

1 **ALCOHOL AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brad R. Wilson**

5 Senate Sponsor: Jerry W. Stevenson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to the regulation of alcoholic beverages.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ modifies the name of certain retail licenses;
- 14 ▶ provides that a local authority may issue a business license to a retail licensee only
15 if the licensee is lawfully present in the United States;
- 16 ▶ provides that a licensee or permittee may only engage in behavior expressly allowed
17 by Title 32B, Alcoholic Beverage Control Act, or local ordinance;
- 18 ▶ requires the Department of Alcoholic Beverage Control and the Alcoholic Beverage
19 Control Commission to implement and enforce the provisions of Title 32B,
20 Alcoholic Beverage Control Act, in accordance with its express language and stated
21 policy purpose;
- 22 ▶ reduces the permissible proximity of a restaurant licensee to a community location;
- 23 ▶ removes the commission's authority to grant a variance to the proximity
24 requirements;
- 25 ▶ modifies the calculation of the money from the sale of a bottle or individual portion
26 of wine by a retail licensee or sublicensee in determining the percentage of gross
27 receipts from the sale of food or an alcoholic product;
- 28 ▶ requires electronic age verification of certain individuals who procure an alcoholic
29 product in a dispensing area in a restaurant;

- 30 ▶ modifies the application requirements for approval of the label and packaging of a
31 malted beverage;
- 32 ▶ modifies the labeling and packaging requirements for certain malted beverages;
- 33 ▶ reduces and modifies the membership of the Alcoholic Beverage Control Advisory
34 Board;
- 35 ▶ provides that every three years the Legislature's general counsel shall:
- 36 • conduct a review of each rule made by the commission for compliance with
37 current statute; and
- 38 • prepare and submit a report to the president of the Senate and the speaker of the
39 House of Representatives;
- 40 ▶ upon prioritization by the Audit Subcommittee, provides that the Office of the
41 Legislative Auditor General may:
- 42 • review a current practice of the commission or department for compliance with
43 current statute; and
- 44 • prepare and submit a report to the Audit Subcommittee;
- 45 ▶ increases the markup on alcoholic beverages;
- 46 ▶ requires a presiding officer to consider any aggravating circumstances or mitigating
47 circumstances when imposing a fine;
- 48 ▶ provides that each retail licensee shall submit a responsible alcohol service plan to
49 the department upon application for or renewal of a retail license;
- 50 ▶ prohibits more than one type of retail license for the same room, unless the licenses
51 are a combination of two or more of the following:
- 52 • a restaurant license;
- 53 • an on-premise beer retailer license that is not a tavern; and
- 54 • an on-premise banquet license or reception center license;
- 55 ▶ states that a retail licensee may provide wine service for a bottled wine carried onto
56 the licensed premises or purchased at the licensed premises;
- 57 ▶ requires the department to develop the following training programs:

- 58 • a training program for retail managers;
- 59 • a training program for off-premise retail managers; and
- 60 • a training program for an individual who commits a violation related to service
- 61 to an intoxicated individual or a minor;
- 62 ▶ enacts a process for the Department of Public Safety to track violations of each
- 63 retail licensee involving the sale of an alcoholic product to a minor;
- 64 ▶ establishes a flat renewal fee for a full-service restaurant licensee;
- 65 ▶ provides that beginning on July 1, 2017, and no later than July 1, 2018, a restaurant
- 66 licensee that does not have a grandfathered bar structure shall designate a
- 67 dispensing area within which:
 - 68 • the restaurant licensee may store and dispense alcoholic product at a dispensing
 - 69 structure;
 - 70 • an individual 21 years of age or older may consume food and beverages; and
 - 71 • except under certain circumstances, a minor may not be present;
 - 72 ▶ removes grandfathered bar structures beginning on July 1, 2022;
 - 73 ▶ extends the hours during which a restaurant licensee may sell, offer for sale, or
 - 74 furnish an alcoholic product on a weekend or a state or federal legal holiday;
 - 75 ▶ provides that a restaurant licensee may sell, offer for sale, or furnish an alcoholic
 - 76 product to a patron only if:
 - 77 • the patron is seated in a dispensing area and furnished no more than one portion
 - 78 or an alcoholic product while waiting for a seat in the dining area where the
 - 79 patron intends to order and consume food; or
 - 80 • the patron is seated at a table, counter, or dispensing structure, and the patron
 - 81 intends to order and consume food in the same location where the patron is
 - 82 seated;
 - 83 ▶ provides that a restaurant licensee may not transfer, dispense, or serve an alcoholic
 - 84 product from a movable cart;
 - 85 ▶ addresses the retention of certain records for restaurant licensees;

- 86 ▶ requires a restaurant licensee or a bar licensee to display a sign that states whether
87 the licensee is a restaurant or a bar;
- 88 ▶ prohibits the commission from issuing or renewing a dining club license on or after
89 July 1, 2017;
- 90 ▶ provides that effective July 1, 2018, each dining club licensee converts to a
91 full-service restaurant licensee or a bar licensee;
- 92 ▶ provides a phased transition for a dining club licensee that converts to a full-service
93 restaurant licensee;
- 94 ▶ beginning July 1, 2018, establishes an off-premise beer retailer state license,
95 including an application process, fees, and renewal procedures;
- 96 ▶ provides that an off-premise beer retailer shall display beer in no more than two
97 locations that are separate from any nonalcoholic beverage;
- 98 ▶ addresses notification to the department if an off-premise beer retailer changes
99 ownership;
- 100 ▶ modifies and repeals certain provisions related to local authority enforcement of
101 off-premise beer retailers to correspond with the state enforcement mechanisms
102 available under the off-premise beer retailer state license;
- 103 ▶ creates the Underage Drinking Prevention Program that consists of a school-based
104 prevention presentation for students in grade 8 and grade 10;
- 105 ▶ requires each local education agency to offer the Underage Drinking Prevention
106 Program each school year to each student in grade 8 and grade 10;
- 107 ▶ creates the Underage Drinking Prevention Program Advisory Council to provide
108 input to the State Board of Education in administering the Underage Drinking
109 Prevention Program;
- 110 ▶ provides that the State Board of Education shall qualify one or more providers to
111 provide the Underage Drinking Prevention Program;
- 112 ▶ creates the Underage Drinking Prevention Program Restricted Account, funded by:
113 • money from the markup on alcoholic beverages;

- 114 • appropriations made by the Legislature; and
- 115 • interest earned on money in the account;
- 116 ▶ provides that the State Board of Education may use money in the Underage
- 117 Drinking Prevention Program Restricted Account for the Underage Drinking
- 118 Prevention Program; and
- 119 ▶ makes technical and conforming changes.

120 Money Appropriated in this Bill:

121 None

122 Other Special Clauses:

123 This bill provides a special effective date.

124 Utah Code Sections Affected:

125 AMENDS:

- 126 **11-10-1**, as last amended by Laws of Utah 2010, Chapter 276
- 127 **11-10-2**, as last amended by Laws of Utah 1990, Chapter 23
- 128 **26-38-2**, as last amended by Laws of Utah 2012, Chapter 171
- 129 **32B-1-102**, as last amended by Laws of Utah 2016, Chapters 80, 176, and 348
- 130 **32B-1-104**, as enacted by Laws of Utah 2010, Chapter 276
- 131 **32B-1-201**, as last amended by Laws of Utah 2013, Chapter 349
- 132 **32B-1-202**, as last amended by Laws of Utah 2016, Chapter 176
- 133 **32B-1-207**, as enacted by Laws of Utah 2011, Chapter 334
- 134 **32B-1-305**, as last amended by Laws of Utah 2015, Chapter 351
- 135 **32B-1-407**, as last amended by Laws of Utah 2011, Chapters 297 and 334
- 136 **32B-1-505**, as last amended by Laws of Utah 2011, Chapter 297
- 137 **32B-1-604**, as enacted by Laws of Utah 2010, Chapter 276
- 138 **32B-1-605**, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 139 **32B-1-606**, as enacted by Laws of Utah 2010, Chapter 276
- 140 **32B-2-202**, as last amended by Laws of Utah 2016, Chapter 80
- 141 **32B-2-210**, as last amended by Laws of Utah 2016, Chapter 158

- 142 **32B-2-304**, as last amended by Laws of Utah 2012, Chapter 357
143 **32B-3-102**, as enacted by Laws of Utah 2010, Chapter 276
144 **32B-3-205**, as enacted by Laws of Utah 2010, Chapter 276
145 **32B-4-410**, as last amended by Laws of Utah 2015, Chapter 165
146 **32B-4-415**, as last amended by Laws of Utah 2016, Chapters 80, 245, and 348
147 **32B-4-501**, as last amended by Laws of Utah 2016, Chapter 80
148 **32B-5-201**, as enacted by Laws of Utah 2010, Chapter 276
149 **32B-5-202**, as enacted by Laws of Utah 2010, Chapter 276
150 **32B-5-307**, as last amended by Laws of Utah 2016, Chapter 82
151 **32B-5-402**, as enacted by Laws of Utah 2010, Chapter 276
152 **32B-5-403**, as last amended by Laws of Utah 2016, Chapter 176
153 **32B-5-404**, as enacted by Laws of Utah 2010, Chapter 276
154 **32B-6-202**, as last amended by Laws of Utah 2011, Chapter 334
155 **32B-6-204**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1
156 **32B-6-205**, as last amended by Laws of Utah 2013, Chapter 353
157 **32B-6-302**, as last amended by Laws of Utah 2011, Chapter 334
158 **32B-6-305**, as last amended by Laws of Utah 2013, Chapter 353
159 **32B-6-401**, as enacted by Laws of Utah 2010, Chapter 276
160 **32B-6-403**, as last amended by Laws of Utah 2016, Chapter 80
161 **32B-6-404**, as last amended by Laws of Utah 2016, Chapter 348
162 **32B-6-405**, as last amended by Laws of Utah 2011, Chapters 307 and 334
163 **32B-6-406**, as last amended by Laws of Utah 2011, Chapter 334
164 **32B-6-406.1**, as enacted by Laws of Utah 2010, Chapter 276
165 **32B-6-407**, as last amended by Laws of Utah 2013, Chapter 349
166 **32B-6-408**, as enacted by Laws of Utah 2010, Chapter 276
167 **32B-6-703**, as last amended by Laws of Utah 2016, Chapter 82
168 **32B-6-706**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
169 **32B-6-902**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

- 170 **32B-6-905**, as last amended by Laws of Utah 2013, Chapter 353
- 171 **32B-7-202**, as last amended by Laws of Utah 2011, Chapter 307
- 172 **32B-7-305**, as enacted by Laws of Utah 2010, Chapter 276 and last amended by
- 173 Coordination Clause, Laws of Utah 2010, Chapter 276
- 174 **32B-8-102**, as last amended by Laws of Utah 2015, Chapter 258
- 175 **32B-8-304**, as last amended by Laws of Utah 2011, Chapters 297 and 334
- 176 **32B-8a-302**, as last amended by Laws of Utah 2016, Chapter 82
- 177 **32B-8b-102**, as enacted by Laws of Utah 2016, Chapter 80
- 178 **32B-8b-201**, as enacted by Laws of Utah 2016, Chapter 80
- 179 **53-10-305**, as last amended by Laws of Utah 2010, Chapter 276
- 180 **62A-15-401**, as last amended by Laws of Utah 2011, Chapter 334
- 181 **63I-2-232**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 182 ENACTS:
- 183 **32B-2-211**, Utah Code Annotated 1953
- 184 **32B-5-207**, Utah Code Annotated 1953
- 185 **32B-5-405**, Utah Code Annotated 1953
- 186 **32B-5-406**, Utah Code Annotated 1953
- 187 **32B-6-205.2**, Utah Code Annotated 1953
- 188 **32B-6-205.3**, Utah Code Annotated 1953
- 189 **32B-6-305.2**, Utah Code Annotated 1953
- 190 **32B-6-305.3**, Utah Code Annotated 1953
- 191 **32B-6-404.1**, Utah Code Annotated 1953
- 192 **32B-6-905.1**, Utah Code Annotated 1953
- 193 **32B-6-905.2**, Utah Code Annotated 1953
- 194 **32B-7-401**, Utah Code Annotated 1953
- 195 **32B-7-402**, Utah Code Annotated 1953
- 196 **32B-7-403**, Utah Code Annotated 1953
- 197 **32B-7-404**, Utah Code Annotated 1953

198 32B-7-405, Utah Code Annotated 1953

199 53A-13-113, Utah Code Annotated 1953

200 53A-13-114, Utah Code Annotated 1953

201 REPEALS:

202 32B-6-205.1, as enacted by Laws of Utah 2010, Chapter 276

203 32B-6-305.1, as enacted by Laws of Utah 2010, Chapter 276

204

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

206 Section 1. Section 11-10-1 is amended to read:

207 **11-10-1. Business license required -- Authorization for issuance, denial,**
208 **suspension, or revocation by local authority.**

209 (1) As used in this chapter, the following have the meaning set forth in Section
210 32B-1-102:

- 211 (a) "alcoholic product";
- 212 (b) "[club] bar establishment license";
- 213 (c) "local authority"; and
- 214 (d) "restaurant."

215 (2) A person may not operate an association, a restaurant, a bar, or a business similar to
216 a business operated under a [club] bar establishment license, or other similar business that
217 allows a person to possess or consume an alcoholic product on the premises of the association,
218 restaurant, [club] bar, or similar business premises without a business license.

219 (3) (a) A local authority may issue a business license to a person who owns or operates
220 an association, restaurant, [club] bar, or similar business that allows a person to hold, store,
221 possess, or consume an alcoholic product on the premises.

222 (b) A business license issued under this Subsection (3) does not permit a person to
223 hold, store, possess, or consume an alcoholic product on the premises other than as provided in
224 Title 32B, Alcoholic Beverage Control Act.

225 (4) A local authority may suspend or revoke a business license for a violation of Title

226 32B, Alcoholic Beverage Control Act.

227 (5) A local authority shall set policy by written rules that establish criteria and
228 procedures for granting, denying, suspending, or revoking a business license issued under this
229 chapter.

230 (6) A business license issued under this section does not constitute written consent of
231 the local authority within the meaning of Title 32B, Alcoholic Beverage Control Act.

232 Section 2. Section **11-10-2** is amended to read:

233 **11-10-2. Qualifications of licensee.**

234 (1) A license may not be granted:

235 (a) unless the licensee is of good moral character, over the age of 21 years, and [~~a~~
236 ~~citizen of~~] lawfully present in the United States;

237 (b) to anyone who has been convicted of a felony or misdemeanor involving moral
238 turpitude;

239 (c) to any partnership or association, any member of which lacks any of the
240 qualifications set out in this section; or

241 (d) to any corporation, if any of its directors or officers lacks any qualification set out
242 in this section.

243 (2) The local authority shall, before issuing licenses, satisfy itself by written evidence
244 executed by the applicant that the applicant meets the standards set forth.

245 Section 3. Section **26-38-2** is amended to read:

246 **26-38-2. Definitions.**

247 As used in this chapter:

248 (1) "E-cigarette":

249 (a) means any electronic oral device:

250 (i) that provides a vapor of nicotine or other substance; and

251 (ii) which simulates smoking through its use or through inhalation of the device; and

252 (b) includes an oral device that is:

253 (i) composed of a heating element, battery, or electronic circuit; and

- 254 (ii) marketed, manufactured, distributed, or sold as:
255 (A) an e-cigarette;
256 (B) e-cigar;
257 (C) e-pipe; or
258 (D) any other product name or descriptor, if the function of the product meets the
259 definition of Subsection (1)(a).
- 260 (2) "Place of public access" means any enclosed indoor place of business, commerce,
261 banking, financial service, or other service-related activity, whether publicly or privately owned
262 and whether operated for profit or not, to which persons not employed at the place of public
263 access have general and regular access or which the public uses, including:
- 264 (a) buildings, offices, shops, elevators, or restrooms;
 - 265 (b) means of transportation or common carrier waiting rooms;
 - 266 (c) restaurants, cafes, or cafeterias;
 - 267 (d) taverns as defined in Section [32B-1-102](#), or cabarets;
 - 268 (e) shopping malls, retail stores, grocery stores, or arcades;
 - 269 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
270 sites, auditoriums, or arenas;
 - 271 (g) barber shops, hair salons, or laundromats;
 - 272 (h) sports or fitness facilities;
 - 273 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
274 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
275 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
276 of these;
 - 277 (j) (i) any child care facility or program subject to licensure or certification under this
278 title, including those operated in private homes, when any child cared for under that license is
279 present; and
 - 280 (ii) any child care, other than child care as defined in Section [26-39-102](#), that is not
281 subject to licensure or certification under this title, when any child cared for by the provider,

282 other than the child of the provider, is present;

283 (k) public or private elementary or secondary school buildings and educational
284 facilities or the property on which those facilities are located;

285 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
286 religious organization when used solely by the organization members or their guests or
287 families;

288 (m) any facility rented or leased for private functions from which the general public is
289 excluded and arrangements for the function are under the control of the function sponsor;

290 (n) any workplace that is not a place of public access or a publicly owned building or
291 office but has one or more employees who are not owner-operators of the business;

292 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
293 stating "no smoking", "thank you for not smoking", or similar statement; and

294 (p) a holder of a ~~club~~ bar establishment license, as defined in Section [32B-1-102](#).

295 (3) "Publicly owned building or office" means any enclosed indoor place or portion of
296 a place owned, leased, or rented by any state, county, or municipal government, or by any
297 agency supported by appropriation of, or by contracts or grants from, funds derived from the
298 collection of federal, state, county, or municipal taxes.

299 (4) "Smoking" means:

300 (a) the possession of any lighted or heated tobacco product in any form;

301 (b) inhaling, exhaling, burning, or heating a substance containing tobacco or nicotine
302 intended for inhalation through a cigar, cigarette, pipe, or hookah;

303 (c) except as provided in Section [26-38-2.6](#), using an e-cigarette; or

304 (d) using an oral smoking device intended to circumvent the prohibition of smoking in
305 this chapter.

306 Section 4. Section **32B-1-102** is amended to read:

307 **32B-1-102. Definitions.**

308 As used in this title:

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

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

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

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

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

316 (a) beer; or

317 (b) liquor.

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

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

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

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

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

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

327 (ii) vinegar;

328 (iii) cider;

329 (iv) essence;

330 (v) tincture;

331 (vi) food preparation; or

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

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

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

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

337 (b) described in Section [62A-15-401](#).

338 (6) "Banquet" means an event:
339 (a) that is held at one or more designated locations approved by the commission in or
340 on the premises of a:
341 (i) hotel;
342 (ii) resort facility;
343 (iii) sports center; or
344 (iv) convention center;
345 (b) for which there is a contract:
346 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
347 and
348 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
349 provide an alcoholic product at the event; and
350 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
351 [~~(7) (a) "Bar" means a surface or structure:~~]
352 [~~(i) at which an alcoholic product is:~~]
353 [~~(A) stored; or~~]
354 [~~(B) dispensed; or~~]
355 [~~(ii) from which an alcoholic product is served.~~]
356 [~~(b)~~] (7) "Bar structure" means a surface or structure on a licensed premises if on or at
357 any place of the surface or structure an alcoholic product is:
358 [(i)] (a) stored; or
359 [(ii)] (b) dispensed.
360 [~~(18)~~] (8) (a) "[~~Club~~] Bar establishment license" means a license issued in accordance
361 with Chapter 5, Retail License Act, and Chapter 6, Part 4, [~~Club~~] Bar Establishment License.
362 (b) "[~~Club~~] Bar establishment license" includes:
363 (i) a dining club license;
364 (ii) an equity [~~club~~] license;
365 (iii) a fraternal [~~club~~] license; or

366 (iv) a ~~[social club]~~ bar license.

367 ~~[(102)]~~ (9) "~~[Social club]~~ Bar license" means a license issued in accordance with
368 Chapter 5, Retail License Act, and Chapter 6, Part 4, ~~[Club License, that is designated by the~~
369 ~~commission as a social club license]~~ Bar Establishment License.

370 ~~[(8)]~~ (10) (a) Subject to Subsection ~~[(8)]~~ (10)(d), "beer" means a product that:

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

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

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

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

376 (i) contains alcohol in the percentages described in Subsection ~~[(8)]~~ (10)(a); and

377 (ii) is referred to as:

378 (A) beer;

379 (B) ale;

380 (C) porter;

381 (D) stout;

382 (E) lager; or

383 (F) a malt or malted beverage.

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

385 ~~[(9)]~~ (11) "Beer-only restaurant license" means a license issued in accordance with
386 Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

387 ~~[(10)]~~ (12) "Beer retailer" means a business that:

388 (a) ~~[that]~~ is engaged, primarily or incidentally, in the retail sale of beer to a patron,
389 whether for consumption on or off the business premises; and

390 ~~[(b) to whom a license is issued:]~~

391 (b) is licensed as:

392 (i) ~~[for]~~ an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise
393 Beer Retailer Local Authority; or

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

396 [~~(11)~~] (13) "Beer wholesaling license" means a license:

- 397 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 398 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
399 retail licensees or off-premise beer retailers.

400 [~~(12)~~] (14) "Billboard" means a public display used to advertise, including:

- 401 (a) a light device;
- 402 (b) a painting;
- 403 (c) a drawing;
- 404 (d) a poster;
- 405 (e) a sign;
- 406 (f) a signboard; or
- 407 (g) a scoreboard.

408 [~~(13)~~] (15) "Brewer" means a person engaged in manufacturing:

- 409 (a) beer;
- 410 (b) heavy beer; or
- 411 (c) a flavored malt beverage.

412 [~~(14)~~] (16) "Brewery manufacturing license" means a license issued in accordance with
413 Chapter 11, Part 5, Brewery Manufacturing License.

414 [~~(15)~~] (17) "Certificate of approval" means a certificate of approval obtained from the
415 department under Section [32B-11-201](#).

416 [~~(16)~~] (18) "Chartered bus" means a passenger bus, coach, or other motor vehicle
417 provided by a bus company to a group of persons pursuant to a common purpose:

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

422 [~~(17)~~] (19) "Church" means a building:

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

427 [~~(19)~~] (20) "Commission" means the Alcoholic Beverage Control Commission created
428 in Section [32B-2-201](#).

429 [~~(20)~~] (21) "Commissioner" means a member of the commission.

430 [~~(21)~~] (22) "Community location" means:

- 431 (a) a public or private school;
- 432 (b) a church;
- 433 (c) a public library;
- 434 (d) a public playground; or
- 435 (e) a public park.

436 [~~(22)~~] (23) "Community location governing authority" means:

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

441 [~~(23)~~] (24) "Container" means a receptacle that contains an alcoholic product,
442 including:

- 443 (a) a bottle;
- 444 (b) a vessel; or
- 445 (c) a similar item.

446 [~~(24)~~] (25) "Convention center" means a facility that is:

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

449 [~~(25)~~] (26) (a) [~~Subject to Subsection (25)(b), "counter"~~] "Counter" means a surface or

450 structure in a dining area of a licensed premises where seating is provided to a patron for
451 service of food.

452 (b) "Counter" does not include ~~[a surface or structure if on or at any point of the~~
453 ~~surface or structure an alcoholic product is:]~~ a dispensing structure.

454 ~~[(i) stored; or]~~

455 ~~[(ii) dispensed.]~~

456 ~~[(26)]~~ (27) "Department" means the Department of Alcoholic Beverage Control created
457 in Section 32B-2-203.

458 ~~[(27)]~~ (28) "Department compliance officer" means an individual who is:

459 (a) an auditor or inspector; and

460 (b) employed by the department.

461 ~~[(28)]~~ (29) "Department sample" means liquor that is placed in the possession of the
462 department for testing, analysis, and sampling.

463 ~~[(29)]~~ (30) "Dining club license" means a license issued in accordance with Chapter 5,
464 Retail License Act, and Chapter 6, Part 4, ~~[Club]~~ Bar Establishment License, that is designated
465 by the commission as a dining club license.

466 ~~[(30)]~~ (31) "Director," unless the context requires otherwise, means the director of the
467 department.

468 ~~[(31)]~~ (32) "Disciplinary proceeding" means an adjudicative proceeding permitted
469 under this title:

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

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

472 ~~[(32)]~~ (33) (a) Subject to Subsection ~~[(32)]~~ (33)(b), "dispense" means:

473 (i) drawing of an alcoholic product:

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

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

476 32B-6-805(15)(b)(ii), or 32B-6-905(12)(b)(ii); and

477 (ii) using the alcoholic product described in Subsection ~~[(32)]~~ (33)(a)(i) on the

478 premises of the licensed premises to mix or prepare an alcoholic product to be furnished to a
479 patron of the retail licensee.

480 (b) The definition of "dispense" in this Subsection [~~(32)~~] (33) applies only to:

481 (i) a full-service restaurant license;

482 (ii) a limited-service restaurant license;

483 (iii) a reception center license; and

484 (iv) a beer-only restaurant license.

485 (34) "Dispensing structure" means a surface or structure on a licensed premises:

486 (a) where an alcoholic product is stored or dispensed; or

487 (b) from which an alcoholic product is served.

488 [~~(33)~~] (35) "Distillery manufacturing license" means a license issued in accordance
489 with Chapter 11, Part 4, Distillery Manufacturing License.

490 [~~(34)~~] (36) "Distressed merchandise" means an alcoholic product in the possession of
491 the department that is saleable, but for some reason is unappealing to the public.

492 [~~(35)~~] (37) "Educational facility" includes:

493 (a) a nursery school;

494 (b) an infant day care center; and

495 (c) a trade and technical school.

496 [~~(36)~~] (38) "Equity [~~club~~] license" means a license issued in accordance with Chapter
497 5, Retail License Act, and Chapter 6, Part 4, [~~Club~~] Bar Establishment License, that is
498 designated by the commission as an equity [~~club~~] license.

499 [~~(37)~~] (39) "Event permit" means:

500 (a) a single event permit; or

501 (b) a temporary beer event permit.

502 [~~(38)~~] (40) "Exempt license" means a license exempt under Section 32B-1-201 from
503 being considered in determining the total number of retail licenses that the commission may
504 issue at any time.

505 [~~(39)~~] (41) (a) "Flavored malt beverage" means a beverage:

- 506 (i) that contains at least .5% alcohol by volume;
- 507 (ii) that is treated by processing, filtration, or another method of manufacture that is not
- 508 generally recognized as a traditional process in the production of a beer as described in 27
- 509 C.F.R. Sec. 25.55;
- 510 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop
- 511 extract; and
- 512 (iv) (A) for which the producer is required to file a formula for approval with the
- 513 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or
- 514 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.
- 515 (b) "Flavored malt beverage" is considered liquor for purposes of this title.
- 516 ~~[(40)]~~ (42) "Fraternal ~~[club]~~ license" means a license issued in accordance with
- 517 Chapter 5, Retail License Act, and Chapter 6, Part 4, ~~[Club]~~ Bar Establishment License, that is
- 518 designated by the commission as a fraternal ~~[club]~~ license.
- 519 ~~[(41)]~~ (43) "Full-service restaurant license" means a license issued in accordance with
- 520 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.
- 521 ~~[(42)]~~ (44) (a) "Furnish" means by any means to provide with, supply, or give an
- 522 individual an alcoholic product, by sale or otherwise.
- 523 (b) "Furnish" includes to:
- 524 (i) serve;
- 525 (ii) deliver; or
- 526 (iii) otherwise make available.
- 527 ~~[(43)]~~ (45) "Guest" means an individual who meets the requirements of Subsection
- 528 [32B-6-407\(9\)](#).
- 529 ~~[(44)]~~ (46) "Health care practitioner" means:
- 530 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 531 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 532 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 533 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice

534 Act;

535 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,

536 Nurse Practice Act;

537 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy

538 Practice Act;

539 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational

540 Therapy Practice Act;

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

542 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health

543 Professional Practice Act;

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

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

546 Practice Act;

547 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental

548 Hygienist Practice Act; and

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

550 [~~(45)~~] (47) (a) "Heavy beer" means a product that:

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

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

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

554 [~~(46)~~] (48) "Hotel" is as defined by the commission by rule.

555 [~~(47)~~] (49) "Hotel license" means a license issued in accordance with Chapter 5, Retail

556 License Act, and Chapter 8b, Hotel License Act.

557 [~~(48)~~] (50) "Identification card" means an identification card issued under Title 53,

558 Chapter 3, Part 8, Identification Card Act.

559 [~~(49)~~] (51) "Industry representative" means an individual who is compensated by

560 salary, commission, or other means for representing and selling an alcoholic product of a

561 manufacturer, supplier, or importer of liquor.

562 [~~(50)~~] (52) "Industry representative sample" means liquor that is placed in the
563 possession of the department for testing, analysis, and sampling by a local industry
564 representative on the premises of the department to educate the local industry representative of
565 the quality and characteristics of the product.

566 [~~(51)~~] (53) "Interdicted person" means a person to whom the sale, offer for sale, or
567 furnishing of an alcoholic product is prohibited by:

- 568 (a) law; or
- 569 (b) court order.

570 [~~(52)~~] (54) "Intoxicated" means that a person:

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

- 573 (i) an alcoholic product;
- 574 (ii) a controlled substance;
- 575 (iii) a substance having the property of releasing toxic vapors; or
- 576 (iv) a combination of Subsections [~~(52)~~] (54)(a)(i) through (iii); and

577 (b) exhibits plain and easily observed outward manifestations of behavior or physical
578 signs produced by the overconsumption of an alcoholic product.

579 [~~(53)~~] (55) "Investigator" means an individual who is:

- 580 (a) a department compliance officer; or
- 581 (b) a nondepartment enforcement officer.

582 [~~(54)~~] (56) "Invitee" means the same as that term is defined in Section [32B-8-102](#).

583 [~~(55)~~] (57) "License" means:

- 584 (a) a retail license;
- 585 (b) a license issued in accordance with Chapter 11, Manufacturing and Related
586 Licenses Act;
- 587 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 588 or
- 589 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

590 [~~(56)~~] (58) "Licensee" means a person who holds a license.

591 [~~(57)~~] (59) "Limited-service restaurant license" means a license issued in accordance
592 with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

593 [~~(58)~~] (60) "Limousine" means a motor vehicle licensed by the state or a local
594 authority, other than a bus or taxicab:

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

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

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

601 [~~(59)~~] (61) (a) (i) "Liquor" means a liquid that:

602 (A) is:

603 (I) alcohol;

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

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

606 (IV) other drink or drinkable liquid; and

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

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

609 (ii) "Liquor" includes:

610 (A) heavy beer;

611 (B) wine; and

612 (C) a flavored malt beverage.

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

614 [~~(60)~~] (62) "Liquor Control Fund" means the enterprise fund created by Section
615 [32B-2-301](#).

616 [~~(61)~~] (63) "Liquor warehousing license" means a license that is issued:

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

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

620 ~~[(62)]~~ (64) "Local authority" means:

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

623 (b) for premises that are located in an incorporated city, town, or metro township, the
624 governing body of the city, town, or metro township.

625 ~~[(63)]~~ (65) "Lounge or bar area" is as defined by rule made by the commission.

626 ~~[(64)]~~ (66) "Manufacture" means to distill, brew, rectify, mix, compound, process,
627 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
628 others.

629 ~~[(65)]~~ (67) "Member" means an individual who, after paying regular dues, has full
630 privileges in an equity ~~[club]~~ licensee or fraternal ~~[club]~~ licensee.

631 ~~[(66)]~~ (68) (a) "Military installation" means a base, air field, camp, post, station, yard,
632 center, or homeport facility for a ship:

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

634 (B) of the National Guard;

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

636 (iii) including a leased facility.

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

638 (i) civil works;

639 (ii) a rivers and harbors project; or

640 (iii) a flood control project.

641 ~~[(67)]~~ (69) "Minor" means an individual under the age of 21 years.

642 ~~[(68)]~~ (70) "Nondepartment enforcement agency" means an agency that:

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

644 (ii) is an agency of a county, city, town, or metro township; and

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

646 ~~[(69)]~~ (71) "Nondepartment enforcement officer" means an individual who is:
647 (a) a peace officer, examiner, or investigator; and
648 (b) employed by a nondepartment enforcement agency.
649 ~~[(70)]~~ (72) (a) "Off-premise beer retailer" means a beer retailer who is:
650 (i) licensed in accordance with Chapter 7, ~~[Part 2,]~~ Off-Premise Beer Retailer ~~[Local~~
651 ~~Authority]~~ Act; and

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

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

655 (73) "Off-premise beer retailer state license" means a state license issued in accordance
656 with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

657 ~~[(71)]~~ (74) "On-premise banquet license" means a license issued in accordance with
658 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

659 ~~[(72)]~~ (75) "On-premise beer retailer" means a beer retailer who is:

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

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

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

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

668 (A) as a tavern; or

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

670 ~~[(73)]~~ (76) "Opaque" means impenetrable to sight.

