

ALCOHOLIC BEVERAGE POLICY AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill modifies provisions related to alcoholic policies.

Highlighted Provisions:

This bill:

- ▶ amends the provision related to bringing alcoholic products onto or removing alcoholic products from premises;
 - ▶ modifies licensing requirements of an on-premise beer retailer that is not a tavern;
 - ▶ modifies certain quotas;
 - ▶ addresses licensing fees;
- ~~§→ [→ amends operational provisions for retail licensees and for an off-premise beer retailer;] ←§~~
- ▶ amends the operational requirements for transferees;
 - ▶ repeals the requirement that a person file a notice of intended transfer and makes conforming amendments;
 - ▶ amends notice requirements related to notice of a transfer of a license;
 - ▶ amends the application process for transfers; and
 - ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

S.B. 250



28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **32B-5-307**, as last amended by Laws of Utah 2011, Chapters 307 and 334

32 **32B-6-203**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1

33 **32B-6-303**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1

34 **32B-6-304**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1

35 **32B-6-603**, as last amended by Laws of Utah 2011, Chapter 334

36 **32B-6-703**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

37 **32B-6-803**, as enacted by Laws of Utah 2011, Chapter 334

38 ~~§~~ → [—~~**32B-7-202**, as last amended by Laws of Utah 2011, Chapter 307~~] ← ~~§~~

39 **32B-8a-202**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by

40 Revisor Instructions, Laws of Utah 2013, Chapter 349

41 **32B-8a-203**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by

42 Revisor Instructions, Laws of Utah 2013, Chapter 349

43 **32B-8a-302**, as and further amended by Revisor Instructions, Laws of Utah 2013,

44 Chapter 349

45 **32B-8a-401**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by

46 Revisor Instructions, Laws of Utah 2013, Chapter 349

47 REPEALS:

48 **32B-8a-301**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by

49 Revisor Instructions, Laws of Utah 2013, Chapter 349

50 **32B-8a-403**, as enacted by Laws of Utah 2011, Chapter 334 and further amended by

51 Revisor Instructions, Laws of Utah 2013, Chapter 349

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

54 Section 1. Section **32B-5-307** is amended to read:

55 **32B-5-307. Bringing alcoholic product onto or removing alcoholic product from**
 56 **premises.**

57 (1) Except as provided in Subsection (3):

58 (a) A person may not bring onto the licensed premises of a retail licensee an alcoholic

59 product for on-premise consumption.

60 (b) A retail licensee may not allow a person to:

61 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or

62 (ii) consume an alcoholic product brought onto the licensed premises by a person other
63 than the retail licensee.

64 (c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product through
65 a window or door to a location off the licensed premises or to a vehicular traffic area.

66 (2) Except as provided in Subsection (3):

67 (a) A person may not carry from a licensed premises of a retail licensee an open
68 container that:

69 (i) is used primarily for drinking purposes; and

70 (ii) contains an alcoholic product.

71 (b) A retail licensee may not permit a patron to carry from the licensed premises an
72 open container described in Subsection (2)(a).

73 (c) Except as provided in Subsection (3)(d) ~~§~~ or Subsection 32B-4-415(5) ~~←§~~ :

74 (i) a person may not carry from a licensed premises of a retail licensee a sealed
75 container of liquor ~~§~~ that has been purchased from the retail licensee ~~←§~~ ; and

76 (ii) a retail licensee may not permit a patron to carry from the licensed premises a
77 sealed container of liquor ~~§~~ that has been purchased from the retail licensee ~~←§~~ .

78 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for
79 on-premise consumption if:

80 (i) permitted by the retail licensee; and

81 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

82 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the
83 patron shall deliver the bottled wine to a server or other representative of the retail licensee
84 upon entering the licensed premises.

85 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a
86 wine service for a bottled wine carried onto the licensed premises in accordance with this
87 Subsection (3).

