

**NONPROFIT LIMITED-SERVICE RETAILER AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kraig Powell**

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

**LONG TITLE**

**General Description:**

This bill modifies the Alcoholic Beverage Control Act to address nonprofit entities.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions;
- ▶ addresses operating without a license or permit;
- ▶ enacts the Nonprofit Limited-Service Retailer License, including:
  - addressing the commission's power to issue the license;
  - establishing specific licensing requirements for nonprofit limited-service retailers; and
  - establishing specific operational requirements for nonprofit limited-service retailers; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**32B-1-102**, as last amended by Laws of Utah 2013, Chapter 349



28 **32B-4-501**, as enacted by Laws of Utah 2010, Chapter 276

29 ENACTS:

30 **32B-6-1001**, Utah Code Annotated 1953

31 **32B-6-1002**, Utah Code Annotated 1953

32 **32B-6-1003**, Utah Code Annotated 1953

33 **32B-6-1004**, Utah Code Annotated 1953

34 **32B-6-1005**, Utah Code Annotated 1953



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

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

38 **32B-1-102. Definitions.**

39 As used in this title:

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

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

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

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

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

47 (a) beer; or

48 (b) liquor.

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

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

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

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

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

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

58 (ii) vinegar;

- 59 (iii) cider;
- 60 (iv) essence;
- 61 (v) tincture;
- 62 (vi) food preparation; or
- 63 (vii) an over-the-counter medicine.
- 64 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 65 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 66 (5) "Alcohol training and education seminar" means a seminar that is:
- 67 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- 68 (b) described in Section [62A-15-401](#).
- 69 (6) "Banquet" means an event:
- 70 (a) that is held at one or more designated locations approved by the commission in or
- 71 on the premises of a:
  - 72 (i) hotel;
  - 73 (ii) resort facility;
  - 74 (iii) sports center; or
  - 75 (iv) convention center;
- 76 (b) for which there is a contract:
  - 77 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
  - 78 and
  - 79 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
  - 80 provide an alcoholic product at the event; and
  - 81 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 82 (7) (a) "Bar" means a surface or structure:
  - 83 (i) at which an alcoholic product is:
    - 84 (A) stored; or
    - 85 (B) dispensed; or
  - 86 (ii) from which an alcoholic product is served.
- 87 (b) "Bar structure" means a surface or structure on a licensed premises if on or at any
- 88 place of the surface or structure an alcoholic product is:
  - 89 (i) stored; or

- 90 (ii) dispensed.
- 91 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:
- 92 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
- 93 volume or 3.2% by weight; and
- 94 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 95 (b) "Beer" may or may not contain hops or other vegetable products.
- 96 (c) "Beer" includes a product that:
- 97 (i) contains alcohol in the percentages described in Subsection (8)(a); and
- 98 (ii) is referred to as:
- 99 (A) beer;
- 100 (B) ale;
- 101 (C) porter;
- 102 (D) stout;
- 103 (E) lager; or
- 104 (F) a malt or malted beverage.
- 105 (d) "Beer" does not include a flavored malt beverage.
- 106 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
- 107 Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 108 (10) "Beer retailer" means a business:
- 109 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
- 110 whether for consumption on or off the business premises; and
- 111 (b) to whom a license is issued:
- 112 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise
- 113 Beer Retailer Local Authority; or
- 114 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
- 115 and Chapter 6, Part 7, On-Premise Beer Retailer License.
- 116 (11) "Beer wholesaling license" means a license:
- 117 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 118 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 119 retail licensees or off-premise beer retailers.
- 120 (12) "Billboard" means a public display used to advertise, including:

- 121 (a) a light device;
- 122 (b) a painting;
- 123 (c) a drawing;
- 124 (d) a poster;
- 125 (e) a sign;
- 126 (f) a signboard; or
- 127 (g) a scoreboard.

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

- 129 (a) beer;
- 130 (b) heavy beer; or
- 131 (c) a flavored malt beverage.

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

134 (15) "Certificate of approval" means a certificate of approval obtained from the  
135 department under Section [32B-11-201](#).

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

- 138 (a) under a single contract;
- 139 (b) at a fixed charge in accordance with the bus company's tariff; and
- 140 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other  
141 motor vehicle, and a driver to travel together to one or more specified destinations.