671 ~~[(74)]~~ (77) "Package agency" means a retail liquor location operated:

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

673 (b) by a person:

674 (i) other than the state; and
675 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
676 Agency, to sell packaged liquor for consumption off the premises of the package agency.

677 [~~75~~] (78) "Package agent" means a person who holds a package agency.

678 [~~76~~] (79) "Patron" means an individual to whom food, beverages, or services are sold,
679 offered for sale, or furnished, or who consumes an alcoholic product including:

- 680 (a) a customer;
- 681 (b) a member;
- 682 (c) a guest;
- 683 (d) an attendee of a banquet or event;
- 684 (e) an individual who receives room service;
- 685 (f) a resident of a resort;
- 686 (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#);

687 or

688 (h) an invitee.
689 [~~77~~] (80) "Permittee" means a person issued a permit under:

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

692 [~~78~~] (81) "Person subject to administrative action" means:

- 693 (a) a licensee;
- 694 (b) a permittee;
- 695 (c) a manufacturer;
- 696 (d) a supplier;
- 697 (e) an importer;
- 698 (f) one of the following holding a certificate of approval:
 - 699 (i) an out-of-state brewer;
 - 700 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - 701 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

702 (g) staff of:

703 (i) a person listed in Subsections [~~(78)~~] (81)(a) through (f); or

704 (ii) a package agent.

705 [~~(79)~~] (82) "Premises" means a building, enclosure, or room used in connection with
706 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic
707 product, unless otherwise defined in this title or rules made by the commission.

708 [~~(80)~~] (83) "Prescription" means an order issued by a health care practitioner when:

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

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

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

714 [~~(81)~~] (84) (a) "Private event" means a specific social, business, or recreational event:

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

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

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

721 [~~(82)~~] (85) (a) "Proof of age" means:

722 (i) an identification card;

723 (ii) an identification that:

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

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

727 (C) includes date of birth; and

728 (D) has a picture affixed;

729 (iii) a valid driver license certificate that:

- 730 (A) includes date of birth;
- 731 (B) has a picture affixed; and
- 732 (C) is issued:
 - 733 (I) under Title 53, Chapter 3, Uniform Driver License Act; or
 - 734 (II) in accordance with the laws of the state in which it is issued;
- 735 (iv) a military identification card that:
 - 736 (A) includes date of birth; and
 - 737 (B) has a picture affixed; or
 - 738 (v) a valid passport.
- 739 (b) "Proof of age" does not include a driving privilege card issued in accordance with

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

741 ~~[(83)]~~ (86) (a) "Public building" means a building or permanent structure that is:

- 742 (i) owned or leased by:
 - 743 (A) the state; or
 - 744 (B) a local government entity; and
- 745 (ii) used for:
 - 746 (A) public education;
 - 747 (B) transacting public business; or
 - 748 (C) regularly conducting government activities.

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

752 ~~[(84)]~~ (87) "Public conveyance" means a conveyance that the public or a portion of the
753 public has access to and a right to use for transportation, including an airline, railroad, bus,
754 boat, or other public conveyance.

755 ~~[(85)]~~ (88) "Reception center" means a business that:

- 756 (a) operates facilities that are at least 5,000 square feet; and
- 757 (b) has as its primary purpose the leasing of the facilities described in Subsection ~~[(85)]~~

758 ~~(88)~~(a) to a third party for the third party's event.

759 ~~[(86)]~~ (89) "Reception center license" means a license issued in accordance with
760 Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

761 ~~[(87)]~~ (90) (a) "Record" means information that is:

762 (i) inscribed on a tangible medium; or

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

764 (b) "Record" includes:

765 (i) a book;

766 (ii) a book of account;

767 (iii) a paper;

768 (iv) a contract;

769 (v) an agreement;

770 (vi) a document; or

771 (vii) a recording in any medium.

772 ~~[(88)]~~ (91) "Residence" means a person's principal place of abode within Utah.

773 ~~[(89)]~~ (92) "Resident," in relation to a resort, means the same as that term is defined in
774 Section [32B-8-102](#).

775 ~~[(90)]~~ (93) "Resort" means the same as that term is defined in Section [32B-8-102](#).

776 ~~[(91)]~~ (94) "Resort facility" is as defined by the commission by rule.

777 ~~[(92)]~~ (95) "Resort license" means a license issued in accordance with Chapter 5,
778 Retail License Act, and Chapter 8, Resort License Act.

779 (96) "Responsible alcohol service plan" means a written set of policies and procedures
780 that outlines measures to prevent employees from:

781 (a) over-serving alcoholic beverages to customers;

782 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
783 intoxicated; and

784 (c) serving alcoholic beverages to minors.

785 ~~[(93)]~~ (97) "Restaurant" means a business location:

- 786 (a) at which a variety of foods are prepared;
- 787 (b) at which complete meals are served to the general public; and
- 788 (c) that is engaged primarily in serving meals to the general public.
- 789 [~~94~~] (98) "Retail license" means one of the following licenses issued under this title:
- 790 (a) a full-service restaurant license;
- 791 (b) a master full-service restaurant license;
- 792 (c) a limited-service restaurant license;
- 793 (d) a master limited-service restaurant license;
- 794 (e) a [~~club~~] bar establishment license;
- 795 (f) an airport lounge license;
- 796 (g) an on-premise banquet license;
- 797 (h) an on-premise beer license;
- 798 (i) a reception center license;
- 799 (j) a beer-only restaurant license;
- 800 (k) a resort license; or
- 801 (l) a hotel license.
- 802 [~~95~~] (99) "Room service" means furnishing an alcoholic product to a person in a
- 803 guest room of a:
 - 804 (a) hotel; or
 - 805 (b) resort facility.
- 806 [~~96~~] (100) (a) "School" means a building used primarily for the general education of
- 807 minors.
 - 808 (b) "School" does not include an educational facility.
- 809 [~~97~~] (101) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby,
- 810 for consideration, an alcoholic product is either directly or indirectly transferred, solicited,
- 811 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether
- 812 done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or
- 813 the rules made by the commission.

- 814 [~~(98)~~] (102) "Serve" means to place an alcoholic product before an individual.
- 815 [~~(99)~~] (103) "Sexually oriented entertainer" means a person who while in a state of
- 816 seminudity appears at or performs:
- 817 (a) for the entertainment of one or more patrons;
- 818 (b) on the premises of:
- 819 (i) a [~~social club~~] bar licensee; or
- 820 (ii) a tavern;
- 821 (c) on behalf of or at the request of the licensee described in Subsection [~~(99)~~]
- 822 (103)(b);
- 823 (d) on a contractual or voluntary basis; and
- 824 (e) whether or not the person is designated as:
- 825 (i) an employee;
- 826 (ii) an independent contractor;
- 827 (iii) an agent of the licensee; or
- 828 (iv) a different type of classification.
- 829 [~~(100)~~] (104) "Single event permit" means a permit issued in accordance with Chapter
- 830 9, Part 3, Single Event Permit.
- 831 [~~(101)~~] (105) "Small brewer" means a brewer who manufactures less than 60,000
- 832 barrels of beer, heavy beer, and flavored malt beverages per year.
- 833 [~~(103)~~] (106) "Special use permit" means a permit issued in accordance with Chapter
- 834 10, Special Use Permit Act.
- 835 [~~(104)~~] (107) (a) "Spirituous liquor" means liquor that is distilled.
- 836 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
- 837 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 838 [~~(105)~~] (108) "Sports center" is as defined by the commission by rule.
- 839 [~~(106)~~] (109) (a) "Staff" means an individual who engages in activity governed by this
- 840 title:
- 841 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate

842 holder;

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

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

847 (b) "Staff" includes:

848 (i) an officer;

849 (ii) a director;

850 (iii) an employee;

851 (iv) personnel management;

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

853 (vi) an operator; or

854 (vii) a representative.

855 [~~(107)~~] (110) "State of nudity" means:

856 (a) the appearance of:

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

858 (ii) a human genital;

859 (iii) a human pubic area; or

860 (iv) a human anus; or

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

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

863 (ii) a human genital;

864 (iii) a human pubic area; or

865 (iv) a human anus.

866 [~~(108)~~] (111) "State of seminudity" means a state of dress in which opaque clothing
867 covers no more than:

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

- 870 (b) the human genitals, pubic area, and anus:
- 871 (i) with no less than the following at its widest point:
- 872 (A) four inches coverage width in the front of the human body; and
- 873 (B) five inches coverage width in the back of the human body; and
- 874 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

875 [~~(109)~~] (112) (a) "State store" means a facility for the sale of packaged liquor:

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

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

- 879 (i) a package agency;
- 880 (ii) a licensee; or
- 881 (iii) a permittee.

882 [~~(110)~~] (113) (a) "Storage area" means an area on licensed premises where the licensee
883 stores an alcoholic product.

884 (b) "Store" means to place or maintain in a location an alcoholic product from which a
885 person draws to prepare an alcoholic product to be furnished to a patron, except as provided in
886 Subsection [32B-6-205\(12\)\(b\)\(ii\)](#), [32B-6-305\(12\)\(b\)\(ii\)](#), [32B-6-805\(15\)\(b\)\(ii\)](#), or
887 [32B-6-905\(12\)\(b\)\(ii\)](#).

888 [~~(111)~~] (114) "Sublicense" means the same as that term is defined in Section
889 [32B-8-102](#) or [32B-8b-102](#).

890 [~~(112)~~] (115) "Supplier" means a person who sells an alcoholic product to the
891 department.

892 [~~(113)~~] (116) "Tavern" means an on-premise beer retailer who is:

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

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

897 [~~(114)~~] (117) "Temporary beer event permit" means a permit issued in accordance with

898 Chapter 9, Part 4, Temporary Beer Event Permit.

899 ~~[(115)]~~ (118) "Temporary domicile" means the principal place of abode within Utah of
900 a person who does not have a present intention to continue residency within Utah permanently
901 or indefinitely.

902 ~~[(116)]~~ (119) "Translucent" means a substance that allows light to pass through, but
903 does not allow an object or person to be seen through the substance.

904 ~~[(117)]~~ (120) "Unsaleable liquor merchandise" means a container that:

905 (a) is unsaleable because the container is:

906 (i) unlabeled;

907 (ii) leaky;

908 (iii) damaged;

909 (iv) difficult to open; or

910 (v) partly filled;

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

912 (ii) has contents that are:

913 (A) cloudy;

914 (B) spoiled; or

915 (C) chemically determined to be impure; or

916 (iii) contains:

917 (A) sediment; or

918 (B) a foreign substance; or

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

920 ~~[(118)]~~ (121) (a) "Wine" means an alcoholic product obtained by the fermentation of
921 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or
922 not another ingredient is added.

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

925 ~~[(119)]~~ (122) "Winery manufacturing license" means a license issued in accordance

926 with Chapter 11, Part 3, Winery Manufacturing License.

927 Section 5. Section **32B-1-104** is amended to read:

928 **32B-1-104. Exercise of police powers -- Severability.**

929 (1) (a) This title is an exercise of the police powers of the state for the protection of the
930 public health, peace, safety, welfare, and morals, and regulates the storage, sale, offer for sale,
931 furnishing, consumption, manufacture, and distribution of an alcoholic product.

932 (b) This title governs alcoholic product control unless otherwise provided in this title.

933 (2) (a) A licensee or permittee has the rights and privileges described in this title that
934 are applicable to the licensee's or permittee's license or permit.

935 (b) A licensee or permittee may engage in an activity related to the storage, sale, offer
936 for sale, furnishing, consumption, manufacture, or distribution of an alcoholic product only if
937 the activity is expressly permitted under this title or a rule authorized under this title and made
938 by the commission.

939 (3) The department and the commission:

940 (a) shall implement and enforce the provisions of this title in accordance with the
941 express language of the provisions of this title and in a manner consistent with the policy
942 described in Section [32B-1-103](#); and

943 (b) may not waive any provision of this title.

944 [~~2~~] (4) If a provision of this title or the application of a provision to a person or
945 circumstance is held invalid, the remainder of this title shall be given effect without the invalid
946 provision or application. The provisions of this title are severable.

947 Section 6. Section **32B-1-201** is amended to read:

948 **32B-1-201. Restrictions on number of retail licenses that may be issued --**
949 **Determining population -- Exempt licenses.**

950 (1) As used in this section:

951 (a) "Alcohol-related law enforcement officer" means a law enforcement officer
952 employed by the Department of Public Safety that has as a primary responsibility:

953 (i) the enforcement of this title; or

954 (ii) the enforcement of Title 41, Chapter 6a, Part 5, Driving Under the Influence and
955 Reckless Driving.

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

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

961 (ii) round the number determined in accordance with Subsection (1)(b)(i) up to the
962 nearest whole number.

963 (c) "Quota retail license" means:

964 (i) a full-service restaurant license;

965 (ii) a limited-service restaurant license;

966 (iii) a [~~club~~] bar establishment license;

967 (iv) an on-premise banquet license;

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

969 (vi) a reception center license.

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

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

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

977 (ii) adding together the numbers determined under Subsection (1)(e)(i).

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

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

982 1 for which the enforcement ratio is greater than 52.

983 (c) Notwithstanding Subsection (2)(b), the commission may issue a quota retail license
984 during the 12-month period described in Subsection (2)(b) beginning on the day on which a
985 sufficient number of alcohol-related law enforcement officers are employed so that if the
986 enforcement ratio is calculated, the enforcement ratio would be equal to or less than 52.

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

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

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

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

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

999 (a) the retail license was issued to a club licensee designated as a dining club as of July
1000 1, 2011; and

1001 (b) the dining club license is converted to another type of retail license in accordance
1002 with Section 32B-6-409.

1003 Section 7. Section **32B-1-202** is amended to read:

1004 **32B-1-202. Proximity to community location.**

1005 (1) ~~[For purposes of]~~ As used in this section~~[-,"outlet" means]:~~

1006 (a) (i) "Outlet" means:

1007 ~~[(a)]~~ (A) a state store;

1008 ~~[(b)]~~ (B) a package agency; or

1009 ~~[(c)]~~ (C) a retail licensee~~[-, except an airport lounge licensee].~~

1010 (ii) "Outlet" does not include:
1011 (A) an airport lounge licensee; or
1012 (B) a restaurant.
1013 (b) "Restaurant" means:
1014 (i) a full-service restaurant licensee;
1015 (ii) a limited-service restaurant licensee; or
1016 (iii) a beer-only restaurant licensee.
1017 ~~(2) (a) [Except as otherwise provided in this section, the]~~ The premises of an outlet
1018 may not be located:
1019 ~~[(a)]~~ (i) within 600 feet of a community location, as measured from the nearest
1020 entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
1021 property boundary of the community location; or
1022 ~~[(b)]~~ (ii) within 200 feet of a community location, measured in a straight line from the
1023 nearest entrance of the outlet to the nearest property boundary of the community location.
1024 (b) The premises of a restaurant may not be located:
1025 (i) within 300 feet of a community location, as measured from the nearest entrance of
1026 the restaurant by following the shortest route of ordinary pedestrian travel to the property
1027 boundary of the community location; or
1028 (ii) within 200 feet of a community location, measured in a straight line from the
1029 nearest entrance of the restaurant to the nearest property boundary of the community location.
1030 ~~[(3) With respect to the location of an outlet, the commission may authorize a variance~~
1031 ~~to reduce the proximity requirement of Subsection (2) if:]~~
1032 ~~[(a) when the variance reduces the proximity requirement of Subsection (2)(b), the~~
1033 ~~community location at issue is:]~~
1034 ~~[(i) a public library; or]~~
1035 ~~[(ii) a public park;]~~
1036 ~~[(b) except with respect to a state store, the local authority gives its written consent to~~
1037 ~~the variance;]~~

1038 ~~[(c) the commission finds that alternative locations for locating that type of outlet in~~
1039 ~~the community are limited;]~~

1040 ~~[(d) a public hearing is held in the city, town, metro township, or county, and when~~
1041 ~~practical in the neighborhood concerned;]~~

1042 ~~[(e) after giving full consideration to the attending circumstances and the policies~~
1043 ~~stated in Subsections 32B-1-103(3) and (4), the commission determines that locating the outlet~~
1044 ~~in that location would not be detrimental to the public health, peace, safety, and welfare of the~~
1045 ~~community;]~~

1046 ~~[(f) (i) the community location governing authority gives its written consent to the~~
1047 ~~variance; or]~~

1048 ~~[(ii) if the community location governing authority does not give its written consent to~~
1049 ~~a variance, the commission finds the following for a state store, or if the outlet is a package~~
1050 ~~agency or retail licensee, the commission finds that the applicant establishes the following:]~~

1051 ~~[(A) there is substantial unmet public demand to consume an alcoholic product:]~~

1052 ~~[(f) within the geographic boundary of the local authority in which the outlet is to be~~
1053 ~~located; and]~~

1054 ~~[(H) for an outlet that is a retail licensee, in a public setting;]~~

1055 ~~[(B) there is no reasonably viable alternative for satisfying the substantial unmet~~
1056 ~~demand other than through locating that type of outlet in that location; and]~~

1057 ~~[(C) there is no reasonably viable alternative location within the geographic boundary~~
1058 ~~of the local authority in which the outlet is to be located for locating that type of outlet to~~
1059 ~~satisfy the unmet demand:]~~

1060 ~~[(4) With respect to the premises of a package agency or retail licensee that undergoes~~
1061 ~~a change of ownership, the commission may waive or vary the proximity requirements of~~
1062 ~~Subsection (2) in considering whether to issue the package agency or same type of retail license~~
1063 ~~to the new owner of the premises if:]~~

1064 ~~[(a) the premises previously received a variance reducing the proximity requirement of~~
1065 ~~Subsection (2)(a);]~~

1066 ~~[(b) the premises received a variance reducing the proximity requirement of Subsection~~
1067 ~~(2)(b) on or before May 4, 2008; or]~~

1068 ~~[(c) a variance from proximity requirements was otherwise allowed under this title.]~~

1069 (3) (a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates
1070 under a previously approved variance to one or more proximity requirements in effect before
1071 May 9, 2017, subject to the other provisions in this title, the outlet or restaurant may continue
1072 to operate under the variance if the property on which the outlet or restaurant is located is used
1073 to operate an outlet or a restaurant under the same type of license for which the commission
1074 previously approved the variance, regardless of whether:

- 1075 (i) the outlet or restaurant changes ownership;
- 1076 (ii) the property on which the outlet or restaurant is located changes ownership; or
- 1077 (iii) except as provided in Subsection (3)(b), there is a lapse in the use of the property
1078 as an outlet or a restaurant with the same type of license for which the commission previously
1079 approved the variance.

1080 (b) An outlet or a restaurant may not operate under a previously approved variance if:

- 1081 (i) there is a lapse in the use of the property as an outlet or a restaurant with the same
1082 type of license for which the commission previously approved the variance; and
- 1083 (ii) during the lapse, the property is used for a purpose other than an outlet or a
1084 restaurant with the same type of license for which the commission previously approved the
1085 variance.

1086 ~~[(5)]~~ (4) Nothing in this section prevents the commission from considering the
1087 proximity of an educational, religious, and recreational facility, or any other relevant factor in
1088 reaching a decision on a proposed location of an outlet or a restaurant.

1089 Section 8. Section **32B-1-207** is amended to read:

1090 **32B-1-207. Calculation of ratio of gross receipts of food to alcoholic product.**

1091 In calculating the annual gross receipts of a retail license or sublicense for purposes of
1092 determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food
1093 or an alcoholic product, a retail licensee may not include in the calculation the money from the

1094 sale of:

1095 (1) a bottle of wine by the retail licensee or under a sublicense that is in excess of
1096 [~~\$250.~~] \$175; or

1097 (2) an individual portion of wine, as described in Subsection 32B-5-304(2)(a), by the
1098 retail licensee or under a sublicense that is in excess of \$30.

1099 Section 9. Section **32B-1-305** is amended to read:

1100 **32B-1-305. Requirement for a background check.**

1101 (1) The department shall require an individual listed in Subsection (2), in accordance
1102 with this part, to:

1103 (a) provide a signed waiver from the individual whose fingerprints may be registered in
1104 the Federal Bureau of Investigation Rap Back system that notifies the signee:

1105 (i) that a criminal history background check will be conducted;

1106 (ii) who will see the information; and

1107 (iii) how the information will be used;

1108 (b) submit to a background check in a form acceptable to the department; and

1109 (c) consent to a background check by:

1110 (i) the Utah Bureau of Criminal Identification; and

1111 (ii) the Federal Bureau of Investigation.

1112 (2) The following shall comply with Subsection (1):

1113 (a) an individual applying for employment with the department if:

1114 (i) the department makes the decision to offer the individual employment with the
1115 department; and

1116 (ii) once employed, the individual will receive benefits;

1117 (b) an individual applying to the commission to operate a package agency;

1118 (c) an individual applying to the commission for a license, unless the license is an
1119 off-premise beer retailer state license;

1120 (d) an individual who with regard to an entity that is applying to the commission to
1121 operate a package agency or for a license is:

- 1122 (i) a partner;
- 1123 (ii) a managing agent;
- 1124 (iii) a manager;
- 1125 (iv) an officer;
- 1126 (v) a director;
- 1127 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a
- 1128 corporation;
- 1129 (vii) a member who owns at least 20% of a limited liability company; or
- 1130 (viii) an individual employed to act in a supervisory or managerial capacity; or
- 1131 (e) an individual who becomes involved with an entity that operates a package agency
- 1132 or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the day
- 1133 on which the entity:
 - 1134 (i) is approved to operate a package agency; or
 - 1135 (ii) is licensed by the commission.
- 1136 (3) The department shall require compliance with Subsection (2)(e) as a condition of
- 1137 an entity's:
 - 1138 (a) continued operation of a package agency; or
 - 1139 (b) renewal of a license.
- 1140 (4) The department may require as a condition of continued employment that a
- 1141 department employee:
 - 1142 (a) submit to a background check in a form acceptable to the department; and
 - 1143 (b) consent to a fingerprint criminal background check by:
 - 1144 (i) the Utah Bureau of Criminal Identification; and
 - 1145 (ii) the Federal Bureau of Investigation.
- 1146 Section 10. Section **32B-1-407** is amended to read:
- 1147 **32B-1-407. Verification of proof of age by applicable licensees.**
- 1148 (1) As used in this section, "applicable licensee" means:
- 1149 (a) a dining club;

- 1150 (b) a [~~social club~~; or] bar;
- 1151 (c) a tavern[-];
- 1152 (d) a full-service restaurant;
- 1153 (e) a limited-service restaurant; or
- 1154 (f) a beer-only restaurant.

1155 (2) Notwithstanding any other provision of this part, an applicable licensee shall
1156 require that an authorized person for the applicable licensee verify proof of age as provided in
1157 this section.

1158 (3) An authorized person is required to verify proof of age under this section before an
1159 individual who appears to be 35 years of age or younger:

- 1160 (a) gains admittance to the premises of a [~~social club~~] bar licensee or tavern; [~~or~~]
- 1161 (b) procures an alcoholic product on the premises of a dining club licensee[-]; or
- 1162 (c) procures an alcoholic product in a dispensing area in the premises of a full-service
1163 restaurant licensee, a limited-service restaurant licensee, or a beer-only restaurant licensee.

1164 (4) To comply with Subsection (3), an authorized person shall:

- 1165 (a) request the individual present proof of age; and
- 1166 (b) (i) verify the validity of the proof of age electronically under the verification
1167 program created in Subsection (5); or
- 1168 (ii) if the proof of age cannot be electronically verified as provided in Subsection
1169 (4)(b)(i), request that the individual comply with a process established by the commission by
1170 rule.

1171 (5) The commission shall establish by rule an electronic verification program that
1172 includes the following:

- 1173 (a) the specifications for the technology used by the applicable licensee to
1174 electronically verify proof of age, including that the technology display to the person described
1175 in Subsection (2) no more than the following for the individual who presents the proof of age:
 - 1176 (i) the name;
 - 1177 (ii) the age;

- 1178 (iii) the number assigned to the individual's proof of age by the issuing authority;
- 1179 (iv) the birth date;
- 1180 (v) the gender; and
- 1181 (vi) the status and expiration date of the individual's proof of age; and
- 1182 (b) the security measures that shall be used by an applicable licensee to ensure that
- 1183 information obtained under this section is:
 - 1184 (i) used by the applicable licensee only for purposes of verifying proof of age in
 - 1185 accordance with this section; and
 - 1186 (ii) retained by the applicable licensee for seven days after the day on which the
 - 1187 applicable licensee obtains the information.
- 1188 (6) (a) An applicable licensee may not disclose information obtained under this section
- 1189 except as provided under this title.
- 1190 (b) Information obtained under this section is considered a record for any purpose
- 1191 under Chapter 5, Part 3, Retail Licensee Operational Requirements.
- 1192 Section 11. Section **32B-1-505** is amended to read:
- 1193 **32B-1-505. Sexually oriented entertainer.**
- 1194 (1) Subject to the requirements of this part, live entertainment is permitted on premises
- 1195 or at an event regulated by the commission.
- 1196 (2) Notwithstanding Subsection (1), a retail licensee or permittee may not permit a
- 1197 person to:
 - 1198 (a) appear or perform in a state of nudity;
 - 1199 (b) perform or simulate an act of:
 - 1200 (i) sexual intercourse;
 - 1201 (ii) masturbation;
 - 1202 (iii) sodomy;
 - 1203 (iv) bestiality;
 - 1204 (v) oral copulation;
 - 1205 (vi) flagellation; or

- 1206 (vii) a sexual act that is prohibited by Utah law; or
- 1207 (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.
- 1208 (3) A sexually oriented entertainer may perform in a state of seminudity:
- 1209 (a) only in:
- 1210 (i) a tavern; or
- 1211 (ii) a [~~social club~~] bar license premises; and
- 1212 (b) only if:
- 1213 (i) the windows, doors, and other apertures to the premises are darkened or otherwise
- 1214 constructed to prevent anyone outside the premises from seeing the performance; and
- 1215 (ii) the outside entrance doors of the premises remain unlocked.
- 1216 (4) A sexually oriented entertainer may perform only upon a stage or in a designated
- 1217 performance area that is:
- 1218 (a) approved by the commission in accordance with rules made by the commission;
- 1219 (b) configured so as to preclude a patron from:
- 1220 (i) touching the sexually oriented entertainer; or
- 1221 (ii) placing any money or object on or within the performance attire or the person of the
- 1222 sexually oriented entertainer; and
- 1223 (c) configured so as to preclude the sexually oriented entertainer from touching a
- 1224 patron.
- 1225 (5) A sexually oriented entertainer may not touch a patron:
- 1226 (a) during the sexually oriented entertainer's performance; or
- 1227 (b) while the sexually oriented entertainer is dressed in performance attire.
- 1228 (6) A sexually oriented entertainer, while in the portion of the premises used by
- 1229 patrons, shall be dressed in opaque clothing which covers and conceals the sexually oriented
- 1230 entertainer's performance attire from the top of the breast to the knee.
- 1231 (7) A patron may not be on the stage or in the performance area while a sexually
- 1232 oriented entertainer is appearing or performing on the stage or in the performance area.
- 1233 (8) A patron may not:

1234 (a) touch a sexually oriented entertainer:
1235 (i) during the sexually oriented entertainer's performance; or
1236 (ii) while the sexually oriented entertainer is dressed in performance attire; or
1237 (b) place money or any other object on or within the performance attire or the person of
1238 the sexually oriented entertainer.

1239 (9) A minor may not be on premises described in Subsection (3).

1240 (10) A person who appears or performs for the entertainment of patrons on premises or
1241 at an event regulated by the commission that is not a tavern or ~~[social club]~~ bar licensee:

1242 (a) may not appear or perform in a state of nudity or a state of seminudity; and
1243 (b) may appear or perform in opaque clothing that completely covers the person's
1244 genitals, pubic area, and anus if the covering:

1245 (i) is not less than the following at its widest point:
1246 (A) four inches coverage width in the front of the human body; and
1247 (B) five inches coverage width in the back of the human body;
1248 (ii) does not taper to less than one inch wide at the narrowest point; and
1249 (iii) if covering a female, completely covers the breast below the top of the areola.

1250 Section 12. Section **32B-1-604** is amended to read:

1251 **32B-1-604. Requirements for labeling and packaging -- Authority of the**
1252 **commission and department.**

1253 (1) A manufacturer may not distribute or sell a malted beverage:
1254 (a) unless the label and packaging of the malted beverage:
1255 (i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; and
1256 (ii) clearly gives notice to the public that the malted beverage is an alcoholic product;
1257 and
1258 (b) until the day on which the department in accordance with this title and rules of the
1259 commission approves the label and packaging of the malted beverage.

1260 (2) The department shall review the label and packaging of a malted beverage to ensure
1261 that the label and packaging meet the requirements of Subsection (1)(a).

1262 (3) [A] Except as otherwise required under Section 32B-1-606, a manufacturer may
1263 comply with the requirement of Subsection (1)(a)(ii) by including on a label and packaging for
1264 a malted beverage any of the following terms:

- 1265 (a) beer;
- 1266 (b) ale;
- 1267 (c) porter;
- 1268 (d) stout;
- 1269 (e) lager;
- 1270 (f) lager beer; or
- 1271 (g) another class or type designation commonly applied to a malted beverage that
1272 conveys by a recognized term that the product contains alcohol.

1273 (4) (a) As used in this section, "previously approved malted beverage" means a malted
1274 beverage for which the manufacturer holds approval for the label and packaging under
1275 Subsection (1)(b) on May 9, 2017.

1276 (b) Beginning May 9, 2017, the department shall review the label and packaging of
1277 each previously approved malted beverage for compliance with the provisions of this part.

1278 (c) If, during the review described in Subsection (4)(b), the department determines that
1279 a previously approved malted beverage does not comply with the provisions of this part on or
1280 after May 9, 2017:

1281 (i) the department shall send written notice to the manufacturer that states:

1282 (A) that the manufacturer shall reapply for approval of the label and packaging of the
1283 malted beverage;

1284 (B) an explanation, including each specific reason, the label or packaging of the
1285 manufacturer's previously approved malted beverage does not comply with the provisions of
1286 this part;

1287 (C) how the manufacturer can comply with the provisions of this part; and

1288 (D) the date by which the manufacturer shall submit an application to the department
1289 for approval; and

1290 (ii) the manufacturer shall reapply for approval of the label and packaging of the
 1291 malted beverage in accordance with the written notice and the provisions of this part.

1292 (d) (i) A manufacturer, wholesaler, or retailer may distribute or sell a previously
 1293 approved malted beverage in accordance with the manufacturer's most recent approval from the
 1294 department through the later of:

1295 (A) April 30, 2018; or

1296 (B) six months after the day on which the manufacturer receives written notice from
 1297 the department under Subsection (4)(c)(i).

1298 (ii) After the applicable date described in Subsection (4)(d)(i), a manufacturer,
 1299 wholesaler, or retailer may not distribute or sell a previously approved malted beverage that
 1300 does not comply with the provisions of this part.

1301 (e) The department shall ensure that the department notifies and takes action on each
 1302 timely application submitted under this Subsection (4) before January 1, 2018.

1303 Section 13. Section **32B-1-605** is amended to read:

1304 **32B-1-605. General procedure for approval.**

1305 (1) To obtain approval of the label and packaging of a malted beverage, the
 1306 manufacturer of the malted beverage shall submit an application to the department for
 1307 approval.

1308 (2) The application described in Subsection (1) shall be on a form approved by the
 1309 department and include the following for each brand and label for which the manufacturer
 1310 seeks approval:

1311 (a) (i) a copy of a federal certificate of label approval from the United States
 1312 Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau~~], for each brand and~~
 1313 ~~label for which the manufacturer is seeking approval]; or~~

1314 (ii) if the Bureau does not require label approval, a copy of formula approval from the
 1315 United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau;

1316 (b) a complete set of original labels for each size of container of the malted beverage;

1317 (c) a description of the size of the container on which a label will be placed;

1318 (d) a description of each type of container of the malted beverage; and

1319 (e) a description of any packaging for the malted beverage.

1320 (3) The department may assess a reasonable fee for reviewing a label and packaging for
1321 approval.

1322 (4) (a) The department shall notify a manufacturer within 30 days after the day on
1323 which the manufacturer submits an application whether the label and packaging is approved or
1324 denied.

1325 (b) If the department determines that an unusual circumstance requires additional time,
1326 the department may extend the time period described in Subsection (4)(a).

