

Representative Brad R. Wilson proposes the following substitute bill:

ALCOHOL AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad R. Wilson

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the name of certain retail licenses;
- ▶ provides that a local authority may issue a business license to a retail licensee only if the licensee is lawfully present in the United States;
- ▶ provides that a licensee or permittee may only engage in behavior expressly allowed by Title 32B, Alcoholic Beverage Control Act, or local ordinance;
- ▶ requires the Department of Alcoholic Beverage Control and the Alcoholic Beverage Control Commission to implement and enforce the provisions of Title 32B, Alcoholic Beverage Control Act, in accordance with its express language and stated policy purpose;
- ▶ reduces the permissible proximity of a restaurant licensee to a community location;
- ▶ removes the commission's authority to grant a variance to the proximity requirements;
- ▶ modifies the calculation of the money from the sale of a bottle of wine by a retail



26 licensee or sublicensee in determining the percentage of gross receipts from the sale of food or
27 an alcoholic product;

- 28 ▶ requires electronic age verification of certain individuals who sit, remain, or
29 consume food or beverage 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 ▶ increases the mark-up on alcoholic beverages;
- 36 ▶ creates two school-based underage drinking prevention programs that are presented
37 to students in grades 8 and 10 in the state;
- 38 ▶ requires a presiding officer to consider any aggravating circumstances when
39 imposing a fine;
- 40 ▶ provides that each retail licensee shall submit a responsible alcohol service plan to
41 the department upon application for or renewal of a retail license;
- 42 ▶ prohibits more than one type of retail license for the same room, unless the licenses
43 are:
 - 44 • a restaurant license; and
 - 45 • an on-premise banquet license or reception center license;
- 46 ▶ provides that an individual may not carry a sealed container of an alcoholic
47 beverage from the premises of a retail licensee;
- 48 ▶ states that a retail licensee may provide wine service for a bottled wine carried onto
49 the licensed premises or purchased at the licensed premises;
- 50 ▶ requires the department to develop the following training programs:
 - 51 • a training program for retail managers and retail owners;
 - 52 • a training program for off-premise retail managers; and
 - 53 • a training program for an individual who commits a violation related to service
54 to an intoxicated individual or a minor;
- 55 ▶ enacts a process for the Department of Public Safety to track violations of each
56 retail licensee involving the sale of an alcoholic product to a minor;

- 57 ▶ establishes a flat renewal fee for a full-service restaurant licensee;
- 58 ▶ provides that beginning on July 1, 2017, and no later than July 1, 2018, a restaurant
- 59 licensee that does not have a grandfathered bar structure shall designate a
- 60 dispensing area within which:
- 61 • the restaurant licensee may store and dispense alcoholic product at a dispensing
- 62 structure;
- 63 • an individual 21 years of age or older may consume food and beverages; and
- 64 • except under certain circumstances, a minor may not be present;
- 65 ▶ removes grandfathered bar structures beginning on July 1, 2022;
- 66 ▶ extends the hours during which a restaurant licensee may sell, offer for sale, or
- 67 furnish an alcoholic product on a weekend or a state or federal legal holiday;
- 68 ▶ provides that a restaurant licensee may sell, offer for sale, or furnish an alcoholic
- 69 product to a patron only if:
- 70 • the patron is seated at a table, counter, or dispensing structure; and
- 71 • the restaurant licensee confirms that the patron intends to order food and
- 72 consume the food in the same location where the patron is seated;
- 73 ▶ provides that a restaurant licensee may not transfer, dispense, or serve an alcoholic
- 74 product from a movable cart;
- 75 ▶ addresses the retention of certain records for restaurant licensees;
- 76 ▶ requires a restaurant licensee or a bar licensee to display a sign that states whether
- 77 the licensee is a restaurant or a bar;
- 78 ▶ prohibits the commission from issuing or renewing a dining club license on or after
- 79 July 1, 2017;
- 80 ▶ provides that effective July 1, 2018, each dining club licensee converts to a
- 81 full-service restaurant licensee or a bar licensee;
- 82 ▶ provides a phased transition for a dining club licensee that converts to a full-service
- 83 restaurant licensee;
- 84 ▶ allows a performing arts facility to obtain an on-premise banquet license;
- 85 ▶ establishes an off-premise beer retailer state license, including an application
- 86 process, fees, and renewal procedures;
- 87 ▶ provides that an off-premise beer retailer shall display beer in no more than two

- 88 locations that are separate from any nonalcoholic beverage;
- 89 ▶ addresses notification to the department if an off-premise beer retailer changes
- 90 ownership;
- 91 ▶ modifies and repeals certain provisions related to local authority enforcement of
- 92 off-premise beer retailers to correspond with the state enforcement mechanisms
- 93 available under the off-premise beer retailer state license; and
- 94 ▶ makes technical and conforming changes.

95 **Money Appropriated in this Bill:**

96 None

97 **Other Special Clauses:**

98 None

99 **Utah Code Sections Affected:**

100 AMENDS:

- 101 **11-10-1**, as last amended by Laws of Utah 2010, Chapter 276
- 102 **11-10-2**, as last amended by Laws of Utah 1990, Chapter 23
- 103 **26-38-2**, as last amended by Laws of Utah 2012, Chapter 171
- 104 **32B-1-102**, as last amended by Laws of Utah 2016, Chapters 80, 176, and 348
- 105 **32B-1-104**, as enacted by Laws of Utah 2010, Chapter 276
- 106 **32B-1-201**, as last amended by Laws of Utah 2013, Chapter 349
- 107 **32B-1-202**, as last amended by Laws of Utah 2016, Chapter 176
- 108 **32B-1-207**, as enacted by Laws of Utah 2011, Chapter 334
- 109 **32B-1-305**, as last amended by Laws of Utah 2015, Chapter 351
- 110 **32B-1-407**, as last amended by Laws of Utah 2011, Chapters 297 and 334
- 111 **32B-1-505**, as last amended by Laws of Utah 2011, Chapter 297
- 112 **32B-1-604**, as enacted by Laws of Utah 2010, Chapter 276
- 113 **32B-1-605**, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 114 **32B-1-606**, as enacted by Laws of Utah 2010, Chapter 276
- 115 **32B-2-202**, as last amended by Laws of Utah 2016, Chapter 80
- 116 **32B-2-210**, as last amended by Laws of Utah 2016, Chapter 158
- 117 **32B-2-304**, as last amended by Laws of Utah 2012, Chapter 357
- 118 **32B-2-306**, as enacted by Laws of Utah 2012, Chapter 388

- 119 **32B-3-102**, as enacted by Laws of Utah 2010, Chapter 276
120 **32B-3-205**, as enacted by Laws of Utah 2010, Chapter 276
121 **32B-4-410**, as last amended by Laws of Utah 2015, Chapter 165
122 **32B-4-415**, as last amended by Laws of Utah 2016, Chapters 80, 245, and 348
123 **32B-4-501**, as last amended by Laws of Utah 2016, Chapter 80
124 **32B-5-201**, as enacted by Laws of Utah 2010, Chapter 276
125 **32B-5-202**, as enacted by Laws of Utah 2010, Chapter 276
126 **32B-5-307**, as last amended by Laws of Utah 2016, Chapter 82
127 **32B-5-402**, as enacted by Laws of Utah 2010, Chapter 276
128 **32B-5-403**, as last amended by Laws of Utah 2016, Chapter 176
129 **32B-5-404**, as enacted by Laws of Utah 2010, Chapter 276
130 **32B-6-202**, as last amended by Laws of Utah 2011, Chapter 334
131 **32B-6-204**, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1
132 **32B-6-205**, as last amended by Laws of Utah 2013, Chapter 353
133 **32B-6-302**, as last amended by Laws of Utah 2011, Chapter 334
134 **32B-6-305**, as last amended by Laws of Utah 2013, Chapter 353
135 **32B-6-401**, as enacted by Laws of Utah 2010, Chapter 276
136 **32B-6-403**, as last amended by Laws of Utah 2016, Chapter 80
137 **32B-6-404**, as last amended by Laws of Utah 2016, Chapter 348
138 **32B-6-405**, as last amended by Laws of Utah 2011, Chapters 307 and 334
139 **32B-6-406**, as last amended by Laws of Utah 2011, Chapter 334
140 **32B-6-406.1**, as enacted by Laws of Utah 2010, Chapter 276
141 **32B-6-407**, as last amended by Laws of Utah 2013, Chapter 349
142 **32B-6-408**, as enacted by Laws of Utah 2010, Chapter 276
143 **32B-6-603**, as last amended by Laws of Utah 2016, Chapter 82
144 **32B-6-605**, as last amended by Laws of Utah 2011, Chapters 307 and 334
145 **32B-6-703**, as last amended by Laws of Utah 2016, Chapter 82
146 **32B-6-706**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
147 **32B-6-902**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
148 **32B-6-905**, as last amended by Laws of Utah 2013, Chapter 353
149 **32B-7-202**, as last amended by Laws of Utah 2011, Chapter 307

- 150 [32B-8-102](#), as last amended by Laws of Utah 2015, Chapter 258
- 151 [32B-8-304](#), as last amended by Laws of Utah 2011, Chapters 297 and 334
- 152 [32B-8a-302](#), as last amended by Laws of Utah 2016, Chapter 82
- 153 [32B-8b-102](#), as enacted by Laws of Utah 2016, Chapter 80
- 154 [32B-8b-201](#), as enacted by Laws of Utah 2016, Chapter 80
- 155 [53-10-305](#), as last amended by Laws of Utah 2010, Chapter 276
- 156 [53A-13-102](#), as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
- 157 [62A-15-401](#), as last amended by Laws of Utah 2011, Chapter 334
- 158 [63I-2-232](#), as renumbered and amended by Laws of Utah 2008, Chapter 382

159 ENACTS:

- 160 [32B-5-207](#), Utah Code Annotated 1953
- 161 [32B-5-405](#), Utah Code Annotated 1953
- 162 [32B-5-406](#), Utah Code Annotated 1953
- 163 [32B-6-205.2](#), Utah Code Annotated 1953
- 164 [32B-6-205.3](#), Utah Code Annotated 1953
- 165 [32B-6-305.2](#), Utah Code Annotated 1953
- 166 [32B-6-305.3](#), Utah Code Annotated 1953
- 167 [32B-6-404.1](#), Utah Code Annotated 1953
- 168 [32B-6-905.1](#), Utah Code Annotated 1953
- 169 [32B-6-905.2](#), Utah Code Annotated 1953
- 170 [32B-7-401](#), Utah Code Annotated 1953
- 171 [32B-7-402](#), Utah Code Annotated 1953
- 172 [32B-7-403](#), Utah Code Annotated 1953
- 173 [32B-7-404](#), Utah Code Annotated 1953
- 174 [32B-7-405](#), Utah Code Annotated 1953

175 RENUMBERS AND AMENDS:

- 176 [32B-7-501](#), (Renumbered from [32B-7-305](#), as enacted by Laws of Utah 2010, Chapter
- 177 276 and last amended by Coordination Clause, Laws of Utah 2010, Chapter 276)

178 REPEALS:

- 179 [32B-6-205.1](#), as enacted by Laws of Utah 2010, Chapter 276
- 180 [32B-6-305.1](#), as enacted by Laws of Utah 2010, Chapter 276

181 **32B-7-301**, as enacted by Laws of Utah 2010, Chapter 276

182 **32B-7-302**, as enacted by Laws of Utah 2010, Chapter 276

183 **32B-7-303**, as enacted by Laws of Utah 2010, Chapter 276

184 **32B-7-304**, as enacted by Laws of Utah 2010, Chapter 276

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

187 Section 1. Section **11-10-1** is amended to read:

188 **11-10-1. Business license required -- Authorization for issuance, denial,**
 189 **suspension, or revocation by local authority.**

190 (1) As used in this chapter, the following have the meaning set forth in Section
 191 **32B-1-102:**

192 (a) "alcoholic product";

193 (b) "~~club~~ bar establishment license";

194 (c) "local authority"; and

195 (d) "restaurant."

196 (2) A person may not operate an association, a restaurant, a bar, or a business similar to
 197 a business operated under a ~~club~~ bar establishment license, or other similar business that
 198 allows a person to possess or consume an alcoholic product on the premises of the association,
 199 restaurant, ~~club~~ bar, or similar business premises without a business license.

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

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

206 (4) A local authority may suspend or revoke a business license for a violation of Title
 207 32B, Alcoholic Beverage Control Act.

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

211 (6) A business license issued under this section does not constitute written consent of

212 the local authority within the meaning of Title 32B, Alcoholic Beverage Control Act.

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

214 **11-10-2. Qualifications of licensee.**

215 (1) A license may not be granted:

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

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

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

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

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

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

227 **26-38-2. Definitions.**

228 As used in this chapter:

229 (1) "E-cigarette":

230 (a) means any electronic oral device:

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

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

233 (b) includes an oral device that is:

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

235 (ii) marketed, manufactured, distributed, or sold as:

236 (A) an e-cigarette;

237 (B) e-cigar;

238 (C) e-pipe; or

239 (D) any other product name or descriptor, if the function of the product meets the
240 definition of Subsection (1)(a).

241 (2) "Place of public access" means any enclosed indoor place of business, commerce,
242 banking, financial service, or other service-related activity, whether publicly or privately owned

- 243 and whether operated for profit or not, to which persons not employed at the place of public
244 access have general and regular access or which the public uses, including:
- 245 (a) buildings, offices, shops, elevators, or restrooms;
 - 246 (b) means of transportation or common carrier waiting rooms;
 - 247 (c) restaurants, cafes, or cafeterias;
 - 248 (d) taverns as defined in Section [32B-1-102](#), or cabarets;
 - 249 (e) shopping malls, retail stores, grocery stores, or arcades;
 - 250 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
251 sites, auditoriums, or arenas;
 - 252 (g) barber shops, hair salons, or laundromats;
 - 253 (h) sports or fitness facilities;
 - 254 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
255 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
256 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
257 of these;
 - 258 (j) (i) any child care facility or program subject to licensure or certification under this
259 title, including those operated in private homes, when any child cared for under that license is
260 present; and
 - 261 (ii) any child care, other than child care as defined in Section [26-39-102](#), that is not
262 subject to licensure or certification under this title, when any child cared for by the provider,
263 other than the child of the provider, is present;
 - 264 (k) public or private elementary or secondary school buildings and educational
265 facilities or the property on which those facilities are located;
 - 266 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
267 religious organization when used solely by the organization members or their guests or
268 families;
 - 269 (m) any facility rented or leased for private functions from which the general public is
270 excluded and arrangements for the function are under the control of the function sponsor;
 - 271 (n) any workplace that is not a place of public access or a publicly owned building or
272 office but has one or more employees who are not owner-operators of the business;
 - 273 (o) any area where the proprietor or manager of the area has posted a conspicuous sign

274 stating "no smoking", "thank you for not smoking", or similar statement; and

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

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

280 (4) "Smoking" means:

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

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

284 (c) except as provided in Section 26-38-2.6, using an e-cigarette; or

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

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

288 **32B-1-102. Definitions.**

289 As used in this title:

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

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

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

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

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

297 (a) beer; or

298 (b) liquor.

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

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

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

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

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

- 307 (i) except as provided in Subsection (4)(d), an extract;
- 308 (ii) vinegar;
- 309 (iii) cider;
- 310 (iv) essence;
- 311 (v) tincture;
- 312 (vi) food preparation; or
- 313 (vii) an over-the-counter medicine.

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

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

- 317 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- 318 (b) described in Section [62A-15-401](#).

319 (6) "Banquet" means an event:

320 (a) that is held at one or more designated locations approved by the commission in or
321 on the premises of a:

- 322 (i) hotel;
- 323 (ii) resort facility;
- 324 (iii) sports center; ~~[or]~~
- 325 (iv) convention center; or
- 326 (v) performing arts facility;

327 (b) for which there is a contract:

328 (i) between a person operating a facility listed in Subsection (6)(a) and another person;

329 and

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

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

333 ~~[(7) (a) "Bar" means a surface or structure:]~~

334 ~~[(i) at which an alcoholic product is:]~~

335 ~~[(A) stored; or]~~

336 ~~[(B) dispensed; or]~~
337 ~~[(ii) from which an alcoholic product is served.]~~
338 ~~[(b)]~~ (7) "Bar structure" means a surface or structure on a licensed premises if on or at
339 any place of the surface or structure an alcoholic product is:
340 ~~[(i)]~~ (a) stored; or
341 ~~[(ii)]~~ (b) dispensed.
342 ~~[(18)]~~ (8) (a) "~~[Club]~~ Bar establishment license" means a license issued in accordance
343 with Chapter 5, Retail License Act, and Chapter 6, Part 4, ~~[Club]~~ Bar Establishment License.
344 (b) "~~[Club]~~ Bar establishment license" includes:
345 (i) a dining club license;
346 (ii) an equity ~~[club]~~ license;
347 (iii) a fraternal ~~[club]~~ license; or
348 (iv) a ~~[social club]~~ bar license.
349 ~~[(102)]~~ (9) "~~[Social club]~~ Bar license" means a license issued in accordance with
350 Chapter 5, Retail License Act, and Chapter 6, Part 4, ~~[Club License, that is designated by the~~
351 ~~commission as a social club license]~~ Bar Establishment License.
352 ~~[(8)]~~ (10) (a) Subject to Subsection ~~[(8)]~~ (10)(d), "beer" means a product that:
353 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
354 volume or 3.2% by weight; and
355 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
356 (b) "Beer" may or may not contain hops or other vegetable products.
357 (c) "Beer" includes a product that:
358 (i) contains alcohol in the percentages described in Subsection ~~[(8)]~~ (10)(a); and
359 (ii) is referred to as:
360 (A) beer;
361 (B) ale;
362 (C) porter;
363 (D) stout;
364 (E) lager; or
365 (F) a malt or malted beverage.
366 (d) "Beer" does not include a flavored malt beverage.

367 ~~[(9)]~~ (11) "Beer-only restaurant license" means a license issued in accordance with
368 Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

369 ~~[(10)]~~ (12) "Beer retailer" means a business that:

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

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

373 (b) is licensed as:

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

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

378 ~~[(11)]~~ (13) "Beer wholesaling license" means a license:

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

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

382 ~~[(12)]~~ (14) "Billboard" means a public display used to advertise, including:

383 (a) a light device;

384 (b) a painting;

385 (c) a drawing;

386 (d) a poster;

387 (e) a sign;

388 (f) a signboard; or

389 (g) a scoreboard.

390 ~~[(13)]~~ (15) "Brewer" means a person engaged in manufacturing:

391 (a) beer;

392 (b) heavy beer; or

393 (c) a flavored malt beverage.

394 ~~[(14)]~~ (16) "Brewery manufacturing license" means a license issued in accordance with
395 Chapter 11, Part 5, Brewery Manufacturing License.

396 ~~[(15)]~~ (17) "Certificate of approval" means a certificate of approval obtained from the
397 department under Section [32B-11-201](#).

398 [~~(16)~~] (18) "Chartered bus" means a passenger bus, coach, or other motor vehicle
399 provided by a bus company to a group of persons pursuant to a common purpose:

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

404 [~~(17)~~] (19) "Church" means a building:

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

409 [~~(19)~~] (20) "Commission" means the Alcoholic Beverage Control Commission created
410 in Section [32B-2-201](#).

411 [~~(20)~~] (21) "Commissioner" means a member of the commission.

412 [~~(21)~~] (22) "Community location" means:

- 413 (a) a public or private school;
- 414 (b) a church;
- 415 (c) a public library;
- 416 (d) a public playground; or
- 417 (e) a public park.

418 [~~(22)~~] (23) "Community location governing authority" means:

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

423 [~~(23)~~] (24) "Container" means a receptacle that contains an alcoholic product,
424 including:

- 425 (a) a bottle;
- 426 (b) a vessel; or
- 427 (c) a similar item.

428 [~~(24)~~] (25) "Convention center" means a facility that is:

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

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

431 ~~[(25)]~~ (26) (a) ~~[Subject to Subsection (25)(b), "counter"]~~ "Counter" means a surface or
 432 structure in a dining area of a licensed premises where seating is provided to a patron for
 433 service of food.

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

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

437 ~~[(ii) dispensed:]~~

438 ~~[(26)]~~ (27) "Department" means the Department of Alcoholic Beverage Control created
 439 in Section [32B-2-203](#).

440 ~~[(27)]~~ (28) "Department compliance officer" means an individual who is:

441 (a) an auditor or inspector; and

442 (b) employed by the department.

443 ~~[(28)]~~ (29) "Department sample" means liquor that is placed in the possession of the
 444 department for testing, analysis, and sampling.

445 ~~[(29)]~~ (30) "Dining club license" means a license issued in accordance with Chapter 5,
 446 Retail License Act, and Chapter 6, Part 4, ~~[Club]~~ Bar Establishment License, that is designated
 447 by the commission as a dining club license.

448 ~~[(30)]~~ (31) "Director," unless the context requires otherwise, means the director of the
 449 department.

450 ~~[(31)]~~ (32) "Disciplinary proceeding" means an adjudicative proceeding permitted
 451 under this title:

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

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

454 ~~[(32)]~~ (33) (a) Subject to Subsection ~~[(32)]~~ (33)(b), "dispense" means:

455 (i) drawing of an alcoholic product:

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

457 (B) as provided in Subsection [32B-6-205\(12\)\(b\)\(ii\)](#), [32B-6-305\(12\)\(b\)\(ii\)](#),

458 [32B-6-805\(15\)\(b\)\(ii\)](#), or [32B-6-905\(12\)\(b\)\(ii\)](#); and

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

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

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

463 (i) a full-service restaurant license;

464 (ii) a limited-service restaurant license;

465 (iii) a reception center license; and

466 (iv) a beer-only restaurant license.

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

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

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

470 [~~(33)~~] (35) "Distillery manufacturing license" means a license issued in accordance
471 with Chapter 11, Part 4, Distillery Manufacturing License.

472 [~~(34)~~] (36) "Distressed merchandise" means an alcoholic product in the possession of
473 the department that is saleable, but for some reason is unappealing to the public.

474 [~~(35)~~] (37) "Educational facility" includes:

475 (a) a nursery school;

476 (b) an infant day care center; and

477 (c) a trade and technical school.

478 [~~(36)~~] (38) "Equity [~~club~~] license" means a license issued in accordance with Chapter
479 5, Retail License Act, and Chapter 6, Part 4, [~~Club~~] Bar Establishment License, that is
480 designated by the commission as an equity [~~club~~] license.

481 [~~(37)~~] (39) "Event permit" means:

482 (a) a single event permit; or

483 (b) a temporary beer event permit.

484 [~~(38)~~] (40) "Exempt license" means a license exempt under Section [32B-1-201](#) from
485 being considered in determining the total number of retail licenses that the commission may
486 issue at any time.

487 [~~(39)~~] (41) (a) "Flavored malt beverage" means a beverage:

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

489 (ii) that is treated by processing, filtration, or another method of manufacture that is not
490 generally recognized as a traditional process in the production of a beer as described in 27

491 C.F.R. Sec. 25.55;

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

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

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

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

498 ~~[(40)]~~ (42) "Fraternal ~~[club]~~ license" means a license issued in accordance with
499 Chapter 5, Retail License Act, and Chapter 6, Part 4, ~~[Club]~~ Bar Establishment License, that is
500 designated by the commission as a fraternal ~~[club]~~ license.

501 ~~[(41)]~~ (43) "Full-service restaurant license" means a license issued in accordance with
502 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

503 ~~[(42)]~~ (44) (a) "Furnish" means by any means to provide with, supply, or give an
504 individual an alcoholic product, by sale or otherwise.

505 (b) "Furnish" includes to:

506 (i) serve;

507 (ii) deliver; or

508 (iii) otherwise make available.

509 ~~[(43)]~~ (45) "Guest" means an individual who meets the requirements of Subsection
510 [32B-6-407\(9\)](#).

511 ~~[(44)]~~ (46) "Health care practitioner" means:

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

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

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

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

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

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

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

522 Therapy Practice Act;

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

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

525 Professional Practice Act;

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

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

528 Practice Act;

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

530 Hygienist Practice Act; and

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

532 [~~(45)~~] (47) (a) "Heavy beer" means a product that:

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

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

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

536 [~~(46)~~] (48) "Hotel" is as defined by the commission by rule.

537 [~~(47)~~] (49) "Hotel license" means a license issued in accordance with Chapter 5, Retail

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

539 [~~(48)~~] (50) "Identification card" means an identification card issued under Title 53,

540 Chapter 3, Part 8, Identification Card Act.

541 [~~(49)~~] (51) "Industry representative" means an individual who is compensated by

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

543 manufacturer, supplier, or importer of liquor.

544 [~~(50)~~] (52) "Industry representative sample" means liquor that is placed in the

545 possession of the department for testing, analysis, and sampling by a local industry

546 representative on the premises of the department to educate the local industry representative of

547 the quality and characteristics of the product.

548 [~~(51)~~] (53) "Interdicted person" means a person to whom the sale, offer for sale, or

549 furnishing of an alcoholic product is prohibited by:

550 (a) law; or

551 (b) court order.

552 [~~(52)~~] (54) "Intoxicated" means that a person:

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

- 555 (i) an alcoholic product;
- 556 (ii) a controlled substance;
- 557 (iii) a substance having the property of releasing toxic vapors; or
- 558 (iv) a combination of Subsections [~~52~~] 54(a)(i) through (iii); and

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

561 [~~53~~] 55 "Investigator" means an individual who is:

- 562 (a) a department compliance officer; or
- 563 (b) a nondepartment enforcement officer.

564 [~~54~~] 56 "Invitee" means the same as that term is defined in Section [32B-8-102](#).

565 [~~55~~] 57 "License" means:

- 566 (a) a retail license;
- 567 (b) a license issued in accordance with Chapter 11, Manufacturing and Related
568 Licenses Act;

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

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

572 [~~56~~] 58 "Licensee" means a person who holds a license.

573 [~~57~~] 59 "Limited-service restaurant license" means a license issued in accordance
574 with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

575 [~~58~~] 60 "Limousine" means a motor vehicle licensed by the state or a local
576 authority, other than a bus or taxicab:

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

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

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

583 [~~59~~] 61 (a) (i) "Liquor" means a liquid that:

- 584 (A) is:
- 585 (I) alcohol;
- 586 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 587 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 588 (IV) other drink or drinkable liquid; and
- 589 (B) (I) contains at least .5% alcohol by volume; and
- 590 (II) is suitable to use for beverage purposes.
- 591 (ii) "Liquor" includes:
- 592 (A) heavy beer;
- 593 (B) wine; and
- 594 (C) a flavored malt beverage.
- 595 (b) "Liquor" does not include beer.
- 596 ~~[(60)]~~ (62) "Liquor Control Fund" means the enterprise fund created by Section
- 597 [32B-2-301](#).
- 598 ~~[(61)]~~ (63) "Liquor warehousing license" means a license that is issued:
- 599 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- 600 (b) to a person, other than a licensed manufacturer, who engages in the importation for
- 601 storage, sale, or distribution of liquor regardless of amount.
- 602 ~~[(62)]~~ (64) "Local authority" means:
- 603 (a) for premises that are located in an unincorporated area of a county, the governing
- 604 body of a county; or
- 605 (b) for premises that are located in an incorporated city, town, or metro township, the
- 606 governing body of the city, town, or metro township.
- 607 ~~[(63)]~~ (65) "Lounge or bar area" is as defined by rule made by the commission.
- 608 ~~[(64)]~~ (66) "Manufacture" means to distill, brew, rectify, mix, compound, process,
- 609 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
- 610 others.
- 611 ~~[(65)]~~ (67) "Member" means an individual who, after paying regular dues, has full
- 612 privileges in an equity ~~[club]~~ licensee or fraternal ~~[club]~~ licensee.
- 613 ~~[(66)]~~ (68) (a) "Military installation" means a base, air field, camp, post, station, yard,
- 614 center, or homeport facility for a ship:

- 615 (i) (A) under the control of the United States Department of Defense; or
- 616 (B) of the National Guard;
- 617 (ii) that is located within the state; and
- 618 (iii) including a leased facility.
- 619 (b) "Military installation" does not include a facility used primarily for:
- 620 (i) civil works;
- 621 (ii) a rivers and harbors project; or
- 622 (iii) a flood control project.
- 623 ~~[(67)]~~ (69) "Minor" means an individual under the age of 21 years.
- 624 ~~[(68)]~~ (70) "Nondepartment enforcement agency" means an agency that:
- 625 (a) (i) is a state agency other than the department; or
- 626 (ii) is an agency of a county, city, town, or metro township; and
- 627 (b) has a responsibility to enforce one or more provisions of this title.
- 628 ~~[(69)]~~ (71) "Nondepartment enforcement officer" means an individual who is:
- 629 (a) a peace officer, examiner, or investigator; and
- 630 (b) employed by a nondepartment enforcement agency.
- 631 ~~[(70)]~~ (72) (a) "Off-premise beer retailer" means a beer retailer who is:
- 632 (i) licensed in accordance with Chapter 7, ~~[Part 2;]~~ Off-Premise Beer Retailer ~~[Local~~
- 633 ~~Authority]~~ Act; and
- 634 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 635 premises.
- 636 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 637 (73) "Off-premise beer retailer state license" means a state license issued in accordance
- 638 with Chapter 7, Part 4, Off-Premise Beer Retailer State License.
- 639 ~~[(71)]~~ (74) "On-premise banquet license" means a license issued in accordance with
- 640 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 641 ~~[(72)]~~ (75) "On-premise beer retailer" means a beer retailer who is:
- 642 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 643 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
- 644 Retailer License; and
- 645 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's

646 premises:

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

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

650 (A) as a tavern; or

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

652 [~~(73)~~] (76) "Opaque" means impenetrable to sight.

653 [~~(74)~~] (77) "Package agency" means a retail liquor location operated:

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

655 (b) by a person:

656 (i) other than the state; and

657 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package

658 Agency, to sell packaged liquor for consumption off the premises of the package agency.

659 [~~(75)~~] (78) "Package agent" means a person who holds a package agency.

660 [~~(76)~~] (79) "Patron" means an individual to whom food, beverages, or services are sold,
661 offered for sale, or furnished, or who consumes an alcoholic product including:

662 (a) a customer;

663 (b) a member;

664 (c) a guest;

665 (d) an attendee of a banquet or event;

666 (e) an individual who receives room service;

667 (f) a resident of a resort;

668 (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#);

669 or

670 (h) an invitee.

671 (80) (a) "Performing arts facility" means a multi-use performance space that:

672 (i) is primarily used to present various types of performing arts, including dance,
673 music, and theater;

674 (ii) contains over 2,500 seats;

675 (iii) is owned and operated by a governmental entity; and

676 (iv) is located in a city of the first class.

677 (b) "Performing arts facility" does not include a space that is used to present sporting
678 events or sporting competitions.

679 [~~77~~] (81) "Permittee" means a person issued a permit under:

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

682 [~~78~~] (82) "Person subject to administrative action" means:

- 683 (a) a licensee;
- 684 (b) a permittee;
- 685 (c) a manufacturer;
- 686 (d) a supplier;
- 687 (e) an importer;
- 688 (f) one of the following holding a certificate of approval:
 - 689 (i) an out-of-state brewer;
 - 690 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - 691 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 692 (g) staff of:
 - 693 (i) a person listed in Subsections [~~78~~] (82)(a) through (f); or
 - 694 (ii) a package agent.