142 (17) "Church" means a building:

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

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

- 149 (b) "Club license" includes:
  - 150 (i) a dining club license;
  - 151 (ii) an equity club license;

152 (iii) a fraternal club license; or

153 (iv) a social club license.

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

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

157 (21) "Community location" means:

158 (a) a public or private school;

159 (b) a church;

160 (c) a public library;

161 (d) a public playground; or

162 (e) a public park.

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

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

165 (b) if the commission does not know who is the governing body of a community  
166 location, a person who appears to the commission to have been given on behalf of the  
167 community location the authority to prohibit an activity at the community location.

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

169 (a) a bottle;

170 (b) a vessel; or

171 (c) a similar item.

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

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

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

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

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

179 (i) stored; or

180 (ii) dispensed.

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

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

184 (a) an auditor or inspector; and

185 (b) employed by the department.

186 (28) "Department sample" means liquor that is placed in the possession of the

187 department for testing, analysis, and sampling.

188 (29) "Dining club license" means a license issued in accordance with Chapter 5, Retail

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

190 dining club license.

191 (30) "Director," unless the context requires otherwise, means the director of the

192 department.

193 (31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this

194 title:

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

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

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

198 (i) drawing of an alcoholic product:

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

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

201 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

202 (ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of

203 the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the

204 retail licensee.

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

206 (i) a full-service restaurant license;

207 (ii) a limited-service restaurant license;

208 (iii) a reception center license; and

209 (iv) a beer-only restaurant license.

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

211 Chapter 11, Part 4, Distillery Manufacturing License.

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

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

214 (35) "Educational facility" includes:

- 215 (a) a nursery school;
- 216 (b) an infant day care center; and
- 217 (c) a trade and technical school.

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

221 (37) "Event permit" means:

- 222 (a) a single event permit; or
- 223 (b) a temporary beer event permit.

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

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

- 228 (i) that contains at least .5% alcohol by volume;
- 229 (ii) that is treated by processing, filtration, or another method of manufacture that is not  
230 generally recognized as a traditional process in the production of a beer as described in 27  
231 C.F.R. Sec. 25.55;

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

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

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

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

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

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

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

- 245 (b) "Furnish" includes to:
- 246 (i) serve;
- 247 (ii) deliver; or
- 248 (iii) otherwise make available.
- 249 (43) "Guest" means an individual who meets the requirements of Subsection
- 250 [32B-6-407\(9\)](#).
- 251 (44) "Health care practitioner" means:
- 252 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 253 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 254 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 255 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
- 256 Act;
- 257 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
- 258 Nurse Practice Act;
- 259 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
- 260 Practice Act;
- 261 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
- 262 Therapy Practice Act;
- 263 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 264 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
- 265 Professional Practice Act;
- 266 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 267 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
- 268 Practice Act;
- 269 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
- 270 Hygienist Practice Act; and
- 271 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
- 272 (45) (a) "Heavy beer" means a product that:
- 273 (i) contains more than 4% alcohol by volume; and
- 274 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 275 (b) "Heavy beer" is considered liquor for the purposes of this title.

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

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

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

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

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

288 (a) law; or

289 (b) court order.

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

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

293 (i) an alcoholic product;

294 (ii) a controlled substance;

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

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

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

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

300 (a) a department compliance officer; or

301 (b) a nondepartment enforcement officer.

302 (53) "Invitee" [~~is as~~] means the same as that term is defined in Section 32B-8-102.

303 (54) "License" means:

304 (a) a retail license;

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

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

308 or

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

310 (55) "Licensee" means a person who holds a license.

311 (56) "Limited-service restaurant license" means a license issued in accordance with  
312 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

313 (57) "Limousine" means a motor vehicle licensed by the state or a local authority, other  
314 than a bus or taxicab:

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

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

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

321 (58) (a) (i) "Liquor" means a liquid that:

322 (A) is:

323 (I) alcohol;

324 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

325 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

326 (IV) other drink or drinkable liquid; and

327 (B) (I) contains at least .5% alcohol by volume; and

328 (II) is suitable to use for beverage purposes.

329 (ii) "Liquor" includes:

330 (A) heavy beer;

331 (B) wine; and

332 (C) a flavored malt beverage.

333 (b) "Liquor" does not include beer.