1327 (5) A manufacturer shall obtain the approval of the department of a revision of a
1328 previously approved label and packaging before a malted beverage using the revised label and
1329 packaging may be distributed or sold in this state.

1330 (6) (a) The department may revoke a label and packaging previously approved upon a
1331 finding that the label and packaging is not in compliance with this title or rules of the
1332 commission.

1333 (b) The department shall notify the person who applies for the approval of a label and
1334 packaging at least five business days before the day on which a label and packaging approval is
1335 considered revoked.

1336 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written
1337 argument or evidence to the department on why the revocation should not occur.

1338 (7) A manufacturer that applies for approval of a label and packaging may appeal a
1339 denial or revocation of a label and packaging approval to the commission.

1340 Section 14. Section **32B-1-606** is amended to read:

1341 **32B-1-606. Special procedure for certain malted beverages.**

1342 [~~(1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a~~
1343 ~~label or packaging used for a nonalcoholic beverage, a]~~

1344 (1) A manufacturer of [~~the flavored malt~~] a malted beverage may not distribute or sell
1345 the [~~flavored malt~~] malted beverage in [~~this~~] the state until the day on which the manufacturer

1346 receives approval of the labeling and packaging from the department in accordance with:

1347 (a) Sections [32B-1-604](#) and [32B-1-605](#); and

1348 (b) this section[-], if the malted beverage is labeled or packaged in a manner that is:

1349 (i) similar to a label or packaging used for a nonalcoholic beverage; or

1350 (ii) likely to confuse or mislead a patron to believe the malted beverage is a

1351 nonalcoholic beverage.

1352 (2) The department may not approve the labeling and packaging of a [~~flavored malt~~]
1353 malted beverage described in Subsection (1) unless in addition to the requirements of Section
1354 [32B-1-604](#) the labeling and packaging complies with the following:

1355 (a) [~~The~~] the front label on the [~~flavored malt~~] malted beverage [~~shall bear~~] bears a
1356 prominently displayed label or a firmly affixed sticker that provides the following information
1357 in a font that measures at least three millimeters high:

1358 (i) the statement:

1359 (A) "alcoholic beverage"; or

1360 (B) "contains alcohol"; and

1361 (ii) the alcohol content of the flavored malt beverage[-];

1362 (b) [~~Packaging of a flavored malt beverage shall prominently include~~] the front of the
1363 packaging of the malted beverage prominently includes, either imprinted on the packaging or
1364 imprinted on a sticker firmly affixed to the packaging in a font that measures at least three
1365 millimeters high, the statement:

1366 (i) "alcoholic beverage"; or

1367 (ii) "contains alcohol"[-];

1368 (c) a statement required by Subsection (2)(a) or (b) [~~shall appear~~] appears in a format
1369 required by rule made by the commission[-]; and

1370 (d) a statement of alcohol content required by Subsection (2)(a)(ii):

1371 (i) [~~shall state~~] states the alcohol content as a percentage of alcohol by volume or by
1372 weight; and

1373 [~~(ii) may not use an abbreviation, but shall use the complete words "alcohol,"~~

1374 "~~volume," or "weight"; and]~~

1375 [~~(iii)~~] (ii) [~~shall be~~] is in a format required by rule made by the commission.

1376 (3) The department may reject a label or packaging that appears designed to obscure
1377 the information required by Subsection (2).

1378 (4) To determine whether a [~~flavored malt~~] malted beverage is described in Subsection
1379 (1) and subject to this section, the department may consider in addition to other factors one or
1380 more of the following factors:

1381 (a) whether the coloring, carbonation, and packaging of the [~~flavored malt~~] malted
1382 beverage:

1383 (i) is similar to those of a nonalcoholic beverage or product; or

1384 (ii) can be confused with a nonalcoholic beverage;

1385 (b) whether the [~~flavored malt~~] malted beverage possesses a character and flavor
1386 distinctive from a traditional malted beverage;

1387 (c) whether the [~~flavored malt~~] malted beverage:

1388 (i) is prepackaged;

1389 (ii) contains high levels of caffeine and other additives; and

1390 (iii) is marketed as a beverage that is specifically designed to provide energy;

1391 (d) whether the [~~flavored malt~~] malted beverage contains added sweetener or sugar
1392 substitutes; or

1393 (e) whether the [~~flavored malt~~] malted beverage contains an added fruit flavor or other
1394 flavor that masks the taste of a traditional malted beverage.

1395 Section 15. Section **32B-2-202** is amended to read:

1396 **32B-2-202. Powers and duties of the commission.**

1397 (1) The commission shall:

1398 (a) consistent with the policy established by the Legislature by statute, act as a general
1399 policymaking body on the subject of alcoholic product control;

1400 (b) adopt and issue policies, rules, and procedures;

1401 (c) set policy by written rules that establish criteria and procedures for:

- 1402 (i) issuing, denying, not renewing, suspending, or revoking a package agency, license,
1403 permit, or certificate of approval; and
- 1404 (ii) determining the location of a state store, package agency, or retail licensee;
- 1405 (d) decide within the limits, and under the conditions imposed by this title, the number
1406 and location of state stores, package agencies, and retail licensees in the state;
- 1407 (e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses,
1408 permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing,
1409 consumption, manufacture, and distribution of an alcoholic product:
- 1410 (i) a package agency;
- 1411 (ii) a full-service restaurant license;
- 1412 (iii) a master full-service restaurant license;
- 1413 (iv) a limited-service restaurant license;
- 1414 (v) a master limited-service restaurant license;
- 1415 (vi) a [~~club~~] bar establishment license;
- 1416 (vii) an airport lounge license;
- 1417 (viii) an on-premise banquet license;
- 1418 (ix) a resort license, under which at least four or more sublicenses may be included;
- 1419 (x) an on-premise beer retailer license;
- 1420 (xi) a reception center license;
- 1421 (xii) a beer-only restaurant license;
- 1422 (xiii) a hotel license, under which at least three or more sublicenses may be included;
- 1423 (xiv) subject to Subsection (4), a single event permit;
- 1424 (xv) subject to Subsection (4), a temporary beer event permit;
- 1425 (xvi) a special use permit;
- 1426 (xvii) a manufacturing license;
- 1427 (xviii) a liquor warehousing license;
- 1428 (xix) a beer wholesaling license; and
- 1429 (xx) one of the following that holds a certificate of approval:

- 1430 (A) an out-of-state brewer;
- 1431 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
- 1432 (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
- 1433 (f) in accordance with Section [32B-5-205](#), issue, deny, suspend, or revoke conditional
- 1434 licenses for the purchase, storage, sale, furnishing, consumption, manufacture, and distribution
- 1435 of an alcoholic product;
- 1436 (g) prescribe the duties of the department in assisting the commission in issuing a
- 1437 package agency, license, permit, or certificate of approval under this title;
- 1438 (h) to the extent a fee is not specified in this title, establish a fee allowed under this title
- 1439 in accordance with Section [63J-1-504](#);
- 1440 (i) fix prices at which liquor is sold that are the same at all state stores, package
- 1441 agencies, and retail licensees;
- 1442 (j) issue and distribute price lists showing the price to be paid by a purchaser for each
- 1443 class, variety, or brand of liquor kept for sale by the department;
- 1444 (k) (i) require the director to follow sound management principles; and
- 1445 (ii) require periodic reporting from the director to ensure that:
- 1446 (A) sound management principles are being followed; and
- 1447 (B) policies established by the commission are being observed;
- 1448 (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations,
- 1449 and matters submitted by the director to the commission; and
- 1450 (ii) do the things necessary to support the department in properly performing the
- 1451 department's duties;
- 1452 (m) obtain temporarily and for special purposes the services of an expert or person
- 1453 engaged in the practice of a profession, or a person who possesses a needed skill if:
- 1454 (i) considered expedient; and
- 1455 (ii) approved by the governor;
- 1456 (n) prescribe the conduct, management, and equipment of premises upon which an
- 1457 alcoholic product may be stored, sold, offered for sale, furnished, or consumed;

1458 (o) make rules governing the credit terms of beer sales within the state to retail
1459 licensees; and

1460 (p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take
1461 disciplinary action against a person subject to administrative action.

1462 (2) Consistent with the policy established by the Legislature by statute, the power of
1463 the commission to do the following is plenary, except as otherwise provided by this title, and
1464 not subject to review:

1465 (a) establish a state store;

1466 (b) issue authority to act as a package agent or operate a package agency; and

1467 (c) issue or deny a license, permit, or certificate of approval.

1468 (3) If the commission is authorized or required to make a rule under this title, the
1469 commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative
1470 Rulemaking Act.

1471 (4) Notwithstanding Subsections (1)(e)(xiv) and (xv), the director or deputy director
1472 may issue an event permit in accordance with Chapter 9, Event Permit Act.

1473 Section 16. Section **32B-2-210** is amended to read:

1474 **32B-2-210. Alcoholic Beverage Control Advisory Board.**

1475 (1) There is created within the department an advisory board known as the "Alcoholic
1476 Beverage Control Advisory Board."

1477 (2) The advisory board shall consist of [~~12 members~~] eight voting members and one
1478 nonvoting member as follows:

1479 (a) [~~the following~~] four voting members appointed by the commission[~~;~~a
1480 representative of]:

1481 [~~(i) a full-service restaurant licensee;~~]

1482 [~~(ii) a limited-service restaurant licensee;~~]

1483 [~~(iii) a beer-only restaurant licensee;~~]

1484 [~~(iv) a social club licensee;~~]

1485 [~~(v) a fraternal club licensee;~~]

- 1486 [~~(vi) a dining club licensee;~~]
1487 [~~(vii) a wholesaler licensee;~~]
1488 [~~(viii) an on-premise banquet licensee;~~]
1489 [~~(ix) an on-premise beer retailer licensee; and~~]
1490 [~~(x) a reception center licensee;~~]
1491 (i) one of whom represents the retail alcohol industry;
1492 (ii) one of whom represents the wholesale alcohol industry;
1493 (iii) one of whom represents the alcohol manufacturing industry; and
1494 (iv) one of whom represents the restaurant industry;
1495 (b) two voting members appointed by the commission, each of whom represents an
1496 organization that addresses alcohol or drug abuse prevention, alcohol or drug related
1497 enforcement, or alcohol or drug related education;
1498 (c) the director of the Division of Substance Abuse and Mental Health or the director's
1499 designee who serves as a voting member;
1500 [~~(b)~~] (d) the chair of the Utah Substance Use and Mental Health Advisory Council, or
1501 the chair's designee, who serves as a voting member; and
1502 [~~(c)~~] (e) the chair of the commission or the chair's designee from the members of the
1503 commission, who [shall serve] serves as a nonvoting member.
1504 (3) (a) Except as required by Subsection (3)(b), as terms of current voting members of
1505 the advisory board expire, the commission shall appoint each new member or reappointed
1506 member to a four-year term beginning July 1 and ending June 30.
1507 (b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the
1508 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1509 voting advisory board members are staggered so that approximately half of the advisory board
1510 is appointed every two years.
1511 (c) No two members of the board may be employed by the same company or nonprofit
1512 organization.
1513 (4) (a) When a vacancy occurs in the membership for any reason, the commission shall

1514 appoint a replacement for the unexpired term.

1515 (b) The commission shall terminate the term of a voting advisory board member who
1516 ceases to be representative as designated by the member's original appointment.

1517 (5) The advisory board shall meet no more than quarterly as called by the chair for the
1518 purpose of advising the commission and the department, with discussion limited to
1519 administrative rules made under this title.

1520 (6) The chair of the commission or the chair's designee shall serve as the chair of the
1521 advisory board and call the necessary meetings.

1522 (7) (a) [~~Six~~] Five members of the board constitute a quorum of the board.

1523 (b) An action of the majority when a quorum is present is the action of the board.

1524 (8) The department shall provide staff support to the advisory board.

1525 (9) A member may not receive compensation or benefits for the member's service, but
1526 may receive per diem and travel expenses in accordance with:

1527 (a) Section [63A-3-106](#);

1528 (b) Section [63A-3-107](#); and

1529 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
1530 [63A-3-107](#).

1531 Section 17. Section **32B-2-211** is enacted to read:

1532 **32B-2-211. Review and audit of commission rules.**

1533 (1) (a) In 2019 and every third year thereafter, the Legislature's general counsel shall
1534 review each current rule made by the commission for compliance with current statute.

1535 (b) On or before December 15 of each year in which the Legislature's general counsel
1536 completes a compliance review described in Subsection (1)(a), the Legislature's general
1537 counsel shall prepare and submit a report to the president of the Senate and the speaker of the
1538 House of Representatives that describes the Legislature's general counsel's findings.

1539 (2) (a) Subject to the prioritization of the Audit Subcommittee created in Section
1540 [36-12-8](#), the Office of the Legislative Auditor General may review one or more current
1541 practices of the commission or the department for compliance with current statute or rule.

1542 (b) Following a review described in Subsection (2)(a), the Office of the Legislative
1543 Auditor General shall prepare and submit a report to the Audit Subcommittee that describes the
1544 Office of the Legislative Auditor General's findings and recommendations.

1545 Section 18. Section **32B-2-304** is amended to read:

1546 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

1547 (1) For purposes of this section:

1548 (a) (i) "Landed case cost" means:

1549 (A) the cost of the product; and

1550 (B) inbound shipping costs incurred by the department.

1551 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse
1552 of the department to a state store.

1553 (b) "Proof gallon" [~~has~~] means the same [meaning as] as that term is defined in 26
1554 U.S.C. Sec. 5002.

1555 (c) Notwithstanding Section **32B-1-102**, "small brewer" means a brewer who
1556 manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt
1557 beverage.

1558 (2) Except as provided in Subsection (3):

1559 (a) spirituous liquor sold by the department within the state shall be marked up in an
1560 amount not less than [~~86%~~] 88% above the landed case cost to the department;

1561 (b) wine sold by the department within the state shall be marked up in an amount not
1562 less than [~~86%~~] 88% above the landed case cost to the department;

1563 (c) heavy beer sold by the department within the state shall be marked up in an amount
1564 not less than [~~64.5%~~] 66.5% above the landed case cost to the department; and

1565 (d) a flavored malt beverage sold by the department within the state shall be marked up
1566 in an amount not less than [~~86%~~] 88% above the landed case cost to the department.

1567 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked
1568 up in an amount not less than [~~15%~~] 17% above the landed case cost to the department.

1569 (b) Except for spirituous liquor sold by the department to a military installation in

1570 Utah, spirituous liquor that is sold by the department within the state shall be marked up [47%]
1571 49% above the landed case cost to the department if:

1572 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000
1573 proof gallons of spirituous liquor in a calendar year; and

1574 (ii) the manufacturer applies to the department for a reduced markup.

1575 (c) Except for wine sold by the department to a military installation in Utah, wine that
1576 is sold by the department within the state shall be marked up [47%] 49% above the landed case
1577 cost to the department if:

1578 (i) the wine is manufactured by a manufacturer producing less than 20,000 gallons of
1579 wine in a calendar year; and

1580 (ii) the manufacturer applies to the department for a reduced markup.

1581 (d) Except for heavy beer sold by the department to a military installation in Utah,
1582 heavy beer that is sold by the department within the state shall be marked up [30%] 32% above
1583 the landed case cost to the department if:

1584 (i) a small brewer manufactures the heavy beer; and

1585 (ii) the small brewer applies to the department for a reduced markup.

1586 (e) The department shall verify an amount described in Subsection (3)(b), (c), or (d)
1587 pursuant to a federal or other verifiable production report.

1588 (4) The department shall deposit 10% of the total gross revenue from sales of liquor
1589 with the state treasurer to be credited to the Uniform School Fund and used to support the
1590 school lunch program administered by the State Board of Education under Section
1591 53A-19-201.

1592 (5) This section does not prohibit the department from selling discontinued items at a
1593 discount.

1594 (6) (a) [~~The~~] Except as provided in Section 53A-13-114, the department shall collect
1595 the markup and remit the markup collected by the department under this section:

1596 (i) to the State Tax Commission monthly on or before the last day of the month
1597 immediately following the last day of the previous month; and

1598 (ii) using a form prescribed by the State Tax Commission.

1599 (b) For liquor provided to a package agency on consignment, the department shall
 1600 remit the markup to the State Tax Commission for the month during which the liquor is
 1601 provided to the package agency regardless of when the package agency pays the department for
 1602 the liquor provided to the package agency.

1603 (c) The State Tax Commission shall deposit revenues remitted to it under Subsection
 1604 (6)(a) into the Markup Holding Fund created in Section 32B-2-301.

1605 (d) The assessment, collection, and refund of a markup under this section shall be in
 1606 accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

1607 (e) The department, if it fails to comply with this Subsection (6), is subject to penalties
 1608 as provided in Section 59-1-401 and interest as provided in Section 59-1-402.

1609 (f) The State Tax Commission may make rules, in accordance with Title 63G, Chapter
 1610 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (6).

1611 Section 19. Section 32B-3-102 is amended to read:

1612 **32B-3-102. Definitions.**

1613 As used in this chapter~~[, "final"]~~:

1614 (1) "Aggravating circumstances" means:

1615 (a) prior warnings about compliance problems;

1616 (b) a prior violation history;

1617 (c) a lack of written policies governing employee conduct;

1618 (d) multiple violations during the course of an investigation;

1619 (e) efforts to conceal a violation;

1620 (f) an intentional violation;

1621 (g) the violation involved more than one patron or employee; or

1622 (h) a violation that results in injury or death.

1623 (2) "Final adjudication" means an adjudication for which a final judgment or order is
 1624 issued that:

1625 [~~(+)~~] (a) is not appealed, and the time to appeal the judgment has expired; or

1626 ~~[(2)]~~ (b) is appealed, and is affirmed, in whole or in part, on appeal.
1627 (3) "Mitigating circumstances" means:
1628 (a) no prior violation history for the licensee or permittee;
1629 (b) no prior violation history for the individual who committed the violation;
1630 (c) motive for the individual who engaged in or allowed the violation to retaliate
1631 against the licensee; or

1632 (d) extraordinary cooperation with the investigation of the violation that demonstrates
1633 that the licensee or permittee and the individual who committed the violation accept
1634 responsibility for the violation.

1635 Section 20. Section **32B-3-205** is amended to read:

1636 **32B-3-205. Penalties.**

1637 (1) If the commission is satisfied that a person subject to administrative action violates
1638 this title or the commission's rules, in accordance with Title 63G, Chapter 4, Administrative
1639 Procedures Act, the commission may:

- 1640 (a) suspend or revoke the person's license, permit, or certificate of approval;
- 1641 (b) subject to Subsection (2), impose a fine against the person, including individual
1642 staff of a licensee, permittee, or certificate holder;
- 1643 (c) assess the administrative costs of a disciplinary proceeding to the person if the
1644 person is a licensee, permittee, or certificate holder; or
- 1645 (d) take a combination of actions described in this Subsection (1).

1646 (2) (a) A fine imposed may not exceed \$25,000 in the aggregate for:

- 1647 (i) a single notice of agency action; or
- 1648 (ii) a single action against a package agency.

1649 (b) The commission shall by rule establish a schedule setting forth a range of fines for
1650 each violation.

1651 (c) When a presiding officer imposes a fine, the presiding officer shall consider any
1652 aggravating circumstances or mitigating circumstances in deciding where within the applicable
1653 range to set the fine.

1654 (3) The commission shall transfer the costs assessed under this section into the General
1655 Fund in accordance with Section [32B-2-301](#).

1656 (4) (a) If a license or permit is suspended under this section, the licensee or permittee
1657 shall prominently display a sign provided by the department:

1658 (i) during the suspension; and

1659 (ii) at the entrance of the premises of the licensee or permittee.

1660 (b) The sign required by this Subsection (4) shall:

1661 (i) read "The Utah Alcoholic Beverage Control Commission has suspended the
1662 alcoholic product license or permit of this establishment. An alcoholic product may not be
1663 sold, offered for sale, furnished, or consumed on these premises during the period of
1664 suspension."; and

1665 (ii) include the dates of the suspension period.

1666 (c) A licensee or permittee may not remove, alter, obscure, or destroy a sign required to
1667 be displayed under this Subsection (4) during the suspension period.

1668 (5) (a) If a license or permit is revoked, the commission may order the revocation of a
1669 bond posted by the licensee or permittee under this title.

1670 (b) Notwithstanding Subsection (5)(a), the department may make a claim against a
1671 bond posted by a licensee or permittee for money owed the department under this title without
1672 the commission first revoking the license or permit.

1673 (6) A licensee or permittee whose license or permit is revoked may not reapply for a
1674 license or permit under this title for three years from the date on which the license or permit is
1675 revoked.

1676 (7) If a staff member of a licensee, permittee, or certificate holder is found to have
1677 violated this title, in addition to imposing another penalty authorized by this title, the
1678 commission may prohibit the staff member from handling, selling, furnishing, distributing,
1679 manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as
1680 staff with a licensee, permittee, or certificate holder under this title for a period determined by
1681 the commission.

1682 (8) (a) If the commission makes the finding described in Subsection (8)(b), in addition
1683 to other penalties prescribed by this title, the commission may order:

1684 (i) the removal of an alcoholic product of the manufacturer's, supplier's, or importer's
1685 from the department's sales list; and

1686 (ii) a suspension of the department's purchase of an alcoholic product described in
1687 Subsection (8)(a)(i) for a period determined by the commission.

1688 (b) The commission may take the action described in Subsection (8)(a) if:

1689 (i) a manufacturer, supplier, or importer of liquor or its staff or representative violates
1690 this title; and

1691 (ii) the manufacturer, supplier, or importer:

1692 (A) directly commits the violation; or

1693 (B) solicits, requests, commands, encourages, or intentionally aids another to engage in
1694 the violation.

1695 (9) If the commission makes a finding that the brewer holding a certificate of approval
1696 violates this title or rules of the commission, the commission may take an action against the
1697 brewer holding a certificate of approval that the commission could take against a licensee
1698 including:

1699 (a) suspension or revocation of the certificate of approval; and

1700 (b) imposition of a fine.

1701 (10) Notwithstanding the other provisions of this title, the commission may not order a
1702 disciplinary action or fine in accordance with this section if the disciplinary action or fine is
1703 ordered on the basis of a violation:

1704 (a) of a provision in this title related to intoxication or becoming intoxicated; and

1705 (b) if the violation is first investigated by a law enforcement officer, as defined in
1706 Section [53-13-103](#), who has not received training regarding the requirements of this title
1707 related to responsible alcoholic product sale or service.

1708 Section 21. Section **32B-4-410** is amended to read:

1709 **32B-4-410. Unlawful admittance or attempt to gain admittance by minor.**

1710 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
1711 premises of:

1712 (a) a tavern; or

1713 (b) a ~~[social club]~~ bar licensee, except to the extent authorized by Section 32B-6-406.1.

1714 (2) A minor who violates this section is guilty of a class C misdemeanor.

1715 (3) (a) If a minor is found by a court to have violated this section and the violation is
1716 the minor's first violation of this section, the court may:

1717 (i) order the minor to complete a screening as defined in Section 41-6a-501;

1718 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
1719 screening indicates an assessment to be appropriate; and

1720 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
1721 or substance abuse treatment as indicated by an assessment.

1722 (b) If a minor is found by a court to have violated this section and the violation is the
1723 minor's second or subsequent violation of this section, the court shall:

1724 (i) order the minor to complete a screening as defined in Section 41-6a-501;

1725 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
1726 screening indicates an assessment to be appropriate; and

1727 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
1728 or substance abuse treatment as indicated by an assessment.

1729 (4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
1730 found by a court to have violated this section, except as provided in Section 32B-4-411, the
1731 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

1732 (b) Notwithstanding the provision in Subsection (4)(a), the court may reduce the
1733 suspension period required under Section 53-3-219 if:

1734 (i) the violation is the minor's first violation of this section; and

1735 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

1736 (B) the minor demonstrates substantial progress in substance abuse treatment.

1737 (c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the

1738 requirements of Section 53-3-219, the court may reduce the suspension period required under
1739 Section 53-3-219 if:

1740 (i) the violation is the minor's second or subsequent violation of this section;
1741 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
1742 demonstrated substantial progress in substance abuse treatment; and

1743 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
1744 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
1745 consecutive period during the suspension period imposed under Subsection (4)(a); or

1746 (B) the person is under 18 years of age and has the person's parent or legal guardian
1747 provide an affidavit or sworn statement to the court certifying that to the parent or legal
1748 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a
1749 one-year consecutive period during the suspension period imposed under Subsection (4)(a).

1750 (5) When a minor who is at least 13 years old, but younger than 18 years old, is found
1751 by a court to have violated this section, Section 78A-6-606 applies to the violation.

1752 (6) When a court issues an order suspending a person's driving privileges for a
1753 violation of this section, the Driver License Division shall suspend the person's license under
1754 Section 53-3-219.

1755 (7) When the Department of Public Safety receives the arrest or conviction record of a
1756 person for a driving offense committed while the person's license is suspended pursuant to this
1757 section, the Department of Public Safety shall extend the suspension for an additional like
1758 period of time.

1759 Section 22. Section 32B-4-415 is amended to read:

1760 **32B-4-415. Unlawful bringing onto premises for consumption.**

1761 (1) Except as provided in Subsection (4), a person may not bring an alcoholic product
1762 for on-premise consumption onto the premises of:

1763 (a) a retail licensee or person required to be licensed under this title as a retail licensee;

1764 (b) an establishment that conducts a business similar to a retail licensee;

1765 (c) an event where an alcoholic product is sold, offered for sale, or furnished under a

1766 single event permit or temporary beer event permit issued under this title;

1767 (d) an establishment open to the general public; or

1768 (e) the capitol hill complex.

1769 (2) Except as provided in Subsection (4), the following may not allow a person to bring

1770 onto its premises an alcoholic product for on-premise consumption or allow consumption of an

1771 alcoholic product brought onto its premises in violation of this section:

1772 (a) a retail licensee or a person required to be licensed under this title as a retail

1773 licensee;

1774 (b) an establishment that conducts a business similar to a retail licensee;

1775 (c) a single event permittee or temporary beer event permittee;

1776 (d) an establishment open to the general public;

1777 (e) the State Capitol Preservation Board created in Section 63C-9-201; or

1778 (f) staff of a person listed in Subsections (2)(a) through (e).

1779 (3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an

1780 alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a

1781 passenger at:

1782 (a) a location from which the passenger departs in a private vehicle; or

1783 (b) the capitol hill complex.

1784 (4) (a) A person may bring bottled wine onto the premises of the following and

1785 consume the wine pursuant to Section 32B-5-307:

1786 (i) a full-service restaurant licensee;

1787 (ii) a limited restaurant licensee;

1788 (iii) a [~~club~~] bar establishment licensee; or

1789 (iv) a person operating under a resort spa sublicense.

1790 (b) A passenger of a limousine may bring onto, possess, and consume an alcoholic

1791 product in the limousine if:

1792 (i) the travel of the limousine begins and ends at:

1793 (A) the residence of the passenger;

- 1794 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
1795 (C) the temporary domicile of the passenger;
1796 (ii) the driver of the limousine is separated from the passengers by partition or other
1797 means approved by the department; and
1798 (iii) the limousine is not located on the capitol hill complex.
1799 (c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic
1800 product on the chartered bus:
1801 (i) (A) but may consume only during travel to a specified destination of the chartered
1802 bus and not during travel back to the place where the travel begins; or
1803 (B) if the travel of the chartered bus begins and ends at:
1804 (I) the residence of the passenger;
1805 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
1806 (III) the temporary domicile of the passenger;
1807 (ii) if the chartered bus has a nondrinking designee other than the driver traveling on
1808 the chartered bus to monitor consumption; and
1809 (iii) if the chartered bus is not located on the capitol hill complex.
1810 (5) A person may bring onto any premises, possess, and consume an alcoholic product
1811 at a private event.
1812 (6) Notwithstanding Subsection (5), private and public facilities may prohibit the
1813 possession or consumption of alcohol on their premises.
1814 (7) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel
1815 licensee or person operating under a sublicense in relationship to:
1816 (a) the boundary of a resort building or boundary of a hotel in an area that is open to
1817 the public; or
1818 (b) except as provided in Subsection (4), a sublicense premises.
1819 Section 23. Section **32B-4-501** is amended to read:
1820 **32B-4-501. Operating without a license or permit.**
1821 (1) A person may not operate the following businesses without first obtaining a license

1822 under this title if the business allows a person to purchase or consume an alcoholic product on
1823 the premises of the business:

- 1824 (a) a restaurant;
- 1825 (b) an airport lounge;
- 1826 (c) a business operated in the same manner as a [~~club~~] bar establishment licensee;
- 1827 (d) a resort;
- 1828 (e) a business operated to sell, offer for sale, or furnish beer for on-premise

1829 consumption;

- 1830 (f) a business operated as an on-premise banquet licensee;
- 1831 (g) a hotel; or
- 1832 (h) a business similar to one listed in Subsections (1)(a) through (g).

1833 (2) A person conducting an event that is open to the general public may not directly or
1834 indirectly sell, offer for sale, or furnish an alcoholic product to a person attending the event
1835 without first obtaining an event permit under this title.

1836 (3) A person conducting a private event may not directly or indirectly sell or offer for
1837 sale an alcoholic product to a person attending the private event without first obtaining an
1838 event permit under this title.

1839 (4) A person may not operate the following businesses in this state without first
1840 obtaining a license under this title:

- 1841 (a) a winery manufacturer;
- 1842 (b) a distillery manufacturer;
- 1843 (c) a brewery manufacturer;
- 1844 (d) a local industry representative of:
 - 1845 (i) a manufacturer of an alcoholic product;
 - 1846 (ii) a supplier of an alcoholic product; or
 - 1847 (iii) an importer of an alcoholic product;
- 1848 (e) a liquor warehouse; or
- 1849 (f) a beer wholesaler.

1850 (5) A person may not operate a public conveyance in this state without first obtaining a
1851 public service permit under this title if that public conveyance allows a person to purchase or
1852 consume an alcoholic product:

1853 (a) on the public conveyance; or

1854 (b) on the premises of a hospitality room located within a depot, terminal, or similar
1855 facility at which a service is provided to a patron of the public conveyance.

1856 Section 24. Section **32B-5-201** is amended to read:

1857 **32B-5-201. Application requirements for retail license.**

1858 (1) (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of
1859 an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a
1860 retail license issued by the commission, notwithstanding whether the person holds a local
1861 license or a permit issued by a local authority.

1862 (b) Violation of this Subsection (1) is a class B misdemeanor.

1863 (2) To obtain a retail license under this title, a person shall submit to the department:

1864 (a) a written application in a form prescribed by the department;

1865 (b) a nonrefundable application fee in the amount specified in the relevant part under
1866 Chapter 6, Specific Retail License Act, for the type of retail license for which the person is
1867 applying;

1868 (c) an initial license fee:

1869 (i) in the amount specified in the relevant part under Chapter 6, Specific Retail License
1870 Act, for the type of retail license for which the person is applying; and

1871 (ii) that is refundable if a retail license is not issued;

1872 (d) written consent of the local authority;

1873 (e) a copy of the person's current business license;

1874 (f) evidence of proximity to any community location, with proximity requirements
1875 being governed by Section [32B-1-202](#);

1876 (g) a bond as specified by Section [32B-5-204](#);

1877 (h) a floor plan, and boundary map where applicable, of the premises of the retail

1878 license, including any:

1879 (i) consumption area; and

1880 (ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic
1881 beverage;

1882 (i) evidence that the retail licensee is carrying public liability insurance in an amount
1883 and form satisfactory to the department;

1884 (j) evidence that the retail licensee is carrying dramshop insurance coverage of at least
1885 \$1,000,000 per occurrence and \$2,000,000 in the aggregate;

1886 (k) a signed consent form stating that the retail licensee will permit any authorized
1887 representative of the commission, department, or any law enforcement officer to have
1888 unrestricted right to enter the premises of the retail licensee;

1889 (l) if the person is an entity, proper verification evidencing that a person who signs the
1890 application is authorized to sign on behalf of the entity; [~~and~~]

1891 (m) a responsible alcohol service plan; and

1892 [~~(m)~~] (n) any other information the commission or department may require.

1893 (3) The commission may not issue a retail license to a person who:

1894 (a) is disqualified under Section 32B-1-304; or

1895 (b) is not lawfully present in the United States.

1896 (4) Unless otherwise provided in the relevant part under Chapter 6, Specific Retail
1897 License Act, the commission may not issue a retail license to a person if the licensed premises
1898 does not meet the proximity requirements of Section 32B-1-202.

