

1 **ALCOHOLIC BEVERAGE CONTROL ACT RECODIFICATION**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John L. Valentine**

5 House Sponsor: Gregory H. Hughes

7 **LONG TITLE**

8 **General Description:**

9 This bill recodifies the Alcoholic Beverage Control Act and updates language related to
10 the regulation of an alcoholic product.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ repeals Title 32A, Alcoholic Beverage Control Act, and replaces it with Title 32B,
14 Alcoholic Beverage Control Act, including:

- 15 • modifying terminology and inconsistency in use of terms;
- 16 • removing outdated language;
- 17 • addressing a business license and written consent;
- 18 • clarifying that disciplinary action can be taken if certain actions are taken with
19 a record required to be made or maintained under the title;
- 20 • removing requirements related to posting bonds;
- 21 • permitting a commissioner to serve until a successor is appointed with the
22 consent of the Senate;
- 23 • addressing commission duties including that the commission by rule may
24 establish different types of package agencies;
- 25 • clarifying the posting of bonds related to a package agency;
- 26 • clarifying penalties that may be imposed by the commission against a person
27 subject to administrative action;
- 28 • addressing department duties, including when the department may make a
29 claim against a bond;

- 30 • clarifying the department's authority to require purchases to be made in cash by
- 31 persons who have payed with a dishonored check;
- 32 • clarifying when a violation of commission rules is not a criminal offense;
- 33 • clarifying that if an applicant for a license or permit is a government entity, it
- 34 may be exempted from certain requirements;
- 35 • renaming certain licenses and permits;
- 36 • removing certain price and posting requirements for an event permit; and
- 37 • removing the health care facility use permit; and
- 38 ▶ makes technical and conforming amendments.

39 **Monies Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 This bill provides an effective date.

43 This bill provides revisor instructions.

44 This bill coordinates with S.B. 141, Utah Substance Abuse and Anti-violence
45 Coordinating Council Amendments, to technically merge amendments.

46 **Utah Code Sections Affected:**

47 AMENDS:

48 **11-10-1**, as last amended by Laws of Utah 2009, Chapter 383

49 **13-7-2**, as last amended by Laws of Utah 1987, Chapter 92

50 **26-38-2**, as last amended by Laws of Utah 2009, Chapter 383

51 **29-2-102**, as enacted by Laws of Utah 1995, Chapter 231

52 **41-6a-526**, as renumbered and amended by Laws of Utah 2005, Chapter 2

53 **53-3-207**, as last amended by Laws of Utah 2009, Chapter 315

54 **53-3-219**, as last amended by Laws of Utah 2009, Chapter 390

55 **53-3-220**, as last amended by Laws of Utah 2009, Chapters 105, 291, 328, and 353

56 **53-3-229**, as last amended by Laws of Utah 2005, Chapter 197

57 **53-3-231**, as last amended by Laws of Utah 2009, Chapters 18, 40, and 390

- 58 **53-3-806**, as last amended by Laws of Utah 2009, Chapter 315
- 59 **53-3-810**, as last amended by Laws of Utah 2005, Chapter 197
- 60 **53-10-102**, as last amended by Laws of Utah 2009, Chapter 73
- 61 **53-10-112**, as renumbered and amended by Laws of Utah 1998, Chapter 263
- 62 **53-10-113**, as renumbered and amended by Laws of Utah 1998, Chapter 263
- 63 **53-10-304**, as last amended by Laws of Utah 2000, Chapter 1
- 64 **53-10-305**, as last amended by Laws of Utah 2009, Chapter 383
- 65 **53A-11-904**, as last amended by Laws of Utah 2007, Chapters 79 and 161
- 66 **58-37-2**, as last amended by Laws of Utah 2009, Chapter 42
- 67 **58-82-102 (Effective 07/01/12)**, as enacted by Laws of Utah 2009, Chapter 47
- 68 **59-15-101**, as last amended by Laws of Utah 2003, Chapter 307
- 69 **59-15-109**, as last amended by Laws of Utah 2003, Second Special Session, Chapter 5
- 70 **62A-15-401**, as last amended by Laws of Utah 2008, Chapter 382
- 71 **63G-4-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 72 **76-5-113**, as last amended by Laws of Utah 2008, Chapters 317 and 391
- 73 **76-10-1506**, as last amended by Laws of Utah 2005, Chapter 2
- 74 **76-10-1602**, as last amended by Laws of Utah 2008, Chapters 292, 298, 370, and 382
- 75 **77-39-101**, as last amended by Laws of Utah 2006, Chapter 342
- 76 **78A-6-117**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 77 **78A-6-606**, as last amended by Laws of Utah 2009, Chapters 353 and 390
- 78 **78A-6-1001**, as last amended by Laws of Utah 2009, Chapter 19
- 79 **78A-6-1202**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 80 **78B-6-1602**, as enacted by Laws of Utah 2009, Chapter 187

81 ENACTS:

- 82 **32B-1-101**, Utah Code Annotated 1953
- 83 **32B-1-102**, Utah Code Annotated 1953
- 84 **32B-1-103**, Utah Code Annotated 1953
- 85 **32B-1-104**, Utah Code Annotated 1953

86 **32B-1-201**, Utah Code Annotated 1953
87 **32B-1-202**, Utah Code Annotated 1953
88 **32B-1-203**, Utah Code Annotated 1953
89 **32B-1-204**, Utah Code Annotated 1953
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93 **32B-1-303**, Utah Code Annotated 1953
94 **32B-1-304**, Utah Code Annotated 1953
95 **32B-1-305**, Utah Code Annotated 1953
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97 **32B-1-307**, Utah Code Annotated 1953
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102 **32B-1-405**, Utah Code Annotated 1953
103 **32B-1-406**, Utah Code Annotated 1953
104 **32B-1-407**, Utah Code Annotated 1953
105 **32B-1-408**, Utah Code Annotated 1953
106 **32B-1-501**, Utah Code Annotated 1953
107 **32B-1-502**, Utah Code Annotated 1953
108 **32B-1-503**, Utah Code Annotated 1953
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112 **32B-1-601**, Utah Code Annotated 1953
113 **32B-1-602**, Utah Code Annotated 1953

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116 **32B-1-605**, Utah Code Annotated 1953
117 **32B-1-606**, Utah Code Annotated 1953
118 **32B-1-607**, Utah Code Annotated 1953
119 **32B-1-608**, Utah Code Annotated 1953
120 **32B-2-101**, Utah Code Annotated 1953
121 **32B-2-102**, Utah Code Annotated 1953
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123 **32B-2-202**, Utah Code Annotated 1953
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126 **32B-2-205**, Utah Code Annotated 1953
127 **32B-2-206**, Utah Code Annotated 1953
128 **32B-2-207**, Utah Code Annotated 1953
129 **32B-2-208**, Utah Code Annotated 1953
130 **32B-2-301**, Utah Code Annotated 1953
131 **32B-2-302**, Utah Code Annotated 1953
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133 **32B-2-304**, Utah Code Annotated 1953
134 **32B-2-401**, Utah Code Annotated 1953
135 **32B-2-402**, Utah Code Annotated 1953
136 **32B-2-403**, Utah Code Annotated 1953
137 **32B-2-404**, Utah Code Annotated 1953
138 **32B-2-405**, Utah Code Annotated 1953
139 **32B-2-501**, Utah Code Annotated 1953
140 **32B-2-502**, Utah Code Annotated 1953
141 **32B-2-503**, Utah Code Annotated 1953

142 **32B-2-504**, Utah Code Annotated 1953
143 **32B-2-601**, Utah Code Annotated 1953
144 **32B-2-602**, Utah Code Annotated 1953
145 **32B-2-603**, Utah Code Annotated 1953
146 **32B-2-604**, Utah Code Annotated 1953
147 **32B-2-605**, Utah Code Annotated 1953
148 **32B-2-606**, Utah Code Annotated 1953
149 **32B-2-607**, Utah Code Annotated 1953
150 **32B-3-101**, Utah Code Annotated 1953
151 **32B-3-102**, Utah Code Annotated 1953
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153 **32B-3-202**, Utah Code Annotated 1953
154 **32B-3-203**, Utah Code Annotated 1953
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158 **32B-3-207**, Utah Code Annotated 1953
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164 **32B-3-306**, Utah Code Annotated 1953
165 **32B-3-307**, Utah Code Annotated 1953
166 **32B-4-101**, Utah Code Annotated 1953
167 **32B-4-102**, Utah Code Annotated 1953
168 **32B-4-201**, Utah Code Annotated 1953
169 **32B-4-202**, Utah Code Annotated 1953

- 170 **32B-4-203**, Utah Code Annotated 1953
- 171 **32B-4-204**, Utah Code Annotated 1953
- 172 **32B-4-205**, Utah Code Annotated 1953
- 173 **32B-4-206**, Utah Code Annotated 1953
- 174 **32B-4-207**, Utah Code Annotated 1953
- 175 **32B-4-208**, Utah Code Annotated 1953
- 176 **32B-4-209**, Utah Code Annotated 1953
- 177 **32B-4-301**, Utah Code Annotated 1953
- 178 **32B-4-302**, Utah Code Annotated 1953
- 179 **32B-4-303**, Utah Code Annotated 1953
- 180 **32B-4-304**, Utah Code Annotated 1953
- 181 **32B-4-305**, Utah Code Annotated 1953
- 182 **32B-4-401**, Utah Code Annotated 1953
- 183 **32B-4-402**, Utah Code Annotated 1953
- 184 **32B-4-403**, Utah Code Annotated 1953
- 185 **32B-4-404**, Utah Code Annotated 1953
- 186 **32B-4-405**, Utah Code Annotated 1953
- 187 **32B-4-406**, Utah Code Annotated 1953
- 188 **32B-4-407**, Utah Code Annotated 1953
- 189 **32B-4-408**, Utah Code Annotated 1953
- 190 **32B-4-409**, Utah Code Annotated 1953
- 191 **32B-4-410**, Utah Code Annotated 1953
- 192 **32B-4-411**, Utah Code Annotated 1953
- 193 **32B-4-412**, Utah Code Annotated 1953
- 194 **32B-4-413**, Utah Code Annotated 1953
- 195 **32B-4-414**, Utah Code Annotated 1953
- 196 **32B-4-415**, Utah Code Annotated 1953
- 197 **32B-4-416**, Utah Code Annotated 1953

198 **32B-4-417**, Utah Code Annotated 1953
199 **32B-4-418**, Utah Code Annotated 1953
200 **32B-4-419**, Utah Code Annotated 1953
201 **32B-4-420**, Utah Code Annotated 1953
202 **32B-4-421**, Utah Code Annotated 1953
203 **32B-4-422**, Utah Code Annotated 1953
204 **32B-4-501**, Utah Code Annotated 1953
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215 **32B-4-602**, Utah Code Annotated 1953
216 **32B-4-603**, Utah Code Annotated 1953
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218 **32B-4-702**, Utah Code Annotated 1953
219 **32B-4-703**, Utah Code Annotated 1953
220 **32B-4-704**, Utah Code Annotated 1953
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222 **32B-4-706**, Utah Code Annotated 1953
223 **32B-4-707**, Utah Code Annotated 1953
224 **32B-4-708**, Utah Code Annotated 1953
225 **32B-5-101**, Utah Code Annotated 1953

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228	32B-5-202 , Utah Code Annotated 1953
229	32B-5-203 , Utah Code Annotated 1953
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232	32B-5-206 , Utah Code Annotated 1953
233	32B-5-301 , Utah Code Annotated 1953
234	32B-5-302 , Utah Code Annotated 1953
235	32B-5-303 , Utah Code Annotated 1953
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237	32B-5-305 , Utah Code Annotated 1953
238	32B-5-306 , Utah Code Annotated 1953
239	32B-5-307 , Utah Code Annotated 1953
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254 **32B-6-205.1**, Utah Code Annotated 1953
255 **32B-6-301**, Utah Code Annotated 1953
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276 **32B-6-602**, Utah Code Annotated 1953
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278 **32B-6-604**, Utah Code Annotated 1953
279 **32B-6-605**, Utah Code Annotated 1953
280 **32B-6-701**, Utah Code Annotated 1953
281 **32B-6-702**, Utah Code Annotated 1953

- 282 **32B-6-703**, Utah Code Annotated 1953
- 283 **32B-6-704**, Utah Code Annotated 1953
- 284 **32B-6-705**, Utah Code Annotated 1953
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- 286 **32B-6-707**, Utah Code Annotated 1953
- 287 **32B-6-708**, Utah Code Annotated 1953
- 288 **32B-7-101**, Utah Code Annotated 1953
- 289 **32B-7-102**, Utah Code Annotated 1953
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- 291 **32B-7-202**, Utah Code Annotated 1953
- 292 **32B-7-301**, Utah Code Annotated 1953
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- 294 **32B-7-303**, Utah Code Annotated 1953
- 295 **32B-7-304**, Utah Code Annotated 1953
- 296 **32B-7-305**, Utah Code Annotated 1953
- 297 **32B-8-101**, Utah Code Annotated 1953
- 298 **32B-8-102**, Utah Code Annotated 1953
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- 309 **32B-8-501**, Utah Code Annotated 1953

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337 **32B-10-207**, Utah Code Annotated 1953

- 338 **32B-10-301**, Utah Code Annotated 1953
- 339 **32B-10-302**, Utah Code Annotated 1953
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- 356 **32B-10-703**, Utah Code Annotated 1953
- 357 **32B-10-704**, Utah Code Annotated 1953
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- 359 **32B-11-102**, Utah Code Annotated 1953
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384 **32B-11-607**, Utah Code Annotated 1953
385 **32B-11-608**, Utah Code Annotated 1953
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- 394 **32B-12-206**, Utah Code Annotated 1953
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- 396 **32B-12-302**, Utah Code Annotated 1953
- 397 **32B-13-101**, Utah Code Annotated 1953
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- 399 **32B-13-201**, Utah Code Annotated 1953
- 400 **32B-13-202**, Utah Code Annotated 1953
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- 407 **32B-14-101**, Utah Code Annotated 1953
- 408 **32B-14-102**, Utah Code Annotated 1953
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- 410 **32B-14-201**, Utah Code Annotated 1953
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- 412 **32B-14-301**, Utah Code Annotated 1953
- 413 **32B-14-302**, Utah Code Annotated 1953
- 414 **32B-14-303**, Utah Code Annotated 1953
- 415 **32B-14-304**, Utah Code Annotated 1953
- 416 **32B-14-305**, Utah Code Annotated 1953
- 417 **32B-14-401**, Utah Code Annotated 1953
- 418 **32B-14-402**, Utah Code Annotated 1953
- 419 **32B-15-101**, Utah Code Annotated 1953
- 420 **32B-15-102**, Utah Code Annotated 1953
- 421 **32B-15-201**, Utah Code Annotated 1953

