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ALCOHOL AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Dabakis

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ eliminates certain restrictions on the dispensing and storage of alcoholic products for the following types of licensees:
 - a full-service restaurant licensee;
 - a limited-service restaurant licensee;
 - a beer-only restaurant licensee; and
 - a reception center licensee;
- ▶ eliminates the defined terms of "grandfathered bar structure" and "seated grandfathered bar structure";
- ▶ addresses restrictions related to sitting at a bar structure;
- ▶ addresses a minor in a bar area of a restaurant;
- ▶ repeals obsolete provisions that provided a credit to a full-service restaurant licensee or a limited-service restaurant licensee that completes a remodel of a grandfathered bar structure; and
- ▶ makes technical changes.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **32B-1-102**, as last amended by Laws of Utah 2013, Chapter 349

34 **32B-6-202**, as last amended by Laws of Utah 2011, Chapter 334

35 **32B-6-205**, as last amended by Laws of Utah 2013, Chapter 353

36 **32B-6-302**, as last amended by Laws of Utah 2011, Chapter 334

37 **32B-6-305**, as last amended by Laws of Utah 2013, Chapter 353

38 **32B-6-409**, as enacted by Laws of Utah 2011, Chapter 334

39 **32B-6-703**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

40 **32B-6-805**, as last amended by Laws of Utah 2012, Chapter 365

41 **32B-6-902**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

42 **32B-6-905**, as last amended by Laws of Utah 2013, Chapter 353

43 **32B-8-402**, as last amended by Laws of Utah 2011, Chapter 334

44 REPEALS:

45 **32B-6-205.1**, as enacted by Laws of Utah 2010, Chapter 276

46 **32B-6-305.1**, as enacted by Laws of Utah 2010, Chapter 276



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

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

50 **32B-1-102. Definitions.**

51 As used in this title:

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

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

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

55 premises of the international airport.

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

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

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

- 59 (a) beer; or
- 60 (b) liquor.
- 61 (4) (a) "Alcoholic product" means a product that:
- 62 (i) contains at least .5% of alcohol by volume; and
- 63 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
- 64 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
- 65 in an amount equal to or greater than .5% of alcohol by volume.
- 66 (b) "Alcoholic product" includes an alcoholic beverage.
- 67 (c) "Alcoholic product" does not include any of the following common items that
- 68 otherwise come within the definition of an alcoholic product:
- 69 (i) except as provided in Subsection (4)(d), an extract;
- 70 (ii) vinegar;
- 71 (iii) cider;
- 72 (iv) essence;
- 73 (v) tincture;
- 74 (vi) food preparation; or
- 75 (vii) an over-the-counter medicine.
- 76 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 77 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 78 (5) "Alcohol training and education seminar" means a seminar that is:
- 79 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- 80 (b) described in Section [62A-15-401](#).
- 81 (6) "Banquet" means an event:
- 82 (a) that is held at one or more designated locations approved by the commission in or
- 83 on the premises of a:
- 84 (i) hotel;
- 85 (ii) resort facility;
- 86 (iii) sports center; or
- 87 (iv) convention center;
- 88 (b) for which there is a contract:
- 89 (i) between a person operating a facility listed in Subsection (6)(a) and another person;

90 and

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

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

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

95 (i) at which an alcoholic product is:

96 (A) stored; or

97 (B) dispensed; or

98 (ii) from which an alcoholic product is served.

99 (b) "Bar structure" means a surface or structure on a licensed premises if on or at any
100 place of the surface or structure an alcoholic product is:

101 (i) stored; or

102 (ii) dispensed.

103 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:

104 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
105 volume or 3.2% by weight; and

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

107 (b) "Beer" may or may not contain hops or other vegetable products.

108 (c) "Beer" includes a product that:

109 (i) contains alcohol in the percentages described in Subsection (8)(a); and

110 (ii) is referred to as:

111 (A) beer;

112 (B) ale;

113 (C) porter;

114 (D) stout;

115 (E) lager; or

116 (F) a malt or malted beverage.

117 (d) "Beer" does not include a flavored malt beverage.

118 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
119 Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

120 (10) "Beer retailer" means a business:

121 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
122 whether for consumption on or off the business premises; and

123 (b) to whom a license is issued:

124 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise
125 Beer Retailer Local Authority; or

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

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

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

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

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

133 (a) a light device;

134 (b) a painting;

135 (c) a drawing;

136 (d) a poster;

137 (e) a sign;

138 (f) a signboard; or

139 (g) a scoreboard.

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

141 (a) beer;

142 (b) heavy beer; or

143 (c) a flavored malt beverage.

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

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

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

150 (a) under a single contract;

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

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

154 (17) "Church" means a building:

155 (a) set apart for worship;

156 (b) in which religious services are held;

157 (c) with which clergy is associated; and

158 (d) that is tax exempt under the laws of this state.

159 (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail

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

161 (b) "Club license" includes:

162 (i) a dining club license;

163 (ii) an equity club license;

164 (iii) a fraternal club license; or

165 (iv) a social club license.

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

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

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

169 (21) "Community location" means:

170 (a) a public or private school;

171 (b) a church;

172 (c) a public library;

173 (d) a public playground; or

174 (e) a public park.

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

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

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

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

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

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

181 (a) a bottle;

182 (b) a vessel; or

183 (c) a similar item.

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

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

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

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

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

191 (i) stored; or

192 (ii) dispensed.

193 (26) "Department" means the Department of Alcoholic Beverage Control created in
194 Section [32B-2-203](#).

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

196 (a) an auditor or inspector; and

197 (b) employed by the department.

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

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

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

205 (31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
206 title:

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

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

209 [~~(32) (a) Subject to Subsection (32)(b), "dispense" means:~~]

210 [~~(i) drawing of an alcoholic product;~~]

211 [~~(A) from an area where it is stored; or~~]

212 [~~(B) as provided in Subsection [32B-6-205](#)(12)(b)(ii), [32B-6-305](#)(12)(b)(ii);~~]

213 [32B-6-805](#)(15)(b)(ii), or [32B-6-905](#)(12)(b)(ii); and]

214 ~~[(ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of~~
215 ~~the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the~~
216 ~~retail licensee.]~~

217 ~~[(b) The definition of "dispense" in this Subsection (32) applies only to:]~~

218 ~~[(i) a full-service restaurant license;]~~

219 ~~[(ii) a limited-service restaurant license;]~~

220 ~~[(iii) a reception center license; and]~~

221 ~~[(iv) a beer-only restaurant license.]~~

222 ~~[(33)]~~ (32) "Distillery manufacturing license" means a license issued in accordance
223 with Chapter 11, Part 4, Distillery Manufacturing License.

224 ~~[(34)]~~ (33) "Distressed merchandise" means an alcoholic product in the possession of
225 the department that is saleable, but for some reason is unappealing to the public.

226 ~~[(35)]~~ (34) "Educational facility" includes:

227 (a) a nursery school;

228 (b) an infant day care center; and

229 (c) a trade and technical school.

230 ~~[(36)]~~ (35) "Equity club license" means a license issued in accordance with Chapter 5,
231 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
232 as an equity club license.

233 ~~[(37)]~~ (36) "Event permit" means:

234 (a) a single event permit; or

235 (b) a temporary beer event permit.

236 ~~[(38)]~~ (37) "Exempt license" means a license exempt under Section [32B-1-201](#) from
237 being considered in determining the total number of a retail license that the commission may
238 issue at any time.

239 ~~[(39)]~~ (38) (a) "Flavored malt beverage" means a beverage:

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

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

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

245 extract; and

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

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

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

250 ~~[(40)]~~ (39) "Fraternal club license" means a license issued in accordance with Chapter
251 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the
252 commission as a fraternal club license.

253 ~~[(41)]~~ (40) "Full-service restaurant license" means a license issued in accordance with
254 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

255 ~~[(42)]~~ (41) (a) "Furnish" means by any means to provide with, supply, or give an
256 individual an alcoholic product, by sale or otherwise.