1899 Section 25. Section 32B-5-202 is amended to read:

1900 **32B-5-202. Renewal requirements.**

1901 (1) A retail license expires each year on the day specified in the relevant part under
1902 Chapter 6, Specific Retail License Act, for that type of retail license.

1903 (2) To renew a person's retail license, a retail licensee shall, by no later than the day
1904 specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail
1905 license that is being renewed, submit:

1906 (a) a completed renewal application that includes a responsible alcohol service plan to
 1907 the department in a form prescribed by the department; and

1908 (b) a renewal fee in the amount specified in the relevant part under Chapter 6, Specific
 1909 Retail License Act, for the type of retail license that is being renewed.

1910 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
 1911 retail license effective on the date the existing retail license expires.

1912 Section 26. Section **32B-5-207** is enacted to read:

1913 **32B-5-207. Multiple retail licenses on same premises.**

1914 (1) (a) (i) The commission may not issue and one or more licensees may not hold more
 1915 than one type of retail license for the same room.

1916 (ii) The commission may define "room" by rule made in accordance with Title 63G,
 1917 Chapter 3, Utah Administrative Rulemaking Act.

1918 (b) Notwithstanding Subsection (1)(a), the commission may issue and one or more
 1919 licensees may hold more than one type of retail license for the same room if:

1920 (i) the applicant or licensee satisfies the requirements for each retail license;

1921 (ii) the types of retail licenses issued or held are two or more of the following:

1922 (A) a restaurant license;

1923 (B) an on-premise beer retailer license that is not a tavern; and

1924 (C) an on-premise banquet license or a reception center license; and

1925 (iii) the retail licenses do not operate at the same time on the same day.

1926 (2) When one or more licensees hold more than one type of retail license for the same
 1927 room under Subsection (1)(b), the one or more licensees shall post in a conspicuous location at
 1928 the entrance of the room a sign that:

1929 (a) measures 8-1/2 inches by 11 inches; and

1930 (b) states whether the premises is currently operating as:

1931 (i) a restaurant;

1932 (ii) an on-premise beer retailer that is not a tavern; or

1933 (iii) a banquet or a reception center.

1934 (3) (a) If, on May 9, 2017, one or more licensees hold more than one type of retail
1935 license for the same room in violation of Subsection (1), the one or more licensees may operate
1936 under the different types of retail licenses through June 30, 2018.

1937 (b) A licensee may not operate in violation of Subsection (1) on or after July 1, 2018.

1938 (c) Before July 1, 2018, each licensee described in Subsection (3)(a) shall notify the
1939 commission of each retail license that the licensee will surrender effective July 1, 2018, to
1940 comply with the provisions of Subsection (1).

1941 (d) The commission shall establish by rule, made in accordance with Title 63G,
1942 Chapter 3, Utah Administrative Rulemaking Act, a procedure by which a licensee surrenders a
1943 retail license under this Subsection (3).

1944 Section 27. Section **32B-5-307** is amended to read:

1945 **32B-5-307. Bringing alcoholic product onto or removing alcoholic product from**
1946 **premises.**

1947 (1) Except as provided in Subsection (3):

1948 (a) A person may not bring onto the licensed premises of a retail licensee an alcoholic
1949 product for on-premise consumption.

1950 (b) A retail licensee may not allow a person to:

1951 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or

1952 (ii) consume an alcoholic product brought onto the licensed premises by a person other
1953 than the retail licensee.

1954 (c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product through
1955 a window or door to a location off the licensed premises or to a vehicular traffic area.

1956 (2) Except as provided in Subsection (3):

1957 (a) A person may not carry from a licensed premises of a retail licensee an open
1958 container that:

1959 (i) is used primarily for drinking purposes; and

1960 (ii) contains an alcoholic product.

1961 (b) A retail licensee may not permit a patron to carry from the licensed premises an

1962 open container described in Subsection (2)(a).

1963 (c) Except as provided in Subsection (3)(d) or Subsection 32B-4-415(5):

1964 (i) a person may not carry from a licensed premises of a retail licensee a sealed
1965 container of liquor that has been purchased from the retail licensee; and

1966 (ii) a retail licensee may not permit a patron to carry from the licensed premises a
1967 sealed container of liquor that has been purchased from the retail licensee.

1968 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for
1969 on-premise consumption if:

1970 (i) permitted by the retail licensee; and

1971 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

1972 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the
1973 patron shall deliver the bottled wine to a server or other representative of the retail licensee
1974 upon entering the licensed premises.

1975 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a
1976 wine service for a bottled wine carried onto the licensed premises in accordance with this
1977 Subsection (3) or a bottled wine purchased at the licensed premises.

1978 (d) A patron may remove from a licensed premises the unconsumed contents of a bottle
1979 of wine purchased [~~in~~] at the licensed premises, or brought onto the licensed premises in
1980 accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

1981 Section 28. Section **32B-5-402** is amended to read:

1982 **32B-5-402. Definitions.**

1983 [~~Reserved~~]

1984 As used in this part:

1985 (1) "Off-premise retail manager" means an individual who:

1986 (a) manages operations at a premises that is licensed under Chapter 7, Off-Premise
1987 Beer Retailer Act; or

1988 (b) supervises the sale of beer at a premises that is licensed under Chapter 7,
1989 Off-Premise Beer Retailer Act.

1990 (2) (a) "Off-premise retail staff" means an individual who sells beer at a premises that
 1991 is licensed under Chapter 7, Off-Premise Beer Retailer Act.

1992 (b) "Off-premise retail staff" does not include an off-premise retail manager.

1993 (3) "Retail manager" means an individual who:

1994 (a) manages operations at a premises that is licensed under this chapter; or

1995 (b) supervises the furnishing of an alcoholic product at a premises that is licensed
 1996 under this chapter.

1997 (4) (a) "Retail staff" means an individual who serves an alcoholic product at a premises
 1998 licensed under this chapter.

1999 (b) "Retail staff" does not include a retail manager.

2000 Section 29. Section **32B-5-403** is amended to read:

2001 **32B-5-403. Alcohol training and education -- Revocation, suspension, or**
 2002 **nonrenewal of retail license.**

2003 (1) The commission may suspend, revoke, or not renew a license of a retail licensee if
 2004 any of the following individuals~~[, as defined in Section 62A-15-401,]~~ fail to complete an
 2005 alcohol training and education seminar:

2006 ~~[(a) an individual who manages operations at the licensed premises for consumption on~~
 2007 ~~the licensed premises;]~~

2008 ~~[(b) an individual who supervises the furnishing of an alcoholic product to a patron for~~
 2009 ~~consumption on the licensed premises; or]~~

2010 ~~[(c) an individual who serves an alcoholic product to a patron for consumption on the~~
 2011 ~~licensed premises.]~~

2012 (a) a retail manager; or

2013 (b) retail staff.

2014 (2) A city, town, metro township, or county in which a retail licensee conducts ~~[its]~~
 2015 business may suspend, revoke, or not renew the business license of the retail licensee if ~~[an~~
 2016 ~~individual described in Subsection (1)]~~ a retail manager or retail staff fails to complete an
 2017 alcohol training and education seminar.

2018 (3) A local authority that issues an off-premise beer retailer license to a business that is
2019 engaged in the retail sale of beer for consumption off the beer retailer's premises may
2020 immediately suspend the off-premise beer retailer license if any of the following individuals
2021 fails to complete an alcohol training and education seminar~~[, an individual who]:~~

2022 ~~[(a) directly supervises the sale of beer to a patron for consumption off the premises of~~
2023 ~~the off-premise beer retailer; or]~~

2024 ~~[(b) sells beer to a patron for consumption off the premises of the off-premise beer~~
2025 ~~retailer.]~~

2026 (a) an off-premise retail manager; or

2027 (b) off-premise retail staff.

2028 Section 30. Section **32B-5-404** is amended to read:

2029 **32B-5-404. Alcohol training and education for off-premise consumption.**

2030 (1) (a) A local authority that issues an off-premise beer retailer license to a business to
2031 sell beer at retail for off-premise consumption shall require the following to have a valid record
2032 that the individual completed an alcohol training and education seminar in the time periods
2033 required by Subsection (1)(b)~~[, an individual who]:~~

2034 ~~[(i) directly supervises the sale of beer to a patron for consumption off the premises of~~
2035 ~~the off-premise beer retailer; or]~~

2036 ~~[(ii) sells beer to a patron for consumption off the premises of the off-premise beer~~
2037 ~~retailer.]~~

2038 (i) an off-premise retail manager; or

2039 (ii) off-premise retail staff.

2040 (b) If an individual on the date the individual becomes staff to an off-premise beer
2041 retailer does not have a valid record that the individual has completed an alcohol training and
2042 education seminar for purposes of this part, the individual shall complete an alcohol training
2043 and education seminar within 30 days of the day on which the individual becomes staff of an
2044 off-premise beer retailer.

2045 (c) Section [62A-15-401](#) governs the validity of a record that an individual has

2046 completed an alcohol training and education seminar required by this part.

2047 (2) In accordance with Section ~~32B-5-403~~, a local authority may immediately suspend
2048 the license of an off-premise beer retailer that allows ~~[staff to directly supervise the sale of beer~~
2049 ~~or to sell beer to a patron]~~ an individual to work as an off-premise retail manager without
2050 having a valid record that the individual completed an alcohol training and education seminar
2051 in accordance with Subsection (1).

2052 Section 31. Section ~~32B-5-405~~ is enacted to read:

2053 **32B-5-405. Department training programs.**

2054 (1) No later than January 1, 2018, the department shall develop the following training
2055 programs that are provided either in-person or online:

2056 (a) a training program for retail managers that addresses:

2057 (i) the statutes and rules that govern alcohol sales and consumption in the state;

2058 (ii) the requirements for operating as a retail licensee;

2059 (iii) using compliance assistance from the department; and

2060 (iv) any other topic the department determines beneficial to a retail manager; and

2061 (b) a training program for an individual employed by a retail licensee or an off-premise
2062 beer retailer who violates a provision of this title related to the sale, service, or furnishing of an
2063 alcoholic beverage to an intoxicated individual or a minor, that addresses:

2064 (i) the statutes and rules that govern the most common types of violations under this
2065 title;

2066 (ii) how to avoid common violations; and

2067 (iii) any other topic the department determines beneficial to the training program.

2068 (2) No later than January 1, 2019, the department shall develop a training program for
2069 off-premise retail managers that is provided either in-person or online and addresses:

2070 (a) the statutes and rules that govern sales at an off-premise beer retailer;

2071 (b) the requirements for operating an off-premise beer retailer;

2072 (c) using compliance assistance from the department; and

2073 (d) any other topic the department determines beneficial to an off-premise retail

2074 manager.

2075 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
2076 the provisions of this section, the department shall make rules to develop and implement the
2077 training programs described in this section, including rules that establish:

2078 (a) the requirements for each training program described in this section;

2079 (b) measures that accurately identify each individual who takes and completes a
2080 training program;

2081 (c) measures that ensure an individual taking a training program is focused and actively
2082 engaged in the training material throughout the training program;

2083 (d) a record that certifies that an individual has completed a training program; and

2084 (e) a fee for participation in a training program to cover the department's cost of
2085 providing the training program.

2086 (4) (a) Except as provided in Subsection (5), each retail manager shall:

2087 (i) complete the training described in Subsection (1)(a) no later than the earlier of:

2088 (A) 30 days after the day on which the retail manager is hired; or

2089 (B) before the day on which the retail licensee obtains a retail license under this

2090 chapter; and

2091 (ii) retake the training program described in Subsection (1)(a) once every three years.

2092 (b) Except as provided in Subsection (5), each off-premise retail manager shall:

2093 (i) complete the training described in Subsection (2) no later than the earlier of:

2094 (A) 30 days after the day on which the off-premise retail manager is hired; or

2095 (B) before the day on which the off-premise beer retailer obtains an off-premise beer
2096 retailer state license; and

2097 (ii) retake the training program described in Subsection (2) once every three years.

2098 (c) (i) If the commission finds that an individual employed by a retail licensee violated
2099 a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an
2100 intoxicated individual or a minor for a second time while employed by the same retail licensee,
2101 the violator, all retail staff, and each retail manager shall complete the training program

2102 described in Subsection (1)(b).

2103 (ii) If the commission finds that an individual employed by an off-premise beer retailer
2104 violated a provision of this title related to the sale, service, or furnishing of an alcoholic
2105 beverage to an intoxicated individual or a minor for a second time while employed by the same
2106 off-premise beer retailer, the violator and each off-premise retail manager shall complete the
2107 training program described in Subsection (1)(b).

2108 (5) For a person who holds a retail license on January 1, 2018, each retail manager
2109 shall complete the training program described in Subsection (1)(a) for the first time as a
2110 condition of renewing the licensee's retail license in 2018.

2111 (6) If an individual fails to complete a required training program under this section:

2112 (a) the commission may suspend, revoke, or not renew the retail license or off-premise
2113 beer retailer state license;

2114 (b) a city, town, metro township, or county in which the retail licensee or off-premise
2115 beer retailer is located may suspend, revoke, or not renew the retail licensee's or off-premise
2116 beer retailer's business license; or

2117 (c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's
2118 license.

2119 Section 32. Section **32B-5-406** is enacted to read:

2120 **32B-5-406. Tracking certain enforcement actions.**

2121 (1) For each violation of a provision of this title involving the sale of an alcoholic
2122 product to a minor that staff of a retail licensee commits, the commission shall:

2123 (a) maintain a record of the violation until the record is expunged in accordance with
2124 Subsection (3);

2125 (b) include in the record described in Subsection (1)(a):

2126 (i) the name of the individual who committed the violation;

2127 (ii) the name of the retail licensee; and

2128 (iii) the date of the adjudication of the violation; and

2129 (c) provide the information described in Subsection (1)(b) to the Department of Public

2130 Safety within 30 days after the day on which the violation is adjudicated.

2131 (2) (a) The Department of Public Safety shall develop and operate a system to collect,
2132 analyze, maintain, track, and disseminate the information that the Department of Public Safety
2133 receives in accordance with Subsection (1).

2134 (b) The Department of Public Safety shall make the system described in Subsection
2135 (2)(a) available to:

2136 (i) assist the commission in assessing penalties under this title; and

2137 (ii) inform a retail licensee of an individual who has a violation history in the system.

2138 (3) The commission and the Department of Public Safety shall expunge each record in
2139 the system described in Subsection (2) that relates to an individual if the individual does not
2140 violate a provision of this title related to the sale of an alcoholic product to a minor for a period
2141 of 36 consecutive months from the day on which the individual was last found to have violated
2142 a provision of this title related to the sale of an alcoholic product to a minor.

2143 Section 33. Section **32B-6-202** is amended to read:

2144 **32B-6-202. Definitions.**

2145 As used in this part:

2146 (1) (a) "Dining area" means an area in the licensed premises of a full-service restaurant
2147 licensee that is primarily used for the service and consumption of food by one or more patrons.

2148 (b) "Dining area" does not include a dispensing area.

2149 (2) (a) "Dispensing area" means an area in the licensed premises of a full-service
2150 restaurant licensee where a dispensing structure is located and that:

2151 (i) is physically separated from the dining area and any waiting area by a structure or
2152 other barrier that prevents a patron seated in the dining area or a waiting area from viewing the
2153 dispensing of alcoholic product;

2154 (ii) except as provided in Subsection (2)(b), measures at least 10 feet from any area
2155 where alcoholic product is dispensed to the dining area and any waiting area, measured from
2156 the point of the area where alcoholic product is dispensed that is closest to the dining area or
2157 waiting area; or

2158 (iii) is physically separated from the dining area and any waiting area by a permanent
2159 physical structure that complies with the provisions of Title 15A, State Construction and Fire
2160 Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act,
2161 measures:

2162 (A) at least 42 inches high; and

2163 (B) at least 60 inches from the inside edge of the barrier to the nearest edge of the
2164 dispensing structure.

2165 (b) "Dispensing area" does not include any area described in Subsection (2)(a)(ii) that
2166 is less than 10 feet from an area where alcoholic product is dispensed, but from which a patron
2167 seated at a table or counter cannot view the dispensing of alcoholic product.

2168 ~~[(+)]~~ (3) (a) "Grandfathered bar structure" means a bar structure in a licensed premises
2169 of a full-service restaurant licensee that:

2170 (i) as of May 11, 2009, has:

2171 (A) patron seating at the bar structure;

2172 (B) a partition at one or more locations on the bar structure that is along:

2173 (I) the width of the bar structure; or

2174 (II) the length of the bar structure; and

2175 (C) facilities for the dispensing or storage of an alcoholic product:

2176 (I) on the portion of the bar structure that is separated by the partition described in

2177 Subsection ~~[(+)]~~ (3)(a)(i)(B); or

2178 (II) if the partition as described in Subsection ~~[(+)]~~ (3)(a)(i)(B)(II) is adjacent to the bar
2179 structure in a manner visible to a patron sitting at the bar structure;

2180 (ii) is not operational as of May 12, 2009, if:

2181 (A) a person applying for a full-service restaurant license:

2182 (I) has as of May 12, 2009, a building permit to construct the restaurant;

2183 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2184 defined by rule made by the commission; and

2185 (III) is issued the full-service restaurant license by no later than December 31, 2009;

2186 and

2187 (B) once constructed, the licensed premises has a bar structure described in Subsection
 2188 ~~[(+)]~~ (3)(a)(i);

2189 (iii) as of May 12, 2009, has no patron seating at the bar structure; or

2190 (iv) is not operational as of May 12, 2009, if:

2191 (A) a person applying for a full-service restaurant license:

2192 (I) has as of May 12, 2009, a building permit to construct the restaurant;

2193 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
 2194 defined by rule made by the commission; and

2195 (III) is issued a full-service restaurant license by no later than December 31, 2009; and

2196 (B) once constructed, the licensed premises has a bar structure with no patron seating.

2197 (b) "Grandfathered bar structure" does not include a grandfathered bar structure
 2198 described in Subsection ~~[(+)]~~ (3)(a) on or after the day on which a restaurant remodels the
 2199 grandfathered bar structure, as defined by rule made by the commission.

2200 (c) Subject to Subsection ~~[(+)]~~ (3)(b), a grandfathered bar structure remains a
 2201 grandfathered bar structure notwithstanding whether a restaurant undergoes a change of
 2202 ownership.

2203 ~~[(2)]~~ (4) "Seating grandfathered bar structure" means:

2204 (a) a grandfathered bar structure described in Subsection ~~[(+)]~~ (3)(a)(i) or (ii); or

2205 (b) a bar structure grandfathered under Section [32B-6-409](#).

2206 (5) "Waiting area" includes a lobby.

2207 Section 34. Section **32B-6-204** is amended to read:

2208 **32B-6-204. Specific licensing requirements for full-service restaurant license.**

2209 (1) To obtain a full-service restaurant license a person shall comply with Chapter 5,
 2210 Part 2, Retail Licensing Process.

2211 (2) (a) A full-service restaurant license expires on October 31 of each year.

2212 (b) To renew a person's full-service restaurant license, a person shall comply with the
 2213 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than

2214 September 30.

2215 (3) (a) The nonrefundable application fee for a full-service restaurant license is \$330.

2216 (b) The initial license fee for a full-service restaurant license is \$2,200.

2217 (c) The renewal fee for a full-service restaurant license is [~~in the following amount:~~]

2218 \$1,650.

2219	[Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
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2220	- under \$5,000	\$935
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2221	- equals or exceeds \$5,000 but less than \$10,000	\$1,155
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2222	- equals or exceeds \$10,000 but less than \$25,000	\$1,650
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2223	- equals or exceeds \$25,000	\$1,925]
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2224 (4) The bond amount required for a full-service restaurant license is the penal sum of
2225 \$10,000.

2226 Section 35. Section **32B-6-205** is amended to read:

2227 **32B-6-205. Specific operational requirements for a full-service restaurant license**
2228 **-- Before July 1, 2018 or July 1, 2022.**

2229 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2230 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
2231 shall comply with this section.

2232 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2233 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2234 (i) a full-service restaurant licensee;

2235 (ii) individual staff of a full-service restaurant licensee; or

2236 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
2237 licensee.

2238 (2) In addition to complying with Subsection **32B-5-301**(3), a full-service restaurant
2239 licensee shall:

2240 (a) display in a prominent place in the restaurant a list of the types and brand names of

2241 liquor being furnished through the full-service restaurant licensee's calibrated metered
2242 dispensing system[-]; and

2243 (b) display in a conspicuous place at the entrance to the licensed premises a sign
2244 approved by the commission that:

2245 (i) measures at least 8-1/2 inches long and 11 inches wide; and

2246 (ii) clearly states that the full-service restaurant licensee is a restaurant and not a bar.

2247 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee
2248 shall store an alcoholic product in a storage area described in Subsection (12)(a).

2249 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
2250 licensee's premises shall make a written beverage tab for each table or group that orders or
2251 consumes an alcoholic product on the premises.

2252 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
2253 alcoholic product ordered or consumed.

2254 (5) A person's willingness to serve an alcoholic product may not be made a condition
2255 of employment as a server with a full-service restaurant licensee.

2256 (6) (a) A full-service restaurant licensee may [~~not~~] sell, offer for sale, or furnish liquor
2257 at the licensed premises [~~on any day during the period that~~] during the following time periods
2258 only:

2259 (i) [~~begins at midnight; and~~] on a weekday, during the period that begins at 11:30 a.m.
2260 and ends at 11:59 p.m.; or

2261 (ii) [~~ends at 11:29 a.m.~~] on a weekend or a state or federal legal holiday or for a private
2262 event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

2263 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer [~~during the~~
2264 ~~hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,~~
2265 ~~except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before~~
2266 ~~11:30 a.m. on any day.~~] at the licensed premises during the following time periods only:

2267 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

2268 (ii) on a weekend or a state or federal legal holiday or for a private event, during the

2269 period that begins at 10:30 a.m. and ends at 12:59 a.m.

2270 (7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant
2271 business from the sale of food, which does not include:

2272 (a) mix for an alcoholic product; or

2273 (b) a service charge.

2274 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2275 alcoholic product except after the full-service restaurant licensee confirms that the patron has
2276 the intent to order food prepared, sold, and furnished at the licensed premises.

2277 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate
2278 culinary facilities for food preparation and dining accommodations.

2279 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
2280 more than two alcoholic products of any kind at a time before the patron.

2281 (b) A patron may not have more than one spirituous liquor drink at a time before the
2282 patron.

2283 (c) An individual portion of wine is considered to be one alcoholic product under
2284 Subsection (9)(a).

2285 (10) A patron may consume an alcoholic product only:

2286 (a) at:

2287 (i) the patron's table;

2288 (ii) a counter; or

2289 (iii) a seating grandfathered bar structure; and

2290 (b) where food is served.

2291 (11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2292 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
2293 structure that is not a seating grandfathered bar structure.

2294 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
2295 may:

2296 (i) sit;

- 2297 (ii) be furnished an alcoholic product; and
- 2298 (iii) consume an alcoholic product.
- 2299 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
- 2300 full-service restaurant licensee may not permit a minor to, and a minor may not:
- 2301 (i) sit; or
- 2302 (ii) consume food or beverages.
- 2303 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is
- 2304 employed by a full-service restaurant licensee:
- 2305 (A) as provided in Subsection 32B-5-308(2); or
- 2306 (B) to perform maintenance and cleaning services during an hour when the full-service
- 2307 restaurant licensee is not open for business.
- 2308 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
- 2309 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's
- 2310 premises in which the minor is permitted to be.
- 2311 (12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee
- 2312 may dispense an alcoholic product only if:
- 2313 (a) the alcoholic product is dispensed from:
- 2314 (i) a grandfathered bar structure;
- 2315 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
- 2316 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
- 2317 12, 2009; or
- 2318 (iii) an area that is:
- 2319 (A) separated from an area for the consumption of food by a patron by a solid,
- 2320 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
- 2321 an alcoholic product are:
- 2322 (I) not readily visible to a patron; and
- 2323 (II) not accessible by a patron; and
- 2324 (B) apart from an area used:

2325 (I) for dining;
2326 (II) for staging; or
2327 (III) as a lobby or waiting area;
2328 (b) the full-service restaurant licensee uses an alcoholic product that is:
2329 (i) stored in an area described in Subsection (12)(a); or
2330 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
2331 (A) immediately before the alcoholic product is dispensed it is in an unopened
2332 container; (B) the unopened container is taken to an area described in Subsection (12)(a) before
2333 it is opened; and (C) once opened, the container is stored in an area described in Subsection
2334 (12)(a); and
2335 (c) any instrument or equipment used to dispense alcoholic product is located in an
2336 area described in Subsection (12)(a).
2337 (13) A full-service restaurant licensee may state in a food or alcoholic product menu a
2338 charge or fee made in connection with the sale, service, or consumption of liquor including:
2339 (a) a set-up charge;
2340 (b) a service charge; or
2341 (c) a chilling fee.
2342 (14) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or
2343 beverages within 10 feet of a grandfathered bar structure, unless:
2344 (a) seating within 10 feet of the grandfathered bar structure is the only seating available
2345 in the licensed premises; and
2346 (b) the minor is accompanied by an individual who is 21 years of age or older.
2347 (15) Except as provided in Subsection 32B-6-205.2(18) and Section 32B-6-205.3, the
2348 provisions of this section apply before July 1, 2018.
2349 Section 36. Section 32B-6-205.2 is enacted to read:
2350 **32B-6-205.2. Specific operational requirements for a full-service restaurant**
2351 **license -- On and after July 1, 2018 or July 1, 2022.**
2352 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational

2353 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
2354 shall comply with this section.

2355 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
2356 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2357 (i) a full-service restaurant licensee;

2358 (ii) individual staff of a full-service restaurant licensee; or

2359 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
2360 licensee.

2361 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant
2362 licensee shall display in a conspicuous place at the entrance to the licensed premises a sign
2363 approved by the commission that:

2364 (a) measures at least 8-1/2 inches long and 11 inches wide; and

2365 (b) clearly states that the full-service restaurant licensee is a restaurant and not a bar.

2366 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee
2367 shall store an alcoholic product in a storage area described in Subsection (13)(a).

2368 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
2369 licensee's premises shall make a beverage tab for each table or group that orders or consumes
2370 an alcoholic product on the premises.

2371 (b) A beverage tab described in this Subsection (4) shall state the type and amount of
2372 each alcoholic product ordered or consumed.

2373 (5) A full-service restaurant licensee may not make an individual's willingness to serve
2374 an alcoholic product a condition of employment with a full-service restaurant licensee.

2375 (6) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the
2376 licensed premises during the following time periods only:

2377 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

2378 (ii) on a weekend or a state or federal legal holiday or for a private event, during the
2379 period that begins at 10:30 a.m. and ends at 11:59 p.m.

2380 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the

2381 licensed premises during the following time periods only:

2382 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

2383 (ii) on a weekend or a state or federal legal holiday or for a private event, during the

2384 period that begins at 10:30 a.m. and ends at 12:59 a.m.

2385 (7) A full-service restaurant licensee shall maintain at least 70% of the full-service

2386 restaurant licensee's total restaurant business from the sale of food, which does not include:

2387 (a) mix for an alcoholic product; or

2388 (b) a service charge.

2389 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an

2390 alcoholic product except after:

2391 (i) the patron to whom the full-service restaurant licensee sells, offers for sale, or

2392 furnishes the alcoholic product is seated at:

2393 (A) a table that is located in a dining area or a dispensing area;

2394 (B) a counter that is located in a dining area or a dispensing area; or

2395 (C) a dispensing structure that is located in a dispensing area; and

2396 (ii) the full-service restaurant licensee confirms that the patron intends to:

2397 (A) order food prepared, sold, and furnished at the licensed premises; and

2398 (B) except as provided in Subsection (8)(b), consume the food at the same location

2399 where the patron is seated and sold, offered for sale, or furnished the alcoholic product.

2400 (b) (i) While a patron waits for a seat at a table or counter in the dining area of a

2401 full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or

2402 furnish to the patron one drink that contains a single portion of an alcoholic product as

2403 described in Section [32B-5-304](#) if:

2404 (A) the patron is in a dispensing area and seated at a table, counter, or dispensing

2405 structure; and

2406 (B) the full-service restaurant licensee first confirms that after the patron is seated in

2407 the dining area, the patron intends to order food prepared, sold, and furnished at the licensed

2408 premises.

2409 (ii) If the patron does not finish the patron's alcoholic product before moving to a seat
2410 in the dining area, an employee of the full-service restaurant licensee who is qualified to sell
2411 and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion
2412 of the patron's alcoholic product to the patron's seat in the dining area.

2413 (iii) For purposes of Subsection (8)(b)(i) a single portion of wine is 5 ounces or less.

2414 (c) A full-service restaurant licensee shall maintain on the licensed premises adequate
2415 culinary facilities for food preparation and dining accommodations.

2416 (9) A patron may consume an alcoholic product only if the patron is seated at:

2417 (a) a table that is located in a dining area or dispensing area;

2418 (b) a counter that is located in a dining area or dispensing area; or

2419 (c) a dispensing structure located in a dispensing area.

2420 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
2421 more than two alcoholic products of any kind at a time before the patron.

2422 (b) A patron may not have more than one spirituous liquor drink at a time before the
2423 patron.

2424 (c) An individual portion of wine is considered to be one alcoholic product under
2425 Subsection (10)(a).

2426 (11) In accordance with the provisions of this section, an individual who is at least 21
2427 years of age may consume food and beverages in a dispensing area.

2428 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
2429 consume food or beverages in a dispensing area.

2430 (b) (i) A minor may be in a dispensing area if the minor is employed by the full-service
2431 restaurant licensee:

2432 (A) in accordance with Subsection 32B-5-308(2); or

2433 (B) to perform maintenance and cleaning services when the full-service restaurant
2434 licensee is not open for business.

2435 (ii) If there is no alternative route available, a minor may momentarily pass through a
2436 dispensing area without remaining or sitting in the dispensing area en route to an area of the

- 2437 full-service restaurant licensee's premises in which the minor is permitted to be.
- 2438 (13) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee
- 2439 may dispense an alcoholic product only if:
- 2440 (a) the alcoholic product is dispensed from:
- 2441 (i) a dispensing structure that is located in a dispensing area;
- 2442 (ii) an area that is:
- 2443 (A) separated from an area for the consumption of food by a patron by a solid,
- 2444 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
- 2445 an alcoholic product are not readily visible to a patron and not accessible by a patron; and
- 2446 (B) apart from an area used for dining, for staging, or as a lobby or waiting area; or
- 2447 (iii) the premises of a bar licensee that is:
- 2448 (A) owned by the same person or persons as the full-service restaurant licensee; and
- 2449 (B) located immediately adjacent to the premises of the full-service restaurant licensee;
- 2450 (b) the full-service restaurant licensee uses an alcoholic product that is stored in an area
- 2451 described in Subsection (13)(a) or in accordance with Section 32B-5-303; and
- 2452 (c) any instrument or equipment used to dispense alcoholic product is located in an
- 2453 area described in Subsection (13)(a).
- 2454 (14) (a) A full-service restaurant licensee may have more than one dispensing area in
- 2455 the licensed premises.
- 2456 (b) Each dispensing area in a licensed premises may satisfy the requirements for a
- 2457 dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other
- 2458 dispensing area in the licensed premises satisfies the requirements for a dispensing area.
- 2459 (15) A full-service restaurant licensee may not:
- 2460 (a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or
- 2461 (b) display an alcoholic product or a product intended to appear like an alcoholic
- 2462 product by moving a cart or similar device around the licensed premises.
- 2463 (16) A full-service restaurant licensee may state in a food or alcoholic product menu a
- 2464 charge or fee made in connection with the sale, service, or consumption of liquor, including:

- 2465 (a) a set-up charge;
2466 (b) a service charge; or
2467 (c) a chilling fee.
- 2468 (17) (a) In addition to the requirements described in Section [32B-5-302](#), a full-service
2469 restaurant licensee shall maintain each of the following records for at least three years:
- 2470 (i) a record required by Section [32B-5-302](#); and
2471 (ii) a record that the commission requires a full-service restaurant licensee to use or
2472 maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2473 Rulemaking Act.
- 2474 (b) The department shall audit the records of a full-service restaurant licensee at least
2475 once each calendar year.
- 2476 (18) (a) In accordance with Section [32B-6-205.3](#), a full-service restaurant licensee:
- 2477 (i) may comply with the provisions of this section beginning on or after July 1, 2017;
2478 and
- 2479 (ii) shall comply with the provisions of this section:
- 2480 (A) for a full-service restaurant licensee that does not have a grandfathered bar
2481 structure, on and after July 1, 2018; or
- 2482 (B) for a full-service restaurant licensee that has a grandfathered bar structure, on and
2483 after July 1, 2022.
- 2484 (b) A full-service restaurant licensee that elects to comply with the provisions of this
2485 section before the latest applicable date described in Subsection (18)(a)(ii):
- 2486 (i) shall comply with each provision of this section; and
2487 (ii) is not required to comply with the provisions of Section [32B-6-205](#).
- 2488 Section 37. Section **32B-6-205.3** is enacted to read:
- 2489 **32B-6-205.3. Transition process for full-service restaurant licensees.**
- 2490 (1) For a full-service restaurant license issued on or after July 1, 2017, the full-service
2491 restaurant licensee shall comply with the provisions of Section [32B-6-205.2](#).
- 2492 (2) For a full-service restaurant license issued before July 1, 2017, before the

2493 full-service restaurant licensee changes the full-service restaurant licensee's approved location
2494 for storage, dispensing, or consumption to comply with the provisions of Section [32B-6-205.2](#),
2495 the full-service restaurant licensee shall submit an application for approval to the department in
2496 accordance with Subsection [32B-5-303\(3\)](#).