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

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

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

337 (b) to a person, other than a licensed manufacturer, who engages in the importation for

338 storage, sale, or distribution of liquor regardless of amount.

339 (61) "Local authority" means:

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

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

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

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

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

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

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

352 (B) of the National Guard;

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

354 (iii) including a leased facility.

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

356 (i) civil works;

357 (ii) a rivers and harbors project; or

358 (iii) a flood control project.

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

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

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

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

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

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

365 (a) a peace officer, examiner, or investigator; and

366 (b) employed by a nondepartment enforcement agency.

367 (69) "Nonprofit limited-service retailer license" means a license issued in accordance  
368 with Chapter 5, Retail License Act, and Chapter 6, Part 10, Nonprofit Limited-Service Retailer

369 License.

370 [~~(69)~~] (70) (a) "Off-Premise beer retailer" means a beer retailer who is:

371 (i) licensed in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local  
372 Authority; and

373 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's  
374 premises.

375 (b) "Off-Premise beer retailer" does not include an on-premise beer retailer.

376 [~~(70)~~] (71) "On-premise banquet license" means a license issued in accordance with  
377 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

378 [~~(71)~~] (72) "On-premise beer retailer" means a beer retailer who is:

379 (a) authorized to sell, offer for sale, or furnish beer under a license issued in  
380 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer  
381 Retailer License; and

382 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's  
383 premises:

384 (i) regardless of whether the beer retailer sells beer for consumption off the licensed  
385 premises; and

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

387 (A) as a tavern; or

388 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).

389 [~~(72)~~] (73) "Opaque" means impenetrable to sight.

390 [~~(73)~~] (74) "Package agency" means a retail liquor location operated:

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

392 (b) by a person:

393 (i) other than the state; and

394 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package  
395 Agency, to sell packaged liquor for consumption off the premises of the package agency.

396 [~~(74)~~] (75) "Package agent" means a person who holds a package agency.

397 [~~(75)~~] (76) "Patron" means an individual to whom food, beverages, or services are sold,  
398 offered for sale, or furnished, or who consumes an alcoholic product including:

399 (a) a customer;

- 400 (b) a member;
- 401 (c) a guest;
- 402 (d) an attendee of a banquet or event;
- 403 (e) an individual who receives room service;
- 404 (f) a resident of a resort;
- 405 (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#);

406 or

- 407 (h) an invitee.

408 ~~[(76)]~~ (77) "Permittee" means a person issued a permit under:

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

411 ~~[(77)]~~ (78) "Person subject to administrative action" means:

- 412 (a) a licensee;
- 413 (b) a permittee;
- 414 (c) a manufacturer;
- 415 (d) a supplier;
- 416 (e) an importer;
- 417 (f) one of the following holding a certificate of approval:
  - 418 (i) an out-of-state brewer;
  - 419 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
  - 420 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 421 (g) staff of:
  - 422 (i) a person listed in Subsections ~~[(77)]~~ (78)(a) through (f); or
  - 423 (ii) a package agent.

424 ~~[(78)]~~ (79) "Premises" means a building, enclosure, or room used in connection with  
425 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic  
426 product, unless otherwise defined in this title or rules made by the commission.

427 ~~[(79)]~~ (80) "Prescription" means an order issued by a health care practitioner when:

- 428 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,  
429 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 430 (b) the order is made in the course of that health care practitioner's professional

431 practice; and

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

433 [~~80~~] (81) (a) "Private event" means a specific social, business, or recreational event:

434 (i) for which an entire room, area, or hall is leased or rented in advance by an identified

435 group; and

436 (ii) that is limited in attendance to people who are specifically designated and their

437 guests.

438 (b) "Private event" does not include an event to which the general public is invited,

439 whether for an admission fee or not.

440 [~~81~~] (82) (a) "Proof of age" means:

441 (i) an identification card;

442 (ii) an identification that:

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

444 (B) is issued in accordance with the laws of a state other than Utah in which the

445 identification is issued;

446 (C) includes date of birth; and

447 (D) has a picture affixed;

448 (iii) a valid driver license certificate that:

449 (A) includes date of birth;

450 (B) has a picture affixed; and

451 (C) is issued:

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

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

454 (iv) a military identification card that:

455 (A) includes date of birth; and

456 (B) has a picture affixed; or

457 (v) a valid passport.