695 [~~79~~] (83) "Premises" means a building, enclosure, or room used in connection with
696 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic
697 product, unless otherwise defined in this title or rules made by the commission.

698 [~~80~~] (84) "Prescription" means an order issued by a health care practitioner when:

- 699 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
700 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 701 (b) the order is made in the course of that health care practitioner's professional
702 practice; and
- 703 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

704 [~~81~~] (85) (a) "Private event" means a specific social, business, or recreational event:

- 705 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
706 group; and
- 707 (ii) that is limited in attendance to people who are specifically designated and their

708 guests.

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

711 [~~82~~] (86) (a) "Proof of age" means:

712 (i) an identification card;

713 (ii) an identification that:

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

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

717 (C) includes date of birth; and

718 (D) has a picture affixed;

719 (iii) a valid driver license certificate that:

720 (A) includes date of birth;

721 (B) has a picture affixed; and

722 (C) is issued:

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

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

725 (iv) a military identification card that:

726 (A) includes date of birth; and

727 (B) has a picture affixed; or

728 (v) a valid passport.

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

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

731 [~~83~~] (87) (a) "Public building" means a building or permanent structure that is:

732 (i) owned or leased by:

733 (A) the state; or

734 (B) a local government entity; and

735 (ii) used for:

736 (A) public education;

737 (B) transacting public business; or

738 (C) regularly conducting government activities.

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

742 ~~[(84)]~~ (88) "Public conveyance" means a conveyance that the public or a portion of the
743 public has access to and a right to use for transportation, including an airline, railroad, bus,
744 boat, or other public conveyance.

745 ~~[(85)]~~ (89) "Reception center" means a business that:

746 (a) operates facilities that are at least 5,000 square feet; and

747 (b) has as its primary purpose the leasing of the facilities described in Subsection ~~[(85)]~~
748 (89)(a) to a third party for the third party's event.

749 ~~[(86)]~~ (90) "Reception center license" means a license issued in accordance with
750 Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

751 ~~[(87)]~~ (91) (a) "Record" means information that is:

752 (i) inscribed on a tangible medium; or

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

754 (b) "Record" includes:

755 (i) a book;

756 (ii) a book of account;

757 (iii) a paper;

758 (iv) a contract;

759 (v) an agreement;

760 (vi) a document; or

761 (vii) a recording in any medium.

762 ~~[(88)]~~ (92) "Residence" means a person's principal place of abode within Utah.

763 ~~[(89)]~~ (93) "Resident," in relation to a resort, means the same as that term is defined in
764 Section [32B-8-102](#).

765 ~~[(90)]~~ (94) "Resort" means the same as that term is defined in Section [32B-8-102](#).

766 ~~[(91)]~~ (95) "Resort facility" ~~[is as]~~ means a facility that is located within the boundaries
767 of a ski resort, and as further defined by the commission by rule.

768 ~~[(92)]~~ (96) "Resort license" means a license issued in accordance with Chapter 5,
769 Retail License Act, and Chapter 8, Resort License Act.

770 (97) "Responsible alcohol service plan" means a written set of policies and procedures
771 that outlines measures to prevent employees from:

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

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

775 (c) serving alcoholic beverages to minors.

776 [~~93~~] (98) "Restaurant" means a business location:

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

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

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

780 [~~94~~] (99) "Retail license" means one of the following licenses issued under this title:

781 (a) a full-service restaurant license;

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

783 (c) a limited-service restaurant license;

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

785 (e) a [~~club~~] bar establishment license;

786 (f) an airport lounge license;

787 (g) an on-premise banquet license;

788 (h) an on-premise beer license;

789 (i) a reception center license;

790 (j) a beer-only restaurant license;

791 (k) a resort license; or

792 (l) a hotel license.

793 [~~95~~] (100) "Room service" means furnishing an alcoholic product to a person in a
794 guest room of a:

795 (a) hotel; or

796 (b) resort facility.

797 [~~96~~] (101) (a) "School" means a building used primarily for the general education of
798 minors.

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

800 [~~97~~] (102) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby,

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

805 ~~[(98)]~~ (103) "Serve" means to place an alcoholic product before an individual.

806 ~~[(99)]~~ (104) "Sexually oriented entertainer" means a person who while in a state of
807 seminudity appears at or performs:

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

809 (b) on the premises of:

810 (i) a ~~[social club]~~ bar licensee; or

811 (ii) a tavern;

812 (c) on behalf of or at the request of the licensee described in Subsection ~~[(99)]~~

813 (104)(b);

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

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

816 (i) an employee;

817 (ii) an independent contractor;

818 (iii) an agent of the licensee; or

819 (iv) a different type of classification.

820 ~~[(100)]~~ (105) "Single event permit" means a permit issued in accordance with Chapter
821 9, Part 3, Single Event Permit.

822 ~~[(101)]~~ (106) "Small brewer" means a brewer who manufactures less than 60,000
823 barrels of beer, heavy beer, and flavored malt beverages per year.

824 ~~[(103)]~~ (107) "Special use permit" means a permit issued in accordance with Chapter
825 10, Special Use Permit Act.

826 ~~[(104)]~~ (108) (a) "Spirituous liquor" means liquor that is distilled.

827 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
828 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

829 ~~[(105)]~~ (109) "Sports center" is as defined by the commission by rule.

830 ~~[(106)]~~ (110) (a) "Staff" means an individual who engages in activity governed by this
831 title:

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

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

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

838 (b) "Staff" includes:

839 (i) an officer;

840 (ii) a director;

841 (iii) an employee;

842 (iv) personnel management;

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

844 (vi) an operator; or

845 (vii) a representative.

846 [~~107~~] (111) "State of nudity" means:

847 (a) the appearance of:

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

849 (ii) a human genital;

850 (iii) a human pubic area; or

851 (iv) a human anus; or

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

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

854 (ii) a human genital;

855 (iii) a human pubic area; or

856 (iv) a human anus.

857 [~~108~~] (112) "State of seminudity" means a state of dress in which opaque clothing
858 covers no more than:

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

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

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

- 863 (A) four inches coverage width in the front of the human body; and
864 (B) five inches coverage width in the back of the human body; and
865 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 866 ~~[(109)]~~ (113) (a) "State store" means a facility for the sale of packaged liquor:
867 (i) located on premises owned or leased by the state; and
868 (ii) operated by a state employee.
- 869 (b) "State store" does not include:
870 (i) a package agency;
871 (ii) a licensee; or
872 (iii) a permittee.
- 873 ~~[(110)]~~ (114) (a) "Storage area" means an area on licensed premises where the licensee
874 stores an alcoholic product.
- 875 (b) "Store" means to place or maintain in a location an alcoholic product from which a
876 person draws to prepare an alcoholic product to be furnished to a patron, except as provided in
877 Subsection [32B-6-205\(12\)\(b\)\(ii\)](#), [32B-6-305\(12\)\(b\)\(ii\)](#), [32B-6-805\(15\)\(b\)\(ii\)](#), or
878 [32B-6-905\(12\)\(b\)\(ii\)](#).
- 879 ~~[(111)]~~ (115) "Sublicense" means the same as that term is defined in Section
880 [32B-8-102](#) or [32B-8b-102](#).
- 881 ~~[(112)]~~ (116) "Supplier" means a person who sells an alcoholic product to the
882 department.
- 883 ~~[(113)]~~ (117) "Tavern" means an on-premise beer retailer who is:
884 (a) issued a license by the commission in accordance with Chapter 5, Retail License
885 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
886 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
887 On-Premise Beer Retailer License.
- 888 ~~[(114)]~~ (118) "Temporary beer event permit" means a permit issued in accordance with
889 Chapter 9, Part 4, Temporary Beer Event Permit.
- 890 ~~[(115)]~~ (119) "Temporary domicile" means the principal place of abode within Utah of
891 a person who does not have a present intention to continue residency within Utah permanently
892 or indefinitely.
- 893 ~~[(116)]~~ (120) "Translucent" means a substance that allows light to pass through, but

894 does not allow an object or person to be seen through the substance.

895 [~~(H7)~~] (121) "Unsaleable liquor merchandise" means a container that:

896 (a) is unsaleable because the container is:

897 (i) unlabeled;

898 (ii) leaky;

899 (iii) damaged;

900 (iv) difficult to open; or

901 (v) partly filled;

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

903 (ii) has contents that are:

904 (A) cloudy;

905 (B) spoiled; or

906 (C) chemically determined to be impure; or

907 (iii) contains:

908 (A) sediment; or

909 (B) a foreign substance; or

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

911 [~~(H8)~~] (122) (a) "Wine" means an alcoholic product obtained by the fermentation of
912 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or
913 not another ingredient is added.

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

916 [~~(H9)~~] (123) "Winery manufacturing license" means a license issued in accordance
917 with Chapter 11, Part 3, Winery Manufacturing License.

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

919 **32B-1-104. Exercise of police powers -- Severability.**

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

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

924 (c) If this title or a local ordinance adopted in accordance with Section 32B-1-204 does

925 not expressly permit a licensee or permittee to engage in an activity related to the storage, sale,
926 offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product,
927 the licensee or permittee may not engage in that activity.

928 (2) The department and the commission:

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

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

933 ~~[(2)]~~ (3) If a provision of this title or the application of a provision to a person or
934 circumstance is held invalid, the remainder of this title shall be given effect without the invalid
935 provision or application. The provisions of this title are severable.

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

937 **32B-1-201. Restrictions on number of retail licenses that may be issued --**
938 **Determining population -- Exempt licenses.**

939 (1) As used in this section:

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

942 (i) the enforcement of this title; or

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

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

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

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

952 (c) "Quota retail license" means:

953 (i) a full-service restaurant license;

954 (ii) a limited-service restaurant license;

955 (iii) a ~~club~~ bar establishment license;

956 (iv) an on-premise banquet license;

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

958 (vi) a reception center license.

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

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

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

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

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

969 (b) If, beginning on July 1, 2012, the enforcement ratio is greater than 52, the
970 commission may not issue a quota retail license for the 12-month period beginning on the July
971 1 for which the enforcement ratio is greater than 52.

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

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

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

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

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

985 (4) The commission may not consider a retail license that meets the following
986 conditions in determining the total number of licenses available for that type of retail license

987 that the commission may issue at any time:

988 (a) the retail license was issued to a club licensee designated as a dining club as of July
989 1, 2011; and

990 (b) the dining club license is converted to another type of retail license in accordance
991 with Section [32B-6-409](#).

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

993 **32B-1-202. Proximity to community location.**

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

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

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

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

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

999 (ii) "Outlet" does not include:

1000 (A) an airport lounge licensee; or

1001 (B) a restaurant.

1002 (b) "Restaurant" means:

1003 (i) a full-service restaurant licensee;

1004 (ii) a limited-service restaurant licensee; or

1005 (iii) a beer-only restaurant licensee.

1006 (2) ~~(a) [Except as otherwise provided in this section, the]~~ The premises of an outlet
1007 may not be located:

1008 ~~[(a)]~~ (i) within 600 feet of a community location, as measured from the nearest
1009 entrance of the outlet by following the shortest route of ordinary pedestrian travel to the
1010 property boundary of the community location; or

1011 ~~[(b)]~~ (ii) within 200 feet of a community location, measured in a straight line from the
1012 nearest entrance of the outlet to the nearest property boundary of the community location.

1013 (b) The premises of a restaurant may not be located:

1014 (i) within 450 feet of a community location, as measured from the nearest entrance of
1015 the restaurant by following the shortest route of ordinary pedestrian travel to the property
1016 boundary of the community location; or

1017 (ii) within 200 feet of a community location, measured in a straight line from the

1018 nearest entrance of the restaurant to the nearest property boundary of the community location.
1019 ~~[(3) With respect to the location of an outlet, the commission may authorize a variance~~
1020 ~~to reduce the proximity requirement of Subsection (2) if:]~~
1021 ~~[(a) when the variance reduces the proximity requirement of Subsection (2)(b), the~~
1022 ~~community location at issue is:]~~
1023 ~~[(i) a public library; or]~~
1024 ~~[(ii) a public park;]~~
1025 ~~[(b) except with respect to a state store, the local authority gives its written consent to~~
1026 ~~the variance;]~~
1027 ~~[(c) the commission finds that alternative locations for locating that type of outlet in~~
1028 ~~the community are limited;]~~
1029 ~~[(d) a public hearing is held in the city, town, metro township, or county, and when~~
1030 ~~practical in the neighborhood concerned;]~~
1031 ~~[(e) after giving full consideration to the attending circumstances and the policies~~
1032 ~~stated in Subsections [32B-1-103](#)(3) and (4), the commission determines that locating the outlet~~
1033 ~~in that location would not be detrimental to the public health, peace, safety, and welfare of the~~
1034 ~~community;]~~
1035 ~~[(f) (i) the community location governing authority gives its written consent to the~~
1036 ~~variance; or]~~
1037 ~~[(ii) if the community location governing authority does not give its written consent to~~
1038 ~~a variance, the commission finds the following for a state store, or if the outlet is a package~~
1039 ~~agency or retail licensee, the commission finds that the applicant establishes the following:]~~
1040 ~~[(A) there is substantial unmet public demand to consume an alcoholic product:]~~
1041 ~~[(F) within the geographic boundary of the local authority in which the outlet is to be~~
1042 ~~located; and]~~
1043 ~~[(H) for an outlet that is a retail licensee, in a public setting;]~~
1044 ~~[(B) there is no reasonably viable alternative for satisfying the substantial unmet~~
1045 ~~demand other than through locating that type of outlet in that location; and]~~
1046 ~~[(C) there is no reasonably viable alternative location within the geographic boundary~~
1047 ~~of the local authority in which the outlet is to be located for locating that type of outlet to~~
1048 ~~satisfy the unmet demand.]~~

1049 ~~[(4) With respect to the premises of a package agency or retail licensee that undergoes~~
 1050 ~~a change of ownership, the commission may waive or vary the proximity requirements of~~
 1051 ~~Subsection (2) in considering whether to issue the package agency or same type of retail license~~
 1052 ~~to the new owner of the premises if:]~~

1053 ~~[(a) the premises previously received a variance reducing the proximity requirement of~~
 1054 ~~Subsection (2)(a);]~~

1055 ~~[(b) the premises received a variance reducing the proximity requirement of Subsection~~
 1056 ~~(2)(b) on or before May 4, 2008; or]~~

1057 ~~[(c) a variance from proximity requirements was otherwise allowed under this title.]~~

1058 (3) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under
 1059 a previously approved variance to one or more proximity requirements in effect before May 9,
 1060 2017, the outlet or restaurant may continue to operate under the variance if the outlet or
 1061 restaurant remains in continuous operation, regardless of whether the outlet or restaurant
 1062 changes ownership.

1063 ~~[(5)]~~ (4) Nothing in this section prevents the commission from considering the
 1064 proximity of an educational, religious, and recreational facility, or any other relevant factor in
 1065 reaching a decision on a proposed location of an outlet or a restaurant.

1066 Section 8. Section **32B-1-207** is amended to read:

1067 **32B-1-207. Calculation of ratio of gross receipts of food to alcoholic product.**

1068 In calculating the annual gross receipts of a retail license or sublicense for purposes of
 1069 determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food
 1070 or an alcoholic product, a retail licensee may not include in the calculation the money from the
 1071 sale of a bottle of wine by the retail licensee or under a sublicense that is in excess of ~~[\$250]~~
 1072 \$175.

1073 Section 9. Section **32B-1-305** is amended to read:

1074 **32B-1-305. Requirement for a background check.**

1075 (1) The department shall require an individual listed in Subsection (2), in accordance
 1076 with this part, to:

1077 (a) provide a signed waiver from the individual whose fingerprints may be registered in
 1078 the Federal Bureau of Investigation Rap Back system that notifies the signee:

1079 (i) that a criminal history background check will be conducted;

- 1080 (ii) who will see the information; and
1081 (iii) how the information will be used;
1082 (b) submit to a background check in a form acceptable to the department; and
1083 (c) consent to a background check by:
1084 (i) the Utah Bureau of Criminal Identification; and
1085 (ii) the Federal Bureau of Investigation.
1086 (2) The following shall comply with Subsection (1):
1087 (a) an individual applying for employment with the department if:
1088 (i) the department makes the decision to offer the individual employment with the
1089 department; and
1090 (ii) once employed, the individual will receive benefits;
1091 (b) an individual applying to the commission to operate a package agency;
1092 (c) an individual applying to the commission for a license, unless the license is an
1093 off-premise beer retailer state license;
1094 (d) an individual who with regard to an entity that is applying to the commission to
1095 operate a package agency or for a license is:
1096 (i) a partner;
1097 (ii) a managing agent;
1098 (iii) a manager;
1099 (iv) an officer;
1100 (v) a director;
1101 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a
1102 corporation;
1103 (vii) a member who owns at least 20% of a limited liability company; or
1104 (viii) an individual employed to act in a supervisory or managerial capacity; or
1105 (e) an individual who becomes involved with an entity that operates a package agency
1106 or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the day
1107 on which the entity:
1108 (i) is approved to operate a package agency; or
1109 (ii) is licensed by the commission.
1110 (3) The department shall require compliance with Subsection (2)(e) as a condition of

1111 an entity's:

1112 (a) continued operation of a package agency; or

1113 (b) renewal of a license.

1114 (4) The department may require as a condition of continued employment that a

1115 department employee:

1116 (a) submit to a background check in a form acceptable to the department; and

1117 (b) consent to a fingerprint criminal background check by:

1118 (i) the Utah Bureau of Criminal Identification; and

1119 (ii) the Federal Bureau of Investigation.

1120 Section 10. Section **32B-1-407** is amended to read:

1121 **32B-1-407. Verification of proof of age by applicable licensees.**

1122 (1) As used in this section, "applicable licensee" means:

1123 (a) a dining club;

1124 (b) a ~~[social club; or]~~ bar;

1125 (c) a tavern[-];

1126 (d) a full-service restaurant;

1127 (e) a limited-service restaurant; or

1128 (f) a beer-only restaurant.

1129 (2) Notwithstanding any other provision of this part, an applicable licensee shall

1130 require that an authorized person for the applicable licensee verify proof of age as provided in

1131 this section.

1132 (3) An authorized person is required to verify proof of age under this section before an
1133 individual who appears to be 35 years of age or younger:

1134 (a) gains admittance to the premises of a ~~[social club]~~ bar licensee or tavern; ~~[or]~~

1135 (b) procures an alcoholic product on the premises of a dining club licensee[-]; or

1136 (c) sits, remains, or consumes food or a beverage in a dispensing area in the premises

1137 of a full-service restaurant licensee, a limited-service restaurant licensee, or a beer-only

1138 restaurant licensee.

1139 (4) To comply with Subsection (3), an authorized person shall:

1140 (a) request the individual present proof of age; and

1141 (b) (i) verify the validity of the proof of age electronically under the verification

1142 program created in Subsection (5); or

1143 (ii) if the proof of age cannot be electronically verified as provided in Subsection
1144 (4)(b)(i), request that the individual comply with a process established by the commission by
1145 rule.

1146 (5) The commission shall establish by rule an electronic verification program that
1147 includes the following:

1148 (a) the specifications for the technology used by the applicable licensee to
1149 electronically verify proof of age, including that the technology display to the person described
1150 in Subsection (2) no more than the following for the individual who presents the proof of age:

1151 (i) the name;

1152 (ii) the age;

1153 (iii) the number assigned to the individual's proof of age by the issuing authority;

1154 (iv) the birth date;

1155 (v) the gender; and

1156 (vi) the status and expiration date of the individual's proof of age; and

1157 (b) the security measures that shall be used by an applicable licensee to ensure that
1158 information obtained under this section is:

1159 (i) used by the applicable licensee only for purposes of verifying proof of age in
1160 accordance with this section; and

1161 (ii) retained by the applicable licensee for seven days after the day on which the
1162 applicable licensee obtains the information.

1163 (6) (a) An applicable licensee may not disclose information obtained under this section
1164 except as provided under this title.

1165 (b) Information obtained under this section is considered a record for any purpose
1166 under Chapter 5, Part 3, Retail Licensee Operational Requirements.

1167 Section 11. Section **32B-1-505** is amended to read:

1168 **32B-1-505. Sexually oriented entertainer.**

1169 (1) Subject to the requirements of this part, live entertainment is permitted on premises
1170 or at an event regulated by the commission.

1171 (2) Notwithstanding Subsection (1), a retail licensee or permittee may not permit a
1172 person to:

- 1173 (a) appear or perform in a state of nudity;
- 1174 (b) perform or simulate an act of:
- 1175 (i) sexual intercourse;
- 1176 (ii) masturbation;
- 1177 (iii) sodomy;
- 1178 (iv) bestiality;
- 1179 (v) oral copulation;
- 1180 (vi) flagellation; or
- 1181 (vii) a sexual act that is prohibited by Utah law; or
- 1182 (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.
- 1183 (3) A sexually oriented entertainer may perform in a state of seminudity:
- 1184 (a) only in:
- 1185 (i) a tavern; or
- 1186 (ii) a [~~social club~~] bar license premises; and
- 1187 (b) only if:
- 1188 (i) the windows, doors, and other apertures to the premises are darkened or otherwise
- 1189 constructed to prevent anyone outside the premises from seeing the performance; and
- 1190 (ii) the outside entrance doors of the premises remain unlocked.
- 1191 (4) A sexually oriented entertainer may perform only upon a stage or in a designated
- 1192 performance area that is:
- 1193 (a) approved by the commission in accordance with rules made by the commission;
- 1194 (b) configured so as to preclude a patron from:
- 1195 (i) touching the sexually oriented entertainer; or
- 1196 (ii) placing any money or object on or within the performance attire or the person of the
- 1197 sexually oriented entertainer; and
- 1198 (c) configured so as to preclude the sexually oriented entertainer from touching a
- 1199 patron.
- 1200 (5) A sexually oriented entertainer may not touch a patron:
- 1201 (a) during the sexually oriented entertainer's performance; or
- 1202 (b) while the sexually oriented entertainer is dressed in performance attire.
- 1203 (6) A sexually oriented entertainer, while in the portion of the premises used by

1204 patrons, shall be dressed in opaque clothing which covers and conceals the sexually oriented
1205 entertainer's performance attire from the top of the breast to the knee.

1206 (7) A patron may not be on the stage or in the performance area while a sexually
1207 oriented entertainer is appearing or performing on the stage or in the performance area.

1208 (8) A patron may not:

1209 (a) touch a sexually oriented entertainer:

1210 (i) during the sexually oriented entertainer's performance; or

1211 (ii) while the sexually oriented entertainer is dressed in performance attire; or

1212 (b) place money or any other object on or within the performance attire or the person of
1213 the sexually oriented entertainer.

1214 (9) A minor may not be on premises described in Subsection (3).

1215 (10) A person who appears or performs for the entertainment of patrons on premises or
1216 at an event regulated by the commission that is not a tavern or ~~[social club]~~ bar licensee:

1217 (a) may not appear or perform in a state of nudity or a state of seminudity; and

1218 (b) may appear or perform in opaque clothing that completely covers the person's
1219 genitals, pubic area, and anus if the covering:

1220 (i) is not less than the following at its widest point:

1221 (A) four inches coverage width in the front of the human body; and

1222 (B) five inches coverage width in the back of the human body;

1223 (ii) does not taper to less than one inch wide at the narrowest point; and

1224 (iii) if covering a female, completely covers the breast below the top of the areola.

1225 Section 12. Section **32B-1-604** is amended to read:

1226 **32B-1-604. Requirements for labeling and packaging -- Authority of the**
1227 **commission and department.**

1228 (1) A manufacturer may not distribute or sell a malted beverage:

1229 (a) unless the label and packaging of the malted beverage:

1230 (i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; and

1231 (ii) clearly gives notice to the public that the malted beverage is an alcoholic product;

1232 and

1233 (b) until the day on which the department in accordance with this title and rules of the
1234 commission approves the label and packaging of the malted beverage.

1235 (2) The department shall review the label and packaging of a malted beverage to ensure
1236 that the label and packaging meet the requirements of Subsection (1)(a).

1237 (3) A manufacturer may comply with the requirement of Subsection (1)(a)(ii) by
1238 including on a label and packaging for a malted beverage any of the following terms:

1239 (a) beer;

1240 (b) ale;

1241 (c) porter;

1242 (d) stout;

1243 (e) lager;

1244 (f) lager beer; or

1245 (g) another class or type designation commonly applied to a malted beverage that
1246 conveys by a recognized term that the product contains alcohol.

1247 (4) (a) As used in this section, "previously approved malted beverage" means a malted
1248 beverage for which the manufacturer holds approval for the label and packaging under
1249 Subsection (1)(b) on May 9, 2017.

1250 (b) Beginning May 9, 2017, the department shall review the label and packaging of
1251 each previously approved malted beverage for compliance with the provisions of this part.

1252 (c) If, during the review described in Subsection (4)(b), the department determines that
1253 a previously approved malted beverage does not comply with the provisions of this part on or
1254 after May 9, 2017:

1255 (i) the department shall send written notice to the manufacturer that states:

1256 (A) that the manufacturer shall reapply for approval of the label and packaging of the
1257 malted beverage; and

1258 (B) the date by which the manufacturer shall submit an application to the department
1259 for approval; and

1260 (ii) the manufacturer shall reapply for approval of the label and packaging of the
1261 malted beverage in accordance with the written notice and the provisions of this part.

1262 (d) (i) A manufacturer may distribute or sell a previously approved malted beverage
1263 through December 31, 2017, in accordance with the manufacturer's most recent approval from
1264 the department.

1265 (ii) After December 31, 2017, a manufacturer that receives a written notice from the

1266 department under Subsection (4)(c) may not distribute or sell a previously approved malted
1267 beverage, unless the department approves the label and packaging of the malted beverage.

1268 (e) The department shall ensure that the department notifies and takes action on each
1269 timely application submitted under this Subsection (4) before January 1, 2018.

1270 Section 13. Section **32B-1-605** is amended to read:

1271 **32B-1-605. General procedure for approval.**

1272 (1) To obtain approval of the label and packaging of a malted beverage, the
1273 manufacturer of the malted beverage shall submit an application to the department for
1274 approval.

1275 (2) The application described in Subsection (1) shall be on a form approved by the
1276 department and include the following for each brand and label for which the manufacturer
1277 seeks approval:

1278 (a) (i) a copy of a federal certificate of label approval from the United States
1279 Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau~~[- for each brand and~~
1280 ~~label for which the manufacturer is seeking approval]; or~~

1281 (ii) if the Bureau does not require label approval, a copy of formula approval from the
1282 United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau;

1283 (b) a complete set of original labels for each size of container of the malted beverage;

1284 (c) a description of the size of the container on which a label will be placed;

1285 (d) a description of each type of container of the malted beverage; and

1286 (e) a description of any packaging for the malted beverage.

1287 (3) The department may assess a reasonable fee for reviewing a label and packaging for
1288 approval.

1289 (4) (a) The department shall notify a manufacturer within 30 days after the day on
1290 which the manufacturer submits an application whether the label and packaging is approved or
1291 denied.

1292 (b) If the department determines that an unusual circumstance requires additional time,
1293 the department may extend the time period described in Subsection (4)(a).

1294 (5) A manufacturer shall obtain the approval of the department of a revision of a
1295 previously approved label and packaging before a malted beverage using the revised label and
1296 packaging may be distributed or sold in this state.

1297 (6) (a) The department may revoke a label and packaging previously approved upon a
1298 finding that the label and packaging is not in compliance with this title or rules of the
1299 commission.

1300 (b) The department shall notify the person who applies for the approval of a label and
1301 packaging at least five business days before the day on which a label and packaging approval is
1302 considered revoked.

1303 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written
1304 argument or evidence to the department on why the revocation should not occur.

1305 (7) A manufacturer that applies for approval of a label and packaging may appeal a
1306 denial or revocation of a label and packaging approval to the commission.

1307 Section 14. Section **32B-1-606** is amended to read:

1308 **32B-1-606. Special procedure for certain malted beverages.**

1309 [~~(1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a~~
1310 ~~label or packaging used for a nonalcoholic beverage;~~]

1311 (1) Notwithstanding Subsection [32B-1-604\(3\)](#), a manufacturer of [~~the flavored malt~~] a
1312 malted beverage may not distribute or sell the [~~flavored malt~~] malted beverage in this state
1313 until the day on which the manufacturer receives approval of the labeling and packaging from
1314 the department in accordance with this section and Sections [32B-1-604](#) and [32B-1-605](#), if the
1315 malted beverage is labeled or packaged in a manner that is:

1316 [~~(a) Sections [32B-1-604](#) and [32B-1-605](#); and~~]

1317 [~~(b) this section.~~]

1318 (a) similar to a label or packaging used for a nonalcoholic beverage; or

1319 (b) likely to confuse or mislead a patron to believe the malted beverage is a
1320 nonalcoholic beverage.

1321 (2) The department may not approve the labeling and packaging of a [~~flavored malt~~]
1322 malted beverage described in Subsection (1) unless in addition to the requirements of Section
1323 [32B-1-604](#) the labeling and packaging complies with the following:

1324 (a) the label on the [~~flavored malt~~] malted beverage [~~shall bear~~] bears a prominently
1325 displayed label or a firmly affixed sticker that provides the following information:

1326 (i) the statement:

1327 (A) "alcoholic beverage"[;] or [~~(B)~~] "contains alcohol"; and

- 1328 (B) "beer," "flavored malt beverage," or "heavy beer," in accordance with the type of
1329 malted beverage as defined in this title; and
- 1330 (ii) the alcohol content of the [~~flavored malt~~] malted beverage[-:];
- 1331 (b) the packaging of [~~a flavored malt~~] the malted beverage [~~shall~~] prominently
1332 [~~include~~] includes, either imprinted on the packaging or imprinted on a sticker firmly affixed to
1333 the packaging, the statement:
- 1334 (i) "alcoholic beverage"; or
- 1335 (ii) "contains alcohol"[-:];
- 1336 (c) a statement required by Subsection (2)(a) or (b) [~~shall appear~~] appears in a format
1337 required by rule made by the commission[-:]; and
- 1338 (d) a statement of alcohol content required by Subsection (2)(a)(ii):
- 1339 (i) [~~shall state~~] states the alcohol content as a percentage of alcohol by volume or by
1340 weight;
- 1341 (ii) [~~may~~] does not use an abbreviation, but [~~shall use~~] uses the complete words
1342 "alcohol," "volume," or "weight"; and
- 1343 (iii) [~~shall be~~] is in a format required by rule made by the commission.
- 1344 (3) The department may reject a label or packaging that appears designed to obscure
1345 the information required by Subsection (2).
- 1346 (4) To determine whether a [~~flavored malt~~] malted beverage is described in Subsection
1347 (1) and subject to this section, the department may consider in addition to other factors one or
1348 more of the following factors:
- 1349 (a) whether the coloring, carbonation, and packaging of the [~~flavored malt~~] malted
1350 beverage:
- 1351 (i) is similar to those of a nonalcoholic beverage or product; or
- 1352 (ii) can be confused with a nonalcoholic beverage;
- 1353 (b) whether the [~~flavored malt~~] malted beverage possesses a character and flavor
1354 distinctive from a traditional malted beverage;
- 1355 (c) whether the [~~flavored malt~~] malted beverage:
- 1356 (i) is prepackaged;
- 1357 (ii) contains high levels of caffeine and other additives; and
- 1358 (iii) is marketed as a beverage that is specifically designed to provide energy;

1359 (d) whether the [~~flavored malt~~] malted beverage contains added sweetener or sugar
1360 substitutes; or

1361 (e) whether the [~~flavored malt~~] malted beverage contains an added fruit flavor or other
1362 flavor that masks the taste of a traditional malted beverage.