2497 (3) (a) Except as provided in Subsection (4), a person who holds a full-service
2498 restaurant license issued before July 1, 2017, shall comply with the provisions of Section
2499 [32B-6-205.2](#) on or before July 1, 2018.

2500 (b) A full-service restaurant licensee described in Subsection (3)(a) that cannot comply
2501 with the provisions of Section [32B-6-205.2](#) without a change to the full-service restaurant
2502 licensee's approved location for storage, dispensing, or consumption:

2503 (i) may submit an application for approval described in Subsection (2) on or after May
2504 9, 2017; and

2505 (ii) shall submit an application for approval described in Subsection (2) on or before
2506 May 1, 2018.

2507 (c) If a full-service restaurant licensee described in Subsection (3)(a) submits an
2508 application for approval described in Subsection (2) on May 9, 2017, the department shall take
2509 action on the application on or before July 1, 2017.

2510 (4) (a) A person who holds a full-service restaurant license issued before July 1, 2017,
2511 and has a grandfathered bar structure shall comply with the provisions of Section [32B-6-205.2](#)
2512 on or before the earlier of:

2513 (i) [July 1, 2022](#);

2514 (ii) the date on which the full-service restaurant licensee remodels, as defined by
2515 commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2516 Rulemaking Act, the full-service restaurant licensee's grandfathered bar structure or dining
2517 area; or

2518 (iii) the date on which the full-service restaurant licensee experiences a change of
2519 ownership described in Subsection [32B-8a-202\(1\)](#).

2520 (b) A full-service restaurant licensee described in Subsection (4)(a) that cannot comply

2521 with the provisions of Section [32B-6-205.2](#) without a change to the full-service restaurant
2522 licensee's approved location for storage, dispensing, or consumption:

2523 (i) may submit an application for approval described in Subsection (2) on or after May
2524 9, 2017; and

2525 (ii) shall submit an application for approval described in Subsection (2) on or before
2526 May 1, 2022.

2527 Section 38. Section **32B-6-302** is amended to read:

2528 **32B-6-302. Definitions.**

2529 As used in this part:

2530 (1) (a) "Dining area" means an area in the licensed premises of a limited-service
2531 restaurant licensee that is primarily used for the service and consumption of food by one or
2532 more patrons.

2533 (b) "Dining area" does not include a dispensing area.

2534 (2) (a) "Dispensing area" means an area in the licensed premises of a limited-service
2535 restaurant licensee where a dispensing structure is located and that:

2536 (i) is physically separated from the dining area and any waiting area by a structure or
2537 other barrier that prevents a patron seated in the dining area or a waiting area from viewing the
2538 dispensing of alcoholic product;

2539 (ii) except as provided in Subsection (2)(b), measures at least 10 feet from any area
2540 where alcoholic product is dispensed to the dining area and any waiting area, measured from
2541 the point of the area where alcoholic product is dispensed that is closest to the dining area or
2542 waiting area; or

2543 (iii) is physically separated from the dining area and any waiting area by a permanent
2544 physical structure that complies with the provisions of Title 15A, State Construction and Fire
2545 Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act,
2546 measures:

2547 (A) at least 42 inches high; and

2548 (B) at least 60 inches from the inside edge of the barrier to the nearest edge of the

2549 dispensing structure.

2550 (b) "Dispensing area" does not include any area described in Subsection (2)(a)(ii) that
2551 is less than 10 feet from an area where alcoholic product is dispensed, but from which a patron
2552 seated at a table or counter cannot view the dispensing of alcoholic product.

2553 ~~(+)~~ (3) (a) "Grandfathered bar structure" means a bar structure in a licensed premises
2554 of a limited-service restaurant licensee that:

2555 (i) as of May 11, 2009, has:

2556 (A) patron seating at the bar structure;

2557 (B) a partition at one or more locations on the bar structure that is along:

2558 (I) the width of the bar structure; or

2559 (II) the length of the bar structure; and

2560 (C) facilities for the dispensing or storage of an alcoholic product:

2561 (I) on the portion of the bar structure that is separated by the partition described in

2562 Subsection ~~(+)~~ (3)(a)(i)(B); or

2563 (II) if the partition as described in Subsection ~~(+)~~ (3)(a)(i)(B)(II) is adjacent to the bar
2564 structure in a manner visible to a patron sitting at the bar structure;

2565 (ii) is not operational as of May 12, 2009, if:

2566 (A) a person applying for a limited-service restaurant license:

2567 (I) has as of May 12, 2009, a building permit to construct the restaurant;

2568 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2569 defined by rule made by the commission; and

2570 (III) is issued the limited-service restaurant license by no later than December 31,
2571 2009; and

2572 (B) once constructed, the licensed premises has a bar structure described in Subsection
2573 ~~(+)~~ (3)(a)(i);

2574 (iii) as of May 12, 2009, has no patron seating at the bar structure; or

2575 (iv) is not operational as of May 12, 2009, if:

2576 (A) a person applying for a limited-service restaurant license:

- 2577 (I) has as of May 12, 2009, a building permit to construct the restaurant;
- 2578 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
- 2579 defined by rule made by the commission; and
- 2580 (III) is issued a limited-service restaurant license by no later than December 31, 2009;
- 2581 and
- 2582 (B) once constructed, the licensed premises has a bar structure with no patron seating.
- 2583 (b) "Grandfathered bar structure" does not include a grandfathered bar structure
- 2584 described in Subsection ~~[(1)]~~ (3)(a) on or after the day on which a restaurant remodels the
- 2585 grandfathered bar structure, as defined by rule made by the commission.
- 2586 (c) Subject to Subsection ~~[(1)]~~ (3)(b), a grandfathered bar structure remains a
- 2587 grandfathered bar structure notwithstanding whether a restaurant undergoes a change of
- 2588 ownership.
- 2589 ~~[(2)]~~ (4) "Seating grandfathered bar structure" means:
- 2590 (a) a grandfathered bar structure described in Subsection ~~[(1)]~~ (3)(a)(i) or (ii); or
- 2591 (b) a bar structure grandfathered under Section [32B-6-409](#).
- 2592 (5) "Waiting area" includes a lobby.
- 2593 ~~[(3)]~~ (6) "Wine" includes an alcoholic beverage defined as wine under 27 U.S.C. Sec.
- 2594 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made in the manner
- 2595 of wine containing not less than 7% and not more than 24% of alcohol by volume:
- 2596 (a) sparkling and carbonated wine;
- 2597 (b) wine made from condensed grape must;
- 2598 (c) wine made from other agricultural products than the juice of sound, ripe grapes;
- 2599 (d) imitation wine;
- 2600 (e) compounds sold as wine;
- 2601 (f) vermouth;
- 2602 (g) cider;
- 2603 (h) perry; and
- 2604 (i) sake.

2605 Section 39. Section **32B-6-305** is amended to read:

2606 **32B-6-305. Specific operational requirements for a limited-service restaurant**
2607 **license -- Before July 1, 2018 or July 1, 2022.**

2608 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2609 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
2610 licensee shall comply with this section.

2611 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2612 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2613 (i) a limited-service restaurant licensee;

2614 (ii) individual staff of a limited-service restaurant licensee; or

2615 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
2616 licensee.

2617 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer
2618 for sale, furnish, or allow consumption of:

2619 (i) spirituous liquor; or

2620 (ii) a flavored malt beverage.

2621 (b) A product listed in Subsection (2)(a) may not be on the premises of a
2622 limited-service restaurant licensee except for use:

2623 (i) as a flavoring on a dessert; and

2624 (ii) in the preparation of a flaming food dish, drink, or dessert.

2625 (3) In addition to complying with Section **32B-5-303**, a limited-service restaurant
2626 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

2627 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant
2628 licensee's premises shall make a written beverage tab for each table or group that orders or
2629 consumes an alcoholic product on the premises.

2630 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
2631 alcoholic product ordered or consumed.

2632 (5) A person's willingness to serve an alcoholic product may not be made a condition

2633 of employment as a server with a limited-service restaurant licensee.

2634 (6) (a) A limited-service restaurant licensee may ~~[not]~~ sell, offer for sale, or furnish
2635 wine or heavy beer at the licensed premises ~~[on any day during the period that]~~ during the
2636 following time periods only:

2637 (i) ~~[begins at midnight, and]~~ on a weekday, during the period that begins at 11:30 a.m.
2638 and ends at 11:59 p.m.; or

2639 (ii) ~~[ends at 11:29 a.m.]~~ on a weekend or a state or federal legal holiday or for a private
2640 event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

2641 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer ~~[during~~
2642 ~~the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,~~
2643 ~~except that a limited-service restaurant licensee may not sell, offer for sale, or furnish beer~~
2644 ~~before 11:30 a.m. on any day.]~~ at the licensed premises during the following time periods only:

2645 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

2646 (ii) on a weekend or state or federal legal holiday or for a private event, during the
2647 period that begins at 10:30 a.m. and ends at 12:59 a.m.

2648 (7) A limited-service restaurant licensee shall maintain at least 70% of its total
2649 restaurant business from the sale of food, which does not include a service charge.

2650 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
2651 alcoholic product except after the limited-service restaurant licensee confirms that the patron
2652 has the intent to order food prepared, sold, and furnished at the licensed premises.

2653 (b) A limited-service restaurant licensee shall maintain on the licensed premises
2654 adequate culinary facilities for food preparation and dining accommodations.

2655 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
2656 more than two alcoholic products of any kind at a time before the patron.

2657 (b) An individual portion of wine is considered to be one alcoholic product under
2658 Subsection (9)(a).

2659 (10) A patron may consume an alcoholic product only:

2660 (a) at:

- 2661 (i) the patron's table;
- 2662 (ii) a counter; or
- 2663 (iii) a seating grandfathered bar structure; and
- 2664 (b) where food is served.
- 2665 (11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
- 2666 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
- 2667 structure that is not a seating grandfathered bar structure.
- 2668 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
- 2669 may:
- 2670 (i) sit;
- 2671 (ii) be furnished an alcoholic product; and
- 2672 (iii) consume an alcoholic product.
- 2673 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
- 2674 limited-service restaurant licensee may not permit a minor to, and a minor may not:
- 2675 (i) sit; or
- 2676 (ii) consume food or beverages.
- 2677 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is
- 2678 employed by a limited-service restaurant licensee:
- 2679 (A) as provided in Subsection [32B-5-308](#)(2); or
- 2680 (B) to perform maintenance and cleaning services during an hour when the
- 2681 limited-service restaurant licensee is not open for business.
- 2682 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
- 2683 remaining or sitting at the bar structure en route to an area of a limited-service restaurant
- 2684 licensee's premises in which the minor is permitted to be.
- 2685 (12) Except as provided in Subsection [32B-5-307](#)(3), a limited-service restaurant
- 2686 licensee may dispense an alcoholic product only if: (a) the alcoholic product is dispensed from:
- 2687 (i) a grandfathered bar structure;
- 2688 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at

2689 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
2690 12, 2009; or

2691 (iii) an area that is:

2692 (A) separated from an area for the consumption of food by a patron by a solid,
2693 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
2694 an alcoholic product are:

2695 (I) not readily visible to a patron; and

2696 (II) not accessible by a patron; and

2697 (B) apart from an area used:

2698 (I) for dining;

2699 (II) for staging; or

2700 (III) as a lobby or waiting area;

2701 (b) the limited-service restaurant licensee uses an alcoholic product that is:

2702 (i) stored in an area described in Subsection (12)(a); or

2703 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

2704 (A) immediately before the alcoholic product is dispensed it is in an unopened
2705 container;

2706 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
2707 is opened; and

2708 (C) once opened, the container is stored in an area described in Subsection (12)(a); and

2709 (c) any instrument or equipment used to dispense alcoholic product is located in an
2710 area described in Subsection (12)(a).

2711 (13) A limited-service restaurant licensee may state in a food or alcoholic product
2712 menu a charge or fee made in connection with the sale, service, or consumption of wine or
2713 heavy beer including:

2714 (a) a set-up charge;

2715 (b) a service charge; or

2716 (c) a chilling fee.

2717 (14) In addition to complying with Subsection 32B-5-301(3), a limited-service
2718 restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises
2719 a sign approved by the commission that:

2720 (a) measures at least 8-1/2 inches long and 11 inches wide; and

2721 (b) clearly states that the limited-service restaurant licensee is a restaurant and not a
2722 bar.

2723 (15) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or
2724 beverages within 10 feet of a grandfathered bar structure, unless:

2725 (a) seating within 10 feet of the grandfathered bar structure is the only seating available
2726 in the licensed premises; and

2727 (b) the minor is accompanied by an individual who is 21 years of age or older.

2728 (16) Except as provided in Subsection 32B-6-305.2(18) and Section 32B-6-305.3, the
2729 provisions of this section apply before July 1, 2018.

2730 Section 40. Section 32B-6-305.2 is enacted to read:

2731 **32B-6-305.2. Specific operational requirements for a limited-service restaurant**
2732 **license -- On and after July 1, 2018 or July 1, 2022.**

2733 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2734 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
2735 licensee shall comply with this section.

2736 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
2737 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2738 (i) a limited-service restaurant licensee;

2739 (ii) individual staff of a limited-service restaurant licensee; or

2740 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
2741 licensee.

2742 (2) In addition to complying with Subsection 32B-5-301(3), a limited-service
2743 restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises
2744 a sign approved by the commission that:

2745 (a) measures at least 8-1/2 inches long and 11 inches wide; and

2746 (b) clearly states that the limited-service restaurant licensee is a restaurant and not a
2747 bar.

2748 (3) In addition to complying with Section 32B-5-303, a limited-service restaurant
2749 licensee shall store an alcoholic product in a storage area described in Subsection (13)(a).

2750 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant
2751 licensee's premises shall make a beverage tab for each table or group that orders or consumes
2752 an alcoholic product on the premises.

2753 (b) A beverage tab described in this Subsection (4) shall state the type and amount of
2754 each alcoholic product ordered or consumed.

2755 (5) A limited-service restaurant licensee may not make an individual's willingness to
2756 serve an alcoholic product a condition of employment with a limited-service restaurant
2757 licensee.

2758 (6) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or
2759 heavy beer at the licensed premises during the following time periods only:

2760 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

2761 (ii) on a weekend or a state or federal legal holiday or for a private event, during the
2762 period that begins at 10:30 a.m. and ends at 11:59 p.m.

2763 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the
2764 licensed premises during the following time periods only:

2765 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

2766 (ii) on a weekend or a state or federal legal holiday or for a private event, during the
2767 period that begins at 10:30 a.m. and ends at 12:59 a.m.

2768 (7) A limited-service restaurant licensee shall maintain at least 70% of the
2769 limited-service restaurant licensee's total restaurant business from the sale of food, which does
2770 not include a service charge.

2771 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
2772 alcoholic product except after:

2773 (i) the patron to whom the limited-service restaurant licensee sells, offers for sale, or
2774 furnishes the alcoholic product is seated at:

2775 (A) a table that is located in a dining area or a dispensing area;

2776 (B) a counter that is located in a dining area or a dispensing area; or

2777 (C) a dispensing structure that is located in a dispensing area; and

2778 (ii) the limited-service restaurant licensee confirms that the patron intends to:

2779 (A) order food prepared, sold, and furnished at the licensed premises; and

2780 (B) except as provided in Subsection (8)(b), consume the food at the same location
2781 where the patron is seated and sold, offered for sale, or furnished the alcoholic product.

2782 (b) (i) While a patron waits for a seat at a table or counter in the dining area of a
2783 limited-service restaurant licensee, the limited-service restaurant licensee may sell, offer for
2784 sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as
2785 described in Section [32B-5-304](#) if:

2786 (A) the patron is in a dispensing area and seated at a table, counter, or dispensing
2787 structure; and

2788 (B) the limited-service restaurant licensee first confirms that after the patron is seated
2789 in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed
2790 premises.

2791 (ii) If the patron does not finish the patron's alcoholic product before moving to a seat
2792 in the dining area, an employee of the limited-service restaurant licensee who is qualified to
2793 sell and serve an alcoholic product under Section [32B-5-306](#) shall transport any unfinished
2794 portion of the patron's alcoholic product to the patron's seat in the dining area.

2795 (iii) For purposes of Subsection (8)(b)(i) a single portion of wine is 5 ounces or less.

2796 (c) A limited-service restaurant licensee shall maintain on the licensed premises
2797 adequate culinary facilities for food preparation and dining accommodations.

2798 (9) A patron may consume an alcoholic product only if the patron is seated at:

2799 (a) a table that is located in a dining area or a dispensing area;

2800 (b) a counter that is located in a dining area or a dispensing area; or

2801 (c) a dispensing structure located in a dispensing area.

2802 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
2803 more than two alcoholic products of any kind at a time before the patron.

2804 (b) An individual portion of wine is considered to be one alcoholic product under
2805 Subsection (10)(a).

2806 (11) In accordance with the provisions of this section, an individual who is at least 21
2807 years of age may consume food and beverages in a dispensing area.

2808 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
2809 consume food or beverages in a dispensing area.

2810 (b) (i) A minor may be in a dispensing area if the minor is employed by the
2811 limited-service restaurant licensee:

2812 (A) in accordance with Subsection [32B-5-308\(2\)](#); or

2813 (B) to perform maintenance and cleaning services when the limited-service restaurant
2814 licensee is not open for business.

2815 (ii) If there is no alternative route available, a minor may momentarily pass through a
2816 dispensing area without remaining or sitting in the dispensing area en route to an area of the
2817 limited-service restaurant licensee's premises in which the minor is permitted to be.

2818 (13) Except as provided in Subsection [32B-5-307\(3\)](#), a limited-service restaurant
2819 licensee may dispense an alcoholic product only if:

2820 (a) the alcoholic product is dispensed from:

2821 (i) a dispensing structure that is located in a dispensing area;

2822 (ii) an area that is:

2823 (A) separated from an area for the consumption of food by a patron by a solid,
2824 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
2825 an alcoholic product are not readily visible to a patron and not accessible by a patron; and

2826 (B) apart from an area used for dining, for staging, or as a lobby or waiting area; or

2827 (iii) the premises of a bar licensee that is:

2828 (A) owned by the same person or persons as the limited-service restaurant licensee; and

2829 (B) located immediately adjacent to the premises of the limited-service restaurant
2830 licensee;

2831 (b) the limited-service restaurant licensee uses an alcoholic product that is stored in an
2832 area described in Subsection (13)(a) or in accordance with Section [32B-5-303](#); and

2833 (c) any instrument or equipment used to dispense alcoholic product is located in an
2834 area described in Subsection (13)(a).

2835 (14) (a) A limited-service restaurant licensee may have more than one dispensing area
2836 in the licensed premises.

2837 (b) Each dispensing area in a licensed premises may satisfy the requirements for a
2838 dispensing area under Subsection [32B-6-202\(2\)\(a\)\(i\), \(ii\), or \(iii\)](#), regardless of how any other
2839 dispensing area in the licensed premises satisfies the requirements for a dispensing area.

2840 (15) A limited-service restaurant licensee may not:

2841 (a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

2842 (b) display an alcoholic product or a product intended to appear like an alcoholic
2843 product by moving a cart or similar device around the licensed premises.

2844 (16) A limited-service restaurant licensee may state in a food or alcoholic product
2845 menu a charge or fee made in connection with the sale, service, or consumption of wine or
2846 heavy beer, including:

2847 (a) a set-up charge;

2848 (b) a service charge; or

2849 (c) a chilling fee.

2850 (17) (a) In addition to the requirements described in Section [32B-5-302](#), a
2851 limited-service restaurant licensee shall maintain each of the following records for at least three
2852 years:

2853 (i) a record required by Section [32B-5-302](#); and

2854 (ii) a record that the commission requires a limited-service restaurant licensee to use or
2855 maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2856 Rulemaking Act.

2857 (b) The department shall audit the records of a limited-service restaurant licensee at
2858 least once each calendar year.

2859 (18) (a) In accordance with Section [32B-6-305.3](#), a limited-service restaurant licensee:

2860 (i) may comply with the provisions of this section beginning on or after July 1, 2017;

2861 and

2862 (ii) shall comply with the provisions of this section:

2863 (A) for a limited-service restaurant licensee that does not have a grandfathered bar
2864 structure, on and after July 1, 2018; or

2865 (B) for a limited-service restaurant licensee that has a grandfathered bar structure, on
2866 and after July 1, 2022.

2867 (b) A limited-service restaurant licensee that elects to comply with the provisions of
2868 this section before the latest applicable date described in Subsection (18)(a)(ii):

2869 (i) shall comply with each provision of this section; and

2870 (ii) is not required to comply with the provisions of Section [32B-6-305](#).

2871 Section 41. Section **32B-6-305.3** is enacted to read:

2872 **32B-6-305.3. Transition process for limited-service restaurant licensees.**

2873 (1) For a limited-service restaurant license issued on or after July 1, 2017, the
2874 limited-service restaurant licensee shall comply with the provisions of Section [32B-6-305.2](#).

2875 (2) For a limited-service restaurant license issued before July 1, 2017, before the
2876 limited-service restaurant licensee changes the limited-service restaurant licensee's approved
2877 location for storage, dispensing, or consumption to comply with the provisions of Section
2878 [32B-6-305.2](#), the limited-service restaurant licensee shall submit an application for approval to
2879 the department in accordance with Subsection [32B-5-303\(3\)](#).

2880 (3) (a) Except as provided in Subsection (4), a person who holds a limited-service
2881 restaurant license issued before July 1, 2017, shall comply with the provisions of Section
2882 [32B-6-305.2](#) on or before July 1, 2018.

2883 (b) A limited-service restaurant licensee described in Subsection (3)(a) that cannot
2884 comply with the provisions of Section [32B-6-305.2](#) without a change to the limited-service

2885 restaurant licensee's approved location for storage, dispensing, or consumption:

2886 (i) may submit an application for approval described in Subsection (2) on or after May
2887 9, 2017; and

2888 (ii) shall submit an application for approval described in Subsection (2) on or before
2889 May 1, 2018.

2890 (c) If a limited-service restaurant licensee described in Subsection (3)(a) submits an
2891 application for approval described in Subsection (2) on May 9, 2017, the department shall take
2892 action on the application on or before July 1, 2017.

2893 (4) (a) A person who holds a limited-service restaurant license issued before July 1,
2894 2017, and has a grandfathered bar structure shall comply with the provisions of Section
2895 32B-6-305.2 on or before the earlier of:

2896 (i) July 1, 2022;

2897 (ii) the date on which the limited-service restaurant licensee remodels, as defined by
2898 commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2899 Rulemaking Act, the limited-service restaurant licensee's grandfathered bar structure or dining
2900 area; or

2901 (iii) the date on which the limited-service restaurant licensee experiences a change of
2902 ownership described in Subsection 32B-8a-202(1).

2903 (b) A limited-service restaurant licensee described in Subsection (4)(a) that cannot
2904 comply with the provisions of Section 32B-6-305.2 without a change to the limited-service
2905 restaurant licensee's approved location for storage, dispensing, or consumption:

2906 (i) may submit an application for approval described in Subsection (2) on or after May
2907 9, 2017; and

2908 (ii) shall submit an application for approval described in Subsection (2) on or before
2909 May 1, 2022.

2910 Section 42. Section **32B-6-401** is amended to read:

2911 **Part 4. Bar Establishment License**

2912 **32B-6-401. Title.**

2913 This part is known as "[~~Club~~] Bar Establishment License."

2914 Section 43. Section **32B-6-403** is amended to read:

2915 **32B-6-403. Commission's power to issue bar establishment license.**

2916 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
2917 an alcoholic product on its premises as a [~~club~~] bar establishment licensee, the person shall first
2918 obtain a [~~club~~] bar establishment license from the commission in accordance with this part.

2919 (2) The commission may issue a [~~club~~] bar establishment license to establish [~~club~~] bar
2920 establishment licensed premises at places and in numbers the commission considers proper for
2921 the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on
2922 premises operated by a [~~club~~] bar establishment licensee.

2923 (3) Subject to Section **32B-1-201**:

2924 (a) (i) [~~The~~] before July 1, 2018, the commission may not issue a total number of
2925 [~~club~~] bar establishment licenses that at any time exceeds the number determined by dividing
2926 the population of the state by 7,850[-]; and

2927 (ii) beginning on July 1, 2018, the commission may not issue a total number of bar
2928 establishment licenses that at any time exceeds the number determined by dividing the
2929 population of the state by 10,538;

2930 (b) the commission may issue a seasonal [~~club~~] bar establishment license in accordance
2931 with Section **32B-5-206** to:

2932 (i) a dining club licensee; or

2933 (ii) a [~~social-club~~] bar licensee[-];

2934 (c) (i) if the location, design, and construction of a hotel may require more than one
2935 dining club license or [~~social-club~~] bar license location within the hotel to serve the public
2936 convenience, the commission may authorize as many as three [~~club~~] bar establishment license
2937 locations within the hotel under one [~~club~~] bar establishment license if:

2938 (A) the hotel has a minimum of 150 guest rooms;

2939 (B) all locations under the [~~club~~] bar establishment license are:

2940 (I) within the same hotel; and

2941 (II) on premises that are managed or operated, and owned or leased, by the [club] bar
2942 establishment licensee; and

2943 (C) the locations under the [club] bar establishment license operate under the same
2944 type of [club] bar establishment license[-]; and

2945 (ii) a facility other than a hotel shall have a separate [club] bar establishment license
2946 for each [club] bar establishment license location where an alcoholic product is sold, offered
2947 for sale, or furnished[-];

2948 (d) when a business establishment undergoes a change of ownership, the commission
2949 may issue a [club] bar establishment license to the new owner of the business establishment
2950 notwithstanding that there is no [club] bar establishment license available under Subsection
2951 (3)(a) if:

2952 (i) the primary business activity at the business establishment before and after the
2953 change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

2954 (ii) before the change of ownership there are two or more licensed premises on the
2955 business establishment that operate under a retail license, with at least one of the retail licenses
2956 being a [club] bar establishment license;

2957 (iii) subject to Subsection (3)(e), the licensed premises of the [club] bar establishment
2958 license issued under this Subsection (3)(d) is at the same location where the [club] bar
2959 establishment license licensed premises was located before the change of ownership; and

2960 (iv) the person who is the new owner of the business establishment qualifies for the
2961 [club] bar establishment license, except for there being no [club] bar establishment license
2962 available under Subsection (3)(a)[-]; and

2963 (e) if a [club] bar establishment licensee of a [club] bar establishment license issued
2964 under Subsection (3)(d) requests a change of location, the [club] bar establishment licensee
2965 may retain the [club] bar establishment license after the change of location only if on the day
2966 on which the [club] bar establishment licensee seeks a change of location a [club] bar
2967 establishment license is available under Subsection (3)(a).

2968 Section 44. Section **32B-6-404** is amended to read:

2969 **32B-6-404. Types of bar license.**

2970 (1) To obtain an equity [~~club~~] license, in addition to meeting the other requirements of
2971 this part, a person shall:

2972 (a) whether incorporated or unincorporated:

2973 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal
2974 purpose;

2975 (ii) have members;

2976 (iii) limit access to its licensed premises to a member or a guest of the member; and

2977 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold
2978 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

2979 (b) own, maintain, or operate a substantial recreational facility in conjunction with a
2980 club house such as:

2981 (i) a golf course; or

2982 (ii) a tennis facility;

2983 (c) have at least 50% of the total membership having:

2984 (i) full voting rights; and

2985 (ii) an equal share of the equity of the [~~club~~] entity or a right to redemption or refund at
2986 the equal value; and

2987 (d) if there is more than one class of membership, have at least one class of
2988 membership that entitles each member in that class to:

2989 (i) full voting rights; and

2990 (ii) an equal share of the equity of the [~~club~~] entity or a right to redemption or equal
2991 value.

2992 (2) To obtain a fraternal [~~club~~] license, in addition to meeting the other requirements of
2993 this part, a person shall:

2994 (a) whether incorporated or unincorporated:

2995 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal
2996 purpose;

- 2997 (ii) have members;
- 2998 (iii) limit access to its licensed premises to a member or a guest of the member; and
- 2999 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold
- 3000 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;
- 3001 (b) have no capital stock;
- 3002 (c) exist solely for:
- 3003 (i) the benefit of its members and their beneficiaries; and
- 3004 (ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal,
- 3005 patriotic, or religious purpose for the benefit of its members or the public, carried on through
- 3006 voluntary activity of its members in their local lodges;
- 3007 (d) have a representative form of government;
- 3008 (e) have a lodge system in which:
- 3009 (i) there is a supreme governing body;
- 3010 (ii) subordinate to the supreme governing body are local lodges, however designated,
- 3011 into which individuals are admitted as members in accordance with the laws of the fraternal;
- 3012 (iii) the local lodges are required by the laws of the fraternal to hold regular meetings at
- 3013 least monthly; and
- 3014 (iv) the local lodges regularly engage in one or more programs involving member
- 3015 participation to implement the purposes of Subsection (2)(c); and
- 3016 (f) own or lease a building or space in a building used for lodge activities.
- 3017 (3) To obtain a dining club license, in addition to meeting the other requirements of
- 3018 this part, a person shall:
- 3019 (a) maintain at least the following percentages of its total club business from the sale of
- 3020 food, not including mix for alcoholic products, or service charges:
- 3021 (i) for a dining club license that is issued as an original license on or after July 1, 2011,
- 3022 60%; and
- 3023 (ii) for a dining club license that is issued on or before June 30, 2011:
- 3024 (A) 50% on or before June 30, 2012; and

3025 (B) 60% on and after July 1, 2012; and
3026 (b) obtain a determination by the commission that the person will operate as a dining
3027 club licensee, as part of which the commission may consider:
3028 (i) the square footage and seating capacity of the premises;
3029 (ii) what portion of the square footage and seating capacity will be used for a dining
3030 area in comparison to the portion that will be used as a lounge or bar area;
3031 (iii) whether full meals including appetizers, main courses, and desserts are served;
3032 (iv) whether the person will maintain adequate on-premise culinary facilities to prepare
3033 full meals, except a person who is located on the premise of a hotel or resort facility may use
3034 the culinary facilities of the hotel or resort facility;
3035 (v) whether the entertainment provided at the [~~club~~] premises is suitable for minors;
3036 and
3037 (vi) the club management's ability to manage and operate a dining club license
3038 including:
3039 (A) management experience;
3040 (B) past dining club licensee or restaurant management experience; and
3041 (C) the type of management scheme used by the dining club license.
3042 (4) To obtain a [~~social-club~~] bar license, a person is required to meet the requirements
3043 of this part except those listed in Subsection (1), (2), or (3).
3044 (5) (a) At the time that the commission issues a [~~club~~] bar establishment license, the
3045 commission shall designate the type of [~~club~~] bar establishment license for which the person
3046 qualifies.
3047 (b) If requested by a [~~club~~] bar establishment licensee, the commission may approve a
3048 change in the type of [~~club~~] bar establishment license in accordance with rules made by the
3049 commission.
3050 (6) To the extent not prohibited by law, this part does not prevent a dining club
3051 licensee or [~~social-club~~] bar licensee from restricting access to the [~~club's~~] licensed premises on
3052 the basis of an individual:

3053 (a) paying a fee; or

3054 (b) agreeing to being on a list of individuals who have access to the [club's] licensed
3055 premises.

3056 (7) (a) (i) On or after July 1, 2017, the commission may not issue or renew a dining
3057 club license.

3058 (ii) Effective July 1, 2018, the department shall convert each dining club license to a
3059 full-service restaurant license or a bar license in accordance with the provisions of this
3060 Subsection (7).