257 (b) "Furnish" includes to:

258 (i) serve;

259 (ii) deliver; or

260 (iii) otherwise make available.

261 ~~[(43)]~~ (42) "Guest" means an individual who meets the requirements of Subsection
262 [32B-6-407\(9\)](#).

263 ~~[(44)]~~ (43) "Health care practitioner" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

284 [~~45~~] (44) (a) "Heavy beer" means a product that:

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

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

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

288 [~~46~~] (45) "Hotel" is as defined by the commission by rule.

289 [~~47~~] (46) "Identification card" means an identification card issued under Title 53,
290 Chapter 3, Part 8, Identification Card Act.

291 [~~48~~] (47) "Industry representative" means an individual who is compensated by
292 salary, commission, or other means for representing and selling an alcoholic product of a
293 manufacturer, supplier, or importer of liquor.

294 [~~49~~] (48) "Industry representative sample" means liquor that is placed in the
295 possession of the department for testing, analysis, and sampling by a local industry
296 representative on the premises of the department to educate the local industry representative of
297 the quality and characteristics of the product.

298 [~~50~~] (49) "Interdicted person" means a person to whom the sale, offer for sale, or
299 furnishing of an alcoholic product is prohibited by:

300 (a) law; or

301 (b) court order.

302 [~~51~~] (50) "Intoxicated" means that a person:

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

305 (i) an alcoholic product;

306 (ii) a controlled substance;

- 307 (iii) a substance having the property of releasing toxic vapors; or
308 (iv) a combination of Subsections [~~(51)~~] (50)(a)(i) through (iii); and
309 (b) exhibits plain and easily observed outward manifestations of behavior or physical
310 signs produced by the overconsumption of an alcoholic product.
- 311 [~~(52)~~] (51) "Investigator" means an individual who is:
312 (a) a department compliance officer; or
313 (b) a nondepartment enforcement officer.
- 314 [~~(53)~~] (52) "Invitee" [~~is as~~] means the same as that term is defined in Section
315 32B-8-102.
- 316 [~~(54)~~] (53) "License" means:
317 (a) a retail license;
318 (b) a license issued in accordance with Chapter 11, Manufacturing and Related
319 Licenses Act;
320 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
321 or
322 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.
- 323 [~~(55)~~] (54) "Licensee" means a person who holds a license.
- 324 [~~(56)~~] (55) "Limited-service restaurant license" means a license issued in accordance
325 with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- 326 [~~(57)~~] (56) "Limousine" means a motor vehicle licensed by the state or a local
327 authority, other than a bus or taxicab:
328 (a) in which the driver and a passenger are separated by a partition, glass, or other
329 barrier;
330 (b) that is provided by a business entity to one or more individuals at a fixed charge in
331 accordance with the business entity's tariff; and
332 (c) to give the one or more individuals the exclusive use of the limousine and a driver
333 to travel to one or more specified destinations.
- 334 [~~(58)~~] (57) (a) (i) "Liquor" means a liquid that:
335 (A) is:
336 (I) alcohol;
337 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

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

339 (IV) other drink or drinkable liquid; and

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

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

342 (ii) "Liquor" includes:

343 (A) heavy beer;

344 (B) wine; and

345 (C) a flavored malt beverage.

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

347 [~~59~~] (58) "Liquor Control Fund" means the enterprise fund created by Section

348 [32B-2-301](#).

349 [~~60~~] (59) "Liquor warehousing license" means a license that is issued:

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

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

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

353 [~~61~~] (60) "Local authority" means:

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

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

358 [~~62~~] (61) "Lounge or bar area" is as defined by rule made by the commission.

359 [~~63~~] (62) "Manufacture" means to distill, brew, rectify, mix, compound, process,
360 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
361 others.

362 [~~64~~] (63) "Member" means an individual who, after paying regular dues, has full
363 privileges in an equity club licensee or fraternal club licensee.

364 [~~65~~] (64) (a) "Military installation" means a base, air field, camp, post, station, yard,
365 center, or homeport facility for a ship:

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

367 (B) of the National Guard;

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

- 369 (iii) including a leased facility.
- 370 (b) "Military installation" does not include a facility used primarily for:
- 371 (i) civil works;
- 372 (ii) a rivers and harbors project; or
- 373 (iii) a flood control project.
- 374 ~~[(66)]~~ (65) "Minor" means an individual under the age of 21 years.
- 375 ~~[(67)]~~ (66) "Nondepartment enforcement agency" means an agency that:
- 376 (a) (i) is a state agency other than the department; or
- 377 (ii) is an agency of a county, city, or town; and
- 378 (b) has a responsibility to enforce one or more provisions of this title.
- 379 ~~[(68)]~~ (67) "Nondepartment enforcement officer" means an individual who is:
- 380 (a) a peace officer, examiner, or investigator; and
- 381 (b) employed by a nondepartment enforcement agency.
- 382 ~~[(69)]~~ (68) (a) "Off-premise beer retailer" means a beer retailer who is:
- 383 (i) licensed in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local
- 384 Authority; and
- 385 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 386 premises.
- 387 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 388 ~~[(70)]~~ (69) "On-premise banquet license" means a license issued in accordance with
- 389 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 390 ~~[(71)]~~ (70) "On-premise beer retailer" means a beer retailer who is:
- 391 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 392 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
- 393 Retailer License; and
- 394 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 395 premises:
- 396 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 397 premises; and
- 398 (ii) on and after March 1, 2012, operating:
- 399 (A) as a tavern; or

- 400 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 401 [~~(72)~~] [\(71\)](#) "Opaque" means impenetrable to sight.
- 402 [~~(73)~~] [\(72\)](#) "Package agency" means a retail liquor location operated:
 - 403 (a) under an agreement with the department; and
 - 404 (b) by a person:
 - 405 (i) other than the state; and
 - 406 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
 - 407 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 408 [~~(74)~~] [\(73\)](#) "Package agent" means a person who holds a package agency.
- 409 [~~(75)~~] [\(74\)](#) "Patron" means an individual to whom food, beverages, or services are sold,
- 410 offered for sale, or furnished, or who consumes an alcoholic product including:
 - 411 (a) a customer;
 - 412 (b) a member;
 - 413 (c) a guest;
 - 414 (d) an attendee of a banquet or event;
 - 415 (e) an individual who receives room service;
 - 416 (f) a resident of a resort;
 - 417 (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#);
 - 418 or
 - 419 (h) an invitee.
- 420 [~~(76)~~] [\(75\)](#) "Permittee" means a person issued a permit under:
 - 421 (a) Chapter 9, Event Permit Act; or
 - 422 (b) Chapter 10, Special Use Permit Act.
- 423 [~~(77)~~] [\(76\)](#) "Person subject to administrative action" means:
 - 424 (a) a licensee;
 - 425 (b) a permittee;
 - 426 (c) a manufacturer;
 - 427 (d) a supplier;
 - 428 (e) an importer;
 - 429 (f) one of the following holding a certificate of approval:
 - 430 (i) an out-of-state brewer;

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

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

433 (g) staff of:

434 (i) a person listed in Subsections [~~(77)~~] (76)(a) through (f); or

435 (ii) a package agent.

436 [~~(78)~~] (77) "Premises" means a building, enclosure, or room used in connection with
437 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic
438 product, unless otherwise defined in this title or rules made by the commission.

439 [~~(79)~~] (78) "Prescription" means an order issued by a health care practitioner when:

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

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

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

445 [~~(80)~~] (79) (a) "Private event" means a specific social, business, or recreational event:

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

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

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

452 [~~(81)~~] (80) (a) "Proof of age" means:

453 (i) an identification card;

454 (ii) an identification that:

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

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

458 (C) includes date of birth; and

459 (D) has a picture affixed;

460 (iii) a valid driver license certificate that:

461 (A) includes date of birth;

- 462 (B) has a picture affixed; and
- 463 (C) is issued:
- 464 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- 465 (II) in accordance with the laws of the state in which it is issued;
- 466 (iv) a military identification card that:
- 467 (A) includes date of birth; and
- 468 (B) has a picture affixed; or
- 469 (v) a valid passport.
- 470 (b) "Proof of age" does not include a driving privilege card issued in accordance with
- 471 Section [53-3-207](#).

