{deleted text} shows text that was in SB0132 but was deleted in SB0132S01.

Inserted text shows text that was not in SB0132 but was inserted into SB0132S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Brad M. Daw proposes the following substitute bill:

BEER AMENDMENTS

2019 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill {amends provisions of} creates the {Alcoholic Beverage Control Act related to beer} Beer Availability Task Force.

Highlighted Provisions:

This bill:

- grants the Department of Alcoholic Beverage Control authority to audit certain licensee records related to the task force's study items;
- requires the task force to report its findings, including any recommended legislation, to the Legislative Management Committee and the Business and Labor Interim

Committee; and

• provides a repeal date for the Beer Availability Task Force.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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\frac{32B-1-102}{63I-1-236}, as last amended by Laws of Utah 2018, Chapters \frac{249}{33,170} and \frac{313}{342}
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ENACTS:

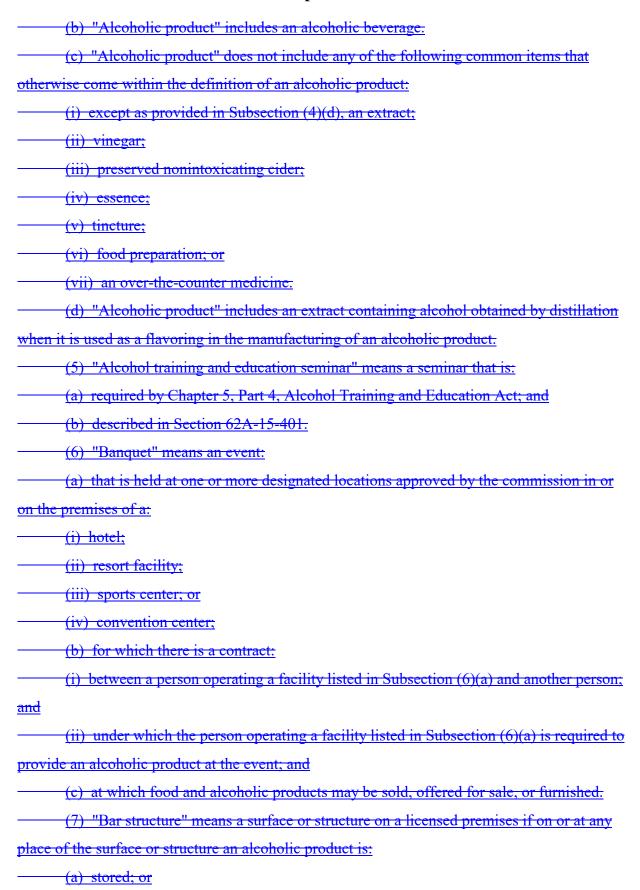
36-29-106, Utah Code Annotated 1953

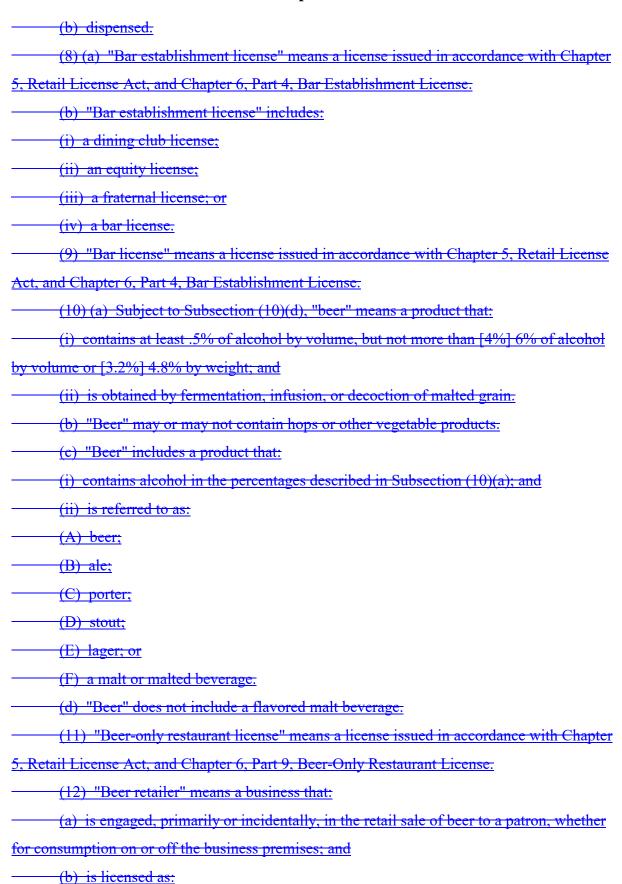
Be it enacted by the Legislature of the state of Utah:

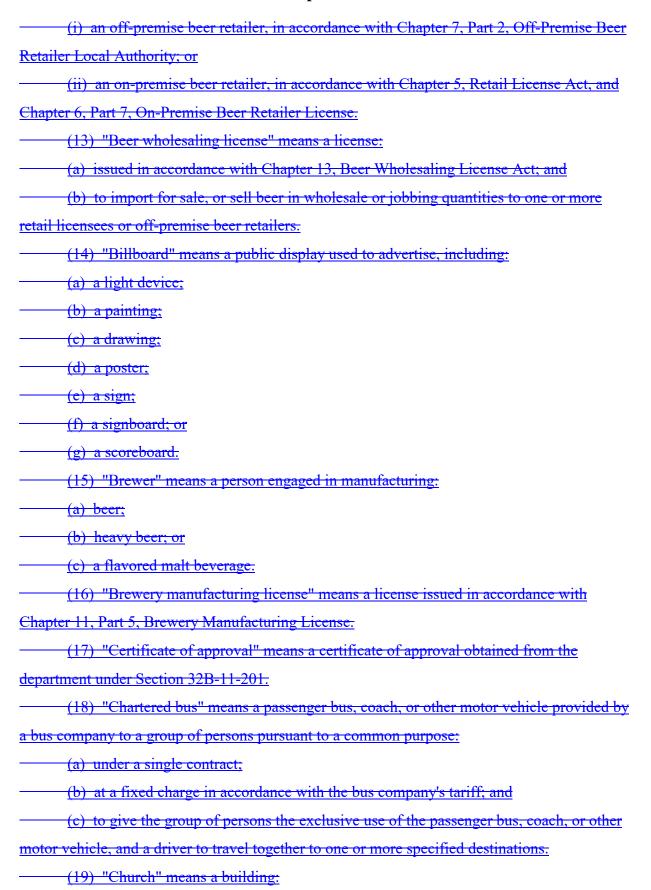
Section 1. Section $\frac{32B-1-102}{36-29-106}$ is $\frac{\text{amended}}{\text{enacted}}$ to read:

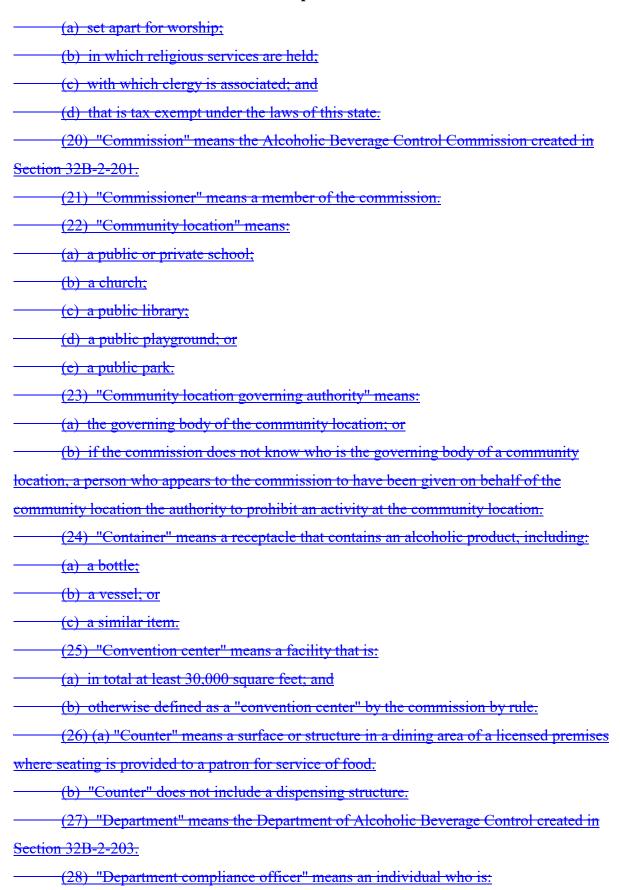
{32B-1-102}36-29-106.{ Definitions} Beer Availability Task Force.