3061 (b) (i) (A) A person licensed as a dining club on July 1, 2017, shall notify the
3062 department no later than May 31, 2018, whether effective July 1, 2018, the person elects to be
3063 licensed as a full-service restaurant or a bar.

3064 (B) Effective July 1, 2018, the department shall convert a dining club license to a
3065 full-service restaurant license or a bar license in accordance with the dining club licensee's
3066 election under Subsection (7)(b)(i)(A).

3067 (ii) If a dining club licensee fails to timely notify the department in accordance with
3068 Subsection (7)(b)(i), the dining club license is automatically converted to a full-service
3069 restaurant license on July 1, 2018.

3070 (c) Subject to Section [32B-6-404.1](#), after a dining club license converts to a full-service
3071 restaurant license or a bar license, the retail licensee shall operate under the provisions that
3072 govern the full-service restaurant license or the bar license, as applicable.

3073 (d) After a dining club license converts to a full-service restaurant license or a bar
3074 license in accordance with this Subsection (7):

3075 (i) the full-service restaurant license is not considered in determining the total number
3076 of full-service restaurant licenses available under Section [32B-6-203](#); or

3077 (ii) the bar license is not considered in determining the total number of bar
3078 establishment licenses available under Section [32B-6-403](#).

3079 (e) Before July 1, 2018, the commission may not issue a full-service restaurant license,
3080 a limited-service restaurant license, or a beer-only restaurant license to a person who holds a

3081 dining club license on May 9, 2017, for the same premises.

3082 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3083 commission may make rules establishing a procedure by which a dining club licensee elects
3084 and converts to a full-service restaurant licensee or a bar licensee under this Subsection (7).

3085 Section 45. Section **32B-6-404.1** is enacted to read:

3086 **32B-6-404.1. Transition from dining club license to full-service restaurant license.**

3087 (1) As used in this section:

3088 (a) "Converted full-service restaurant licensee" means a dining club licensee that
3089 converts to a full-service restaurant licensee on July 1, 2018, in accordance with Subsection
3090 [32B-6-404\(7\)](#).

3091 (b) "Grandfathered bar structure" means the same as that term is defined in Section
3092 [32B-6-202](#).

3093 (2) (a) Except as provided in Subsection (2)(c), beginning on July 1, 2018, a converted
3094 full-service restaurant licensee shall operate under the provisions that govern a full-service
3095 restaurant licensee that has a grandfathered bar structure.

3096 (b) For purposes of applying the provisions that govern a full-service restaurant
3097 licensee with a grandfathered bar structure, a converted full-service restaurant licensee's bar
3098 structure is considered a grandfathered bar structure.

3099 (c) The provisions of Section [32B-6-205.3](#) do not apply to a converted full-service
3100 restaurant licensee.

3101 (3) (a) A converted full-service restaurant licensee shall comply with the provisions of
3102 Section [32B-6-205.2](#) on or before the earlier of:

3103 (i) [July 1, 2022](#);

3104 (ii) the date on which the converted full-service restaurant licensee remodels, as
3105 defined by commission rule made in accordance with Title 63G, Chapter 3, Utah
3106 Administrative Rulemaking Act, the converted full-service restaurant licensee's bar structure or
3107 dining area; or

3108 (iii) the date on which the converted full-service restaurant licensee experiences a

3109 change of ownership described in Subsection 32B-8a-202(1).

3110 (b) Before a converted full-service restaurant licensee changes the converted
3111 full-service restaurant licensee's approved location for storage, dispensing, or consumption to
3112 comply with the provisions of Section 32B-6-205.2, the converted full-service restaurant
3113 licensee shall submit an application for approval to the department in accordance with
3114 Subsection 32B-5-303(3).

3115 (c) A converted full-service restaurant licensee that cannot comply with the provisions
3116 of Section 32B-6-205.2 without a change to the converted full-service restaurant licensee's
3117 approved location for storage, dispensing, or consumption shall submit an application for
3118 approval described in Subsection (3)(b) on or before May 1, 2022.

3119 (4) (a) Notwithstanding any provision to the contrary, a converted full-service
3120 restaurant licensee shall maintain at least the following percentage of the converted full-service
3121 restaurant licensee's total restaurant business from the sale of food:

- 3122 (i) beginning July 1, 2018, and ending June 30, 2019, 64%;
3123 (ii) beginning July 1, 2019, and ending June 30, 2020, 68%; and
3124 (iii) on and after July 1, 2021, 70%.

3125 (b) For purposes of Subsection (4)(a), a converted full-service restaurant licensee's
3126 restaurant business from the sale of food does not include:

- 3127 (i) mix for an alcoholic product; or
3128 (ii) a service charge.

3129 Section 46. Section 32B-6-405 is amended to read:

3130 **32B-6-405. Specific licensing requirements for bar establishment license.**

3131 (1) To obtain a [~~club~~] bar establishment license, in addition to complying with Chapter
3132 5, Part 2, Retail Licensing Process, a person shall submit with the written application:

- 3133 (a) (i) a statement as to whether the person is seeking to qualify as:
3134 (A) an equity [~~club~~] licensee;
3135 (B) a fraternal [~~club~~] licensee;
3136 (C) a dining club licensee; or

- 3137 (D) a ~~[social club]~~ bar licensee; and
- 3138 (ii) evidence that the person meets the requirements for the type of ~~[club]~~ bar
- 3139 establishment license for which the person is applying;
- 3140 (b) evidence that the person operates ~~[club]~~ a premises where a variety of food is
- 3141 prepared and served in connection with dining accommodations; and
- 3142 (c) if the person is applying for an equity ~~[club]~~ license or fraternal ~~[club]~~ license, a
- 3143 copy of the ~~[club's]~~ entity's bylaws or house rules, and an amendment to those records.
- 3144 (2) The commission may refuse to issue a ~~[club]~~ bar establishment license to a person
- 3145 for an equity ~~[club]~~ license or fraternal ~~[club]~~ license if the commission determines that a
- 3146 provision of the person's bylaws or house rules, or amendments to those records is not:
- 3147 (a) reasonable; and
- 3148 (b) consistent with:
- 3149 (i) the declared nature and purpose of the ~~[club]~~ bar establishment licensee; and
- 3150 (ii) the purposes of this part.
- 3151 (3) (a) A ~~[club]~~ bar establishment license expires on June 30 of each year.
- 3152 (b) To renew a ~~[club]~~ bar establishment license, a person shall comply with the
- 3153 requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than May 31.
- 3154 (4) (a) The nonrefundable application fee for a ~~[club]~~ bar establishment license is \$300.
- 3155 (b) The initial license fee for a ~~[club]~~ bar establishment license is \$2,750.
- 3156 (c) The renewal fee for a ~~[club]~~ bar establishment license is \$2,000.
- 3157 (5) The bond amount required for a ~~[club]~~ bar establishment license is the penal sum of
- 3158 \$10,000.
- 3159 Section 47. Section **32B-6-406** is amended to read:
- 3160 **32B-6-406. Specific operational requirements for a bar establishment license.**
- 3161 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
- 3162 Requirements, a ~~[club]~~ bar establishment licensee and staff of the ~~[club]~~ bar establishment
- 3163 licensee shall comply with this section.
- 3164 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action

3165 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3166 (i) a ~~[club]~~ bar establishment licensee;

3167 (ii) individual staff of a ~~[club]~~ bar establishment licensee; or

3168 (iii) both a ~~[club]~~ bar establishment licensee and staff of the ~~[club]~~ bar establishment
3169 licensee.

3170 (2) In addition to complying with Subsection 32B-5-301(3), a ~~[club]~~ bar licensee shall
3171 display in a ~~[prominent place in the club]~~ conspicuous place at the entrance to the licensed
3172 premises a [list of the types and brand names of liquor being furnished through the club
3173 licensee's calibrated metered dispensing system.] sign approved by the commission that:

3174 (a) measures at least 8-1/2 inches long and 11 inches wide; and

3175 (b) clearly states that the bar licensee is a bar and not a restaurant.

3176 (3) (a) In addition to complying with Section 32B-5-302, a ~~[club]~~ bar establishment
3177 licensee shall maintain for a minimum of three years:

3178 (i) a record required by Section 32B-5-302; and

3179 (ii) a record maintained or used by the ~~[club]~~ bar establishment licensee, as the
3180 department requires.

3181 (b) Section 32B-1-205 applies to a record required to be made, maintained, or used in
3182 accordance with this Subsection (3).

3183 (c) The department shall audit the records of a ~~[club]~~ bar establishment licensee at least
3184 once annually.

3185 (4) (a) A ~~[club]~~ bar establishment licensee may not sell, offer for sale, or furnish liquor
3186 on the licensed premises on any day during a period that:

3187 (i) begins at 1 a.m.; and

3188 (ii) ends at 9:59 a.m.

3189 (b) A ~~[club]~~ bar establishment licensee may sell, offer for sale, or furnish beer during
3190 the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer
3191 license.

3192 (c) (i) Notwithstanding Subsections (4)(a) and (b), a ~~[club]~~ bar establishment licensee

3193 shall keep its licensed premises open for one hour after the [~~club~~] bar establishment licensee
 3194 ceases the sale and furnishing of an alcoholic product during which time a patron of the [~~club~~]
 3195 bar establishment licensee may finish consuming:

- 3196 (A) a single drink containing spirituous liquor;
- 3197 (B) a single serving of wine not exceeding five ounces;
- 3198 (C) a single serving of heavy beer;
- 3199 (D) a single serving of beer not exceeding 26 ounces; or
- 3200 (E) a single serving of a flavored malt beverage.

3201 (ii) A [~~club~~] bar establishment licensee is not required to remain open:

- 3202 (A) after all patrons have vacated the premises; or
- 3203 (B) during an emergency.

3204 (5) (a) A minor may not be admitted into, use, or be in:

3205 (i) a lounge or bar area of the premises of:

- 3206 (A) an equity [~~club~~] licensee;
- 3207 (B) a fraternal [~~club~~] licensee; or
- 3208 (C) a dining club licensee; or

3209 (ii) the premises of:

3210 (A) a dining club licensee unless accompanied by an individual who is 21 years of age
 3211 or older; or

3212 (B) a [~~social club~~] bar licensee, except to the extent provided for under Section
 3213 [32B-6-406.1](#).

3214 (b) Notwithstanding Section [32B-5-308](#), a [~~club~~] bar establishment licensee may not
 3215 employ a minor to:

3216 (i) work in a lounge or bar area of an equity [~~club~~] licensee, fraternal [~~club~~] licensee, or
 3217 dining club licensee; or

3218 (ii) handle an alcoholic product.

3219 (c) Notwithstanding Section [32B-5-308](#), a minor may not be employed on the licensed
 3220 premises of a [~~social club~~] bar licensee.

3221 (d) Nothing in this part or Section 32B-5-308 precludes a local authority from being
3222 more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a
3223 [club] bar establishment licensee.

3224 (6) A [club] bar establishment licensee shall have food available at all times when an
3225 alcoholic product is sold, offered for sale, furnished, or consumed on the licensed premises.

3226 (7) (a) Subject to the other provisions of this Subsection (7), a patron may not have
3227 more than two alcoholic products of any kind at a time before the patron.

3228 (b) A patron may not have two spirituous liquor drinks before the [club] bar
3229 establishment licensee patron if one of the spirituous liquor drinks consists only of the primary
3230 spirituous liquor for the other spirituous liquor drink.

3231 (c) An individual portion of wine is considered to be one alcoholic product under
3232 Subsection (7)(a).

3233 (8) A [club] bar establishment licensee shall have available on the premises for a
3234 patron to review at the time that the patron requests it, a written alcoholic product price list or a
3235 menu containing the price of an alcoholic product sold, offered for sale, or furnished by the
3236 [club] bar establishment licensee including:

3237 (a) a set-up charge;

3238 (b) a service charge; or

3239 (c) a chilling fee.

3240 (9) Subject to Section 32B-5-309, a [club] bar establishment licensee may not
3241 temporarily rent or otherwise temporarily lease its premises to a person unless:

3242 (a) the person to whom the [club] bar establishment licensee rents or leases the
3243 premises agrees in writing to comply with this title as if the person is the [club] bar
3244 establishment licensee, except for a requirement related to making or maintaining a record; and

3245 (b) the [club] bar establishment licensee takes reasonable steps to ensure that the
3246 person complies with this section as provided in Subsection (9)(a).

3247 (10) If a [club] bar establishment licensee is an equity [club] licensee or fraternal [club]
3248 licensee, the [club] bar establishment licensee shall comply with Section 32B-6-407.

3249 (11) If a ~~[club]~~ bar establishment licensee is a dining club licensee or ~~[social club]~~ bar
3250 licensee, the ~~[club]~~ bar establishment licensee shall comply with Section 32B-1-407.

3251 (12) (a) A ~~[club]~~ bar establishment licensee shall own or lease premises suitable for the
3252 ~~[club]~~ bar establishment licensee's activities.

3253 (b) A ~~[club]~~ bar establishment licensee may not maintain licensed premises in a
3254 manner that barricades or conceals the ~~[club]~~ bar establishment licensee's operation.

3255 Section 48. Section 32B-6-406.1 is amended to read:

3256 **32B-6-406.1. Specific operational restrictions related to dance or concert hall.**

3257 (1) A minor who is at least 18 years of age may be admitted into, use, or be on the
3258 premises of a dance or concert hall if:

3259 (a) the dance or concert hall is located:

3260 (i) on the licensed premises of a ~~[social club]~~ bar licensee; or

3261 (ii) on the property that immediately adjoins the licensed premises of and is operated
3262 by a ~~[social club]~~ bar licensee; and

3263 (b) the ~~[social club]~~ bar licensee holds a permit to operate a dance or concert hall that
3264 was issued on or before May 11, 2009:

3265 (i) on the basis of the operational requirements described in Subsection (2); and

3266 (ii) when the ~~[social club]~~ bar licensee was licensed as a class D private club.

3267 (2) A ~~[social club]~~ bar licensee that holds a dance or concert hall permit shall operate
3268 in such a way that:

3269 (a) the ~~[social club]~~ bar licensee's lounge, ~~[bar]~~ dispensing structure, or other area for
3270 alcoholic product consumption is:

3271 (i) not accessible to a minor;

3272 (ii) clearly defined; and

3273 (iii) separated from the dance or concert hall area by one or more walls, multiple floor
3274 levels, or other substantial physical barriers;

3275 (b) ~~[a bar or dispensing]~~ a dispensing structure or area where alcoholic product is
3276 dispensed is not visible to a minor;

- 3277 (c) consumption of an alcoholic product may not occur in:
- 3278 (i) the dance or concert hall area; or
- 3279 (ii) an area of the ~~[social club]~~ bar license premises accessible to a minor;
- 3280 (d) the ~~[social club]~~ bar licensee maintains sufficient security personnel to prevent the
- 3281 passing of beverages from the ~~[social club]~~ bar licensee's lounge, ~~[bar]~~ dispensing structure, or
- 3282 other area for alcoholic product consumption to:
- 3283 (i) the dance or concert hall area; or
- 3284 (ii) an area of the ~~[social club]~~ bar licensee premises accessible to a minor;
- 3285 (e) there are one or more separate entrances, exits, and restroom facilities from the
- 3286 ~~[social club]~~ bar licensee's lounge, ~~[bar]~~ dispensing structure, or other area for alcoholic
- 3287 product consumption than for:
- 3288 (i) the dance or concert hall area; or
- 3289 (ii) an area accessible to a minor; and
- 3290 (f) the ~~[social club]~~ bar licensee complies with any other requirements imposed by the
- 3291 commission by rule.
- 3292 (3) (a) A minor under 18 years of age who is accompanied at all times by a parent or
- 3293 legal guardian may be admitted into, use, or be on the premises of a concert hall described in
- 3294 Subsection (1) if:
- 3295 (i) the requirements of Subsection (2) are met; and
- 3296 (ii) signage, product, and dispensing equipment containing recognition of an alcoholic
- 3297 product is not visible to the minor.
- 3298 (b) A minor under 18 years of age but who is 14 years of age or older who is not
- 3299 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
- 3300 a concert hall described in Subsection (1) if:
- 3301 (i) the requirements of Subsections (2) and (3)(a) are met; and
- 3302 (ii) there is no alcoholic product, sales, furnishing, or consumption on the premises of
- 3303 the ~~[social club]~~ bar licensee.
- 3304 (4) The commission may suspend or revoke a dance or concert permit issued to a

3305 [~~social club~~] bar licensee and suspend or revoke the license of the [~~social club~~] bar licensee if:

3306 (a) the [~~social club~~] bar licensee fails to comply with the requirements in this section;

3307 (b) the [~~social club~~] bar licensee sells, offers for sale, or furnishes an alcoholic product
3308 to a minor;

3309 (c) the [~~social club~~] bar licensee or a supervisory or managerial level staff of the [~~social~~
3310 ~~club~~] bar licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on
3311 the basis of an activity that occurs on:

3312 (i) the licensed premises; or

3313 (ii) the dance or concert hall that is located on property that immediately adjoins the
3314 licensed premises of and is operated by the [~~social club~~] bar licensee;

3315 (d) there are three or more convictions of patrons of the [~~social club~~] bar licensee under
3316 Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities that occur on:

3317 (i) the licensed premises; or

3318 (ii) the dance or concert hall that is located on property that immediately adjoins the
3319 licensed premises of and is operated by the [~~social club~~] bar licensee;

3320 (iii) there is more than one conviction:

3321 (A) of:

3322 (I) the [~~social club~~] bar licensee;

3323 (II) staff of the [~~social club~~] bar licensee;

3324 (III) an entertainer contracted by the [~~social club~~] bar licensee; or

3325 (IV) a patron of the [~~social club~~] bar licensee; and

3326 (B) made on the basis of a lewd act or lewd entertainment prohibited by this title that
3327 occurs on:

3328 (I) the licensed premises; or

3329 (II) the dance or concert hall that is located on property that immediately adjoins the
3330 licensed premises of and is operated by the [~~social club~~] bar licensee; or

3331 (e) the commission finds acts or conduct contrary to the public welfare and morals
3332 involving lewd acts or lewd entertainment prohibited by this title that occurs on:

3333 (i) the licensed premises; or
3334 (ii) the dance or concert hall that is located on property that immediately adjoins the
3335 licensed premises of and is operated by the ~~[social club]~~ bar licensee.

3336 (5) Nothing in this section prohibits a ~~[social club]~~ bar licensee from selling, offering
3337 for sale, or furnishing an alcoholic product in a dance or concert area located on the ~~[social~~
3338 ~~club]~~ bar licensed premises on days and times when the ~~[social club]~~ bar licensee does not
3339 allow a minor into those areas.

3340 Section 49. Section **32B-6-407** is amended to read:

3341 **32B-6-407. Specific operational requirements for equity license or fraternal**
3342 **license.**

3343 (1) ~~[For purposes of]~~ As used in this section ~~[only: (a) "Club], "equity or fraternal~~
3344 ~~licensee" means an equity [club] licensee or fraternal [club] licensee.~~

3345 ~~[(b) "Club licensee" does not include a dining club licensee or social club licensee.]~~

3346 (2) (a) ~~[A club]~~ An equity or fraternal licensee shall have a governing body that:

3347 (i) consists of three or more members of the ~~[club]~~ equity or fraternal licensee; and

3348 (ii) holds regular meetings to:

3349 (A) review membership applications; and

3350 (B) conduct other business as required by the bylaws or house rules of the ~~[club]~~ equity
3351 or fraternal licensee.

3352 (b) (i) ~~[A club]~~ An equity or fraternal licensee shall maintain a minute book that is
3353 posted currently by the ~~[club]~~ equity or fraternal licensee.

3354 (ii) The minute book required by this Subsection (2) shall contain the minutes of a
3355 regular or special meeting of the governing body.

3356 (3) ~~[A club]~~ An equity or fraternal licensee may admit an individual as a member only
3357 on written application signed by the person, subject to:

3358 (a) the person paying an application fee; and

3359 (b) investigation, vote, and approval of a quorum of the governing body.

3360 (4) ~~[A club]~~ An equity or fraternal licensee shall:

3361 (a) record an admission of a member in the official minutes of a regular meeting of the
3362 governing body; and

3363 (b) whether approved or disapproved, file an application as a part of the official records
3364 of the [~~club~~] equity or fraternal licensee.

3365 (5) The spouse of a member of [~~a club~~] an equity or fraternal licensee has the rights and
3366 privileges of the member:

3367 (a) to the extent permitted by the bylaws or house rules of the [~~club~~] equity or fraternal
3368 licensee; and

3369 (b) except to the extent restricted by this title.

3370 (6) A minor child of a member of [~~a club~~] an equity or fraternal licensee has the rights
3371 and privileges of the member:

3372 (a) to the extent permitted by the bylaws or house rules of the [~~club~~] equity or fraternal
3373 licensee; and

3374 (b) except to the extent restricted by this title.

3375 (7) [~~A club~~] An equity or fraternal licensee shall maintain:

3376 (a) a current and complete membership record showing:

3377 (i) the date of application of a proposed member;

3378 (ii) a member's address;

3379 (iii) the date the governing body approved a member's admission;

3380 (iv) the date initiation fees and dues are assessed and paid; and

3381 (v) the serial number of the membership card issued to a member;

3382 (b) a membership list; and

3383 (c) a current record indicating when a member is removed as a member or resigns.

3384 (8) (a) [~~A club~~] An equity or fraternal licensee shall have bylaws or house rules that
3385 include provisions respecting the following:

3386 (i) standards of eligibility for members;

3387 (ii) limitation of members, consistent with the nature and purpose of the [~~club~~] equity
3388 or fraternal licensee;

- 3389 (iii) the period for which dues are paid, and the date upon which the period expires;
- 3390 (iv) provisions for removing a member from the ~~[club]~~ equity or fraternal licensee's
- 3391 membership for the nonpayment of dues or other cause;
- 3392 (v) provisions for guests; and
- 3393 (vi) application fees and membership dues.
- 3394 (b) ~~[A club]~~ An equity or fraternal licensee shall maintain a current copy of the ~~[club]~~
- 3395 equity or fraternal licensee's current bylaws and current house rules.
- 3396 (c) ~~[A club]~~ An equity or fraternal licensee shall maintain its bylaws or house rules,
- 3397 and any amendments to those records, on file with the department at all times.
- 3398 (9) ~~[A club]~~ An equity or fraternal licensee may, in its discretion, allow an individual
- 3399 to be admitted to or use the ~~[club]~~ licensed premises as a guest subject to the following
- 3400 conditions:
- 3401 (a) the individual is allowed to use the ~~[club]~~ equity or fraternal licensee premises only
- 3402 to the extent permitted by the ~~[club]~~ equity or fraternal licensee's bylaws or house rules;
- 3403 (b) the individual shall be previously authorized by a member of the ~~[club]~~ equity or
- 3404 fraternal licensee who agrees to host the individual as a guest ~~[into the club]~~;
- 3405 (c) the individual has only those privileges derived from the individual's host for the
- 3406 duration of the individual's visit to the ~~[club]~~ equity or fraternal licensee premises; and
- 3407 (d) ~~[a club]~~ an equity or fraternal licensee or staff of the ~~[club]~~ equity or fraternal
- 3408 licensee may not enter into an agreement or arrangement with a ~~[club]~~ member of the equity or
- 3409 fraternal licensee to indiscriminately host a member of the general public into the ~~[club]~~ equity
- 3410 or fraternal licensee premises as a guest.
- 3411 (10) Notwithstanding Subsection (9), an individual may be allowed as a guest in [~~a~~
- 3412 ~~club]~~ an equity or fraternal licensed premises without a host if:
- 3413 (a) (i) the ~~[club]~~ equity or fraternal licensee is an equity ~~[club]~~ licensee; and
- 3414 (ii) the individual is a member of an equity ~~[club]~~ licensee that has reciprocal guest
- 3415 privileges with the equity ~~[club]~~ licensee for which the individual is a guest;
- 3416 (b) (i) the ~~[club]~~ equity or fraternal licensee is a fraternal ~~[club]~~ licensee; and

3417 (ii) the individual is a member of the same fraternal organization as the fraternal [club]
 3418 licensee for which the individual is a guest; or

3419 (c) (i) the [club] equity or fraternal licensee is a fraternal [club] licensee that holds the
 3420 fraternal [club] license on July 1, 2013;

3421 (ii) the [club] equity or fraternal licensee's bylaws permit guests in the [club] equity or
 3422 fraternal licensed premises without a host except that a minor may not be admitted as a guest
 3423 without a host; and

3424 (iii) the [club] equity or fraternal licensee maintains 60% of its total [club] business
 3425 from the sale of food, not including mix for alcoholic products, or service charges.

3426 (11) Unless the patron is a member or guest, [~~a-club~~] an equity or fraternal licensee
 3427 may not:

3428 (a) sell, offer for sale, or furnish an alcoholic product to the patron; or

3429 (b) allow the patron to be admitted to or use the licensed premises.

3430 (12) A minor may not be a member, officer, director, or trustee of [~~a-club~~] an equity or
 3431 fraternal licensee.

3432 Section 50. Section **32B-6-408** is amended to read:

3433 **32B-6-408. Information obtained by investigator.**

3434 (1) Subject to Subsection (2), if an investigator is permitted by another provision of
 3435 this title to inspect a record of a [club] bar establishment licensee, in addition to any other
 3436 rights under this title, the investigator may inspect, have a copy of, or otherwise review any
 3437 record of the [club] bar establishment licensee that is a visual recording of the operations of the
 3438 [club] bar establishment licensee.

3439 (2) An investigator who is a peace officer may not inspect, have a copy of, or otherwise
 3440 review a visual recording described in Subsection (1) without probable cause.

3441 Section 51. Section **32B-6-703** is amended to read:

3442 **32B-6-703. Commission's power to issue on-premise beer retailer license.**

3443 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
 3444 beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise

3445 beer retailer license from the commission in accordance with this part.

3446 (2) (a) The commission may issue an on-premise beer retailer license to establish
3447 on-premise beer retailer licensed premises at places and in numbers as the commission
3448 considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on
3449 premises operated as an on-premise beer retailer.

3450 (b) At the time that the commission issues an on-premise beer retailer license, the
3451 commission shall designate whether the on-premise beer retailer is a tavern.

3452 (c) The commission may change its designation of whether an on-premise beer retailer
3453 is a tavern in accordance with rules made by the commission.

3454 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission
3455 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of
3456 beer for consumption on the establishment's premises.

3457 (ii) In making a determination under this Subsection (2)(d), the commission shall
3458 consider:

3459 (A) whether the on-premise beer retailer will operate as one of the following:

3460 (I) a beer bar;

3461 (II) a parlor;

3462 (III) a lounge;

3463 (IV) a cabaret; or

3464 (V) a nightclub;

3465 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):

3466 (I) whether the on-premise beer retailer will sell food in the establishment; and

3467 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
3468 will exceed the revenue of the sale of food;

3469 (C) whether full meals including appetizers, main courses, and desserts will be served;

3470 (D) the square footage and seating capacity of the premises;

3471 (E) what portion of the square footage and seating capacity will be used for a dining
3472 area in comparison to the portion that will be used as a lounge or bar area;

3473 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
3474 full meals, except a person that is located on the premises of a hotel or resort facility may use
3475 the culinary facilities of the hotel or resort facility;

3476 (G) whether the entertainment provided on the premises of the beer retailer will be
3477 suitable for minors; and

3478 (H) the beer retailer management's ability to manage and operate an on-premise beer
3479 retailer license including:

3480 (I) management experience;

3481 (II) past beer retailer management experience; and

3482 (III) the type of management scheme that will be used by the beer retailer.

3483 (e) On or after March 1, 2012:

3484 (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:

3485 (A) maintain at least 70% of the person's total gross revenues from business directly
3486 related to a recreational amenity on or directly adjoining the licensed premises of the beer
3487 retailer, except that a person may include gross revenue from business directly related to a
3488 recreational amenity that is owned or operated by a political subdivision if the person has a
3489 contract meeting the requirements of Subsection (2)(e)(v) with the political subdivision; or

3490 (B) have a recreational amenity on or directly adjoining the licensed premises of the
3491 beer retailer and maintain at least 70% of the person's total gross revenues from the sale of
3492 food.

3493 (ii) The commission may not license a person as an on-premise beer retailer if the
3494 person does not:

3495 (A) meet the requirements of Subsection (2)(e)(i); or

3496 (B) operate as a tavern.

3497 ~~[(iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July~~
3498 ~~1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1,~~
3499 ~~2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an~~
3500 ~~on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).]~~

3501 ~~[(B) If an on-premise beer retailer fails to notify the department as required by~~
3502 ~~Subsection (2)(e)(iii)(A), the on-premise beer retailer's license expires as of February 29, 2012,~~
3503 ~~and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer~~
3504 ~~retailer is required to apply as a new licensee, and any bar or bar structure on the premises of an~~
3505 ~~on-premise beer retailer license that is not a tavern and does not meet the requirements of~~
3506 ~~Subsection (2)(e)(i) will not be grandfathered under Subsection 32B-6-902(1).]~~

3507 ~~[(iv)]~~ (iii) A person who, after August 1, 2011, applies for an on-premise beer retailer
3508 license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not
3509 have or construct facilities for the dispensing or storage of an alcoholic product that do not
3510 meet the requirements of Subsection 32B-6-905(12)(a)(ii).

3511 ~~[(v)]~~ (iv) A contract described in Subsection (2)(e)(i)(A) shall:

3512 (A) allow the beer retailer to include the total gross revenue from operations of the
3513 recreational amenity in the beer retailer's total gross receipts for purposes of Subsection
3514 (2)(e)(i)(A); and

3515 (B) give the department the authority to audit financial information of the political
3516 subdivision to the extent necessary to confirm that the requirements of Subsection (2)(e)(i)(A)
3517 are met.

3518 (3) Subject to Section 32B-1-201:

3519 (a) The commission may not issue a total number of on-premise beer retailer licenses
3520 that are taverns that at any time exceeds the number determined by dividing the population of
3521 the state by 73,666.

3522 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
3523 in accordance with Section 32B-5-206.

3524 (4) (a) Unless otherwise provided in Subsection (4)(b):

3525 (i) only one on-premise beer retailer license is required for each building or resort
3526 facility owned or leased by the same person; and

3527 (ii) a separate license is not required for each retail beer dispensing location in the
3528 same building or on the same resort premises owned or operated by the same person.

3529 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
3530 building or resort facility operates in the same manner.

3531 (ii) If each retail beer dispensing location does not operate in the same manner:

3532 (A) one on-premise beer retailer license designated as a tavern is required for the
3533 locations in the same building or on the same resort premises that operate as a tavern; and

3534 (B) one on-premise beer retailer license is required for the locations in the same
3535 building or on the same resort premises that do not operate as a tavern.

3536 Section 52. Section **32B-6-706** is amended to read:

3537 **32B-6-706. Specific operational requirements for on-premise beer retailer license.**

3538 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3539 Requirements, an on-premise beer retailer and staff of the on-premise beer retailer shall comply
3540 with this section.

3541 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3542 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3543 (i) an on-premise beer retailer;

3544 (ii) individual staff of an on-premise beer retailer; or

3545 (iii) both an on-premise beer retailer and staff of the on-premise beer retailer.

3546 (2) (a) An on-premise beer retailer is not subject to Section **32B-5-302**, but shall make
3547 and maintain the records the department requires.

3548 (b) Section **32B-1-205** applies to a record required to be made or maintained in
3549 accordance with this Subsection (2).

3550 (3) Notwithstanding Section **32B-5-303**, an on-premise beer retailer may not store or
3551 sell liquor on its licensed premises.

3552 (4) Beer sold in a sealed container by an on-premise beer retailer may be removed from
3553 the on-premise beer retailer premises in the sealed container.

3554 (5) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at its
3555 licensed premises during a period that:

3556 (i) begins at 1 a.m.; and

3557 (ii) ends at 9:59 a.m.

3558 (b) (i) Notwithstanding Subsection (5)(a), a tavern shall remain open for one hour after
3559 the tavern ceases the sale and furnishing of beer during which time a patron of the tavern may
3560 finish consuming a single serving of beer not exceeding 26 ounces.

3561 (ii) A tavern is not required to remain open:

3562 (A) after all patrons have vacated the premises; or

3563 (B) during an emergency.

3564 (6) Notwithstanding Section 32B-5-308, a minor may not be on the premises of a
3565 tavern.

3566 (7) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the
3567 purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases
3568 from:

3569 (A) a beer wholesaler licensee; or

3570 (B) a small brewer that manufactures the beer.