458 (b) "Proof of age" does not include a driving privilege card issued in accordance with

459 Section [53-3-207](#).

460 [~~82~~] (83) (a) "Public building" means a building or permanent structure that is:

461 (i) owned or leased by:

- 462 (A) the state; or
- 463 (B) a local government entity; and
- 464 (ii) used for:
  - 465 (A) public education;
  - 466 (B) transacting public business; or
  - 467 (C) regularly conducting government activities.

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

471 [~~(83)~~] (84) "Public conveyance" means a conveyance to which the public or a portion  
472 of the public has access to and a right to use for transportation, including an airline, railroad,  
473 bus, boat, or other public conveyance.

474 [~~(84)~~] (85) "Reception center" means a business that:  
475 (a) operates facilities that are at least 5,000 square feet; and  
476 (b) has as its primary purpose the leasing of the facilities described in Subsection [~~(84)~~]  
477 (85)(a) to a third party for the third party's event.

478 [~~(85)~~] (86) "Reception center license" means a license issued in accordance with  
479 Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

480 [~~(86)~~] (87) (a) "Record" means information that is:  
481 (i) inscribed on a tangible medium; or  
482 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.  
483 (b) "Record" includes:  
484 (i) a book;  
485 (ii) a book of account;  
486 (iii) a paper;  
487 (iv) a contract;  
488 (v) an agreement;  
489 (vi) a document; or  
490 (vii) a recording in any medium.

491 [~~(87)~~] (88) "Residence" means a person's principal place of abode within Utah.

492 [~~(88)~~] (89) "Resident," in relation to a resort, [~~is as~~] means the same as that term is

493 defined in Section [32B-8-102](#).

494 ~~[(89)]~~ (90) "Resort" is as defined in Section [32B-8-102](#).

495 ~~[(90)]~~ (91) "Resort facility" ~~[is as]~~ means the same as that term is defined by the  
496 commission by rule.

497 ~~[(91)]~~ (92) "Resort license" means a license issued in accordance with Chapter 5,  
498 Retail License Act, and Chapter 8, Resort License Act.

499 ~~[(92)]~~ (93) "Restaurant" means a business location:

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

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

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

503 ~~[(93)]~~ (94) "Retail license" means one of the following licenses issued under this title:

504 (a) a full-service restaurant license;

505 (b) a master full-service restaurant license;

506 (c) a limited-service restaurant license;

507 (d) a master limited-service restaurant license;

508 (e) a club license;

509 (f) an airport lounge license;

510 (g) an on-premise banquet license;

511 (h) an on-premise beer license;

512 (i) a reception center license; ~~[or]~~

513 (j) a beer-only restaurant license~~[-];~~ or

514 (k) a nonprofit limited-service retailer license.

515 ~~[(94)]~~ (95) "Room service" means furnishing an alcoholic product to a person in a  
516 guest room of a:

517 (a) hotel; or

518 (b) resort facility.

519 ~~[(95)]~~ (96) "Serve" means to place an alcoholic product before an individual.

520 ~~[(96)]~~ (97) (a) "School" means a building used primarily for the general education of  
521 minors.

522 (b) "School" does not include an educational facility.

523 ~~[(97)]~~ (98) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby,

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

528 ~~[(98)]~~ (99) "Sexually oriented entertainer" means a person who while in a state of  
529 seminudity appears at or performs:

- 530 (a) for the entertainment of one or more patrons;
- 531 (b) on the premises of:
  - 532 (i) a social club licensee; or
  - 533 (ii) a tavern;
  - 534 (c) on behalf of or at the request of the licensee described in Subsection ~~[(98)]~~ (99)(b);
  - 535 (d) on a contractual or voluntary basis; and
  - 536 (e) whether or not the person is designated as:
    - 537 (i) an employee;
    - 538 (ii) an independent contractor;
    - 539 (iii) an agent of the licensee; or
    - 540 (iv) a different type of classification.

541 ~~[(99)]~~ (100) "Single event permit" means a permit issued in accordance with Chapter 9,  
542 Part 3, Single Event Permit.

543 ~~[(100)]~~ (101) "Small brewer" means a brewer who manufactures less than 60,000  
544 barrels of beer, heavy beer, and flavored malt beverages per year.