1363 Section 15. Section **32B-2-202** is amended to read:

1364 **32B-2-202. Powers and duties of the commission.**

1365 (1) The commission shall:

1366 (a) consistent with the policy established by the Legislature by statute, act as a general
1367 policymaking body on the subject of alcoholic product control;

1368 (b) adopt and issue policies, rules, and procedures;

1369 (c) set policy by written rules that establish criteria and procedures for:

1370 (i) issuing, denying, not renewing, suspending, or revoking a package agency, license,
1371 permit, or certificate of approval; and

1372 (ii) determining the location of a state store, package agency, or retail licensee;

1373 (d) decide within the limits, and under the conditions imposed by this title, the number
1374 and location of state stores, package agencies, and retail licensees in the state;

1375 (e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses,
1376 permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing,
1377 consumption, manufacture, and distribution of an alcoholic product:

1378 (i) a package agency;

1379 (ii) a full-service restaurant license;

1380 (iii) a master full-service restaurant license;

1381 (iv) a limited-service restaurant license;

1382 (v) a master limited-service restaurant license;

1383 (vi) a [~~club~~] bar establishment license;

1384 (vii) an airport lounge license;

1385 (viii) an on-premise banquet license;

1386 (ix) a resort license, under which at least four or more sublicenses may be included;

1387 (x) an on-premise beer retailer license;

1388 (xi) a reception center license;

1389 (xii) a beer-only restaurant license;

- 1390 (xiii) a hotel license, under which at least three or more sublicenses may be included;
- 1391 (xiv) subject to Subsection (4), a single event permit;
- 1392 (xv) subject to Subsection (4), a temporary beer event permit;
- 1393 (xvi) a special use permit;
- 1394 (xvii) a manufacturing license;
- 1395 (xviii) a liquor warehousing license;
- 1396 (xix) a beer wholesaling license; and
- 1397 (xx) one of the following that holds a certificate of approval:
 - 1398 (A) an out-of-state brewer;
 - 1399 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
 - 1400 (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
- 1401 (f) in accordance with Section [32B-5-205](#), issue, deny, suspend, or revoke conditional
- 1402 licenses for the purchase, storage, sale, furnishing, consumption, manufacture, and distribution
- 1403 of an alcoholic product;
- 1404 (g) prescribe the duties of the department in assisting the commission in issuing a
- 1405 package agency, license, permit, or certificate of approval under this title;
- 1406 (h) to the extent a fee is not specified in this title, establish a fee allowed under this title
- 1407 in accordance with Section [63J-1-504](#);
- 1408 (i) fix prices at which liquor is sold that are the same at all state stores, package
- 1409 agencies, and retail licensees;
- 1410 (j) issue and distribute price lists showing the price to be paid by a purchaser for each
- 1411 class, variety, or brand of liquor kept for sale by the department;
- 1412 (k) (i) require the director to follow sound management principles; and
- 1413 (ii) require periodic reporting from the director to ensure that:
 - 1414 (A) sound management principles are being followed; and
 - 1415 (B) policies established by the commission are being observed;
- 1416 (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations,
- 1417 and matters submitted by the director to the commission; and
- 1418 (ii) do the things necessary to support the department in properly performing the
- 1419 department's duties;
- 1420 (m) obtain temporarily and for special purposes the services of an expert or person

1421 engaged in the practice of a profession, or a person who possesses a needed skill if:

1422 (i) considered expedient; and

1423 (ii) approved by the governor;

1424 (n) prescribe the conduct, management, and equipment of premises upon which an

1425 alcoholic product may be stored, sold, offered for sale, furnished, or consumed;

1426 (o) make rules governing the credit terms of beer sales within the state to retail

1427 licensees; and

1428 (p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take

1429 disciplinary action against a person subject to administrative action.

1430 (2) Consistent with the policy established by the Legislature by statute, the power of

1431 the commission to do the following is plenary, except as otherwise provided by this title, and

1432 not subject to review:

1433 (a) establish a state store;

1434 (b) issue authority to act as a package agent or operate a package agency; and

1435 (c) issue or deny a license, permit, or certificate of approval.

1436 (3) If the commission is authorized or required to make a rule under this title, the

1437 commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative

1438 Rulemaking Act.

1439 (4) Notwithstanding Subsections (1)(e)(xiv) and (xv), the director or deputy director

1440 may issue an event permit in accordance with Chapter 9, Event Permit Act.

1441 Section 16. Section **32B-2-210** is amended to read:

1442 **32B-2-210. Alcoholic Beverage Control Advisory Board.**

1443 (1) There is created within the department an advisory board known as the "Alcoholic

1444 Beverage Control Advisory Board."

1445 (2) The advisory board shall consist of ~~[+2 members]~~ eight voting members and one

1446 nonvoting member as follows:

1447 (a) ~~[the following]~~ four voting members appointed by the commission~~[, a~~

1448 ~~representative of]~~:

1449 ~~[(i) a full-service restaurant licensee;]~~

1450 ~~[(ii) a limited-service restaurant licensee;]~~

1451 ~~[(iii) a beer-only restaurant licensee;]~~

1452 ~~[(iv) a social club licensee;]~~
1453 ~~[(v) a fraternal club licensee;]~~
1454 ~~[(vi) a dining club licensee;]~~
1455 ~~[(vii) a wholesaler licensee;]~~
1456 ~~[(viii) an on-premise banquet licensee;]~~
1457 ~~[(ix) an on-premise beer retailer licensee; and]~~
1458 ~~[(x) a reception center licensee;]~~
1459 (i) one of whom represents the retail alcohol industry;
1460 (ii) one of whom represents the wholesale alcohol industry;
1461 (iii) one of whom represents the alcohol manufacturing industry; and
1462 (iv) one of whom represents the restaurant industry;
1463 (b) two voting members appointed by the commission, each of whom represents an
1464 organization that addresses alcohol or drug abuse prevention, alcohol or drug related
1465 enforcement, or alcohol or drug related education;
1466 (c) the director of the Division of Substance Abuse and Mental Health or the director's
1467 designee who serves as a voting member;
1468 ~~[(b)]~~ (d) the chair of the Utah Substance Use and Mental Health Advisory Council, or
1469 the chair's designee, who serves as a voting member; and
1470 ~~[(c)]~~ (e) the chair of the commission or the chair's designee from the members of the
1471 commission, who ~~shall serve~~ serves as a nonvoting member.
1472 (3) (a) Except as required by Subsection (3)(b), as terms of current voting members of
1473 the advisory board expire, the commission shall appoint each new member or reappointed
1474 member to a four-year term beginning July 1 and ending June 30.
1475 (b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the
1476 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1477 voting advisory board members are staggered so that approximately half of the advisory board
1478 is appointed every two years.
1479 (c) No two members of the board may be employed by the same company or nonprofit
1480 organization.
1481 (4) (a) When a vacancy occurs in the membership for any reason, the commission shall
1482 appoint a replacement for the unexpired term.

1483 (b) The commission shall terminate the term of a voting advisory board member who
1484 ceases to be representative as designated by the member's original appointment.

1485 (5) The advisory board shall meet no more than quarterly as called by the chair for the
1486 purpose of advising the commission and the department, with discussion limited to
1487 administrative rules made under this title.

1488 (6) The chair of the commission or the chair's designee shall serve as the chair of the
1489 advisory board and call the necessary meetings.

1490 (7) (a) [~~Six~~] Five members of the board constitute a quorum of the board.

1491 (b) An action of the majority when a quorum is present is the action of the board.

1492 (8) The department shall provide staff support to the advisory board.

1493 (9) A member may not receive compensation or benefits for the member's service, but
1494 may receive per diem and travel expenses in accordance with:

1495 (a) Section [63A-3-106](#);

1496 (b) Section [63A-3-107](#); and

1497 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
1498 [63A-3-107](#).

1499 Section 17. Section **32B-2-304** is amended to read:

1500 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

1501 (1) For purposes of this section:

1502 (a) (i) "Landed case cost" means:

1503 (A) the cost of the product; and

1504 (B) inbound shipping costs incurred by the department.

1505 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse
1506 of the department to a state store.

1507 (b) "Proof gallon" [~~has~~] means the same [~~meaning as~~] as that term is defined in 26
1508 U.S.C. Sec. 5002.

1509 (c) Notwithstanding Section [32B-1-102](#), "small brewer" means a brewer who
1510 manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt
1511 beverage.

1512 (2) Except as provided in Subsection (3):

1513 (a) spirituous liquor sold by the department within the state shall be marked up in an

1514 amount not less than [~~86%~~] 88% above the landed case cost to the department;

1515 (b) wine sold by the department within the state shall be marked up in an amount not
1516 less than [~~86%~~] 88% above the landed case cost to the department;

1517 (c) heavy beer sold by the department within the state shall be marked up in an amount
1518 not less than [~~64.5%~~] 66.5% above the landed case cost to the department; and

1519 (d) a flavored malt beverage sold by the department within the state shall be marked up
1520 in an amount not less than [~~86%~~] 88% above the landed case cost to the department.

1521 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked
1522 up in an amount not less than [~~15%~~] 17% above the landed case cost to the department.

1523 (b) Except for spirituous liquor sold by the department to a military installation in
1524 Utah, spirituous liquor that is sold by the department within the state shall be marked up [~~47%~~]
1525 49% above the landed case cost to the department if:

1526 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000
1527 proof gallons of spirituous liquor in a calendar year; and

1528 (ii) the manufacturer applies to the department for a reduced markup.

1529 (c) Except for wine sold by the department to a military installation in Utah, wine that
1530 is sold by the department within the state shall be marked up [~~47%~~] 49% above the landed case
1531 cost to the department if:

1532 (i) the wine is manufactured by a manufacturer producing less than 20,000 gallons of
1533 wine in a calendar year; and

1534 (ii) the manufacturer applies to the department for a reduced markup.

1535 (d) Except for heavy beer sold by the department to a military installation in Utah,
1536 heavy beer that is sold by the department within the state shall be marked up [~~30%~~] 32% above
1537 the landed case cost to the department if:

1538 (i) a small brewer manufactures the heavy beer; and

1539 (ii) the small brewer applies to the department for a reduced markup.

1540 (e) The department shall verify an amount described in Subsection (3)(b), (c), or (d)
1541 pursuant to a federal or other verifiable production report.

1542 (4) The department shall deposit 10% of the total gross revenue from sales of liquor
1543 with the state treasurer to be credited to the Uniform School Fund and used to support the
1544 school lunch program administered by the State Board of Education under Section

1545 53A-19-201.

1546 (5) This section does not prohibit the department from selling discontinued items at a
1547 discount.

1548 (6) (a) The department shall collect the markup and remit the markup collected by the
1549 department under this section:

1550 (i) to the State Tax Commission monthly on or before the last day of the month
1551 immediately following the last day of the previous month; and

1552 (ii) using a form prescribed by the State Tax Commission.

1553 (b) For liquor provided to a package agency on consignment, the department shall
1554 remit the markup to the State Tax Commission for the month during which the liquor is
1555 provided to the package agency regardless of when the package agency pays the department for
1556 the liquor provided to the package agency.

1557 (c) The State Tax Commission shall deposit revenues remitted to it under Subsection
1558 (6)(a) into the Markup Holding Fund created in Section 32B-2-301.

1559 (d) The assessment, collection, and refund of a markup under this section shall be in
1560 accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

1561 (e) The department, if it fails to comply with this Subsection (6), is subject to penalties
1562 as provided in Section 59-1-401 and interest as provided in Section 59-1-402.

1563 (f) The State Tax Commission may make rules, in accordance with Title 63G, Chapter
1564 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (6).

1565 Section 18. Section 32B-2-306 is amended to read:

1566 **32B-2-306. Underage drinking prevention media and education campaign --**
1567 **School-based underage drinking prevention program.**

1568 (1) As used in this section:

1569 (a) "Advisory council" means the Utah Substance Abuse Advisory Council created in
1570 Section 63M-7-301.

1571 (b) "Grade 10 school-based underage drinking prevention program" means a
1572 school-based underage drinking prevention program that also increases awareness of the
1573 dangers of driving under the influence of alcohol.

1574 (c) "LEA" means the same as that term is defined in Section 53A-1-401.

1575 [~~(b)~~] (d) "Restricted account" means the Underage Drinking Prevention Media and

1576 Education Campaign Restricted Account created in this section.

1577 (e) "School-based underage drinking prevention program" means an evidence-based
1578 program intended for students aged 13 and older that:

1579 (i) is aimed at preventing underage consumption of alcoholic product;

1580 (ii) is delivered by methods that engage students in storytelling and visualization;

1581 (iii) addresses the behavioral risk factors associated with underage drinking; and

1582 (iv) provides practical tools to address the dangers of underage drinking.

1583 (2) (a) There is created a restricted account within the General Fund known as the

1584 "Underage Drinking Prevention Media and Education Campaign Restricted Account."

1585 (b) The restricted account consists of:

1586 (i) deposits made under Subsection (3); and

1587 (ii) interest earned on the restricted account.

1588 (3) The department shall deposit 0.6% of the total gross revenue from sales of liquor
1589 with the state treasurer, as determined by the total gross revenue collected for the fiscal year
1590 two years preceding the fiscal year for which the deposit is made, to be credited to the
1591 restricted account and to be used by the department as provided in Subsection (5).

1592 (4) The advisory council shall:

1593 (a) provide ongoing oversight of a media and education campaign funded under this
1594 section;

1595 (b) create an underage drinking prevention workgroup consistent with guidelines
1596 proposed by the advisory council related to the membership and duties of the underage
1597 drinking prevention workgroup;

1598 (c) create guidelines for how money appropriated for a media and education campaign
1599 can be used;

1600 (d) include in the guidelines established pursuant to this Subsection (4) that a media
1601 and education campaign funded under this section is carefully researched and developed, and
1602 appropriate for target groups; and

1603 (e) approve plans submitted by the department in accordance with Subsection (5).

1604 (5) (a) Subject to appropriation from the Legislature, the department shall expend
1605 money from the restricted account to direct and fund one or more media and education
1606 campaigns designed to reduce underage drinking in cooperation with the advisory council.

1607 (b) The department shall:

1608 (i) in cooperation with the underage drinking prevention workgroup created under
1609 Subsection (4), prepare and submit a plan to the advisory council detailing the intended use of
1610 the money appropriated under this section;

1611 (ii) upon approval of the plan by the advisory council, conduct the media and education
1612 campaign in accordance with the guidelines made by the advisory council; and

1613 (iii) submit to the advisory council annually by no later than October 1, a written report
1614 detailing the use of the money for the media and education campaigns conducted under this
1615 Subsection (5) and the impact and results of the use of the money during the prior fiscal year
1616 ending June 30.

1617 (6) (a) The department shall develop or, in accordance with Title 63G, Chapter 6a,
1618 Utah Procurement Code, the department shall contract with, a person to provide a school-based
1619 underage drinking prevention program and a grade 10 school-based underage drinking
1620 prevention program.

1621 (b) Each year, the department or the contracted provider shall present:

1622 (i) the school-based underage drinking prevention program to students in grade eight at
1623 each LEA; and

1624 (ii) the grade 10 school-based underage drinking prevention program to students in
1625 grade 10 at each LEA.

1626 Section 19. Section **32B-3-102** is amended to read:

1627 **32B-3-102. Definitions.**

1628 As used in this chapter~~[-,"final"]~~:

1629 (1) "Aggravating circumstances" means:

1630 (a) prior warnings about compliance problems;

1631 (b) a prior violation history;

1632 (c) a lack of written policies governing employee conduct;

1633 (d) multiple violations during the course of an investigation;

1634 (e) efforts to conceal a violation;

1635 (f) an intentional violation;

1636 (g) the violation involved more than one patron or employee; or

1637 (h) a violation that results in injury or death.

1638 (2) "Final adjudication" means an adjudication for which a final judgment or order is
1639 issued that:

1640 ~~[(1)]~~ (a) is not appealed, and the time to appeal the judgment has expired; or

1641 ~~[(2)]~~ (b) is appealed, and is affirmed, in whole or in part, on appeal.

1642 Section 20. Section **32B-3-205** is amended to read:

1643 **32B-3-205. Penalties.**

1644 (1) If the commission is satisfied that a person subject to administrative action violates
1645 this title or the commission's rules, in accordance with Title 63G, Chapter 4, Administrative
1646 Procedures Act, the commission may:

1647 (a) suspend or revoke the person's license, permit, or certificate of approval;

1648 (b) subject to Subsection (2), impose a fine against the person, including individual
1649 staff of a licensee, permittee, or certificate holder;

1650 (c) assess the administrative costs of a disciplinary proceeding to the person if the
1651 person is a licensee, permittee, or certificate holder; or

1652 (d) take a combination of actions described in this Subsection (1).

1653 (2) (a) A fine imposed may not exceed \$25,000 in the aggregate for:

1654 (i) a single notice of agency action; or

1655 (ii) a single action against a package agency.

1656 (b) The commission shall by rule establish a schedule setting forth a range of fines for
1657 each violation.

1658 (c) When a presiding officer imposes a fine, the presiding officer shall consider any
1659 aggravating circumstances in deciding where within the applicable range to set the fine.

1660 (3) The commission shall transfer the costs assessed under this section into the General
1661 Fund in accordance with Section [32B-2-301](#).

1662 (4) (a) If a license or permit is suspended under this section, the licensee or permittee
1663 shall prominently display a sign provided by the department:

1664 (i) during the suspension; and

1665 (ii) at the entrance of the premises of the licensee or permittee.

1666 (b) The sign required by this Subsection (4) shall:

1667 (i) read "The Utah Alcoholic Beverage Control Commission has suspended the
1668 alcoholic product license or permit of this establishment. An alcoholic product may not be

1669 sold, offered for sale, furnished, or consumed on these premises during the period of
1670 suspension."; and

1671 (ii) include the dates of the suspension period.

1672 (c) A licensee or permittee may not remove, alter, obscure, or destroy a sign required to
1673 be displayed under this Subsection (4) during the suspension period.

1674 (5) (a) If a license or permit is revoked, the commission may order the revocation of a
1675 bond posted by the licensee or permittee under this title.

1676 (b) Notwithstanding Subsection (5)(a), the department may make a claim against a
1677 bond posted by a licensee or permittee for money owed the department under this title without
1678 the commission first revoking the license or permit.

1679 (6) A licensee or permittee whose license or permit is revoked may not reapply for a
1680 license or permit under this title for three years from the date on which the license or permit is
1681 revoked.

1682 (7) If a staff member of a licensee, permittee, or certificate holder is found to have
1683 violated this title, in addition to imposing another penalty authorized by this title, the
1684 commission may prohibit the staff member from handling, selling, furnishing, distributing,
1685 manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as
1686 staff with a licensee, permittee, or certificate holder under this title for a period determined by
1687 the commission.

1688 (8) (a) If the commission makes the finding described in Subsection (8)(b), in addition
1689 to other penalties prescribed by this title, the commission may order:

1690 (i) the removal of an alcoholic product of the manufacturer's, supplier's, or importer's
1691 from the department's sales list; and

1692 (ii) a suspension of the department's purchase of an alcoholic product described in
1693 Subsection (8)(a)(i) for a period determined by the commission.

1694 (b) The commission may take the action described in Subsection (8)(a) if:

1695 (i) a manufacturer, supplier, or importer of liquor or its staff or representative violates
1696 this title; and

1697 (ii) the manufacturer, supplier, or importer:

1698 (A) directly commits the violation; or

1699 (B) solicits, requests, commands, encourages, or intentionally aids another to engage in

1700 the violation.

1701 (9) If the commission makes a finding that the brewer holding a certificate of approval
1702 violates this title or rules of the commission, the commission may take an action against the
1703 brewer holding a certificate of approval that the commission could take against a licensee
1704 including:

1705 (a) suspension or revocation of the certificate of approval; and

1706 (b) imposition of a fine.

1707 (10) Notwithstanding the other provisions of this title, the commission may not order a
1708 disciplinary action or fine in accordance with this section if the disciplinary action or fine is
1709 ordered on the basis of a violation:

1710 (a) of a provision in this title related to intoxication or becoming intoxicated; and

1711 (b) if the violation is first investigated by a law enforcement officer, as defined in
1712 Section 53-13-103, who has not received training regarding the requirements of this title
1713 related to responsible alcoholic product sale or service.

1714 Section 21. Section 32B-4-410 is amended to read:

1715 **32B-4-410. Unlawful admittance or attempt to gain admittance by minor.**

1716 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
1717 premises of:

1718 (a) a tavern; or

1719 (b) a ~~[social club]~~ bar licensee, except to the extent authorized by Section 32B-6-406.1.

1720 (2) A minor who violates this section is guilty of a class C misdemeanor.

1721 (3) (a) If a minor is found by a court to have violated this section and the violation is
1722 the minor's first violation of this section, the court may:

1723 (i) order the minor to complete a screening as defined in Section 41-6a-501;

1724 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
1725 screening indicates an assessment to be appropriate; and

1726 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
1727 or substance abuse treatment as indicated by an assessment.

1728 (b) If a minor is found by a court to have violated this section and the violation is the
1729 minor's second or subsequent violation of this section, the court shall:

1730 (i) order the minor to complete a screening as defined in Section 41-6a-501;

1731 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
1732 screening indicates an assessment to be appropriate; and

1733 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
1734 or substance abuse treatment as indicated by an assessment.

1735 (4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
1736 found by a court to have violated this section, except as provided in Section 32B-4-411, the
1737 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

1738 (b) Notwithstanding the provision in Subsection (4)(a), the court may reduce the
1739 suspension period required under Section 53-3-219 if:

1740 (i) the violation is the minor's first violation of this section; and

1741 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

1742 (B) the minor demonstrates substantial progress in substance abuse treatment.

1743 (c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the
1744 requirements of Section 53-3-219, the court may reduce the suspension period required under
1745 Section 53-3-219 if:

1746 (i) the violation is the minor's second or subsequent violation of this section;

1747 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
1748 demonstrated substantial progress in substance abuse treatment; and

1749 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
1750 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
1751 consecutive period during the suspension period imposed under Subsection (4)(a); or

1752 (B) the person is under 18 years of age and has the person's parent or legal guardian
1753 provide an affidavit or sworn statement to the court certifying that to the parent or legal
1754 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a
1755 one-year consecutive period during the suspension period imposed under Subsection (4)(a).

1756 (5) When a minor who is at least 13 years old, but younger than 18 years old, is found
1757 by a court to have violated this section, Section 78A-6-606 applies to the violation.

1758 (6) When a court issues an order suspending a person's driving privileges for a
1759 violation of this section, the Driver License Division shall suspend the person's license under
1760 Section 53-3-219.

1761 (7) When the Department of Public Safety receives the arrest or conviction record of a

1762 person for a driving offense committed while the person's license is suspended pursuant to this
1763 section, the Department of Public Safety shall extend the suspension for an additional like
1764 period of time.

1765 Section 22. Section **32B-4-415** is amended to read:

1766 **32B-4-415. Unlawful bringing onto premises for consumption.**

1767 (1) Except as provided in Subsection (4), a person may not bring an alcoholic product
1768 for on-premise consumption onto the premises of:

1769 (a) a retail licensee or person required to be licensed under this title as a retail licensee;

1770 (b) an establishment that conducts a business similar to a retail licensee;

1771 (c) an event where an alcoholic product is sold, offered for sale, or furnished under a
1772 single event permit or temporary beer event permit issued under this title;

1773 (d) an establishment open to the general public; or

1774 (e) the capitol hill complex.

1775 (2) Except as provided in Subsection (4), the following may not allow a person to bring
1776 onto its premises an alcoholic product for on-premise consumption or allow consumption of an
1777 alcoholic product brought onto its premises in violation of this section:

1778 (a) a retail licensee or a person required to be licensed under this title as a retail
1779 licensee;

1780 (b) an establishment that conducts a business similar to a retail licensee;

1781 (c) a single event permittee or temporary beer event permittee;

1782 (d) an establishment open to the general public;

1783 (e) the State Capitol Preservation Board created in Section [63C-9-201](#); or

1784 (f) staff of a person listed in Subsections (2)(a) through (e).

1785 (3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an
1786 alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a
1787 passenger at:

1788 (a) a location from which the passenger departs in a private vehicle; or

1789 (b) the capitol hill complex.

1790 (4) (a) A person may bring bottled wine onto the premises of the following and
1791 consume the wine pursuant to Section [32B-5-307](#):

1792 (i) a full-service restaurant licensee;

- 1793 (ii) a limited restaurant licensee;
- 1794 (iii) a [~~club~~] bar establishment licensee; or
- 1795 (iv) a person operating under a resort spa sublicense.
- 1796 (b) A passenger of a limousine may bring onto, possess, and consume an alcoholic
- 1797 product in the limousine if:
- 1798 (i) the travel of the limousine begins and ends at:
- 1799 (A) the residence of the passenger;
- 1800 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
- 1801 (C) the temporary domicile of the passenger;
- 1802 (ii) the driver of the limousine is separated from the passengers by partition or other
- 1803 means approved by the department; and
- 1804 (iii) the limousine is not located on the capitol hill complex.
- 1805 (c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic
- 1806 product on the chartered bus:
- 1807 (i) (A) but may consume only during travel to a specified destination of the chartered
- 1808 bus and not during travel back to the place where the travel begins; or
- 1809 (B) if the travel of the chartered bus begins and ends at:
- 1810 (I) the residence of the passenger;
- 1811 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
- 1812 (III) the temporary domicile of the passenger;
- 1813 (ii) if the chartered bus has a nondrinking designee other than the driver traveling on
- 1814 the chartered bus to monitor consumption; and
- 1815 (iii) if the chartered bus is not located on the capitol hill complex.
- 1816 (5) A person may bring onto any premises, possess, and consume an alcoholic product
- 1817 at a private event.
- 1818 (6) Notwithstanding Subsection (5), private and public facilities may prohibit the
- 1819 possession or consumption of alcohol on their premises.
- 1820 (7) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel
- 1821 licensee or person operating under a sublicense in relationship to:
- 1822 (a) the boundary of a resort building or boundary of a hotel in an area that is open to
- 1823 the public; or

1824 (b) except as provided in Subsection (4), a sublicense premises.

1825 Section 23. Section **32B-4-501** is amended to read:

1826 **32B-4-501. Operating without a license or permit.**

1827 (1) A person may not operate the following businesses without first obtaining a license
1828 under this title if the business allows a person to purchase or consume an alcoholic product on
1829 the premises of the business:

1830 (a) a restaurant;

1831 (b) an airport lounge;

1832 (c) a business operated in the same manner as a [~~club~~] bar establishment licensee;

1833 (d) a resort;

1834 (e) a business operated to sell, offer for sale, or furnish beer for on-premise
1835 consumption;

1836 (f) a business operated as an on-premise banquet licensee;

1837 (g) a hotel; or

1838 (h) a business similar to one listed in Subsections (1)(a) through (g).

1839 (2) A person conducting an event that is open to the general public may not directly or
1840 indirectly sell, offer for sale, or furnish an alcoholic product to a person attending the event
1841 without first obtaining an event permit under this title.

1842 (3) A person conducting a private event may not directly or indirectly sell or offer for
1843 sale an alcoholic product to a person attending the private event without first obtaining an
1844 event permit under this title.

1845 (4) A person may not operate the following businesses in this state without first
1846 obtaining a license under this title:

1847 (a) a winery manufacturer;

1848 (b) a distillery manufacturer;

1849 (c) a brewery manufacturer;

1850 (d) a local industry representative of:

1851 (i) a manufacturer of an alcoholic product;

1852 (ii) a supplier of an alcoholic product; or

1853 (iii) an importer of an alcoholic product;

1854 (e) a liquor warehouse; or

1855 (f) a beer wholesaler.

1856 (5) A person may not operate a public conveyance in this state without first obtaining a
1857 public service permit under this title if that public conveyance allows a person to purchase or
1858 consume an alcoholic product:

1859 (a) on the public conveyance; or

1860 (b) on the premises of a hospitality room located within a depot, terminal, or similar
1861 facility at which a service is provided to a patron of the public conveyance.

1862 Section 24. Section **32B-5-201** is amended to read:

1863 **32B-5-201. Application requirements for retail license.**

1864 (1) (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of
1865 an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a
1866 retail license issued by the commission, notwithstanding whether the person holds a local
1867 license or a permit issued by a local authority.

1868 (b) Violation of this Subsection (1) is a class B misdemeanor.

1869 (2) To obtain a retail license under this title, a person shall submit to the department:

1870 (a) a written application in a form prescribed by the department;

1871 (b) a nonrefundable application fee in the amount specified in the relevant part under
1872 Chapter 6, Specific Retail License Act, for the type of retail license for which the person is
1873 applying;

1874 (c) an initial license fee:

1875 (i) in the amount specified in the relevant part under Chapter 6, Specific Retail License
1876 Act, for the type of retail license for which the person is applying; and

1877 (ii) that is refundable if a retail license is not issued;

1878 (d) written consent of the local authority;

1879 (e) a copy of the person's current business license;

1880 (f) evidence of proximity to any community location, with proximity requirements
1881 being governed by Section [32B-1-202](#);

1882 (g) a bond as specified by Section [32B-5-204](#);

1883 (h) a floor plan, and boundary map where applicable, of the premises of the retail
1884 license, including any:

1885 (i) consumption area; and

1886 (ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic
1887 beverage;

1888 (i) evidence that the retail licensee is carrying public liability insurance in an amount
1889 and form satisfactory to the department;

1890 (j) evidence that the retail licensee is carrying dramshop insurance coverage of at least
1891 \$1,000,000 per occurrence and \$2,000,000 in the aggregate;

1892 (k) a signed consent form stating that the retail licensee will permit any authorized
1893 representative of the commission, department, or any law enforcement officer to have
1894 unrestricted right to enter the premises of the retail licensee;

1895 (l) if the person is an entity, proper verification evidencing that a person who signs the
1896 application is authorized to sign on behalf of the entity; ~~and~~

1897 (m) a responsible alcohol service plan; and

1898 ~~[(m)]~~ (n) any other information the commission or department may require.

1899 (3) The commission may not issue a retail license to a person who:

1900 (a) is disqualified under Section 32B-1-304; or

1901 (b) is not lawfully present in the United States.

1902 (4) Unless otherwise provided in the relevant part under Chapter 6, Specific Retail
1903 License Act, the commission may not issue a retail license to a person if the licensed premises
1904 does not meet the proximity requirements of Section 32B-1-202.

1905 Section 25. Section 32B-5-202 is amended to read:

1906 **32B-5-202. Renewal requirements.**

1907 (1) A retail license expires each year on the day specified in the relevant part under
1908 Chapter 6, Specific Retail License Act, for that type of retail license.

1909 (2) To renew a person's retail license, a retail licensee shall, by no later than the day
1910 specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail
1911 license that is being renewed, submit:

1912 (a) a completed renewal application that includes a responsible alcohol service plan to
1913 the department in a form prescribed by the department; and

1914 (b) a renewal fee in the amount specified in the relevant part under Chapter 6, Specific
1915 Retail License Act, for the type of retail license that is being renewed.

1916 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the

1917 retail license effective on the date the existing retail license expires.

1918 Section 26. Section **32B-5-207** is enacted to read:

1919 **32B-5-207. Multiple retail licenses on same premises.**

1920 (1) (a) (i) The commission may not issue and one or more licensees may not hold more
1921 than one type of retail license for the same room.