3571 (ii) Violation of Subsection (7)(a)(i) is a class A misdemeanor.

3572 (b) (i) If an on-premise beer retailer purchases beer under this Subsection (7) from a
3573 beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer
3574 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
3575 in which the ~~off-premise~~ on-premise beer retailer is located, unless an alternate wholesaler is
3576 authorized by the department to sell to the ~~off-premise~~ on-premise beer retailer as provided in
3577 Section 32B-13-301.

3578 (ii) Violation of Subsection (7)(b)(i) is a class B misdemeanor.

3579 (8) A tavern shall comply with Section 32B-1-407.

3580 Section 53. Section 32B-6-902 is amended to read:

3581 **32B-6-902. Definitions.**

3582 (1) As used in this part:

3583 (a) (i) "Dining area" means an area in the licensed premises of a beer-only restaurant
3584 licensee that is primarily used for the service and consumption of food by one or more patrons.

3585 (ii) "Dining area" does not include a dispensing area.

3586 (b) (i) "Dispensing area" means an area in the licensed premises of a beer-only
3587 restaurant licensee where a dispensing structure is located and that:

3588 (A) is physically separated from the dining area and any waiting area by a structure or
3589 other barrier that prevents a patron seated in the dining area or a waiting area from viewing the
3590 dispensing of beer;

3591 (B) except as provided in Subsection (1)(b)(ii), measures at least 10 feet from any area
3592 where beer is dispensed to the dining area and any waiting area, measured from the point of the
3593 area where beer is dispensed that is closest to the dining area or waiting area; or

3594 (C) is physically separated from the dining area and any waiting area by a permanent
3595 physical structure that complies with the provisions of Title 15A, State Construction and Fire
3596 Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act,
3597 measures at least 42 inches high, and at least 60 inches from the inside edge of the barrier to
3598 the nearest edge of the dispensing structure.

3599 (ii) "Dispensing area" does not include any area described in Subsection (2)(a)(i)(B)
3600 that is less than 10 feet from an area where alcoholic product is dispensed, but from which a
3601 patron seated at a table or counter cannot view the dispensing of alcoholic product.

3602 [~~(1) (a) As used in this part, "grandfathered]~~

3603 (c) "Grandfathered bar structure" means a bar structure in a licensed premises of a
3604 beer-only restaurant licensee that:

3605 (i) was licensed as an on-premise beer retailer as of August 1, 2011, and as of August
3606 1, 2011:

3607 (A) is operational;

3608 (B) has facilities for the dispensing or storage of an alcoholic product that do not meet
3609 the requirements of Subsection 32B-6-905(12)(a)(ii); and

3610 (C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that
3611 effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a
3612 beer-only restaurant; or

3613 (ii) is a bar structure grandfathered under Section [32B-6-409](#).

3614 ~~[(b)]~~ (d) "Grandfathered bar structure" does not include a grandfathered bar structure
3615 described in Subsection (1)(a) on or after the day on which a restaurant remodels the
3616 grandfathered bar structure, as defined by rule made by the commission.

3617 (e) "Waiting area" includes a lobby.

3618 (2) Subject to Subsection (1)~~[(b)]~~(d), a grandfathered bar structure remains a
3619 grandfathered bar structure notwithstanding whether a restaurant undergoes a change of
3620 ownership.

3621 Section 54. Section **32B-6-905** is amended to read:

3622 **32B-6-905. Specific operational requirements for a beer-only restaurant license --**
3623 **Before July 1, 2018 or July 1, 2022.**

3624 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3625 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
3626 shall comply with this section.

3627 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3628 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3629 (i) a beer-only restaurant licensee;

3630 (ii) individual staff of a beer-only restaurant licensee; or

3631 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

3632 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
3633 sale, furnish, or allow consumption of liquor.

3634 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

3635 (i) as a flavoring on a dessert; and

3636 (ii) in the preparation of a flaming food dish, drink, or dessert.

3637 (3) In addition to complying with Section [32B-5-303](#), a beer-only restaurant licensee
3638 shall store beer in a storage area described in Subsection (12)(a).

3639 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall
3640 make a written beverage tab for each table or group that orders or consumes an alcoholic

3641 product on the premises.

3642 (b) A beverage tab required by this Subsection (4) shall list the type and amount of
3643 beer ordered or consumed.

3644 (5) A person's willingness to serve beer may not be made a condition of employment as
3645 a server with a beer-only restaurant licensee.

3646 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer ~~[during the~~
3647 ~~hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,~~
3648 ~~except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before~~
3649 ~~11:30 a.m. on any day.]~~ at the licensed premises during the following time periods only:

3650 (a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

3651 (b) on a weekend or a state or federal legal holiday or for a private event, during the
3652 period that begins at 10:30 a.m. and ends at 12:59 a.m.

3653 (7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant
3654 business from the sale of food, which does not include a service charge.

3655 (8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except after
3656 the beer-only restaurant licensee confirms that the patron has the intent to order food prepared,
3657 sold, and furnished at the licensed premises.

3658 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary
3659 facilities for food preparation and dining accommodations.

3660 (9) A patron may not have more than two beers at a time before the patron.

3661 (10) A patron may consume a beer only: (a) at:

3662 (i) the patron's table;

3663 (ii) a grandfathered bar structure; or

3664 (iii) a counter; and

3665 (b) where food is served.

3666 (11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to
3667 a patron, and a patron may not consume an alcoholic product at a bar structure.

3668 (b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who

3669 is 21 years of age or older may:

3670 (i) sit;

3671 (ii) be furnished a beer; and

3672 (iii) consume a beer.

3673 (c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a
3674 beer-only restaurant licensee may not permit a minor to, and a minor may not:

3675 (i) sit; or

3676 (ii) consume food or beverages.

3677 (d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a
3678 beer-only restaurant licensee:

3679 (A) as provided in Subsection 32B-5-308(2); or

3680 (B) to perform maintenance and cleaning services during an hour when the beer-only
3681 restaurant licensee is not open for business.

3682 (ii) A minor may momentarily pass by a grandfathered bar structure without
3683 remaining or sitting at the bar structure en route to an area of a beer-only restaurant licensee's
3684 premises in which the minor is permitted to be.

3685 (12) A beer-only restaurant licensee may dispense a beer only if:

3686 (a) the beer is dispensed from an area that is:

3687 (i) a grandfathered bar structure; or

3688 (ii) separated from an area for the consumption of food by a patron by a solid,
3689 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
3690 an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart
3691 from an area used for dining, for staging, or as a lobby or waiting area;

3692 (b) the beer-only restaurant licensee uses a beer that is:

3693 (i) stored in an area described in Subsection (12)(a); or

3694 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

3695 (A) immediately before the beer is dispensed it is in an unopened container;

3696 (B) the unopened container is taken to an area described in Subsection (12)(a) before it

3697 is opened; and
 3698 (C) once opened, the container is stored in an area described in Subsection (12)(a); and
 3699 (c) any instrument or equipment used to dispense the beer is located in an area
 3700 described in Subsection (12)(a).

3701 (13) In addition to complying with Subsection 32B-5-301(3), a beer-only restaurant
 3702 licensee shall display in a conspicuous place at the entrance to the licensed premises a sign
 3703 approved by the commission that:

- 3704 (a) measures at least 8-1/2 inches long and 11 inches wide; and
- 3705 (b) clearly states that the beer-only restaurant licensee is a restaurant and not a bar.

3706 (14) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or
 3707 beverages within 10 feet of a grandfathered bar structure, unless:

- 3708 (a) seating within 10 feet of the grandfathered bar structure is the only seating available
 3709 in the licensed premises; and
- 3710 (b) the minor is accompanied by an individual who is 21 years of age or older.

3711 (15) Except as provided in Subsection 32B-6-905.1(18) and Section 32B-6-905.2, the
 3712 provisions of this section apply before July 1, 2018.

3713 Section 55. Section 32B-6-905.1 is enacted to read:

3714 **32B-6-905.1. Specific operational requirements for a beer-only restaurant license**
 3715 **-- On and after July 1, 2018 or July 1, 2022.**

3716 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
 3717 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
 3718 shall comply with this section.

3719 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
 3720 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 3721 (i) a beer-only restaurant licensee;
- 3722 (ii) individual staff of a beer-only restaurant licensee; or
- 3723 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

3724 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for

3725 sale, furnish, or allow consumption of liquor.

3726 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

3727 (i) as a flavoring on a dessert; and

3728 (ii) in the preparation of a flaming food dish, drink, or dessert.

3729 (3) In addition to complying with Section [32B-5-303](#), a beer-only restaurant licensee

3730 shall store beer in a storage area described in Subsection (13)(a).

3731 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall

3732 make a beverage tab for each table or group that orders or consumes an alcoholic product on

3733 the premises.

3734 (b) A beverage tab described in this Subsection (4) shall state the type and amount of

3735 each alcoholic product ordered or consumed.

3736 (5) A beer-only restaurant licensee may not make an individual's willingness to serve

3737 beer a condition of employment as a server with a beer-only restaurant licensee.

3738 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the

3739 licensed premises during the following time periods only:

3740 (a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

3741 (b) on a weekend or a state or federal legal holiday or for a private event, during the

3742 period that begins at 10:30 a.m. and ends at 12:59 a.m.

3743 (7) A beer-only restaurant licensee shall maintain at least 70% of the beer-only

3744 restaurant licensee's total restaurant business from the sale of food, which does not include a

3745 service charge.

3746 (8) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish beer

3747 except after:

3748 (i) the patron to whom the beer-only restaurant licensee sells, offers for sale, or

3749 furnishes the beer is seated at:

3750 (A) a table that is located in a dining area or a dispensing area;

3751 (B) a counter that is located in a dining area or a dispensing area; or

3752 (C) a dispensing structure that is located in a dispensing area; and

- 3753 (ii) the beer-only restaurant licensee confirms that the patron intends to:
3754 (A) order food prepared, sold, and furnished at the licensed premises; and
3755 (B) except as provided in Subsection (8)(b), consume the food at the same location
3756 where the patron is seated and sold, offered for sale, or furnished the beer.
- 3757 (b) (i) While a patron waits for a seat at a table or counter in the dining area of a
3758 beer-only restaurant licensee, the beer-only restaurant licensee may sell, offer for sale, or
3759 furnish to the patron one portion of beer as described in Section [32B-5-304](#) if:
- 3760 (A) the patron is in a dispensing area and seated at a table, counter, or dispensing
3761 structure; and
- 3762 (B) the beer-only restaurant licensee first confirms that after the patron is seated in the
3763 dining area, the patron intends to order food prepared, sold, and furnished at the licensed
3764 premises.
- 3765 (ii) If the patron does not finish the patron's beer before moving to a seat in the dining
3766 area, an employee of the beer-only restaurant licensee who is qualified to sell and serve an
3767 alcoholic product under Section [32B-5-306](#) shall transport any unfinished portion of the
3768 patron's beer to the patron's seat in the dining area.
- 3769 (c) A beer-only restaurant licensee shall maintain on the licensed premises adequate
3770 culinary facilities for food preparation and dining accommodations.
- 3771 (9) A patron may consume a beer only at:
- 3772 (a) a table that is located in a dining area or a dispensing area;
3773 (b) a counter that is located in a dining area or a dispensing area; or
3774 (c) a dispensing structure located in a dispensing area.
- 3775 (10) A patron may not have more than two beers at a time before the patron.
- 3776 (11) In accordance with the provisions of this section, an individual who is at least 21
3777 years of age may consume food and beverages in a dispensing area.
- 3778 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
3779 consume food or beverages in a dispensing area.
- 3780 (b) (i) A minor may be in a dispensing area if the minor is employed by the beer-only

3781 restaurant licensee:

3782 (A) in accordance with Subsection 32B-5-308(2); or

3783 (B) to perform maintenance and cleaning services when the beer-only restaurant

3784 licensee is not open for business.

3785 (ii) If there is no alternative route available, a minor may momentarily pass through a

3786 dispensing area without remaining or sitting in the dispensing area en route to an area of the

3787 beer-only restaurant licensee's premises in which the minor is permitted to be.

3788 (13) A beer-only restaurant licensee may dispense a beer only if:

3789 (a) the beer is dispensed from:

3790 (i) a dispensing structure that is located in a dispensing area;

3791 (ii) an area that is:

3792 (A) separated from an area for the consumption of food by a patron by a solid,

3793 translucent, permanent structural barrier such that the facilities for the storage or dispensing of

3794 an alcoholic product are not readily visible to a patron, not accessible by a patron; and

3795 (B) apart from an area used for dining, for staging, or as a lobby or waiting area; or

3796 (iii) the premises of a bar licensee that is:

3797 (A) owned by the same person or persons as the beer-only restaurant licensee; and

3798 (B) located immediately adjacent to the premises of the beer-only restaurant licensee;

3799 (b) the beer-only restaurant licensee uses a beer that is stored in an area described in

3800 Subsection (13)(a) or in accordance with Section 32B-5-303; and

3801 (c) any instrument or equipment used to dispense the beer is located in an area

3802 described in Subsection (13)(a).

3803 (14) (a) A beer-only restaurant licensee may have more than one dispensing area in the

3804 licensed premises.

3805 (b) Each dispensing area in a licensed premises may satisfy the requirements for a

3806 dispensing area under Subsection 32B-6-202(1)(b)(i)(A), (B), or (C), regardless of how any

3807 other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

3808 (15) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or

3809 from a movable cart.

3810 (16) (a) In addition to the requirements described in Section 32B-5-302, a beer-only
3811 restaurant licensee shall maintain each of the following records for at least three years:

3812 (i) a record required by Section 32B-5-302; and

3813 (ii) a record that the commission requires a beer-only restaurant licensee to use or
3814 maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3815 Rulemaking Act.

3816 (b) The department shall audit the records of a beer-only restaurant licensee at least
3817 once each calendar year.

3818 (17) A beer-only restaurant licensee shall display in a conspicuous place at the entrance
3819 to the licensed premises a sign approved by the commission that:

3820 (a) measures at least 8-1/2 inches long and 11 inches wide; and

3821 (b) clearly states that the beer-only restaurant licensee is a restaurant and not a bar.

3822 (18) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

3823 (i) may comply with the provisions of this section beginning on or after July 1, 2017;

3824 and

3825 (ii) shall comply with the provisions of this section:

3826 (A) for a beer-only restaurant licensee that does not have a grandfathered bar structure,
3827 on and after July 1, 2018; or

3828 (B) for a beer-only restaurant licensee that has a grandfathered bar structure, on and
3829 after July 1, 2022.

3830 (b) A beer-only restaurant licensee that elects to comply with the provisions of this
3831 section before the latest applicable date described in Subsection (18)(a)(ii):

3832 (i) shall comply with each provision of this section; and

3833 (ii) is not required to comply with the provisions of Section 32B-6-905.

3834 Section 56. Section 32B-6-905.2 is enacted to read:

3835 **32B-6-905.2. Transition process for beer-only restaurant licensees.**

3836 (1) For a beer-only restaurant license issued on or after July 1, 2017, the beer-only

3837 restaurant licensee shall comply with the provisions of Section [32B-6-905.1](#).

3838 (2) For a beer-only restaurant license issued before July 1, 2017, before the beer-only
3839 restaurant licensee changes the beer-only restaurant licensee's approved location for storage,
3840 dispensing, or consumption to comply with the provisions of Section [32B-6-901.1](#), the
3841 beer-only restaurant licensee shall submit an application for approval to the department in
3842 accordance with Subsection [32B-5-303](#)(3).

3843 (3) (a) Except as provided in Subsection (4), a person who holds a beer-only restaurant
3844 license issued before July 1, 2017, shall comply with the provisions of Section [32B-6-901.1](#) on
3845 or before July 1, 2018.

3846 (b) A beer-only restaurant licensee described in Subsection (3)(a) that cannot comply
3847 with the provisions of Section [32B-6-901.1](#) without a change to the beer-only restaurant
3848 licensee's approved location for storage, dispensing, or consumption:

3849 (i) may submit an application for approval described in Subsection (2) on or after May
3850 9, 2017; and

3851 (ii) shall submit an application for approval described in Subsection (2) on or before
3852 May 1, 2018.

3853 (c) If a beer-only restaurant licensee described in Subsection (3)(a) submits an
3854 application for approval described in Subsection (2) on May 9, 2017, the department shall take
3855 action on the application on or before July 1, 2017.

3856 (4) (a) A person who holds a beer-only restaurant license issued before July 1, 2017,
3857 and has a grandfathered bar structure shall comply with the provisions of Section [32B-6-901.1](#)
3858 on or before the earlier of:

3859 (i) July 1, 2022;

3860 (ii) the date on which the beer-only restaurant licensee remodels, as defined by
3861 commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3862 Rulemaking Act, the beer-only restaurant licensee's grandfathered bar structure or dining area;
3863 or

3864 (iii) the date on which the beer-only restaurant licensee experiences a change of

3865 ownership described in Subsection 32B-8a-202(1).

3866 (b) A beer-only restaurant licensee described in Subsection (4)(a) that cannot comply
3867 with the provisions of Section 32B-6-901.1 without a change to the beer-only restaurant
3868 licensee's approved location for storage, dispensing, or consumption:

3869 (i) may submit an application for approval described in Subsection (2) on or after May
3870 9, 2017; and

3871 (ii) shall submit an application for approval described in Subsection (2) on or before
3872 May 1, 2022.

3873 Section 57. Section **32B-7-202** is amended to read:

3874 **32B-7-202. General operational requirements for off-premise beer retailer.**

3875 (1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply
3876 with ~~[this section]~~ the provisions of this title and any applicable rules made by the commission.

3877 (b) Failure to comply with this section may result in a suspension or revocation of a
3878 local license and, on or after July 1, 2018, disciplinary action in accordance with Chapter 3,
3879 Disciplinary Actions and Enforcement Act.

3880 (2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the
3881 purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases
3882 from:

3883 (A) a beer wholesaler licensee; or

3884 (B) a small brewer that manufactures the beer.

3885 (ii) A violation of Subsection (2)(a) is a class A misdemeanor.

3886 (b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a
3887 beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer
3888 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
3889 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by
3890 the department to sell to the off-premise beer retailer as provided in Section **32B-13-301**.

3891 (ii) A violation of Subsection (2)(b) is a class B misdemeanor.

3892 (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a

3893 container larger than two liters.

3894 (4) A minor may not sell beer on the licensed premises of an off-premise beer retailer
3895 unless:

3896 (a) the sale is done under the supervision of a person 21 years of age or older who is on
3897 the licensed premises; and

3898 (b) the minor is at least 16 years of age.

3899 (5) (a) Subject to the other provisions of this Subsection (5), an off-premise beer
3900 retailer shall:

3901 (i) display all beer [~~sold by the off-premise beer retailer in an area that is visibly~~
3902 ~~separate and distinct from the area where nonalcoholic beverages are displayed; and~~] accessible
3903 by and visible to a patron in no more than two locations on the retail sales floor, each of which
3904 is:

3905 (A) a display cabinet, cooler, aisle, floor display, or room where beer is the only
3906 beverage displayed; and

3907 (B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler
3908 with a door from which the nonalcoholic beverages are not accessible, or the beer is separated
3909 from the display of nonalcoholic beverages by a display of one or more nonbeverage products
3910 or another physical divider; and

3911 (ii) display a sign in the area described in Subsection (5)(a)(i) that:

3912 (A) is prominent;

3913 (B) is easily readable by a consumer;

3914 (C) meets the requirements for format established by the commission by rule; and

3915 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain
3916 alcohol. Please read the label carefully."

3917 (b) Notwithstanding Subsection (5)(a), a nonalcoholic beer may be displayed with beer
3918 if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

3919 (c) The requirements of this Subsection (5) apply to beer notwithstanding that it is
3920 labeled, packaged, or advertised as:

- 3921 (i) a malt cooler; or
- 3922 (ii) a beverage that may provide energy.
- 3923 ~~[(d) The commission shall define by rule what constitutes an "area that is visibly~~
- 3924 ~~separate and distinct from the area where a nonalcoholic beverage is displayed."]~~
- 3925 ~~[(e)]~~ (d) A violation of this Subsection (5) is an infraction.
- 3926 (e) (i) Except as provided in Subsection (5)(d)(ii), the provisions of Subsection (5)(a)(i)
- 3927 apply on and after May 9, 2017.
- 3928 (ii) For a beer retailer that operates two or more off-premise beer retailers, the
- 3929 provisions of Subsection (5)(a)(i) apply on and after August 1, 2017.
- 3930 (6) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or
- 3931 who sells beer to a patron for consumption off the premises of the off-premise beer retailer
- 3932 shall wear a unique identification badge:
- 3933 (i) on the front of the staff's clothing;
- 3934 (ii) visible above the waist;
- 3935 (iii) bearing the staff's:
- 3936 (A) first or last name;
- 3937 (B) initials; or
- 3938 (C) unique identification in letters or numbers; and
- 3939 (iv) with the number or letters on the unique identification badge being sufficiently
- 3940 large to be clearly visible and identifiable while engaging in or directly supervising the retail
- 3941 sale of beer.
- 3942 (b) An off-premise beer retailer shall make and maintain a record of each current staff's
- 3943 unique identification badge assigned by the off-premise beer retailer that includes the staff's:
- 3944 (i) full name;
- 3945 (ii) address; and
- 3946 (iii) (A) driver license number; or
- 3947 (B) similar identification number.
- 3948 (c) An off-premise beer retailer shall make available a record required to be made or

3949 maintained under this Subsection (6) for immediate inspection by:

3950 (i) a peace officer; ~~[or]~~

3951 (ii) a representative of the local authority that issues the off-premise beer retailer

3952 license~~[-]; or~~

3953 (iii) for an off-premise beer retailer state license, a representative of the commission or
3954 department.

3955 (d) A local authority may impose a fine of up to \$250 against an off-premise beer
3956 retailer that does not comply or require its staff to comply with this Subsection (6).

3957 Section 58. Section **32B-7-305** is amended to read:

3958 **32B-7-305. Tracking of enforcement actions -- Costs of enforcement actions.**

3959 (1) A local authority that pursuant to this part adjudicates an administrative penalty for
3960 a violation of a law involving the sale of an alcoholic product to a minor, shall:

3961 (a) maintain a record of an adjudicated violation until the record is expunged under
3962 Subsection (3);

3963 (b) include in the record described in Subsection (1)(a):

3964 (i) the name of the individual who commits the violation;

3965 (ii) the name of the off-premise beer retailer for whom the individual is a staff member
3966 at the time of the violation; and

3967 (iii) the date of the adjudication of the violation; and

3968 (c) provide the information described in Subsection (1)(b) to ~~[the Highway Safety~~
3969 ~~Office of]~~ the Department of Public Safety within 30 days of the date on which a violation is
3970 adjudicated.

3971 (2) (a) The ~~[Highway Safety Office]~~ Department of Public Safety shall develop and
3972 operate a system to collect, analyze, maintain, track, and disseminate the violation history
3973 information received under Subsection (1).

3974 (b) The ~~[Highway Safety Office]~~ Department of Public Safety shall make the system
3975 described in Subsection (2)(a) available to:

3976 (i) assist a local authority in assessing administrative penalties under Section

3977 32B-7-303; and

3978 (ii) inform an off-premise beer retailer of an individual who has an administrative
3979 violation history under Section 32B-7-303.

3980 (c) The [~~Highway Safety Office~~] Department of Public Safety shall maintain a record
3981 of violation history information received pursuant to Subsection (1) until the record is
3982 expunged under Subsection (3).

3983 (3) (a) A local authority and the [~~Highway Safety Office~~] Department of Public Safety
3984 shall expunge from the records maintained an administrative penalty imposed under Section
3985 32B-7-303 for purposes of determining future administrative penalties under Section
3986 32B-7-303 if the individual has not been found in violation of any law involving the sale of an
3987 alcoholic product to a minor for a period of 36 consecutive months from the day on which the
3988 individual is last adjudicated as violating a law involving the sale of an alcoholic product to a
3989 minor.

3990 (b) A local authority shall expunge from the records maintained by the local authority
3991 an administrative penalty imposed under Section 32B-7-303 against an off-premise beer
3992 retailer for purposes of determining future administrative penalties under Section 32B-7-303 if
3993 the off-premise beer retailer or any staff of that off-premise beer retailer has not been found in
3994 violation of any law involving the sale of an alcoholic product to a minor for a period of 36
3995 consecutive months from the day on which the off-premise beer retailer or staff of the
3996 off-premise beer retailer is last adjudicated as violating a law involving the sale of an alcoholic
3997 product to a minor.

3998 (4) The [~~Highway Safety Office~~] Department of Public Safety shall administer a
3999 program to reimburse a municipal or county law enforcement agency:

4000 (a) for the actual costs of an alcohol-related compliance check investigation conducted
4001 pursuant to Section 77-39-101 on the premises of an off-premise beer retailer;

4002 (b) for administrative costs associated with reporting the compliance check
4003 investigation described in Subsection (4)(a);

4004 (c) if the municipal or county law enforcement agency completes and submits to the

4005 [~~Highway Safety Office~~] Department of Public Safety a report within 90 days of the
4006 compliance check investigation described in Subsection (4)(a) in a format required by the
4007 [~~Highway Safety Office~~] Department of Public Safety; and
4008 (d) in the order that the municipal or county law enforcement agency submits the report
4009 required by Subsection (4)(c) until the amount allocated by the [~~Highway Safety Office~~]
4010 Department of Public Safety to reimburse a municipal or county law enforcement agency is
4011 spent.

4012 (5) The [~~Highway Safety Office~~] Department of Public Safety shall report to the Utah
4013 Substance Abuse Advisory Council by no later than October 1 following a fiscal year on the
4014 following funded during the prior fiscal year:

- 4015 (a) compliance check investigations reimbursed under Subsection (4); and
4016 (b) the collection, analysis, maintenance, tracking, and dissemination of violation
4017 history information described in Subsection (2).

4018 Section 59. Section **32B-7-401** is enacted to read:

4019 **Part 4. Off-Premise Beer Retailer State License**

4020 **32B-7-401. Commission's power to issue off-premise beer retailer state license.**

4021 (1) Beginning on July 1, 2018, and except as provided in Subsection (3), before a
4022 person may purchase, store, sell, or offer for sale beer for consumption off the person's
4023 premises, the person shall obtain an off-premise beer retailer state license in accordance with
4024 this part.

4025 (2) The commission may issue an off-premise beer retailer state license for the retail
4026 sale of beer for consumption off the beer retailer's premises.

4027 (3) (a) A person who operates as an off-premise beer retailer on July 1, 2018, shall
4028 obtain an off-premise beer retailer state license on or before March 1, 2019.

4029 (b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4030 the commission shall establish a deadline for each off-premise beer retailer described in
4031 Subsection (3)(a) to submit to the department an application for an off-premise beer retailer
4032 state license.

4033 (ii) The commission shall act upon each timely application submitted in accordance
4034 with this Subsection (3) on or before February 28, 2019.

4035 (c) An off-premise beer retailer described in Subsection (3)(a) may continue to operate
4036 without an off-premise beer retailer state license through February 28, 2019.

4037 Section 60. Section **32B-7-402** is enacted to read:

4038 **32B-7-402. Application for off-premise beer retailer state license -- Qualifications.**

4039 To obtain an off-premise beer retailer state license, a person shall submit to the
4040 department:

4041 (1) a written application in a form prescribed by the department;

4042 (2) a nonrefundable application fee of \$75;

4043 (3) an initial license fee of \$250 that is refundable if the commission does not issue the
4044 off-premise beer retailer state license;

4045 (4) written consent of the local authority;

4046 (5) a copy of the person's current business license;

4047 (6) a floor plan of the premises that outlines the location of each beer display;

4048 (7) a signed consent form stating the person will permit any authorized representative
4049 of the commission or the department or any law enforcement officer to have unrestricted right
4050 to enter the licensed premises;

4051 (8) if the person is an entity, proper verification evidencing that the individual who
4052 signs the application is authorized to sign on behalf of the entity; and

4053 (9) any other information that the commission or department requires.

4054 Section 61. Section **32B-7-403** is enacted to read:

4055 **32B-7-403. Renewal of off-premise beer retailer state license.**

4056 (1) An off-premise beer retailer state license expires on the last day of February each
4057 year.

4058 (2) To renew an off-premise beer retailer state license, an off-premise beer retailer state
4059 licensee shall, no later than January 31, submit:

4060 (a) a completed renewal application to the department in a form prescribed by the

4061 department; and

4062 (b) a renewal fee of \$175.

4063 (3) An off-premise beer retailer state licensee automatically forfeits the off-premise
4064 beer retailer state license if the off-premise beer retailer state licensee fails to satisfy the
4065 renewal requirements described in this section.

4066 Section 62. Section **32B-7-404** is enacted to read:

4067 **32B-7-404. Duties of commission and department before issuing off-premise beer**
4068 **retailer state license.**

4069 (1) (a) Before the commission issues an off-premise beer retailer state license, the
4070 department shall conduct an investigation and may hold one or more public hearings to gather
4071 information and make recommendations to the commission regarding whether the commission
4072 should issue an off-premise beer retailer state license.

4073 (b) The department shall forward the information the department gathers and the
4074 department's recommendations to the commission.

4075 (2) Before the commission issues an off-premise beer retailer state license, the
4076 commission shall:

4077 (a) determine that the person filed a complete application and is in compliance with the
4078 provisions of this chapter;

4079 (b) determine that the person is not disqualified under Section [32B-1-304](#);

4080 (c) consider the physical characteristics of the premises where the beer is displayed;

4081 and

4082 (d) consider any other factor that the commission considers necessary.

4083 Section 63. Section **32B-7-405** is enacted to read:

4084 **32B-7-405. Notifying department of change of ownership.**

4085 The commission may suspend or revoke an off-premise beer retailer state license if an
4086 off-premise beer retailer state licensee does not immediately notify the department of a change
4087 in:

4088 (1) ownership of the licensee's business;

4089 (2) for a corporate owner, a shareholder holding at least 20% of the total issued and
4090 outstanding stock of the corporation; or

4091 (3) for a limited liability company, a member owning at least 20% of the limited
4092 liability company.

4093 Section 64. Section **32B-8-102** is amended to read:

4094 **32B-8-102. Definitions.**

4095 As used in this chapter:

4096 (1) "Boundary of a resort building" means the physical boundary of the land reasonably
4097 related to a resort building and any structure or improvement to that land as determined by the
4098 commission.

4099 (2) "Dwelling" means a portion of a resort building:

4100 (a) owned by one or more individuals;

4101 (b) that is used or designated for use as a residence by one or more persons; and

4102 (c) that may be rented, loaned, leased, or hired out for a period of no longer than 30
4103 consecutive days by a person who uses it for a residence.

4104 (3) "Engaged in the management of the resort" may be defined by the commission by
4105 rule.

4106 (4) "Invitee" means an individual who in accordance with Subsection [32B-8-304\(11\)](#) is
4107 authorized to use a resort spa by a host who is:

4108 (a) a resident; or

4109 (b) a public customer.

4110 (5) "Provisions applicable to a sublicense" means:

4111 (a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant
4112 License;

4113 (b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service
4114 Restaurant License;

4115 (c) for a [~~club~~] bar establishment sublicense, Chapter 6, Part 4, [~~Club~~] Bar
4116 Establishment License;

4117 (d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet
4118 License;

4119 (e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer
4120 Retailer License; and

4121 (f) for a resort spa sublicense, Part 3, Resort Spa Sublicense.

4122 (6) "Public customer" means an individual who holds a customer card in accordance
4123 with Subsection [32B-8-304\(12\)](#).

4124 (7) "Resident" means an individual who:

4125 (a) owns a dwelling located within a resort building; or

4126 (b) rents lodging accommodations for 30 consecutive days or less from:

4127 (i) an owner of a dwelling described in Subsection (7)(a); or

4128 (ii) the resort licensee.

4129 (8) "Resort" means a location:

4130 (a) on which is located one resort building; and

4131 (b) that is affiliated with a ski area that physically touches the boundary of the resort
4132 building.

4133 (9) "Resort building" means a building:

4134 (a) that is primarily operated to provide dwellings or lodging accommodations;

4135 (b) that has at least 150 units that consist of a dwelling or lodging accommodations;

4136 (c) that consists of at least 400,000 square feet:

4137 (i) including only the building itself; and

4138 (ii) not including areas such as above ground surface parking; and

4139 (d) of which at least 50% of the units described in Subsection (9)(b) consist of
4140 dwellings owned by a person other than the resort licensee.

4141 (10) "Resort spa" means a spa, as defined by rule by the commission, that is within the
4142 boundary of a resort building.