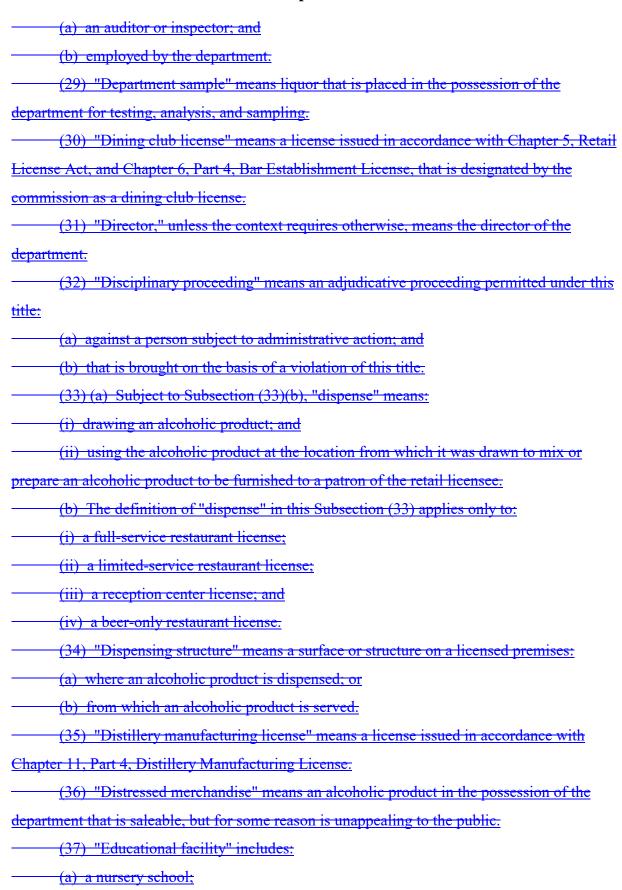
- (1) As used in this {title:
- (1) "Airport lounge" means a business location:
- (a) at which an alcoholic product is sold at retail for consumption on the premises; and
- (b) that is located at an international airport with a United States Customs office on the premises of the international airport.
- (2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- (3) "Alcoholic beverage" means the following:
- (a) beer; or
- <u>(b) liquor.</u>
- (4) (a) "Alcoholic product" means a product that:
- (i) contains at least .5% of alcohol by volume; and
- (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