88 (d) A patron may remove from a licensed premises the unconsumed contents of a bottle
89 of wine purchased in the licensed premises, or brought onto the licensed premises in

- 245 (I) a beer bar;
- 246 (II) a parlor;
- 247 (III) a lounge;
- 248 (IV) a cabaret; or
- 249 (V) a nightclub;
- 250 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):
- 251 (I) whether the on-premise beer retailer will sell food in the establishment; and
- 252 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
- 253 will exceed the revenue of the sale of food;
- 254 (C) whether full meals including appetizers, main courses, and desserts will be served;
- 255 (D) the square footage and seating capacity of the premises;
- 256 (E) what portion of the square footage and seating capacity will be used for a dining
- 257 area in comparison to the portion that will be used as a lounge or bar area;
- 258 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
- 259 full meals, except a person that is located on the premises of a hotel or resort facility may use
- 260 the culinary facilities of the hotel or resort facility;
- 261 (G) whether the entertainment provided on the premises of the beer retailer will be
- 262 suitable for minors; and
- 263 (H) the beer retailer management's ability to manage and operate an on-premise beer
- 264 retailer license including:
- 265 (I) management experience;
- 266 (II) past beer retailer management experience; and
- 267 (III) the type of management scheme that will be used by the beer retailer.
- 268 (e) On or after March 1, 2012:
- 269 (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:
- 270 (A) maintain at least 70% of the person's total gross revenues from business directly
- 271 related to a recreational amenity on or directly adjoining the licensed premises of the beer
- 272 retailer ~~§→ [or have a contract meeting the requirements of Subsection (2)(e)(v) with a political~~
- 273 ~~subdivision that owns and operates a recreational amenity on or directly adjoining the licensed~~
- 274 ~~premises of the beer retailer] , except that a person may include gross revenue from business~~
- 274a ~~directly related to a recreational amenity that is owned or operated by a political subdivision if~~
- 274b ~~the person has a contract meeting the requirements of Subsection (2)(e)(v) with the political~~
- 274c ~~subdivision ←§~~ ; or
- 275 (B) have a recreational amenity on or directly adjoining the licensed premises of the

276 beer retailer and maintain at least 70% of the person's total gross revenues from the sale of
277 food.

278 (ii) The commission may not license a person as an on-premise beer retailer if the
279 person does not:

280 (A) meet the requirements of Subsection (2)(e)(i); or

281 (B) operate as a tavern.

282 (iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July
283 1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1,
284 2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an
285 on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).

286 (B) If an on-premise beer retailer fails to notify the department as required by
287 Subsection (2)(e)(iii)(A), the on-premise beer retailer's license expires as of February 29, 2012,
288 and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer
289 retailer is required to apply as a new licensee, and any bar or bar structure on the premises of an
290 on-premise beer retailer license that is not a tavern and does not meet the requirements of
291 Subsection (2)(e)(i) will not be grandfathered under Subsection 32B-6-902(1).

292 (iv) A person who, after August 1, 2011, applies for an on-premise beer retailer license
293 that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not have or
294 construct facilities for the dispensing or storage of an alcoholic product that do not meet the
295 requirements of Subsection 32B-6-905(12)(a)(ii).

296 (v) A contract described in Subsection (2)(e)(i)(A) shall ~~§~~→ **[provide the following]** ~~←§~~ :

297 (A) ~~§~~→ **[the total gross revenue from the operations of the recreational amenity by the**
298 **political subdivision shall equal or exceed an amount calculated by multiplying the beer**
299 **retailer's total gross receipts by 70%]** **allow the beer retailer to include the total gross revenue**
299a **from operations of the recreational amenity in the beer retailer's total gross receipts for**
299b **purposes of Subsection (2)(e)(i)(A)** ~~←§~~ ; and

300 (B) ~~§~~→ **give** ~~←§~~ the department ~~§~~→ **[shall have]** ~~←§~~ the authority to audit financial
300a information of the

301 political subdivision to the extent necessary to confirm that the ~~§~~→ **[requirement of Subsection**
302 **(2)(e)(v)(A) is]** **requirements of Subsection (2)(e)(i)(A) are** ~~←§~~ met.

