibition.

1023 (3) (a) A special use permittee shall make and maintain a record, as required by
1024 commission rule, of any alcoholic product purchased, used, sold, or manufactured.

1025 (b) Section 32B-1-205 applies to a record required to be made or maintained in
1026 accordance with this Subsection (3).

1027 (4) (a) Except as otherwise provided in this title, a special use permittee may not
1028 purchase liquor except from:

1029 (i) a state store ~~[or]~~;

1030 (ii) a package agency; or

1031 (iii) in the case of heavy beer, a beer wholesaler licensee.

1032 (b) A special use permittee may transport liquor purchased by the special use permittee
1033 in accordance with this Subsection (4) from the place of purchase to the special use permittee's
1034 premises.

1035 (c) A special use permittee shall purchase liquor at prices set by the commission.

1036 (d) When authorized by a special use permit, a special use permittee may purchase and
1037 receive an alcoholic product directly from a manufacturer for a purpose that is industrial,
1038 educational, scientific, or manufacturing.

1039 (e) A health care facility may purchase and receive an alcoholic product directly from a
1040 manufacturer for use at the health care facility.

1041 (5) A special use permittee may not use, mix, store, sell, offer for sale, furnish,
1042 manufacture, or allow consumption of an alcoholic product in a location other than as
1043 designated in a special use permittee's application.

1044 (6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or
1045 furnish an alcoholic product to:

1046 (a) a minor;

1047 (b) a person actually, apparently, or obviously intoxicated;

1048 (c) a known interdicted person; or

1049 (d) a known habitual drunkard.

1050 (7) A special use permittee may not employ a minor to handle an alcoholic product.

1051 (8) (a) The location specified in a special use permit may not be transferred from one
1052 location to another location, without prior written approval of the commission.

1053 (b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or
1054 attempt in any way to dispose of the permit to another person whether for monetary gain or not.

1055 (9) A special use permittee may not purchase, use, mix, store, sell, offer for sale,
1056 furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized
1057 by the special use permit.

1058 (10) The commission may prescribe by policy or rule consistent with this title, the
1059 general operational requirements of a special use permittee relating to:

1060 (a) physical facilities;

1061 (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an
1062 alcoholic product;

1063 (c) purchase, storage, and sales quantity limitations; and

1064 (d) other matters considered appropriate by the commission.

1065 Section 10. Section **32B-10-304** is amended to read:

1066 **32B-10-304. Specific operational requirements for a public service permit.**

1067 (1) (a) In addition to complying with Section [32B-10-206](#), a public service permittee
1068 and staff of the public service permittee shall comply with this section.

1069 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1070 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1071 (i) a public service permittee;

1072 (ii) individual staff of a public service permittee; or

1073 (iii) both a public service permittee and staff of the public service permittee.

1074 (2) (a) A public service permittee whose public conveyances operate on an interstate
1075 basis may do the following:

1076 (i) purchase an alcoholic product outside of the state;

1077 (ii) bring an alcoholic product purchased outside of the state into the state; and

1078 (iii) sell, offer for sale, and furnish an alcoholic product purchased outside of the state
1079 to a passenger traveling on the public service permittee's public conveyance for consumption
1080 while en route on the public conveyance.

1081 (b) A public service permittee whose public conveyance operates solely within the

1082 state, to sell, offer for sale, or furnish to a passenger traveling on the public service permittee's
1083 public conveyance for consumption while en route on the public conveyance, shall purchase:

1084 (i) liquor from:

1085 (A) a state store [or];

1086 (B) a package agency; [and] or

1087 (C) in the case of heavy beer, a beer wholesaler licensee; and

1088 (ii) beer from a beer wholesaler licensee.

1089 (3) (a) A public service permittee may establish a hospitality room in which an

1090 alcoholic product may be stored, sold, offered for sale, furnished, and consumed, if:

1091 (i) the room is located within a depot, terminal, or similar facility adjacent to and

1092 servicing the public service permittee's airline, railroad, bus, boat, or other public conveyance;

1093 (ii) the room is completely enclosed and the interior is not visible to the public;

1094 (iii) the sale, offer for sale, or furnishing of an alcoholic product is made only to a
1095 person:

1096 (A) then in transit using the host company's airline, railroad, bus line, or other public
1097 conveyance; and

1098 (B) holding a valid boarding pass or similar travel document issued by the host
1099 company; and

1100 (iv) (A) liquor is purchased from:

1101 (I) a state store; [or]

1102 (II) a package agency; [and] or

1103 (III) in the case of heavy beer, a beer wholesaler licensee; and

1104 (B) beer is purchased from a beer wholesaler licensee.

1105 (b) (i) A public service permittee operating a hospitality room shall display in a

1106 prominent place in the hospitality room, a sign in large letters that consists of text in the

1107 following order:

1108 (A) a header that reads: "WARNING";

1109 (B) a warning statement that reads: "Drinking alcoholic beverages during pregnancy
1110 can cause birth defects and permanent brain damage for the child.";

1111 (C) a statement in smaller font that reads: "Call the Utah Department of Health at
1112 [insert most current toll-free number] with questions or for more information.";

1113 (D) a header that reads: "WARNING"; and

1114 (E) a warning statement that reads: "Driving under the influence of alcohol or drugs is
1115 a serious crime that is prosecuted aggressively in Utah."

1116 (ii) (A) The text described in Subsections (3)(b)(i)(A) through (C) shall be in a
1117 different font style than the text described in Subsections (3)(b)(i)(D) and (E).

1118 (B) The warning statements in the sign described in Subsection (3)(b)(i) shall be in the
1119 same font size.