- 422 **32B-15-202**, Utah Code Annotated 1953
- 423 **32B-15-203**, Utah Code Annotated 1953
- 424 **32B-15-301**, Utah Code Annotated 1953
- 425 **32B-15-302**, Utah Code Annotated 1953
- 426 **32B-16-101**, Utah Code Annotated 1953
- 427 **32B-16-102**, Utah Code Annotated 1953
- 428 **32B-16-201**, Utah Code Annotated 1953
- 429 **32B-16-301**, Utah Code Annotated 1953
- 430 **32B-16-302**, Utah Code Annotated 1953
- 431 REPEALS:
- 432 **32A-1-101**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 433 **32A-1-102**, as last amended by Laws of Utah 2007, Chapter 284
- 434 **32A-1-103**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 435 **32A-1-104**, as last amended by Laws of Utah 2003, Chapter 314
- 436 **32A-1-105**, as last amended by Laws of Utah 2009, Chapter 383
- 437 **32A-1-106**, as last amended by Laws of Utah 2007, Chapter 284
- 438 **32A-1-107**, as last amended by Laws of Utah 2009, Chapters 190 and 383
- 439 **32A-1-108**, as last amended by Laws of Utah 2007, Chapter 284
- 440 **32A-1-109**, as last amended by Laws of Utah 2009, Chapter 383
- 441 **32A-1-110**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 442 **32A-1-111**, as last amended by Laws of Utah 2003, Chapter 314
- 443 **32A-1-112**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 444 **32A-1-113**, as last amended by Laws of Utah 2003, Chapter 314
- 445 **32A-1-115**, as last amended by Laws of Utah 2009, Chapter 383
- 446 **32A-1-116**, as last amended by Laws of Utah 2008, Chapter 391
- 447 **32A-1-117**, as last amended by Laws of Utah 2000, Chapter 1
- 448 **32A-1-118**, as last amended by Laws of Utah 2008, Chapter 382
- 449 **32A-1-119**, as last amended by Laws of Utah 2009, Chapters 190 and 383

- 450 **32A-1-119.5**, as last amended by Laws of Utah 2009, Chapters 356 and 383
- 451 **32A-1-120**, as last amended by Laws of Utah 2008, Chapters 317 and 382
- 452 **32A-1-121**, as last amended by Laws of Utah 2000, Chapter 1
- 453 **32A-1-122**, as last amended by Laws of Utah 2008, Chapters 98 and 391
- 454 **32A-1-123**, as last amended by Laws of Utah 2003, Chapter 314
- 455 **32A-1-301**, as last amended by Laws of Utah 2009, Chapter 353
- 456 **32A-1-302**, as last amended by Laws of Utah 2008, Chapter 391
- 457 **32A-1-303**, as last amended by Laws of Utah 2002, Chapters 5 and 161
- 458 **32A-1-304**, as last amended by Laws of Utah 2008, Chapters 322 and 391
- 459 **32A-1-304.5**, as enacted by Laws of Utah 2009, Chapter 383
- 460 **32A-1-305**, as last amended by Laws of Utah 2009, Chapter 353
- 461 **32A-1-401**, as last amended by Laws of Utah 2007, Chapter 284
- 462 **32A-1-601**, as enacted by Laws of Utah 2007, Chapter 284
- 463 **32A-1-602**, as enacted by Laws of Utah 2007, Chapter 284
- 464 **32A-1-603**, as last amended by Laws of Utah 2009, Chapter 383
- 465 **32A-1-604**, as enacted by Laws of Utah 2007, Chapter 284
- 466 **32A-1-701**, as enacted by Laws of Utah 2008, Chapter 391
- 467 **32A-1-702**, as enacted by Laws of Utah 2008, Chapter 391
- 468 **32A-1-703**, as enacted by Laws of Utah 2008, Chapter 391
- 469 **32A-1-704**, as enacted by Laws of Utah 2008, Chapter 391
- 470 **32A-1-801**, as enacted by Laws of Utah 2008, Chapter 391
- 471 **32A-1-802**, as enacted by Laws of Utah 2008, Chapter 391
- 472 **32A-1-803**, as enacted by Laws of Utah 2008, Chapter 391
- 473 **32A-1-804**, as enacted by Laws of Utah 2008, Chapter 391
- 474 **32A-1-805**, as enacted by Laws of Utah 2008, Chapter 391
- 475 **32A-1-806**, as enacted by Laws of Utah 2008, Chapter 391
- 476 **32A-1-807**, as enacted by Laws of Utah 2008, Chapter 391
- 477 **32A-1-808**, as enacted by Laws of Utah 2008, Chapter 391

- 478 **32A-1-809**, as enacted by Laws of Utah 2008, Chapter 391
- 479 **32A-2-101**, as last amended by Laws of Utah 2008, Chapter 391
- 480 **32A-2-102**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 481 **32A-2-103**, as last amended by Laws of Utah 2009, Chapter 383
- 482 **32A-2-104**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 483 **32A-3-101**, as last amended by Laws of Utah 2008, Chapter 391
- 484 **32A-3-102**, as last amended by Laws of Utah 2008, Chapter 391
- 485 **32A-3-103**, as last amended by Laws of Utah 2003, Chapter 314
- 486 **32A-3-104**, as last amended by Laws of Utah 1993, Chapter 4
- 487 **32A-3-105**, as last amended by Laws of Utah 1991, Chapter 132
- 488 **32A-3-106**, as last amended by Laws of Utah 2009, Chapter 383
- 489 **32A-3-107**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 490 **32A-3-108**, as last amended by Laws of Utah 2003, Chapter 314
- 491 **32A-4-101**, as last amended by Laws of Utah 2009, Chapter 383
- 492 **32A-4-102**, as last amended by Laws of Utah 2009, Chapter 383
- 493 **32A-4-103**, as last amended by Laws of Utah 2008, Chapters 26 and 382
- 494 **32A-4-104**, as last amended by Laws of Utah 2008, Chapter 391
- 495 **32A-4-105**, as last amended by Laws of Utah 2003, Chapter 314
- 496 **32A-4-106**, as last amended by Laws of Utah 2009, Chapter 383
- 497 **32A-4-201**, as last amended by Laws of Utah 2003, Chapter 314
- 498 **32A-4-202**, as last amended by Laws of Utah 2009, Chapter 383
- 499 **32A-4-203**, as last amended by Laws of Utah 2008, Chapter 382
- 500 **32A-4-204**, as enacted by Laws of Utah 1990, Chapter 23
- 501 **32A-4-205**, as enacted by Laws of Utah 1990, Chapter 23
- 502 **32A-4-206**, as last amended by Laws of Utah 2008, Chapter 391
- 503 **32A-4-301**, as enacted by Laws of Utah 2003, Chapter 314
- 504 **32A-4-302**, as last amended by Laws of Utah 2009, Chapter 383
- 505 **32A-4-303**, as last amended by Laws of Utah 2009, Chapter 383

- 506 **32A-4-304**, as last amended by Laws of Utah 2008, Chapter 382
- 507 **32A-4-305**, as last amended by Laws of Utah 2008, Chapter 391
- 508 **32A-4-306**, as enacted by Laws of Utah 2003, Chapter 314
- 509 **32A-4-307**, as last amended by Laws of Utah 2009, Chapter 383
- 510 **32A-4-401**, as last amended by Laws of Utah 2009, Chapter 383
- 511 **32A-4-402**, as last amended by Laws of Utah 2009, Chapter 383
- 512 **32A-4-403**, as last amended by Laws of Utah 2008, Chapter 382
- 513 **32A-4-404**, as enacted by Laws of Utah 2003, Chapter 314
- 514 **32A-4-405**, as enacted by Laws of Utah 2003, Chapter 314
- 515 **32A-4-406**, as last amended by Laws of Utah 2008, Chapters 266, 382, and 391
- 516 **32A-4a-101**, as enacted by Laws of Utah 2009, Chapter 383
- 517 **32A-4a-102**, as enacted by Laws of Utah 2009, Chapter 383
- 518 **32A-4a-201**, as enacted by Laws of Utah 2009, Chapter 383
- 519 **32A-4a-202**, as enacted by Laws of Utah 2009, Chapter 383
- 520 **32A-4a-203**, as enacted by Laws of Utah 2009, Chapter 383
- 521 **32A-4a-204**, as enacted by Laws of Utah 2009, Chapter 383
- 522 **32A-4a-205**, as enacted by Laws of Utah 2009, Chapter 383
- 523 **32A-4a-301**, as enacted by Laws of Utah 2009, Chapter 383
- 524 **32A-4a-302**, as enacted by Laws of Utah 2009, Chapter 383
- 525 **32A-4a-303**, as enacted by Laws of Utah 2009, Chapter 383
- 526 **32A-4a-304**, as enacted by Laws of Utah 2009, Chapter 383
- 527 **32A-4a-305**, as enacted by Laws of Utah 2009, Chapter 383
- 528 **32A-4a-401**, as enacted by Laws of Utah 2009, Chapter 383
- 529 **32A-4a-402**, as enacted by Laws of Utah 2009, Chapter 383
- 530 **32A-4a-501**, as enacted by Laws of Utah 2009, Chapter 383
- 531 **32A-4a-502**, as enacted by Laws of Utah 2009, Chapter 383
- 532 **32A-4a-503**, as enacted by Laws of Utah 2009, Chapter 383
- 533 **32A-5-101**, as last amended by Laws of Utah 2009, Chapter 383

- 534 **32A-5-102 (Subsec (1)(j) Superseded 07/01/10)**, as last amended by Laws of Utah
- 535 2009, Chapter 383
- 536 **32A-5-102 (Subsec (1)(j) Effective 07/01/10)**, as last amended by Laws of Utah 2009,
- 537 Chapter 383
- 538 **32A-5-103**, as last amended by Laws of Utah 2009, Chapter 383
- 539 **32A-5-104**, as last amended by Laws of Utah 2009, Chapter 383
- 540 **32A-5-106**, as last amended by Laws of Utah 2009, Chapter 383
- 541 **32A-5-107**, as last amended by Laws of Utah 2009, Chapters 356 and 383
- 542 **32A-5-109**, as enacted by Laws of Utah 2009, Chapter 383
- 543 **32A-5-110**, as enacted by Laws of Utah 2009, Chapter 190
- 544 **32A-6-101**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 545 **32A-6-102**, as last amended by Laws of Utah 2003, Chapter 314
- 546 **32A-6-103**, as last amended by Laws of Utah 2008, Chapter 382
- 547 **32A-6-104**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 548 **32A-6-105**, as last amended by Laws of Utah 2003, Chapter 314
- 549 **32A-6-201**, as last amended by Laws of Utah 2003, Chapter 314
- 550 **32A-6-202**, as last amended by Laws of Utah 2003, Chapter 314
- 551 **32A-6-301**, as last amended by Laws of Utah 2007, Chapter 284
- 552 **32A-6-302**, as last amended by Laws of Utah 2007, Chapter 284
- 553 **32A-6-401**, as last amended by Laws of Utah 2003, Chapter 314
- 554 **32A-6-501**, as last amended by Laws of Utah 2003, Chapter 314
- 555 **32A-6-502**, as enacted by Laws of Utah 2003, Chapter 314
- 556 **32A-6-503**, as enacted by Laws of Utah 2003, Chapter 314
- 557 **32A-6-601**, as last amended by Laws of Utah 1991, Chapter 5
- 558 **32A-6-602**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 559 **32A-6-603**, as enacted by Laws of Utah 2003, Chapter 314
- 560 **32A-7-101**, as last amended by Laws of Utah 2008, Chapters 108 and 391
- 561 **32A-7-102**, as last amended by Laws of Utah 2008, Chapter 108

- 562 **32A-7-103**, as last amended by Laws of Utah 2008, Chapter 382
- 563 **32A-7-104**, as last amended by Laws of Utah 2006, Chapter 162
- 564 **32A-7-105**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 565 **32A-7-106**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 566 **32A-8-101**, as last amended by Laws of Utah 2009, Chapters 160 and 356
- 567 **32A-8-102**, as last amended by Laws of Utah 2007, Chapter 284
- 568 **32A-8-103**, as last amended by Laws of Utah 2008, Chapter 382
- 569 **32A-8-104**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 570 **32A-8-105**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 571 **32A-8-106**, as last amended by Laws of Utah 2007, Chapter 284
- 572 **32A-8-201**, as last amended by Laws of Utah 1991, Chapter 277
- 573 **32A-8-301**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 574 **32A-8-401**, as last amended by Laws of Utah 2008, Chapter 391
- 575 **32A-8-501**, as last amended by Laws of Utah 2008, Chapter 391
- 576 **32A-8-502**, as last amended by Laws of Utah 2003, Chapter 314
- 577 **32A-8-503**, as last amended by Laws of Utah 2008, Chapters 382 and 391
- 578 **32A-8-504**, as enacted by Laws of Utah 1993, Chapter 20
- 579 **32A-8-505**, as last amended by Laws of Utah 2008, Chapter 391
- 580 **32A-9-101**, as last amended by Laws of Utah 1991, Chapter 241
- 581 **32A-9-102**, as last amended by Laws of Utah 2003, Chapter 314
- 582 **32A-9-103**, as last amended by Laws of Utah 2009, Chapter 383
- 583 **32A-9-104**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 584 **32A-9-105**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 585 **32A-9-106**, as last amended by Laws of Utah 2003, Chapter 314
- 586 **32A-10-101**, as last amended by Laws of Utah 2008, Chapter 391
- 587 **32A-10-102**, as last amended by Laws of Utah 2008, Chapter 391
- 588 **32A-10-103**, as last amended by Laws of Utah 2007, Chapter 284
- 589 **32A-10-201**, as last amended by Laws of Utah 2009, Chapter 383

590 **32A-10-202**, as last amended by Laws of Utah 2009, Chapter 383
591 **32A-10-203**, as last amended by Laws of Utah 2008, Chapter 382
592 **32A-10-204**, as last amended by Laws of Utah 2008, Chapter 391
593 **32A-10-205**, as last amended by Laws of Utah 2003, Chapter 314
594 **32A-10-206**, as last amended by Laws of Utah 2008, Chapter 391
595 **32A-10-207**, as enacted by Laws of Utah 2009, Chapter 190
596 **32A-10-301**, as enacted by Laws of Utah 2003, Chapter 314
597 **32A-10-302**, as last amended by Laws of Utah 2004, Chapter 268
598 **32A-10-303**, as last amended by Laws of Utah 2008, Chapter 382
599 **32A-10-304**, as last amended by Laws of Utah 2006, Chapter 162
600 **32A-10-305**, as enacted by Laws of Utah 2003, Chapter 314
601 **32A-10-306**, as last amended by Laws of Utah 2008, Chapter 391
602 **32A-11-101**, as last amended by Laws of Utah 2004, Chapter 268
603 **32A-11-102**, as last amended by Laws of Utah 2004, Chapter 268
604 **32A-11-103**, as last amended by Laws of Utah 2008, Chapter 382
605 **32A-11-104**, as last amended by Laws of Utah 1994, Chapter 88
606 **32A-11-105**, as renumbered and amended by Laws of Utah 1990, Chapter 23
607 **32A-11-106**, as last amended by Laws of Utah 2008, Chapter 391
608 **32A-11a-101**, as enacted by Laws of Utah 1998, Chapter 328
609 **32A-11a-102**, as last amended by Laws of Utah 2007, Chapter 272
610 **32A-11a-103**, as enacted by Laws of Utah 1998, Chapter 328
611 **32A-11a-104**, as enacted by Laws of Utah 1998, Chapter 328
612 **32A-11a-105**, as enacted by Laws of Utah 1998, Chapter 328
613 **32A-11a-106**, as last amended by Laws of Utah 2003, Chapter 314
614 **32A-11a-107**, as last amended by Laws of Utah 2004, Chapter 268
615 **32A-11a-108**, as last amended by Laws of Utah 2008, Chapter 3
616 **32A-11a-109**, as enacted by Laws of Utah 1998, Chapter 328
617 **32A-11a-110**, as enacted by Laws of Utah 1998, Chapter 328

