

1                   **OFF-PREMISE BEER RETAILER LICENSING**

2                                   **AMENDMENTS**

3   2018 SECOND SPECIAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Jerry W. Stevenson**

6   House Sponsor: Timothy D. Hawkes

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8   **LONG TITLE**

9   **General Description:**

10           This bill amends provisions related to state licensing of off-premise beer retailers.

11   **Highlighted Provisions:**

12           This bill:

13           ▶ creates a conditional off-premise beer retailer state license that conditions the  
14 holder's ability to purchase, store, or sell beer on the holder obtaining a business  
15 license;

16           ▶ provides that a conditional off-premise beer retailer state license becomes an  
17 off-premise beer retailer state license if, within nine months of obtaining the  
18 conditional license, the holder demonstrates that the holder has obtained a business  
19 license and continues to meet the other requirements for an off-premise beer retailer  
20 state license;

21           ▶ allows the Alcoholic Beverage Control Commission to extend the nine-month  
22 deadline by three months, under certain circumstances; and

23           ▶ makes technical and conforming changes.

24   **Money Appropriated in this Bill:**

25           None

26   **Other Special Clauses:**

27           This bill provides a special effective date.

28   **Utah Code Sections Affected:**

29   AMENDS:

30           **32B-2-202**, as last amended by Laws of Utah 2017, Chapter 455

31 ENACTS:

32           **32B-7-406**, Utah Code Annotated 1953

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

35           Section 1. Section **32B-2-202** is amended to read:

36           **32B-2-202. Powers and duties of the commission.**

37           (1) The commission shall:

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

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

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

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

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

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

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

50           (i) a package agency;

51           (ii) a full-service restaurant license;

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

53           (iv) a limited-service restaurant license;

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

55           (vi) a bar establishment license;

56           (vii) an airport lounge license;

57           (viii) an on-premise banquet license;

- 58 (ix) a resort license, under which at least four or more sublicenses may be included;
- 59 (x) an on-premise beer retailer license;
- 60 (xi) a reception center license;
- 61 (xii) a beer-only restaurant license;
- 62 (xiii) a hotel license, under which at least three or more sublicenses may be included;
- 63 (xiv) subject to Subsection (4), a single event permit;
- 64 (xv) subject to Subsection (4), a temporary beer event permit;
- 65 (xvi) a special use permit;
- 66 (xvii) a manufacturing license;
- 67 (xviii) a liquor warehousing license;
- 68 (xix) a beer wholesaling license; and
- 69 (xx) one of the following that holds a certificate of approval:
  - 70 (A) an out-of-state brewer;
  - 71 (B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and
  - 72 (C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;
  - 73 (f) ~~[in accordance with Section 32B-5-205,]~~ issue, deny, suspend, or revoke the
  - 74 following conditional licenses [for the purchase, storage, sale, furnishing, consumption,
  - 75 manufacture, and distribution of an alcoholic product,];
    - 76 (i) a conditional retail license as defined in Section 32B-5-205; and
    - 77 (ii) a conditional off-premise beer retailer state license as defined in Section
    - 78 32B-7-406;
  - 79 (g) prescribe the duties of the department in assisting the commission in issuing a
  - 80 package agency, license, permit, or certificate of approval under this title;
  - 81 (h) to the extent a fee is not specified in this title, establish a fee allowed under this title
  - 82 in accordance with Section 63J-1-504;
    - 83 (i) fix prices at which liquor is sold that are the same at all state stores, package
    - 84 agencies, and retail licensees;
    - 85 (j) issue and distribute price lists showing the price to be paid by a purchaser for each

86 class, variety, or brand of liquor kept for sale by the department;

87 (k) (i) require the director to follow sound management principles; and

88 (ii) require periodic reporting from the director to ensure that:

89 (A) sound management principles are being followed; and

90 (B) policies established by the commission are being observed;

91 (l) (i) receive, consider, and act in a timely manner upon the reports, recommendations,

92 and matters submitted by the director to the commission; and

93 (ii) do the things necessary to support the department in properly performing the

94 department's duties;

95 (m) obtain temporarily and for special purposes the services of an expert or person

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

97 (i) considered expedient; and

98 (ii) approved by the governor;

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

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

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

102 licensees; and

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

104 disciplinary action against a person subject to administrative action.

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

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

107 not subject to review:

108 (a) establish a state store;

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

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

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

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

113 Rulemaking Act.

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

116 Section 2. Section **32B-7-406** is enacted to read:

117 **32B-7-406. Conditional off-premise beer retailer state license.**

118 (1) As used in this section, "conditional off-premise beer retailer state license" means  
119 an off-premise beer retailer state license that conditions the holder's ability to purchase, store,  
120 sell, or offer for sale beer for consumption off the holder's licensed premises on the holder  
121 submitting to the department a copy of the holder's current business license.

122 (2) In accordance with the provisions of this section, the commission may issue a  
123 conditional off-premise beer retailer state license to a person if the person:

124 (a) meets the requirements to obtain an off-premise beer retailer state license, except  
125 the requirement to submit a copy of the person's current business license; and

126 (b) agrees not to purchase, store, sell, or offer for sale beer for consumption off the  
127 person's licensed premises before obtaining an off-premise beer retailer state license.

128 (3) (a) For a conditional off-premise beer retailer state license to become an  
129 off-premise beer retailer state license, a person who holds the conditional off-premise beer  
130 retailer state license shall:

131 (i) submit to the department a copy of the person's current business license; and

132 (ii) provide to the department evidence satisfactory to the department that:

133 (A) there has been no change in the information submitted to the commission as part of  
134 the person's application for an off-premise beer retailer state license; and

135 (B) the person continues to qualify for an off-premise beer retailer state license.

136 (b) A conditional off-premise beer retailer state license becomes an off-premise beer  
137 retailer state license on the day on which the department notifies the person who holds the  
138 conditional off-premise beer retailer state license that the department finds that the person has  
139 complied with Subsection (3)(a).

140 (4) (a) A conditional off-premise beer retailer state license expires nine months after  
141 the day on which the commission issues the conditional off-premise beer retailer state license,

142 unless the conditional off-premise beer retailer state license becomes an off-premise beer  
143 retailer state license before that day.

144 (b) Notwithstanding Subsection (4)(a), the commission may extend the expiration date  
145 of a conditional off-premise beer retailer state license by three months if the holder  
146 demonstrates to the satisfaction of the commission that the holder:

147 (i) has an active building permit related to the licensed premises; and

148 (ii) is engaged in a good faith effort to pursue completion within the three-month  
149 period.

150 **Section 3. Effective date.**

151 If approved by two-thirds of all the members elected to each house, this bill takes effect  
152 upon approval by the governor, or the day following the constitutional time limit of Utah  
153 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
154 the date of veto override.