472 ~~[(82)]~~ (81) (a) "Public building" means a building or permanent structure that is:

- 473 (i) owned or leased by:
- 474 (A) the state; or
- 475 (B) a local government entity; and
- 476 (ii) used for:
- 477 (A) public education;
- 478 (B) transacting public business; or
- 479 (C) regularly conducting government activities.

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

483 ~~[(83)]~~ (82) "Public conveyance" means a conveyance to which the public or a portion
484 of the public has access to and a right to use for transportation, including an airline, railroad,
485 bus, boat, or other public conveyance.

486 ~~[(84)]~~ (83) "Reception center" means a business that:

- 487 (a) operates facilities that are at least 5,000 square feet; and
- 488 (b) has as its primary purpose the leasing of the facilities described in Subsection ~~[(84)]~~
489 (83)(a) to a third party for the third party's event.

490 ~~[(85)]~~ (84) "Reception center license" means a license issued in accordance with
491 Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

492 ~~[(86)]~~ (85) (a) "Record" means information that is:

- 493 (i) inscribed on a tangible medium; or
494 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
495 (b) "Record" includes:
496 (i) a book;
497 (ii) a book of account;
498 (iii) a paper;
499 (iv) a contract;
500 (v) an agreement;
501 (vi) a document; or
502 (vii) a recording in any medium.
503 ~~[(87)]~~ (86) "Residence" means a person's principal place of abode within Utah.
504 ~~[(88)]~~ (87) "Resident," in relation to a resort, ~~[is as]~~ means the same as that term is
505 defined in Section [32B-8-102](#).
506 ~~[(89)]~~ (88) "Resort" ~~[is as]~~ means the same as that term is defined in Section
507 [32B-8-102](#).
508 ~~[(90)]~~ (89) "Resort facility" is as defined by the commission by rule.
509 ~~[(91)]~~ (90) "Resort license" means a license issued in accordance with Chapter 5,
510 Retail License Act, and Chapter 8, Resort License Act.
511 ~~[(92)]~~ (91) "Restaurant" means a business location:
512 (a) at which a variety of foods are prepared;
513 (b) at which complete meals are served to the general public; and
514 (c) that is engaged primarily in serving meals to the general public.
515 ~~[(93)]~~ (92) "Retail license" means one of the following licenses issued under this title:
516 (a) a full-service restaurant license;
517 (b) a master full-service restaurant license;
518 (c) a limited-service restaurant license;
519 (d) a master limited-service restaurant license;
520 (e) a club license;
521 (f) an airport lounge license;
522 (g) an on-premise banquet license;
523 (h) an on-premise beer license;

524 (i) a reception center license; or

525 (j) a beer-only restaurant license.

526 ~~[(94)]~~ (93) "Room service" means furnishing an alcoholic product to a person in a
527 guest room of a:

528 (a) hotel; or

529 (b) resort facility.

530 ~~[(95)]~~ (94) "Serve" means to place an alcoholic product before an individual.

531 ~~[(96)]~~ (95) (a) "School" means a building used primarily for the general education of
532 minors.

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

534 ~~[(97)]~~ (96) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby,
535 for consideration, an alcoholic product is either directly or indirectly transferred, solicited,
536 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether
537 done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or
538 the rules made by the commission.

539 ~~[(98)]~~ (97) "Sexually oriented entertainer" means a person who while in a state of
540 seminudity appears at or performs:

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

542 (b) on the premises of:

543 (i) a social club licensee; or

544 (ii) a tavern;

545 (c) on behalf of or at the request of the licensee described in Subsection ~~[(98)]~~ (97)(b);

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

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

548 (i) an employee;

549 (ii) an independent contractor;

550 (iii) an agent of the licensee; or

551 (iv) a different type of classification.

552 ~~[(99)]~~ (98) "Single event permit" means a permit issued in accordance with Chapter 9,
553 Part 3, Single Event Permit.

554 ~~[(100)]~~ (99) "Small brewer" means a brewer who manufactures less than 60,000 barrels

555 of beer, heavy beer, and flavored malt beverages per year.

556 [~~(101)~~] (100) "Social club license" means a license issued in accordance with Chapter
557 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the
558 commission as a social club license.

559 [~~(102)~~] (101) "Special use permit" means a permit issued in accordance with Chapter
560 10, Special Use Permit Act.

561 [~~(103)~~] (102) (a) "Spirituous liquor" means liquor that is distilled.

562 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
563 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

564 [~~(104)~~] (103) "Sports center" is as defined by the commission by rule.

565 [~~(105)~~] (104) (a) "Staff" means an individual who engages in activity governed by this
566 title:

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

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

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

573 (b) "Staff" includes:

574 (i) an officer;

575 (ii) a director;

576 (iii) an employee;

577 (iv) personnel management;

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

579 (vi) an operator; or

580 (vii) a representative.

581 [~~(106)~~] (105) "State of nudity" means:

582 (a) the appearance of:

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

584 (ii) a human genital;

585 (iii) a human pubic area; or

- 586 (iv) a human anus; or
- 587 (b) a state of dress that fails to opaquely cover:
- 588 (i) the nipple or areola of a female human breast;
- 589 (ii) a human genital;
- 590 (iii) a human pubic area; or
- 591 (iv) a human anus.

592 ~~[(107)]~~ (106) "State of seminudity" means a state of dress in which opaque clothing
 593 covers no more than:

- 594 (a) the nipple and areola of the female human breast in a shape and color other than the
 595 natural shape and color of the nipple and areola; and
- 596 (b) the human genitals, pubic area, and anus:
- 597 (i) with no less than the following at its widest point:
- 598 (A) four inches coverage width in the front of the human body; and
- 599 (B) five inches coverage width in the back of the human body; and
- 600 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

601 ~~[(108)]~~ (107) (a) "State store" means a facility for the sale of packaged liquor:

- 602 (i) located on premises owned or leased by the state; and
- 603 (ii) operated by a state employee.
- 604 (b) "State store" does not include:
- 605 (i) a package agency;
- 606 (ii) a licensee; or
- 607 (iii) a permittee.

608 ~~[(109)]~~ (108) (a) "Storage area" means an area on licensed premises where the licensee
 609 stores an alcoholic product.

610 (b) "Store" means to place or maintain in a location an alcoholic product from which a
 611 person draws to prepare an alcoholic product to be furnished to a patron~~[-except as provided in~~
 612 ~~Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or~~
 613 ~~32B-6-905(12)(b)(ii)].~~

614 ~~[(110)]~~ (109) "Sublicense" ~~[is as]~~ means the same as that term is defined in Section
 615 32B-8-102.

616 ~~[(111)]~~ (110) "Supplier" means a person who sells an alcoholic product to the

617 department.

618 ~~[(112)]~~ (111) "Tavern" means an on-premise beer retailer who is:

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

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

623 ~~[(113)]~~ (112) "Temporary beer event permit" means a permit issued in accordance with
624 Chapter 9, Part 4, Temporary Beer Event Permit.

625 ~~[(114)]~~ (113) "Temporary domicile" means the principal place of abode within Utah of
626 a person who does not have a present intention to continue residency within Utah permanently
627 or indefinitely.

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

630 ~~[(116)]~~ (114) "Unsaleable liquor merchandise" means a container that:

631 (a) is unsaleable because the container is:

632 (i) unlabeled;

633 (ii) leaky;

634 (iii) damaged;

635 (iv) difficult to open; or

636 (v) partly filled;

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

638 (ii) has contents that are:

639 (A) cloudy;

640 (B) spoiled; or

641 (C) chemically determined to be impure; or

642 (iii) contains:

643 (A) sediment; or

644 (B) a foreign substance; or

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

646 ~~[(117)]~~ (115) (a) "Wine" means an alcoholic product obtained by the fermentation of
647 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or

648 not another ingredient is added.

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

651 ~~[(118)]~~ (116) "Winery manufacturing license" means a license issued in accordance
652 with Chapter 11, Part 3, Winery Manufacturing License.