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

304 (a) The commission may not issue a total number of on-premise beer retailer licenses
305 that are taverns that at any time exceeds the number determined by dividing the population of
306 the state by [54,147] 73,666.

307 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
308 in accordance with Section 32B-5-206.

309 (4) (a) Unless otherwise provided in Subsection (4)(b):

310 (i) only one on-premise beer retailer license is required for each building or resort
311 facility owned or leased by the same person; and

312 (ii) a separate license is not required for each retail beer dispensing location in the
313 same building or on the same resort premises owned or operated by the same person.

314 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
315 building or resort facility operates in the same manner.

316 (ii) If each retail beer dispensing location does not operate in the same manner:

317 (A) one on-premise beer retailer license designated as a tavern is required for the
318 locations in the same building or on the same resort premises that operate as a tavern; and

319 (B) one on-premise beer retailer license is required for the locations in the same
320 building or on the same resort premises that do not operate as a tavern.

321 Section 7. Section 32B-6-803 is amended to read:

322 **32B-6-803. Commission's power to issue reception center license.**

323 (1) Before a person may store, sell, offer for sale, or furnish an alcoholic product on its
324 premises as a reception center, the person shall first obtain a reception center license from the
325 commission in accordance with this part.

326 (2) The commission may issue a reception center license to establish reception center
327 licensed premises at places and in numbers the commission considers proper for the storage,
328 sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated
329 as a reception center.

330 (3) Subject to Section 32B-1-201, the commission may not issue a total number of
331 reception center licenses that at any time exceeds the number determined by dividing the
332 population of the state by [56,313] 251,693.

333 (4) The commission may not issue a reception center license for premises that do not
334 meet the proximity requirements of Section 32B-1-202.

335 **§→ [Section 8. Section 32B-7-202 is amended to read:**

336 ~~32B-7-202. General operational requirements for off-premise beer retailer.~~

337 ~~(1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply ☺~~

338 ~~☉ with this section.~~

339 ~~—— (b) Failure to comply with this section may result in a suspension or revocation of a~~

340 ~~local license.~~

341 ~~—— (2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the~~

342 ~~purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases~~

343 ~~from:~~

344 ~~—— (A) a beer wholesaler licensee; or~~

345 ~~—— (B) a small brewer that manufactures the beer.~~

346 ~~—— (ii) A violation of Subsection (2)(a) is a class A misdemeanor.~~

347 ~~—— (b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a~~

348 ~~beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer~~

349 ~~wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area~~

350 ~~in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by~~

351 ~~the department to sell to the off-premise beer retailer as provided in Section ~~32B-13-301~~.~~

352 ~~—— (ii) A violation of Subsection (2)(b) is a class B misdemeanor.~~

353 ~~—— (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a~~

354 ~~container larger than two liters.~~

355 ~~—— (4) A minor may not sell beer on the licensed premises of an off-premise beer retailer~~

356 ~~unless:~~

357 ~~—— (a) the sale is done under the supervision of a person 21 years of age or older who is on~~

358 ~~the licensed premises; and~~

359 ~~—— (b) the minor is at least 16 years of age.~~

360 ~~—— (5) (a) Subject to the other provisions of this Subsection (5), an off-premise beer~~

361 ~~retailer shall:~~

362 ~~—— (i) display beer sold by the off-premise beer retailer in an area that is visibly separate~~

363 ~~and distinct from the area where nonalcoholic beverages are displayed; and~~

364 ~~—— (ii) display a sign in the area described in Subsection (5)(a)(i) that:~~

365 ~~—— (A) is prominent;~~

366 ~~—— (B) is easily readable by a consumer;~~

367 ~~—— (C) meets the requirements for format established by the commission by rule; and~~