- 618 **32A-11a-111**, as enacted by Laws of Utah 1998, Chapter 328
- 619 **32A-12-101**, as last amended by Laws of Utah 2009, Chapter 383
- 620 **32A-12-102**, as last amended by Laws of Utah 2009, Chapter 383
- 621 **32A-12-103**, as last amended by Laws of Utah 2003, Chapter 314
- 622 **32A-12-104**, as last amended by Laws of Utah 2009, Chapter 383
- 623 **32A-12-105**, as last amended by Laws of Utah 2003, Chapter 314
- 624 **32A-12-201**, as last amended by Laws of Utah 2004, Chapter 268
- 625 **32A-12-202**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 626 **32A-12-203**, as last amended by Laws of Utah 2003, Chapter 314
- 627 **32A-12-204**, as last amended by Laws of Utah 2003, Chapter 314
- 628 **32A-12-205**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 629 **32A-12-206**, as last amended by Laws of Utah 1991, Chapter 132
- 630 **32A-12-207**, as last amended by Laws of Utah 2003, Chapter 314
- 631 **32A-12-208**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 632 **32A-12-209**, as last amended by Laws of Utah 2009, Chapters 353 and 390
- 633 **32A-12-209.5**, as last amended by Laws of Utah 2009, Chapters 353, 383, and 390
- 634 **32A-12-210**, as last amended by Laws of Utah 2003, Chapter 314
- 635 **32A-12-211**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 636 **32A-12-212**, as last amended by Laws of Utah 2009, Chapter 383
- 637 **32A-12-213**, as last amended by Laws of Utah 2009, Chapter 383
- 638 **32A-12-214**, as last amended by Laws of Utah 1995, Chapter 20
- 639 **32A-12-215**, as last amended by Laws of Utah 2003, Chapter 314
- 640 **32A-12-216**, as last amended by Laws of Utah 2003, Chapter 314
- 641 **32A-12-217**, as enacted by Laws of Utah 1990, Chapter 23
- 642 **32A-12-219**, as last amended by Laws of Utah 2009, Chapter 383
- 643 **32A-12-220**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 644 **32A-12-221**, as last amended by Laws of Utah 2002, Chapter 161
- 645 **32A-12-222**, as last amended by Laws of Utah 2009, Chapter 383

- 646 **32A-12-223**, as enacted by Laws of Utah 2009, Chapter 353
- 647 **32A-12-301**, as last amended by Laws of Utah 2009, Chapter 383
- 648 **32A-12-302**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 649 **32A-12-303**, as last amended by Laws of Utah 2000, Chapter 1
- 650 **32A-12-304**, as last amended by Laws of Utah 2000, Chapter 1
- 651 **32A-12-305**, as last amended by Laws of Utah 2003, Chapter 314
- 652 **32A-12-306**, as last amended by Laws of Utah 2003, Chapter 314
- 653 **32A-12-307**, as last amended by Laws of Utah 2008, Chapter 391
- 654 **32A-12-308**, as last amended by Laws of Utah 2003, Chapter 314
- 655 **32A-12-310**, as last amended by Laws of Utah 2000, Chapter 1
- 656 **32A-12-401**, as last amended by Laws of Utah 2007, Chapter 284
- 657 **32A-12-501**, as last amended by Laws of Utah 2004, Chapter 268
- 658 **32A-12-502**, as last amended by Laws of Utah 1996, Chapter 170
- 659 **32A-12-504**, as last amended by Laws of Utah 2003, Chapter 314
- 660 **32A-12-505**, as last amended by Laws of Utah 2005, Chapter 71
- 661 **32A-12-506**, as last amended by Laws of Utah 1996, Chapter 170
- 662 **32A-12-601**, as last amended by Laws of Utah 2004, Chapter 268
- 663 **32A-12-602**, as last amended by Laws of Utah 2003, Chapter 314
- 664 **32A-12-603**, as last amended by Laws of Utah 2008, Chapter 391
- 665 **32A-12-604**, as last amended by Laws of Utah 2003, Chapter 314
- 666 **32A-12-605**, as last amended by Laws of Utah 2003, Chapter 314
- 667 **32A-12-606**, as last amended by Laws of Utah 2003, Chapter 314
- 668 **32A-13-101**, as last amended by Laws of Utah 1992, Chapter 30
- 669 **32A-13-102**, as last amended by Laws of Utah 1990, Chapter 163 and renumbered and
- 670 amended by Laws of Utah 1990, Chapter 23
- 671 **32A-13-103**, as last amended by Laws of Utah 2007, Chapters 153, 180, and 306
- 672 **32A-13-104**, as last amended by Laws of Utah 1993, Chapter 38
- 673 **32A-13-105**, as renumbered and amended by Laws of Utah 1990, Chapter 23

- 674 **32A-13-106**, as last amended by Laws of Utah 2008, Chapter 305
- 675 **32A-13-107**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 676 **32A-13-108**, as last amended by Laws of Utah 1990, Chapter 118 and renumbered and
- 677 amended by Laws of Utah 1990, Chapter 23
- 678 **32A-13-109**, as last amended by Laws of Utah 2000, Chapter 1
- 679 **32A-14a-101**, as enacted by Laws of Utah 2000, Chapter 197
- 680 **32A-14a-102**, as last amended by Laws of Utah 2009, Chapter 383
- 681 **32A-14a-103**, as last amended by Laws of Utah 2009, Chapter 383
- 682 **32A-14a-104**, as renumbered and amended by Laws of Utah 2000, Chapter 197
- 683 **32A-14a-105**, as enacted by Laws of Utah 2000, Chapter 197
- 684 **32A-14b-101**, as enacted by Laws of Utah 2009, Chapter 353
- 685 **32A-14b-102**, as enacted by Laws of Utah 2009, Chapter 353
- 686 **32A-14b-201**, as enacted by Laws of Utah 2009, Chapter 353
- 687 **32A-14b-202**, as enacted by Laws of Utah 2009, Chapter 353
- 688 **32A-14b-203**, as enacted by Laws of Utah 2009, Chapter 353
- 689 **32A-15a-101**, as enacted by Laws of Utah 2003, Chapter 314
- 690 **32A-15a-102**, as last amended by Laws of Utah 2007, Chapter 341
- 691 **32A-15a-103**, as last amended by Laws of Utah 2008, Chapter 382
- 692 **32A-15a-201**, as last amended by Laws of Utah 2008, Chapter 382
- 693 **32A-15a-202**, as enacted by Laws of Utah 2003, Chapter 314
- 694 **32A-15a-203**, as enacted by Laws of Utah 2003, Chapter 314

Utah Code Sections Affected by Coordination Clause:

- 696 **32B-2-402**, Utah Code Annotated 1953
- 697 **32B-6-203**, Utah Code Annotated 1953
- 698 **32B-6-303**, Utah Code Annotated 1953
- 699 **32B-6-703**, Utah Code Annotated 1953
- 700 **32B-7-305**, Utah Code Annotated 1953

701

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

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

704 **11-10-1. Business license required -- Authorization for issuance, denial,**
 705 **suspension, or revocation by local authority.**

706 (1) As used in this chapter, the following have the meaning set forth in Section
 707 ~~[32A-1-105]~~ 32B-1-102:

708 (a) "alcoholic product";

709 ~~[(a)]~~ (b) "club ~~[licensee]~~ license";

710 ~~[(b)]~~ (c) "local authority"; and

711 ~~[(c)]~~ "person"; and

712 (d) "restaurant."

713 (2) A person may not operate an association, a restaurant, a business similar to a
 714 business operated under a club license, or other similar business that allows ~~[customers,~~
 715 ~~members, guests, or other persons]~~ a person to possess or consume ~~[alcoholic beverages]~~ an
 716 alcoholic product on the premises of the ~~[club licensee,]~~ association, restaurant, club, or
 717 similar business premises without a business license.

718 (3) ~~[Any]~~ (a) A local authority may issue a business license to ~~[any]~~ a person who
 719 owns or operates an association, restaurant, club ~~[license premise]~~, or similar business that
 720 allows ~~[the customers, members, guests, or other persons]~~ a person to hold, store, possess, or
 721 consume ~~[alcoholic beverages]~~ an alcoholic product on the premises. ~~[This license]~~

722 (b) A business license issued under this Subsection (3) does not permit ~~[any]~~ a person
 723 to hold, store, possess, or consume ~~[alcoholic beverages]~~ an alcoholic product on the premises
 724 other than as provided in Title ~~[32A]~~ 32B, Alcoholic Beverage Control Act.

725 (4) ~~[Any]~~ A local authority may suspend or revoke a business license for a violation of
 726 Title ~~[32A]~~ 32B, Alcoholic Beverage Control Act.

727 (5) ~~[Each]~~ A local authority shall set policy by written rules that establish criteria and
 728 procedures for granting, denying, suspending, or revoking ~~[licenses]~~ a business license issued
 729 under this chapter.

730 (6) A business license issued under this section [~~constitutes~~] does not constitute
 731 written consent of the local authority within the meaning of Title [~~32A~~] 32B, Alcoholic
 732 Beverage Control Act.

733 Section 2. Section **13-7-2** is amended to read:

734 **13-7-2. Definitions.**

735 (1) [~~The term "place~~] (a) "Place of public accommodation" includes every place,
 736 establishment, or facility of whatever kind, nature, or class that caters or offers its services,
 737 facilities, or goods to the general public for a fee or charge, except, [~~any~~] an establishment that
 738 is:

739 (i) located within a building [~~which~~] that contains not more than five rooms for rent or
 740 hire; and [~~which is~~]

741 (ii) actually occupied by the proprietor of [~~such~~] the establishment as [~~his~~] the
 742 proprietor's residence[; ~~provided that any~~].

743 (b) A place, establishment, or facility that caters or offers its services, facilities, or
 744 goods to the general public gratuitously shall be within the definition of this term if it receives
 745 any substantial governmental subsidy or support[; ~~but the term shall~~].

746 (c) "Place of public accommodation" does not apply to any institution, church, any
 747 apartment house, club, or place of accommodation which is in its nature distinctly private
 748 except to the extent that it is open to the public.

749 (2) [~~The term "person"~~] "Person" includes one or more individuals, partnerships,
 750 associations, organizations, corporations, labor unions, legal representatives, trustees, trustees
 751 in bankruptcy, receivers, and other organized groups of persons.

752 (3) "Enterprises regulated by the state" means:

753 (a) [~~all institutions~~] an institution subject to regulation under Title 70C, Utah
 754 Consumer Credit Code;

755 [~~(b) all places of business which sell beer to consumers or house a state liquor store, as~~
 756 ~~permitted by Title 32A, Alcoholic Beverage Control Act;~~]

757 (b) a place of business that sells an alcoholic product at retail as provided in Title 32B,

758 Alcoholic Beverage Control Act;

759 (c) [~~all insurers~~] an insurer regulated by Title 31A, Insurance Code; and

760 (d) [~~all public utilities~~] a public utility subject to regulation under Title 54, Public
761 Utilities Act.

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

763 **26-38-2. Definitions.**

764 As used in this chapter:

765 (1) "Place of public access" means any enclosed indoor place of business, commerce,
766 banking, financial service, or other service-related activity, whether publicly or privately
767 owned and whether operated for profit or not, to which persons not employed at the place of
768 public access have general and regular access or which the public uses, including:

769 (a) buildings, offices, shops, elevators, or restrooms;

770 (b) means of transportation or common carrier waiting rooms;

771 (c) restaurants, cafes, or cafeterias;

772 (d) taverns as defined in Section [~~32A-1-105~~] 32B-1-102, or cabarets;

773 (e) shopping malls, retail stores, grocery stores, or arcades;

774 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
775 sites, auditoriums, or arenas;

776 (g) barber shops, hair salons, or laundromats;

777 (h) sports or fitness facilities;

778 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
779 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
780 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
781 of these;

782 (j) (i) any child care facility or program subject to licensure or certification under this
783 title, including those operated in private homes, when any child cared for under that license is
784 present; and

785 (ii) any child care, other than child care as defined in Section 26-39-102, that is not

786 subject to licensure or certification under this title, when any child cared for by the provider,
787 other than the child of the provider, is present;

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

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

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

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

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

799 [~~(p) a club licensee under Title 32A, Chapter 5, Club Licenses.~~]

800 (p) a holder of a club license, as defined in Section 32B-1-102.

801 (2) "Publicly owned building or office" means any enclosed indoor place or portion of
802 a place owned, leased, or rented by any state, county, or municipal government, or by any
803 agency supported by appropriation of, or by contracts or grants from, funds derived from the
804 collection of federal, state, county, or municipal taxes.

805 (3) "Smoking" means the possession of any lighted tobacco product in any form.

806 Section 4. Section **29-2-102** is amended to read:

807 **29-2-102. Definitions.**

808 As used in this chapter:

809 (1) "Alcoholic beverage" has the same meaning as provided in Section [~~32A-1-105~~]
810 32B-1-102.

811 (2) "Controlled substance" has the same meaning as provided in Section 58-37-2.

812 (3) "Guest" means a person for whom an innkeeper was paid to provide temporary
813 sleeping accommodations in a lodging establishment.

814 (4) "Innkeeper" means the proprietor or designated employee of a proprietor of a
815 lodging establishment.

816 (5) "Lodging establishment" means a place providing temporary sleeping
817 accommodations to the public, including any of the following:

818 (a) a bed and breakfast establishment;

819 (b) a boarding house;

820 (c) a hotel;

821 (d) an inn;

822 (e) a lodging house;

823 (f) a motel;

824 (g) a resort; or

825 (h) a rooming house.

826 (6) "Minor" means an unemancipated person younger than 18 years of age.

827 Section 5. Section **32B-1-101** is enacted to read:

828 **TITLE 32B. ALCOHOLIC BEVERAGE CONTROL ACT**

829 **CHAPTER 1. ALCOHOLIC BEVERAGE CONTROL GENERAL PROVISIONS**

830 **Part 1. General Provisions**

831 **32B-1-101. Title.**

832 (1) This title is known as the "Alcoholic Beverage Control Act."

833 (2) This chapter is known as "Alcoholic Beverage Control General Provisions."

834 Section 6. Section **32B-1-102** is enacted to read:

835 **32B-1-102. Definitions.**

836 As used in this title:

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

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

839 (b) that is located at an international airport with a United States Customs office on

840 the premises of the international airport.

841 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,

842 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

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

844 (a) beer; or

845 (b) liquor.

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

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

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

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

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

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

855 (ii) vinegar;

856 (iii) cider;

857 (iv) essence;

858 (v) tincture;

859 (vi) food preparation; or

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

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

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

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

865 (b) described in Section 62A-15-401.