653 Section 2. Section **32B-6-202** is amended to read:

654 **32B-6-202. Definitions.**

655 ~~[As used in this part:]~~

656 ~~[(1)(a) "Grandfathered bar structure" means a bar structure in a licensed premises of a
657 full-service restaurant licensee that:]~~

658 ~~[(i) as of May 11, 2009, has:]~~

659 ~~[(A) patron seating at the bar structure;]~~

660 ~~[(B) a partition at one or more locations on the bar structure that is along:]~~

661 ~~[(F) the width of the bar structure; or]~~

662 ~~[(H) the length of the bar structure; and]~~

663 ~~[(C) facilities for the dispensing or storage of an alcoholic product:]~~

664 ~~[(I) on the portion of the bar structure that is separated by the partition described in
665 Subsection (1)(a)(i)(B); or]~~

666 ~~[(H) if the partition as described in Subsection (1)(a)(i)(B)(H) is adjacent to the bar
667 structure in a manner visible to a patron sitting at the bar structure;]~~

668 ~~[(ii) is not operational as of May 12, 2009, if:]~~

669 ~~[(A) a person applying for a full-service restaurant license:]~~

670 ~~[(F) has as of May 12, 2009, a building permit to construct the restaurant;]~~

671 ~~[(H) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
672 defined by rule made by the commission; and]~~

673 ~~[(H) is issued the full-service restaurant license by no later than December 31, 2009;~~

674 ~~and]~~

675 ~~[(B) once constructed, the licensed premises has a bar structure described in Subsection
676 (1)(a)(i);]~~

677 ~~[(iii) as of May 12, 2009, has no patron seating at the bar structure; or]~~

678 ~~[(iv) is not operational as of May 12, 2009, if:]~~

679 ~~[(A) a person applying for a full-service restaurant license;]~~
680 ~~[(F) has as of May 12, 2009, a building permit to construct the restaurant;]~~
681 ~~[(H) is as of May 12, 2009, actively engaged in the construction of the restaurant, as~~
682 ~~defined by rule made by the commission; and]~~
683 ~~[(H) is issued a full-service restaurant license by no later than December 31, 2009;~~
684 ~~and]~~
685 ~~[(B) once constructed, the licensed premises has a bar structure with no patron seating.]~~
686 ~~[(b) "Grandfathered bar structure" does not include a grandfathered bar structure~~
687 ~~described in Subsection (1)(a) on or after the day on which a restaurant remodels the~~
688 ~~grandfathered bar structure, as defined by rule made by the commission.]~~
689 ~~[(c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered~~
690 ~~bar structure notwithstanding whether a restaurant undergoes a change of ownership.]~~
691 ~~[(2) "Seating grandfathered bar structure" means:]~~
692 ~~[(a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or]~~
693 ~~[(b) a bar structure grandfathered under Section [32B-6-409](#).]~~ Reserved
694 Section 3. Section **32B-6-205** is amended to read:
695 **32B-6-205. Specific operational requirements for a full-service restaurant license.**
696 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
697 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
698 shall comply with this section.
699 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
700 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
701 (i) a full-service restaurant licensee;
702 (ii) individual staff of a full-service restaurant licensee; or
703 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
704 licensee.
705 (2) In addition to complying with Subsection [32B-5-301](#)(3), a full-service restaurant
706 licensee shall display in a prominent place in the restaurant a list of the types and brand names
707 of liquor being furnished through the full-service restaurant licensee's calibrated metered
708 dispensing system.
709 ~~[(3) In addition to complying with Section [32B-5-303](#), a full-service restaurant licensee~~

710 ~~shall store an alcoholic product in a storage area described in Subsection (12)(a).]~~

711 [~~(4)~~] (3) (a) An individual who serves an alcoholic product in a full-service restaurant
712 licensee's premises shall make a written beverage tab for each table or group that orders or
713 consumes an alcoholic product on the premises.

714 (b) A beverage tab required by this Subsection [~~(4)~~] (3) shall list the type and amount
715 of an alcoholic product ordered or consumed.

716 [~~(5)~~] (4) A person's willingness to serve an alcoholic product may not be made a
717 condition of employment as a server with a full-service restaurant licensee.

718 [~~(6)~~] (5) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish
719 liquor at the licensed premises on any day during the period that:

- 720 (i) begins at midnight; and
- 721 (ii) ends at 11:29 a.m.

722 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
723 hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
724 except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before
725 11:30 a.m. on any day.

726 [~~(7)~~] (6) A full-service restaurant licensee shall maintain at least 70% of its total
727 restaurant business from the sale of food, which does not include:

- 728 (a) mix for an alcoholic product; or
- 729 (b) a service charge.

730 [~~(8)~~] (7) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
731 alcoholic product except after the full-service restaurant licensee confirms that the patron has
732 the intent to order food prepared, sold, and furnished at the licensed premises.

733 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate
734 culinary facilities for food preparation and dining accommodations.

735 [~~(9)~~] (8) (a) Subject to the other provisions of this Subsection [~~(9)~~] (8), a patron may
736 not have more than two alcoholic products of any kind at a time before the patron.

737 (b) A patron may not have more than one spirituous liquor drink at a time before the
738 patron.

739 (c) An individual portion of wine is considered to be one alcoholic product under
740 Subsection [~~(9)~~] (8)(a).

741 ~~[(10)]~~ (9) A patron may consume an alcoholic product only:

742 (a) at:

743 (i) the patron's table;

744 (ii) a counter; or

745 (iii) a [~~seating grandfathered~~] bar structure; and

746 (b) where food is served.

747 ~~[(11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an~~

748 ~~alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar~~

749 ~~structure that is not a seating grandfathered bar structure.]~~

750 ~~[(b) At a seating grandfathered bar structure a patron who is 21 years of age or older~~

751 ~~may:]~~

752 ~~[(i) sit;]~~

753 ~~[(ii) be furnished an alcoholic product; and]~~

754 ~~[(iii) consume an alcoholic product.]~~

755 ~~[(c)]~~ (10) (a) Except as provided in Subsection ~~[(11)(d)]~~ (10)(b), at a [~~seating~~

756 ~~grandfathered~~] bar structure a full-service restaurant licensee may not permit a minor to, and a

757 minor may not:

758 (i) sit; or

759 (ii) consume food or beverages.

760 ~~[(d)]~~ (b) (i) A minor may be at a [~~seating grandfathered~~] bar structure if the minor is

761 employed by a full-service restaurant licensee:

762 (A) as provided in Subsection [32B-5-308\(2\)](#); or

763 (B) to perform maintenance and cleaning services during an hour when the full-service

764 restaurant licensee is not open for business.

765 (ii) A minor may momentarily pass by a [~~seating grandfathered~~] bar structure without

766 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's

767 premises in which the minor is permitted to be.

768 ~~[(12) Except as provided in Subsection [32B-5-307\(3\)](#), a full-service restaurant licensee~~

769 ~~may dispense an alcoholic product only if:]~~

770 ~~[(a) the alcoholic product is dispensed from:]~~

771 ~~[(i) a grandfathered bar structure;]~~

772 ~~[(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at~~
773 ~~the grandfathered bar structure if that area is used to dispense an alcoholic product as of May~~
774 ~~12, 2009; or]~~

775 ~~[(iii) an area that is:]~~

776 ~~[(A) separated from an area for the consumption of food by a patron by a solid,~~
777 ~~translucent, permanent structural barrier such that the facilities for the storage or dispensing of~~
778 ~~an alcoholic product are:]~~

779 ~~[(I) not readily visible to a patron; and]~~

780 ~~[(H) not accessible by a patron; and]~~

781 ~~[(B) apart from an area used:]~~

782 ~~[(I) for dining;]~~

783 ~~[(H) for staging; or]~~

784 ~~[(III) as a lobby or waiting area;]~~

785 ~~[(b) the full-service restaurant licensee uses an alcoholic product that is:]~~

786 ~~[(i) stored in an area described in Subsection (12)(a); or]~~

787 ~~[(ii) in an area not described in Subsection (12)(a) on the licensed premises and:]~~

788 ~~[(A) immediately before the alcoholic product is dispensed it is in an unopened~~
789 ~~container;]~~

790 ~~[(B) the unopened container is taken to an area described in Subsection (12)(a) before~~
791 ~~it is opened; and]~~

792 ~~[(C) once opened, the container is stored in an area described in Subsection (12)(a);~~
793 ~~and]~~

794 ~~[(c) any instrument or equipment used to dispense alcoholic product is located in an~~
795 ~~area described in Subsection (12)(a).]~~

796 ~~[(13)]~~ (11) A full-service restaurant licensee may state in a food or alcoholic product
797 menu a charge or fee made in connection with the sale, service, or consumption of liquor
798 including:

799 (a) a set-up charge;

800 (b) a service charge; or

801 (c) a chilling fee.