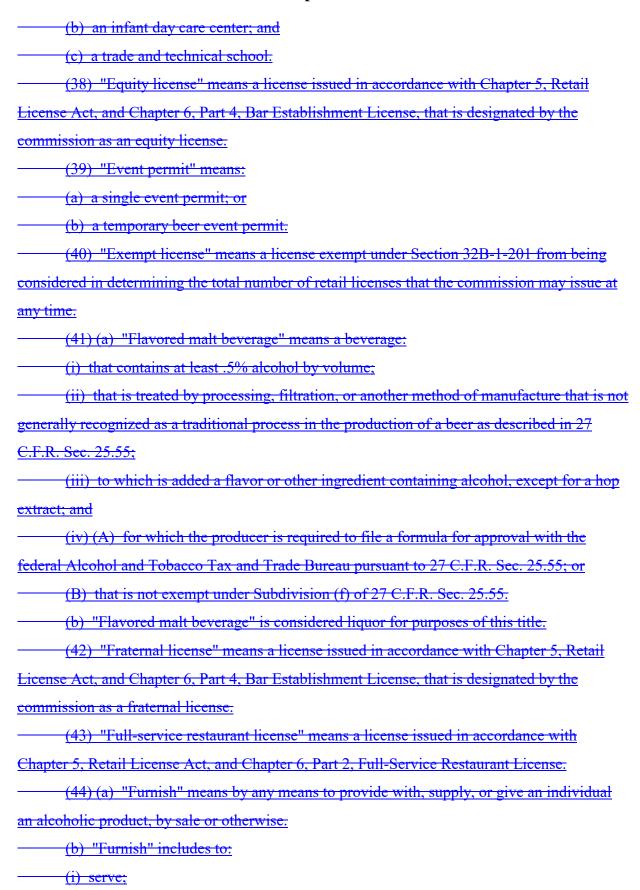




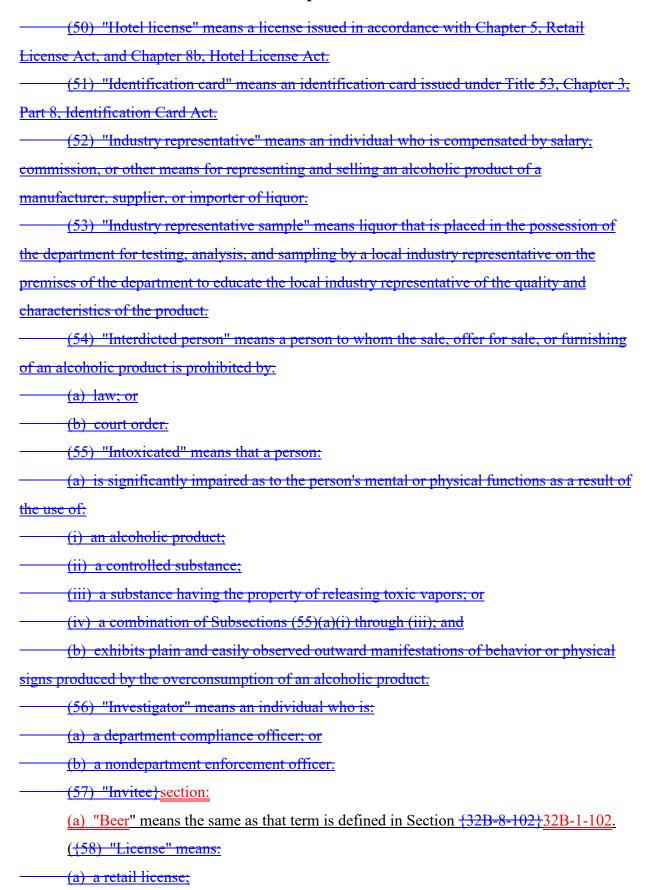








(ii) deliver; or
(iii) otherwise make available.
(45) "Guest" means an individual who meets the requirements of Subsection
32B-6-407(9).
(46) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.
(47) "Health care practitioner" means:
(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
Act;
(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
Nurse Practice Act;
(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
Practice Act;
(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
Therapy Practice Act;
(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
Professional Practice Act;
(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
Practice Act;
(1) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
Hygienist Practice Act; and
(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.
(48) (a) "Heavy beer" means a product that:
(i) contains more than [4%] 6% alcohol by volume; and
(ii) is obtained by fermentation, infusion, or decoction of malted grain.
(b) "Heavy beer" is considered liquor for the purposes of this title.
(49) "Hotel" is as defined by the commission by rule.



- (b) a license issued}b) "Task force" means the Beer Availability Task Force created in this section.
- (2) There is created the Beer Availability Task Force consisting of the following 13 members:
 - (a) two members of the Senate appointed by the president of the Senate;
- (b) two members of the House of Representatives appointed by the speaker of the House of Representatives;
- (c) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;
- (d) the state prevention program administrator within the Division of Substance Abuse and Mental Health created in Section 62A-15-103;
- (e) a representative of the Underage Drinking Prevention Workgroup of the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301; and
- (f) six members as follows, appointed jointly by the president of the Senate and the speaker of the House of Representatives:
 - (i) an individual who represents local beer distributors;
 - (ii) an individual who represents local and small beer manufacturers;
 - (iii) an individual who represents retail merchants in the state;
 - (iv) an individual who represents the alcohol addiction treatment community;
 - (v) an individual who represents a drunk driving victims advocacy group in the state;
- (vi) a community member.