866 (6) "Banquet" means an event:

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

869 (i) hotel;

870 (ii) resort facility;
871 (iii) sports center; or
872 (iv) convention center;
873 (b) for which there is a contract:
874 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
875 and
876 (ii) under which the person operating a facility listed in Subsection (6)(a) is required
877 to provide an alcoholic product at the event; and
878 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.
879 (7) (a) Subject to Subsection (7)(b), "bar" means a counter or similar structure:
880 (i) at which an alcoholic product is:
881 (A) stored; or
882 (B) dispensed; or
883 (ii) from which an alcoholic product is served.
884 (b) For purposes of a full-service restaurant license or a limited-service restaurant
885 license, "bar structure" means a surface or structure on the premises of a restaurant if on or at
886 any place of the surface or structure an alcoholic product is:
887 (i) stored; or
888 (ii) dispensed.
889 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:
890 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
891 volume or 3.2% by weight; and
892 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
893 (b) "Beer" may or may not contain hops or other vegetable products.
894 (c) "Beer" includes a product that:
895 (i) contains alcohol in the percentages described in Subsection (8)(a); and
896 (ii) is referred to as:
897 (A) beer;

- 898 (B) ale;
- 899 (C) porter;
- 900 (D) stout;
- 901 (E) lager; or
- 902 (F) a malt or malted beverage.
- 903 (d) "Beer" does not include a flavored malt beverage.
- 904 (9) "Beer retailer" means a business:
- 905 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
- 906 whether for consumption on or off the business premises; and
- 907 (b) to whom a license is issued:
- 908 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-premise
- 909 Beer Retailer Local Authority; or
- 910 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
- 911 and Chapter 6, Part 7, On-premise Beer Retailer License.
- 912 (10) "Beer wholesaling license" means a license:
- 913 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
- 914 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
- 915 retail licensees or off-premise beer retailers.
- 916 (11) "Billboard" means a public display used to advertise, including:
- 917 (a) a light device;
- 918 (b) a painting;
- 919 (c) a drawing;
- 920 (d) a poster;
- 921 (e) a sign;
- 922 (f) a signboard; or
- 923 (g) a scoreboard.
- 924 (12) "Brewer" means a person engaged in manufacturing:
- 925 (a) beer;

- 926 (b) heavy beer; or
- 927 (c) a flavored malt beverage.
- 928 (13) "Brewery manufacturing license" means a license issued in accordance with
- 929 Chapter 11, Part 5, Brewery Manufacturing License.
- 930 (14) "Certificate of approval" means a certificate of approval obtained from the
- 931 department under Subsection 32B-11-201(4).
- 932 (15) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided
- 933 by a bus company to a group of persons pursuant to a common purpose:
- 934 (a) under a single contract;
- 935 (b) at a fixed charge in accordance with the bus company's tariff; and
- 936 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
- 937 motor vehicle, and a driver to travel together to one or more specified destinations.
- 938 (16) "Church" means a building:
- 939 (a) set apart for worship;
- 940 (b) in which religious services are held;
- 941 (c) with which clergy is associated; and
- 942 (d) that is tax exempt under the laws of this state.
- 943 (17) (a) "Club license" means a license issued in accordance with Chapter 5, Retail
- 944 License Act, and Chapter 6, Part 4, Club License.
- 945 (b) "Club license" includes:
- 946 (i) a dining club license;
- 947 (ii) an equity club license;
- 948 (iii) a fraternal club license; or
- 949 (iv) a social club license.
- 950 (18) "Commission" means the Alcoholic Beverage Control Commission created in
- 951 Section 32B-2-201.
- 952 (19) "Commissioner" means a member of the commission.
- 953 (20) "Community location" means:

- 954 (a) a public or private school;
- 955 (b) a church;
- 956 (c) a public library;
- 957 (d) a public playground; or
- 958 (e) a public park.
- 959 (21) "Community location governing authority" means:
- 960 (a) the governing body of the community location; or
- 961 (b) if the commission does not know who is the governing body of a community
962 location, a person who appears to the commission to have been given on behalf of the
963 community location the authority to prohibit an activity at the community location.
- 964 (22) "Convention center" means a facility that is:
- 965 (a) in total at least 30,000 square feet; and
- 966 (b) otherwise defined as a "convention center" by the commission by rule.
- 967 (23) For purposes of a full-service restaurant license or limited-service restaurant
968 license:
- 969 (a) subject to Subsection (23)(b), "counter" means a surface or structure in a dining
970 area of a restaurant where seating is provided to a patron for service of food; and
- 971 (b) "counter" does not include a surface or structure if on or at any point of the surface
972 or structure an alcoholic product is:
- 973 (i) stored; or
- 974 (ii) dispensed.
- 975 (24) "Department" means the Department of Alcoholic Beverage Control created in
976 Section 32B-2-203.
- 977 (25) "Department compliance officer" means an individual who is:
- 978 (a) an auditor or inspector; and
- 979 (b) employed by the department.
- 980 (26) "Department sample" means liquor that is placed in the possession of the
981 department for testing, analysis, and sampling.

982 (27) "Dining club license" means a license issued in accordance with Chapter 5, Retail
983 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
984 dining club license.

985 (28) "Director," unless the context requires otherwise, means the director of the
986 department.

987 (29) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
988 title:

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

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

991 (30) For purposes of a full-service restaurant license or a limited-service restaurant
992 license, "dispense" means:

993 (a) drawing of an alcoholic product:

994 (i) from an area where it is stored; or

995 (ii) as provided in Subsection 32B-6-205(12)(b)(ii) or 32B-6-305(12)(b)(ii); and

996 (b) using the alcoholic product described in Subsection (29)(a) on the premises of the
997 restaurant to mix or prepare an alcoholic product to be furnished to a patron of the restaurant.

998 (31) "Distillery manufacturing license" means a license issued in accordance with
999 Chapter 11, Part 4, Distillery Manufacturing License.

1000 (32) "Distressed merchandise" means an alcoholic product in the possession of the
1001 department that is saleable, but for some reason is unappealing to the public.

1002 (33) "Educational facility" includes:

1003 (a) a nursery school;

1004 (b) an infant day care center; and

1005 (c) a trade and technical school.

1006 (34) "Equity club license" means a license issued in accordance with Chapter 5, Retail
1007 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as an
1008 equity club license.

1009 (35) "Event permit" means:

- 1010 (a) a single event permit; or
- 1011 (b) a temporary beer event permit.
- 1012 (36) (a) "Flavored malt beverage" means a beverage:
- 1013 (i) that contains at least .5% alcohol by volume;
- 1014 (ii) that is treated by processing, filtration, or another method of manufacture that is
- 1015 not generally recognized as a traditional process in the production of a beer as described in 27
- 1016 C.F.R. Sec. 25.55;
- 1017 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop
- 1018 extract; and
- 1019 (iv) (A) for which the producer is required to file a formula for approval with the
- 1020 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or
- 1021 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.
- 1022 (b) "Flavored malt beverage" is considered liquor for purposes of this title.
- 1023 (37) "Fraternal club license" means a license issued in accordance with Chapter 5,
- 1024 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
- 1025 as a fraternal club license.
- 1026 (38) "Full-service restaurant license" means a license issued in accordance with
- 1027 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-service Restaurant License.
- 1028 (39) (a) "Furnish" means by any means to provide with, supply, or give an individual
- 1029 an alcoholic product, by sale or otherwise.
- 1030 (b) "Furnish" includes to:
- 1031 (i) serve;
- 1032 (ii) deliver; or
- 1033 (iii) otherwise make available.
- 1034 (40) "Guest" means an individual who meets the requirements of Subsection
- 1035 32B-6-407(9).
- 1036 (41) "Health care practitioner" means:
- 1037 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

- 1038 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- 1039 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 1040 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapist
- 1041 Practice Act;
- 1042 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
- 1043 Nurse Practice Act;
- 1044 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
- 1045 Practice Act;
- 1046 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
- 1047 Therapy Practice Act;
- 1048 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 1049 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
- 1050 Professional Practice Act;
- 1051 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 1052 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
- 1053 Practice Act;
- 1054 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
- 1055 Hygienist Practice Act; and
- 1056 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant
- 1057 Act.
- 1058 (42) (a) "Heavy beer" means a product that:
- 1059 (i) contains more than 4% alcohol by volume; and
- 1060 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 1061 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 1062 (43) "Hotel" is as defined by the commission by rule.
- 1063 (44) "Identification card" means an identification card issued under Title 53, Chapter
- 1064 3, Part 8, Identification Card Act.
- 1065 (45) "Industry representative" means an individual who is compensated by salary.

1066 commission, or other means for representing and selling an alcoholic product of a
1067 manufacturer, supplier, or importer of liquor.

1068 (46) "Industry representative sample" means liquor that is placed in the possession of
1069 the department for testing, analysis, and sampling by a local industry representative on the
1070 premises of the department to educate the local industry representative of the quality and
1071 characteristics of the product.

1072 (47) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
1073 of an alcoholic product is prohibited by:

1074 (a) law; or

1075 (b) court order.

1076 (48) "Intoxicated" means that a person:

1077 (a) is significantly impaired as to the person's mental or physical functions as a result
1078 of the use of:

1079 (i) an alcoholic product;

1080 (ii) a controlled substance;

1081 (iii) a substance having the property of releasing toxic vapors; or

1082 (iv) a combination of Subsections (48)(a)(i) through (iii); and

1083 (b) exhibits plain and easily observed outward manifestations of behavior or physical
1084 signs produced by the over consumption of an alcoholic product.

1085 (49) "Investigator" means an individual who is:

1086 (a) a department compliance officer; or

1087 (b) a nondepartment enforcement officer.

1088 (50) "Invitee" is as defined in Section 32B-8-102.

1089 (51) "License" means:

1090 (a) a retail license;

1091 (b) a license issued in accordance with Chapter 11, Manufacturing and Related

1092 Licenses Act;

1093 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

1094 or

1095 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

1096 (52) "Licensee" means a person who holds a license.

1097 (53) "Limited-service restaurant license" means a license issued in accordance with
1098 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-service Restaurant License.

1099 (54) "Limousine" means a motor vehicle licensed by the state or a local authority,
1100 other than a bus or taxicab:

1101 (a) in which the driver and a passenger are separated by a partition, glass, or other
1102 barrier;

1103 (b) that is provided by a business entity to one or more individuals at a fixed charge in
1104 accordance with the business entity's tariff; and

1105 (c) to give the one or more individuals the exclusive use of the limousine and a driver
1106 to travel to one or more specified destinations.

1107 (55) (a) (i) "Liquor" means a liquid that:

1108 (A) is:

1109 (I) alcohol;

1110 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

1111 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

1112 (IV) other drink or drinkable liquid; and

1113 (B) (I) contains at least .5% alcohol by volume; and

1114 (II) is suitable to use for beverage purposes.

1115 (ii) "Liquor" includes:

1116 (A) heavy beer;

1117 (B) wine; and

1118 (C) a flavored malt beverage.

1119 (b) "Liquor" does not include beer.

1120 (56) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

1121 (57) "Liquor warehousing license" means a license that is issued:

- 1122 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
1123 (b) to a person, other than a licensed manufacturer, who engages in the importation for
1124 storage, sale, or distribution of liquor regardless of amount.
- 1125 (58) "Local authority" means:
1126 (a) for premises that are located in an unincorporated area of a county, the governing
1127 body of a county; or
1128 (b) for premises that are located in an incorporated city or a town, the governing body
1129 of the city or town.
- 1130 (59) "Lounge or bar area" is as defined by rule made by the commission.
- 1131 (60) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment,
1132 or otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 1133 (61) "Member" means an individual who, after paying regular dues, has full privileges
1134 in an equity club licensee or fraternal club licensee.
- 1135 (62) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
1136 or homeport facility for a ship:
1137 (i) (A) under the control of the United States Department of Defense; or
1138 (B) of the National Guard;
1139 (ii) that is located within the state; and
1140 (iii) including a leased facility.
- 1141 (b) "Military installation" does not include a facility used primarily for:
1142 (i) civil works;
1143 (ii) a rivers and harbors project; or
1144 (iii) a flood control project.
- 1145 (63) "Minor" means an individual under the age of 21 years.
- 1146 (64) "Nondepartment enforcement agency" means an agency that:
1147 (a) (i) is a state agency other than the department; or
1148 (ii) is an agency of a county, city, or town; and
1149 (b) has a responsibility to enforce one or more provisions of this title.

- 1150 (65) "Nondepartment enforcement officer" means an individual who is:
1151 (a) a peace officer, examiner, or investigator; and
1152 (b) employed by a nondepartment enforcement agency.
1153 (66) (a) "Off-premise beer retailer" means a beer retailer who is:
1154 (i) licensed in accordance with Chapter 7, Part 2, Off-premise Beer Retailer Local
1155 Authority; and
1156 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
1157 premises.
1158 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
1159 (67) "On-premise banquet license" means a license issued in accordance with Chapter
1160 5, Retail License Act, and Chapter 6, Part 6, On-premise Banquet License.
1161 (68) "On-premise beer retailer" means a beer retailer who is:
1162 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
1163 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-premise Beer
1164 License; and
1165 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
1166 premises, regardless of whether the beer retailer sells beer for consumption off the licensed
1167 premises.
1168 (69) "Package" means any of the following containing an alcoholic product:
1169 (a) a container;
1170 (b) a bottle;
1171 (c) a vessel; or
1172 (d) other receptacle.
1173 (70) "Package agency" means a retail liquor location operated:
1174 (a) under an agreement with the department; and
1175 (b) by a person:
1176 (i) other than the state; and
1177 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6,

1178 Package Agency, to sell packaged liquor for consumption off the premises of the package
1179 agency.

1180 (71) "Package agent" means a person who holds a package agency.

1181 (72) "Patron" means an individual to whom food, beverages, or services are sold,
1182 offered for sale, or furnished, or who consumes an alcoholic product including:

1183 (a) a customer;

1184 (b) a member;

1185 (c) a guest;

1186 (d) an attendee of a banquet or event;

1187 (e) an individual who receives room service;

1188 (f) a resident of a resort;

1189 (g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102;

1190 or

1191 (h) an invitee.

1192 (73) "Permittee" means a person issued a permit under:

1193 (a) Chapter 9, Event Permit Act; or

1194 (b) Chapter 10, Special Use Permit Act.

1195 (74) "Person subject to administrative action" means:

1196 (a) a licensee;

1197 (b) a permittee;

1198 (c) a manufacturer;

1199 (d) a supplier;

1200 (e) an importer;

1201 (f) an out-of-state brewer holding a certificate of approval; or

1202 (g) staff of;

1203 (i) a person listed in Subsections (74)(a) through (g); or

1204 (ii) a package agent.

1205 (75) "Premises" means a building, enclosure, or room used in connection with the

1206 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
1207 unless otherwise defined in this title or rules made by the commission.

1208 (76) "Prescription" means an order issued by a health care practitioner when:

1209 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
1210 to prescribe a controlled substance, other drug, or device for medicinal purposes;

1211 (b) the order is made in the course of that health care practitioner's professional
1212 practice; and

1213 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

1214 (77) (a) "Private event" means a specific social, business, or recreational event:

1215 (i) for which an entire room, area, or hall is leased or rented in advance by an
1216 identified group; and

1217 (ii) that is limited in attendance to people who are specifically designated and their
1218 guests.

1219 (b) "Private event" does not include an event to which the general public is invited,
1220 whether for an admission fee or not.