802 Section 4. Section **32B-6-302** is amended to read:

803 **32B-6-302. Definition.**804 [~~As used in this part:~~]805 [~~(1)(a) "Grandfathered bar structure" means a bar structure in a licensed premises of a~~
806 ~~limited-service restaurant licensee that:~~]807 [~~(i) as of May 11, 2009, has:~~]808 [~~(A) patron seating at the bar structure;~~]809 [~~(B) a partition at one or more locations on the bar structure that is along:~~]810 [~~(I) the width of the bar structure; or~~]811 [~~(II) the length of the bar structure; and~~]812 [~~(C) facilities for the dispensing or storage of an alcoholic product:~~]813 [~~(I) on the portion of the bar structure that is separated by the partition described in~~
814 ~~Subsection (1)(a)(i)(B); or~~]815 [~~(II) if the partition as described in Subsection (1)(a)(i)(B)(II) is adjacent to the bar~~
816 ~~structure in a manner visible to a patron sitting at the bar structure;~~]817 [~~(ii) is not operational as of May 12, 2009, if:~~]818 [~~(A) a person applying for a limited-service restaurant license:~~]819 [~~(I) has as of May 12, 2009, a building permit to construct the restaurant;~~]820 [~~(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as~~
821 ~~defined by rule made by the commission; and~~]822 [~~(III) is issued the limited-service restaurant license by no later than December 31,~~
823 ~~2009; and~~]824 [~~(B) once constructed, the licensed premises has a bar structure described in Subsection~~
825 ~~(1)(a)(i);~~]826 [~~(iii) as of May 12, 2009, has no patron seating at the bar structure; or~~]827 [~~(iv) is not operational as of May 12, 2009, if:~~]828 [~~(A) a person applying for a limited-service restaurant license:~~]829 [~~(I) has as of May 12, 2009, a building permit to construct the restaurant;~~]830 [~~(II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as~~
831 ~~defined by rule made by the commission; and~~]832 [~~(III) is issued a limited-service restaurant license by no later than December 31, 2009;~~
833 ~~and~~]

834 ~~[(B) once constructed, the licensed premises has a bar structure with no patron seating.]~~

835 ~~[(b) "Grandfathered bar structure" does not include a grandfathered bar structure~~

836 ~~described in Subsection (1)(a) on or after the day on which a restaurant remodels the~~

837 ~~grandfathered bar structure, as defined by rule made by the commission.]~~

838 ~~[(c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered~~

839 ~~bar structure notwithstanding whether a restaurant undergoes a change of ownership.]~~

840 ~~[(2) "Seating grandfathered bar structure" means:]~~

841 ~~[(a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or]~~

842 ~~[(b) a bar structure grandfathered under Section [32B-6-409](#).]~~

843 ~~[(3) "Wine"]~~

844 As used in this part, "wine" includes an alcoholic beverage defined as wine under 27

845 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made in

846 the manner of wine containing not less than 7% and not more than 24% of alcohol by volume:

847 ~~[(a)]~~ (1) sparkling and carbonated wine;

848 ~~[(b)]~~ (2) wine made from condensed grape must;

849 ~~[(c)]~~ (3) wine made from other agricultural products than the juice of sound, ripe

850 grapes;

851 ~~[(d)]~~ (4) imitation wine;

852 ~~[(e)]~~ (5) compounds sold as wine;

853 ~~[(f)]~~ (6) vermouth;

854 ~~[(g)]~~ (7) cider;

855 ~~[(h)]~~ (8) perry; and

856 ~~[(i)]~~ (9) sake.

857 Section 5. Section **32B-6-305** is amended to read:

858 **32B-6-305. Specific operational requirements for a limited-service restaurant**

859 **license.**

860 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational

861 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant

862 licensee shall comply with this section.

863 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action

864 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

865 (i) a limited-service restaurant licensee;
866 (ii) individual staff of a limited-service restaurant licensee; or
867 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
868 licensee.

869 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer
870 for sale, furnish, or allow consumption of:

871 (i) spirituous liquor; or
872 (ii) a flavored malt beverage.

873 (b) A product listed in Subsection (2)(a) may not be on the premises of a
874 limited-service restaurant licensee except for use:

875 (i) as a flavoring on a dessert; and
876 (ii) in the preparation of a flaming food dish, drink, or dessert.

877 [~~3~~] In addition to complying with Section ~~32B-5-303~~, a limited-service restaurant
878 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).]

879 [~~4~~] (3) (a) An individual who serves an alcoholic product in a limited-service
880 restaurant licensee's premises shall make a written beverage tab for each table or group that
881 orders or consumes an alcoholic product on the premises.

882 (b) A beverage tab required by this Subsection [~~4~~] (3) shall list the type and amount
883 of an alcoholic product ordered or consumed.

884 [~~5~~] (4) A person's willingness to serve an alcoholic product may not be made a
885 condition of employment as a server with a limited-service restaurant licensee.

886 [~~6~~] (5) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish
887 wine or heavy beer at the licensed premises on any day during the period that:

888 (i) begins at midnight; and
889 (ii) ends at 11:29 a.m.

890 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during
891 the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
892 except that a limited-service restaurant licensee may not sell, offer for sale, or furnish beer
893 before 11:30 a.m. on any day.

894 [~~7~~] (6) A limited-service restaurant licensee shall maintain at least 70% of its total
895 restaurant business from the sale of food, which does not include a service charge.

896 ~~[(8)]~~ (7) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish
897 an alcoholic product except after the limited-service restaurant licensee confirms that the
898 patron has the intent to order food prepared, sold, and furnished at the licensed premises.

899 (b) A limited-service restaurant licensee shall maintain on the licensed premises
900 adequate culinary facilities for food preparation and dining accommodations.

901 ~~[(9)]~~ (8) (a) Subject to the other provisions of this Subsection ~~[(9)]~~ (8), a patron may
902 not have more than two alcoholic products of any kind at a time before the patron.

903 (b) An individual portion of wine is considered to be one alcoholic product under
904 Subsection ~~[(9)]~~ (8)(a).

905 ~~[(10)]~~ (9) A patron may consume an alcoholic product only:

906 (a) at:

907 (i) the patron's table;

908 (ii) a counter; or

909 (iii) a ~~[seating grandfathered]~~ bar structure; and

910 (b) where food is served.

911 ~~[(11)]~~ (a) ~~A limited-service restaurant licensee may not sell, offer for sale, or furnish an~~
912 ~~alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar~~
913 ~~structure that is not a seating grandfathered bar structure.]~~

914 ~~[(b) At a seating grandfathered bar structure a patron who is 21 years of age or older~~
915 ~~may:]~~

916 ~~[(i) sit;]~~

917 ~~[(ii) be furnished an alcoholic product; and]~~

918 ~~[(iii) consume an alcoholic product.]~~

919 ~~[(c)]~~ (10) (a) Except as provided in Subsection ~~[(11)]~~ (10)(b), at a ~~[seating~~
920 ~~grandfathered]~~ bar structure a limited-service restaurant licensee may not permit a minor to,
921 and a minor may not:

922 (i) sit; or

923 (ii) consume food or beverages.

