

RESTAURANT PROXIMITY AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions of the Alcohol Beverage Control Act related to licensing requirements.

Highlighted Provisions:

This bill:

- ▶ modifies the method for measuring the distance between a proposed restaurant licensee and a public or private school, church, or public library; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-1-202, as last amended by Laws of Utah 2018, Chapter 249

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

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

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

(1) As used in this section:



28 (a) "Building" means the same as that term is defined in Section [15A-1-202](#).

29 [~~(a)~~] (b) (i) "Outlet" means:

30 (A) a state store;

31 (B) a package agency; or

32 (C) a retail licensee.

33 (ii) "Outlet" does not include:

34 (A) an airport lounge licensee; or

35 (B) a restaurant.

36 [~~(b)~~] (c) "Restaurant" means:

37 (i) a full-service restaurant licensee;

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

39 (iii) a beer-only restaurant licensee.

40 (2) (a) The commission may not issue a license for an outlet if, on the date the
41 commission takes final action to approve or deny the application, there is a community
42 location:

43 (i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance
44 of the proposed outlet by following the shortest route of ordinary pedestrian travel to the
45 property boundary of the community location; or

46 (ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest
47 patron entrance of the proposed outlet to the nearest property boundary of the community
48 location.

49 (b) The commission may not issue a license for a restaurant if, on the date the
50 commission takes final action to approve or deny the application, there is a community
51 location:

52 (i) within 300 feet of the proposed restaurant, as measured from the nearest patron
53 entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel
54 to the property boundary of the community location; or

55 (ii) (A) if the community location is a public playground or public park, within 200 feet
56 of the proposed restaurant, measured in a straight line from the nearest patron entrance of the
57 proposed restaurant to the nearest property boundary of the community location[.]; or

58 (B) if the community location is a public or private school, church, or public library,

59 within 200 feet of the proposed restaurant, measured in a straight line from the nearest patron
60 entrance of the proposed restaurant to the nearest edge of the community location's primary
61 building.

62 (3) (a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates
63 under a previously approved variance to one or more proximity requirements in effect before
64 May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or another
65 outlet or restaurant with the same type of license as that outlet or restaurant, may operate under
66 the previously approved variance regardless of whether:

- 67 (i) the outlet or restaurant changes ownership;
68 (ii) the property on which the outlet or restaurant is located changes ownership; or
69 (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same
70 type of license, unless during the lapse, the property is used for a different purpose.

71 (b) An outlet or a restaurant that has continuously operated at a location since before
72 January 1, 2007, is considered to have a previously approved variance.

73 (4) (a) If, after an outlet or a restaurant obtains a license under this title, a person
74 establishes a community location on a property that puts the outlet or restaurant in violation of
75 the proximity requirements in effect at the time the license is issued or a previously approved
76 variance described in Subsection (3), subject to the other provisions of this title, that outlet or
77 restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant,
78 may operate at the premises regardless of whether:

- 79 (i) the outlet or restaurant changes ownership;
80 (ii) the property on which the outlet or restaurant is located changes ownership; or
81 (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same
82 type of license, unless during the lapse the property is used for a different purpose.

83 (b) The provisions of this Subsection (4) apply regardless of when the outlet's or
84 restaurant's license is issued.

85 (5) Nothing in this section prevents the commission from considering the proximity of
86 an educational, religious, and recreational facility, or any other relevant factor in reaching a
87 decision on a proposed location of an outlet.