1120 (iii) The Department of Health shall work with the commission and department to
1121 facilitate consistency in the format of a sign required under this section.

1122 (c) A hospitality room shall be operated in accordance with this chapter and rules
1123 adopted by the commission.

1124 Section 11. Section **32B-11-201** is amended to read:

1125 **32B-11-201. Commission's power to issue a manufacturing license -- Certificates**
1126 **of approval.**

1127 (1) (a) Except as provided in Section [32B-11-202](#), before a person may manufacture an
1128 alcoholic product in this state, the person shall obtain an alcoholic product manufacturing
1129 license issued by the commission in accordance with this part.

1130 (b) A separate license is required for each place of storage, sale, and manufacture of an
1131 alcoholic product.

1132 (c) A violation of this Subsection (1) is a class B misdemeanor.

1133 (2) The commission may issue an alcoholic product manufacturing license to a
1134 manufacturer whose business is located in this state for the storage, sale, and manufacture of an
1135 alcoholic product for each type of manufacturing license provided by this chapter.

1136 (3) The types of manufacturing licenses issued under this chapter are known as:

1137 (a) a winery manufacturing license;

1138 (b) a distillery manufacturing license; and

1139 (c) a brewery manufacturing license.

1140 (4) (a) A brewer located outside the state is not required to be licensed under this
1141 chapter.

1142 (b) A brewer described in Subsection (4)(a) shall obtain a certificate of approval from
1143 the department before selling or delivering:

- 1144 (i) beer to a beer wholesaler licensee in this state;
- 1145 (ii) a flavored malt beverage to:
- 1146 (A) the department; or
- 1147 (B) a military installation; [~~or~~]
- 1148 (iii) heavy beer to:
- 1149 (A) a beer wholesaler licensee in this state;
- 1150 (B) the department; or
- 1151 (C) a military installation; or
- 1152 [~~(iii)~~] (iv) if a small brewer, beer to one of the following in the state:
- 1153 (A) a beer wholesaler licensee;
- 1154 (B) a beer retailer; or
- 1155 (C) an event permittee.
- 1156 (c) To obtain a certificate of approval, a brewer shall submit to the department:
- 1157 (i) a written application in a form prescribed by the department;
- 1158 (ii) a nonrefundable \$75 application fee;
- 1159 (iii) an initial certificate of approval fee of \$300 that is refundable if a certificate of
- 1160 approval is not issued;
- 1161 (iv) evidence of authority from the federal Alcohol and Tobacco Tax and Trade Bureau
- 1162 of the United States Department of the Treasury to brew beer, heavy beer, or a flavored malt
- 1163 beverage; and
- 1164 (v) any other information the commission or department may require.
- 1165 (d) (i) One of the following shall sign and verify a written application under this
- 1166 Subsection (4) by oath or affirmation:
- 1167 (A) a partner if the brewer is a partnership; or
- 1168 (B) an executive officer, manager, or person specifically authorized by a corporation or
- 1169 limited liability company to sign the application.
- 1170 (ii) A brewer filing an application shall attach to the application written evidence of the
- 1171 authority of the person described in Subsection (4)(d)(i) to sign the application.
- 1172 (e) (i) A certificate of approval under this Subsection (4) expires on December 31 of
- 1173 each year.
- 1174 (ii) A brewer desiring to renew its certificate of approval shall submit to the

1175 department by no later than November 30 of the year the certificate of approval expires:

1176 (A) a completed renewal application in the form prescribed by the department; and

1177 (B) a renewal fee of \$250.

1178 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the

1179 certificate of approval effective on the date the existing certificate of approval expires.

1180 (5) (a) An importer or supplier of beer, heavy beer, or flavored malt beverages who is

1181 not required to be licensed under this title shall obtain a certificate of approval from the

1182 department before selling or delivering:

1183 (i) beer to a beer wholesaler licensee in this state; [or]

1184 (ii) heavy beer or a flavored malt beverage to:

1185 (A) the department; or

1186 (B) a military installation[-]; or

1187 (iii) in the case of heavy beer, a beer wholesaler licensee in this state.

1188 (b) To obtain a certificate of approval, an importer or supplier described in Subsection

1189 (5)(a) shall submit to the department:

1190 (i) a written application in a form prescribed by the department;

1191 (ii) a nonrefundable \$75 application fee;

1192 (iii) an initial certificate of approval fee of \$300 that is refundable if a certificate of

1193 approval is not issued;

1194 (iv) evidence of authority from the federal Alcohol and Tobacco Tax and Trade Bureau

1195 of the United States Department of the Treasury to brew beer, heavy beer, or a flavored malt

1196 beverage; and

1197 (v) any other information the commission or department may require.

1198 (c) (i) One of the following shall sign and verify a written application under this

1199 Subsection (5) by oath or affirmation:

1200 (A) a partner if the importer or supplier is a partnership; or

1201 (B) an executive officer, manager, or person specifically authorized by a corporation or

1202 limited liability company to sign the application.

1203 (ii) An importer or supplier filing an application under this Subsection (5) shall attach

1204 to the application written evidence of the authority of the person described in Subsection

1205 (5)(c)(i) to sign the application.

1206 (d) (i) A certificate of approval under this Subsection (5) expires on December 31 of
1207 each year.

1208 (ii) An importer or supplier desiring to renew its certificate of approval shall submit to
1209 the department by no later than November 30 of the year the certificate of approval expires:

1210 (A) a completed renewal application in the form prescribed by the department; and

1211 (B) a renewal fee of \$250.

1212 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
1213 certificate of approval effective on the date the existing certificate of approval expires.