924 ~~[(d)]~~ (b) (i) A minor may be at a ~~[seating grandfathered]~~ bar structure if the minor is
925 employed by a limited-service restaurant licensee:

926 (A) as provided in Subsection [32B-5-308\(2\)](#); or

927 (B) to perform maintenance and cleaning services during an hour when the
928 limited-service restaurant licensee is not open for business.

929 (ii) A minor may momentarily pass by a [~~seating grandfathered~~] bar structure without
930 remaining or sitting at the bar structure en route to an area of a limited-service restaurant
931 licensee's premises in which the minor is permitted to be.

932 [~~(12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant~~
933 licensee may dispense an alcoholic product only if:]

934 [~~(a) the alcoholic product is dispensed from:]~~

935 [~~(i) a grandfathered bar structure;~~]

936 [~~(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at~~
937 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
938 12, 2009; or]

939 [~~(iii) an area that is:]~~

940 [~~(A) separated from an area for the consumption of food by a patron by a solid,~~
941 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
942 an alcoholic product are:]

943 [~~(I) not readily visible to a patron; and]~~

944 [~~(II) not accessible by a patron; and]~~

945 [~~(B) apart from an area used:]~~

946 [~~(I) for dining;~~]

947 [~~(II) for staging; or]~~

948 [~~(III) as a lobby or waiting area;~~]

949 [~~(b) the limited-service restaurant licensee uses an alcoholic product that is:]~~

950 [~~(i) stored in an area described in Subsection (12)(a); or]~~

951 [~~(ii) in an area not described in Subsection (12)(a) on the licensed premises and:]~~

952 [~~(A) immediately before the alcoholic product is dispensed it is in an unopened~~
953 container;]

954 [~~(B) the unopened container is taken to an area described in Subsection (12)(a) before~~
955 it is opened; and]

956 [~~(C) once opened, the container is stored in an area described in Subsection (12)(a);~~
957 and]

958 ~~[(c) any instrument or equipment used to dispense alcoholic product is located in an~~
959 ~~area described in Subsection (12)(a).]~~

960 ~~[(13)]~~ (11) A limited-service restaurant licensee may state in a food or alcoholic
961 product menu a charge or fee made in connection with the sale, service, or consumption of
962 wine or heavy beer including:

- 963 (a) a set-up charge;
- 964 (b) a service charge; or
- 965 (c) a chilling fee.

966 Section 6. Section **32B-6-409** is amended to read:

967 **32B-6-409. Conversion from dining club license to different type of retail license.**

968 (1) In accordance with this section, a dining club licensee may convert its dining club
969 license to a different type of retail license, including a different type of club license during the
970 time period:

- 971 (a) beginning on July 1, 2011; and
- 972 (b) ending on June 30, 2013.

973 (2) A dining club licensee may convert its dining license only to a retail license for
974 which the dining club licensee qualifies.

975 (3) The commission shall provide a procedure for a dining club to convert to a different
976 type of retail license as provided in this section by rule made in accordance with Title 63G,
977 Chapter 3, Utah Administrative Rulemaking Act.

978 (4) After a dining club license is converted to another type of retail license, the retail
979 licensee shall operate under the provisions relevant to the type of retail license held by the retail
980 licensee, except that, in accordance with Section **32B-1-201**, the retail license is not considered
981 in determining the total number of licenses available for that type of retail license.

982 ~~[(5) If a dining club license is converted to full-service restaurant license,~~
983 ~~limited-service restaurant license, or beer-only restaurant license, the bar structure of the dining~~
984 ~~club is considered:]~~

985 ~~[(a) a seating grandfathered bar structure for purposes of a full-service restaurant~~
986 ~~license or a limited-service restaurant license; or]~~

987 ~~[(b) a grandfathered bar structure for purposes of a beer-only restaurant license.]~~

988 Section 7. Section **32B-6-703** is amended to read:

989 **32B-6-703. Commission's power to issue on-premise beer retailer license.**

990 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
991 beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise
992 beer retailer license from the commission in accordance with this part.

993 (2) (a) The commission may issue an on-premise beer retailer license to establish
994 on-premise beer retailer licensed premises at places and in numbers as the commission
995 considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on
996 premises operated as an on-premise beer retailer.

997 (b) At the time that the commission issues an on-premise beer retailer license, the
998 commission shall designate whether the on-premise beer retailer is a tavern.

999 (c) The commission may change its designation of whether an on-premise beer retailer
1000 is a tavern in accordance with rules made by the commission.

1001 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission
1002 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of
1003 beer for consumption on the establishment's premises.

1004 (ii) In making a determination under this Subsection (2)(d), the commission shall
1005 consider:

1006 (A) whether the on-premise beer retailer will operate as one of the following:

1007 (I) a beer bar;

1008 (II) a parlor;

1009 (III) a lounge;

1010 (IV) a cabaret; or

1011 (V) a nightclub;

1012 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):

1013 (I) whether the on-premise beer retailer will sell food in the establishment; and

1014 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
1015 will exceed the revenue of the sale of food;

1016 (C) whether full meals including appetizers, main courses, and desserts will be served;

1017 (D) the square footage and seating capacity of the premises;

1018 (E) what portion of the square footage and seating capacity will be used for a dining
1019 area in comparison to the portion that will be used as a lounge or bar area;

1020 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
1021 full meals, except a person that is located on the premises of a hotel or resort facility may use
1022 the culinary facilities of the hotel or resort facility;

1023 (G) whether the entertainment provided on the premises of the beer retailer will be
1024 suitable for minors; and

1025 (H) the beer retailer management's ability to manage and operate an on-premise beer
1026 retailer license including:

1027 (I) management experience;

1028 (II) past beer retailer management experience; and

1029 (III) the type of management scheme that will be used by the beer retailer.

1030 (e) On or after March 1, 2012:

1031 (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:

1032 (A) maintain at least 70% of the person's total gross revenues from business directly
1033 related to a recreational amenity on or directly adjoining the licensed premises of the beer
1034 retailer; or

1035 (B) have a recreational amenity on or directly adjoining the licensed premises of the
1036 beer retailer and maintain at least 70% of the person's total gross revenues from the sale of
1037 food.

1038 (ii) The commission may not license a person as an on-premise beer retailer if the
1039 person does not:

1040 (A) meet the requirements of Subsection (2)(e)(i); or

1041 (B) operate as a tavern.

1042 (iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July
1043 1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1,
1044 2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an
1045 on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).

1046 (B) If an on-premise beer retailer fails to notify the department as required by
1047 Subsection (2)(e)(iii)(A), the on-premise beer retailer's license expires as of February 29, 2012,
1048 and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer
1049 retailer is required to apply as a new licensee~~], and any bar or bar structure on the premises of~~
1050 ~~an on-premise beer retailer license that is not a tavern and does not meet the requirements of~~

1051 Subsection (2)(e)(i) will not be grandfathered under Subsection ~~32B-6-902(1)~~].

1052 ~~[(iv) A person who, after August 1, 2011, applies for an on-premise beer retailer~~
1053 ~~license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not~~
1054 ~~have or construct facilities for the dispensing or storage of an alcoholic product that do not~~
1055 ~~meet the requirements of Subsection ~~32B-6-905(12)(a)(ii)~~.]~~

1056 (3) Subject to Section ~~32B-1-201~~:

1057 (a) The commission may not issue a total number of on-premise beer retailer licenses
1058 that are taverns that at any time exceeds the number determined by dividing the population of
1059 the state by 54,147.

1060 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
1061 in accordance with Section ~~32B-5-206~~.

1062 (4) (a) Unless otherwise provided in Subsection (4)(b):

1063 (i) only one on-premise beer retailer license is required for each building or resort
1064 facility owned or leased by the same person; and

1065 (ii) a separate license is not required for each retail beer dispensing location in the
1066 same building or on the same resort premises owned or operated by the same person.

1067 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
1068 building or resort facility operates in the same manner.