1922 (ii) The commission may define "room" by rule made in accordance with Title 63G,
1923 Chapter 3, Utah Administrative Rulemaking Act.

1924 (b) Notwithstanding Subsection (1)(a), the commission may issue and one or more
1925 licensees may hold more than one type of retail license for the same room if:

1926 (i) the applicant or licensee satisfies the requirements for each retail license;

1927 (ii) the types of retail licenses issued or held are:

1928 (A) a restaurant license; and

1929 (B) an on-premise banquet license or a reception center license; and

1930 (iii) the retail licenses do not operate at the same time on the same day.

1931 (2) When one or more licensees hold more than one type of retail license for the same
1932 room under Subsection (1)(b), the one or more licensees shall post in a conspicuous location at
1933 the entrance of the room a sign that:

1934 (a) measures 8-1/2 inches by 11 inches; and

1935 (b) states whether the premises is currently operating as:

1936 (i) a restaurant; or

1937 (ii) a banquet or a reception center.

1938 (3) (a) If, on May 9, 2017, one or more licensees hold more than one type of retail
1939 license for the same room in violation of Subsection (1), the one or more licensees may operate
1940 under the different types of retail licenses through June 30, 2018.

1941 (b) A licensee may not operate in violation of Subsection (1) on or after July 1, 2018.

1942 (c) Before July 1, 2018, each licensee described in Subsection (3)(a) shall notify the
1943 commission of each retail license that the licensee will surrender effective July 1, 2018, to
1944 comply with the provisions of Subsection (1).

1945 (d) The commission shall establish by rule, made in accordance with Title 63G,
1946 Chapter 3, Utah Administrative Rulemaking Act, a procedure by which a licensee surrenders a
1947 retail license under this Subsection (3).

1948 Section 27. Section 32B-5-307 is amended to read:

1949 **32B-5-307. Bringing alcoholic product onto or removing alcoholic product from**
1950 **premises.**

1951 (1) Except as provided in Subsection (3):

1952 (a) A person may not bring onto the licensed premises of a retail licensee an alcoholic
1953 product for on-premise consumption.

1954 (b) A retail licensee may not allow a person to:

1955 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or

1956 (ii) consume an alcoholic product brought onto the licensed premises by a person other
1957 than the retail licensee.

1958 (c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product through
1959 a window or door to a location off the licensed premises or to a vehicular traffic area.

1960 (2) Except as provided in Subsection (3):

1961 (a) A person may not carry from a licensed premises of a retail licensee an open
1962 container that:

1963 (i) is used primarily for drinking purposes; and

1964 (ii) contains an alcoholic product.

1965 (b) A retail licensee may not permit a patron to carry from the licensed premises an
1966 open container described in Subsection (2)(a).

1967 (c) Except as provided in Subsection (3)(d) or Subsection 32B-4-415(5):

1968 (i) a person may not carry from a licensed premises of a retail licensee a sealed
1969 container of [~~liquor~~] an alcoholic beverage that has been purchased from the retail licensee; and

1970 (ii) a retail licensee may not permit a patron to carry from the licensed premises a
1971 sealed container of [~~liquor~~] an alcoholic beverage that has been purchased from the retail
1972 licensee.

1973 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for
1974 on-premise consumption if:

1975 (i) permitted by the retail licensee; and

1976 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

1977 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the
1978 patron shall deliver the bottled wine to a server or other representative of the retail licensee

1979 upon entering the licensed premises.

1980 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a
1981 wine service for a bottled wine carried onto the licensed premises in accordance with this
1982 Subsection (3) or a bottled wine purchased at the licensed premises.

1983 (d) A patron may remove from a licensed premises the unconsumed contents of a bottle
1984 of wine purchased [~~in~~] at the licensed premises, or brought onto the licensed premises in
1985 accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

1986 Section 28. Section **32B-5-402** is amended to read:

1987 **32B-5-402. Definitions.**

1988 [Reserved]

1989 As used in this part:

1990 (1) "Off-premise retail manager" means an individual who:

1991 (a) manages operations at a premises that is licensed under Chapter 7, Off-Premise
1992 Beer Retailer Act; or

1993 (b) supervises the sale of beer at a premises that is licensed under Chapter 7,
1994 Off-Premise Beer Retailer Act.

1995 (2) (a) "Off-premise retail staff" means an individual who sells beer at a premises that
1996 is licensed under Chapter 7, Off-Premise Beer Retailer Act.

1997 (b) "Off-premise retail staff" does not include an off-premise retail manager.

1998 (3) "Retail manager" means an individual who:

1999 (a) manages operations at a premises that is licensed under this chapter; or

2000 (b) supervises the furnishing of an alcoholic product at a premises that is licensed
2001 under this chapter.

2002 (4) "Retail owner" means:

2003 (a) for an individual or sole proprietorship that is licensed under this chapter, the
2004 individual or sole proprietor; or

2005 (b) for a partnership, corporation, or limited liability company that is licensed under
2006 this chapter, an appointed representative who is:

2007 (i) a partner;

2008 (ii) a managing agent;

2009 (iii) a manager;

- 2010 (iv) an officer;
- 2011 (v) a director;
- 2012 (vi) a stockholder who holds at least 20% of the total issued and outstanding stocks of
- 2013 the corporation; or
- 2014 (vii) a member who owns at least a 20% interest in the limited liability company.
- 2015 (5) (a) "Retail staff" means an individual who serves an alcoholic product at a premises
- 2016 licensed under this chapter.
- 2017 (b) "Retail staff" does not include a retail manager or retail owner.

2018 Section 29. Section **32B-5-403** is amended to read:

2019 **32B-5-403. Alcohol training and education -- Revocation, suspension, or**
2020 **nonrenewal of retail license.**

2021 (1) The commission may suspend, revoke, or not renew a license of a retail licensee if
2022 any of the following individuals~~[, as defined in Section 62A-15-401,]~~ fail to complete an
2023 alcohol training and education seminar:

2024 ~~[(a) an individual who manages operations at the licensed premises for consumption on~~
2025 ~~the licensed premises;]~~

2026 ~~[(b) an individual who supervises the furnishing of an alcoholic product to a patron for~~
2027 ~~consumption on the licensed premises; or]~~

2028 ~~[(c) an individual who serves an alcoholic product to a patron for consumption on the~~
2029 ~~licensed premises.]~~

2030 (a) a retail manager; or

2031 (b) retail staff.

2032 (2) A city, town, metro township, or county in which a retail licensee conducts ~~[its]~~
2033 business may suspend, revoke, or not renew the business license of the retail licensee if ~~[an~~
2034 ~~individual described in Subsection (1)]~~ a retail manager or retail staff fails to complete an
2035 alcohol training and education seminar.

2036 (3) A local authority that issues an off-premise beer retailer license to a business that is
2037 engaged in the retail sale of beer for consumption off the beer retailer's premises may
2038 immediately suspend the off-premise beer retailer license if any of the following individuals
2039 fails to complete an alcohol training and education seminar~~[, an individual who]:~~

2040 ~~[(a) directly supervises the sale of beer to a patron for consumption off the premises of~~

2041 ~~the off-premise beer retailer; or]~~

2042 ~~[(b) sells beer to a patron for consumption off the premises of the off-premise beer~~
2043 ~~retailer.]~~

2044 (a) an off-premise retail manager; or

2045 (b) off-premise retail staff.

2046 Section 30. Section **32B-5-404** is amended to read:

2047 **32B-5-404. Alcohol training and education for off-premise consumption.**

2048 (1) (a) A local authority that issues an off-premise beer retailer license to a business to
2049 sell beer at retail for off-premise consumption shall require the following to have a valid record
2050 that the individual completed an alcohol training and education seminar in the time periods
2051 required by Subsection (1)(b)~~[, an individual who]~~:

2052 ~~[(i) directly supervises the sale of beer to a patron for consumption off the premises of~~
2053 ~~the off-premise beer retailer; or]~~

2054 ~~[(ii) sells beer to a patron for consumption off the premises of the off-premise beer~~
2055 ~~retailer.]~~

2056 (i) an off-premise retail manager; or

2057 (ii) off-premise retail staff.

2058 (b) If an individual on the date the individual becomes staff to an off-premise beer
2059 retailer does not have a valid record that the individual has completed an alcohol training and
2060 education seminar for purposes of this part, the individual shall complete an alcohol training
2061 and education seminar within 30 days of the day on which the individual becomes staff of an
2062 off-premise beer retailer.

2063 (c) Section **62A-15-401** governs the validity of a record that an individual has
2064 completed an alcohol training and education seminar required by this part.

2065 (2) In accordance with Section **32B-5-403**, a local authority may immediately suspend
2066 the license of an off-premise beer retailer that allows ~~[staff to directly supervise the sale of beer~~
2067 ~~or to sell beer to a patron]~~ an individual to work as an off-premise retail manager without
2068 having a valid record that the individual completed an alcohol training and education seminar
2069 in accordance with Subsection (1).

2070 Section 31. Section **32B-5-405** is enacted to read:

2071 **32B-5-405. Department training programs.**

2072 (1) No later than January 1, 2018, the department shall develop the following training
2073 programs that are provided either in-person or online:

2074 (a) a training program for retail managers and retail owners that addresses:

2075 (i) the statutes and rules that govern alcohol sales and consumption in the state;
2076 (ii) the requirements for operating as a retail licensee;
2077 (iii) using compliance assistance from the department; and
2078 (iv) any other topic the department determines beneficial to a retail manager or retail
2079 owner;

2080 (b) a training program for off-premise retail managers that addresses:

2081 (i) the statutes and rules that govern sales at an off-premise beer retailer;
2082 (ii) the requirements for operating as an off-premise beer retailer;
2083 (iii) using compliance assistance from the department; and
2084 (iv) any other topic the department determines beneficial to an off-premise retail
2085 manager; and

2086 (c) a training program for an individual employed by a retail licensee or an off-premise
2087 beer retailer who violates a provision of this title related to the sale, service, or furnishing of an
2088 alcoholic beverage to an intoxicated individual or a minor, that addresses:

2089 (i) the statutes and rules that govern the most common types of violations under this
2090 title;

2091 (ii) how to avoid common violations; and
2092 (iii) any other topic the department determines beneficial to the training program.

2093 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
2094 the provisions of this section, the department shall make rules to develop and implement the
2095 training programs described in this section, including rules that establish:

2096 (a) the requirements for each training program described in this section;
2097 (b) measures that accurately identify each individual who takes and completes a
2098 training program;

2099 (c) measures that ensure an individual taking a training program is focused and actively
2100 engaged in the training material throughout the training program;

2101 (d) a record that certifies that an individual has completed a training program; and
2102 (e) a fee for participation in a training program to cover the department's cost of

2103 providing the training program.

2104 (3) (a) Except as provided in Subsection (4), each retail manager and each retail owner
2105 shall:

2106 (i) complete the training program described in Subsection (1)(a) within 30 days after
2107 the day on which:

2108 (A) the retail manager is hired; or

2109 (B) the retail owner's business obtains a retail license under this chapter; and

2110 (ii) retake the training program described in Subsection (1)(a) once every three years.

2111 (b) Except as provided in Subsection (4), each off-premise retail manager shall:

2112 (i) complete the training program described in Subsection (1)(b) within 30 days after
2113 the day on which the off-premise retail manager is hired; and

2114 (ii) retake the training program described in Subsection (1)(b) once every three years.

2115 (c) (i) If the commission finds that an individual employed by a retail licensee violated
2116 a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an
2117 intoxicated individual or a minor for a second time while employed by the same retail licensee,
2118 the violator, all retail staff, and each retail manager shall complete the training program
2119 described in Subsection (1)(c).

2120 (ii) If the commission finds that an individual employed by an off-premise beer retailer
2121 violated a provision of this title related to the sale, service, or furnishing of an alcoholic
2122 beverage to an intoxicated individual or a minor for a second time while employed by the same
2123 off-premise beer retailer, the violator and each off-premise retail manager shall complete the
2124 training program described in Subsection (1)(c).

2125 (4) For a person who holds a retail license or an off-premise beer retailer license on
2126 May 9, 2017:

2127 (a) each retail manager and each retail owner shall complete the training program
2128 described in Subsection (1)(a) for the first time before the day on which the licensee renews the
2129 licensee's license in 2018; and

2130 (b) each off-premise retail manager shall complete the training described in Subsection
2131 (1)(b) for the first time before the day on which the licensee renews the licensee's license.

2132 (5) If an individual fails to complete a required training program under this section:

2133 (a) the commission may suspend, revoke, or not renew the retail license or off-premise

2134 beer retailer state license;

2135 (b) a city, town, metro township, or county in which the retail licensee or off-premise
2136 beer retailer is located may suspend, revoke, or not renew the retail licensee's or off-premise
2137 beer retailer's business license; or

2138 (c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's
2139 license.

2140 Section 32. Section **32B-5-406** is enacted to read:

2141 **32B-5-406. Tracking certain enforcement actions.**

2142 (1) For each violation of a provision of this title involving the sale of an alcoholic
2143 product to a minor that staff of a retail licensee commits, the commission shall:

2144 (a) maintain a record of the violation until the record is expunged in accordance with
2145 Subsection (3);

2146 (b) include in the record described in Subsection (1)(a):

2147 (i) the name of the individual who committed the violation;

2148 (ii) the name of the retail licensee; and

2149 (iii) the date of the adjudication of the violation; and

2150 (c) provide the information described in Subsection (1)(b) to the Department of Public
2151 Safety within 30 days after the day on which the violation is adjudicated.

2152 (2) (a) The Department of Public Safety shall development and operate a system to
2153 collect, analyze, maintain, track, and disseminate the information that the Department of Public
2154 Safety receives in accordance with Subsection (1).

2155 (b) The Department of Public Safety shall make the system described in Subsection
2156 (2)(a) available to:

2157 (i) assist the commission in assessing penalties under this title; and

2158 (ii) inform a retail licensee of an individual who has a violation history in the system.

2159 (3) The commission and the Department of Public Safety shall expunge each record in
2160 the system described in Subsection (2) that relates to an individual if the individual does not
2161 violate a provision of this title related to the sale of an alcoholic product to a minor for a period
2162 of 36 consecutive months from the day on which the individual was last found to have violated
2163 a provision of this title related to the sale of an alcoholic product to a minor.

2164 Section 33. Section **32B-6-202** is amended to read:

2165 **32B-6-202. Definitions.**

2166 As used in this part:

2167 (1) (a) "Dining area" means an area in the licensed premises of a full-service restaurant
2168 licensee that is primarily used for the service and consumption of food by one or more patrons.

2169 (b) "Dining area" does not include a dispensing area.

2170 (2) "Dispensing area" means an area in the licensed premises of a full-service
2171 restaurant licensee where a dispensing structure is located and that:

2172 (a) is physically separated from the dining area and any waiting area by a structure or
2173 other barrier that prevents a patron seated in the dining area or a waiting area from viewing the
2174 dispensing of alcoholic product;

2175 (b) measures at least 10 feet from any area where alcoholic product is dispensed to the
2176 dining area and any waiting area, measured from the point of the area where alcoholic product
2177 is dispensed that is closest to the dining area or waiting area; or

2178 (c) is physically separated from the dining area and any waiting area by a permanent
2179 physical structure that measures:

2180 (i) at least 42 inches high; and

2181 (ii) at least 72 inches from the outer edge of the barrier to the nearest edge of the
2182 dispensing structure.

2183 [(+)] (3) (a) "Grandfathered bar structure" means a bar structure in a licensed premises
2184 of a full-service restaurant licensee that:

2185 (i) as of May 11, 2009, has:

2186 (A) patron seating at the bar structure;

2187 (B) a partition at one or more locations on the bar structure that is along:

2188 (I) the width of the bar structure; or

2189 (II) the length of the bar structure; and

2190 (C) facilities for the dispensing or storage of an alcoholic product:

2191 (I) on the portion of the bar structure that is separated by the partition described in

2192 Subsection [(+)] (3)(a)(i)(B); or

2193 (II) if the partition as described in Subsection [(+)] (3)(a)(i)(B)(II) is adjacent to the bar
2194 structure in a manner visible to a patron sitting at the bar structure;

2195 (ii) is not operational as of May 12, 2009, if:

2196 (A) a person applying for a full-service restaurant license:
2197 (I) has as of May 12, 2009, a building permit to construct the restaurant;
2198 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2199 defined by rule made by the commission; and
2200 (III) is issued the full-service restaurant license by no later than December 31, 2009;
2201 and
2202 (B) once constructed, the licensed premises has a bar structure described in Subsection
2203 ~~(1)~~ (3)(a)(i);
2204 (iii) as of May 12, 2009, has no patron seating at the bar structure; or
2205 (iv) is not operational as of May 12, 2009, if:
2206 (A) a person applying for a full-service restaurant license:
2207 (I) has as of May 12, 2009, a building permit to construct the restaurant;
2208 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
2209 defined by rule made by the commission; and
2210 (III) is issued a full-service restaurant license by no later than December 31, 2009; and
2211 (B) once constructed, the licensed premises has a bar structure with no patron seating.
2212 (b) "Grandfathered bar structure" does not include a grandfathered bar structure
2213 described in Subsection ~~(1)~~ (3)(a) on or after the day on which a restaurant remodels the
2214 grandfathered bar structure, as defined by rule made by the commission.
2215 (c) Subject to Subsection ~~(1)~~ (3)(b), a grandfathered bar structure remains a
2216 grandfathered bar structure notwithstanding whether a restaurant undergoes a change of
2217 ownership.
2218 ~~(2)~~ (4) "Seating grandfathered bar structure" means:
2219 (a) a grandfathered bar structure described in Subsection ~~(1)~~ (3)(a)(i) or (ii); or
2220 (b) a bar structure grandfathered under Section 32B-6-409.
2221 (5) "Waiting area" includes a lobby.
2222 Section 34. Section 32B-6-204 is amended to read:
2223 **32B-6-204. Specific licensing requirements for full-service restaurant license.**
2224 (1) To obtain a full-service restaurant license a person shall comply with Chapter 5,
2225 Part 2, Retail Licensing Process.
2226 (2) (a) A full-service restaurant license expires on October 31 of each year.

2227 (b) To renew a person's full-service restaurant license, a person shall comply with the
 2228 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
 2229 September 30.

2230 (3) (a) The nonrefundable application fee for a full-service restaurant license is \$330.

2231 (b) The initial license fee for a full-service restaurant license is \$2,200.

2232 (c) The renewal fee for a full-service restaurant license is [~~in the following amount:]~~
 2233 \$1,650.

	[Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
2235 -	under \$5,000	\$935
2236 -	equals or exceeds \$5,000 but less than \$10,000	\$1,155
2237 -	equals or exceeds \$10,000 but less than \$25,000	\$1,650
2238 -	equals or exceeds \$25,000	\$1,925]

2239 (4) The bond amount required for a full-service restaurant license is the penal sum of
 2240 \$10,000.

2241 Section 35. Section **32B-6-205** is amended to read:

2242 **32B-6-205. Specific operational requirements for a full-service restaurant license**
 2243 **-- Before July 1, 2018 or July 1, 2022.**

2244 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
 2245 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
 2246 shall comply with this section.

2247 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
 2248 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2249 (i) a full-service restaurant licensee;

2250 (ii) individual staff of a full-service restaurant licensee; or

2251 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
 2252 licensee.

2253 (2) In addition to complying with Subsection **32B-5-301(3)**, a full-service restaurant
 2254 licensee shall display in a prominent place in the restaurant a list of the types and brand names
 2255 of liquor being furnished through the full-service restaurant licensee's calibrated metered
 2256 dispensing system.

2257 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee
2258 shall store an alcoholic product in a storage area described in Subsection (12)(a).

2259 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
2260 licensee's premises shall make a written beverage tab for each table or group that orders or
2261 consumes an alcoholic product on the premises.

2262 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
2263 alcoholic product ordered or consumed.

2264 (5) A person's willingness to serve an alcoholic product may not be made a condition
2265 of employment as a server with a full-service restaurant licensee.

2266 (6) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish liquor at
2267 the licensed premises on any day during the period that:

2268 (i) begins at midnight; and

2269 (ii) ends at 11:29 a.m.

2270 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
2271 hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
2272 except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before
2273 11:30 a.m. on any day.

2274 (7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant
2275 business from the sale of food, which does not include:

2276 (a) mix for an alcoholic product; or

2277 (b) a service charge.

2278 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2279 alcoholic product except after the full-service restaurant licensee confirms that the patron has
2280 the intent to order food prepared, sold, and furnished at the licensed premises.

2281 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate
2282 culinary facilities for food preparation and dining accommodations.

2283 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
2284 more than two alcoholic products of any kind at a time before the patron.

2285 (b) A patron may not have more than one spirituous liquor drink at a time before the
2286 patron.

2287 (c) An individual portion of wine is considered to be one alcoholic product under

2288 Subsection (9)(a).

2289 (10) A patron may consume an alcoholic product only:

2290 (a) at:

2291 (i) the patron's table;

2292 (ii) a counter; or

2293 (iii) a seating grandfathered bar structure; and

2294 (b) where food is served.

2295 (11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2296 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
2297 structure that is not a seating grandfathered bar structure.

2298 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
2299 may:

2300 (i) sit;

2301 (ii) be furnished an alcoholic product; and

2302 (iii) consume an alcoholic product.

2303 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
2304 full-service restaurant licensee may not permit a minor to, and a minor may not:

2305 (i) sit; or

2306 (ii) consume food or beverages.

2307 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is
2308 employed by a full-service restaurant licensee:

2309 (A) as provided in Subsection [32B-5-308\(2\)](#); or

2310 (B) to perform maintenance and cleaning services during an hour when the full-service
2311 restaurant licensee is not open for business.

2312 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
2313 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's
2314 premises in which the minor is permitted to be.

2315 (12) Except as provided in Subsection [32B-5-307\(3\)](#), a full-service restaurant licensee
2316 may dispense an alcoholic product only if:

2317 (a) the alcoholic product is dispensed from:

2318 (i) a grandfathered bar structure;

2319 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
2320 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
2321 12, 2009; or

2322 (iii) an area that is:

2323 (A) separated from an area for the consumption of food by a patron by a solid,
2324 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
2325 an alcoholic product are:

2326 (I) not readily visible to a patron; and

2327 (II) not accessible by a patron; and

2328 (B) apart from an area used:

2329 (I) for dining;

2330 (II) for staging; or

2331 (III) as a lobby or waiting area;

2332 (b) the full-service restaurant licensee uses an alcoholic product that is:

2333 (i) stored in an area described in Subsection (12)(a); or

2334 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:

2335 (A) immediately before the alcoholic product is dispensed it is in an unopened
2336 container; (B) the unopened container is taken to an area described in Subsection (12)(a) before
2337 it is opened; and (C) once opened, the container is stored in an area described in Subsection
2338 (12)(a); and

2339 (c) any instrument or equipment used to dispense alcoholic product is located in an
2340 area described in Subsection (12)(a).

2341 (13) A full-service restaurant licensee may state in a food or alcoholic product menu a
2342 charge or fee made in connection with the sale, service, or consumption of liquor including:

2343 (a) a set-up charge;

2344 (b) a service charge; or

2345 (c) a chilling fee.

2346 (14) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or
2347 beverages within 10 feet of a grandfathered bar structure, unless:

2348 (a) seating within 10 feet of the grandfathered bar structure is the only seating available
2349 in the licensed premises; and

2350 (b) the minor is accompanied by an individual who is 21 years of age or older.
2351 (15) Except as provided in Subsection 32B-6-205.2(17) and Section 32B-6-205.3, the
2352 provisions of this section apply before July 1, 2018.
2353 Section 36. Section **32B-6-205.2** is enacted to read:
2354 **32B-6-205.2. Specific operational requirements for a full-service restaurant**
2355 **license -- On and after July 1, 2018 or July 1, 2022.**
2356 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2357 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
2358 shall comply with this section.
2359 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
2360 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
2361 (i) a full-service restaurant licensee;
2362 (ii) individual staff of a full-service restaurant licensee; or
2363 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
2364 licensee.
2365 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant
2366 licensee shall display in a conspicuous place at the entrance to the licensed premises a sign
2367 approved by the commission that:
2368 (a) measures at least 8-1/2 inches long and 11 inches wide; and
2369 (b) clearly states that the full-service restaurant licensee is a restaurant and not a bar.
2370 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee
2371 shall store an alcoholic product in a storage area described in Subsection (13)(a).
2372 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
2373 licensee's premises shall make a beverage tab for each table or group that orders or consumes
2374 an alcoholic product on the premises.
2375 (b) A beverage tab described in this Subsection (4) shall state the type and amount of
2376 each alcoholic product ordered or consumed.
2377 (5) An individual's willingness to serve an alcoholic product may not be made a
2378 condition of employment with a full-service restaurant licensee.
2379 (6) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the
2380 licensed premises during the following time periods only:

2381 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or
2382 (ii) on a weekend or a state or federal legal holiday, during the period that begins at
2383 10:30 a.m. and ends at 11:59 p.m.

2384 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the
2385 licensed premises during the following time periods only:

2386 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or
2387 (ii) on a weekend or a state or federal legal holiday, during the period that begins at
2388 10:30 a.m. and ends at 12:59 a.m.

2389 (7) A full-service restaurant licensee shall maintain at least 70% of the full-service
2390 restaurant licensee's total restaurant business from the sale of food, which does not include:

2391 (a) mix for an alcoholic product; or
2392 (b) a service charge.

2393 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2394 alcoholic product except after:

2395 (i) the patron to whom the full-service restaurant licensee sells, offers for sale, or
2396 furnishes the alcoholic product is seated at:

2397 (A) a table that is located in a dining area or a dispensing area;
2398 (B) a counter that is located in a dining area or a dispensing area; or
2399 (C) a dispensing structure located in a dispensing area; and

2400 (ii) the full-service restaurant licensee confirms that the patron has the intent to:
2401 (A) order food prepared, sold, and furnished at the licensed premises; and
2402 (B) consume the food at the same location where the patron is seated and sold, offered
2403 for sale, or furnished the alcoholic product.

2404 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate
2405 culinary facilities for food preparation and dining accommodations.

2406 (9) A patron may consume an alcoholic product only if the patron is seated at:

2407 (a) a table that is located in a dining area or dispensing area;
2408 (b) a counter that is located in a dining area or dispensing area; or
2409 (c) a dispensing structure located in a dispensing area.

2410 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
2411 more than two alcoholic products of any kind at a time before the patron.

2412 (b) A patron may not have more than one spirituous liquor drink at a time before the
2413 patron.

2414 (c) An individual portion of wine is considered to be one alcoholic product under
2415 Subsection (10)(a).

2416 (11) In accordance with the provisions of this section, an individual who is at least 21
2417 years of age may consume food and beverages in a dispensing area.

2418 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
2419 consume food or beverages in a dispensing area.

2420 (b) (i) A minor may be in a dispensing area if the minor is employed by the full-service
2421 restaurant licensee:

2422 (A) in accordance with Subsection [32B-5-308\(2\)](#); or

2423 (B) to perform maintenance and cleaning services when the full-service restaurant
2424 licensee is not open for business.

2425 (ii) If there is no alternative route available, a minor may momentarily pass through a
2426 dispensing area without remaining or sitting in the dispensing area en route to an area of
2427 full-service restaurant licensee's premises in which the minor is permitted to be.

2428 (13) Except as provided in Subsection [32B-5-307\(3\)](#), a full-service restaurant licensee
2429 may dispense an alcoholic product only if:

2430 (a) the alcoholic product is dispensed from:

2431 (i) a dispensing structure that is located in a dispensing area; or

2432 (ii) an area that is:

2433 (A) separated from an area for the consumption of food by a patron by a solid,
2434 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
2435 an alcoholic product are not readily visible to a patron and not accessible by a patron; and

2436 (B) apart from an area used for dining, for staging, or as a lobby or waiting area;

2437 (b) the full-service restaurant licensee uses an alcoholic product that is stored in an area
2438 described in Subsection (13)(a) or in accordance with Section [32B-5-303](#); and

2439 (c) any instrument or equipment used to dispense alcoholic product is located in an
2440 area described in Subsection (13)(a).

2441 (14) A full-service restaurant licensee may not:

2442 (a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

2443 (b) display an alcoholic product or a product intended to appear like an alcoholic
2444 product by moving a cart or similar device around the licensed premises.

2445 (15) A full-service restaurant licensee may state in a food or alcoholic product menu a
2446 charge or fee made in connection with the sale, service, or consumption of liquor, including:

2447 (a) a set-up charge;

2448 (b) a service charge; or

2449 (c) a chilling fee.

2450 (16) (a) In addition to the requirements described in Section [32B-5-302](#), a full-service
2451 restaurant licensee shall maintain each of the following records for at least three years:

2452 (i) a record required by Section [32B-5-302](#); and

2453 (ii) a record that the commission requires a full-service licensee to use or maintain
2454 under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2455 Act.

2456 (b) The department shall audit the records of a full-service restaurant licensee at least
2457 once each calendar year.

2458 (17) (a) In accordance with Section [32B-6-205.3](#), a full-service restaurant licensee:

2459 (i) may comply with the provisions of this section beginning on or after July 1, 2017;
2460 and

2461 (ii) shall comply with the provisions of this section:

2462 (A) for a full-service restaurant licensee that does not have a grandfathered bar
2463 structure, on and after July 1, 2018; or

2464 (B) for a full-service restaurant licensee that has a grandfathered bar structure, on and
2465 after July 1, 2022.

2466 (b) A full-service restaurant licensee that elects to comply with the provisions of this
2467 section before the latest applicable date described in Subsection (17)(a)(ii):

2468 (i) shall comply with each provision of this section; and

2469 (ii) is not required to comply with the provisions of Section [32B-6-205](#).

2470 Section 37. Section **32B-6-205.3** is enacted to read:

2471 **32B-6-205.3. Transition process for full-service restaurant licensees.**

2472 (1) For a full-service restaurant license issued on or after July 1, 2017, the full-service
2473 restaurant licensee shall comply with the provisions of Section [32B-6-205.2](#).

2474 (2) For a full-service restaurant license issued before July 1, 2017, before the
2475 full-service restaurant licensee changes the full-service restaurant licensee's approved location
2476 for storage, dispensing, or consumption to comply with the provisions of Section [32B-6-205.2](#),
2477 the full-service restaurant licensee shall submit an application for approval to the department in
2478 accordance with Subsection [32B-5-303](#)(3).

2479 (3) (a) Except as provided in Subsection (4), a person who holds a full-service
2480 restaurant license issued before July 1, 2017, shall comply with the provisions of Section
2481 [32B-6-205.2](#) on or before July 1, 2018.

2482 (b) A full-service restaurant licensee described in Subsection (3)(a) that cannot comply
2483 with the provisions of Section [32B-6-205.2](#) without a change to the full-service restaurant
2484 licensee's approved location for storage, dispensing, or consumption:

2485 (i) may submit an application for approval described in Subsection (2) on or after May
2486 9, 2017; and

2487 (ii) shall submit an application for approval described in Subsection (2) on or before
2488 May 1, 2018.

2489 (c) If a full-service restaurant licensee described in Subsection (3)(a) submits an
2490 application for approval described in Subsection (2) on May 9, 2017, the department shall take
2491 action on the application on or before July 1, 2017.