368 ~~—— (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain ☉~~

- 369 ~~☒ alcohol. Please read the label carefully."~~
- 370 ~~—— (b) Notwithstanding Subsection (5)(a), a nonalcoholic beer may be displayed with beer~~
- 371 ~~if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.~~
- 372 ~~—— (c) The requirements of this Subsection (5) apply to beer notwithstanding that it is~~
- 373 ~~labeled, packaged, or advertised as:~~
- 374 ~~—— (i) a malt cooler; or~~
- 375 ~~—— (ii) a beverage that may provide energy.~~
- 376 ~~—— (d) The commission shall define by rule what constitutes an "area that is visibly~~
- 377 ~~separate and distinct from the area where a nonalcoholic beverage is displayed."~~
- 378 ~~—— (e) A violation of this Subsection (5) is an infraction.~~
- 379 ~~—— (6) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or~~
- 380 ~~who sells beer to a patron for consumption off the premises of the off-premise beer retailer~~
- 381 ~~shall wear a unique identification badge:~~
- 382 ~~—— (i) on the front of the staff's clothing;~~
- 383 ~~—— (ii) visible above the waist;~~
- 384 ~~—— (iii) bearing the staff's:~~
- 385 ~~—— (A) first or last name;~~
- 386 ~~—— (B) initials; or~~
- 387 ~~—— (C) unique identification in letters or numbers; and~~
- 388 ~~—— (iv) with the number or letters on the unique identification badge being sufficiently~~
- 389 ~~large to be clearly visible and identifiable while engaging in or directly supervising the retail~~
- 390 ~~sale of beer.~~
- 391 ~~—— (b) An off-premise beer retailer shall make and maintain a record of each current staff's~~
- 392 ~~unique identification badge assigned by the off-premise beer retailer that includes the staff's:~~
- 393 ~~—— (i) full name;~~
- 394 ~~—— (ii) address; and~~
- 395 ~~—— (iii) (A) driver license number; or~~
- 396 ~~—— (B) similar identification number.~~
- 397 ~~—— (c) An off-premise beer retailer shall make available a record required to be made or~~
- 398 ~~maintained under this Subsection (6) for immediate inspection by:~~
- 399 ~~—— (i) a peace officer; or ☒~~

400 ~~☉~~ (ii) a representative of the local authority that issues the off-premise beer retailer
 401 license.

402 ~~——~~ (d) A local authority may impose a fine of up to \$250 against an off-premise beer
 403 retailer that does not comply or require its staff to comply with this Subsection (6).

404 ~~——~~ (7) An off-premise beer retailer may not sell, offer for sale, or furnish a beer through a
 405 window or door to a location off the licensed premises or to a vehicular traffic area.] ←§

406 Section ~~§~~ → [9] 8 ←§ . Section 32B-8a-202 is amended to read:

407 **32B-8a-202. Effect of transfer of ownership of business entity.**

408 (1) (a) When the ownership of 51% or more of the shares of stock of a corporation is
 409 acquired by or transferred to one or more persons who did not hold the ownership of 51% of
 410 those shares of stock on the date a retail license is issued to the corporation, the corporation
 411 shall comply with this chapter to transfer the retail license to the corporation as if the
 412 corporation is newly constituted.

413 (b) When there is a new general partner or when the ownership of 51% or more of the
 414 capital or profits of a limited partnership is acquired by or transferred to one or more persons as
 415 general or limited partners and who did not hold ownership of 51% or more of the capital or
 416 profits of the limited partnership on the date a retail license is issued to the limited partnership,
 417 the limited partnership shall comply with this chapter to transfer the retail license to the limited
 418 partnership as if the limited partnership is newly constituted.

419 (c) When the ownership of 51% or more of the interests in a limited liability company
 420 is acquired by or transferred to one or more persons as members who did not hold ownership of
 421 51% or more of the interests in the limited liability company on the date a retail license is
 422 issued to the limited liability company, the limited liability company shall comply with this
 423 chapter to transfer the retail license to the limited liability company as if the limited liability
 424 company is newly constituted.

425 [~~(2) A business entity may not transfer a retail license under this section unless, before~~
 426 ~~the filing of the transfer application with the department, the business entity initiating the~~
 427 ~~transfer complies with Section 32B-8a-301.]~~

428 [(3)] (2) If a business entity fails to comply with this section within 30 days of the day
 429 on which the event described in Subsection (1) occurs, the business entity's retail license is
 430 automatically forfeited.