1069 (ii) If each retail beer dispensing location does not operate in the same manner:

1070 (A) one on-premise beer retailer license designated as a tavern is required for the
1071 locations in the same building or on the same resort premises that operate as a tavern; and

1072 (B) one on-premise beer retailer license is required for the locations in the same
1073 building or on the same resort premises that do not operate as a tavern.

1074 Section 8. Section ~~32B-6-805~~ is amended to read:

1075 **32B-6-805. Specific operational requirements for a reception center license.**

1076 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1077 Requirements, a reception center licensee and staff of the reception center licensee shall
1078 comply with this section.

1079 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1080 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1081 (i) a reception center licensee;

1082 (ii) individual staff of a reception center licensee; or
1083 (iii) both a reception center licensee and staff of the reception center licensee.
1084 [~~2~~] In addition to complying with Section ~~32B-5-303~~, a reception center licensee shall
1085 store an alcoholic product in a storage area described in Subsection (15)(a).]
1086 [~~3~~] (2) (a) For the purpose described in Subsection [~~3~~] (2)(b), a reception center
1087 licensee shall provide the following with advance notice of a scheduled event in accordance
1088 with rules made by the commission:
1089 (i) the department; and
1090 (ii) the local law enforcement agency responsible for the enforcement of this title in the
1091 jurisdiction where the reception center is located.
1092 (b) Any of the following may conduct a random inspection of an event:
1093 (i) an authorized representative of the commission or the department; or
1094 (ii) a law enforcement officer.
1095 [~~4~~] (3) (a) Except as otherwise provided in this title, a reception center licensee may
1096 sell, offer for sale, or furnish an alcoholic product at an event only for consumption at the
1097 reception center's licensed premises.
1098 (b) A host of an event, a patron, or a person other than the reception center licensee or
1099 staff of the reception center licensee, may not remove an alcoholic product from the reception
1100 center's licensed premises.
1101 (c) Notwithstanding Section ~~32B-5-307~~, a patron at an event may not bring an
1102 alcoholic product into or onto, or remove an alcoholic product from, the reception center.
1103 [~~5~~] (4) (a) A reception center licensee may not leave an unsold alcoholic product at an
1104 event following the conclusion of the event.
1105 (b) At the conclusion of an event, a reception center licensee shall:
1106 (i) destroy an opened and unused alcoholic product that is not saleable, under
1107 conditions established by the department; and
1108 (ii) return to the reception center licensee's approved locked storage area any:
1109 (A) opened and unused alcoholic product that is saleable; and
1110 (B) unopened container of an alcoholic product.
1111 (c) Except as provided in Subsection [~~5~~] (4)(b) with regard to an open or sealed
1112 container of an alcoholic product not sold or consumed at an event, a reception center

1113 licensee~~[(i) shall store the alcoholic product in accordance with Subsection (2); and (ii)]~~ may
1114 use the alcoholic product at more than one event.

1115 ~~[(6)]~~ (5) Notwithstanding Section 32B-5-308, a reception center licensee may not
1116 employ a minor in connection with an event at the reception center at which food is not made
1117 available.

1118 ~~[(7)]~~ (6) A person's willingness to serve an alcoholic product may not be made a
1119 condition of employment as a server with a reception center licensee.

1120 ~~[(8)]~~ (7) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
1121 product at the licensed premises on any day during the period that:

1122 (a) begins at 1 a.m.; and

1123 (b) ends at 9:59 a.m.

1124 ~~[(9)]~~ (8) (a) A reception center licensee may not maintain in excess of 30% of its total
1125 annual receipts from the sale of an alcoholic product, which includes:

1126 (i) mix for an alcoholic product; or

1127 (ii) a charge in connection with the furnishing of an alcoholic product.

1128 (b) A reception center licensee shall report the information necessary to show
1129 compliance with this Subsection ~~[(9)]~~ (8) to the department on an annual basis.

1130 ~~[(10)]~~ (9) A reception center licensee may not sell, offer for sale, or furnish an
1131 alcoholic product at an event at which a minor is present unless the reception center licensee
1132 makes food available at all times when an alcoholic product is sold, offered for sale, furnished,
1133 or consumed during the event.

1134 ~~[(11)]~~ (10) (a) Subject to the other provisions of this Subsection ~~[(11)]~~ (10), a patron
1135 may not have more than two alcoholic products of any kind at a time before the patron.

1136 (b) An individual portion of wine is considered to be one alcoholic product under
1137 Subsection ~~[(11)]~~ (10)(a).

1138 ~~[(12)]~~ (11) (a) A reception center licensee shall supervise and direct a person involved
1139 in the sale, offer for sale, or furnishing of an alcoholic product.

1140 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
1141 shall complete an alcohol training and education seminar.

1142 ~~[(13)]~~ (12) A staff person of a reception center licensee shall remain at an event at all
1143 times when an alcoholic product is sold, offered for sale, furnished, or consumed at the event.

1144 ~~[(14)]~~ (13) A reception center licensee may not sell, offer for sale, or furnish an
1145 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
1146 structure.

1147 ~~[(15) Except as provided in Subsection (16), a reception center licensee may dispense~~
1148 ~~an alcoholic product only if:]~~

1149 ~~[(a) the alcoholic product is dispensed from an area that is:]~~

1150 ~~[(i) separated from an area for the consumption of food by a patron by a solid,~~
1151 ~~translucent, permanent structural barrier such that the facilities for the storage or dispensing of~~
1152 ~~an alcoholic product are:]~~

1153 ~~[(A) not readily visible to a patron; and]~~

1154 ~~[(B) not accessible by a patron; and]~~

1155 ~~[(ii) apart from an area used:]~~

1156 ~~[(A) for staging; or]~~

1157 ~~[(B) as a lobby or waiting area;]~~

1158 ~~[(b) the reception center licensee uses an alcoholic product that is:]~~

1159 ~~[(i) stored in an area described in Subsection (15)(a); or]~~

1160 ~~[(ii) in an area not described in Subsection (15)(a) on the licensed premises and:]~~

1161 ~~[(A) immediately before the alcoholic product is dispensed it is in an unopened~~
1162 ~~container;]~~

1163 ~~[(B) the unopened container is taken to an area described in Subsection (15)(a) before~~
1164 ~~it is opened; and]~~

1165 ~~[(C) once opened, the container is stored in an area described in Subsection (15)(a);~~
1166 ~~and]~~

1167 ~~[(c) any instrument or equipment used to dispense an alcoholic product is located in an~~
1168 ~~area described in Subsection (15)(a).]~~

1169 ~~[(16)]~~ (14) A reception center licensee may dispense an alcoholic product from a
1170 mobile serving area that:

1171 (a) is moved only by staff of the reception center licensee;

1172 (b) is capable of being moved by only one individual; and

1173 (c) is no larger than 6 feet long and 30 inches wide.

1174 ~~[(17)]~~ (15) (a) A reception center licensee may not have an event on the licensed

1175 premises except pursuant to a contract between a third party host of the event and the reception
 1176 center licensee under which the reception center licensee provides an alcoholic product sold,
 1177 offered for sale, or furnished at an event.

1178 (b) At an event, a reception center licensee may furnish an alcoholic product:

1179 (i) without charge to a patron, except that the third party host of the event shall pay for
 1180 an alcoholic product furnished at the event; or

1181 (ii) with a charge to a patron at the event.

1182 (c) The commission may by rule define what constitutes a "third-party host" for
 1183 purposes of this Subsection [(+7)] (15) so that a reception center licensee and the third-party
 1184 host are not owned by or operated by the same persons, except that the rule shall permit a
 1185 reception center licensee to host an event for an immediate family member of the reception
 1186 center licensee.

1187 [(+8)] (16) A reception center licensee shall have culinary facilities that are:

1188 (a) adequate to prepare a full meal; and

1189 (b) (i) located on the licensed premises; or

1190 (ii) under the same control as the reception center licensee.

1191 [(+9)] (17) (a) Except as provided in Subsection [(+9)] (17)(b), a reception center
 1192 licensee may not operate an event:

1193 (i) that is open to the general public; and

1194 (ii) at which an alcoholic product is sold or offered for sale.