1221 (78) (a) "Proof of age" means:

1222 (i) an identification card;

1223 (ii) an identification that:

1224 (A) is substantially similar to an identification card;

1225 (B) is issued in accordance with the laws of a state other than Utah in which the
1226 identification is issued;

1227 (C) includes date of birth; and

1228 (D) has a picture affixed;

1229 (iii) a valid driver license certificate that:

1230 (A) includes date of birth;

1231 (B) has a picture affixed; and

1232 (C) is issued;

1233 (D) under Title 53, Chapter 3, Uniform Driver License Act; or

- 1234 (II) in accordance with the laws of the state in which it is issued;
- 1235 (iv) a military identification card that:
- 1236 (A) includes date of birth; and
- 1237 (B) has a picture affixed; or
- 1238 (v) a valid passport.
- 1239 (b) "Proof of age" does not include a driving privilege card issued in accordance with
- 1240 Section 53-3-207.
- 1241 (79) (a) "Public building" means a building or permanent structure that is:
- 1242 (i) owned or leased by:
- 1243 (A) the state; or
- 1244 (B) a local government entity; and
- 1245 (ii) used for:
- 1246 (A) public education;
- 1247 (B) transacting public business; or
- 1248 (C) regularly conducting government activities.
- 1249 (b) "Public building" does not include a building owned by the state or a local
- 1250 government entity when the building is used by a person, in whole or in part, for a proprietary
- 1251 function.
- 1252 (80) "Public conveyance" means a conveyance to which the public or a portion of the
- 1253 public has access to and a right to use for transportation, including an airline, railroad, bus,
- 1254 boat, or other public conveyance.
- 1255 (81) (a) "Record" means information that is:
- 1256 (i) inscribed on a tangible medium; or
- 1257 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- 1258 (b) "Record" includes:
- 1259 (i) a book;
- 1260 (ii) a book of account;
- 1261 (iii) a paper;

- 1262 (iv) a contract;
- 1263 (v) an agreement;
- 1264 (vi) a document; or
- 1265 (vii) a recording in any medium.
- 1266 (82) "Residence" means a person's principal place of abode within Utah.
- 1267 (83) "Resident," in relation to a resort, is as defined in Section 32B-8-102.
- 1268 (84) "Resort" is as defined in Section 32B-8-102.
- 1269 (85) "Resort facility" is as defined by the commission by rule.
- 1270 (86) "Resort license" means a license issued in accordance with Chapter 5, Retail
- 1271 License Act, and Chapter 8, Resort License Act.
- 1272 (87) "Restaurant" means a business location:
- 1273 (a) at which a variety of foods are prepared;
- 1274 (b) at which complete meals are served to the general public; and
- 1275 (c) that is engaged primarily in serving meals to the general public.
- 1276 (88) "Retail license" means one of the following licenses issued under this title:
- 1277 (a) a full-service restaurant license;
- 1278 (b) a limited-service restaurant license;
- 1279 (c) a club license;
- 1280 (d) an airport lounge license;
- 1281 (e) an on-premise banquet license; or
- 1282 (f) an on-premise beer license.
- 1283 (89) "Room service" means furnishing an alcoholic product to a person in a guest
- 1284 room of a:
- 1285 (a) hotel; or
- 1286 (b) resort facility.
- 1287 (90) "Serve" means to place an alcoholic product before an individual.
- 1288 (91) (a) "School" means a building used primarily for the general education of minors.
- 1289 (b) "School" does not include an educational facility.

1290 (92) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
1291 consideration, an alcoholic product is either directly or indirectly transferred, solicited,
1292 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether
1293 done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or
1294 the rules made by the commission.

1295 (93) "Sexually oriented entertainer" means a person who while in a state of seminudity
1296 appears at or performs:

1297 (a) for the entertainment of one or more patrons;

1298 (b) on the premises of:

1299 (i) a social club licensee; or

1300 (ii) a tavern;

1301 (c) on behalf of or at the request of the licensee described in Subsection (93)(b);

1302 (d) on a contractual or voluntary basis; and

1303 (e) whether or not the person is designated as:

1304 (i) an employee;

1305 (ii) an independent contractor;

1306 (iii) an agent of the licensee; or

1307 (iv) a different type of classification.

1308 (94) "Single event permit" means a permit issued in accordance with Chapter 9, Part
1309 3, Single Event Permit.

1310 (95) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
1311 beer, heavy beer, and flavored malt beverages per year.

1312 (96) "Social club license" means a license issued in accordance with Chapter 5, Retail
1313 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
1314 social club license.

1315 (97) "Special use permit" means a permit issued in accordance with Chapter 10,
1316 Special Use Permit Act.

1317 (98) (a) "Spirituous liquor" means liquor that is distilled.

1318 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
1319 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

1320 (99) "Sports center" is as defined by the commission by rule.

1321 (100) (a) "Staff" means an individual who engages in activity governed by this title:

1322 (i) on behalf of a business, including a package agent, licensee, permittee, or
1323 certificate holder;

1324 (ii) at the request of the business, including a package agent, licensee, permittee, or
1325 certificate holder; or

1326 (iii) under the authority of the business, including a package agent, licensee, permittee,
1327 or certificate holder.

1328 (b) "Staff" includes:

1329 (i) an officer;

1330 (ii) a director;

1331 (iii) an employee;

1332 (iv) personnel management;

1333 (v) an agent of the licensee, including a managing agent;

1334 (vi) an operator; or

1335 (vii) a representative.

1336 (101) "State of nudity" means:

1337 (a) the appearance of:

1338 (i) the nipple or areola of a female human breast;

1339 (ii) a human genital;

1340 (iii) a human pubic area; or

1341 (iv) a human anus; or

1342 (b) a state of dress that fails to opaquely cover:

1343 (i) the nipple or areola of a female human breast;

1344 (ii) a human genital;

1345 (iii) a human pubic area; or

- 1346 (iv) a human anus.
- 1347 (102) "State of seminudity" means a state of dress in which opaque clothing covers no
- 1348 more than:
- 1349 (a) the nipple and areola of the female human breast in a shape and color other than
- 1350 the natural shape and color of the nipple and areola; and
- 1351 (b) the human genitals, pubic area, and anus:
- 1352 (i) with no less than the following at its widest point:
- 1353 (A) four inches coverage width in the front of the human body; and
- 1354 (B) five inches coverage width in the back of the human body; and
- 1355 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 1356 (103) (a) "State store" means a facility for the sale of packaged liquor:
- 1357 (i) located on premises owned or leased by the state; and
- 1358 (ii) operated by a state employee.
- 1359 (b) "State store" does not include:
- 1360 (i) a package agency;
- 1361 (ii) a licensee; or
- 1362 (iii) a permittee.
- 1363 (104) For purposes of a full-service restaurant license or a limited-service restaurant
- 1364 license:
- 1365 (a) "Storage area" means an area on licensed premises where the licensee stores an
- 1366 alcoholic product.
- 1367 (b) "Store" means to place or maintain in a location an alcoholic product from which a
- 1368 person draws to prepare an alcoholic product to be furnished to a patron of the restaurant,
- 1369 except as provided in Subsection 32B-6-205(12)(b)(ii) or 32B-6-305(12)(b)(ii).
- 1370 (105) "Sublicense" is as defined in Section 32B-8-102.
- 1371 (106) "Supplier" means a person who sells an alcoholic product to the department.
- 1372 (107) "Tavern" means an on-premise beer retailer who is:
- 1373 (a) issued a license by the commission in accordance with Chapter 5, Retail License

1374 Act, and Chapter 6, Part 7, On-premise Beer Retailer License; and

1375 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
1376 On-premise Beer Retailer License.

1377 (108) "Temporary beer event permit" means a permit issued in accordance with
1378 Chapter 9, Part 4, Temporary Beer Event Permit.

1379 (109) "Temporary domicile" means the principal place of abode within Utah of a
1380 person who does not have a present intention to continue residency within Utah permanently
1381 or indefinitely.

1382 (110) "Unsaleable liquor merchandise" means a package that:

1383 (a) is unsaleable because the package is:

1384 (i) unlabeled;

1385 (ii) leaky;

1386 (iii) damaged;

1387 (iv) difficult to open; or

1388 (v) partly filled;

1389 (b) (i) has faded labels or defective caps or corks;

1390 (ii) has contents that are:

1391 (A) cloudy;

1392 (B) spoiled; or

1393 (C) chemically determined to be impure; or

1394 (iii) contains:

1395 (A) sediment; or

1396 (B) a foreign substance; or

1397 (c) is otherwise considered by the department as unfit for sale.

1398 (111) (a) "Wine" means an alcoholic product obtained by the fermentation of the
1399 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
1400 another ingredient is added.

1401 (b) "Wine" is considered liquor for purposes of this title, except as otherwise provided

1402 in this title.

1403 (112) "Winery manufacturing license" means a license issued in accordance with
1404 Chapter 11, Part 3, Winery Manufacturing License.

1405 Section 7. Section **32B-1-103** is enacted to read:

1406 **32B-1-103. Policy.**

1407 The policies of the state are as follows:

1408 (1) This title shall be administered in a manner that is nonpartisan and free of partisan
1409 political influence.

1410 (2) Alcoholic product control shall be operated as a public business using sound
1411 management principles and practices. This public business shall:

1412 (a) be governed by a commission;

1413 (b) be operated by a department; and

1414 (c) function with the intent of servicing the public demand for alcoholic products.

1415 (3) The commission and department may not promote or encourage the sale or
1416 consumption of alcoholic products.

1417 (4) The commission shall conduct, license, and regulate the sale of alcoholic products
1418 in a manner and at prices that:

1419 (a) reasonably satisfy the public demand and protect the public interest, including the
1420 rights of citizens who do not wish to be involved with alcoholic products; and

1421 (b) will promote the reduction of the harmful effects of:

1422 (i) over consumption of alcoholic products by adults; and

1423 (ii) consumption of alcoholic products by minors.

1424 Section 8. Section **32B-1-104** is enacted to read:

1425 **32B-1-104. Exercise of police powers -- Severability.**

1426 (1) This title is an exercise of the police powers of the state for the protection of the
1427 public health, peace, safety, welfare, and morals, and regulates the storage, sale, offer for sale,
1428 furnishing, consumption, manufacture, and distribution of an alcoholic product. This title
1429 governs alcoholic product control unless otherwise provided in this title.

1430 (2) If a provision of this title or the application of a provision to a person or
1431 circumstance is held invalid, the remainder of this title shall be given effect without the invalid
1432 provision or application. The provisions of this title are severable.

1433 Section 9. Section **32B-1-201** is enacted to read:

1434 **Part 2. Miscellaneous Provisions**

1435 **32B-1-201. Determining population.**

1436 For purposes of determining the number of state stores that the commission may
1437 establish or the number of package agencies or retail licenses that the commission may issue,
1438 the commission shall determine population by:

- 1439 (1) the most recent United States decennial or special census; or
- 1440 (2) another population determination made by the United States or state governments.

1441 Section 10. Section **32B-1-202** is enacted to read:

1442 **32B-1-202. Proximity to community location.**

1443 (1) For purposes of this section, "outlet" means:

- 1444 (a) a state store;
- 1445 (b) a package agency; or
- 1446 (c) a retail licensee, except an airport lounge licensee.

1447 (2) Except as otherwise provided in this section, the premises of an outlet may not be
1448 located:

1449 (a) within 600 feet of a community location, as measured from the nearest entrance of
1450 the outlet by following the shortest route of ordinary pedestrian travel to the property boundary
1451 of the community location; or

1452 (b) within 200 feet of a community location, measured in a straight line from the
1453 nearest entrance of the outlet to the nearest property boundary of the community location.

1454 (3) With respect to the location of an outlet, the commission may authorize a variance
1455 to reduce the proximity requirement of Subsection (2) if:

1456 (a) when the variance reduces the proximity requirement of Subsection (2)(b), the
1457 community location at issue is:

1458 (i) a public library; or
1459 (ii) a public park;
1460 (b) except with respect to a state store, the local authority gives its written consent to
1461 the variance;
1462 (c) the commission finds that alternative locations for locating that type of outlet in the
1463 community are limited;
1464 (d) a public hearing is held in the city, town, or county, and when practical in the
1465 neighborhood concerned;
1466 (e) after giving full consideration to the attending circumstances and the policies
1467 stated in Subsections 32B-1-103(3) and (4), the commission determines that locating the
1468 outlet in that location would not be detrimental to the public health, peace, safety, and welfare
1469 of the community;
1470 (f) (i) the community location governing authority gives its written consent to the
1471 variance; or
1472 (ii) if the community location governing authority does not give its written consent to
1473 a variance, the commission finds the following for a state store, or if the outlet is a package
1474 agency or retail licensee, the commission finds that the applicant establishes the following:
1475 (A) there is substantial unmet public demand to consume an alcoholic product:
1476 (I) within the geographic boundary of the local authority in which the outlet is to be
1477 located; and
1478 (II) for an outlet that is a retail licensee, in a public setting;
1479 (B) there is no reasonably viable alternative for satisfying the substantial unmet
1480 demand other than through locating that type of outlet in that location; and
1481 (C) there is no reasonably viable alternative location within the geographic boundary
1482 of the local authority in which the outlet is to be located for locating that type of outlet to
1483 satisfy the unmet demand.
1484 (4) With respect to the premises of a package agency or retail licensee that undergoes
1485 a change of ownership, the commission may waive or vary the proximity requirements of

1486 Subsection (2) in considering whether to issue the package agency or same type of retail
1487 license to the new owner of the premises if:

1488 (a) the premises previously received a variance reducing the proximity requirement of
1489 Subsection (2)(a);

1490 (b) the premises received a variance reducing the proximity requirement of Subsection
1491 (2)(b) on or before May 4, 2008; or

1492 (c) a variance from proximity requirements was otherwise allowed under this title.

1493 (5) Nothing in this section prevents the commission from considering the proximity of
1494 an educational, religious, and recreational facility, or any other relevant factor in reaching a
1495 decision on a proposed location of an outlet.

1496 Section 11. Section **32B-1-203** is enacted to read:

1497 **32B-1-203. Licensee compliance with other laws.**

1498 (1) A licensee and a person applying for a license shall comply with the applicable
1499 federal and state laws pertaining to payment of taxes and contributions to unemployment and
1500 insurance funds to which the licensee or person may be subject.

1501 (2) The commission:

1502 (a) may not issue a license to a person who violates this section; and

1503 (b) may not renew, suspend, or revoke the license of a licensee who violates this
1504 section.

1505 Section 12. Section **32B-1-204** is enacted to read:

1506 **32B-1-204. Powers of local authority.**

1507 (1) If this title expressly addresses an issue related to alcoholic product control in this
1508 state, a local authority may not regulate in relation to that issue except when a local authority
1509 is expressly granted regulatory authority to regulate the issue by this title.

1510 (2) If this title does not expressly address an issue related to alcoholic product control,
1511 a local authority may regulate that issue if the regulation:

1512 (a) is of the sale, offer for sale, furnishing, or consumption of an alcoholic product;
1513 and

1514 (b) does not conflict with this title.

1515 Section 13. Section **32B-1-205** is enacted to read:

1516 **32B-1-205. Falsifying or taking other actions with records prohibited.**

1517 (1) A person required to make or maintain a record under this title or rules of the
1518 commission, or a person acting for that person, may not knowingly forge, falsify, alter, cancel,
1519 destroy, conceal, or remove the record for the purpose of deceiving the commission, a
1520 commissioner, the director, the department, a department employee, or a law enforcement
1521 officer.

1522 (2) A violation of this section may result in:

1523 (a) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
1524 Enforcement Act, if the person who violates this section is a person subject to administrative
1525 action; or

1526 (b) criminal prosecution if the violation is a criminal offense under Chapter 4,
1527 Criminal Offenses and Procedure Act.