545 ~~[(101)]~~ (102) "Social club license" means a license issued in accordance with Chapter  
546 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the  
547 commission as a social club license.

548 ~~[(102)]~~ (103) "Special use permit" means a permit issued in accordance with Chapter  
549 10, Special Use Permit Act.

550 ~~[(103)]~~ (104) (a) "Spirituous liquor" means liquor that is distilled.

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

553 ~~[(104)]~~ (105) "Sports center" is as defined by the commission by rule.

554 ~~[(105)]~~ (106) (a) "Staff" means an individual who engages in activity governed by this

555 title:

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

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

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

562 (b) "Staff" includes:

563 (i) an officer;

564 (ii) a director;

565 (iii) an employee;

566 (iv) personnel management;

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

568 (vi) an operator; or

569 (vii) a representative.

570 [~~106~~] (107) "State of nudity" means:

571 (a) the appearance of:

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

573 (ii) a human genital;

574 (iii) a human pubic area; or

575 (iv) a human anus; or

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

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

578 (ii) a human genital;

579 (iii) a human pubic area; or

580 (iv) a human anus.

581 [~~107~~] (108) "State of seminudity" means a state of dress in which opaque clothing  
582 covers no more than:

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

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

- 586 (i) with no less than the following at its widest point:
- 587 (A) four inches coverage width in the front of the human body; and
- 588 (B) five inches coverage width in the back of the human body; and
- 589 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

590 [~~(108)~~] (109) (a) "State store" means a facility for the sale of packaged liquor:

- 591 (i) located on premises owned or leased by the state; and
- 592 (ii) operated by a state employee.

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

- 594 (i) a package agency;
- 595 (ii) a licensee; or
- 596 (iii) a permittee.

597 [~~(109)~~] (110) (a) "Storage area" means an area on licensed premises where the licensee  
598 stores an alcoholic product.

599 (b) "Store" means to place or maintain in a location an alcoholic product from which a  
600 person draws to prepare an alcoholic product to be furnished to a patron, except as provided in  
601 Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or  
602 32B-6-905(12)(b)(ii).

603 [~~(110)~~] (111) "Sublicense" [~~is as~~] means the same as that term is defined in Section  
604 32B-8-102.

605 [~~(111)~~] (112) "Supplier" means a person who sells an alcoholic product to the  
606 department.

607 [~~(112)~~] (113) "Tavern" means an on-premise beer retailer who is:

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

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

612 [~~(113)~~] (114) "Temporary beer event permit" means a permit issued in accordance with  
613 Chapter 9, Part 4, Temporary Beer Event Permit.

614 [~~(114)~~] (115) "Temporary domicile" means the principal place of abode within Utah of  
615 a person who does not have a present intention to continue residency within Utah permanently  
616 or indefinitely.

617            [~~(115)~~] (116) "Translucent" means a substance that allows light to pass through, but  
618 does not allow an object or person to be seen through the substance.

619            [~~(116)~~] (117) "Unsaleable liquor merchandise" means a container that:

620            (a) is unsaleable because the container is:

621            (i) unlabeled;

622            (ii) leaky;

623            (iii) damaged;

624            (iv) difficult to open; or

625            (v) partly filled;

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

627            (ii) has contents that are:

628            (A) cloudy;

629            (B) spoiled; or

630            (C) chemically determined to be impure; or

631            (iii) contains:

632            (A) sediment; or

633            (B) a foreign substance; or

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

635            [~~(117)~~] (118) (a) "Wine" means an alcoholic product obtained by the fermentation of  
636 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or  
637 not another ingredient is added.

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

640            [~~(118)~~] (119) "Winery manufacturing license" means a license issued in accordance  
641 with Chapter 11, Part 3, Winery Manufacturing License.