4143 (11) "Sublicense" means:

4144 (a) a full-service restaurant sublicense;

- 4145 (b) a limited-service restaurant sublicense;
- 4146 (c) a [~~club~~] bar establishment sublicense;
- 4147 (d) an on-premise banquet sublicense;
- 4148 (e) an on-premise beer retailer sublicense; and
- 4149 (f) a resort spa sublicense.

4150 (12) "Sublicense premises" means a building, enclosure, or room used pursuant to a
4151 sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic
4152 product, unless otherwise defined in this title or in the rules made by the commission.

4153 Section 65. Section **32B-8-304** is amended to read:

4154 **32B-8-304. Specific operational requirements for resort spa sublicense.**

4155 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
4156 Requirements, a resort licensee, staff of the resort licensee, or a person otherwise related to a
4157 resort spa sublicense shall comply with this section.

4158 (b) Subject to Section [32B-8-502](#), failure to comply as provided in Subsection (1)(a)
4159 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and
4160 Enforcement Act, against:

- 4161 (i) a retail licensee;
- 4162 (ii) staff of the retail licensee;
- 4163 (iii) a person otherwise related to a resort spa sublicense; or
- 4164 (iv) any combination of the persons listed in this Subsection (1)(b).

4165 (2) (a) For purposes of the resort spa sublicense, the resort licensee shall ensure that a
4166 record required by this title is maintained, and a record is maintained or used for the resort spa
4167 sublicense:

- 4168 (i) as the department requires; and
- 4169 (ii) for a minimum period of three years.

4170 (b) A record is subject to inspection by an authorized representative of the commission
4171 and the department.

4172 (c) A resort licensee shall allow the department, through an auditor or examiner of the

4173 department, to audit the records for a resort spa sublicense at the times the department
4174 considers advisable.

4175 (d) The department shall audit the records for a resort spa sublicense at least once
4176 annually.

4177 (e) Section 32B-1-205 applies to a record required to be made, maintained, or used in
4178 accordance with this Subsection (2).

4179 (3) (a) A person operating under a resort spa sublicense may not sell, offer for sale, or
4180 furnish liquor at a resort spa during a period that:

4181 (i) begins at 1 a.m.; and

4182 (ii) ends at 9:59 a.m.

4183 (b) A person operating under a resort spa sublicense may sell, offer for sale, or furnish
4184 beer during the hours specified in Chapter 6, Part 7, On-Premise Beer Retailer License, for an
4185 on-premise beer retailer.

4186 (c) (i) Notwithstanding Subsections (3)(a) and (b), a resort spa shall remain open for
4187 one hour after the resort spa ceases the sale and furnishing of an alcoholic product during
4188 which time a person at the resort spa may finish consuming:

4189 (A) a single drink containing spirituous liquor;

4190 (B) a single serving of wine not exceeding five ounces;

4191 (C) a single serving of heavy beer;

4192 (D) a single serving of beer not exceeding 26 ounces; or

4193 (E) a single serving of a flavored malt beverage.

4194 (ii) A resort spa is not required to remain open:

4195 (A) after all persons have vacated the resort spa sublicense premises; or

4196 (B) during an emergency.

4197 (4) A minor may not be admitted into, use, or be on:

4198 (a) the sublicense premises of a resort spa unless accompanied by a person 21 years of
4199 age or older; or

4200 (b) a lounge or bar area of the resort spa sublicense premises.

4201 (5) A resort spa shall have food available at all times when an alcoholic product is sold,
4202 offered for sale, furnished, or consumed on the resort spa sublicense premises.

4203 (6) (a) Subject to the other provisions of this Subsection (6), a patron may not have
4204 more than two alcoholic products of any kind at a time before the patron.

4205 (b) A resort spa patron may not have two spirituous liquor drinks before the resort spa
4206 patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for
4207 the other spirituous liquor drink.

4208 (c) An individual portion of wine is considered to be one alcoholic product under this
4209 Subsection (6).

4210 (7) (a) An alcoholic product may only be consumed at a table or counter.

4211 (b) An alcoholic product may not be served to or consumed by a patron at a [~~bar~~]
4212 dispensing structure.

4213 (8) (a) A person operating under a resort spa sublicense shall have available on the
4214 resort spa sublicense premises for a patron to review at the time that the patron requests it, a
4215 written alcoholic product price list or a menu containing the price of an alcoholic product sold
4216 or furnished by the resort spa including:

- 4217 (i) a set-up charge;
- 4218 (ii) a service charge; or
- 4219 (iii) a chilling fee.

4220 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
4221 may be stated in food or alcoholic product menus including:

- 4222 (i) a set-up charge;
- 4223 (ii) a service charge; or
- 4224 (iii) a chilling fee.

4225 (9) (a) A resort licensee shall own or lease premises suitable for the resort spa's
4226 activities.

4227 (b) A resort licensee may not maintain premises in a manner that barricades or conceals
4228 the resort spa sublicense's operation.

4229 (10) Subject to the other provisions of this section, a person operating under a resort
4230 spa sublicense may not sell an alcoholic product to or allow a person to be admitted to or use
4231 the resort spa sublicense premises other than:

- 4232 (a) a resident;
- 4233 (b) a public customer who holds a valid customer card issued under Subsection (12); or
- 4234 (c) an invitee.

4235 (11) A person operating under a resort spa sublicense may allow an individual to be
4236 admitted to or use the resort spa sublicense premises as an invitee subject to the following
4237 conditions:

4238 (a) the individual shall be previously authorized by one of the following who agrees to
4239 host the individual as an invitee into the resort spa:

- 4240 (i) a resident; or
- 4241 (ii) a public customer as described in Subsection (10);
- 4242 (b) the individual has only those privileges derived from the individual's host for the
4243 duration of the invitee's visit to the resort spa; and

4244 (c) a resort licensee, resort spa, or staff of the resort licensee or resort spa may not enter
4245 into an agreement or arrangement with a resident or public customer to indiscriminately host a
4246 member of the general public into the resort spa as an invitee.

4247 (12) A person operating under a resort spa sublicense may issue a customer card to
4248 allow an individual to enter and use the resort spa sublicense premises on a temporary basis
4249 under the following conditions:

- 4250 (a) the resort spa may not issue a customer card for a time period that exceeds three
4251 weeks;
- 4252 (b) the resort spa shall assess a fee to a public customer for a customer card;
- 4253 (c) the resort spa may not issue a customer card to a minor; and
- 4254 (d) a public customer may not host more than seven invitees at one time.

4255 Section 66. Section **32B-8a-302** is amended to read:

4256 **32B-8a-302. Application -- Approval process.**

4257 (1) To obtain the transfer of a retail license from a retail licensee, the transferee shall
4258 file a transfer application with the department that includes:

4259 (a) an application in the form provided by the department;

4260 (b) a statement as to whether the consideration, if any, to be paid to the transferor
4261 includes payment for transfer of the retail license;

4262 (c) a statement executed under penalty of perjury that the consideration as set forth in
4263 the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder; and

4264 (d) (i) an application fee of \$300; and

4265 (ii) a transfer fee determined in accordance with Section 32B-8a-303.

4266 (2) If the intended transfer of a retail license involves consideration, at least 10 days
4267 before the commission may approve the transfer, the department shall post a notice of the
4268 intended transfer on the Public Notice Website created in Section 63F-1-701 that states the
4269 following:

4270 (a) the name of the transferor;

4271 (b) the name and address of the business currently associated with the retail license;

4272 (c) instructions for filing a claim with the escrow holder; and

4273 (d) the projected date that the commission may consider the transfer application.

4274 (3) (a) (i) Before the commission may approve the transfer of a retail license, the
4275 department shall conduct an investigation and may hold public hearings to gather information
4276 and make recommendations to the commission as to whether the transfer of the retail license
4277 should be approved.

4278 (ii) The department shall forward the information and recommendations described in
4279 this Subsection (3)(a) to the commission to aid in the commission's determination.

4280 (b) Before approving a transfer, the commission shall:

4281 (i) determine that the transferee filed a complete application;

4282 (ii) determine that the transferee is eligible to hold the type of retail license that is to be
4283 transferred at the premises to which the retail license would be transferred;

4284 (iii) determine that the transferee is not delinquent in the payment of an amount

4285 described in Subsection [32B-8a-201\(3\)](#);

4286 (iv) determine that the transferee is not disqualified under Section [32B-1-304](#);

4287 (v) consider the locality within which the proposed licensed premises is located,

4288 including the factors listed in Section [32B-5-203](#) for the issuance of a retail license;

4289 (vi) consider the transferee's ability to manage and operate the retail license to be
4290 transferred, including the factors listed in Section [32B-5-203](#) for the issuance of a retail license;

4291 (vii) consider the nature or type of retail licensee operation of the transferee, including
4292 the factors listed in Section [32B-5-203](#) for the issuance of a retail license;

4293 (viii) if the transfer involves consideration, determine that the transferee and transferor
4294 have complied with Part 4, Protection of Creditors; and

4295 (ix) consider any other factor the commission considers necessary.

4296 (4) ~~[(a)]~~ Except as provided in Subsection ~~[(4)(b)]~~ [32B-1-202\(3\)](#), the commission may
4297 not approve the transfer of a retail license to premises that do not meet the proximity
4298 requirements of Section [32B-1-202](#).

4299 ~~[(b) If after a transfer of a retail license the transferee operates the same type of retail
4300 license at the same location as did the transferor, the commission may waive or vary the
4301 proximity requirements of Subsection [32B-1-202\(2\)](#) in considering whether to approve the
4302 transfer under the same circumstances that the commission may waive or vary the proximity
4303 requirements in accordance with Subsection [32B-1-202\(4\)](#) when considering whether to issue a
4304 retail license.]~~

4305 Section 67. Section **32B-8b-102** is amended to read:

4306 **32B-8b-102. Definitions.**

4307 As used in this chapter:

4308 (1) "Boundary of a hotel" means the physical boundary of the contiguous parcels of
4309 real estate owned by the same person on which is located one or more buildings and any
4310 structure or improvement to that real estate as determined by the commission.

4311 (2) "Hotel" means one or more buildings that:

4312 (a) constitute a hotel, as defined by the commission;

4313 (b) are owned by the same person or by a person who has a majority interest in and can
4314 direct or exercise control over the management or policy of the person who owns any other
4315 building under the hotel license within the boundary of the hotel;

4316 (c) primarily operate to provide lodging accommodations;

4317 (d) provide room service within the boundary of the hotel meeting the requirements of
4318 this title;

4319 (e) have on-premise banquet space and provide on-premise banquet service within the
4320 boundary of the hotel meeting the requirements of this title;

4321 (f) have a restaurant or [~~club~~] bar establishment within the boundary of the hotel
4322 meeting the requirements of this title; and

4323 (g) have at least 40 guest rooms.

4324 (3) "Provisions applicable to a sublicense" means:

4325 (a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant
4326 License;

4327 (b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service
4328 Restaurant License;

4329 (c) for a [~~club~~] bar establishment sublicense, Chapter 6, Part 4, [~~Club~~] Bar
4330 Establishment License;

4331 (d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet
4332 License;

4333 (e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer
4334 Retailer License; and

4335 (f) for a beer-only restaurant sublicense, Chapter 6, Part 9, Beer-Only Restaurant
4336 License.

4337 (4) "Sublicense" means:

4338 (a) a full-service restaurant sublicense;

4339 (b) a limited-service restaurant sublicense;

4340 (c) a [~~club~~] bar establishment sublicense;

- 4341 (d) an on-premise banquet sublicense;
- 4342 (e) an on-premise beer retailer sublicense; and
- 4343 (f) a beer-only restaurant sublicense.

4344 (5) "Sublicense premises" means a building, enclosure, or room used pursuant to a
4345 sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic
4346 product, unless otherwise defined in this title or in the rules made by the commission, except
4347 that sublicense premises may have only one sublicense within a room or an enclosure that is
4348 separate from a room.

4349 Section 68. Section **32B-8b-201** is amended to read:

4350 **32B-8b-201. Commission's power to issue a hotel license.**

4351 (1) Before a person as a hotel under a single license may store, sell, offer for sale,
4352 furnish, or allow the consumption of an alcoholic product on sublicense premises, the person
4353 shall first obtain a hotel license from the commission in accordance with this part.

4354 (2) (a) The commission may issue to a person a hotel license to allow the storage, sale,
4355 offer for sale, furnishing, and consumption of an alcoholic product in connection with a hotel
4356 designated in the hotel license if the person operates at least three sublicenses under the hotel
4357 license one of which is an on-premise banquet license and one of which is a sublicense for a
4358 restaurant or ~~[club]~~ bar establishment.

4359 (b) A hotel license shall:

4360 (i) consist of:

4361 (A) a general hotel license; and

4362 (B) three or more sublicenses meeting the requirements of Subsection (2)(a); and

4363 (ii) designate the boundary of the hotel and sublicenses.

4364 (c) This chapter does not prohibit an alcoholic product on the boundary of the hotel to
4365 the extent otherwise permitted by this title.

4366 (d) The commission may not issue a sublicense that is separate from a hotel license.

4367 (3) (a) The commission may not issue a total number of hotel licenses that at any time
4368 totals more than 80.

4369 (b) Subject to Subsection (3)(c), when determining the total number of licenses the
4370 commission has issued for each type of retail license, the commission may not include a
4371 sublicense as one of the retail licenses issued under the provisions applicable to the sublicense.

4372 (c) If a hotel license issued under this chapter includes a ~~club~~ bar establishment
4373 sublicense that before the issuance of the hotel license was a ~~club~~ bar establishment license,
4374 the commission shall include the ~~club~~ bar establishment sublicense as one of the ~~club~~ bar
4375 establishment licenses in determining if the total number of licenses issued under the
4376 provisions applicable to the ~~club~~ bar establishment license exceeds the number calculated by
4377 dividing the population of the state by the number specified in the provisions applicable to the
4378 ~~club~~ bar establishment license.

4379 (d) A person may not transfer a ~~club~~ bar establishment license under Chapter 8a,
4380 Transfer of Retail License Act, in a manner that circumvents the limitations of Subsection
4381 (3)(c).

4382 Section 69. Section **53-10-305** is amended to read:

4383 **53-10-305. Duties of bureau chief.**

4384 The bureau chief, with the consent of the commissioner, shall do the following:

4385 (1) conduct in conjunction with the state boards of education and higher education in
4386 state schools, colleges, and universities, an educational program concerning alcoholic
4387 beverages and alcoholic products, and work in conjunction with civic organizations, churches,
4388 local units of government, and other organizations in the prevention of alcoholic beverage,
4389 alcoholic product, and drug violations;

4390 (2) coordinate law enforcement programs throughout the state and accumulate and
4391 disseminate information related to the prevention, detection, and control of violations of this
4392 chapter and Title 32B, Alcoholic Beverage Control Act, as it relates to storage or consumption
4393 of an alcoholic beverage or alcoholic product on premises maintained by a ~~club~~ bar
4394 establishment licensee, or a person required to obtain a ~~club~~ bar establishment license, as
4395 defined in Section [32B-1-102](#);

4396 (3) make inspections and investigations as required by the commission and the

4397 Department of Alcoholic Beverage Control;

4398 (4) perform other acts as may be necessary or appropriate concerning control of the use
4399 of an alcoholic beverage or alcoholic product and drugs; and

4400 (5) make reports and recommendations to the Legislature, the governor, the
4401 commissioner, the commission, and the Department of Alcoholic Beverage Control as may be
4402 required or requested.

4403 Section 70. Section **53A-13-113** is enacted to read:

4404 **53A-13-113. Underage Drinking Prevention Program -- State Board of Education**
4405 **rules.**

4406 (1) As used in this section:

4407 (a) "Advisory council" means the Underage Drinking Prevention Program Advisory
4408 Council created in this section.

4409 (b) "Board" means the State Board of Education.

4410 (c) "LEA" means:

4411 (i) a school district;

4412 (ii) a charter school; or

4413 (iii) the Utah Schools for the Deaf and the Blind.

4414 (d) "Program" means the Underage Drinking Prevention Program created in this
4415 section.

4416 (e) "School-based prevention presentation" means an evidence-based program intended
4417 for students aged 13 and older that:

4418 (i) is aimed at preventing underage consumption of alcohol;

4419 (ii) is delivered by methods that engage students in storytelling and visualization;

4420 (iii) addresses the behavioral risk factors associated with underage drinking; and

4421 (iv) provides practical tools to address the dangers of underage drinking.

4422 (2) There is created the Underage Drinking Prevention Program that consists of:

4423 (a) a school-based prevention presentation for students in grade 8; and

4424 (b) a school-based prevention presentation for students in grade 10 that increases

4425 awareness of the dangers of driving under the influence of alcohol.

4426 (3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each
4427 school year to each student in grade 8 and grade 10.

4428 (b) An LEA shall select from the providers qualified by the board under Subsection (6)
4429 to offer the program.

4430 (4) The board shall administer the program with input from the advisory council.

4431 (5) There is created the Underage Drinking Prevention Program Advisory Council
4432 comprised of the following members:

4433 (a) the executive director of the Department of Alcoholic Beverage Control or the
4434 executive director's designee;

4435 (b) the executive director of the Department of Health or the executive director's
4436 designee;

4437 (c) the director of the Division of Substance Abuse and Mental Health or the director's
4438 designee;

4439 (d) the director of the Division of Child and Family Services or the director's designee;

4440 (e) the director of the Division of Juvenile Justice Services or the director's designee;

4441 (f) the state superintendent of public instruction or the state superintendent of public
4442 instruction's designee; and

4443 (g) two members of the State Board of Education, appointed by the chair of the State
4444 Board of Education.

4445 (6) (a) In accordance with Title 63G, Chapter 6, Utah Procurement Code, the board
4446 shall qualify one or more providers to provide the program to an LEA.

4447 (b) In selecting a provider described in Subsection (6)(a), the board shall consider:

4448 (i) whether the provider's program complies with the requirements described in this
4449 section;

4450 (ii) the extent to which the provider's underage drinking prevention program aligns
4451 with core standards for Utah public schools; and

4452 (iii) the provider's experience in providing a program that is effective at reducing

4453 underage drinking.

4454 (7) (a) The board shall use money from the Underage Drinking Prevention Program
4455 Restricted Account described in Section [53A-13-114](#) for the program.

4456 (b) The board may use money from the Underage Drinking Prevention Program
4457 Restricted Account to fund up to .5 of a full-time equivalent position to administer the
4458 program.

4459 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4460 board shall make rules that:

4461 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage
4462 Drinking Prevention Program each school year to each student in grade 8 and grade 10; and

4463 (b) establish criteria for the board to use in selecting a provider described in Subsection
4464 (6).

4465 Section 71. Section **53A-13-114** is enacted to read:

4466 **53A-13-114. Underage Drinking Prevention Program Restricted Account.**

4467 (1) As used in this section, "account" means the Underage Drinking Prevention
4468 Program Restricted Account created in this section.

4469 (2) There is created within the Education Fund a restricted account known as the
4470 "Underage Drinking Prevention Program Restricted Account."

4471 (3) (a) Before the Department of Alcoholic Beverage Control remits any portion of the
4472 markup collected under Section [32B-2-304](#) to the State Tax Commission, the department shall
4473 deposit into the account:

4474 (i) for the fiscal year that begins July 1, 2017, \$1,750,000; or

4475 (ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the
4476 amount that the department deposited into the account during the preceding fiscal year
4477 increased or decreased by a percentage equal to the percentage difference between the
4478 Consumer Price Index for the preceding calendar year and the Consumer Price Index for
4479 calendar year 2017.

4480 (b) For purposes of this Subsection (3), the department shall calculate the Consumer

4481 Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and 1(f)(5).

4482 (4) The account shall be funded:

4483 (a) in accordance with Subsection (3);

4484 (b) by appropriations made to the account by the Legislature; and

4485 (c) by interest earned on money in the account.

4486 (5) The State Board of Education shall use money in the account for the Underage

4487 Drinking Prevention Program described in Section [53A-13-113](#).

4488 Section 72. Section **62A-15-401** is amended to read:

4489 **62A-15-401. Alcohol training and education seminar.**

4490 (1) As used in this part:

4491 (a) "Instructor" means a person that directly provides the instruction during an alcohol
4492 training and education seminar for a seminar provider.

4493 (b) "Licensee" means a person who is:

4494 (i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act;

4495 and

4496 (B) engaged in the retail sale of an alcoholic product for consumption on the premises
4497 of the licensee; or

4498 (ii) a business that is:

4499 (A) a new or renewing licensee licensed by a city, town, or county; and

4500 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.

4501 (c) "Off-premise beer retailer" is as defined in Section [32B-1-102](#).

4502 (d) "Seminar provider" means a person other than the division who provides an alcohol
4503 training and education seminar meeting the requirements of this section.

4504 (2) (a) This section applies to ~~[an individual who, as defined by the division by rule]:~~

4505 ~~[(i) manages operations at the premises of a licensee engaged in the retail sale of an~~
4506 ~~alcoholic product for consumption on the premises of the licensee;]~~

4507 ~~[(ii) supervises the serving of an alcoholic product to a customer for consumption on~~
4508 ~~the premises of a licensee;]~~

4509 ~~[(iii) serves an alcoholic product to a customer for consumption on the premises of a~~
4510 ~~licensee;]~~

4511 (i) a retail manager as defined in Section [32B-5-402](#);

4512 (ii) retail staff as defined in Section [32B-5-402](#); and

4513 (iii) an individual who, as defined by division rule:

4514 ~~[(iv)]~~ (A) directly supervises the sale of beer to a customer for consumption off the
4515 premises of an off-premise beer retailer; or

4516 ~~[(v)]~~ (B) sells beer to a customer for consumption off the premises of an off-premise
4517 beer retailer.

4518 (b) If the individual does not have a valid record that the individual has completed an
4519 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

4520 (i) (A) complete an alcohol training and education seminar within 30 days of the
4521 following if the individual is described in Subsections (2)(a)(i) through (iii):

4522 (I) if the individual is an employee, the day the individual begins employment;

4523 (II) if the individual is an independent contractor, the day the individual is first hired;

4524 or

4525 (III) if the individual holds an ownership interest in the licensee, the day that the
4526 individual first engages in an activity that would result in that individual being required to
4527 complete an alcohol training and education seminar; or

4528 (B) complete an alcohol training and education seminar within the time periods
4529 specified in Subsection [32B-5-404](#)(1) if the individual is described in Subsections (2)(a)(iv)
4530 and (v); and

4531 (ii) pay a fee:

4532 (A) to the seminar provider; and

4533 (B) that is equal to or greater than the amount established under Subsection (4)(h).

4534 (c) An individual shall have a valid record that the individual completed an alcohol
4535 training and education seminar within the time period provided in this Subsection (2) to engage
4536 in an activity described in Subsection (2)(a).

4537 (d) A record that an individual has completed an alcohol training and education
4538 seminar is valid for:

4539 (i) three years from the day on which the record is issued for an individual described in
4540 Subsection (2)(a)(i), (ii), or (iii); and

4541 (ii) five years from the day on which the record is issued for an individual described in
4542 Subsection (2)(a)(iv) or (v).

4543 (e) On and after July 1, 2011, to be considered as having completed an alcohol training
4544 and education seminar, an individual shall:

4545 (i) attend the alcohol training and education seminar and take any test required to
4546 demonstrate completion of the alcohol training and education seminar in the physical presence
4547 of an instructor of the seminar provider; or

4548 (ii) complete the alcohol training and education seminar and take any test required to
4549 demonstrate completion of the alcohol training and education seminar through an online course
4550 or testing program that meets the requirements described in Subsection (2)(f).

4551 (f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah
4552 Administrative Rulemaking Act, establish one or more requirements for an online course or
4553 testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of
4554 the online course or testing program. In developing the requirements by rule the division shall
4555 consider whether to require:

4556 (i) authentication that the an individual accurately identifies the individual as taking the
4557 online course or test;

4558 (ii) measures to ensure that an individual taking the online course or test is focused on
4559 training material throughout the entire training period;

4560 (iii) measures to track the actual time an individual taking the online course or test is
4561 actively engaged online;

4562 (iv) a seminar provider to provide technical support, such as requiring a telephone
4563 number, email, or other method of communication that allows an individual taking the online
4564 course or test to receive assistance if the individual is unable to participate online because of

4565 technical difficulties;

4566 (v) a test to meet quality standards, including randomization of test questions and
4567 maximum time limits to take a test;

4568 (vi) a seminar provider to have a system to reduce fraud as to who completes an online
4569 course or test, such as requiring a distinct online certificate with information printed on the
4570 certificate that identifies the person taking the online course or test, or requiring measures to
4571 inhibit duplication of a certificate;

4572 (vii) measures for the division to audit online courses or tests;

4573 (viii) measures to allow an individual taking an online course or test to provide an
4574 evaluation of the online course or test;

4575 (ix) a seminar provider to track the Internet protocol address or similar electronic
4576 location of an individual who takes an online course or test;

4577 (x) an individual who takes an online course or test to use an e-signature; or

4578 (xi) a seminar provider to invalidate a certificate if the seminar provider learns that the
4579 certificate does not accurately reflect the individual who took the online course or test.

4580 (3) (a) A licensee may not permit an individual who is not in compliance with
4581 Subsection (2) to:

4582 (i) serve or supervise the serving of an alcoholic product to a customer for
4583 consumption on the premises of the licensee;

4584 (ii) engage in any activity that would constitute managing operations at the premises of
4585 a licensee that engages in the retail sale of an alcoholic product for consumption on the
4586 premises of the licensee;

4587 (iii) directly supervise the sale of beer to a customer for consumption off the premises
4588 of an off-premise beer retailer; or

4589 (iv) sell beer to a customer for consumption off the premises of an off-premise beer
4590 retailer.

4591 (b) A licensee that violates Subsection (3)(a) is subject to Section [32B-5-403](#).

4592 (4) The division shall:

- 4593 (a) (i) provide alcohol training and education seminars; or
4594 (ii) certify one or more seminar providers;
4595 (b) establish the curriculum for an alcohol training and education seminar that includes
4596 the following subjects:
4597 (i) (A) alcohol as a drug; and
4598 (B) alcohol's effect on the body and behavior;
4599 (ii) recognizing the problem drinker or signs of intoxication;
4600 (iii) an overview of state alcohol laws related to responsible beverage sale or service,
4601 as determined in consultation with the Department of Alcoholic Beverage Control;
4602 (iv) dealing with the problem customer, including ways to terminate sale or service;
4603 and
4604 (v) for those supervising or engaging in the retail sale of an alcoholic product for
4605 consumption on the premises of a licensee, alternative means of transportation to get the
4606 customer safely home;
4607 (c) recertify each seminar provider every three years;
4608 (d) monitor compliance with the curriculum described in Subsection (4)(b);
4609 (e) maintain for at least five years a record of every person who has completed an
4610 alcohol training and education seminar;
4611 (f) provide the information described in Subsection (4)(e) on request to:
4612 (i) the Department of Alcoholic Beverage Control;
4613 (ii) law enforcement; or
4614 (iii) a person licensed by the state or a local government to sell an alcoholic product;
4615 (g) provide the Department of Alcoholic Beverage Control on request a list of any
4616 seminar provider certified by the division; and
4617 (h) establish a fee amount for each person attending an alcohol training and education
4618 seminar that is sufficient to offset the division's cost of administering this section.
4619 (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah
4620 Administrative Rulemaking Act:

- 4621 (a) define what constitutes under this section an individual who:
- 4622 (i) manages operations at the premises of a licensee engaged in the retail sale of an
4623 alcoholic product for consumption on the premises of the licensee;
- 4624 (ii) supervises the serving of an alcoholic product to a customer for consumption on the
4625 premises of a licensee;
- 4626 (iii) serves an alcoholic product to a customer for consumption on the premises of a
4627 licensee;
- 4628 (iv) directly supervises the sale of beer to a customer for consumption off the premises
4629 of an off-premise beer retailer; or
- 4630 (v) sells beer to a customer for consumption off the premises of an off-premise beer
4631 retailer;
- 4632 (b) establish criteria for certifying and recertifying a seminar provider; and
- 4633 (c) establish guidelines for the manner in which an instructor provides an alcohol
4634 education and training seminar.
- 4635 (6) A seminar provider shall:
- 4636 (a) obtain recertification by the division every three years;
- 4637 (b) ensure that an instructor used by the seminar provider:
- 4638 (i) follows the curriculum established under this section; and
- 4639 (ii) conducts an alcohol training and education seminar in accordance with the
4640 guidelines established by rule;
- 4641 (c) ensure that any information provided by the seminar provider or instructor of a
4642 seminar provider is consistent with:
- 4643 (i) the curriculum established under this section; and
- 4644 (ii) this section;
- 4645 (d) provide the division with the names of all persons who complete an alcohol training
4646 and education seminar provided by the seminar provider;
- 4647 (e) (i) collect a fee for each person attending an alcohol training and education seminar
4648 in accordance with Subsection (2); and

4649 (ii) forward to the division the portion of the fee that is equal to the amount described
4650 in Subsection (4)(h); and

4651 (f) issue a record to an individual that completes an alcohol training and education
4652 seminar provided by the seminar provider.

4653 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,
4654 Administrative Procedures Act, the division finds that a seminar provider violates this section
4655 or that an instructor of the seminar provider violates this section, the division may:

4656 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;

4657 (ii) revoke the certification of the seminar provider;

4658 (iii) require the seminar provider to take corrective action regarding an instructor; or

4659 (iv) prohibit the seminar provider from using an instructor until such time that the

4660 seminar provider establishes to the satisfaction of the division that the instructor is in
4661 compliance with Subsection (6)(b).

4662 (b) The division may certify a seminar provider whose certification is revoked:

4663 (i) no sooner than 90 days from the date the certification is revoked; and

4664 (ii) if the seminar provider establishes to the satisfaction of the division that the
4665 seminar provider will comply with this section.

4666 Section 73. Section **63I-2-232** is amended to read:

4667 **63I-2-232. Repeal dates -- Title 32B.**

4668 (1) Subsection [32B-1-102\(7\)](#) is repealed July 1, 2022.

4669 (2) Subsection [32B-1-102\(33\)\(a\)\(i\)\(B\)](#), the language that states "[32B-6-205\(12\)\(b\)\(ii\)](#),
4670 [32B-6-305\(12\)\(b\)\(ii\)](#)," and ", or [32B-6-905\(12\)\(b\)\(ii\)](#)" is repealed July 1, 2022.

4671 (3) Subsection [32B-1-102\(114\)\(b\)](#), the language that states "[32B-6-205\(12\)\(b\)\(ii\)](#),
4672 [32B-6-305\(12\)\(b\)\(ii\)](#)," and ", or [32B-6-905\(12\)\(b\)\(ii\)](#)" is repealed July 1, 2022.

4673 (4) Subsection [32B-1-604\(4\)](#) is repealed June 1, 2018.

4674 (5) Subsections [32B-6-202\(3\)](#) and (4) are repealed July 1, 2022.

4675 (6) Section [32B-6-205](#) is repealed July 1, 2022.

4676 (7) Subsection [32B-6-205.2\(17\)](#) is repealed July 1, 2022.

- 4677 (8) Section 32B-6-205.3 is repealed July 1, 2022.
- 4678 (9) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.
- 4679 (10) Section 32B-6-305 is repealed July 1, 2022.
- 4680 (11) Subsection 32B-6-305.2(17) is repealed July 1, 2022.
- 4681 (12) Section 32B-6-305.3 is repealed July 1, 2022.
- 4682 (13) Section 32B-6-404.1 is repealed July 1, 2022.
- 4683 (14) Section 32B-6-409 is repealed July 1, 2022.
- 4684 (15) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.
- 4685 (16) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.
- 4686 (17) Section 32B-6-905 is repealed July 1, 2022.
- 4687 (18) Subsection 32B-6-905.1(17) is repealed July 1, 2022.
- 4688 (19) Section 32B-6-905.2 is repealed July 1, 2022.
- 4689 (20) Section 32B-7-303 is repealed March 1, 2019.
- 4690 (21) Section 32B-7-304 is repealed March 1, 2019.
- 4691 (22) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.
- 4692 Section 74. **Repealer.**
- 4693 This bill repeals:
- 4694 Section **32B-6-205.1, Credit for grandfathered bar structures of full-service**
- 4695 **restaurant licensee.**
- 4696 Section **32B-6-305.1, Credit for grandfathered bar structures for limited-service**
- 4697 **restaurant licensee.**
- 4698 Section 75. **Effective date.**
- 4699 (1) Except as provided in Subsection (2), this bill takes effect on May 9, 2017.
- 4700 (2) The actions affecting Section 32B-2-304 take effect on July 1, 2017.