2492 (4) (a) A person who holds a full-service restaurant license issued before July 1, 2017,
2493 and has a grandfathered bar structure shall comply with the provisions of Section [32B-6-205.2](#)
2494 on or before the earlier of:

2495 (i) July 1, 2022;

2496 (ii) the date on which the full-service restaurant licensee remodels, as defined by
2497 commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2498 Rulemaking Act, the full-service restaurant licensee's grandfathered bar structure or dining
2499 area; or

2500 (iii) the date on which the full-service restaurant licensee experiences a change of
2501 ownership described in Subsection [32B-8a-202](#)(1).

2502 (b) A full-service restaurant licensee described in Subsection (4)(a) that cannot comply
2503 with the provisions of Section [32B-6-205.2](#) without a change to the full-service restaurant
2504 licensee's approved location for storage, dispensing, or consumption:

2505 (i) may submit an application for approval described in Subsection (2) on or after May
2506 9, 2017; and

2507 (ii) shall submit an application for approval described in Subsection (2) on or before
2508 May 1, 2022.

2509 Section 38. Section **32B-6-302** is amended to read:

2510 **32B-6-302. Definitions.**

2511 As used in this part:

2512 (1) (a) "Dining area" means an area in the licensed premises of a limited-service
2513 restaurant licensee that is primarily used for the service and consumption of food by one or
2514 more patrons.

2515 (b) "Dining area" does not include a dispensing area.

2516 (2) "Dispensing area" means an area in the licensed premises of a limited-service
2517 restaurant licensee where a dispensing structure is located and that:

2518 (a) is physically separated from the dining area and any waiting area by a structure or
2519 other barrier that prevents a patron seated in the dining area or a waiting area from viewing the
2520 dispensing of alcoholic product;

2521 (b) measures at least 10 feet from any area where alcoholic product is dispensed to the
2522 dining area and any waiting area, measured from the point of the area where alcoholic product
2523 is dispensed that is closest to the dining area or waiting area; or

2524 (c) is physically separated from the dining area and any waiting area by a permanent
2525 physical structure that measures:

2526 (i) at least 42 inches high; and

2527 (ii) at least 72 inches from the outer edge of the barrier to the nearest edge of the
2528 dispensing structure.

2529 [(+)] (3) (a) "Grandfathered bar structure" means a bar structure in a licensed premises
2530 of a limited-service restaurant licensee that:

2531 (i) as of May 11, 2009, has:

2532 (A) patron seating at the bar structure;

2533 (B) a partition at one or more locations on the bar structure that is along:

2534 (I) the width of the bar structure; or

2535 (II) the length of the bar structure; and

- 2536 (C) facilities for the dispensing or storage of an alcoholic product:
- 2537 (I) on the portion of the bar structure that is separated by the partition described in
- 2538 Subsection ~~[(1)]~~ (3)(a)(i)(B); or
- 2539 (II) if the partition as described in Subsection ~~[(1)]~~ (3)(a)(i)(B)(II) is adjacent to the bar
- 2540 structure in a manner visible to a patron sitting at the bar structure;
- 2541 (ii) is not operational as of May 12, 2009, if:
- 2542 (A) a person applying for a limited-service restaurant license:
- 2543 (I) has as of May 12, 2009, a building permit to construct the restaurant;
- 2544 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
- 2545 defined by rule made by the commission; and
- 2546 (III) is issued the limited-service restaurant license by no later than December 31,
- 2547 2009; and
- 2548 (B) once constructed, the licensed premises has a bar structure described in Subsection
- 2549 ~~[(1)]~~ (3)(a)(i);
- 2550 (iii) as of May 12, 2009, has no patron seating at the bar structure; or
- 2551 (iv) is not operational as of May 12, 2009, if:
- 2552 (A) a person applying for a limited-service restaurant license:
- 2553 (I) has as of May 12, 2009, a building permit to construct the restaurant;
- 2554 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
- 2555 defined by rule made by the commission; and
- 2556 (III) is issued a limited-service restaurant license by no later than December 31, 2009;
- 2557 and
- 2558 (B) once constructed, the licensed premises has a bar structure with no patron seating.
- 2559 (b) "Grandfathered bar structure" does not include a grandfathered bar structure
- 2560 described in Subsection ~~[(1)]~~ (3)(a) on or after the day on which a restaurant remodels the
- 2561 grandfathered bar structure, as defined by rule made by the commission.
- 2562 (c) Subject to Subsection ~~[(1)]~~ (3)(b), a grandfathered bar structure remains a
- 2563 grandfathered bar structure notwithstanding whether a restaurant undergoes a change of
- 2564 ownership.
- 2565 ~~[(2)]~~ (4) "Seating grandfathered bar structure" means:
- 2566 (a) a grandfathered bar structure described in Subsection ~~[(1)]~~ (3)(a)(i) or (ii); or

- 2567 (b) a bar structure grandfathered under Section [32B-6-409](#).
- 2568 (5) "Waiting area" includes a lobby.
- 2569 [~~(5)~~] (6) "Wine" includes an alcoholic beverage defined as wine under 27 U.S.C. Sec.
- 2570 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made in the manner
- 2571 of wine containing not less than 7% and not more than 24% of alcohol by volume:
- 2572 (a) sparkling and carbonated wine;
- 2573 (b) wine made from condensed grape must;
- 2574 (c) wine made from other agricultural products than the juice of sound, ripe grapes;
- 2575 (d) imitation wine;
- 2576 (e) compounds sold as wine;
- 2577 (f) vermouth;
- 2578 (g) cider;
- 2579 (h) perry; and
- 2580 (i) sake.

2581 Section 39. Section **32B-6-305** is amended to read:

2582 **32B-6-305. Specific operational requirements for a limited-service restaurant**
2583 **license -- Before July 1, 2018 or July 1, 2022.**

2584 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2585 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
2586 licensee shall comply with this section.

2587 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
2588 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 2589 (i) a limited-service restaurant licensee;
- 2590 (ii) individual staff of a limited-service restaurant licensee; or
- 2591 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
2592 licensee.

2593 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer
2594 for sale, furnish, or allow consumption of:

- 2595 (i) spirituous liquor; or
- 2596 (ii) a flavored malt beverage.
- 2597 (b) A product listed in Subsection (2)(a) may not be on the premises of a

2598 limited-service restaurant licensee except for use:

2599 (i) as a flavoring on a dessert; and

2600 (ii) in the preparation of a flaming food dish, drink, or dessert.

2601 (3) In addition to complying with Section [32B-5-303](#), a limited-service restaurant

2602 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

2603 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant

2604 licensee's premises shall make a written beverage tab for each table or group that orders or

2605 consumes an alcoholic product on the premises.

2606 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an

2607 alcoholic product ordered or consumed.

2608 (5) A person's willingness to serve an alcoholic product may not be made a condition

2609 of employment as a server with a limited-service restaurant licensee.

2610 (6) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish wine

2611 or heavy beer at the licensed premises on any day during the period that:

2612 (i) begins at midnight; and

2613 (ii) ends at 11:29 a.m.

2614 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during

2615 the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,

2616 except that a limited-service restaurant licensee may not sell, offer for sale, or furnish beer

2617 before 11:30 a.m. on any day.

2618 (7) A limited-service restaurant licensee shall maintain at least 70% of its total

2619 restaurant business from the sale of food, which does not include a service charge.

2620 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an

2621 alcoholic product except after the limited-service restaurant licensee confirms that the patron

2622 has the intent to order food prepared, sold, and furnished at the licensed premises.

2623 (b) A limited-service restaurant licensee shall maintain on the licensed premises

2624 adequate culinary facilities for food preparation and dining accommodations.

2625 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have

2626 more than two alcoholic products of any kind at a time before the patron.

2627 (b) An individual portion of wine is considered to be one alcoholic product under

2628 Subsection (9)(a).

- 2629 (10) A patron may consume an alcoholic product only:
- 2630 (a) at:
- 2631 (i) the patron's table;
- 2632 (ii) a counter; or
- 2633 (iii) a seating grandfathered bar structure; and
- 2634 (b) where food is served.
- 2635 (11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
- 2636 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
- 2637 structure that is not a seating grandfathered bar structure.
- 2638 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
- 2639 may:
- 2640 (i) sit;
- 2641 (ii) be furnished an alcoholic product; and
- 2642 (iii) consume an alcoholic product.
- 2643 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
- 2644 limited-service restaurant licensee may not permit a minor to, and a minor may not:
- 2645 (i) sit; or
- 2646 (ii) consume food or beverages.
- 2647 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is
- 2648 employed by a limited-service restaurant licensee:
- 2649 (A) as provided in Subsection [32B-5-308](#)(2); or
- 2650 (B) to perform maintenance and cleaning services during an hour when the
- 2651 limited-service restaurant licensee is not open for business.
- 2652 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
- 2653 remaining or sitting at the bar structure en route to an area of a limited-service restaurant
- 2654 licensee's premises in which the minor is permitted to be.
- 2655 (12) Except as provided in Subsection [32B-5-307](#)(3), a limited-service restaurant
- 2656 licensee may dispense an alcoholic product only if: (a) the alcoholic product is dispensed from:
- 2657 (i) a grandfathered bar structure;
- 2658 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
- 2659 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May

2660 12, 2009; or
2661 (iii) an area that is:
2662 (A) separated from an area for the consumption of food by a patron by a solid,
2663 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
2664 an alcoholic product are:
2665 (I) not readily visible to a patron; and
2666 (II) not accessible by a patron; and
2667 (B) apart from an area used:
2668 (I) for dining;
2669 (II) for staging; or
2670 (III) as a lobby or waiting area;
2671 (b) the limited-service restaurant licensee uses an alcoholic product that is:
2672 (i) stored in an area described in Subsection (12)(a); or
2673 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
2674 (A) immediately before the alcoholic product is dispensed it is in an unopened
2675 container;
2676 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
2677 is opened; and
2678 (C) once opened, the container is stored in an area described in Subsection (12)(a); and
2679 (c) any instrument or equipment used to dispense alcoholic product is located in an
2680 area described in Subsection (12)(a).
2681 (13) A limited-service restaurant licensee may state in a food or alcoholic product
2682 menu a charge or fee made in connection with the sale, service, or consumption of wine or
2683 heavy beer including:
2684 (a) a set-up charge;
2685 (b) a service charge; or
2686 (c) a chilling fee.
2687 (14) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or
2688 beverages within 10 feet of a grandfathered bar structure, unless:
2689 (a) seating within 10 feet of the grandfathered bar structure is the only seating available
2690 in the licensed premises; and

2691 (b) the minor is accompanied by an individual who is 21 years of age or older.
2692 (15) Except as provided in Subsection 32B-6-305.2(17) and Section 32B-6-305.3, the
2693 provisions of this section apply before July 1, 2018.
2694 Section 40. Section **32B-6-305.2** is enacted to read:
2695 **32B-6-305.2. Specific operational requirements for a limited-service restaurant**
2696 **license -- On and after July 1, 2018 or July 1, 2022.**
2697 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2698 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
2699 licensee shall comply with this section.
2700 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
2701 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
2702 (i) a limited-service restaurant licensee;
2703 (ii) individual staff of a limited-service restaurant licensee; or
2704 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
2705 licensee.
2706 (2) In addition to complying with Subsection 32B-5-301(3), a limited-service
2707 restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises
2708 a sign approved by the commission that:
2709 (a) measures at least 8-1/2 inches long and 11 inches wide; and
2710 (b) clearly states that the limited-service restaurant licensee is a restaurant and not a
2711 bar.
2712 (3) In addition to complying with Section 32B-5-303, a limited-service restaurant
2713 licensee shall store an alcoholic product in a storage area described in Subsection (13)(a).
2714 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant
2715 licensee's premises shall make a beverage tab for each table or group that orders or consumes
2716 an alcoholic product on the premises.
2717 (b) A beverage tab described in this Subsection (4) shall state the type and amount of
2718 each alcoholic product ordered or consumed.
2719 (5) An individual's willingness to serve an alcoholic product may not be made a
2720 condition of employment with a limited-service restaurant licensee.
2721 (6) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish liquor at

2722 the licensed premises during the following time periods only:

2723 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

2724 (ii) on a weekend or a state or federal legal holiday, during the period that begins at

2725 10:30 a.m. and ends at 11:59 p.m.

2726 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the

2727 licensed premises during the following time periods only:

2728 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

2729 (ii) on a weekend or a state or federal legal holiday, during the period that begins at

2730 10:30 a.m. and ends at 12:59 a.m.

2731 (7) A limited-service restaurant licensee shall maintain at least 70% of the

2732 limited-service restaurant licensee's total restaurant business from the sale of food, which does

2733 not include:

2734 (a) mix for an alcoholic product; or

2735 (b) a service charge.

2736 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an

2737 alcoholic product except after:

2738 (i) the patron to whom the limited-service restaurant licensee sells, offers for sale, or

2739 furnishes the alcoholic product is seated at:

2740 (A) a table that is located in a dining area or a dispensing area;

2741 (B) a counter that is located in a dining area or a dispensing area; or

2742 (C) a dispensing structure located in a dispensing area; and

2743 (ii) the limited-service restaurant licensee confirms that the patron has the intent to:

2744 (A) order food prepared, sold, and furnished at the licensed premises; and

2745 (B) consume the food at the same location where the patron is seated and sold, offered

2746 for sale, or furnished the alcoholic product.

2747 (b) A limited-service restaurant licensee shall maintain on the licensed premises

2748 adequate culinary facilities for food preparation and dining accommodations.

2749 (9) A patron may consume an alcoholic product only if the patron is seated at:

2750 (a) a table that is located in a dining area or a dispensing area;

2751 (b) a counter that is located in a dining area or a dispensing area; or

2752 (c) a dispensing structure located in a dispensing area.

2753 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
2754 more than two alcoholic products of any kind at a time before the patron.

2755 (b) A patron may not have more than one spirituous liquor drink at a time before the
2756 patron.

2757 (c) An individual portion of wine is considered to be one alcoholic product under
2758 Subsection (10)(a).

2759 (11) In accordance with the provisions of this section, an individual who is at least 21
2760 years of age may consume food and beverages in a dispensing area.

2761 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
2762 consume food or beverages in a dispensing area.

2763 (b) (i) A minor may be in a dispensing area if the minor is employed by the
2764 limited-service restaurant licensee:

2765 (A) in accordance with Subsection 32B-5-308(2); or

2766 (B) to perform maintenance and cleaning services when the limited-service restaurant
2767 licensee is not open for business.

2768 (ii) If there is no alternative route available, a minor may momentarily pass through a
2769 dispensing area without remaining or sitting in the dispensing area en route to an area of the
2770 limited-service restaurant licensee's premises in which the minor is permitted to be.

2771 (13) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant
2772 licensee may dispense an alcoholic product only if:

2773 (a) the alcoholic product is dispensed from:

2774 (i) a dispensing structure that is located in a dispensing area; or

2775 (ii) an area that is:

2776 (A) separated from an area for the consumption of food by a patron by a solid,
2777 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
2778 an alcoholic product are not readily visible to a patron and not accessible by a patron; and

2779 (B) apart from an area used for dining, for staging, or as a lobby or waiting area;

2780 (b) the limited-service restaurant licensee uses an alcoholic product that is stored in an
2781 area described in Subsection (13)(a) or in accordance with Section 32B-5-303; and

2782 (c) any instrument or equipment used to dispense alcoholic product is located in an
2783 area described in Subsection (13)(a).

- 2784 (14) A limited-service restaurant licensee may not:
2785 (a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or
2786 (b) display an alcoholic product or a product intended to appear like an alcoholic
2787 product by moving a cart or similar device around the licensed premises.
- 2788 (15) A limited-service restaurant licensee may state in a food or alcoholic product
2789 menu a charge or fee made in connection with the sale, service, or consumption of liquor,
2790 including:
2791 (a) a set-up charge;
2792 (b) a service charge; or
2793 (c) a chilling fee.
- 2794 (16) (a) In addition to the requirements described in Section [32B-5-302](#), a
2795 limited-service restaurant licensee shall maintain each of the following records for at least three
2796 years:
2797 (i) a record required by Section [32B-5-302](#); and
2798 (ii) a record that the commission requires a limited-service restaurant licensee to use or
2799 maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2800 Rulemaking Act.
2801 (b) The department shall audit the records of a limited-service restaurant licensee at
2802 least once each calendar year.
- 2803 (17) (a) In accordance with Section [32B-6-305.3](#), a limited-service restaurant licensee:
2804 (i) may comply with the provisions of this section beginning on or after July 1, 2017;
2805 and
2806 (ii) shall comply with the provisions of this section:
2807 (A) for a limited-service restaurant licensee that does not have a grandfathered bar
2808 structure, on and after July 1, 2018; or
2809 (B) for a limited-service restaurant licensee that has a grandfathered bar structure, on
2810 and after July 1, 2022.
- 2811 (b) A limited-service restaurant licensee that elects to comply with the provisions of
2812 this section before the latest applicable date described in Subsection (17)(a)(ii):
2813 (i) shall comply with each provision of this section; and
2814 (ii) is not required to comply with the provisions of Section [32B-6-305](#).

2815 Section 41. Section **32B-6-305.3** is enacted to read:

2816 **32B-6-305.3. Transition process for limited-service restaurant licensees.**

2817 (1) For a limited-service restaurant license issued on or after July 1, 2017, the
2818 limited-service restaurant licensee shall comply with the provisions of Section [32B-6-305.2](#).

2819 (2) For a limited-service restaurant license issued before July 1, 2017, before the
2820 limited-service restaurant licensee changes the limited-service restaurant licensee's approved
2821 location for storage, dispensing, or consumption to comply with the provisions of Section
2822 [32B-6-305.2](#), the limited-service restaurant licensee shall submit an application for approval to
2823 the department in accordance with Subsection [32B-5-303\(3\)](#).

2824 (3) (a) Except as provided in Subsection (4), a person who holds a limited-service
2825 restaurant license issued before July 1, 2017, shall comply with the provisions of Section
2826 [32B-6-305.2](#) on or before July 1, 2018.

2827 (b) A limited-service restaurant licensee described in Subsection (3)(a) that cannot
2828 comply with the provisions of Section [32B-6-305.2](#) without a change to the limited-service
2829 restaurant licensee's approved location for storage, dispensing, or consumption:

2830 (i) may submit an application for approval described in Subsection (2) on or after May
2831 9, 2017; and

2832 (ii) shall submit an application for approval described in Subsection (2) on or before
2833 May 1, 2018.

2834 (c) If a limited-service restaurant licensee described in Subsection (3)(a) submits an
2835 application for approval described in Subsection (2) on May 9, 2017, the department shall take
2836 action on the application on or before July 1, 2017.

2837 (4) (a) A person who holds a limited-service restaurant license issued before July 1,
2838 2017, and has a grandfathered bar structure shall comply with the provisions of Section
2839 [32B-6-305.2](#) on or before the earlier of:

2840 (i) July 1, 2022;

2841 (ii) the date on which the limited-service restaurant licensee remodels, as defined by
2842 commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2843 Rulemaking Act, the limited-service restaurant licensee's grandfathered bar structure or dining
2844 area; or

2845 (iii) the date on which the limited-service restaurant licensee experiences a change of

2846 ownership described in Subsection 32B-8a-202(1).

2847 (b) A limited-service restaurant licensee described in Subsection (4)(a) that cannot
2848 comply with the provisions of Section 32B-6-305.2 without a change to the limited-service
2849 restaurant licensee's approved location for storage, dispensing, or consumption:

2850 (i) may submit an application for approval described in Subsection (2) on or after May
2851 9, 2017; and

2852 (ii) shall submit an application for approval described in Subsection (2) on or before
2853 May 1, 2022.

2854 Section 42. Section 32B-6-401 is amended to read:

2855 **Part 4. Bar Establishment License**

2856 **32B-6-401. Title.**

2857 This part is known as "~~Club~~ Bar Establishment License."

2858 Section 43. Section 32B-6-403 is amended to read:

2859 **32B-6-403. Commission's power to issue bar establishment license.**

2860 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
2861 an alcoholic product on its premises as a ~~club~~ bar establishment licensee, the person shall first
2862 obtain a ~~club~~ bar establishment license from the commission in accordance with this part.

2863 (2) The commission may issue a ~~club~~ bar establishment license to establish ~~club~~ bar
2864 establishment licensed premises at places and in numbers the commission considers proper for
2865 the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on
2866 premises operated by a ~~club~~ bar establishment licensee.

2867 (3) Subject to Section 32B-1-201:

2868 (a) (i) [The] before July 1, 2018, the commission may not issue a total number of
2869 ~~club~~ bar establishment licenses that at any time exceeds the number determined by dividing
2870 the population of the state by 7,850[-]; and

2871 (ii) beginning on July 1, 2018, the commission may not issue a total number of bar
2872 establishment licenses that at any time exceeds the number determined by dividing the
2873 population of the state by 10,538;

2874 (b) the commission may issue a seasonal ~~club~~ bar establishment license in accordance
2875 with Section 32B-5-206 to:

2876 (i) a dining club licensee; or

2877 (ii) a ~~[social club]~~ bar licensee[-];

2878 (c) (i) if the location, design, and construction of a hotel may require more than one

2879 dining club license or ~~[social club]~~ bar license location within the hotel to serve the public

2880 convenience, the commission may authorize as many as three ~~[club]~~ bar establishment license

2881 locations within the hotel under one ~~[club]~~ bar establishment license if:

2882 (A) the hotel has a minimum of 150 guest rooms;

2883 (B) all locations under the ~~[club]~~ bar establishment license are:

2884 (I) within the same hotel; and

2885 (II) on premises that are managed or operated, and owned or leased, by the ~~[club]~~ bar

2886 establishment licensee; and

2887 (C) the locations under the ~~[club]~~ bar establishment license operate under the same

2888 type of ~~[club]~~ bar establishment license[-]; and

2889 (ii) a facility other than a hotel shall have a separate ~~[club]~~ bar establishment license

2890 for each ~~[club]~~ bar establishment license location where an alcoholic product is sold, offered

2891 for sale, or furnished[-];

2892 (d) when a business establishment undergoes a change of ownership, the commission

2893 may issue a ~~[club]~~ bar establishment license to the new owner of the business establishment

2894 notwithstanding that there is no ~~[club]~~ bar establishment license available under Subsection

2895 (3)(a) if:

2896 (i) the primary business activity at the business establishment before and after the

2897 change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

2898 (ii) before the change of ownership there are two or more licensed premises on the

2899 business establishment that operate under a retail license, with at least one of the retail licenses

2900 being a ~~[club]~~ bar establishment license;

2901 (iii) subject to Subsection (3)(e), the licensed premises of the ~~[club]~~ bar establishment

2902 license issued under this Subsection (3)(d) is at the same location where the ~~[club]~~ bar

2903 establishment license licensed premises was located before the change of ownership; and

2904 (iv) the person who is the new owner of the business establishment qualifies for the

2905 ~~[club]~~ bar establishment license, except for there being no ~~[club]~~ bar establishment license

2906 available under Subsection (3)(a)[-]; and

2907 (e) if a ~~[club]~~ bar establishment licensee of a ~~[club]~~ bar establishment license issued

2908 under Subsection (3)(d) requests a change of location, the [club] bar establishment licensee
2909 may retain the [club] bar establishment license after the change of location only if on the day
2910 on which the [club] bar establishment licensee seeks a change of location a [club] bar
2911 establishment license is available under Subsection (3)(a).

2912 Section 44. Section **32B-6-404** is amended to read:

2913 **32B-6-404. Types of bar license.**

2914 (1) To obtain an equity [club] license, in addition to meeting the other requirements of
2915 this part, a person shall:

2916 (a) whether incorporated or unincorporated:

2917 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal
2918 purpose;

2919 (ii) have members;

2920 (iii) limit access to its licensed premises to a member or a guest of the member; and

2921 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold
2922 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

2923 (b) own, maintain, or operate a substantial recreational facility in conjunction with a
2924 club house such as:

2925 (i) a golf course; or

2926 (ii) a tennis facility;

2927 (c) have at least 50% of the total membership having:

2928 (i) full voting rights; and

2929 (ii) an equal share of the equity of the [club] entity or a right to redemption or refund at
2930 the equal value; and

2931 (d) if there is more than one class of membership, have at least one class of
2932 membership that entitles each member in that class to:

2933 (i) full voting rights; and

2934 (ii) an equal share of the equity of the [club] entity or a right to redemption or equal
2935 value.

2936 (2) To obtain a fraternal [club] license, in addition to meeting the other requirements of
2937 this part, a person shall:

2938 (a) whether incorporated or unincorporated:

- 2939 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal
2940 purpose;
- 2941 (ii) have members;
- 2942 (iii) limit access to its licensed premises to a member or a guest of the member; and
- 2943 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold
2944 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;
- 2945 (b) have no capital stock;
- 2946 (c) exist solely for:
- 2947 (i) the benefit of its members and their beneficiaries; and
- 2948 (ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal,
2949 patriotic, or religious purpose for the benefit of its members or the public, carried on through
2950 voluntary activity of its members in their local lodges;
- 2951 (d) have a representative form of government;
- 2952 (e) have a lodge system in which:
- 2953 (i) there is a supreme governing body;
- 2954 (ii) subordinate to the supreme governing body are local lodges, however designated,
2955 into which individuals are admitted as members in accordance with the laws of the fraternal;
- 2956 (iii) the local lodges are required by the laws of the fraternal to hold regular meetings at
2957 least monthly; and
- 2958 (iv) the local lodges regularly engage in one or more programs involving member
2959 participation to implement the purposes of Subsection (2)(c); and
- 2960 (f) own or lease a building or space in a building used for lodge activities.
- 2961 (3) To obtain a dining club license, in addition to meeting the other requirements of
2962 this part, a person shall:
- 2963 (a) maintain at least the following percentages of its total club business from the sale of
2964 food, not including mix for alcoholic products, or service charges:
- 2965 (i) for a dining club license that is issued as an original license on or after July 1, 2011,
2966 60%; and
- 2967 (ii) for a dining club license that is issued on or before June 30, 2011:
- 2968 (A) 50% on or before June 30, 2012; and
- 2969 (B) 60% on and after July 1, 2012; and

2970 (b) obtain a determination by the commission that the person will operate as a dining
2971 club licensee, as part of which the commission may consider:

2972 (i) the square footage and seating capacity of the premises;

2973 (ii) what portion of the square footage and seating capacity will be used for a dining
2974 area in comparison to the portion that will be used as a lounge or bar area;

2975 (iii) whether full meals including appetizers, main courses, and desserts are served;

2976 (iv) whether the person will maintain adequate on-premise culinary facilities to prepare
2977 full meals, except a person who is located on the premise of a hotel or resort facility may use
2978 the culinary facilities of the hotel or resort facility;

2979 (v) whether the entertainment provided at the [~~club~~] premises is suitable for minors;
2980 and

2981 (vi) the club management's ability to manage and operate a dining club license
2982 including:

2983 (A) management experience;

2984 (B) past dining club licensee or restaurant management experience; and

2985 (C) the type of management scheme used by the dining club license.

2986 (4) To obtain a [~~social club~~] bar license, a person is required to meet the requirements
2987 of this part except those listed in Subsection (1), (2), or (3).

2988 (5) (a) At the time that the commission issues a [~~club~~] bar establishment license, the
2989 commission shall designate the type of [~~club~~] bar establishment license for which the person
2990 qualifies.

2991 (b) If requested by a [~~club~~] bar establishment licensee, the commission may approve a
2992 change in the type of [~~club~~] bar establishment license in accordance with rules made by the
2993 commission.

2994 (6) To the extent not prohibited by law, this part does not prevent a dining club
2995 licensee or [~~social club~~] bar licensee from restricting access to the [~~club's~~] licensed premises on
2996 the basis of an individual:

2997 (a) paying a fee; or

2998 (b) agreeing to being on a list of individuals who have access to the [~~club's~~] licensed
2999 premises.

3000 (7) (a) (i) On or after July 1, 2017, the commission may not issue or renew a dining

3001 club license.

3002 (ii) Effective July 1, 2018, the department shall convert each dining club license to a
3003 full-service restaurant license or a bar license in accordance with the provisions of this section.

3004 (b) (i) (A) A person licensed as a dining club on July 1, 2017, shall notify the
3005 department no later than May 31, 2018, whether effective July 1, 2018, the person elects to be
3006 licensed as a full-service restaurant or a bar.

3007 (B) Effective July 1, 2018, the department shall convert a dining club license to a
3008 full-service restaurant license or a bar license in accordance with the dining club licensee's
3009 election under Subsection (7)(b)(i)(A).

3010 (ii) If a dining club licensee fails to timely notify the department in accordance with
3011 Subsection (7)(b)(i), the dining club license is automatically changed to a full-service
3012 restaurant license on July 1, 2018.

3013 (c) Subject to Section [32B-6-404.1](#), after a dining club license converts to a full-service
3014 restaurant license or a bar license, the retail licensee shall operate under the provisions that
3015 govern the full-service restaurant license or the bar license, as applicable.

3016 (d) After a dining club license converts to a full-service restaurant license or a bar
3017 license in accordance with this Subsection (7):

3018 (i) the full-service restaurant license is not considered in determining the total number
3019 of full-service restaurant licenses available under Section [32B-6-203](#); or

3020 (ii) the bar license is not considered in determining the total number of bar
3021 establishment licenses available under Section [32B-6-403](#).

3022 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3023 commission may make rules establishing a procedure by which a dining club licensee elects
3024 and converts to a full-service restaurant licensee or a bar licensee under this Subsection (7).

3025 Section 45. Section **32B-6-404.1** is enacted to read:

3026 **32B-6-404.1. Transition from dining club license to full-service restaurant license.**

3027 (1) As used in this section:

3028 (a) "Converted full-service restaurant licensee" means a dining club licensee that
3029 converts to a full-service restaurant licensee on July 1, 2018, in accordance with Subsection
3030 [32B-6-404\(7\)](#).

3031 (b) "Grandfathered bar structure" means the same as that term is defined in Section

3032 [32B-6-202.](#)

3033 (2) (a) Except as provided in Subsection (2)(c), beginning on July 1, 2018, a converted
3034 full-service restaurant licensee shall operate under the provisions that govern a full-service
3035 restaurant licensee that has a grandfathered bar structure.

3036 (b) For purposes of applying the provisions that govern a full-service restaurant
3037 licensee with a grandfathered bar structure, a converted full-service licensee's bar structure is
3038 considered a grandfathered bar structure.

3039 (c) The provisions of Section [32B-6-205.3](#) do not apply to a converted full-service
3040 restaurant licensee.

3041 (3) (a) A converted full-service restaurant licensee shall comply with the provisions of
3042 Section [32B-6-205.2](#) on or before the earlier of:

3043 (i) July 1, 2022;

3044 (ii) the date on which the converted full-service restaurant licensee remodels, as
3045 defined by commission rule made in accordance with Title 63G, Chapter 3, Utah
3046 Administrative Rulemaking Act, the converted full-service restaurant licensee's bar structure or
3047 dining area; or

3048 (iii) the date on which the converted full-service restaurant licensee experiences a
3049 change of ownership described in Subsection [32B-8a-202\(1\)](#).

3050 (b) Before a converted full-service restaurant licensee changes the converted
3051 full-service restaurant licensee's approved location for storage, dispensing, or consumption to
3052 comply with the provisions of Section [32B-6-205.2](#), the converted full-service restaurant
3053 licensee shall submit an application for approval to the department in accordance with
3054 Subsection [32B-5-303\(3\)](#).