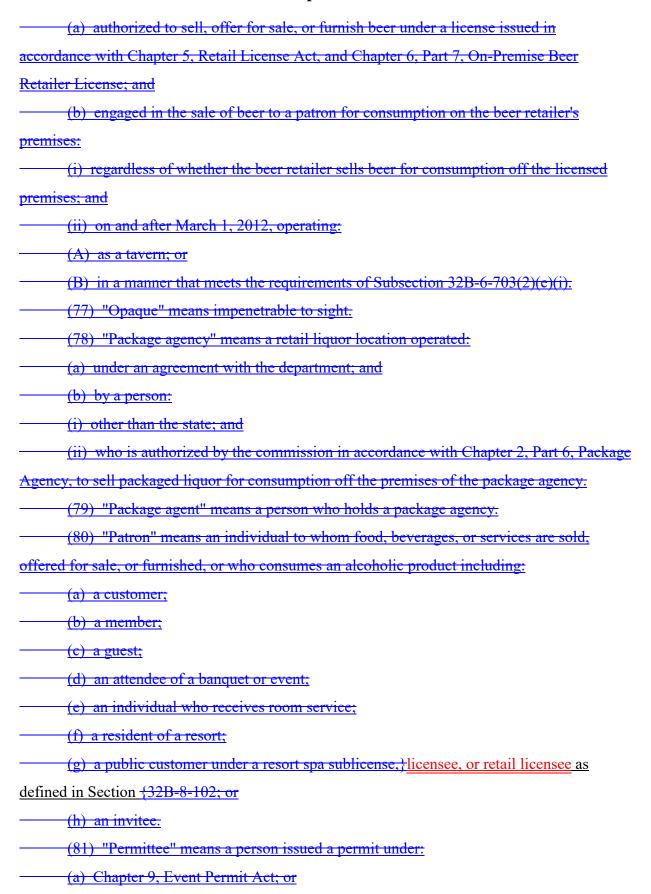
and

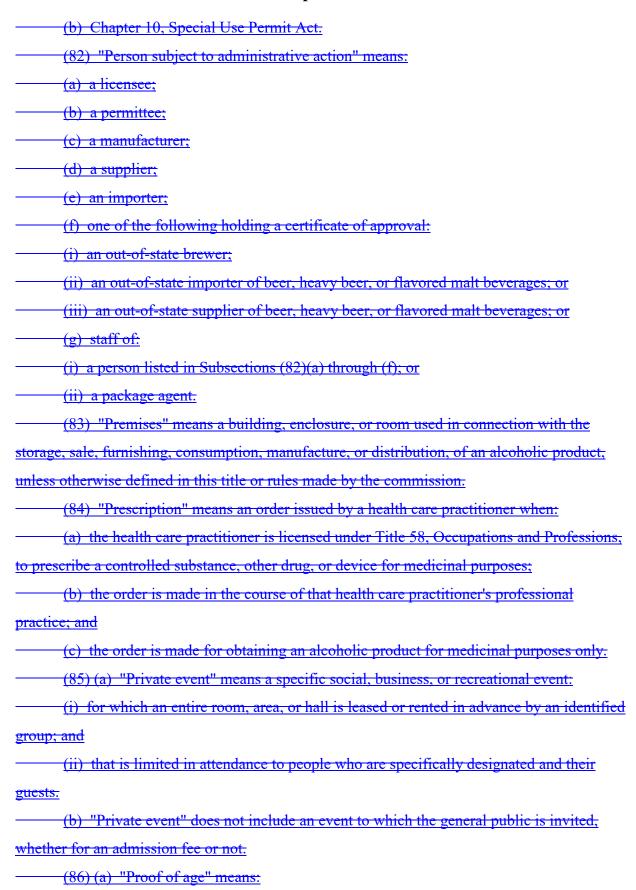
- (3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.
- (b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.
 - (4) (a) A majority of the members of the task force constitutes a quorum.
 - (b) The action of a majority of a quorum constitutes an action of the task force.
- (5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with {Chapter 11, Manufacturing and Related Licenses Act;
 - (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