1214 (6) (a) Subject to Subsection (7), a brewer, importer, or supplier required to hold a
1215 certificate of approval under this section may not distribute beer or heavy beer in this state
1216 except under a written agreement with a beer wholesaler licensee in this state or, for purposes
1217 of heavy beer, to the department or a military installation.

1218 (b) An agreement described in Subsection (6)(a) shall:

1219 (i) create a restricted exclusive sales territory that is mutually agreed upon by the
1220 persons entering into the agreement;

1221 (ii) designate the one or more brands that may be distributed in the sales territory; and

1222 (iii) set forth the exact geographical area of the sales territory.

1223 (c) A brewer, importer of beer or heavy beer, or supplier of beer or heavy beer may
1224 have more than one agreement described in this Subsection (6) if each brand of the brewer,
1225 importer, or supplier distributed in the state is covered by one exclusive sales territory.

1226 (d) A brewer, importer of beer or heavy beer, or supplier of beer or heavy beer may not
1227 enter into an agreement with more than one beer wholesaler licensee to distribute the same
1228 brand of beer or heavy beer in the same sales territory or any portion of the sales territory.

1229 (7) A small brewer is not subject to the requirements of Subsection (6).

1230 Section 12. Section **32B-11-208** is amended to read:

1231 **32B-11-208. General operational requirements for manufacturing license.**

1232 (1) (a) A manufacturing licensee and staff of the manufacturing licensee shall comply
1233 with this title and the rules of the commission, including the relevant part of this chapter
1234 applicable to the type of manufacturing license held by the manufacturing licensee.

1235 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1236 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 1237 (i) a manufacturing licensee;
- 1238 (ii) individual staff of a manufacturing licensee; or
- 1239 (iii) a manufacturing licensee and staff of the manufacturing licensee.
- 1240 (2) A manufacturing licensee shall prominently display the manufacturing license on
- 1241 the licensed premises.
- 1242 (3) (a) A manufacturing licensee shall make and maintain the records required by the
- 1243 department.
- 1244 (b) Section 32B-1-205 applies to a record required to be made or maintained in
- 1245 accordance with this Subsection (3).
- 1246 (4) A manufacturing licensee may not sell liquor within the state except to:
- 1247 (a) the department; ~~or~~
- 1248 (b) a military installation; or
- 1249 (c) in the case of heavy beer, a beer wholesaler licensee.
- 1250 (5) A manufacturing license may not be transferred from one location to another
- 1251 location, without prior written approval of the commission.
- 1252 (6) (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give,
- 1253 or attempt in any way to dispose of the license to another person, whether for monetary gain or
- 1254 not.
- 1255 (b) A manufacturing license has no monetary value for any type of disposition.
- 1256 (7) A manufacturing licensee may not advertise its product in violation of this title or
- 1257 any other federal or state law, except that nothing in this title prohibits the advertising or
- 1258 solicitation of an order for industrial alcohol from a holder of a special use permit.
- 1259 (8) A manufacturing licensee shall from time to time, on request of the department,
- 1260 furnish for analytical purposes a sample of the alcoholic product that the manufacturing
- 1261 licensee has:
- 1262 (a) for sale; or
- 1263 (b) in the course of manufacture for sale in this state.
- 1264 (9) The commission may prescribe by policy or rule, consistent with this title, the
- 1265 general operational requirements of a manufacturing licensee relating to:
- 1266 (a) physical facilities;
- 1267 (b) conditions of storage, sale, or manufacture of an alcoholic product;

- 1268 (c) storage and sales quantity limitations; and
- 1269 (d) other matters considered appropriate by the commission.

1270 Section 13. Section **32B-11-503** is amended to read:

1271 **32B-11-503. Specific authority and operational requirements for brewery**
1272 **manufacturing license.**

1273 (1) A brewery manufacturing license allows a brewery manufacturing licensee to:

1274 (a) store, manufacture, brew, transport, or export beer, heavy beer, and flavored malt
1275 beverages;

1276 (b) sell heavy beer and a flavored malt beverage to:

- 1277 (i) the department;
- 1278 (ii) a military installation; or
- 1279 (iii) an out-of-state customer;

1280 (c) sell heavy beer to a beer wholesaler licensee;

1281 [~~(c)~~] (d) sell beer to a beer wholesaler licensee;

1282 [~~(d)~~] (e) in the case of a small brewer, in accordance with Subsection (5), sell beer
1283 manufactured by the small brewer to:

- 1284 (i) a retail licensee;
- 1285 (ii) an off-premise beer retailer; or
- 1286 (iii) an event permittee; and

1287 [~~(e)~~] (f) warehouse on its premises an alcoholic product that the brewery manufacturing
1288 licensee manufactures or purchases for manufacturing purposes.

1289 (2) A brewery manufacturing licensee may not sell the following to a person within the
1290 state except the department or a military installation:

1291 (a) heavy beer, except heavy beer sold to a beer wholesaler licensee; or

1292 (b) a flavored malt beverage.

1293 (3) If considered necessary, the commission or department may require:

1294 (a) the alteration of the plant, equipment, or licensed premises;

1295 (b) the alteration or removal of any unsuitable alcoholic product-making equipment or
1296 material;

1297 (c) a brewery manufacturing licensee to clean, disinfect, ventilate, or otherwise

1298 improve the sanitary and working conditions of the plant, licensed premises, and equipment; or

1299 (d) that a record pertaining to the materials and ingredients used in the manufacture of
1300 an alcoholic product be available to the commission or department upon request.

1301 (4) A brewery manufacturing licensee may not permit any beer, heavy beer, or flavored
1302 malt beverage to be consumed on the licensed premises, except under the circumstances
1303 described in this Subsection (4).