3055 (c) A converted full-service restaurant licensee that cannot comply with the provisions
3056 of Section [32B-6-205.2](#) without a change to the converted full-service restaurant licensee's
3057 approved location for storage, dispensing, or consumption shall submit an application for
3058 approval described in Subsection (3)(b) on or before May 1, 2022.

3059 Section 46. Section **32B-6-405** is amended to read:

3060 **32B-6-405. Specific licensing requirements for bar establishment license.**

3061 (1) To obtain a [club] bar establishment license, in addition to complying with Chapter
3062 5, Part 2, Retail Licensing Process, a person shall submit with the written application:

- 3063 (a) (i) a statement as to whether the person is seeking to qualify as:
3064 (A) an equity [club] licensee;
3065 (B) a fraternal [club] licensee;
3066 (C) a dining club licensee; or
3067 (D) a [social club] bar licensee; and
3068 (ii) evidence that the person meets the requirements for the type of [club] bar
3069 establishment license for which the person is applying;
- 3070 (b) evidence that the person operates [club] a premises where a variety of food is
3071 prepared and served in connection with dining accommodations; and
3072 (c) if the person is applying for an equity [club] license or fraternal [club] license, a
3073 copy of the [club's] entity's bylaws or house rules, and an amendment to those records.
- 3074 (2) The commission may refuse to issue a [club] bar establishment license to a person
3075 for an equity [club] license or fraternal [club] license if the commission determines that a
3076 provision of the person's bylaws or house rules, or amendments to those records is not:
- 3077 (a) reasonable; and
3078 (b) consistent with:
3079 (i) the declared nature and purpose of the [club] bar establishment licensee; and
3080 (ii) the purposes of this part.
- 3081 (3) (a) A [club] bar establishment license expires on June 30 of each year.
3082 (b) To renew a [club] bar establishment license, a person shall comply with the
3083 requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than May 31.
- 3084 (4) (a) The nonrefundable application fee for a [club] bar establishment license is \$300.
3085 (b) The initial license fee for a [club] bar establishment license is \$2,750.
3086 (c) The renewal fee for a [club] bar establishment license is \$2,000.
3087 (5) The bond amount required for a [club] bar establishment license is the penal sum of
3088 \$10,000.

3089 Section 47. Section **32B-6-406** is amended to read:

3090 **32B-6-406. Specific operational requirements for a bar establishment license.**

- 3091 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3092 Requirements, a [club] bar establishment licensee and staff of the [club] bar establishment
3093 licensee shall comply with this section.

3094 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3095 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3096 (i) a ~~[club]~~ bar establishment licensee;

3097 (ii) individual staff of a ~~[club]~~ bar establishment licensee; or

3098 (iii) both a ~~[club]~~ bar establishment licensee and staff of the ~~[club]~~ bar establishment
3099 licensee.

3100 (2) In addition to complying with Subsection ~~32B-5-301~~(3), a ~~[club]~~ bar licensee shall
3101 display in a ~~[prominent place in the club]~~ conspicuous place at the entrance to the licensed
3102 premises a ~~[list of the types and brand names of liquor being furnished through the club~~
3103 ~~licensee's calibrated metered dispensing system.]~~ sign approved by the commission that:

3104 (a) measures at least 8-1/2 inches long and 11 inches wide; and

3105 (b) clearly states that the bar licensee is a bar and not a restaurant.

3106 (3) (a) In addition to complying with Section ~~32B-5-302~~, a ~~[club]~~ bar establishment
3107 licensee shall maintain for a minimum of three years:

3108 (i) a record required by Section ~~32B-5-302~~; and

3109 (ii) a record maintained or used by the ~~[club]~~ bar establishment licensee, as the
3110 department requires.

3111 (b) Section ~~32B-1-205~~ applies to a record required to be made, maintained, or used in
3112 accordance with this Subsection (3).

3113 (c) The department shall audit the records of a ~~[club]~~ bar establishment licensee at least
3114 once annually.

3115 (4) (a) A ~~[club]~~ bar establishment licensee may not sell, offer for sale, or furnish liquor
3116 on the licensed premises on any day during a period that:

3117 (i) begins at 1 a.m.; and

3118 (ii) ends at 9:59 a.m.

3119 (b) A ~~[club]~~ bar establishment licensee may sell, offer for sale, or furnish beer during
3120 the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer
3121 license.

3122 (c) (i) Notwithstanding Subsections (4)(a) and (b), a ~~[club]~~ bar establishment licensee
3123 shall keep its licensed premises open for one hour after the ~~[club]~~ bar establishment licensee
3124 ceases the sale and furnishing of an alcoholic product during which time a patron of the ~~[club]~~

- 3125 bar establishment licensee may finish consuming:
- 3126 (A) a single drink containing spirituous liquor;
- 3127 (B) a single serving of wine not exceeding five ounces;
- 3128 (C) a single serving of heavy beer;
- 3129 (D) a single serving of beer not exceeding 26 ounces; or
- 3130 (E) a single serving of a flavored malt beverage.
- 3131 (ii) A [~~club~~] bar establishment licensee is not required to remain open:
- 3132 (A) after all patrons have vacated the premises; or
- 3133 (B) during an emergency.
- 3134 (5) (a) A minor may not be admitted into, use, or be in:
- 3135 (i) a lounge or bar area of the premises of:
- 3136 (A) an equity [~~club~~] licensee;
- 3137 (B) a fraternal [~~club~~] licensee; or
- 3138 (C) a dining club licensee; or
- 3139 (ii) the premises of:
- 3140 (A) a dining club licensee unless accompanied by an individual who is 21 years of age
- 3141 or older; or
- 3142 (B) a [~~social club~~] bar licensee, except to the extent provided for under Section
- 3143 [32B-6-406.1](#).
- 3144 (b) Notwithstanding Section [32B-5-308](#), a [~~club~~] bar establishment licensee may not
- 3145 employ a minor to:
- 3146 (i) work in a lounge or bar area of an equity [~~club~~] licensee, fraternal [~~club~~] licensee, or
- 3147 dining club licensee; or
- 3148 (ii) handle an alcoholic product.
- 3149 (c) Notwithstanding Section [32B-5-308](#), a minor may not be employed on the licensed
- 3150 premises of a [~~social club~~] bar licensee.
- 3151 (d) Nothing in this part or Section [32B-5-308](#) precludes a local authority from being
- 3152 more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a
- 3153 [~~club~~] bar establishment licensee.
- 3154 (6) A [~~club~~] bar establishment licensee shall have food available at all times when an
- 3155 alcoholic product is sold, offered for sale, furnished, or consumed on the licensed premises.

3156 (7) (a) Subject to the other provisions of this Subsection (7), a patron may not have
3157 more than two alcoholic products of any kind at a time before the patron.

3158 (b) A patron may not have two spirituous liquor drinks before the ~~[club]~~ bar
3159 establishment licensee patron if one of the spirituous liquor drinks consists only of the primary
3160 spirituous liquor for the other spirituous liquor drink.

3161 (c) An individual portion of wine is considered to be one alcoholic product under
3162 Subsection (7)(a).

3163 (8) A ~~[club]~~ bar establishment licensee shall have available on the premises for a
3164 patron to review at the time that the patron requests it, a written alcoholic product price list or a
3165 menu containing the price of an alcoholic product sold, offered for sale, or furnished by the
3166 ~~[club]~~ bar establishment licensee including:

3167 (a) a set-up charge;

3168 (b) a service charge; or

3169 (c) a chilling fee.

3170 (9) Subject to Section [32B-5-309](#), a ~~[club]~~ bar establishment licensee may not
3171 temporarily rent or otherwise temporarily lease its premises to a person unless:

3172 (a) the person to whom the ~~[club]~~ bar establishment licensee rents or leases the
3173 premises agrees in writing to comply with this title as if the person is the ~~[club]~~ bar
3174 establishment licensee, except for a requirement related to making or maintaining a record; and

3175 (b) the ~~[club]~~ bar establishment licensee takes reasonable steps to ensure that the
3176 person complies with this section as provided in Subsection (9)(a).

3177 (10) If a ~~[club]~~ bar establishment licensee is an equity ~~[club]~~ licensee or fraternal ~~[club]~~
3178 licensee, the ~~[club]~~ bar establishment licensee shall comply with Section [32B-6-407](#).

3179 (11) If a ~~[club]~~ bar establishment licensee is a dining club licensee or ~~[social club]~~ bar
3180 licensee, the ~~[club]~~ bar establishment licensee shall comply with Section [32B-1-407](#).

3181 (12) (a) A ~~[club]~~ bar establishment licensee shall own or lease premises suitable for the
3182 ~~[club]~~ bar establishment licensee's activities.

3183 (b) A ~~[club]~~ bar establishment licensee may not maintain licensed premises in a
3184 manner that barricades or conceals the ~~[club]~~ bar establishment licensee's operation.

3185 Section 48. Section [32B-6-406.1](#) is amended to read:

3186 **[32B-6-406.1. Specific operational restrictions related to dance or concert hall.](#)**

3187 (1) A minor who is at least 18 years of age may be admitted into, use, or be on the
3188 premises of a dance or concert hall if:

3189 (a) the dance or concert hall is located:

3190 (i) on the licensed premises of a ~~[social club]~~ bar licensee; or

3191 (ii) on the property that immediately adjoins the licensed premises of and is operated
3192 by a ~~[social club]~~ bar licensee; and

3193 (b) the ~~[social club]~~ bar licensee holds a permit to operate a dance or concert hall that
3194 was issued on or before May 11, 2009:

3195 (i) on the basis of the operational requirements described in Subsection (2); and

3196 (ii) when the ~~[social club]~~ bar licensee was licensed as a class D private club.

3197 (2) A ~~[social club]~~ bar licensee that holds a dance or concert hall permit shall operate
3198 in such a way that:

3199 (a) the ~~[social club]~~ bar licensee's lounge, ~~[bar]~~ dispensing structure, or other area for
3200 alcoholic product consumption is:

3201 (i) not accessible to a minor;

3202 (ii) clearly defined; and

3203 (iii) separated from the dance or concert hall area by one or more walls, multiple floor
3204 levels, or other substantial physical barriers;

3205 (b) ~~[a bar or dispensing]~~ a dispensing structure or area where alcoholic product is
3206 dispensed is not visible to a minor;

3207 (c) consumption of an alcoholic product may not occur in:

3208 (i) the dance or concert hall area; or

3209 (ii) an area of the ~~[social club]~~ bar license premises accessible to a minor;

3210 (d) the ~~[social club]~~ bar licensee maintains sufficient security personnel to prevent the
3211 passing of beverages from the ~~[social club]~~ bar licensee's lounge, ~~[bar]~~ dispensing structure, or
3212 other area for alcoholic product consumption to:

3213 (i) the dance or concert hall area; or

3214 (ii) an area of the ~~[social club]~~ bar licensee premises accessible to a minor;

3215 (e) there are one or more separate entrances, exits, and restroom facilities from the
3216 ~~[social club]~~ bar licensee's lounge, ~~[bar]~~ dispensing structure, or other area for alcoholic
3217 product consumption than for:

- 3218 (i) the dance or concert hall area; or
3219 (ii) an area accessible to a minor; and
3220 (f) the ~~[social club]~~ bar licensee complies with any other requirements imposed by the
3221 commission by rule.
- 3222 (3) (a) A minor under 18 years of age who is accompanied at all times by a parent or
3223 legal guardian may be admitted into, use, or be on the premises of a concert hall described in
3224 Subsection (1) if:
- 3225 (i) the requirements of Subsection (2) are met; and
3226 (ii) signage, product, and dispensing equipment containing recognition of an alcoholic
3227 product is not visible to the minor.
- 3228 (b) A minor under 18 years of age but who is 14 years of age or older who is not
3229 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
3230 a concert hall described in Subsection (1) if:
- 3231 (i) the requirements of Subsections (2) and (3)(a) are met; and
3232 (ii) there is no alcoholic product, sales, furnishing, or consumption on the premises of
3233 the ~~[social club]~~ bar licensee.
- 3234 (4) The commission may suspend or revoke a dance or concert permit issued to a
3235 ~~[social club]~~ bar licensee and suspend or revoke the license of the ~~[social club]~~ bar licensee if:
- 3236 (a) the ~~[social club]~~ bar licensee fails to comply with the requirements in this section;
3237 (b) the ~~[social club]~~ bar licensee sells, offers for sale, or furnishes an alcoholic product
3238 to a minor;
- 3239 (c) the ~~[social club]~~ bar licensee or a supervisory or managerial level staff of the ~~[social~~
3240 ~~club]~~ bar licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on
3241 the basis of an activity that occurs on:
- 3242 (i) the licensed premises; or
3243 (ii) the dance or concert hall that is located on property that immediately adjoins the
3244 licensed premises of and is operated by the ~~[social club]~~ bar licensee;
- 3245 (d) there are three or more convictions of patrons of the ~~[social club]~~ bar licensee under
3246 Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities that occur on:
- 3247 (i) the licensed premises; or
3248 (ii) the dance or concert hall that is located on property that immediately adjoins the

- 3249 licensed premises of and is operated by the ~~[social club]~~ bar licensee;
- 3250 (iii) there is more than one conviction:
- 3251 (A) of:
- 3252 (I) the ~~[social club]~~ bar licensee;
- 3253 (II) staff of the ~~[social club]~~ bar licensee;
- 3254 (III) an entertainer contracted by the ~~[social club]~~ bar licensee; or
- 3255 (IV) a patron of the ~~[social club]~~ bar licensee; and
- 3256 (B) made on the basis of a lewd act or lewd entertainment prohibited by this title that
- 3257 occurs on:
- 3258 (I) the licensed premises; or
- 3259 (II) the dance or concert hall that is located on property that immediately adjoins the
- 3260 licensed premises of and is operated by the ~~[social club]~~ bar licensee; or
- 3261 (e) the commission finds acts or conduct contrary to the public welfare and morals
- 3262 involving lewd acts or lewd entertainment prohibited by this title that occurs on:
- 3263 (i) the licensed premises; or
- 3264 (ii) the dance or concert hall that is located on property that immediately adjoins the
- 3265 licensed premises of and is operated by the ~~[social club]~~ bar licensee.
- 3266 (5) Nothing in this section prohibits a ~~[social club]~~ bar licensee from selling, offering
- 3267 for sale, or furnishing an alcoholic product in a dance or concert area located on the ~~[social~~
- 3268 ~~club]~~ bar licensed premises on days and times when the ~~[social club]~~ bar licensee does not
- 3269 allow a minor into those areas.
- 3270 Section 49. Section **32B-6-407** is amended to read:
- 3271 **32B-6-407. Specific operational requirements for equity license or fraternal**
- 3272 **license.**
- 3273 (1) ~~[For purposes of]~~ As used in this section [only: (a) "Club], "equity or fraternal
- 3274 licensee" means an equity [club] licensee or fraternal [club] licensee.
- 3275 ~~[(b) "Club licensee" does not include a dining club licensee or social club licensee.]~~
- 3276 (2) (a) ~~[A club]~~ An equity or fraternal licensee shall have a governing body that:
- 3277 (i) consists of three or more members of the ~~[club]~~ equity or fraternal licensee; and
- 3278 (ii) holds regular meetings to:
- 3279 (A) review membership applications; and

3280 (B) conduct other business as required by the bylaws or house rules of the ~~[club]~~ equity
3281 or fraternal licensee.

3282 (b) (i) ~~[A club]~~ An equity or fraternal licensee shall maintain a minute book that is
3283 posted currently by the ~~[club]~~ equity or fraternal licensee.

3284 (ii) The minute book required by this Subsection (2) shall contain the minutes of a
3285 regular or special meeting of the governing body.

3286 (3) ~~[A club]~~ An equity or fraternal licensee may admit an individual as a member only
3287 on written application signed by the person, subject to:

3288 (a) the person paying an application fee; and

3289 (b) investigation, vote, and approval of a quorum of the governing body.

3290 (4) ~~[A club]~~ An equity or fraternal licensee shall:

3291 (a) record an admission of a member in the official minutes of a regular meeting of the
3292 governing body; and

3293 (b) whether approved or disapproved, file an application as a part of the official records
3294 of the ~~[club]~~ equity or fraternal licensee.

3295 (5) The spouse of a member of ~~[a club]~~ an equity or fraternal licensee has the rights and
3296 privileges of the member:

3297 (a) to the extent permitted by the bylaws or house rules of the ~~[club]~~ equity or fraternal
3298 licensee; and

3299 (b) except to the extent restricted by this title.

3300 (6) A minor child of a member of ~~[a club]~~ an equity or fraternal licensee has the rights
3301 and privileges of the member:

3302 (a) to the extent permitted by the bylaws or house rules of the ~~[club]~~ equity or fraternal
3303 licensee; and

3304 (b) except to the extent restricted by this title.

3305 (7) ~~[A club]~~ An equity or fraternal licensee shall maintain:

3306 (a) a current and complete membership record showing:

3307 (i) the date of application of a proposed member;

3308 (ii) a member's address;

3309 (iii) the date the governing body approved a member's admission;

3310 (iv) the date initiation fees and dues are assessed and paid; and

- 3311 (v) the serial number of the membership card issued to a member;
- 3312 (b) a membership list; and
- 3313 (c) a current record indicating when a member is removed as a member or resigns.
- 3314 (8) (a) [~~A club~~] An equity or fraternal licensee shall have bylaws or house rules that
- 3315 include provisions respecting the following:
- 3316 (i) standards of eligibility for members;
- 3317 (ii) limitation of members, consistent with the nature and purpose of the [~~club~~] equity
- 3318 or fraternal licensee;
- 3319 (iii) the period for which dues are paid, and the date upon which the period expires;
- 3320 (iv) provisions for removing a member from the [~~club~~] equity or fraternal licensee's
- 3321 membership for the nonpayment of dues or other cause;
- 3322 (v) provisions for guests; and
- 3323 (vi) application fees and membership dues.
- 3324 (b) [~~A club~~] An equity or fraternal licensee shall maintain a current copy of the [~~club~~]
- 3325 equity or fraternal licensee's current bylaws and current house rules.
- 3326 (c) [~~A club~~] An equity or fraternal licensee shall maintain its bylaws or house rules,
- 3327 and any amendments to those records, on file with the department at all times.
- 3328 (9) [~~A club~~] An equity or fraternal licensee may, in its discretion, allow an individual
- 3329 to be admitted to or use the [~~club~~] licensed premises as a guest subject to the following
- 3330 conditions:
- 3331 (a) the individual is allowed to use the [~~club~~] equity or fraternal licensee premises only
- 3332 to the extent permitted by the [~~club~~] equity or fraternal licensee's bylaws or house rules;
- 3333 (b) the individual shall be previously authorized by a member of the [~~club~~] equity or
- 3334 fraternal licensee who agrees to host the individual as a guest [~~into the club~~];
- 3335 (c) the individual has only those privileges derived from the individual's host for the
- 3336 duration of the individual's visit to the [~~club~~] equity or fraternal licensee premises; and
- 3337 (d) [~~a club~~] an equity or fraternal licensee or staff of the [~~club~~] equity or fraternal
- 3338 licensee may not enter into an agreement or arrangement with a [~~club~~] member of the equity or
- 3339 fraternal licensee to indiscriminately host a member of the general public into the [~~club~~] equity
- 3340 or fraternal licensee premises as a guest.
- 3341 (10) Notwithstanding Subsection (9), an individual may be allowed as a guest in [a

3342 ~~club~~ an equity or fraternal licensed premises without a host if:

3343 (a) (i) the ~~club~~ equity or fraternal licensee is an equity ~~club~~ licensee; and

3344 (ii) the individual is a member of an equity ~~club~~ licensee that has reciprocal guest
3345 privileges with the equity ~~club~~ licensee for which the individual is a guest;

3346 (b) (i) the ~~club~~ equity or fraternal licensee is a fraternal ~~club~~ licensee; and

3347 (ii) the individual is a member of the same fraternal organization as the fraternal ~~club~~
3348 licensee for which the individual is a guest; or

3349 (c) (i) the ~~club~~ equity or fraternal licensee is a fraternal ~~club~~ licensee that holds the
3350 fraternal ~~club~~ license on July 1, 2013;

3351 (ii) the ~~club~~ equity or fraternal licensee's bylaws permit guests in the ~~club~~ equity or
3352 fraternal licensed premises without a host except that a minor may not be admitted as a guest
3353 without a host; and

3354 (iii) the ~~club~~ equity or fraternal licensee maintains 60% of its total ~~club~~ business
3355 from the sale of food, not including mix for alcoholic products, or service charges.

3356 (11) Unless the patron is a member or guest, ~~a club~~ an equity or fraternal licensee
3357 may not:

3358 (a) sell, offer for sale, or furnish an alcoholic product to the patron; or

3359 (b) allow the patron to be admitted to or use the licensed premises.

3360 (12) A minor may not be a member, officer, director, or trustee of ~~a club~~ an equity or
3361 fraternal licensee.

3362 Section 50. Section **32B-6-408** is amended to read:

3363 **32B-6-408. Information obtained by investigator.**

3364 (1) Subject to Subsection (2), if an investigator is permitted by another provision of
3365 this title to inspect a record of a ~~club~~ bar establishment licensee, in addition to any other
3366 rights under this title, the investigator may inspect, have a copy of, or otherwise review any
3367 record of the ~~club~~ bar establishment licensee that is a visual recording of the operations of the
3368 ~~club~~ bar establishment licensee.

3369 (2) An investigator who is a peace officer may not inspect, have a copy of, or otherwise
3370 review a visual recording described in Subsection (1) without probable cause.

3371 Section 51. Section **32B-6-603** is amended to read:

3372 **32B-6-603. Commission's power to issue on-premise banquet license -- Contracts**

3373 as host.

3374 (1) (a) Before a person may store, sell, offer for sale, furnish, or allow the consumption
3375 of an alcoholic product in connection with the person's banquet and room service activities at
3376 one of the following, the person shall first obtain an on-premise banquet license in accordance
3377 with this part:

3378 (i) a hotel;

3379 (ii) a resort facility;

3380 (iii) a sports center; [~~or~~]

3381 (iv) a convention center[-]; or

3382 (v) a performing arts facility.

3383 (b) This part does not prohibit an alcoholic product on the premises of a person listed
3384 in Subsection (1)(a) to the extent otherwise permitted by this title.

3385 (c) This section does not prohibit a person who applies for an on-premise banquet
3386 license to also apply for a package agency if otherwise qualified.

3387 (2) The commission may issue an on-premise banquet license to establish on-premise
3388 banquet licensees in the numbers the commission considers proper for the storage, sale, offer
3389 for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room
3390 service activities operated by an on-premise banquet licensee.

3391 (3) Subject to Section [32B-1-201](#), the commission may not issue a total number of
3392 on-premise banquet licenses that at any time exceed the number determined by dividing the
3393 population of the state by 28,765.

3394 (4) Pursuant to a contract between the host of a banquet and an on-premise banquet
3395 licensee:

3396 (a) the host of the banquet may request an on-premise banquet licensee to provide an
3397 alcoholic product served at the banquet; and

3398 (b) an on-premise banquet licensee may provide an alcoholic product served at the
3399 banquet.

3400 (5) At a banquet, an on-premise banquet licensee may furnish an alcoholic product:

3401 (a) without charge to a patron at a banquet, except that the host of the banquet shall pay
3402 for an alcoholic product furnished at the banquet; or

3403 (b) with a charge to a patron at the banquet.

3404 Section 52. Section **32B-6-605** is amended to read:

3405 **32B-6-605. Specific operational requirements for on-premise banquet license.**

3406 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3407 Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee
3408 shall comply with this section.

3409 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3410 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3411 (i) an on-premise banquet licensee;

3412 (ii) individual staff of an on-premise banquet licensee; or

3413 (iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

3414 (2) An on-premise banquet licensee shall comply with Subsections **32B-5-301**(4) and
3415 (5) for the entire premises of the hotel, resort facility, sports center, [or] convention center, or
3416 performing arts facility that is the basis for the on-premise banquet license.

3417 (3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee
3418 shall provide the department with advance notice of a scheduled banquet in accordance with
3419 rules made by the commission.

3420 (b) Any of the following may conduct a random inspection of a banquet:

3421 (i) an authorized representative of the commission or the department; or

3422 (ii) a law enforcement officer.

3423 (4) (a) An on-premise banquet licensee is not subject to Section **32B-5-302**, but shall
3424 make and maintain the records the commission or department requires.

3425 (b) Section **32B-1-205** applies to a record required to be made or maintained in
3426 accordance with this Subsection (4).

3427 (5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may
3428 sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the
3429 location of the banquet.

3430 (b) A host of a banquet, a patron, or a person other than the on-premise banquet
3431 licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from
3432 the premises of the banquet.

3433 (c) Notwithstanding Section **32B-5-307**, a patron at a banquet may not bring an
3434 alcoholic product into or onto, or remove an alcoholic product from, the premises of a banquet.

3435 (6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at
3436 the banquet following the conclusion of the banquet.

3437 (b) At the conclusion of a banquet, an on-premise banquet licensee shall:

3438 (i) destroy an opened and unused alcoholic product that is not saleable, under
3439 conditions established by the department; and

3440 (ii) return to the on-premise banquet licensee's approved locked storage area any:

3441 (A) opened and unused alcoholic product that is saleable; and

3442 (B) unopened container of an alcoholic product.

3443 (c) Except as provided in Subsection (6)(b) with regard to an open or sealed container
3444 of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

3445 (i) shall store the alcoholic product in the on-premise banquet licensee's approved
3446 locked storage area; and

3447 (ii) may use the alcoholic product at more than one banquet.

3448 (7) Notwithstanding Section [32B-5-308](#), an on-premise banquet licensee may not
3449 employ a minor to sell, furnish, or dispense an alcoholic product in connection with the
3450 on-premise banquet licensee's banquet and room service activities.

3451 (8) An on-premise banquet licensee may not sell, offer for sale, or furnish an alcoholic
3452 product at a banquet or in connection with room service any day during a period that:

3453 (a) begins at 1 a.m.; and

3454 (b) ends at 9:59 a.m.

3455 (9) An on-premise banquet licensee shall maintain at least 50% of its total annual
3456 banquet gross receipts from the sale of food, not including:

3457 (a) mix for an alcoholic product; and

3458 (b) a charge in connection with the furnishing of an alcoholic product.

3459 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
3460 more than two alcoholic products of any kind at a time before the patron.

3461 (b) A patron may not have more than one spirituous liquor drink at a time before the
3462 patron.

3463 (c) An individual portion of wine is considered to be one alcoholic product under
3464 Subsection (10)(a).

3465 (11) (a) An on-premise banquet licensee shall supervise and direct a person involved in

3466 the sale, offer for sale, or furnishing of an alcoholic product.

3467 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
3468 shall complete an alcohol training and education seminar.

3469 (12) A staff person of an on-premise banquet licensee shall remain at the banquet at all
3470 times when an alcoholic product is sold, offered for sale, furnished, or consumed at the
3471 banquet.

3472 (13) (a) Room service of an alcoholic product to a guest room of a hotel or resort
3473 facility shall be provided in person by staff of an on-premise banquet licensee only to an adult
3474 guest in the guest room.

3475 (b) An alcoholic product may not be left outside a guest room for retrieval by a guest.

3476 Section 53. Section **32B-6-703** is amended to read:

3477 **32B-6-703. Commission's power to issue on-premise beer retailer license.**

3478 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
3479 beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise
3480 beer retailer license from the commission in accordance with this part.

3481 (2) (a) The commission may issue an on-premise beer retailer license to establish
3482 on-premise beer retailer licensed premises at places and in numbers as the commission
3483 considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on
3484 premises operated as an on-premise beer retailer.

3485 (b) At the time that the commission issues an on-premise beer retailer license, the
3486 commission shall designate whether the on-premise beer retailer is a tavern.

3487 (c) The commission may change its designation of whether an on-premise beer retailer
3488 is a tavern in accordance with rules made by the commission.

3489 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission
3490 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of
3491 beer for consumption on the establishment's premises.

3492 (ii) In making a determination under this Subsection (2)(d), the commission shall
3493 consider:

3494 (A) whether the on-premise beer retailer will operate as one of the following:

3495 (I) a beer bar;

3496 (II) a parlor;

- 3497 (III) a lounge;
- 3498 (IV) a cabaret; or
- 3499 (V) a nightclub;
- 3500 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):
- 3501 (I) whether the on-premise beer retailer will sell food in the establishment; and
- 3502 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
- 3503 will exceed the revenue of the sale of food;
- 3504 (C) whether full meals including appetizers, main courses, and desserts will be served;
- 3505 (D) the square footage and seating capacity of the premises;
- 3506 (E) what portion of the square footage and seating capacity will be used for a dining
- 3507 area in comparison to the portion that will be used as a lounge or bar area;
- 3508 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
- 3509 full meals, except a person that is located on the premises of a hotel or resort facility may use
- 3510 the culinary facilities of the hotel or resort facility;
- 3511 (G) whether the entertainment provided on the premises of the beer retailer will be
- 3512 suitable for minors; and
- 3513 (H) the beer retailer management's ability to manage and operate an on-premise beer
- 3514 retailer license including:
- 3515 (I) management experience;
- 3516 (II) past beer retailer management experience; and
- 3517 (III) the type of management scheme that will be used by the beer retailer.
- 3518 (e) On or after March 1, 2012:
- 3519 (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:
- 3520 (A) maintain at least 70% of the person's total gross revenues from business directly
- 3521 related to a recreational amenity on or directly adjoining the licensed premises of the beer
- 3522 retailer, except that a person may include gross revenue from business directly related to a
- 3523 recreational amenity that is owned or operated by a political subdivision if the person has a
- 3524 contract meeting the requirements of Subsection (2)(e)(v) with the political subdivision; or
- 3525 (B) have a recreational amenity on or directly adjoining the licensed premises of the
- 3526 beer retailer and maintain at least 70% of the person's total gross revenues from the sale of
- 3527 food.

3528 (ii) The commission may not license a person as an on-premise beer retailer if the
3529 person does not:

3530 (A) meet the requirements of Subsection (2)(e)(i); or

3531 (B) operate as a tavern.

3532 ~~[(iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July~~
3533 ~~1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1,~~
3534 ~~2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an~~
3535 ~~on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).]~~

3536 ~~[(B) If an on-premise beer retailer fails to notify the department as required by~~
3537 ~~Subsection (2)(e)(iii)(A), the on-premise beer retailer's license expires as of February 29, 2012,~~
3538 ~~and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer~~
3539 ~~retailer is required to apply as a new licensee, and any bar or bar structure on the premises of an~~
3540 ~~on-premise beer retailer license that is not a tavern and does not meet the requirements of~~
3541 ~~Subsection (2)(e)(i) will not be grandfathered under Subsection 32B-6-902(1).]~~

3542 ~~[(iv)]~~ (iii) A person who, after August 1, 2011, applies for an on-premise beer retailer
3543 license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not
3544 have or construct facilities for the dispensing or storage of an alcoholic product that do not
3545 meet the requirements of Subsection 32B-6-905(12)(a)(ii).

3546 ~~[(v)]~~ (iv) A contract described in Subsection (2)(e)(i)(A) shall:

3547 (A) allow the beer retailer to include the total gross revenue from operations of the
3548 recreational amenity in the beer retailer's total gross receipts for purposes of Subsection
3549 (2)(e)(i)(A); and

3550 (B) give the department the authority to audit financial information of the political
3551 subdivision to the extent necessary to confirm that the requirements of Subsection (2)(e)(i)(A)
3552 are met.