1528 Section 14. Section **32B-1-301** is enacted to read:

1529 **Part 3. Qualifications and Background**

1530 **32B-1-301. Title.**

1531 This part is known as "Qualifications and Background."

1532 Section 15. Section **32B-1-302** is enacted to read:

1533 **32B-1-302. Definitions.**

1534 Reserved

1535 Section 16. Section **32B-1-303** is enacted to read:

1536 **32B-1-303. Qualifications related to employment with the department.**

1537 (1) The department may not employ a person if that person has been convicted of:

1538 (a) a felony under a federal law or state law;

1539 (b) a violation of a federal law, state law, or local ordinance concerning the sale, offer
1540 for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic
1541 product;

1542 (c) a crime involving moral turpitude; or
1543 (d) on two or more occasions within the five years before the day on which the
1544 department employs the person, driving under the influence of alcohol, drugs, or the combined
1545 influence of alcohol and drugs.

1546 (2) The director may terminate a department employee or take other disciplinary
1547 action consistent with Title 67, Chapter 19, Utah State Personnel Management Act, if:

1548 (a) after the day on which the department employs the department employee, the
1549 department employee is found to have been convicted of an offense described in Subsection
1550 (1) before being employed by the department; or

1551 (b) on or after the day on which the department employs the department employee, the
1552 department employee:

1553 (i) is convicted of an offense described in Subsection (1)(a), (b), or (c); or

1554 (ii) (A) is convicted of driving under the influence of alcohol, drugs, or the combined
1555 influence of alcohol and drugs; and

1556 (B) was convicted of driving under the influence of alcohol, drugs, or the combined
1557 influence of alcohol and drugs within five years before the day on which the person is
1558 convicted of the offense described in Subsection (2)(b)(ii)(A).

1559 (3) The director may immediately suspend a department employee for the period
1560 during which a criminal matter is being adjudicated if the department employee:

1561 (a) is arrested on a charge for an offense described in Subsection (1)(a), (b), or (c); or

1562 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
1563 drugs, or the combined influence of alcohol and drugs; and

1564 (ii) was convicted of driving under the influence of alcohol, drugs, or the combined
1565 influence of alcohol and drugs within five years before the day on which the person is arrested
1566 on a charge described in Subsection (3)(b)(i).

1567 Section 17. Section **32B-1-304** is enacted to read:

1568 **32B-1-304. Qualifications for a package agency, license, or permit -- Minors.**

1569 (1) (a) The commission may not issue a package agency, license, or permit to a person

1570 who has been convicted of:

1571 (i) a felony under a federal law or state law;

1572 (ii) a violation of a federal law, state law, or local ordinance concerning the sale, offer
1573 for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic
1574 product;

1575 (iii) a crime involving moral turpitude; or

1576 (iv) on two or more occasions within the five years before the day on which the
1577 package agency, license, or permit is issued, driving under the influence of alcohol, drugs, or
1578 the combined influence of alcohol and drugs.

1579 (b) If the person is a partnership, corporation, or limited liability company, the
1580 proscription under Subsection (1)(a) applies if any of the following has been convicted of an
1581 offense described in Subsection (1)(a):

1582 (i) a partner;

1583 (ii) a managing agent;

1584 (iii) a manager;

1585 (iv) an officer;

1586 (v) a director;

1587 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
1588 the corporation; or

1589 (vii) a member who owns at least 20% of the limited liability company.

1590 (c) The proscription under Subsection (1)(a) applies if a person who is employed to act
1591 in a supervisory or managerial capacity for a package agency, licensee, or permittee has been
1592 convicted of an offense described in Subsection (1)(a).

1593 (2) The commission may immediately suspend or revoke a package agency, license, or
1594 permit, and terminate a package agency agreement, if a person described in Subsection (1):

1595 (a) after the day on which the package agency, license, or permit is issued, is found to
1596 have been convicted of an offense described in Subsection (1)(a) before the package agency,
1597 license, or permit is issued; or

1598 (b) on or after the day on which the package agency, license, or permit is issued:
1599 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
1600 (ii) (A) is convicted of driving under the influence of alcohol, drugs, or the combined
1601 influence of alcohol and drugs; and
1602 (B) was convicted of driving under the influence of alcohol, drugs, or the combined
1603 influence of alcohol and drugs within five years before the day on which the person is
1604 convicted of the offense described in Subsection (2)(b)(ii)(A).
1605 (3) The director may take emergency action by immediately suspending the operation
1606 of the package agency, licensee, or permittee for the period during which a criminal matter is
1607 being adjudicated if a person described in Subsection (1):
1608 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
1609 or
1610 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
1611 drugs, or the combined influence of alcohol and drugs; and
1612 (ii) was convicted of driving under the influence of alcohol, drugs, or the combined
1613 influence of alcohol and drugs within five years before the day on which the person is arrested
1614 on a charge described in Subsection (3)(b)(i).
1615 (4) (a) (i) The commission may not issue a package agency, license, or permit to a
1616 person who has had any type of agency, license, or permit issued under this title revoked
1617 within the last three years.
1618 (ii) The commission may not issue a package agency, license, or permit to a
1619 partnership, corporation, or limited liability company if a partner, managing agent, manager,
1620 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
1621 of the corporation, or member who owns at least 20% of the limited liability company is or
1622 was:
1623 (A) a partner or managing agent of a partnership that had any type of agency, license,
1624 or permit issued under this title revoked within the last three years;
1625 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%

1626 of the total issued and outstanding stock of any corporation that had any type of agency,
1627 license, or permit issued under this title revoked within the last three years; or
1628 (C) a manager or member who owns or owned at least 20% of a limited liability
1629 company that had any type of agency, license, or permit issued under this title revoked within
1630 the last three years.

1631 (b) The commission may not issue a package agency, licence, or permit to a
1632 partnership, corporation, or limited liability company if any of the following had any type of
1633 agency, license, or permit issued under this title revoked while acting in that person's
1634 individual capacity within the last three years:

1635 (i) a partner or managing agent of a partnership;
1636 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
1637 total issued and outstanding stock of a corporation; or
1638 (iii) a manager or member who owns at least 20% of a limited liability company.

1639 (c) The commission may not issue a package agency, license, or permit to a person
1640 acting in an individual capacity if that person was:

1641 (i) a partner or managing agent of a partnership that had any type of agency, license,
1642 or permit issued under this title revoked within the last three years;

1643 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
1644 total issued and outstanding stock of a corporation that had any type of agency, license, or
1645 permit issued under this title revoked within the last three years; or

1646 (iii) a manager or member who owned at least 20% of the limited liability company
1647 that had any type of agency, license, or permit issued under this title revoked within the last
1648 three years.

1649 (5) (a) The commission may not issue a package agency, license, or permit to a minor.

1650 (b) The commission may not issue a package agency, license, or permit to a
1651 partnership, corporation, or limited liability company if any of the following is a minor:

1652 (i) a partner or managing agent of the partnership;

1653 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the

1654 total issued and outstanding stock of the corporation; or
1655 (iii) a manager or member who owns at least 20% of the limited liability company.
1656 (6) If a package agent, licensee, or permittee no longer possesses the qualifications
1657 required by this title for obtaining a package agency, license, or permit, the commission may
1658 terminate the package agency agreement, or revoke the license or permit.

1659 Section 18. Section **32B-1-305** is enacted to read:

1660 **32B-1-305. Requirement for a criminal background check.**

1661 (1) The department shall require an individual listed in Subsection (2) to, in
1662 accordance with this part:

1663 (a) submit a fingerprint card in a form acceptable to the department; and

1664 (b) consent to a fingerprint criminal background check by:

1665 (i) the Utah Bureau of Criminal Identification; and

1666 (ii) the Federal Bureau of Investigation.

1667 (2) The following shall comply with Subsection (1):

1668 (a) an individual applying for employment with the department if:

1669 (i) the department makes the decision to offer the individual employment with the
1670 department; and

1671 (ii) once employed, the individual will receive benefits;

1672 (b) an individual applying to the commission to operate a package agency;

1673 (c) an individual applying to the commission for a license;

1674 (d) an individual who with regard to an entity that is applying to the commission to
1675 operate a package agency or for a license is:

1676 (i) a partner;

1677 (ii) a managing agent;

1678 (iii) a manager;

1679 (iv) an officer;

1680 (v) a director;

1681 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a

1682 corporation;
1683 (vii) a member who owns at least 20% of a limited liability company; or
1684 (viii) an individual employed to act in a supervisory or managerial capacity; or
1685 (e) an individual who becomes involved with an entity that operates a package agency
1686 or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the
1687 day on which the entity:
1688 (i) is approved to operate a package agency; or
1689 (ii) is licensed by the commission.
1690 (3) The department shall require compliance with Subsection (2)(e) as a condition of
1691 an entity's:
1692 (a) continued operation of a package agency; or
1693 (b) renewal of a license.
1694 (4) The department may require as a condition of continued employment that a
1695 department employee:
1696 (a) submit a fingerprint card in a form acceptable to the department; and
1697 (b) consent to a fingerprint criminal background check by:
1698 (i) the Utah Bureau of Criminal Identification; and
1699 (ii) the Federal Bureau of Investigation.
1700 Section 19. Section **32B-1-306** is enacted to read:
1701 **32B-1-306. Use of information from a criminal background check.**
1702 The commission or department may use information obtained pursuant to Section
1703 32B-1-305 only for one or more of the following purposes:
1704 (1) enforcing this title;
1705 (2) determining whether an individual is convicted of any of the following offenses
1706 that disqualify the individual under this title from acting in a capacity described in Subsection
1707 32B-1-305(2):
1708 (a) a felony under federal law or state law;
1709 (b) a violation of a federal law, state law, or local ordinance concerning the sale, offer

1710 for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic
1711 product;

1712 (c) a crime involving moral turpitude; or

1713 (d) on two or more occasions within the previous five years, driving under the
1714 influence of alcohol, drugs, or the combined influence of alcohol and drugs;

1715 (3) determining whether an individual fails to accurately disclose the person's criminal
1716 history on an application or document filed with the department or commission;

1717 (4) approving or denying an application for employment with the department;

1718 (5) taking disciplinary action against a department employee, including possible
1719 termination of employment;

1720 (6) issuing or denying an application to operate a package agency;

1721 (7) issuing or denying an application for a license;

1722 (8) issuing or denying the renewal of a package agency agreement;

1723 (9) issuing or denying the renewal of a license;

1724 (10) suspending the operation of a package agency;

1725 (11) terminating a package agency contract; or

1726 (12) suspending or revoking a license.

1727 Section 20. Section **32B-1-307** is enacted to read:

1728 **32B-1-307. Criminal background check procedure.**

1729 (1) (a) An individual described in Subsections 32B-1-305(2)(b) through (e) shall
1730 submit a fingerprint card at the expense of the individual.

1731 (b) The department shall pay the expense of obtaining a fingerprint card required of:

1732 (i) an individual applying for employment with the department; or

1733 (ii) a department employee.

1734 (2) (a) The department shall obtain information from a criminal history record
1735 maintained by the Utah Bureau of Criminal Identification pursuant to Title 53, Chapter 10,
1736 Part 2, Bureau of Criminal Identification, for a purpose outlined in Section 32B-1-306.

1737 (b) An individual described in Subsections 32B-1-305(2)(b) through (e) shall pay to

1738 the department the expense of obtaining the criminal history record described in Subsection
1739 (2)(a).

1740 (c) The department shall pay the expense of obtaining the criminal history record
1741 required for:

1742 (i) an individual applying for employment with the department; or

1743 (ii) a department employee.

1744 (3) (a) The department shall submit a fingerprint card obtained under Section
1745 32B-1-305 of an individual who has not resided in the state for at least two years before the
1746 day on which the fingerprint card is submitted to the Utah Bureau of Criminal Identification to
1747 be forwarded to the Federal Bureau of Investigation for a nationwide criminal history record
1748 check.

1749 (b) An individual described in Subsections 32B-1-305(2)(b) through (e) shall pay to
1750 the department the expense of obtaining the criminal history record described in Subsection
1751 (3)(a).

1752 (c) The department shall pay the expense of obtaining the criminal history record
1753 required for:

1754 (i) an individual applying for employment with the department; or

1755 (ii) a department employee.

1756 (4) The department shall pay the Utah Bureau of Criminal Identification the costs
1757 incurred in providing the department criminal background information.

1758 (5) (a) The following may not disseminate a criminal history record obtained under
1759 this part to any person except for a purpose described in Section 32B-1-306:

1760 (i) the commission;

1761 (ii) a commissioner;

1762 (iii) the director;

1763 (iv) the department; or

1764 (v) a department employee.

1765 (b) (i) Notwithstanding Subsection (5)(a), a criminal history record obtained under

1766 this part may be provided by the department to the individual who is the subject of the
1767 criminal history record.

1768 (ii) The department shall provide an individual who is the subject of a criminal history
1769 record and who requests the criminal history record an opportunity to:

1770 (A) review the criminal history record; and

1771 (B) respond to information in the criminal history record.

1772 (6) If an individual described in Subsection 32B-1-305(2) is determined to be
1773 disqualified under Subsection 32B-1-306(2)(b), the department shall provide the individual
1774 with:

1775 (a) notice of the reason for the disqualification; and

1776 (b) an opportunity to respond to the disqualification.

1777 (7) The department shall maintain the following in one or more separate files so that
1778 they may be accessed only for a purpose under Section 32B-1-306:

1779 (a) a fingerprint card submitted under this part; and

1780 (b) a criminal history record received from:

1781 (i) the Utah Bureau of Criminal Identification; and

1782 (ii) the Federal Bureau of Investigation.

1783 Section 21. Section **32B-1-401** is enacted to read:

1784 **Part 4. Proof of Age Act**

1785 **32B-1-401. Title.**

1786 This part is known as the "Proof of Age Act."

1787 Section 22. Section **32B-1-402** is enacted to read:

1788 **32B-1-402. Definitions.**

1789 As used in this part:

1790 (1) "Applicable licensee" means the following:

1791 (a) a dining club licensee; or

1792 (b) a social club licensee.

1793 (2) "Authorized person" means a person authorized by law to sell or otherwise handle

1794 an alcoholic product.

1795 (3) "Restricted area" means a place where an alcoholic product is sold or consumed,
1796 but where under this title a minor is not permitted.

1797 (4) "Statement of age" means a statement signed under Section 32B-1-405 verifying
1798 the age of the person signing the statement.

1799 Section 23. Section **32B-1-403** is enacted to read:

1800 **32B-1-403. Unlawful transfer or use of proof of age -- False information.**

1801 (1) (a) It is unlawful for a person to transfer that person's proof of age to another
1802 person to aid that person:

1803 (i) in procuring an alcoholic product;

1804 (ii) in gaining admittance to a restricted area; or

1805 (iii) in obtaining employment that under this title may not be obtained by a minor.

1806 (b) A person who permits that person's proof of age to be used by another for a
1807 purpose stated in Subsection (1)(a) is guilty of a class B misdemeanor.

1808 (2) (a) It is unlawful for a person to use a proof of age containing false information
1809 with the intent to:

1810 (i) procure an alcoholic product;

1811 (ii) gain admittance to a restricted area; or

1812 (iii) obtain employment that under this title may not be obtained by a minor.

1813 (b) Except as provided in Section 32B-4-411, a person who violates this Subsection
1814 (2) is guilty of a class A misdemeanor.

1815 Section 24. Section **32B-1-404** is enacted to read:

1816 **32B-1-404. Presentation of proof of age upon request.**

1817 (1) To obtain one or more of the following, an individual shall present proof of age at
1818 the request of a person listed in Subsection (2):

1819 (a) an alcoholic product;

1820 (b) admittance to a restricted area; or

1821 (c) employment that under this title may not be obtained by a minor.