1304 (a) A brewery manufacturing licensee may allow its off-duty staff to consume beer,
1305 heavy beer, or a flavored malt beverage on its premises without charge.

1306 (b) A brewery manufacturing licensee may allow a person who can lawfully purchase
1307 the following for wholesale or retail distribution to consume a bona fide sample of the brewery
1308 manufacturing licensee's product on the licensed premises:

1309 (i) beer;

1310 (ii) heavy beer; or

1311 (iii) a flavored malt beverage.

1312 (c) (i) A brewery manufacturing licensee may operate on its licensed premises a retail
1313 facility allowing consumption on premises of beer in a bottle or on draft if food is also
1314 available.

1315 (ii) A retail facility located on the licensed premises of a brewery manufacturing
1316 licensee shall be operated or supervised by the brewery manufacturing licensee.

1317 (iii) In operating a retail facility under this Subsection (4)(c), a brewery manufacturing
1318 licensee shall comply with the requirements of Chapter 7, Part 2, Off-Premise Beer Retailer
1319 Local Authority.

1320 (5) (a) A small brewer shall own, lease, or maintain and control a warehouse facility
1321 located in this state for the storage of beer to be sold to a person described in Subsection
1322 (1)~~(d)~~(e) if the small brewer:

1323 (i) (A) (I) is located in this state; and

1324 (II) holds a brewery manufacturing license; or

1325 (B) (I) is located outside this state; and

1326 (II) holds a certificate of approval to sell beer in this state; and

1327 (ii) sells beer manufactured by the small brewer directly to a person described in
1328 Subsection (1)~~(d)~~(e).

1329 (b) A small brewer may not sell beer to a person described in Subsection (1)~~(d)~~(e)

1330 unless the beer:

1331 (i) is manufactured by the small brewer; and

1332 (ii) is first placed in the small brewer's warehouse facility in this state.

1333 (c) (i) A small brewer warehouse shall make and maintain complete beer importation,
1334 inventory, tax, distribution, sales records, and other records as the department and State Tax
1335 Commission may require.

1336 (ii) The records described in Subsection (5)(c)(i) are subject to inspection by:

1337 (A) the department; and

1338 (B) the State Tax Commission.

1339 (iii) Section 32B-1-205 applies to a record required to be made or maintained in
1340 accordance with this Subsection (5), except that the provision is considered to include an action
1341 described in Section 32B-1-205 made for the purpose of deceiving the State Tax Commission,
1342 or an official or employee of the State Tax Commission.

1343 (6) Subject to Subsection (7):

1344 (a) A brewery manufacturing licensee may not sell beer or heavy beer in this state
1345 except under a written agreement with a beer wholesaler licensee in this state or, for purposes
1346 of heavy beer, to the department or a military installation.

1347 (b) An agreement described in Subsection (6)(a) shall:

1348 (i) create a restricted exclusive sales territory that is mutually agreed upon by the
1349 persons entering into the agreement;

1350 (ii) designate the one or more brands that may be distributed in the sales territory; and

1351 (iii) set forth the exact geographical area of the sales territory.

1352 (c) A brewery manufacturing licensee may have more than one agreement described in
1353 this Subsection (6) if each brand of the brewery manufacturing licensee is covered by one
1354 exclusive sales territory.

1355 (d) A brewery manufacturing licensee may not enter into an agreement with more than
1356 one beer wholesaler licensee to distribute the same brand of beer or heavy beer in the same
1357 sales territory or any portion of the sales territory.

1358 (7) A small brewer is not subject to the requirements of Subsection (6).

1359 Section 14. Section 32B-11-608 is amended to read:

1360 **32B-11-608. Operational requirements for local industry representative license.**

1361 (1) (a) A local industry representative licensee, staff of the local industry representative
1362 licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the
1363 state, shall comply with this title and rules of the commission.

1364 (b) If a person knowingly violates Subsection (1)(a):

1365 (i) the violation may result in disciplinary action in accordance with Chapter 3,
1366 Disciplinary Actions and Enforcement Act, against:

1367 (A) a local industry representative licensee;

1368 (B) individual staff of a local industry representative licensee; or

1369 (C) both a local industry representative licensee and staff of the local industry
1370 representative licensee; and

1371 (ii) if the conditions of Subsection (1)(c) are met, the commission may order:

1372 (A) the removal of the manufacturer's, supplier's, or importer's products from the
1373 department's sales list; and

1374 (B) a suspension of the department's purchase of those products for a period
1375 determined by the commission.

1376 (c) Subsection (1)(b)(ii) applies if the manufacturer, supplier, or importer:

1377 (i) directly commits the violation; or

1378 (ii) solicits, requests, commands, encourages, or intentionally aides another to engage
1379 in the violation.

1380 (2) A local industry representative licensee shall display its license in the local industry
1381 representative licensee's principal place of business.

1382 (3) (a) A local industry representative licensee shall maintain on file with the
1383 department a current accounts list of the names and addresses of the manufacturers, suppliers,
1384 and importers the local industry representative licensee represents.

1385 (b) A local industry representative licensee shall notify the department in writing of a
1386 change to its accounts list within 14 days from the date the local industry representative
1387 licensee:

1388 (i) acquires the account of a manufacturer, supplier, or importer; or

1389 (ii) loses the account of a manufacturer, supplier, or importer.

1390 (4) (a) A local industry representative licensee shall make and maintain the records the
1391 department requires for at least three years.

1392 (b) Section 32B-1-205 applies to a record required to be made or maintained in
1393 accordance with this Subsection (4).