3553 (3) Subject to Section 32B-1-201:

3554 (a) The commission may not issue a total number of on-premise beer retailer licenses
3555 that are taverns that at any time exceeds the number determined by dividing the population of
3556 the state by 73,666.

3557 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
3558 in accordance with Section 32B-5-206.

3559 (4) (a) Unless otherwise provided in Subsection (4)(b):
3560 (i) only one on-premise beer retailer license is required for each building or resort
3561 facility owned or leased by the same person; and
3562 (ii) a separate license is not required for each retail beer dispensing location in the
3563 same building or on the same resort premises owned or operated by the same person.

3564 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
3565 building or resort facility operates in the same manner.

3566 (ii) If each retail beer dispensing location does not operate in the same manner:

3567 (A) one on-premise beer retailer license designated as a tavern is required for the
3568 locations in the same building or on the same resort premises that operate as a tavern; and

3569 (B) one on-premise beer retailer license is required for the locations in the same
3570 building or on the same resort premises that do not operate as a tavern.

3571 Section 54. Section **32B-6-706** is amended to read:

3572 **32B-6-706. Specific operational requirements for on-premise beer retailer license.**

3573 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3574 Requirements, an on-premise beer retailer and staff of the on-premise beer retailer shall comply
3575 with this section.

3576 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3577 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3578 (i) an on-premise beer retailer;

3579 (ii) individual staff of an on-premise beer retailer; or

3580 (iii) both an on-premise beer retailer and staff of the on-premise beer retailer.

3581 (2) (a) An on-premise beer retailer is not subject to Section **32B-5-302**, but shall make
3582 and maintain the records the department requires.

3583 (b) Section **32B-1-205** applies to a record required to be made or maintained in
3584 accordance with this Subsection (2).

3585 (3) Notwithstanding Section **32B-5-303**, an on-premise beer retailer may not store or
3586 sell liquor on its licensed premises.

3587 (4) Beer sold in a sealed container by an on-premise beer retailer may be removed from
3588 the on-premise beer retailer premises in the sealed container.

3589 (5) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at its

3590 licensed premises during a period that:

3591 (i) begins at 1 a.m.; and

3592 (ii) ends at 9:59 a.m.

3593 (b) (i) Notwithstanding Subsection (5)(a), a tavern shall remain open for one hour after
3594 the tavern ceases the sale and furnishing of beer during which time a patron of the tavern may
3595 finish consuming a single serving of beer not exceeding 26 ounces.

3596 (ii) A tavern is not required to remain open:

3597 (A) after all patrons have vacated the premises; or

3598 (B) during an emergency.

3599 (6) Notwithstanding Section 32B-5-308, a minor may not be on the premises of a
3600 tavern.

3601 (7) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the
3602 purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases
3603 from:

3604 (A) a beer wholesaler licensee; or

3605 (B) a small brewer that manufactures the beer.

3606 (ii) Violation of Subsection (7)(a)(i) is a class A misdemeanor.

3607 (b) (i) If an on-premise beer retailer purchases beer under this Subsection (7) from a
3608 beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer
3609 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
3610 in which the ~~[off-premise]~~ on-premise beer retailer is located, unless an alternate wholesaler is
3611 authorized by the department to sell to the ~~[off-premise]~~ on-premise beer retailer as provided in
3612 Section 32B-13-301.

3613 (ii) Violation of Subsection (7)(b)(i) is a class B misdemeanor.

3614 (8) A tavern shall comply with Section 32B-1-407.

3615 Section 55. Section 32B-6-902 is amended to read:

3616 **32B-6-902. Definitions.**

3617 (1) As used in this part:

3618 (a) (i) "Dining area" means an area in the licensed premises of a beer-only restaurant
3619 licensee that is primarily used for the service and consumption of food by one or more patrons.

3620 (ii) "Dining area" does not include a dispensing area.

3621 (b) "Dispensing area" means an area in the licensed premises of a beer-only restaurant
3622 licensee where a dispensing structure is located and that:

3623 (i) is physically separated from the dining area and any waiting area by a structure or
3624 other barrier that prevents a patron seated in the dining area or a waiting area from viewing the
3625 dispensing of beer;

3626 (ii) measures at least 10 feet from any area where beer is dispensed to the dining area
3627 and any waiting area, measured from the point of the area where beer is dispensed that is
3628 closest to the dining area or waiting area; or

3629 (iii) is physically separated from the dining area and any waiting area by a permanent
3630 physical structure that measures:

3631 (A) at least 42 inches high; and

3632 (B) at least 72 inches from the outer edge of the barrier to the nearest edge of the
3633 dispensing structure.

3634 ~~[(1) (a) As used in this part, "grandfathered]~~

3635 (c) "Grandfathered bar structure" means a bar structure in a licensed premises of a
3636 beer-only restaurant licensee that:

3637 (i) was licensed as an on-premise beer retailer as of August 1, 2011, and as of August
3638 1, 2011:

3639 (A) is operational;

3640 (B) has facilities for the dispensing or storage of an alcoholic product that do not meet
3641 the requirements of Subsection 32B-6-905(12)(a)(ii); and

3642 (C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that
3643 effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a
3644 beer-only restaurant; or

3645 (ii) is a bar structure grandfathered under Section 32B-6-409.

3646 ~~[(b)]~~ (d) "Grandfathered bar structure" does not include a grandfathered bar structure
3647 described in Subsection (1)(a) on or after the day on which a restaurant remodels the
3648 grandfathered bar structure, as defined by rule made by the commission.

3649 (e) "Waiting area" includes a lobby.

3650 (2) Subject to Subsection (1)~~[(b)]~~(d), a grandfathered bar structure remains a
3651 grandfathered bar structure notwithstanding whether a restaurant undergoes a change of

3652 ownership.

3653 Section 56. Section **32B-6-905** is amended to read:

3654 **32B-6-905. Specific operational requirements for a beer-only restaurant license --**
3655 **Before July 1, 2018 or July 1, 2022.**

3656 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3657 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
3658 shall comply with this section.

3659 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
3660 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3661 (i) a beer-only restaurant licensee;

3662 (ii) individual staff of a beer-only restaurant licensee; or

3663 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

3664 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
3665 sale, furnish, or allow consumption of liquor.

3666 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

3667 (i) as a flavoring on a dessert; and

3668 (ii) in the preparation of a flaming food dish, drink, or dessert.

3669 (3) In addition to complying with Section **32B-5-303**, a beer-only restaurant licensee
3670 shall store beer in a storage area described in Subsection (12)(a).

3671 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall
3672 make a written beverage tab for each table or group that orders or consumes an alcoholic
3673 product on the premises.

3674 (b) A beverage tab required by this Subsection (4) shall list the type and amount of
3675 beer ordered or consumed.

3676 (5) A person's willingness to serve beer may not be made a condition of employment as
3677 a server with a beer-only restaurant licensee.

3678 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during the
3679 hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
3680 except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before
3681 11:30 a.m. on any day.

3682 (7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant

3683 business from the sale of food, which does not include a service charge.

3684 (8) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except after
3685 the beer-only restaurant licensee confirms that the patron has the intent to order food prepared,
3686 sold, and furnished at the licensed premises.

3687 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary
3688 facilities for food preparation and dining accommodations.

3689 (9) A patron may not have more than two beers at a time before the patron.

3690 (10) A patron may consume a beer only: (a) at:

3691 (i) the patron's table;

3692 (ii) a grandfathered bar structure; or

3693 (iii) a counter; and

3694 (b) where food is served.

3695 (11) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to
3696 a patron, and a patron may not consume an alcoholic product at a bar structure.

3697 (b) Notwithstanding Subsection (11)(a), at a grandfathered bar structure, a patron who
3698 is 21 years of age or older may:

3699 (i) sit;

3700 (ii) be furnished a beer; and

3701 (iii) consume a beer.

3702 (c) Except as provided in Subsection (11)(d), at a grandfathered bar structure, a
3703 beer-only restaurant licensee may not permit a minor to, and a minor may not:

3704 (i) sit; or

3705 (ii) consume food or beverages.

3706 (d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a
3707 beer-only restaurant licensee:

3708 (A) as provided in Subsection [32B-5-308\(2\)](#); or

3709 (B) to perform maintenance and cleaning services during an hour when the beer-only
3710 restaurant licensee is not open for business.

3711 (ii) A minor may momentarily pass by a grandfathered bar structure without
3712 remaining or sitting at the bar structure en route to an area of a beer-only restaurant licensee's
3713 premises in which the minor is permitted to be.

3714 (12) A beer-only restaurant licensee may dispense a beer only if:
3715 (a) the beer is dispensed from an area that is:
3716 (i) a grandfathered bar structure; or
3717 (ii) separated from an area for the consumption of food by a patron by a solid,
3718 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
3719 an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart
3720 from an area used for dining, for staging, or as a lobby or waiting area;

3721 (b) the beer-only restaurant licensee uses a beer that is:
3722 (i) stored in an area described in Subsection (12)(a); or
3723 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
3724 (A) immediately before the beer is dispensed it is in an unopened container;
3725 (B) the unopened container is taken to an area described in Subsection (12)(a) before it
3726 is opened; and
3727 (C) once opened, the container is stored in an area described in Subsection (12)(a); and
3728 (c) any instrument or equipment used to dispense the beer is located in an area
3729 described in Subsection (12)(a).

3730 (13) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or
3731 beverages within 10 feet of a grandfathered bar structure, unless:

3732 (a) seating within 10 feet of the grandfathered bar structure is the only seating available
3733 in the licensed premises; and

3734 (b) the minor is accompanied by an individual who is 21 years of age or older.

3735 (14) Except as provided in Subsection 32B-6-905.1(17) and Section 32B-6-905.2, the
3736 provisions of this section apply before July 1, 2018.

3737 Section 57. Section **32B-6-905.1** is enacted to read:

3738 **32B-6-905.1. Specific operational requirements for a beer-only restaurant license**
3739 **-- On and after July 1, 2018 or July 1, 2022.**

3740 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
3741 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
3742 shall comply with this section.

3743 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
3744 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 3745 (i) a beer-only restaurant licensee;
3746 (ii) individual staff of a beer-only restaurant licensee; or
3747 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.
3748 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
3749 sale, furnish, or allow consumption of liquor.
3750 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:
3751 (i) as a flavoring on a dessert; and
3752 (ii) in the preparation of a flaming food dish, drink, or dessert.
3753 (3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee
3754 shall store beer in a storage area described in Subsection (13)(a).
3755 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall
3756 make a beverage tab for each table or group that orders or consumes an alcoholic product on
3757 the premises.
3758 (b) A beverage tab described in this Subsection (4) shall state the type and amount of
3759 each alcoholic product ordered or consumed.
3760 (5) A person's willingness to serve beer may not be made a condition of employment as
3761 a server with a beer-only restaurant licensee.
3762 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the
3763 licensed premises during the following time periods only:
3764 (a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or
3765 (b) on a weekend or a state or federal legal holiday, during the period that begins at
3766 10:30 a.m. and ends at 12:59 a.m.
3767 (7) A beer-only restaurant licensee shall maintain at least 70% of the beer-only
3768 restaurant licensee's total restaurant business from the sale of food, which does not include a
3769 service charge.
3770 (8) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish beer
3771 except after:
3772 (i) the patron to whom the beer-only restaurant licensee sells, offers for sale, or
3773 furnishes the beer is seated at:
3774 (A) a table that is located in a dining area or a dispensing area;
3775 (B) a counter that is located in a dining area or a dispensing area; or

- 3776 (C) a dispensing structure located in a dispensing area; and
3777 (ii) the beer-only restaurant licensee confirms that the patron has the intent to:
3778 (A) order food prepared, sold, and furnished at the licensed premises; and
3779 (B) consume the food at the same location where the patron is seated and sold, offered
3780 for sale, or furnished the beer.
- 3781 (b) A beer-only restaurant licensee shall maintain on the licensed premises adequate
3782 culinary facilities for food preparation and dining accommodations.
- 3783 (9) A patron may consume a beer only at:
3784 (a) a table that is located in a dining area or a dispensing area;
3785 (b) a counter that is located in a dining area or a dispensing area; or
3786 (c) a dispensing structure located in a dispensing area.
- 3787 (10) A patron may not have more than two beers at a time before the patron.
- 3788 (11) In accordance with the provisions of this section, an individual who is at least 21
3789 years of age may consume food and beverages in a dispensing area.
- 3790 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
3791 consume food or beverages in a dispensing area.
- 3792 (b) (i) A minor may be in a dispensing area if the minor is employed by the beer-only
3793 restaurant licensee:
- 3794 (A) in accordance with Subsection [32B-5-308\(2\)](#); or
3795 (B) to perform maintenance and cleaning services when the beer-only restaurant
3796 licensee is not open for business.
- 3797 (ii) If there is no alternative route available, a minor may momentarily pass through a
3798 dispensing area without remaining or sitting in the dispensing area en route to an area of the
3799 beer-only restaurant licensee's premises in which the minor is permitted to be.
- 3800 (13) A beer-only restaurant licensee may dispense a beer only if:
3801 (a) the beer is dispensed from:
3802 (i) a dispensing structure that is located in a dispensing area; or
3803 (ii) an area that is:
3804 (A) separated from an area for the consumption of food by a patron by a solid,
3805 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
3806 an alcoholic product are not readily visible to a patron, not accessible by a patron; and

3807 (B) apart from an area used for dining, for staging, or as a lobby or waiting area;
3808 (b) the beer-only restaurant licensee uses a beer that is stored in an area described in
3809 Subsection (13)(a) or in accordance with Section 32B-5-303; and

3810 (c) any instrument or equipment used to dispense the beer is located in an area
3811 described in Subsection (13)(a).

3812 (14) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or
3813 from a movable cart.

3814 (15) (a) In addition to the requirements described in Section 32B-5-302, a beer-only
3815 restaurant licensee shall maintain each of the following records for at least three years:

3816 (i) a record required by Section 32B-5-302; and

3817 (ii) a record that the commission requires a beer-only restaurant licensee to use or
3818 maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3819 Rulemaking Act.

3820 (b) The department shall audit the records of a beer-only restaurant licensee at least
3821 once each calendar year.

3822 (16) A beer-only restaurant licensee shall display in a conspicuous place at the entrance
3823 to the licensed premises a sign approved by the commission that:

3824 (a) measures at least 8-1/2 inches long and 11 inches wide; and

3825 (b) clearly states that the beer-only restaurant licensee is a restaurant and not a bar.

3826 (17) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

3827 (i) may comply with the provisions of this section beginning on or after July 1, 2017;
3828 and

3829 (ii) shall comply with the provisions of this section:

3830 (A) for a beer-only restaurant licensee that does not have a grandfathered bar structure,
3831 on and after July 1, 2018; or

3832 (B) for a beer-only restaurant licensee that has a grandfathered bar structure, on and
3833 after July 1, 2022.

3834 (b) A beer-only restaurant licensee that elects to comply with the provisions of this
3835 section before the latest applicable date described in Subsection (17)(a)(ii):

3836 (i) shall comply with each provision of this section; and

3837 (ii) is not required to comply with the provisions of Section 32B-6-905.

3838 Section 58. Section **32B-6-905.2** is enacted to read:

3839 **32B-6-905.2. Transition process for beer-only restaurant licensees.**

3840 (1) For a beer-only restaurant license issued on or after July 1, 2017, the beer-only
3841 restaurant licensee shall comply with the provisions of Section [32B-6-905.1](#).

3842 (2) For a beer-only restaurant license issued before July 1, 2017, before the beer-only
3843 restaurant licensee changes the beer-only restaurant licensee's approved location for storage,
3844 dispensing, or consumption to comply with the provisions of Section [32B-6-901.1](#), the
3845 beer-only restaurant licensee shall submit an application for approval to the department in
3846 accordance with Subsection [32B-5-303\(3\)](#).

3847 (3) (a) Except as provided in Subsection (4), a person who holds a beer-only restaurant
3848 license issued before July 1, 2017, shall comply with the provisions of Section [32B-6-901.1](#) on
3849 or before July 1, 2018.

3850 (b) A beer-only restaurant licensee described in Subsection (3)(a) that cannot comply
3851 with the provisions of Section [32B-6-901.1](#) without a change to the beer-only restaurant
3852 licensee's approved location for storage, dispensing, or consumption:

3853 (i) may submit an application for approval described in Subsection (2) on or after May
3854 9, 2017; and

3855 (ii) shall submit an application for approval described in Subsection (2) on or before
3856 May 1, 2018.

3857 (c) If a beer-only restaurant licensee described in Subsection (3)(a) submits an
3858 application for approval described in Subsection (2) on May 9, 2017, the department shall take
3859 action on the application on or before July 1, 2017.

3860 (4) (a) A person who holds a beer-only restaurant license issued before July 1, 2017,
3861 and has a grandfathered bar structure shall comply with the provisions of Section [32B-6-901.1](#)
3862 on or before the earlier of:

3863 (i) July 1, 2022;

3864 (ii) the date on which the beer-only restaurant licensee remodels, as defined by
3865 commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3866 Rulemaking Act, the beer-only restaurant licensee's grandfathered bar structure or dining area;
3867 or

3868 (iii) the date on which the beer-only restaurant licensee experiences a change of

3869 ownership described in Subsection [32B-8a-202\(1\)](#).

3870 (b) A beer-only restaurant licensee described in Subsection (4)(a) that cannot comply
3871 with the provisions of Section [32B-6-901.1](#) without a change to the beer-only restaurant
3872 licensee's approved location for storage, dispensing, or consumption:

3873 (i) may submit an application for approval described in Subsection (2) on or after May
3874 9, 2017; and

3875 (ii) shall submit an application for approval described in Subsection (2) on or before
3876 May 1, 2022.

3877 Section 59. Section **32B-7-202** is amended to read:

3878 **32B-7-202. General operational requirements for off-premise beer retailer.**

3879 (1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply
3880 with [~~this section~~] the provisions of this title and rules made by the commission.

3881 (b) Failure to comply with this section may result in a suspension or revocation of a
3882 local license and disciplinary action in accordance with Section [32B-7-501](#).

3883 (2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the
3884 purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases
3885 from:

3886 (A) a beer wholesaler licensee; or

3887 (B) a small brewer that manufactures the beer.

3888 (ii) A violation of Subsection (2)(a) is a class A misdemeanor.

3889 (b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a
3890 beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer
3891 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
3892 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by
3893 the department to sell to the off-premise beer retailer as provided in Section [32B-13-301](#).

3894 (ii) A violation of Subsection (2)(b) is a class B misdemeanor.

3895 (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a
3896 container larger than two liters.

3897 (4) A minor may not sell beer on the licensed premises of an off-premise beer retailer
3898 unless:

3899 (a) the sale is done under the supervision of a person 21 years of age or older who is on

3900 the licensed premises; and

3901 (b) the minor is at least 16 years of age.

3902 (5) (a) Subject to the other provisions of this Subsection (5), an off-premise beer
3903 retailer shall:

3904 (i) display all beer sold by the off-premise beer retailer in ~~[an area that is visibly~~
3905 ~~separate and distinct from the area where nonalcoholic beverages are displayed; and]~~ no more
3906 than two locations on the retail sales floor, each of which is:

3907 (A) a display cabinet, cooler, aisle, floor display, or room where beer is the only
3908 beverage displayed; and

3909 (B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler
3910 with a door or the beer is separated from the display of nonalcoholic beverages by a display of
3911 one or more nonbeverage products or another physical divider; and

3912 (ii) display a sign in the area described in Subsection (5)(a)(i) that:

3913 (A) is prominent;

3914 (B) is easily readable by a consumer;

3915 (C) meets the requirements for format established by the commission by rule; and

3916 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain
3917 alcohol. Please read the label carefully."

3918 (b) Notwithstanding Subsection (5)(a), a nonalcoholic beer may be displayed with beer
3919 if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

3920 (c) The requirements of this Subsection (5) apply to beer notwithstanding that it is
3921 labeled, packaged, or advertised as:

3922 (i) a malt cooler; or

3923 (ii) a beverage that may provide energy.

3924 ~~[(d) The commission shall define by rule what constitutes an "area that is visibly~~
3925 ~~separate and distinct from the area where a nonalcoholic beverage is displayed."]~~

3926 ~~[(e) A violation of this Subsection (5) is an infraction.]~~

3927 (6) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or
3928 who sells beer to a patron for consumption off the premises of the off-premise beer retailer
3929 shall wear a unique identification badge:

3930 (i) on the front of the staff's clothing;

3931 (ii) visible above the waist;
3932 (iii) bearing the staff's:
3933 (A) first or last name;
3934 (B) initials; or
3935 (C) unique identification in letters or numbers; and
3936 (iv) with the number or letters on the unique identification badge being sufficiently
3937 large to be clearly visible and identifiable while engaging in or directly supervising the retail
3938 sale of beer.

3939 (b) An off-premise beer retailer shall make and maintain a record of each current staff's
3940 unique identification badge assigned by the off-premise beer retailer that includes the staff's:

- 3941 (i) full name;
- 3942 (ii) address; and
- 3943 (iii) (A) driver license number; or
- 3944 (B) similar identification number.

3945 (c) An off-premise beer retailer shall make available a record required to be made or
3946 maintained under this Subsection (6) for immediate inspection by:

- 3947 (i) a peace officer; ~~[or]~~
- 3948 (ii) a representative of the local authority that issues the off-premise beer retailer
3949 license~~[-]; or~~
- 3950 (iii) a representative of the commission or department.

3951 (d) A local authority may impose a fine of up to \$250 against an off-premise beer
3952 retailer that does not comply or require its staff to comply with this Subsection (6).

3953 Section 60. Section **32B-7-401** is enacted to read:

3954 **Part 4. Off-Premise Beer Retailer State License**

3955 **32B-7-401. Commission's power to issue off-premise beer retailer state license.**

3956 (1) Except as provided in Subsection (3), before a person may purchase, store, sell, or
3957 offer for sale beer for consumption off the person's premises, the person shall obtain an
3958 off-premise beer retailer state license in accordance with this part.

3959 (2) The commission may issue an off-premise beer retailer state license for the retail
3960 sale of beer for consumption off the beer retailer's premises.

3961 (3) (a) A person who operates as an off-premise beer retailer on May 9, 2017, shall

3962 obtain an off-premise beer retailer state license on or before February 28, 2018.

3963 (b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3964 the commission shall establish a deadline for each off-premise beer retailer described in
3965 Subsection (3)(a) to submit to the department an application for an off-premise beer retailer
3966 state license.

3967 (ii) The commission shall act upon each timely application submitted in accordance
3968 with this Subsection (3) on or before February 28, 2018.

3969 (c) An off-premise beer retailer described in Subsection (3)(a) may continue to operate
3970 without an off-premise beer retailer state license through February 28, 2018.

3971 Section 61. Section **32B-7-402** is enacted to read:

3972 **32B-7-402. Application for off-premise beer retailer state license -- Qualifications.**

3973 To obtain an off-premise beer retailer state license, a person shall submit to the
3974 department:

3975 (1) a written application in a form prescribed by the department;

3976 (2) a nonrefundable application fee of \$75;

3977 (3) an initial license fee of \$250 that is refundable if the commission does not issue the
3978 off-premise beer retailer state license;

3979 (4) written consent of the local authority;

3980 (5) a copy of the person's current business license;

3981 (6) a floor plan of the premises that outlines the location of each beer display;

3982 (7) a signed consent form stating the person will permit any authorized representative
3983 of the commission or the department or any law enforcement officer to have unrestricted right
3984 to enter the licensed premises;

3985 (8) if the person is an entity, property verification evidencing that the individual who
3986 signs the application is authorized to sign on behalf of the entity; and

3987 (9) any other information that the commission or department requires.

3988 Section 62. Section **32B-7-403** is enacted to read:

3989 **32B-7-403. Renewal of off-premise beer retailer state license.**

3990 (1) An off-premise beer retailer state license expires on the last day of February each
3991 year.

3992 (2) To renew an off-premise beer retailer state license, an off-premise beer retailer state

3993 licensee shall, no later than January 31, submit:

3994 (a) a completed renewal application to the department in a form prescribed by the
3995 department; and

3996 (b) a renewal fee of \$175.

3997 (3) An off-premise beer retailer state licensee automatically forfeits the off-premise
3998 beer retailer state license if the off-premise beer retailer state licensee fails to satisfy the
3999 renewal requirements described in this section.

4000 Section 63. Section **32B-7-404** is enacted to read:

4001 **32B-7-404. Duties of commission and department before issuing off-premise beer**
4002 **retailer state license.**

4003 (1) (a) Before the commission issues an off-premise beer retailer state license, the
4004 department shall conduct an investigation and may hold one or more public hearings to gather
4005 information and make recommendations to the commission regarding whether the commission
4006 should issue an off-premise beer retailer state license.

4007 (b) The department shall forward the information the department gathers and the
4008 department's recommendations to the commission.

4009 (2) Before the commission issues an off-premise beer retailer state license, the
4010 commission shall:

4011 (a) determine that the person filed a complete application and is in compliance with the
4012 provisions of this chapter;

4013 (b) determine that the person is not disqualified under Section [32B-1-304](#);

4014 (c) consider the physical characteristics of the premises where the beer is displayed;
4015 and

4016 (d) consider any other factor that the commission considers necessary.

4017 Section 64. Section **32B-7-405** is enacted to read:

4018 **32B-7-405. Notifying department of change of ownership.**

4019 The commission may suspend or revoke an off-premise beer retailer state license if an
4020 off-premise beer retailer state licensee does not immediately notify the department of a change
4021 in:

4022 (1) ownership of the licensee's business;

4023 (2) for a corporate owner, a shareholder holding at least 20% of the total issued and

4024 outstanding stock of the corporation; or

4025 (3) for a limited liability company, a member owning at least 20% of the limited
 4026 liability company.

4027 Section 65. Section **32B-7-501**, which is renumbered from Section 32B-7-305 is
 4028 renumbered and amended to read:

4029 **Part 5. Off-Premise Beer Retailer Enforcement**

4030 ~~[32B-7-305].~~ **32B-7-501. Tracking of enforcement actions -- Costs of**
 4031 **enforcement actions.**

4032 (1) ~~[A local authority that pursuant to this part adjudicates an administrative penalty for~~
 4033 ~~a violation of a law]~~ For each violation committed by an off-premise beer retailer involving the
 4034 sale of an alcoholic product to a minor, the commission shall:

4035 (a) maintain a record of ~~[an adjudicated]~~ the violation until the record is expunged
 4036 under Subsection (3);

4037 (b) include in the record described in Subsection (1)(a):

4038 (i) the name of the individual who ~~[commits]~~ committed the violation;

4039 (ii) the name of the off-premise beer retailer for whom the individual ~~[is]~~ was a staff
 4040 member at the time of the violation; and

4041 (iii) the date of the adjudication of the violation; and

4042 (c) provide the information described in Subsection (1)(b) to the Highway Safety
 4043 Office of the Department of Public Safety within 30 days of the date on which a violation is
 4044 adjudicated.

4045 (2) (a) The ~~[Highway Safety Office]~~ Department of Public Safety shall develop and
 4046 operate a system to collect, analyze, maintain, track, and disseminate the ~~[violation history]~~
 4047 information ~~[received under]~~ that the Department of Public Safety receives in accordance with
 4048 Subsection (1).

4049 (b) The ~~[Highway Safety Office]~~ Department of Public Safety shall make the system
 4050 described in Subsection (2)(a) available to:

4051 ~~[(i) assist a local authority in assessing administrative penalties under Section~~
 4052 ~~32B-7-303; and]~~

4053 (i) assist the commission in assessing penalties under this title; and

4054 (ii) inform an off-premise beer retailer of an individual who has ~~[an administrative]~~ a

4055 violation history [~~under Section 32B-7-303~~] in the system.

4056 [~~(c) The Highway Safety Office shall maintain a record of violation history information~~
4057 ~~received pursuant to Subsection (1) until the record is expunged under Subsection (3).]~~

4058 (3) [~~(a) A local authority~~] The commission and the [~~Highway Safety Office~~]
4059 Department of Public Safety shall expunge [~~from the records maintained an administrative~~
4060 ~~penalty imposed under Section 32B-7-303 for purposes of determining future administrative~~
4061 ~~penalties under Section 32B-7-303~~] each record in the system described in Subsection (2) that
4062 relates to an individual if the individual [~~has not been found in violation of any law~~] does not
4063 violate a provision of this title involving the sale of an alcoholic product to a minor for a period
4064 of 36 consecutive months from the day on which the individual [~~is last adjudicated as violating~~
4065 ~~a law~~] was last found to have violated a provision of this title involving the sale of an alcoholic
4066 product to a minor.

4067 [~~(b) A local authority shall expunge from the records maintained by the local authority~~
4068 ~~an administrative penalty imposed under Section 32B-7-303 against an off-premise beer~~
4069 ~~retailer for purposes of determining future administrative penalties under Section 32B-7-303 if~~
4070 ~~the off-premise beer retailer or any staff of that off-premise beer retailer has not been found in~~
4071 ~~violation of any law involving the sale of an alcoholic product to a minor for a period of 36~~
4072 ~~consecutive months from the day on which the off-premise beer retailer or staff of the~~
4073 ~~off-premise beer retailer is last adjudicated as violating a law involving the sale of an alcoholic~~
4074 ~~product to a minor.]]~~

4075 (4) The [~~Highway Safety Office~~] Department of Public Safety shall administer a
4076 program to reimburse a municipal or county law enforcement agency:

4077 (a) for the actual costs of an alcohol-related compliance check investigation conducted
4078 [~~pursuant to~~] in accordance with Section 77-39-101 on the premises of an off-premise beer
4079 retailer;

4080 (b) for administrative costs associated with reporting the compliance check
4081 investigation described in Subsection (4)(a);

4082 (c) if the municipal or county law enforcement agency completes and submits to the
4083 [~~Highway Safety Office~~] Department of Public Safety a report within 90 days of the
4084 compliance check investigation described in Subsection (4)(a) in a format required by the
4085 [~~Highway Safety Office~~] Department of Public Safety; and

4086 (d) in the order that the municipal or county law enforcement agency submits the report
4087 required by Subsection (4)(c) until the amount allocated by the [~~Highway Safety Office~~]
4088 Department of Public Safety to reimburse a municipal or county law enforcement agency is
4089 spent.

4090 (5) The [~~Highway Safety Office~~] Department of Public Safety shall report to the Utah
4091 Substance Abuse Advisory Council by no later than October 1 following a fiscal year on the
4092 following funded during the prior fiscal year:

4093 (a) compliance check investigations reimbursed under Subsection (4); and

4094 (b) the collection, analysis, maintenance, tracking, and dissemination of violation
4095 history information described in Subsection (2).

4096 Section 66. Section **32B-8-102** is amended to read:

4097 **32B-8-102. Definitions.**

4098 As used in this chapter:

4099 (1) "Boundary of a resort building" means the physical boundary of the land reasonably
4100 related to a resort building and any structure or improvement to that land as determined by the
4101 commission.

4102 (2) "Dwelling" means a portion of a resort building:

4103 (a) owned by one or more individuals;

4104 (b) that is used or designated for use as a residence by one or more persons; and

4105 (c) that may be rented, loaned, leased, or hired out for a period of no longer than 30
4106 consecutive days by a person who uses it for a residence.

4107 (3) "Engaged in the management of the resort" may be defined by the commission by
4108 rule.