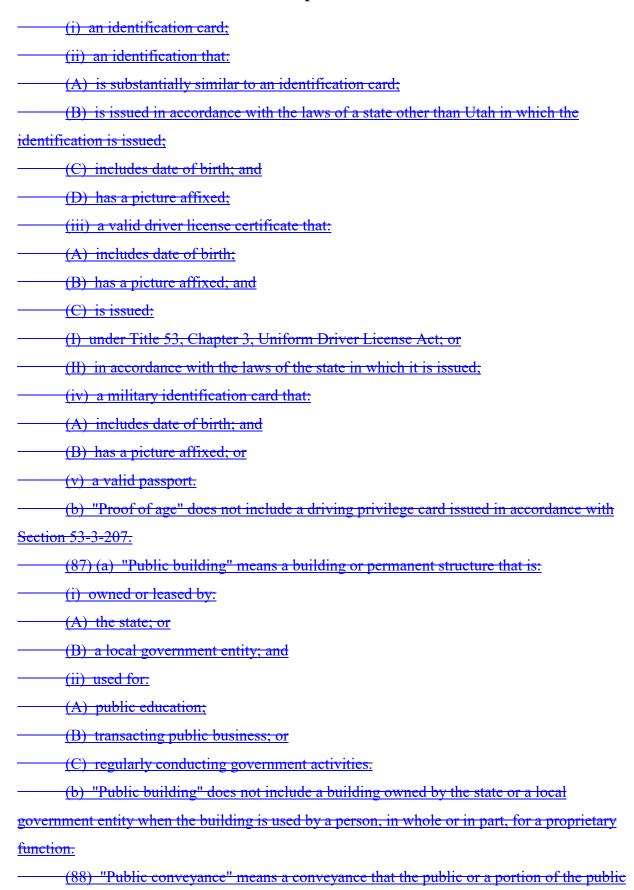
<u>or</u>
(d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.
(59) "Licensee" means a person who holds a license.
(60) "Limited-service restaurant license" means a license issued in accordance with
Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
(61) "Limousine" means a motor vehicle licensed by the state or a local authority, other
than a bus or taxicab:
(a) in which the driver and a passenger are separated by a partition, glass, or other
barrier;
(b) that is provided by a business entity to one or more individuals at a fixed charge in
accordance with the business entity's tariff; and
(c) to give the one or more individuals the exclusive use of the limousine and a driver
to travel to one or more specified destinations.
(62) (a) (i) "Liquor" means a liquid that:
<u>(A) is:</u>
(I) alcohol;
(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
(IV) other drink or drinkable liquid; and
(B) (I) contains at least .5% alcohol by volume; and
(II) is suitable to use for beverage purposes.
(ii) "Liquor" includes:
(A) heavy beer;
(B) wine; and
(C) a flavored malt beverage.
(b) "Liquor" does not include beer.
(63) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.
(64) "Liquor warehousing license" means a license that is issued:
(a) in accordance with Chapter 12, Liquor Warehousing License Act; and
(b) to a person, other than a licensed manufacturer, who engages in the importation for
storage, sale, or distribution of liquor regardless of amount.

(65) "Local authority" means: (a) for premises that are located in an unincorporated area of a county, the governing body of a county; or (b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township. (66) "Lounge or bar area" is as defined by rule made by the commission. (67) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others. (68) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee. (69) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship: (i) (A) under the control of the United States Department of Defense; or (B) of the National Guard; (ii) that is located} Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation. (b) A member of the task force who is not a legislator: (i) may not receive compensation for the member's work associated with the task force; and (ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107. (6) The Office of Legislative Research and General Counsel shall provide staff support to the task force. (7) The task force shall study and make recommendations on the following issues related to the allowable alcohol content of beer: (a) whether current law substantially impacts the availability of beer: (i) in the state as a whole; and (ii) in rural areas within the state; { and (iii) including a leased facility. (b) "Military installation" does not include a facility used primarily for:

(i) civil works;
(ii) a rivers and harbors project; or
(iii) a flood control project.
(70) "Minor" means an individual under the age of 21 years.
(71) "Nondepartment enforcement agency" means an agency that:
(a) (i) is a state agency other than the department; or
(ii) is an agency of a county, city, town, or metro township; and
(b) has a responsibility to enforce one or more provisions of this title.
(72) "Nondepartment enforcement officer" means an individual who is:
(a) a peace officer, examiner, or investigator; and
(b) employed by a nondepartment enforcement agency.
(73) (a) "Off-premise beer retailer" means a beer retailer who is:
(i) licensed in accordance with Chapter 7, Off-premise Beer Retailer Act; and
(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
premises.
(b) "Off-premise beer retailer" does not include an on-premise beer retailer.
(74) "Off-premise}
(b) the fiscal impact of changing the allowable alcohol content of beer, including tax
revenue and the impact on local jobs and industry;
(c) whether changes to beer distributor competition in the state could impact beer
availability;
(d) the relationship between changing the allowable alcohol content of beer and its
availability and price, and its impact on societal costs and harms, including impaired driving,
underage drinking, and alcohol addiction; and
(e) beer retail practices, including offering discount prices.
(8) The department may audit the records of any beer wholesaling licensee, brewery
manufacturing licensee, off-premise beer retailer {state license" means a state license issued in
accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License.
(75) "On-premise banquet license" means a license issued in accordance with Chapter
5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
(76) "On-premise beer retailer" means a beer retailer who is:



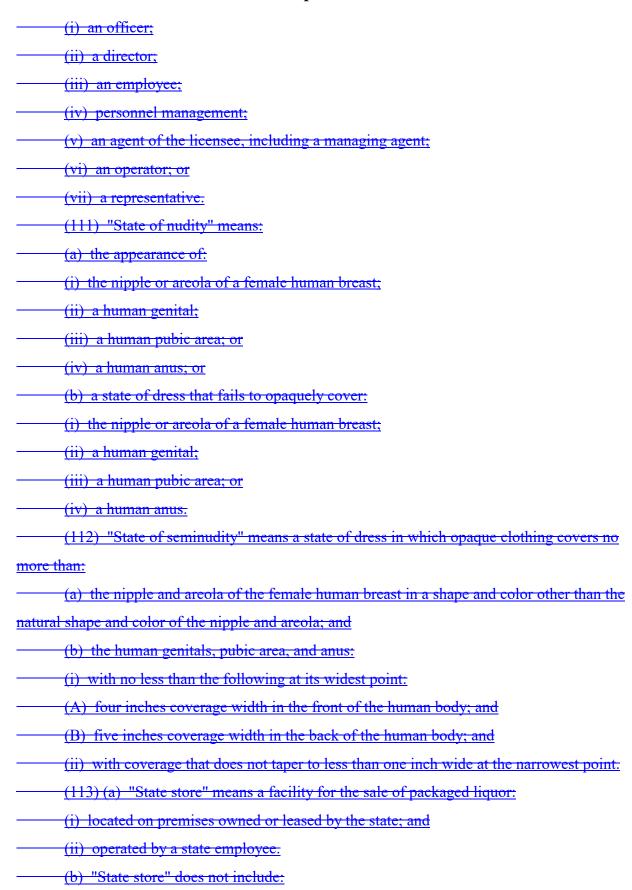


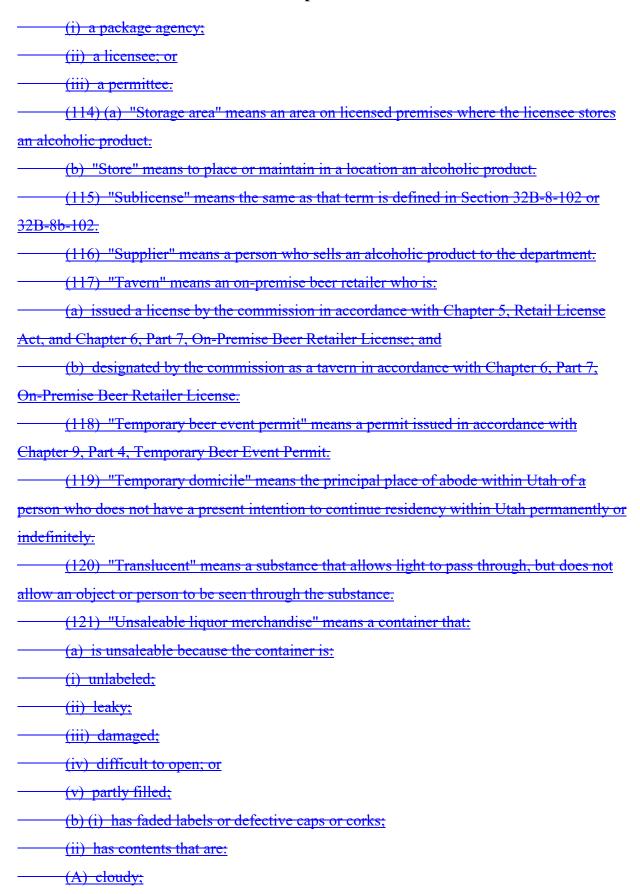


has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance. (89) "Reception center" means a business that: (a) operates facilities that are at least 5,000 square feet; and (b) has as its primary purpose the leasing of the facilities described in Subsection (89)(a) to a third party for the third party's event. (90) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License. (91) (a) "Record" means information that is: (i) inscribed on a tangible medium; or (ii) stored in an electronic or other medium and is retrievable in a perceivable form. (b) "Record" includes: (i) a book; (ii) a book of account; (iii) a paper; (iv) a contract; (v) an agreement; (vi) a document; or (vii) a recording in any medium. (92) "Residence" means a person's principal place of abode within Utah. (93) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102. (94) "Resort" means the same as that term is defined in Section 32B-8-102. (95) "Resort facility" is as defined by the commission by rule. (96) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act. (97) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from: (a) over-serving alcoholic beverages to customers; (b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.
(98) "Restaurant" means a business location:
(a) at which a variety of foods are prepared;
(b) at which complete meals are served; and
(c) that is engaged primarily in serving meals.
(99) "Retail license" means one of the following licenses issued under this title:
(a) a full-service restaurant license;
(b) a master full-service restaurant license;
(c) a limited-service restaurant license;
(d) a master limited-service restaurant license;
(e) a bar establishment license;
(f) an airport lounge license;
(g) an on-premise banquet license;
(h) an on-premise beer license;
(i) a reception center license;
(j) a beer-only restaurant license;
(k) a resort license; or
(l) a hotel license.
(100) "Room service" means furnishing an alcoholic product to a person in a guest
room of a:
(a) hotel; or
(b) resort facility.
(101) (a) "School" means a building used primarily for the general education of minors.
(b) "School" does not include an educational facility.
(102) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
delivered for value, or by a means or under a pretext is promised or obtained, whether done by
a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
made by the commission.
(103) "Serve" means to place an alcoholic product before an individual.
(104) "Sexually oriented entertainer" means a person who while in a state of

seminudity appears at or performs:
(a) for the entertainment of one or more patrons;