642            Section 2. Section **32B-4-501** is amended to read:

643            **32B-4-501. Operating without a license or permit.**

644            (1) A person may not operate the following businesses without first obtaining a license  
645 under this title if the business allows a person to purchase or consume an alcoholic product on  
646 the premises of the business:

647            (a) a restaurant;

- 648 (b) an airport lounge;
- 649 (c) a business operated in the same manner as a club licensee;
- 650 (d) a resort;
- 651 (e) a business operated to sell, offer for sale, or furnish beer for on-premise
- 652 consumption;
- 653 (f) a business operated as an on-premise banquet licensee; [~~or~~]
- 654 (g) a business operated in the same manner as a nonprofit limited-service retailer; or
- 655 [~~(g)~~] (h) a business similar to one listed in Subsections (1)(a) through [~~(f)~~] (g).
- 656 (2) A person conducting an event that is open to the general public may not directly or
- 657 indirectly sell, offer for sale, or furnish an alcoholic product to a person attending the event
- 658 without first obtaining an event permit under this title.
- 659 (3) A person conducting a private event may not directly or indirectly sell or offer for
- 660 sale an alcoholic product to a person attending the private event without first obtaining an
- 661 event permit under this title.
- 662 (4) A person may not operate the following businesses in this state without first
- 663 obtaining a license under this title:
- 664 (a) a winery manufacturer;
- 665 (b) a distillery manufacturer;
- 666 (c) a brewery manufacturer;
- 667 (d) a local industry representative of:
- 668 (i) a manufacturer of an alcoholic product;
- 669 (ii) a supplier of an alcoholic product; or
- 670 (iii) an importer of an alcoholic product;
- 671 (e) a liquor warehouse; or
- 672 (f) a beer wholesaler.
- 673 (5) A person may not operate a public conveyance in this state without first obtaining a
- 674 public service permit under this title if that public conveyance allows a person to purchase or
- 675 consume an alcoholic product:
- 676 (a) on the public conveyance; or
- 677 (b) on the premises of a hospitality room located within a depot, terminal, or similar
- 678 facility at which a service is provided to a patron of the public conveyance.

679 Section 3. Section **32B-6-1001** is enacted to read:

680 **Part 10. Nonprofit Limited-Service Retailer License**

681 **32B-6-1001. Title.**

682 This part is known as "Nonprofit Limited-Service Retailer License."

683 Section 4. Section **32B-6-1002** is enacted to read:

684 **32B-6-1002. Definitions.**

685 Reserved

686 Section 5. Section **32B-6-1003** is enacted to read:

687 **32B-6-1003. Commission's power to issue nonprofit limited-service retailer**  
688 **license.**

689 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of  
690 wine, heavy beer, or beer on the premises as a nonprofit limited-service retailer, the person  
691 shall first obtain a nonprofit limited-service retailer license from the commission in accordance  
692 with this part.

693 (2) The commission may issue a nonprofit limited-service retailer license to establish  
694 nonprofit limited-service retailer licensed premises at places and in numbers as the commission  
695 considers proper for the storage, sale, offer for sale, furnishing, and consumption of wine,  
696 heavy beer, or beer on premises operated as a nonprofit limited-service retailer.

697 Section 6. Section **32B-6-1004** is enacted to read:

698 **32B-6-1004. Specific licensing requirements for nonprofit limited-service retailer**  
699 **license.**

700 (1) To obtain a nonprofit limited-service retailer license a person shall comply with  
701 Chapter 5, Part 2, Retail Licensing Process, and provide evidence satisfactory to the department  
702 that the person is a nonprofit entity that:

703 (a) is recognized by the Internal Revenue Service as an entity described in Section  
704 501(c)(3), Internal Revenue Code;

705 (b) has been in existence for at least one year from the date the nonprofit entity applies  
706 for a license under this part; and

707 (c) maintains facilities that will be used as the licensed premises under this chapter.

708 (2) (a) A nonprofit limited-service retailer license expires on the last day of February  
709 each year.

710 (b) To renew a person's nonprofit limited-service retailer license, a person shall comply  
711 with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than  
712 January 31 of each year.

713 (3) (a) The nonrefundable application fee for a nonprofit limited-service retailer license  
714 is \$330.

715 (b) The initial license fee for a nonprofit limited-service retailer license is \$825.

716 (c) The renewal fee for a nonprofit limited-service retailer license is \$605.

717 (4) The bond amount required for a nonprofit limited-service retailer license is the  
718 penal sum of \$5,000.

719 (5) A nonprofit limited-service retailer licensee is subject to the proximity  
720 requirements of Section [32B-1-202](#) except when the nonprofit limited-service retailer licensee  
721 is a community location.

722 Section 7. Section **32B-6-1005** is enacted to read:

723 **32B-6-1005. Specific operational requirements for nonprofit limited-service**  
724 **retailer license.**

725 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational  
726 Requirements, a nonprofit limited-service retailer and staff of the nonprofit limited-service  
727 retailer shall comply with this section.