1394 (5) Staff of a local industry representative licensee may not be:

1395 (a) a retail licensee that sells, offers for sale, or furnishes liquor;

1396 (b) staff of a retail licensee that sells, offers for sale, or furnishes liquor; or

1397 (c) a minor.

1398 (6) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
1399 give, or attempt in any way to dispose of the license to another person, whether for monetary
1400 gain or not.

1401 (b) A local industry representative license has no monetary value for any type of
1402 disposition.

1403 (7) A local industry representative licensee, staff of the local industry representative
1404 licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the
1405 state:

1406 (a) only to the extent authorized by Chapter 4, Criminal Offenses and Procedure Act,
1407 may:

1408 (i) assist the department in:

1409 (A) ordering, shipping, and delivering merchandise;

1410 (B) providing new product notification;

1411 (C) obtaining listing and delisting information;

1412 (D) receiving price quotations;

1413 (E) providing product sales analysis;

1414 (F) conducting shelf management; and

1415 (G) conducting educational seminars; and

1416 (ii) to acquire new listings:

1417 (A) solicit orders from the department; and

1418 (B) submit to the department price lists and samples of the products of the
1419 manufacturer, supplier, or importer;

1420 (b) may not sell liquor within the state except to:

1421 (i) the department; ~~and~~

1422 (ii) a military installation; and

- 1423 (iii) in the case of heavy beer, a beer wholesaler licensee;
- 1424 (c) may not ship or transport, or cause to be shipped or transported, liquor into this
- 1425 state or from one place to another within this state;
- 1426 (d) may not sell or furnish any liquor to any person within this state other than to:
- 1427 (i) the department; [~~or~~]
- 1428 (ii) a military installation; or
- 1429 (iii) in the case of heavy beer, a beer wholesaler licensee;
- 1430 (e) except as otherwise provided, may not advertise a product the local industry
- 1431 representative licensee represents in violation of this title or any other federal or state law;
- 1432 (f) shall comply with the trade practices provided in Chapter 4, Part 7, Trade Practices
- 1433 Act; and
- 1434 (g) may only provide a sample of a product of the manufacturer, supplier, or importer
- 1435 for tasting and sampling purposes as provided in Section 32B-4-705 by the department.
- 1436 (8) A local industry representative licensee may, to become educated as to the quality
- 1437 and characteristics of a liquor that the licensee represents, taste and analyze an industry
- 1438 representative sample under the conditions listed in this Subsection (8).
- 1439 (a) A local industry representative licensee may not receive more than two industry
- 1440 representative samples of a particular type, vintage, and production lot of a particular branded
- 1441 product within a consecutive 120-day period.
- 1442 (b) (i) An industry representative sample of liquor may not exceed one liter.
- 1443 (ii) Notwithstanding Subsection (8)(b)(i), an industry representative sample of the
- 1444 following may not exceed 1.5 liters unless that exact product is only commercially packaged in
- 1445 a larger size, not to exceed 5 liters:
- 1446 (A) wine;
- 1447 (B) heavy beer; or
- 1448 (C) a flavored malt beverage.
- 1449 (c) An industry representative sample may only be of a product not presently listed on
- 1450 the department's sales list.
- 1451 (d) (i) An industry representative sample shall be shipped:
- 1452 (A) prepaid by the manufacturer, supplier, or importer;
- 1453 (B) by common carrier and not via United States mail; and

- 1454 (C) directly to the department's central administrative warehouse office.
- 1455 (ii) An industry representative sample may not be shipped to any other location within
- 1456 the state.
- 1457 (e) An industry representative sample shall be accompanied by a letter from the
- 1458 manufacturer, supplier, or importer:
- 1459 (i) clearly identifying the product as an "industry representative sample"; and
- 1460 (ii) clearly stating:
- 1461 (A) the FOB case price of the product; and
- 1462 (B) the name of the local industry representative for whom it is intended.
- 1463 (f) The department shall assess a reasonable handling, labeling, and storage fee for
- 1464 each industry representative sample received.
- 1465 (g) The department shall affix to a container a label clearly identifying the product as
- 1466 an "industry representative sample."
- 1467 (h) The department shall:
- 1468 (i) account for and record each industry representative sample received;
- 1469 (ii) account for the industry representative sample's disposition; and
- 1470 (iii) maintain a record of the industry representative sample and its disposition for a
- 1471 two-year period.
- 1472 (i) An industry representative sample may not leave the premises of the department's
- 1473 central administrative warehouse office.
- 1474 (j) A local industry representative licensee's and a local industry representative
- 1475 licensee's staff may, at regularly scheduled days and times established by the department, taste
- 1476 and analyze one or more industry representative samples on the premises of the department's
- 1477 central administrative warehouse office.
- 1478 (k) The department shall destroy the unused contents of an opened product remaining
- 1479 after a product is sampled under controlled and audited conditions established by the
- 1480 department.
- 1481 (l) An industry representative sample that is not tasted within 30 days of receipt by the
- 1482 department shall be disposed of at the discretion of the department in one of the following
- 1483 ways:
- 1484 (i) the contents destroyed under controlled and audited conditions established by the

1485 department; or

1486 (ii) added to the inventory of the department for sale to the public.

1487 Section 15. Section **32B-12-201** is amended to read:

1488 **32B-12-201. Commission's power to issue liquor warehousing license.**

1489 (1) (a) [~~Before~~] Except as provided in Chapter 13, Beer Wholesaling License Act,
1490 before a person may warehouse, distribute, or transport liquor for resale to a wholesale or retail
1491 customer, the person shall first obtain a liquor warehousing license issued by the commission
1492 in accordance with this chapter.