(b) on the premises of:
(i) a bar licensee; or
(ii) a tavern:
(c) on behalf of or at the request of the licensee 32B-1-102 to verify the accuracy of
any data related to an issue described in Subsection (\{\frac{104}{(b)}\};
(d) on a contractual or voluntary basis; and
(e) whether or not the person is designated as:
(i) an employee;
(ii) an independent contractor;
(iii) an agent of the licensee; or
(iv) a different type of classification.
(105) "Single event permit" means a permit issued in accordance with Chapter 9, Part
3, Single Event Permit.
(106) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
beer, heavy beer, and flavored malt beverages per year.
(107) "Special use permit" means a permit issued in accordance with Chapter 10,
Special Use Permit Act.
(108) (a) "Spirituous liquor" means liquor that is distilled.
(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
(109) "Sports center" is as defined by the commission by rule.
(110) (a) "Staff" means an individual who engages in activity governed by this title:
(i) on behalf of a business, including a package agent, licensee, permittee, or certificate
holder;
(ii) at the request of the business, including a package agent, licensee, permittee, or
certificate holder; or
(iii) under the authority of the business, including a package agent, licensee, permittee.
or certificate holder.
(b) "Staff" includes:





(B) spoiled; or
(C) chemically determined to be impure; or
(iii) contains:
(A) sediment; or
(B) a foreign substance; or
(c) is otherwise considered by the department as unfit for sale.
(122) (a) "Wine" means an alcoholic product obtained by the fermentation of the
natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
another ingredient is added.
(b) "Wine" includes:
(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.
<u>4.10; and</u>
(ii) hard cider.
(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided
<u>in this title.</u>
(123) "Winery manufacturing license" means a license issued in accordance with
Chapter 11, Part 3, Winery Manufacturing License.
——————————————————————————————————————
(9) On or before November 30, 2019, the task force shall provide a report on the task
force's study under Subsection (7), including any proposed legislation, to:
(a) the Legislative Management Committee; and
(b) the Business and Labor Interim Committee.
Section 2. Section 63I-1-236 is amended to read:
63I-1-236. Repeal dates, Title 36.
(1) Section 36-12-20 is repealed June 30, 2023.
(2) Section 36-29-106 is repealed June 1, 2020.
[(2)] (3) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight
Committee, is repealed January 1, 2021.
Section 3. Effective date.
This bill takes effect on July 1, 2019.