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

730 (i) a nonprofit limited-service retailer;

731 (ii) individual staff of a nonprofit limited-service retailer; or

732 (iii) both a nonprofit limited-service retailer and staff of the nonprofit limited-service  
733 retailer.

734 (2) (a) A nonprofit limited-service retailer is not subject to Section [32B-5-302](#), but  
735 shall make and maintain the records the department requires, except that the nonprofit  
736 limited-service retailer is required to file with the department an IRS Form 990 in any year that  
737 the nonprofit limited-service retailer is required to file an IRS Form 990 with the Internal  
738 Revenue Service.

739 (b) If a nonprofit limited-service retailer is not required to file an IRS Form 990 with  
740 the Internal Revenue Service, the nonprofit limited-service retailer shall submit financial

741 records in the form the commission requires by rule made in accordance with Title 63G,  
742 Chapter 3, Utah Administrative Rulemaking Act.

743 (c) Section 32B-1-205 applies to a record required to be made or maintained in  
744 accordance with this Subsection (2).

745 (3) A nonprofit limited-service retailer may not sell, offer for sale, or furnish wine,  
746 heavy beer, or beer at its licensed premises during a period that:

747 (a) begins at 1 a.m.; and

748 (b) ends at 9:59 a.m.

749 (4) A nonprofit limited-service retailer may employ a minor subject to Section  
750 32B-5-308, except that a nonprofit limited-service retailer may not employ a minor to enter the  
751 sale of an alcoholic product at a cash register or other sales recording device.

752 (5) (a) A person may not sell, offer for sale, furnish, or allow the consumption of the  
753 following on the licensed premises of a nonprofit limited-service retailer:

754 (i) spirituous liquor; or

755 (ii) a flavored malt beverage.

756 (b) A product listed in Subsection (5)(a) may not be on the premises of a nonprofit  
757 limited-service retailer licensee except for use:

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

759 (ii) in the preparation of a flaming food dish, drink, or dessert.

760 (6) No more than 15% of the nonprofit limited-service retailer's gross receipts may  
761 come from the selling of wine, heavy beer, or beer.

762 (7) A patron may consume wine, heavy beer, or beer at any location within the  
763 premises designated for consumption in the floor plan required in Section 32B-5-201.

764 (8) Wine, heavy beer, or beer may only be dispensed from a concession area that is  
765 separated from the patron by a bar that is a barrier so that the dispensing and storage of  
766 alcoholic beverages is not accessible to a patron.

767 (9) Wine may be poured into a glass from any size container and need not be dispensed  
768 through a dispensing system. Heavy beer and beer may be dispensed in accordance with  
769 Section 32B-5-304.

770 (10) An individual portion of wine, heavy beer, or beer shall be sold, offered for sale,  
771 or furnished in a container that is readily distinguishable from a nonalcoholic beverage.

772 (11) A nonprofit limited-service retailer shall have food available that can be purchased  
773 at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the  
774 licensed premises.

775 (12) (a) Wine, heavy beer, or beer shall be listed on a menu or an alcoholic beverage  
776 menu.

777 (b) Advertising must comply with the rules issued by the commission under Section  
778 [32B-1-206](#).

779 (13) An individual who serves an alcoholic beverage shall wear a unique identification  
780 badge showing the individual's first name, the individual's initials, or a number assigned by the  
781 employer.

782 (14) (a) A nonprofit limited-service retailer is subject to Chapter 1, Part 5, Attire,  
783 Conduct, and Entertainment Act, except that the nonprofit limited-service retailer may petition  
784 the commission to inactivate the nonprofit limited-service retailer's license during a time period  
785 that an event, presentation, exhibition, show, performance, or civic function occurs that is in  
786 violation of Chapter 1, Part 5, Attire, Conduct, and Entertainment Act.

787 (b) The commission may make rules in accordance with Title 63G, Chapter 3, Utah  
788 Administrative Rulemaking Act, to provide the process to inactivate a nonprofit limited-service  
789 retailer license under this Subsection (14).

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**Legislative Review Note**  
**as of 2-2-15 5:44 PM**

**Office of Legislative Research and General Counsel**