1493 (b) A separate liquor warehousing license is required for each warehousing facility.

1494 (c) A violation of this Subsection (1) is a class B misdemeanor.

1495 (2) The commission may issue a liquor warehousing license in accordance with this
1496 chapter for the warehousing, distribution, and transportation of liquor.

1497 Section 16. Section **32B-13-201** is amended to read:

1498 **32B-13-201. Commission's power to issue beer wholesaling license.**

1499 (1) (a) Before a person may purchase, store, sell, offer for sale, distribute, or import
1500 beer or heavy beer to a person who sells at retail or acts in any way as a beer wholesaler, the
1501 person shall first obtain a beer wholesaling license issued by the commission in accordance
1502 with this chapter.

1503 (b) A violation of Subsection (1)(a) is a class A misdemeanor.

1504 (2) (a) The commission may issue a beer wholesaling license for the purchase, storage,
1505 sale, distribution, transportation, and import of beer or heavy beer.

1506 (b) A beer wholesaling license entitles the beer wholesaler licensee to:

1507 (i) purchase and import beer into the state;

1508 (ii) store beer in an approved warehouse; [~~and~~]

1509 (iii) sell and distribute beer directly to:

1510 (A) a beer retailer; or

1511 (B) an event permittee[~~-~~]; and

1512 (iv) (A) purchase and import heavy beer into the state;

1513 (B) store heavy beer in an approved warehouse; and

1514 (C) sell and distribute heavy beer directly to a retail licensee authorized to sell, offer

1515 for sale, or furnish heavy beer, a single event permittee, the department, a military installation,

1516 or a public service permittee.

1517 (3) Nothing in this section precludes a small brewer from selling beer the small brewer
1518 manufactures directly to:

1519 (a) a retail licensee;

1520 (b) an off-premise beer retailer; or

1521 (c) an event permittee.

1522 Section 17. Section **32B-13-202** is amended to read:

1523 **32B-13-202. Application requirements for beer wholesaling license.**

1524 To obtain a beer wholesaling license, a person shall submit to the department:

1525 (1) a written application in a form prescribed by the department;

1526 (2) a nonrefundable \$300 application fee;

1527 (3) an initial license fee of \$2,300 that is refundable if a beer wholesaling license is not
1528 issued;

1529 (4) written consent of the local authority;

1530 (5) a copy of the person's current business license;

1531 (6) a bond as specified in Section [32B-13-206](#);

1532 (7) (a) a statement of the brands of beer the person is authorized to sell and distribute;

1533 and

1534 (b) a statement of the brands of heavy beer the person is authorized to sell and

1535 distribute;

1536 (8) (a) a statement of the one or more sales territories in which the person is authorized
1537 to sell and distribute beer under an agreement required by Section [32B-11-201](#) or [32B-11-503](#);

1538 and

1539 (b) a statement of the one or more sales territories in which the person is authorized to

1540 sell and distribute heavy beer under an agreement required by Section [32B-11-201](#) or

1541 [32B-11-503](#);

1542 (9) evidence that the person is carrying public liability insurance in an amount and
1543 form satisfactory to the department;

1544 (10) a signed consent form stating that the beer wholesaling licensee will permit any
1545 authorized representative of the commission, department, or any law enforcement officer to

1546 have unrestricted right to enter the licensed premises;

1547 (11) if the person is an entity, proper verification evidencing that a person who signs
1548 the application is authorized to sign on behalf of the entity; and

1549 (12) any other information that the commission or department may require.

1550 Section 18. Section **32B-13-301** is amended to read:

1551 **32B-13-301. General operational requirements for beer wholesaling license.**

1552 (1) (a) A beer wholesaler licensee and staff of the beer wholesaler licensee shall
1553 comply with this title and the rules of the commission.

1554 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1555 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1556 (i) a beer wholesaler licensee;

1557 (ii) individual staff of a beer wholesaler licensee; or

1558 (iii) both a beer wholesaler licensee and staff of the beer wholesaler licensee.

1559 (2) (a) A beer wholesaler licensee shall make and maintain the records required by the
1560 department.

1561 (b) Section **32B-1-205** applies to a record required to be made or maintained in
1562 accordance with this Subsection (2).

1563 (3) A beer wholesaler licensee may not employ a minor to handle an alcoholic product.

1564 (4) A beer wholesaler licensee may not sell, transfer, assign, exchange, barter, give, or
1565 attempt in any way to dispose of the beer wholesaling license to a person, whether for monetary
1566 gain or not, unless it is done:

1567 (a) in accordance with the commission rules; and

1568 (b) after written consent is given by the commission.

1569 (5) A beer wholesaler licensee may not wholesale a beer or heavy beer manufactured
1570 within the state by a brewer who is not licensed by the commission as a brewery manufacturing
1571 licensee.

1572 (6) A beer wholesaler licensee may not wholesale a beer or heavy beer manufactured
1573 out of state by a brewer who has not obtained a certificate of approval from the department.

1574 (7) (a) A beer wholesaler licensee may not sell or distribute beer to a person within the
1575 state except to:

1576 (i) a retail licensee;

1577 (ii) an off-premise beer retailer; or

1578 (iii) an event permittee.

1579 (b) A beer wholesaler licensee may not sell or distribute heavy beer to a person within

1580 the state except to:

1581 (i) a retail licensee authorized to sell, offer for sale, or furnish heavy beer;

1582 (ii) a single event permittee;

1583 (iii) the department;

1584 (iv) a military installation; or

1585 (v) a public service permittee.

1586 ~~(b)~~ (c) A violation of this Subsection (7) is a class A misdemeanor.