4109 (4) "Invitee" means an individual who in accordance with Subsection [32B-8-304\(11\)](#) is
4110 authorized to use a resort spa by a host who is:

4111 (a) a resident; or

4112 (b) a public customer.

4113 (5) "Provisions applicable to a sublicense" means:

4114 (a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant
4115 License;

4116 (b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service

- 4117 Restaurant License;
- 4118 (c) for a [~~club~~] bar establishment sublicense, Chapter 6, Part 4, [~~Club~~] Bar
- 4119 Establishment License;
- 4120 (d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet
- 4121 License;
- 4122 (e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer
- 4123 Retailer License; and
- 4124 (f) for a resort spa sublicense, Part 3, Resort Spa Sublicense.
- 4125 (6) "Public customer" means an individual who holds a customer card in accordance
- 4126 with Subsection 32B-8-304(12).
- 4127 (7) "Resident" means an individual who:
- 4128 (a) owns a dwelling located within a resort building; or
- 4129 (b) rents lodging accommodations for 30 consecutive days or less from:
- 4130 (i) an owner of a dwelling described in Subsection (7)(a); or
- 4131 (ii) the resort licensee.
- 4132 (8) "Resort" means a location:
- 4133 (a) on which is located one resort building; and
- 4134 (b) that is affiliated with a ski area that physically touches the boundary of the resort
- 4135 building.
- 4136 (9) "Resort building" means a building:
- 4137 (a) that is primarily operated to provide dwellings or lodging accommodations;
- 4138 (b) that has at least 150 units that consist of a dwelling or lodging accommodations;
- 4139 (c) that consists of at least 400,000 square feet:
- 4140 (i) including only the building itself; and
- 4141 (ii) not including areas such as above ground surface parking; and
- 4142 (d) of which at least 50% of the units described in Subsection (9)(b) consist of
- 4143 dwellings owned by a person other than the resort licensee.
- 4144 (10) "Resort spa" means a spa, as defined by rule by the commission, that is within the
- 4145 boundary of a resort building.
- 4146 (11) "Sublicense" means:
- 4147 (a) a full-service restaurant sublicense;

- 4148 (b) a limited-service restaurant sublicense;
- 4149 (c) a [~~club~~] bar establishment sublicense;
- 4150 (d) an on-premise banquet sublicense;
- 4151 (e) an on-premise beer retailer sublicense; and
- 4152 (f) a resort spa sublicense.

4153 (12) "Sublicense premises" means a building, enclosure, or room used pursuant to a
4154 sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic
4155 product, unless otherwise defined in this title or in the rules made by the commission.

4156 Section 67. Section **32B-8-304** is amended to read:

4157 **32B-8-304. Specific operational requirements for resort spa sublicense.**

4158 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
4159 Requirements, a resort licensee, staff of the resort licensee, or a person otherwise related to a
4160 resort spa sublicense shall comply with this section.

4161 (b) Subject to Section **32B-8-502**, failure to comply as provided in Subsection (1)(a)
4162 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and
4163 Enforcement Act, against:

- 4164 (i) a retail licensee;
- 4165 (ii) staff of the retail licensee;
- 4166 (iii) a person otherwise related to a resort spa sublicense; or
- 4167 (iv) any combination of the persons listed in this Subsection (1)(b).

4168 (2) (a) For purposes of the resort spa sublicense, the resort licensee shall ensure that a
4169 record required by this title is maintained, and a record is maintained or used for the resort spa
4170 sublicense:

- 4171 (i) as the department requires; and
- 4172 (ii) for a minimum period of three years.

4173 (b) A record is subject to inspection by an authorized representative of the commission
4174 and the department.

4175 (c) A resort licensee shall allow the department, through an auditor or examiner of the
4176 department, to audit the records for a resort spa sublicense at the times the department
4177 considers advisable.

4178 (d) The department shall audit the records for a resort spa sublicense at least once

4179 annually.

4180 (e) Section 32B-1-205 applies to a record required to be made, maintained, or used in
4181 accordance with this Subsection (2).

4182 (3) (a) A person operating under a resort spa sublicense may not sell, offer for sale, or
4183 furnish liquor at a resort spa during a period that:

4184 (i) begins at 1 a.m.; and

4185 (ii) ends at 9:59 a.m.

4186 (b) A person operating under a resort spa sublicense may sell, offer for sale, or furnish
4187 beer during the hours specified in Chapter 6, Part 7, On-Premise Beer Retailer License, for an
4188 on-premise beer retailer.

4189 (c) (i) Notwithstanding Subsections (3)(a) and (b), a resort spa shall remain open for
4190 one hour after the resort spa ceases the sale and furnishing of an alcoholic product during
4191 which time a person at the resort spa may finish consuming:

4192 (A) a single drink containing spirituous liquor;

4193 (B) a single serving of wine not exceeding five ounces;

4194 (C) a single serving of heavy beer;

4195 (D) a single serving of beer not exceeding 26 ounces; or

4196 (E) a single serving of a flavored malt beverage.

4197 (ii) A resort spa is not required to remain open:

4198 (A) after all persons have vacated the resort spa sublicense premises; or

4199 (B) during an emergency.

4200 (4) A minor may not be admitted into, use, or be on:

4201 (a) the sublicense premises of a resort spa unless accompanied by a person 21 years of
4202 age or older; or

4203 (b) a lounge or bar area of the resort spa sublicense premises.

4204 (5) A resort spa shall have food available at all times when an alcoholic product is sold,
4205 offered for sale, furnished, or consumed on the resort spa sublicense premises.

4206 (6) (a) Subject to the other provisions of this Subsection (6), a patron may not have
4207 more than two alcoholic products of any kind at a time before the patron.

4208 (b) A resort spa patron may not have two spirituous liquor drinks before the resort spa
4209 patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for

4210 the other spirituous liquor drink.

4211 (c) An individual portion of wine is considered to be one alcoholic product under this
4212 Subsection (6).

4213 (7) (a) An alcoholic product may only be consumed at a table or counter.

4214 (b) An alcoholic product may not be served to or consumed by a patron at a [~~bar~~]
4215 dispensing structure.

4216 (8) (a) A person operating under a resort spa sublicense shall have available on the
4217 resort spa sublicense premises for a patron to review at the time that the patron requests it, a
4218 written alcoholic product price list or a menu containing the price of an alcoholic product sold
4219 or furnished by the resort spa including:

4220 (i) a set-up charge;

4221 (ii) a service charge; or

4222 (iii) a chilling fee.

4223 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
4224 may be stated in food or alcoholic product menus including:

4225 (i) a set-up charge;

4226 (ii) a service charge; or

4227 (iii) a chilling fee.

4228 (9) (a) A resort licensee shall own or lease premises suitable for the resort spa's
4229 activities.

4230 (b) A resort licensee may not maintain premises in a manner that barricades or conceals
4231 the resort spa sublicense's operation.

4232 (10) Subject to the other provisions of this section, a person operating under a resort
4233 spa sublicense may not sell an alcoholic product to or allow a person to be admitted to or use
4234 the resort spa sublicense premises other than:

4235 (a) a resident;

4236 (b) a public customer who holds a valid customer card issued under Subsection (12); or

4237 (c) an invitee.

4238 (11) A person operating under a resort spa sublicense may allow an individual to be
4239 admitted to or use the resort spa sublicense premises as an invitee subject to the following
4240 conditions:

4241 (a) the individual shall be previously authorized by one of the following who agrees to
4242 host the individual as an invitee into the resort spa:

4243 (i) a resident; or

4244 (ii) a public customer as described in Subsection (10);

4245 (b) the individual has only those privileges derived from the individual's host for the
4246 duration of the invitee's visit to the resort spa; and

4247 (c) a resort licensee, resort spa, or staff of the resort licensee or resort spa may not enter
4248 into an agreement or arrangement with a resident or public customer to indiscriminately host a
4249 member of the general public into the resort spa as an invitee.

4250 (12) A person operating under a resort spa sublicense may issue a customer card to
4251 allow an individual to enter and use the resort spa sublicense premises on a temporary basis
4252 under the following conditions:

4253 (a) the resort spa may not issue a customer card for a time period that exceeds three
4254 weeks;

4255 (b) the resort spa shall assess a fee to a public customer for a customer card;

4256 (c) the resort spa may not issue a customer card to a minor; and

4257 (d) a public customer may not host more than seven invitees at one time.

4258 Section 68. Section **32B-8a-302** is amended to read:

4259 **32B-8a-302. Application -- Approval process.**

4260 (1) To obtain the transfer of a retail license from a retail licensee, the transferee shall
4261 file a transfer application with the department that includes:

4262 (a) an application in the form provided by the department;

4263 (b) a statement as to whether the consideration, if any, to be paid to the transferor
4264 includes payment for transfer of the retail license;

4265 (c) a statement executed under penalty of perjury that the consideration as set forth in
4266 the escrow agreement required by Section **32B-8a-401** is deposited with the escrow holder; and

4267 (d) (i) an application fee of \$300; and

4268 (ii) a transfer fee determined in accordance with Section **32B-8a-303**.

4269 (2) If the intended transfer of a retail license involves consideration, at least 10 days
4270 before the commission may approve the transfer, the department shall post a notice of the
4271 intended transfer on the Public Notice Website created in Section **63F-1-701** that states the

4272 following:

4273 (a) the name of the transferor;

4274 (b) the name and address of the business currently associated with the retail license;

4275 (c) instructions for filing a claim with the escrow holder; and

4276 (d) the projected date that the commission may consider the transfer application.

4277 (3) (a) (i) Before the commission may approve the transfer of a retail license, the
4278 department shall conduct an investigation and may hold public hearings to gather information
4279 and make recommendations to the commission as to whether the transfer of the retail license
4280 should be approved.

4281 (ii) The department shall forward the information and recommendations described in
4282 this Subsection (3)(a) to the commission to aid in the commission's determination.

4283 (b) Before approving a transfer, the commission shall:

4284 (i) determine that the transferee filed a complete application;

4285 (ii) determine that the transferee is eligible to hold the type of retail license that is to be
4286 transferred at the premises to which the retail license would be transferred;

4287 (iii) determine that the transferee is not delinquent in the payment of an amount
4288 described in Subsection [32B-8a-201\(3\)](#);

4289 (iv) determine that the transferee is not disqualified under Section [32B-1-304](#);

4290 (v) consider the locality within which the proposed licensed premises is located,
4291 including the factors listed in Section [32B-5-203](#) for the issuance of a retail license;

4292 (vi) consider the transferee's ability to manage and operate the retail license to be
4293 transferred, including the factors listed in Section [32B-5-203](#) for the issuance of a retail license;

4294 (vii) consider the nature or type of retail licensee operation of the transferee, including
4295 the factors listed in Section [32B-5-203](#) for the issuance of a retail license;

4296 (viii) if the transfer involves consideration, determine that the transferee and transferor
4297 have complied with Part 4, Protection of Creditors; and

4298 (ix) consider any other factor the commission considers necessary.

4299 (4) ~~[(a)]~~ Except as provided in Subsection ~~[(4)(b)]~~ [32B-1-202\(3\)](#), the commission may
4300 not approve the transfer of a retail license to premises that do not meet the proximity
4301 requirements of Section [32B-1-202](#).

4302 ~~[(b) If after a transfer of a retail license the transferee operates the same type of retail~~

4303 ~~license at the same location as did the transferor, the commission may waive or vary the~~
4304 ~~proximity requirements of Subsection 32B-1-202(2) in considering whether to approve the~~
4305 ~~transfer under the same circumstances that the commission may waive or vary the proximity~~
4306 ~~requirements in accordance with Subsection 32B-1-202(4) when considering whether to issue a~~
4307 ~~retail license.]~~

4308 Section 69. Section **32B-8b-102** is amended to read:

4309 **32B-8b-102. Definitions.**

4310 As used in this chapter:

4311 (1) "Boundary of a hotel" means the physical boundary of the contiguous parcels of
4312 real estate owned by the same person on which is located one or more buildings and any
4313 structure or improvement to that real estate as determined by the commission.

4314 (2) "Hotel" means one or more buildings that:

4315 (a) constitute a hotel, as defined by the commission;

4316 (b) are owned by the same person or by a person who has a majority interest in and can
4317 direct or exercise control over the management or policy of the person who owns any other
4318 building under the hotel license within the boundary of the hotel;

4319 (c) primarily operate to provide lodging accommodations;

4320 (d) provide room service within the boundary of the hotel meeting the requirements of
4321 this title;

4322 (e) have on-premise banquet space and provide on-premise banquet service within the
4323 boundary of the hotel meeting the requirements of this title;

4324 (f) have a restaurant or ~~[club]~~ bar establishment within the boundary of the hotel
4325 meeting the requirements of this title; and

4326 (g) have at least 40 guest rooms.

4327 (3) "Provisions applicable to a sublicense" means:

4328 (a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-Service Restaurant
4329 License;

4330 (b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-Service
4331 Restaurant License;

4332 (c) for a ~~[club]~~ bar establishment sublicense, Chapter 6, Part 4, ~~[Club]~~ Bar
4333 Establishment License;

4334 (d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-Premise Banquet
4335 License;

4336 (e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-Premise Beer
4337 Retailer License; and

4338 (f) for a beer-only restaurant sublicense, Chapter 6, Part 9, Beer-Only Restaurant
4339 License.

4340 (4) "Sublicense" means:

4341 (a) a full-service restaurant sublicense;

4342 (b) a limited-service restaurant sublicense;

4343 (c) a [~~club~~] bar establishment sublicense;

4344 (d) an on-premise banquet sublicense;

4345 (e) an on-premise beer retailer sublicense; and

4346 (f) a beer-only restaurant sublicense.

4347 (5) "Sublicense premises" means a building, enclosure, or room used pursuant to a
4348 sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic
4349 product, unless otherwise defined in this title or in the rules made by the commission, except
4350 that sublicense premises may have only one sublicense within a room or an enclosure that is
4351 separate from a room.

4352 Section 70. Section **32B-8b-201** is amended to read:

4353 **32B-8b-201. Commission's power to issue a hotel license.**

4354 (1) Before a person as a hotel under a single license may store, sell, offer for sale,
4355 furnish, or allow the consumption of an alcoholic product on sublicense premises, the person
4356 shall first obtain a hotel license from the commission in accordance with this part.

4357 (2) (a) The commission may issue to a person a hotel license to allow the storage, sale,
4358 offer for sale, furnishing, and consumption of an alcoholic product in connection with a hotel
4359 designated in the hotel license if the person operates at least three sublicenses under the hotel
4360 license one of which is an on-premise banquet license and one of which is a sublicense for a
4361 restaurant or [~~club~~] bar establishment.

4362 (b) A hotel license shall:

4363 (i) consist of:

4364 (A) a general hotel license; and

4365 (B) three or more sublicenses meeting the requirements of Subsection (2)(a); and
4366 (ii) designate the boundary of the hotel and sublicenses.

4367 (c) This chapter does not prohibit an alcoholic product on the boundary of the hotel to
4368 the extent otherwise permitted by this title.

4369 (d) The commission may not issue a sublicense that is separate from a hotel license.

4370 (3) (a) The commission may not issue a total number of hotel licenses that at any time
4371 totals more than 80.

4372 (b) Subject to Subsection (3)(c), when determining the total number of licenses the
4373 commission has issued for each type of retail license, the commission may not include a
4374 sublicense as one of the retail licenses issued under the provisions applicable to the sublicense.

4375 (c) If a hotel license issued under this chapter includes a ~~club~~ bar establishment
4376 sublicense that before the issuance of the hotel license was a ~~club~~ bar establishment license,
4377 the commission shall include the ~~club~~ bar establishment sublicense as one of the ~~club~~ bar
4378 establishment licenses in determining if the total number of licenses issued under the
4379 provisions applicable to the ~~club~~ bar establishment license exceeds the number calculated by
4380 dividing the population of the state by the number specified in the provisions applicable to the
4381 ~~club~~ bar establishment license.

4382 (d) A person may not transfer a ~~club~~ bar establishment license under Chapter 8a,
4383 Transfer of Retail License Act, in a manner that circumvents the limitations of Subsection
4384 (3)(c).

4385 Section 71. Section **53-10-305** is amended to read:

4386 **53-10-305. Duties of bureau chief.**

4387 The bureau chief, with the consent of the commissioner, shall do the following:

4388 (1) conduct in conjunction with the state boards of education and higher education in
4389 state schools, colleges, and universities, an educational program concerning alcoholic
4390 beverages and alcoholic products, and work in conjunction with civic organizations, churches,
4391 local units of government, and other organizations in the prevention of alcoholic beverage,
4392 alcoholic product, and drug violations;

4393 (2) coordinate law enforcement programs throughout the state and accumulate and
4394 disseminate information related to the prevention, detection, and control of violations of this
4395 chapter and Title 32B, Alcoholic Beverage Control Act, as it relates to storage or consumption

4396 of an alcoholic beverage or alcoholic product on premises maintained by a ~~club~~ bar
4397 establishment licensee, or a person required to obtain a ~~club~~ bar establishment license, as
4398 defined in Section [32B-1-102](#);

4399 (3) make inspections and investigations as required by the commission and the
4400 Department of Alcoholic Beverage Control;

4401 (4) perform other acts as may be necessary or appropriate concerning control of the use
4402 of an alcoholic beverage or alcoholic product and drugs; and

4403 (5) make reports and recommendations to the Legislature, the governor, the
4404 commissioner, the commission, and the Department of Alcoholic Beverage Control as may be
4405 required or requested.

4406 Section 72. Section **53A-13-102** is amended to read:

4407 **53A-13-102. Instruction on the harmful effects of alcohol, tobacco, and controlled**
4408 **substances -- School-based underage drinking prevention program.**

4409 (1) The State Board of Education shall adopt rules providing for instruction at each
4410 grade level on the harmful effects of alcohol, tobacco, and controlled substances upon the
4411 human body and society. The rules shall require but are not limited to instruction on the
4412 following:

4413 (a) teaching of skills needed to evaluate advertisements for, and media portrayal of,
4414 alcohol, tobacco, and controlled substances;

4415 (b) directing students towards healthy and productive alternatives to the use of alcohol,
4416 tobacco, and controlled substances; and

4417 (c) discouraging the use of alcohol, tobacco, and controlled substances.

4418 (2) At the request of the board, the Division of Substance Abuse and Mental Health
4419 shall cooperate with the board in developing programs to provide this instruction.

4420 (3) The board shall participate in efforts to enhance communication among community
4421 organizations and state agencies, and shall cooperate with those entities in efforts which are
4422 compatible with the purposes of ~~[this section]~~ Subsections (1) and (2).

4423 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4424 board shall make rules that require each LEA, as defined in Section [53A-1-401](#), to:

4425 (a) present the school-based underage drinking prevention program as defined in
4426 Section [32B-2-306](#) each year to students in grade 8;

4427 (b) present the grade 10 school-based underage drinking prevention program as defined
4428 in Section 32B-2-306 each year to students in grade 10;

4429 (c) ensure that each student in grade 8 or 10 participates in the school-based underage
4430 drinking prevention program or the grade 10 school-based underage drinking prevention
4431 program, unless the student's parent or guardian excused the student from participation; and

4432 (d) coordinate with the Department of Alcoholic Beverage Control to set a date each
4433 year for the Department of Alcoholic Beverage Control or the provider with whom the
4434 Department of Alcoholic Beverage Control contracts to provide the school-based underage
4435 drinking prevention program or the grade 10 school-based underage drinking prevention
4436 program.

4437 Section 73. Section **62A-15-401** is amended to read:

4438 **62A-15-401. Alcohol training and education seminar.**

4439 (1) As used in this part:

4440 (a) "Instructor" means a person that directly provides the instruction during an alcohol
4441 training and education seminar for a seminar provider.

4442 (b) "Licensee" means a person who is:

4443 (i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act;
4444 and

4445 (B) engaged in the retail sale of an alcoholic product for consumption on the premises
4446 of the licensee; or

4447 (ii) a business that is:

4448 (A) a new or renewing licensee licensed by a city, town, or county; and

4449 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.

4450 (c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

4451 (d) "Seminar provider" means a person other than the division who provides an alcohol
4452 training and education seminar meeting the requirements of this section.

4453 (2) (a) This section applies to ~~[an individual who, as defined by the division by rule]:~~

4454 ~~[(i) manages operations at the premises of a licensee engaged in the retail sale of an~~
4455 ~~alcoholic product for consumption on the premises of the licensee;]~~

4456 ~~[(ii) supervises the serving of an alcoholic product to a customer for consumption on~~
4457 ~~the premises of a licensee;]~~

4458 ~~[(iii) serves an alcoholic product to a customer for consumption on the premises of a~~
4459 ~~licensee;]~~

4460 (i) a retail manager as defined in Section [32B-5-402](#);

4461 (ii) retail staff as defined in Section [32B-5-402](#); and

4462 (iii) an individual who, as defined by division rule:

4463 ~~[(iv)]~~ (A) directly supervises the sale of beer to a customer for consumption off the
4464 premises of an off-premise beer retailer; or

4465 ~~[(v)]~~ (B) sells beer to a customer for consumption off the premises of an off-premise
4466 beer retailer.

4467 (b) If the individual does not have a valid record that the individual has completed an
4468 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

4469 (i) (A) complete an alcohol training and education seminar within 30 days of the
4470 following if the individual is described in Subsections (2)(a)(i) through (iii):

4471 (I) if the individual is an employee, the day the individual begins employment;

4472 (II) if the individual is an independent contractor, the day the individual is first hired;

4473 or

4474 (III) if the individual holds an ownership interest in the licensee, the day that the
4475 individual first engages in an activity that would result in that individual being required to
4476 complete an alcohol training and education seminar; or

4477 (B) complete an alcohol training and education seminar within the time periods
4478 specified in Subsection [32B-5-404](#)(1) if the individual is described in Subsections (2)(a)(iv)
4479 and (v); and

4480 (ii) pay a fee:

4481 (A) to the seminar provider; and

4482 (B) that is equal to or greater than the amount established under Subsection (4)(h).

4483 (c) An individual shall have a valid record that the individual completed an alcohol
4484 training and education seminar within the time period provided in this Subsection (2) to engage
4485 in an activity described in Subsection (2)(a).

4486 (d) A record that an individual has completed an alcohol training and education
4487 seminar is valid for:

4488 (i) three years from the day on which the record is issued for an individual described in

4489 Subsection (2)(a)(i), (ii), or (iii); and

4490 (ii) five years from the day on which the record is issued for an individual described in

4491 Subsection (2)(a)(iv) or (v).

4492 (e) On and after July 1, 2011, to be considered as having completed an alcohol training
4493 and education seminar, an individual shall:

4494 (i) attend the alcohol training and education seminar and take any test required to
4495 demonstrate completion of the alcohol training and education seminar in the physical presence
4496 of an instructor of the seminar provider; or

4497 (ii) complete the alcohol training and education seminar and take any test required to
4498 demonstrate completion of the alcohol training and education seminar through an online course
4499 or testing program that meets the requirements described in Subsection (2)(f).

4500 (f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah
4501 Administrative Rulemaking Act, establish one or more requirements for an online course or
4502 testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of
4503 the online course or testing program. In developing the requirements by rule the division shall
4504 consider whether to require:

4505 (i) authentication that the an individual accurately identifies the individual as taking the
4506 online course or test;

4507 (ii) measures to ensure that an individual taking the online course or test is focused on
4508 training material throughout the entire training period;

4509 (iii) measures to track the actual time an individual taking the online course or test is
4510 actively engaged online;

4511 (iv) a seminar provider to provide technical support, such as requiring a telephone
4512 number, email, or other method of communication that allows an individual taking the online
4513 course or test to receive assistance if the individual is unable to participate online because of
4514 technical difficulties;

4515 (v) a test to meet quality standards, including randomization of test questions and
4516 maximum time limits to take a test;

4517 (vi) a seminar provider to have a system to reduce fraud as to who completes an online
4518 course or test, such as requiring a distinct online certificate with information printed on the
4519 certificate that identifies the person taking the online course or test, or requiring measures to

4520 inhibit duplication of a certificate;

4521 (vii) measures for the division to audit online courses or tests;

4522 (viii) measures to allow an individual taking an online course or test to provide an

4523 evaluation of the online course or test;

4524 (ix) a seminar provider to track the Internet protocol address or similar electronic

4525 location of an individual who takes an online course or test;

4526 (x) an individual who takes an online course or test to use an e-signature; or

4527 (xi) a seminar provider to invalidate a certificate if the seminar provider learns that the

4528 certificate does not accurately reflect the individual who took the online course or test.

4529 (3) (a) A licensee may not permit an individual who is not in compliance with

4530 Subsection (2) to:

4531 (i) serve or supervise the serving of an alcoholic product to a customer for

4532 consumption on the premises of the licensee;

4533 (ii) engage in any activity that would constitute managing operations at the premises of

4534 a licensee that engages in the retail sale of an alcoholic product for consumption on the

4535 premises of the licensee;

4536 (iii) directly supervise the sale of beer to a customer for consumption off the premises

4537 of an off-premise beer retailer; or

4538 (iv) sell beer to a customer for consumption off the premises of an off-premise beer

4539 retailer.

4540 (b) A licensee that violates Subsection (3)(a) is subject to Section [32B-5-403](#).

4541 (4) The division shall:

4542 (a) (i) provide alcohol training and education seminars; or

4543 (ii) certify one or more seminar providers;

4544 (b) establish the curriculum for an alcohol training and education seminar that includes

4545 the following subjects:

4546 (i) (A) alcohol as a drug; and

4547 (B) alcohol's effect on the body and behavior;

4548 (ii) recognizing the problem drinker or signs of intoxication;

4549 (iii) an overview of state alcohol laws related to responsible beverage sale or service,

4550 as determined in consultation with the Department of Alcoholic Beverage Control;

4551 (iv) dealing with the problem customer, including ways to terminate sale or service;
4552 and

4553 (v) for those supervising or engaging in the retail sale of an alcoholic product for
4554 consumption on the premises of a licensee, alternative means of transportation to get the
4555 customer safely home;

4556 (c) recertify each seminar provider every three years;

4557 (d) monitor compliance with the curriculum described in Subsection (4)(b);

4558 (e) maintain for at least five years a record of every person who has completed an
4559 alcohol training and education seminar;

4560 (f) provide the information described in Subsection (4)(e) on request to:

4561 (i) the Department of Alcoholic Beverage Control;

4562 (ii) law enforcement; or

4563 (iii) a person licensed by the state or a local government to sell an alcoholic product;

4564 (g) provide the Department of Alcoholic Beverage Control on request a list of any
4565 seminar provider certified by the division; and

4566 (h) establish a fee amount for each person attending an alcohol training and education
4567 seminar that is sufficient to offset the division's cost of administering this section.

4568 (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah
4569 Administrative Rulemaking Act:

4570 (a) define what constitutes under this section an individual who:

4571 (i) manages operations at the premises of a licensee engaged in the retail sale of an
4572 alcoholic product for consumption on the premises of the licensee;

4573 (ii) supervises the serving of an alcoholic product to a customer for consumption on the
4574 premises of a licensee;

4575 (iii) serves an alcoholic product to a customer for consumption on the premises of a
4576 licensee;

4577 (iv) directly supervises the sale of beer to a customer for consumption off the premises
4578 of an off-premise beer retailer; or

4579 (v) sells beer to a customer for consumption off the premises of an off-premise beer
4580 retailer;

4581 (b) establish criteria for certifying and recertifying a seminar provider; and

- 4582 (c) establish guidelines for the manner in which an instructor provides an alcohol
4583 education and training seminar.
- 4584 (6) A seminar provider shall:
- 4585 (a) obtain recertification by the division every three years;
- 4586 (b) ensure that an instructor used by the seminar provider:
- 4587 (i) follows the curriculum established under this section; and
- 4588 (ii) conducts an alcohol training and education seminar in accordance with the
4589 guidelines established by rule;
- 4590 (c) ensure that any information provided by the seminar provider or instructor of a
4591 seminar provider is consistent with:
- 4592 (i) the curriculum established under this section; and
- 4593 (ii) this section;
- 4594 (d) provide the division with the names of all persons who complete an alcohol training
4595 and education seminar provided by the seminar provider;
- 4596 (e) (i) collect a fee for each person attending an alcohol training and education seminar
4597 in accordance with Subsection (2); and
- 4598 (ii) forward to the division the portion of the fee that is equal to the amount described
4599 in Subsection (4)(h); and
- 4600 (f) issue a record to an individual that completes an alcohol training and education
4601 seminar provided by the seminar provider.
- 4602 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,
4603 Administrative Procedures Act, the division finds that a seminar provider violates this section
4604 or that an instructor of the seminar provider violates this section, the division may:
- 4605 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;
- 4606 (ii) revoke the certification of the seminar provider;
- 4607 (iii) require the seminar provider to take corrective action regarding an instructor; or
- 4608 (iv) prohibit the seminar provider from using an instructor until such time that the
4609 seminar provider establishes to the satisfaction of the division that the instructor is in
4610 compliance with Subsection (6)(b).
- 4611 (b) The division may certify a seminar provider whose certification is revoked:
- 4612 (i) no sooner than 90 days from the date the certification is revoked; and

4613 (ii) if the seminar provider establishes to the satisfaction of the division that the
4614 seminar provider will comply with this section.

4615 Section 74. Section **63I-2-232** is amended to read:

4616 **63I-2-232. Repeal dates -- Title 32A.**

4617 (1) Subsection 32B-1-102(7) is repealed July 1, 2022.

4618 (2) Subsection 32B-1-102(33)(a)(i)(B), the language that states "32B-6-205(12)(b)(ii),
4619 32B-6-305(12)(b)(ii)," and "32B-6-905(12)(b)(ii)" is repealed July 1, 2022.

4620 (3) Subsection 32B-1-102(114)(b), the language that states "32B-6-205(12)(b)(ii),
4621 32B-6-305(12)(b)(ii)," and "32B-6-905(12)(b)(ii)" is repealed July 1, 2022.

4622 (4) Subsection 32B-1-604(4) is repealed January 1, 2018.

4623 (5) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

4624 (6) Section 32B-6-205 is repealed July 1, 2022.

4625 (7) Subsection 32B-6-205.2(17) is repealed July 1, 2022.

4626 (8) Section 32B-6-205.3 is repealed July 1, 2022.

4627 (9) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

4628 (10) Section 32B-6-305 is repealed July 1, 2022.

4629 (11) Subsection 32B-6-305.2(17) is repealed July 1, 2022.

4630 (12) Section 32B-6-305.3 is repealed July 1, 2022.

4631 (13) Section 32B-6-404.1 is repealed July 1, 2022.

4632 (14) Section 32B-6-409 is repealed July 1, 2022.

4633 (15) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

4634 (16) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

4635 (17) Section 32B-6-905 is repealed July 1, 2022.

4636 (18) Subsection 32B-6-905.1(17) is repealed July 1, 2022.

4637 (19) Section 32B-6-905.2 is repealed July 1, 2022.

4638 (20) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.

4639 Section 75. **Repealer.**

4640 This bill repeals:

4641 Section **32B-6-205.1, Credit for grandfathered bar structures of full-service**
4642 **restaurant licensee.**

4643 Section **32B-6-305.1, Credit for grandfathered bar structures for limited-service**

4644 **restaurant licensee.**

4645 Section **32B-7-301**, **Title.**

4646 Section **32B-7-302**, **Definitions.**

4647 Section **32B-7-303**, **Penalties related to sales to minors.**

4648 Section **32B-7-304**, **Hearings.**