1822 (2) To determine whether the individual described in Subsection (1) is 21 years of age,
1823 the following may request a person described in Subsection (1) to present proof of age:

1824 (a) an authorized person;

1825 (b) a peace officer;

1826 (c) a representative of the State Bureau of Investigation of the Department of Public
1827 Safety, established in Section 53-10-301; or

1828 (d) an authorized department employee.

1829 Section 25. Section **32B-1-405** is enacted to read:

1830 **32B-1-405. Additional requirements when age is in question.**

1831 (1) (a) In addition to requesting the presentation of proof of age under Section
1832 32B-1-404, an authorized person shall require an individual whose age is in question to sign a
1833 statement of age on the form provided under Subsection (1)(b) that includes:

1834 (i) the date the statement of age is signed; and

1835 (ii) the number assigned to the individual's proof of age by the issuing authority.

1836 (b) At the request of a retail licensee, the commissioner of public safety shall provide
1837 to a retail licensee the form for the statement of age described in this Subsection (1).

1838 (2) (a) An authorized person shall:

1839 (i) file in alphabetical order a statement of age obtained under Subsection (1) by no
1840 later than the close of business on the day on which the statement of age is executed; and

1841 (ii) maintain a statement of age on file for three years.

1842 (b) A statement of age is subject to examination by:

1843 (i) a peace officer;

1844 (ii) a representative of the State Bureau of Investigation of the Department of Public
1845 Safety, established in Section 53-10-301; or

1846 (iii) an authorized department employee.

1847 Section 26. Section **32B-1-406** is enacted to read:

1848 **32B-1-406. Acceptance of identification.**

1849 (1) An authorized person may accept as evidence of the legal age of the individual

1850 presenting the following:
1851 (a) proof of age; or
1852 (b) if a statement of age is required under Section 32B-1-405:
1853 (i) proof of age; and
1854 (ii) a statement of age.
1855 (2) A statement of age, if properly completed, signed, and filed in accordance with
1856 Section 32B-1-405, may be offered as a defense in a case when there is at issue the legality of:
1857 (a) selling, offering for sale, or furnishing an alcoholic product to the individual who
1858 signed the statement of age;
1859 (b) admitting the individual who signed the statement of age into a restricted area; or
1860 (c) allowing the individual who signed the statement of age to be employed in
1861 employment that under this title may not be obtained by a minor.
1862 (3) An authorized person may not accept a driving privilege card issued in accordance
1863 with Section 53-3-207 as evidence of the legal age of an individual.
1864 Section 27. Section **32B-1-407** is enacted to read:
1865 **32B-1-407. Verification of proof of age by applicable licensees.**
1866 (1) Notwithstanding any other provision of this part, an applicable licensee shall
1867 require that an authorized person under the applicable licensee verify proof of age as provided
1868 in this section.
1869 (2) An authorized person is required to verify proof of age under this section before an
1870 individual who appears to be 35 years of age or younger:
1871 (a) gains admittance to the premises of a social club licensee; or
1872 (b) procures an alcoholic product on the premises of a dining club licensee.
1873 (3) To comply with Subsection (2), an authorized person shall:
1874 (a) request the individual present proof of age; and
1875 (b) (i) verify the validity of the proof of age electronically under the verification
1876 program created in Subsection (4); or
1877 (ii) if the proof of age cannot be electronically verified as provided in Subsection

1878 (3)(b)(i), request that the individual comply with a process established by the commission by
1879 rule.

1880 (4) The commission shall establish by rule an electronic verification program that
1881 includes the following:

1882 (a) the specifications for the technology used by the applicable licensee to
1883 electronically verify proof of age, including that the technology display to the person described
1884 in Subsection (1) no more than the following for the individual who presents the proof of age:

1885 (i) the name;

1886 (ii) the age;

1887 (iii) the number assigned to the individual's proof of age by the issuing authority;

1888 (iv) the birth date;

1889 (v) the gender; and

1890 (vi) the status and expiration date of the individual's proof of age; and

1891 (b) the security measures that must be used by an applicable licensee to ensure that
1892 information obtained under this section is:

1893 (i) used by the applicable licensee only for purposes of verifying proof of age in
1894 accordance with this section; and

1895 (ii) retained by the applicable licensee for seven days after the day on which the
1896 applicable licensee obtains the information.

1897 (5) (a) An applicable licensee may not disclose information obtained under this
1898 section except as provided under this title.

1899 (b) Information obtained under this section is considered a record for any purpose
1900 under Chapter 5, Part 3, Retail Licensee Operational Requirements.

1901 Section 28. Section **32B-1-408** is enacted to read:

1902 **32B-1-408. Penalty.**

1903 (1) Unless otherwise provided in this title, including Section 32B-4-411, a person who
1904 violates this part is guilty of a class B misdemeanor.

1905 (2) A person is not subject to a penalty for a violation of this part if it is proved to the

1906 commission or the court hearing the matter that the person charged with the violation acted in
1907 good faith.

1908 Section 29. Section **32B-1-501** is enacted to read:

1909 **Part 5. Attire, Conduct, and Entertainment Act**

1910 **32B-1-501. Title.**

1911 This part is known as the "Attire, Conduct, and Entertainment Act."

1912 Section 30. Section **32B-1-502** is enacted to read:

1913 **32B-1-502. Purpose -- Application to other laws.**

1914 (1) This part establishes reasonable and uniform time, place, and manner of operation
1915 requirements relating to attire, conduct, and sexually oriented entertainers on premises or at an
1916 event at which an alcoholic product is sold, offered for sale, furnished, or allowed to be
1917 consumed under a retail license or permit issued by the commission so as to:

1918 (a) reduce the adverse secondary effects that the attire, conduct, and sexually oriented
1919 entertainers may have upon communities of this state; and

1920 (b) protect the health, peace, safety, welfare, and morals of the residents of
1921 communities of this state.

1922 (2) Nothing in this part allows the showing or display of any matter that is contrary to:

1923 (a) applicable federal or state statutes prohibiting obscenity; or

1924 (b) state statutes relating to lewdness or indecent public displays.

1925 (3) A local authority may be more restrictive of attire, conduct, or sexually oriented
1926 entertainers of the type prohibited in this part.

1927 Section 31. Section **32B-1-503** is enacted to read:

1928 **32B-1-503. Definitions.**

1929 Reserved

1930 Section 32. Section **32B-1-504** is enacted to read:

1931 **32B-1-504. General requirements on attire and conduct.**

1932 The following attire and conduct on premises or at an event regulated by the
1933 commission under this title are considered contrary to the public health, peace, safety, welfare,

- 1934 and morals, and are prohibited:
- 1935 (1) employing or using a person in the sale, offer for sale, or furnishing of an alcoholic
- 1936 product while the person is in:
- 1937 (a) a state of nudity;
- 1938 (b) a state of seminudity; or
- 1939 (c) performance attire or clothing that exposes to view any portion of:
- 1940 (i) the female breast below the top of the areola; or
- 1941 (ii) the cleft of the buttocks;
- 1942 (2) employing or using the services of a person to mingle with patrons while the
- 1943 person is in:
- 1944 (a) a state of nudity;
- 1945 (b) a state of seminudity; or
- 1946 (c) performance attire or clothing that exposes to view any portion of:
- 1947 (i) the female breast below the top of the areola; or
- 1948 (ii) the cleft of the buttocks;
- 1949 (3) encouraging or permitting a person to:
- 1950 (a) engage in or simulate an act of:
- 1951 (i) sexual intercourse;
- 1952 (ii) masturbation;
- 1953 (iii) sodomy;
- 1954 (iv) bestiality;
- 1955 (v) oral copulation;
- 1956 (vi) flagellation; or
- 1957 (vii) a sexual act that is prohibited by Utah law; or
- 1958 (b) touch, caress, or fondle the breast, buttocks, anus, or genitals of any other person;
- 1959 (4) permitting a person to wear or use a device or covering that:
- 1960 (a) is exposed to view; and
- 1961 (b) simulates all or any portion of the human genitals, anus, pubic area, or female

1962 breast;
1963 (5) permitting a person to use an artificial device or inanimate object to depict an act
1964 prohibited by this section;
1965 (6) permitting a person to remain on premises or at an event who exposes to public
1966 view any portion of that person's:
1967 (a) genitals, pubic area, or anus; or
1968 (b) in the case of a female, the areola and nipple of the breast; or
1969 (7) showing a film, still picture, electronic reproduction, or other visual reproduction
1970 depicting:
1971 (a) an act or simulated act of:
1972 (i) sexual intercourse;
1973 (ii) masturbation;
1974 (iii) sodomy;
1975 (iv) bestiality;
1976 (v) oral copulation;
1977 (vi) flagellation; or
1978 (vii) a sexual act that is prohibited by Utah law;
1979 (b) a person being touched, caressed, or fondled on the breast, buttocks, anus, or
1980 genitals;
1981 (c) a scene wherein an artificial device or inanimate object is employed to depict, or a
1982 drawing is employed to portray, an act prohibited by this section; or
1983 (d) a scene wherein a person displays the genitals or anus.
1984 Section 33. Section **32B-1-505** is enacted to read:
1985 **32B-1-505. Sexually oriented entertainer.**
1986 (1) Subject to the requirements of this part, live entertainment is permitted on
1987 premises or at an event regulated by the commission.
1988 (2) Notwithstanding Subsection (1), a retail licensee or permittee may not permit a
1989 person to:

- 1990 (a) appear or perform in a state of nudity;
- 1991 (b) perform or simulate an act of:
- 1992 (i) sexual intercourse;
- 1993 (ii) masturbation;
- 1994 (iii) sodomy;
- 1995 (iv) bestiality;
- 1996 (v) oral copulation;
- 1997 (vi) flagellation; or
- 1998 (vii) a sexual act that is prohibited by Utah law; or
- 1999 (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.
- 2000 (3) A sexually oriented entertainer may perform in a state of seminudity:
- 2001 (a) only in:
- 2002 (i) a tavern; or
- 2003 (ii) a social club license premises; and
- 2004 (b) only if:
- 2005 (i) the windows, doors, and other apertures to the premises are darkened or otherwise
- 2006 constructed to prevent anyone outside the premises from seeing the performance; and
- 2007 (ii) the outside entrance doors of the premises remain unlocked.
- 2008 (4) A sexually oriented entertainer may perform only upon a stage or in a designated
- 2009 performance area that is:
- 2010 (a) approved by the commission in accordance with rules made by the commission;
- 2011 (b) configured so as to preclude a patron from:
- 2012 (i) touching the sexually oriented entertainer; or
- 2013 (ii) placing any money or object on or within the performance attire or the person of
- 2014 the sexually oriented entertainer; and
- 2015 (c) configured so as to preclude the sexually oriented entertainer from touching a
- 2016 patron.
- 2017 (5) A sexually oriented entertainer may not touch a patron;

2018 (a) during the sexually oriented entertainer's performance; or
2019 (b) while the sexually oriented entertainer is dressed in performance attire.
2020 (6) A sexually oriented entertainer, while in the portion of the premises used by
2021 patrons, must be dressed in opaque clothing which covers and conceals the sexually oriented
2022 entertainer's performance attire from the top of the breast to the knee.

2023 (7) A patron may not be on the stage or in the performance area while a sexually
2024 oriented entertainer is appearing or performing on the stage or in the performance area.

2025 (8) A patron may not:

2026 (a) touch a sexually oriented entertainer:

2027 (i) during the sexually oriented entertainer's performance; or

2028 (ii) while the sexually oriented entertainer is dressed in performance attire; or

2029 (b) place money or any other object on or within the performance attire or the person
2030 of the sexually oriented entertainer.

2031 (9) A minor may not be on premises described in Subsection (3).

2032 (10) A person who appears or performs for the entertainment of patrons on premises or
2033 at an event regulated by the commission that is not a tavern or social club licensee:

2034 (a) may not appear or perform in a state of nudity or a state of seminudity; and

2035 (b) may appear or perform in opaque clothing that completely covers the person's
2036 genitals, pubic area, and anus if the covering:

2037 (i) is not less than the following at its widest point:

2038 (A) four inches coverage width in the front of the human body; and

2039 (B) five inches coverage width in the back of the human body;

2040 (ii) does not taper to less than one inch wide at the narrowest point; and

2041 (iii) if covering a female, completely covers the breast below the top of the areola.

2042 Section 34. Section **32B-1-506** is enacted to read:

2043 **32B-1-506. Compliance -- Administrative enforcement.**

2044 (1) A retail licensee, a permittee, and staff of a licensee or permittee shall comply with
2045 this part.

2046 (2) Failure to comply with this part may result in a disciplinary proceeding pursuant to
2047 Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 2048 (a) a licensee or permittee;
- 2049 (b) staff of the licensee or permittee;
- 2050 (c) both a licensee and staff of the licensee; or
- 2051 (d) both a permittee and staff of the permittee.

2052 Section 35. Section **32B-1-601** is enacted to read:

2053 **Part 6. Malted Beverage Act**

2054 **32B-1-601. Title.**

2055 This part is known as the "Malted Beverage Act."

2056 Section 36. Section **32B-1-602** is enacted to read:

2057 **32B-1-602. Definitions.**

2058 As used in this part:

2059 (1) "Malted beverage" means:

- 2060 (a) beer;
- 2061 (b) a flavored malt beverage; and
- 2062 (c) heavy beer.

2063 (2) "Packaging" means the outer packaging that is visible to a consumer such as a
2064 carton, case, or other wrapper of a package.

2065 Section 37. Section **32B-1-603** is enacted to read:

2066 **32B-1-603. Power of the commission and department to classify flavored malt**
2067 **beverages.**

2068 (1) The commission and department shall regulate a flavored malt beverage as liquor.

2069 (2) (a) The department shall make available to the public on the Internet a list of the
2070 flavored malt beverages authorized to be sold in this state as liquor.

2071 (b) The list described in Subsection (2)(a) shall be updated at least quarterly.

2072 (3) (a) A manufacturer shall file, under penalty of perjury, a report with the department
2073 listing each flavored malt beverage manufactured by the manufacturer that the manufacturer

2074 wants to distribute in this state subject to the manufacturer holding:

2075 (i) a brewery manufacturing license issued in accordance with Chapter 11, Part 5,

2076 Brewery Manufacturing License; or

2077 (ii) a certificate of approval.

2078 (b) A manufacturer may not distribute or sell in this state a flavored malt beverage if

2079 the manufacturer does not list the flavored malt beverage in a filing with the department in

2080 accordance with this Subsection (3) before distributing or selling the flavored malt beverage.

2081 (4) The department may require a manufacturer of a flavored malt beverage to provide

2082 the department with a copy of the following filed with the federal Alcohol and Tobacco Tax

2083 and Trade Bureau, pursuant to 27 C.F.R. Sec. 25.55:

2084 (a) a statement of process; or

2085 (b) a formula.

2086 (5) (a) A manufacturer of an alcoholic product that the department is classifying or

2087 proposes to classify as a flavored malt beverage may submit evidence to the department that

2088 its alcoholic product should not be treated as liquor under this section because the alcoholic

2089 product:

2090 (i) is obtained by fermentation, infusion, or decoction of a malted grain;

2091 (ii) is produced by processing, filtration, or another method of manufacture that is

2092 generally recognized as a traditional process in the production of beer as described in 27

2093 C.F.R. Sec. 25.55;

2094 (iii) does not have added to it a flavor or other ingredient containing alcohol, except

2095 for a hop extract; and

2096 (iv) (A) is not one for which the producer is required to file a formula for approval

2097 with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55;

2098 or

2099 (B) is exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

2100 (b) The department shall review the evidence submitted by the manufacturer under

2101 this Subsection (5).