1587 (8) (a) A beer wholesaler licensee may not sell or distribute a beer or heavy beer to a

1588 person who sells the beer or heavy beer at retail outside of a sales territory designated on its

1589 application and authorized by an agreement described in Subsection [32B-13-202](#)(8), except

1590 that if a beer wholesaler licensee is temporarily unable to supply a person within the beer

1591 wholesaler licensee's authorized sales territory, the department may grant temporary authority

1592 to another beer wholesaler licensee who distributes the same brand in another sales territory to

1593 supply:

1594 (i) a retail licensee; or

1595 (ii) an off-premise beer retailer.

1596 (b) A violation of this Subsection (8) is a class B misdemeanor.

1597 (9) (a) A beer wholesaler licensee shall own, lease, or otherwise control and maintain a

1598 warehouse facility located in this state for the receipt, storage, and further distribution of beer

1599 or heavy beer sold by the beer wholesaler licensee to a person within the state.

1600 (b) A beer wholesaler licensee may not sell beer or heavy beer to a person in this state,

1601 other than the department, unless the beer or heavy beer is first:

1602 (i) physically removed from the vehicle used to transport the beer or heavy beer from

1603 the supplier to the beer wholesaler licensee; and

1604 (ii) delivered into the actual possession and control of the beer wholesaler licensee in

1605 its warehouse or other facility.

1606 (10) A beer wholesaler licensee may not sell or distribute an alcoholic product that has

1607 not had its label and packaging approved by the department in accordance with Chapter 1, Part

1608 6, Malted Beverage Act.

1609 (11) The commission may prescribe by policy or rule, consistent with this title, the
1610 general operational requirements of a beer [~~wholesaling~~] wholesaler licensee relating to:

1611 (a) physical facilities; and

1612 (b) the conditions of importation, purchase, storage, sale, offering for sale, distribution,
1613 or transportation of beer or heavy beer within the state.

1614 (12) A beer wholesaler licensee may sell or distribute only heavy beer approved by the
1615 department in accordance with Section 32B-2-204.

1616 (13) When selling, offering for sale, or furnishing heavy beer, a beer wholesaler
1617 licensee shall:

1618 (a) prohibit the person receiving the heavy beer from returning the heavy beer to the
1619 beer wholesaler licensee; and

1620 (b) require receipt of cash from the person receiving the heavy beer upon delivery of
1621 the heavy beer.

1622 Section 19. Section **32B-14-101** is amended to read:

1623 **32B-14-101. Title -- Legislative intent.**

1624 (1) This chapter is known as the "Utah Beer Industry Distribution Act."

1625 (2) (a) It is the policy of the Legislature to regulate and control the importation, sale,
1626 and distribution of beer and heavy beer within the state in the exercise of its powers under the
1627 Twenty-first Amendment to the Constitution of the United States and pursuant to the Utah
1628 Constitution.

1629 (b) In furtherance of the policy described in Subsection (2)(a), this chapter is enacted
1630 to:

1631 (i) promote good faith and fair dealing in the business relationships between suppliers,
1632 wholesalers, and retailers of beer and heavy beer; and

1633 (ii) provide for the establishment and maintenance of an orderly system for the
1634 distribution of beer or heavy beer in accordance with the laws of the state regulating the sale
1635 and distribution of beer or heavy beer to the public.

1636 Section 20. Section **32B-14-102** is amended to read:

1637 **32B-14-102. Definitions.**

1638 As used in this chapter:

1639 (1) "Affected party" means a supplier or wholesaler who is a party to a distributorship

1640 agreement that a terminating party seeks to terminate or not renew.

1641 (2) (a) "Distributorship agreement" means a written agreement between a supplier and
1642 a wholesaler pursuant to which the wholesaler has the right to purchase, resell, and distribute in
1643 a designated geographical area any brand of beer or heavy beer manufactured, imported, or
1644 distributed by the supplier.

1645 (b) For purposes of this chapter, a separate agreement between a supplier and a
1646 wholesaler is considered to be part of a distributorship agreement if it relates to:

1647 (i) the relationship between the supplier and the wholesaler; or

1648 (ii) the duties of either the supplier or the wholesaler under a distributorship agreement.

1649 (3) "Good cause" means the material failure by a supplier or a wholesaler to comply
1650 with an essential, reasonable, and lawful requirement imposed by a distributorship agreement if
1651 the failure occurs after the supplier or wholesaler acting in good faith provides notice of
1652 deficiency and an opportunity to correct in accordance with Part 2, Termination.

1653 (4) "Good faith" is as defined in Subsection [70A-1a-201\(2\)\(t\)](#).

1654 (5) "Retailer" means a beer retailer or, for purposes of heavy beer, a retail licensee
1655 authorized to sell, offer for sale, or furnish heavy beer.

1656 (6) "Sales territory" means the geographic area of distribution and sale responsibility
1657 designated by a distributorship agreement.

1658 (7) "Supplier," notwithstanding Section [32B-1-102](#), means a brewer or other person
1659 who sells beer or heavy beer to a wholesaler for resale in this state.

1660 (8) "Terminating party" means a supplier or wholesaler who:

1661 (a) is a party to a distributorship agreement; and

1662 (b) seeks to terminate or not renew the distributorship agreement.

1663 Section 21. Section **32B-14-201** is amended to read:

1664 **32B-14-201. Termination of distributorship agreements.**

1665 (1) Except as provided in Subsection (2) or (3), a supplier or wholesaler may not:

1666 (a) terminate a distributorship agreement; or

1667 (b) fail to renew a distributorship agreement.