1195 (b) A reception center licensee may operate an event described in Subsection [(+9)]
 1196 (17)(a) if the event is hosted:

1197 (i) at the reception center no more frequently than once a calendar year; and

1198 (ii) by a nonprofit organization that is organized and qualified under Section 501(c),
 1199 Internal Revenue Code.

1200 Section 9. Section **32B-6-902** is amended to read:

1201 **32B-6-902. Definitions.**

1202 [(1) (a) As used in this part, "grandfathered bar structure" means a bar structure in a
 1203 licensed premises of a beer-only restaurant licensee that:]

1204 [(i) was licensed as an on-premise beer retailer as of August 1, 2011, and as of August
 1205 1, 2011:]

1206 ~~[(A) is operational;]~~
 1207 ~~[(B) has facilities for the dispensing or storage of an alcoholic product that do not meet~~
 1208 ~~the requirements of Subsection 32B-6-905(12)(a)(ii); and]~~
 1209 ~~[(C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that~~
 1210 ~~effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a~~
 1211 ~~beer-only restaurant; or]~~
 1212 ~~[(ii) is a bar structure grandfathered under Section 32B-6-409.]~~
 1213 ~~[(b) "Grandfathered bar structure" does not include a grandfathered bar structure~~
 1214 ~~described in Subsection (1)(a) on or after the day on which a restaurant remodels the~~
 1215 ~~grandfathered bar structure, as defined by rule made by the commission.]~~
 1216 ~~[(2) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered~~
 1217 ~~bar structure notwithstanding whether a restaurant undergoes a change of ownership.]~~

1218 Reserved.

1219 Section 10. Section **32B-6-905** is amended to read:

1220 **32B-6-905. Specific operational requirements for a beer-only restaurant license.**

1221 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
 1222 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
 1223 shall comply with this section.

1224 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
 1225 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 1226 (i) a beer-only restaurant licensee;
- 1227 (ii) individual staff of a beer-only restaurant licensee; or
- 1228 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

1229 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
 1230 sale, furnish, or allow consumption of liquor.

1231 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

- 1232 (i) as a flavoring on a dessert; and
- 1233 (ii) in the preparation of a flaming food dish, drink, or dessert.

1234 ~~[(3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee~~
 1235 ~~shall store beer in a storage area described in Subsection (12)(a).]~~

1236 ~~[(4)]~~ (3) (a) An individual who serves beer in a beer-only restaurant licensee's premises

1237 shall make a written beverage tab for each table or group that orders or consumes an alcoholic
1238 product on the premises.

1239 (b) A beverage tab required by this Subsection ~~[(4)]~~ (3) shall list the type and amount
1240 of beer ordered or consumed.

1241 ~~[(5)]~~ (4) A person's willingness to serve beer may not be made a condition of
1242 employment as a server with a beer-only restaurant licensee.

1243 ~~[(6)]~~ (5) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during
1244 the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
1245 except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before
1246 11:30 a.m. on any day.

1247 ~~[(7)]~~ (6) A beer-only restaurant licensee shall maintain at least 70% of its total
1248 restaurant business from the sale of food, which does not include a service charge.

1249 ~~[(8)]~~ (7) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except
1250 after the beer-only restaurant licensee confirms that the patron has the intent to order food
1251 prepared, sold, and furnished at the licensed premises.

1252 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary
1253 facilities for food preparation and dining accommodations.

1254 ~~[(9)]~~ (8) A patron may not have more than two beers at a time before the patron.

1255 ~~[(10)]~~ (9) A patron may consume a beer only:

1256 (a) at:

1257 (i) the patron's table;

1258 (ii) a ~~[grandfathered]~~ bar structure; or

1259 (iii) a counter; and

1260 (b) where food is served.

1261 ~~[(11)(a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to
1262 a patron, and a patron may not consume an alcoholic product at a bar structure.]~~

1263 ~~[(b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who
1264 is 21 years of age or older may:]~~

1265 ~~[(i) sit;]~~

1266 ~~[(ii) be furnished a beer; and]~~

1267 ~~[(iii) consume a beer.]~~

1268 ~~[(e)]~~ (10)(a) Except as provided in Subsection ~~[(11)(d)]~~ (10)(b), at a ~~[grandfathered]~~
 1269 bar structure, a beer-only restaurant licensee may not permit a minor to, and a minor may not:

1270 (i) sit; or

1271 (ii) consume food or beverages.

1272 ~~[(d)]~~ (b) (i) A minor may be at a ~~[grandfathered]~~ bar structure if the minor is employed
 1273 by a beer-only restaurant licensee:

1274 (A) as provided in Subsection ~~32B-5-308~~(2); or

1275 (B) to perform maintenance and cleaning services during an hour when the beer-only
 1276 restaurant licensee is not open for business.

1277 (ii) A minor may momentarily pass by a ~~[grandfathered]~~ bar structure without
 1278 remaining or sitting at the bar structure en route to an area of a beer-only restaurant licensee's
 1279 premises in which the minor is permitted to be.

1280 ~~[(12) A beer-only restaurant licensee may dispense a beer only if:]~~

1281 ~~[(a) the beer is dispensed from an area that is:]~~

1282 ~~[(i) a grandfathered bar structure; or]~~

1283 ~~[(ii) separated from an area for the consumption of food by a patron by a solid,~~
 1284 ~~translucent, permanent structural barrier such that the facilities for the storage or dispensing of~~
 1285 ~~an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart~~
 1286 ~~from an area used for dining, for staging, or as a lobby or waiting area;]~~

1287 ~~[(b) the beer-only restaurant licensee uses a beer that is:]~~

1288 ~~[(i) stored in an area described in Subsection (12)(a); or]~~

1289 ~~[(ii) in an area not described in Subsection (12)(a) on the licensed premises and:]~~

1290 ~~[(A) immediately before the beer is dispensed it is in an unopened container;]~~

1291 ~~[(B) the unopened container is taken to an area described in Subsection (12)(a) before~~
 1292 ~~it is opened; and]~~

1293 ~~[(C) once opened, the container is stored in an area described in Subsection (12)(a);~~

1294 ~~and]~~

1295 ~~[(c) any instrument or equipment used to dispense the beer is located in an area~~
 1296 ~~described in Subsection (12)(a).]~~

1297 Section 11. Section **32B-8-402** is amended to read:

1298 **32B-8-402. Specific operational requirements for a sublicense.**

1299 (1) A person operating under a sublicense is subject to the operational requirements
1300 under the provisions applicable to the sublicense except that~~[-(a)]~~, notwithstanding a
1301 requirement in the provisions applicable to the sublicense, a person operating under the
1302 sublicense is not subject to a requirement that a certain percentage of the gross receipts for the
1303 sublicense be from the sale of food, except to the extent that the gross receipts for the
1304 sublicense are included in calculating the percentages under Subsection 32B-8-401(4)~~[-and]~~.

1305 ~~[(b) notwithstanding Section 32B-6-202 or 32B-6-302, a bar structure in a licensed~~
1306 ~~premises operated under a full-service restaurant sublicense or limited-service restaurant~~
1307 ~~sublicense is considered a grandfathered bar structure if the resort license that includes the~~
1308 ~~full-service restaurant sublicense or limited-service restaurant sublicense is issued by no later~~
1309 ~~than December 31, 2010.]~~

1310 (2) Subject to Section 32B-8-502, for purposes of interpreting an operational
1311 requirement imposed by the provisions applicable to a sublicense:

1312 (a) a requirement imposed on a person operating under a sublicense applies to the
1313 resort licensee; and

1314 (b) a requirement imposed on staff of a person operating under a sublicense applies to
1315 staff of the resort licensee.

1316 Section 12. **Repealer.**

1317 This bill repeals:

1318 Section 32B-6-205.1, **Credit for grandfathered bar structures of full-service**
1319 **restaurant licensee.**

1320 Section 32B-6-305.1, **Credit for grandfathered bar structures for limited-service**
1321 **restaurant licensee.**

Legislative Review Note
Office of Legislative Research and General Counsel