1668 (2) A supplier or wholesaler may take an action prohibited by Subsection (1) if:

1669 (a) the supplier or wholesaler has good cause for the action; and

1670 (b) if notification is required by Section [32B-14-202](#):

- 1671 (i) the terminating party provides the affected party prior notification in accordance
1672 with Section [32B-14-202](#); and
- 1673 (ii) the affected party has not eliminated the reasons specified in the notification as the
1674 reasons for the action within 90 days after the date the notification is mailed in accordance with
1675 Section [32B-14-202](#).
- 1676 (3) A supplier may take an action prohibited by Subsection (1) if:
- 1677 (a) the supplier gives the wholesaler 30 days written notice before termination or
1678 nonrenewal;
- 1679 (b) the supplier discontinues production or discontinues distribution throughout the
1680 state of all brands of beer or heavy beer sold by the supplier to the wholesaler; and
- 1681 (c) the termination or nonrenewal does not violate the distributorship agreement.
- 1682 Section 22. Section **32B-14-302** is amended to read:
- 1683 **32B-14-302. Prohibited conduct of supplier.**
- 1684 (1) A supplier may not:
- 1685 (a) induce or coerce, or attempt to induce or coerce, a wholesaler to engage in an illegal
1686 act or course of conduct;
- 1687 (b) impose a requirement that is discriminatory by its terms or in the methods of
1688 enforcement as compared to requirements imposed by the supplier on similarly situated
1689 wholesalers;
- 1690 (c) prohibit a wholesaler from selling a product of another supplier;
- 1691 (d) fix or maintain the price at which a wholesaler may resell beer or heavy beer;
- 1692 (e) fail to execute with each wholesaler of its brands a written distributorship
1693 agreement;
- 1694 (f) require a wholesaler to accept delivery of beer, heavy beer, or any other item that is
1695 not voluntarily ordered by the wholesaler;
- 1696 (g) restrict or inhibit, directly or indirectly, the right of a wholesaler to participate in an
1697 organization representing interests of wholesalers for a lawful purpose;
- 1698 (h) require a wholesaler to participate in or contribute to a local, regional, or national
1699 advertising fund or other promotional activity that:
- 1700 (i) is not used for an advertising or promotional activity in the wholesaler's sales
1701 territory; or

1702 (ii) would require a contribution by the wholesaler in excess of the amounts specified
1703 in the distributorship agreement;

1704 (i) retaliate against a wholesaler that files a complaint with the department or the
1705 applicable federal agency regarding an alleged violation by the supplier of a state or federal
1706 statute or administrative rule;

1707 (j) require without good cause a change in the manager of a wholesaler who has
1708 previously been approved by the supplier;

1709 (k) if a wholesaler changes its approved manager, prohibit the change unless the new
1710 manager fails to meet the reasonable standards for similarly situated wholesalers of the supplier
1711 as stated in the distributorship agreement; or

1712 (l) refuse to deliver a beer product or heavy beer product covered by a distributorship
1713 agreement to the wholesaler:

1714 (i) in a reasonable quantity; and

1715 (ii) within a reasonable time after receipt of the wholesaler's order.

1716 (2) Notwithstanding Subsection (1)(l), the supplier may refuse to deliver a beer product
1717 or heavy beer product if the refusal is due to:

1718 (a) the wholesaler's failure to pay the supplier pursuant to the distributorship
1719 agreement;

1720 (b) an unforeseeable event beyond the supplier's control;

1721 (c) a work stoppage or delay due to a strike or labor problem;

1722 (d) a bona fide shortage of materials; or

1723 (e) a freight embargo.

1724 Section 23. Section **32B-14-303** is amended to read:

1725 **32B-14-303. Prohibited conduct of wholesaler.**

1726 (1) A wholesaler may not:

1727 (a) induce or coerce, or attempt to induce or coerce, a retailer to engage in an illegal act
1728 or course of conduct;

1729 (b) impose a requirement that is discriminatory by its terms or in the methods of
1730 enforcement as compared to requirements imposed by the wholesaler on similarly situated
1731 retailers;

1732 (c) prohibit a retailer from selling a product of another wholesaler;

- 1733 (d) fix or maintain the price at which a retailer may resell beer or heavy beer;
- 1734 (e) require a retailer to accept delivery of beer, heavy beer, or any other item that is not
- 1735 voluntarily ordered by the retailer;
- 1736 (f) restrict or inhibit, directly or indirectly, the right of a retailer to participate in an
- 1737 organization representing interests of retailers for a lawful purpose;
- 1738 (g) require a retailer to participate in or contribute to a local, regional, or national
- 1739 advertising fund or other promotional activity;
- 1740 (h) retaliate against a retailer that files a complaint with the department or the
- 1741 applicable federal agency regarding an alleged violation by the wholesaler of a state or federal
- 1742 statute or administrative rule; and
- 1743 (i) refuse to deliver a beer product or heavy beer product carried by the wholesaler to a
- 1744 properly licensed retailer who resides within the wholesaler's sales territory:
- 1745 (i) in a reasonable quantity; and
- 1746 (ii) within a reasonable time after receipt of the retailer's order.
- 1747 (2) Notwithstanding Subsection (1)(i), the wholesaler may refuse to deliver a beer
- 1748 product or heavy beer product if the refusal is due to:
- 1749 (a) the retailer's failure to pay the wholesaler pursuant to Subsection [32B-4-704\(6\)](#);
- 1750 (b) an unforeseeable event beyond the wholesaler's control;
- 1751 (c) a work stoppage or delay due to a strike or labor problem;
- 1752 (d) a bona fide shortage of materials; or
- 1753 (e) a freight embargo.

Legislative Review Note
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