2102 (c) The department shall make available to the public on the Internet a list of the
2103 alcoholic products authorized under this Subsection (5) to be sold as beer in this state.

2104 (d) A decision of the department under this Subsection (5) may be appealed to the
2105 commission.

2106 Section 38. Section **32B-1-604** is enacted to read:

2107 **32B-1-604. Requirements for labeling and packaging -- Authority of the**
2108 **commission and department.**

2109 (1) A manufacturer may not distribute or sell a malted beverage:

2110 (a) unless the label and packaging of the malted beverage:

2111 (i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; and

2112 (ii) clearly gives notice to the public that the malted beverage is an alcoholic product;

2113 and

2114 (b) until the day on which the department in accordance with this title and rules of the
2115 commission approves the label and packaging of the malted beverage.

2116 (2) The department shall review the label and packaging of a malted beverage to
2117 ensure that the label and packaging meet the requirements of Subsection (1)(a).

2118 (3) A manufacturer may comply with the requirement of Subsection (1)(a)(ii) by
2119 including on a label and packaging for a malted beverage any of the following terms:

2120 (a) beer;

2121 (b) ale;

2122 (c) porter;

2123 (d) stout;

2124 (e) lager;

2125 (f) lager beer; or

2126 (g) another class or type designation commonly applied to a malted beverage that
2127 conveys by a recognized term that the product contains alcohol.

2128 Section 39. Section **32B-1-605** is enacted to read:

2129 **32B-1-605. General procedure for approval.**

2130 (1) To obtain approval of the label and packaging of a malted beverage, the
2131 manufacturer of the malted beverage shall submit an application to the department for
2132 approval.

2133 (2) The application described in Subsection (1) shall be on a form approved by the
2134 department and include the following:

2135 (a) a copy of a federal certificate of label approval from the Department of Treasury,
2136 Tax and Trade Bureau, for each brand and label for which the manufacturer is seeking
2137 approval;

2138 (b) a complete set of original labels for each size of package of the malted beverage;
2139 (c) a description of the size of the package on which a label will be placed;
2140 (d) a description of each type of package of the malted beverage; and
2141 (e) a description of any packaging for the malted beverage.

2142 (3) The department may assess a reasonable fee for reviewing a label and packaging
2143 for approval.

2144 (4) (a) The department shall notify a manufacturer within 30 days after the day on
2145 which the manufacturer submits an application whether the label and packaging is approved or
2146 denied.

2147 (b) If the department determines that an unusual circumstance requires additional
2148 time, the department may extend the time period described in Subsection (4)(a).

2149 (5) A manufacturer shall obtain the approval of the department of a revision of a
2150 previously approved label and packaging before a malted beverage using the revised label and
2151 packaging may be distributed or sold in this state.

2152 (6) (a) The department may revoke a label and packaging previously approved upon a
2153 finding that the label and packaging is not in compliance with this title or rules of the
2154 commission.

2155 (b) The department shall notify the person who applies for the approval of a label and
2156 packaging at least five business days before the day on which a label and packaging approval
2157 is considered revoked.

2158 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written
2159 argument or evidence to the department on why the revocation should not occur.

2160 (7) A manufacturer that applies for approval of a label and packaging may appeal a
2161 denial or revocation of a label and packaging approval to the commission.

2162 Section 40. Section **32B-1-606** is enacted to read:

2163 **32B-1-606. Special procedure for flavored malt beverages.**

2164 (1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a
2165 label or packaging used for a nonalcoholic beverage, a manufacturer of the flavored malt
2166 beverage may not distribute or sell the flavored malt beverage in this state until the day on
2167 which the manufacturer receives approval of the labeling and packaging from the department
2168 in accordance with:

2169 (a) Sections 32B-1-604 and 32B-1-605; and

2170 (b) this section.

2171 (2) The department may not approve the labeling and packaging of a flavored malt
2172 beverage described in Subsection (1) unless in addition to the requirements of Section
2173 32B-1-604 the labeling and packaging complies with the following:

2174 (a) The label on the flavored malt beverage shall bear a prominently displayed label or
2175 a firmly affixed sticker that provides the following information:

2176 (i) the statement:

2177 (A) "alcoholic beverage"; or

2178 (B) "contains alcohol"; and

2179 (ii) the alcohol content of the flavored malt beverage.

2180 (b) Packaging of a flavored malt beverage shall prominently include, either imprinted
2181 on the packaging or imprinted on a sticker firmly affixed to the packaging, the statement:

2182 (i) "alcoholic beverage"; or

2183 (ii) "contains alcohol".

2184 (c) A statement required by Subsection (2)(a) or (b) shall appear in a format required
2185 by rule made by the commission.

2186 (d) A statement of alcohol content required by Subsection (2)(a)(ii):
 2187 (i) shall state the alcohol content as a percentage of alcohol by volume or by weight;
 2188 (ii) may not use an abbreviation, but shall use the complete words "alcohol,"
 2189 "volume," or "weight"; and
 2190 (iii) shall be in a format required by rule made by the commission.
 2191 (3) The department may reject a label or packaging that appears designed to obscure
 2192 the information required by Subsection (2).
 2193 (4) To determine whether a flavored malt beverage is described in Subsection (1) and
 2194 subject to this section, the department may consider in addition to other factors one or more of
 2195 the following factors:
 2196 (a) whether the coloring, carbonation, and packaging of the flavored malt beverage:
 2197 (i) is similar to those of a nonalcoholic beverage or product; or
 2198 (ii) can be confused with a nonalcoholic beverage;
 2199 (b) whether the flavored malt beverage possesses a character and flavor distinctive
 2200 from a traditional malted beverage;
 2201 (c) whether the flavored malt beverage:
 2202 (i) is prepackaged;
 2203 (ii) contains high levels of caffeine and other additives; and
 2204 (iii) is marketed as a beverage that is specifically designed to provide energy;
 2205 (d) whether the flavored malt beverage contains added sweetener or sugar substitutes;
 2206 or
 2207 (e) whether the flavored malt beverage contains an added fruit flavor or other flavor
 2208 that masks the taste of a traditional malted beverage.

2209 Section 41. Section **32B-1-607** is enacted to read:

2210 **32B-1-607. Rulemaking authority.**

2211 The commission may adopt rules necessary to implement this part.

2212 Section 42. Section **32B-1-608** is enacted to read:

2213 **32B-1-608. Disciplinary proceeding for violation.**

2214 A person who violates this part is subject to a disciplinary proceeding under Chapter 3,
2215 Disciplinary Actions and Enforcement Act.

2216 Section 43. Section **32B-2-101** is enacted to read:

2217 **CHAPTER 2. ALCOHOLIC BEVERAGE CONTROL ADMINISTRATION ACT**

2218 **Part 1. General Provisions**

2219 **32B-2-101. Title.**

2220 This chapter is known as the "Alcoholic Beverage Control Administration Act."

2221 Section 44. Section **32B-2-102** is enacted to read:

2222 **32B-2-102. Definitions.**

2223 Reserved

2224 Section 45. Section **32B-2-201** is enacted to read:

2225 **Part 2. Organization and Operations of Commission and Department**

2226 **32B-2-201. Alcoholic Beverage Control Commission created.**

2227 (1) There is created the "Alcoholic Beverage Control Commission." The commission
2228 is the governing board over the department.

2229 (2) (a) The commission is composed of five part-time commissioners appointed by the
2230 governor with the consent of the Senate.

2231 (b) No more than three commissioners may be of the same political party.

2232 (3) (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the
2233 governor shall appoint each new commissioner or reappointed commissioner to a four-year
2234 term.

2235 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
2236 time of appointment or reappointment, adjust the length of terms to ensure that the terms of no
2237 more than two commissioners expire in a fiscal year.

2238 (4) (a) When a vacancy occurs on the commission for any reason, the governor shall
2239 appoint a replacement for the unexpired term with the consent of the Senate.

2240 (b) Unless removed in accordance with Subsection (6), a commissioner shall remain
2241 on the commission after the expiration of a term until a successor is appointed by the

2242 governor, with the consent of the Senate.

2243 (5) A commissioner shall take the oath of office.

2244 (6) (a) The governor may remove a commissioner from the commission for cause after
2245 a public hearing conducted by:

2246 (i) the governor; or

2247 (ii) an impartial hearing examiner appointed by the governor to conduct the hearing.

2248 (b) At least 10 days before the hearing described in Subsection (6)(a), the governor
2249 shall provide the commissioner notice of:

2250 (i) the date, time, and place of the hearing; and

2251 (ii) the alleged grounds for the removal.

2252 (c) The commissioner shall have an opportunity to:

2253 (i) attend the hearing;

2254 (ii) present witnesses and other evidence; and

2255 (iii) confront and cross examine witnesses.

2256 (d) After a hearing under this Subsection (6):

2257 (i) the person conducting the hearing shall prepare written findings of fact and
2258 conclusions of law; and

2259 (ii) the governor shall serve a copy of the prepared findings and conclusions upon the
2260 commissioner.

2261 (e) If a hearing under this Subsection (6) is held before a hearing examiner, the
2262 hearing examiner shall issue a written recommendation to the governor in addition to
2263 complying with Subsection (6)(d).

2264 (f) A commissioner has five days from the day on which the commissioner receives
2265 the findings and conclusions described in Subsection (6)(d) to file written objections to the
2266 recommendation before the governor issues a final order.

2267 (g) The governor shall:

2268 (i) issue the final order under this Subsection (6) in writing; and

2269 (ii) serve the final order upon the commissioner.

2270 (7) (a) A commissioner may not receive compensation or benefits for the
2271 commissioner's service, but may receive per diem and expenses incurred in the performance of
2272 the commissioner's official duties at the rates established by the Division of Finance under
2273 Sections 63A-3-106 and 63A-3-107.

2274 (b) A commissioner may decline to receive per diem and expenses for the
2275 commissioner's service.

2276 (8) (a) (i) The commission shall elect:

2277 (A) one commissioner to serve as chair;

2278 (B) another commissioner to serve as vice chair; and

2279 (C) other commission officers as the commission considers advisable.

2280 (ii) A commissioner shall serve in the office to which the commissioner is elected
2281 under Subsection (8)(a)(i) at the pleasure of the commission.

2282 (b) Each commissioner has equal voting rights on a commission matter when in
2283 attendance at a commission meeting.

2284 (c) Three commissioners is a quorum for conducting commission business.

2285 (d) A majority vote of the quorum present at a meeting is required for the commission
2286 to act.

2287 (9) (a) The commission shall meet at least monthly, but may hold other meetings at
2288 times and places as scheduled by:

2289 (i) the commission;

2290 (ii) the chair; or

2291 (iii) three commissioners upon filing a written request for a meeting with the chair.

2292 (b) Notice of the time and place of a commission meeting shall be given to each
2293 commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public
2294 Meetings Act. A commission meeting is open to the public, except for a commission meeting
2295 or portion of a commission meeting that is closed by the commission as authorized by
2296 Sections 52-4-204 and 52-4-205.

2297 Section 46. Section **32B-2-202** is enacted to read:

- 2298 **32B-2-202. Powers and duties of the commission.**
- 2299 (1) The commission shall:
- 2300 (a) act as a general policymaking body on the subject of alcoholic product control;
- 2301 (b) adopt and issue policies, rules, and procedures;
- 2302 (c) set policy by written rules that establish criteria and procedures for:
- 2303 (i) issuing, denying, not renewing, suspending, or revoking a package agency, license,
- 2304 permit, or certificate of approval; and
- 2305 (ii) determining the location of a state store, package agency, or retail licensee;
- 2306 (d) decide within the limits, and under the conditions imposed by this title, the number
- 2307 and location of state stores, package agencies, and retail licensees in the state;
- 2308 (e) issue, deny, suspend, revoke, or not renew the following package agencies,
- 2309 licenses, permits, or certificates of approval for the purchase, storage, sale, offer for sale,
- 2310 furnishing, consumption, manufacture, and distribution of an alcoholic product:
- 2311 (i) a package agency;
- 2312 (ii) a full-service restaurant license;
- 2313 (iii) a limited-service restaurant license;
- 2314 (iv) a club license;
- 2315 (v) an airport lounge license;
- 2316 (vi) an on-premise banquet license;
- 2317 (vii) a resort license, under which four or more sublicenses may be included;
- 2318 (viii) an on-premise beer retailer license;
- 2319 (ix) a single event permit;
- 2320 (x) a temporary beer event permit;
- 2321 (xi) a special use permit;
- 2322 (xii) a manufacturing license;
- 2323 (xiii) a liquor warehousing license;
- 2324 (xiv) a beer wholesaling license; and
- 2325 (xv) an out-of-state brewer certificate of approval;

- 2326 (f) in accordance with Section 32B-5-205, issue, deny, suspend, or revoke one of the
2327 following conditional licenses for the purchase, storage, sale, furnishing, consumption,
2328 manufacture, and distribution of an alcoholic product:
- 2329 (i) a conditional full-service restaurant license; or
2330 (ii) a conditional limited-service restaurant license;
- 2331 (g) prescribe the duties of the department in assisting the commission in issuing a
2332 package agency, license, permit, or certificate of approval under this title;
- 2333 (h) to the extent a fee is not specified in this title, establish a fee allowed under this
2334 title in accordance with Section 63J-1-504;
- 2335 (i) fix prices at which liquor is sold that are the same at all state stores, package
2336 agencies, and retail licensees;
- 2337 (j) issue and distribute price lists showing the price to be paid by a purchaser for each
2338 class, variety, or brand of liquor kept for sale by the department;
- 2339 (k) (i) require the director to follow sound management principles; and
2340 (ii) require periodic reporting from the director to ensure that:
2341 (A) sound management principles are being followed; and
2342 (B) policies established by the commission are being observed;
- 2343 (l) (i) receive, consider, and act in a timely manner upon the reports,
2344 recommendations, and matters submitted by the director to the commission; and
2345 (ii) do the things necessary to support the department in properly performing the
2346 department's duties;
- 2347 (m) obtain temporarily and for special purposes the services of an expert or person
2348 engaged in the practice of a profession, or a person who possesses a needed skill if:
2349 (i) considered expedient; and
2350 (ii) approved by the governor;
- 2351 (n) prescribe the conduct, management, and equipment of premises upon which an
2352 alcoholic product may be stored, sold, offered for sale, furnished, or consumed;
- 2353 (o) make rules governing the credit terms of beer sales within the state to retail

2354 licensees; and

2355 (p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take
2356 disciplinary action against a person subject to administrative action.

2357 (2) The power of the commission to do the following is plenary, except as otherwise
2358 provided by this title, and not subject to review:

2359 (a) establish a state store;

2360 (b) issue authority to act as a package agent or operate a package agency; and

2361 (c) issue or deny a license, permit, or certificate of approval.

2362 (3) If the commission is authorized or required to make a rule under this title, the
2363 commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative
2364 Rulemaking Act.

2365 Section 47. Section **32B-2-203** is enacted to read:

2366 **32B-2-203. Department of Alcoholic Beverage Control created.**

2367 (1) There is created the Department of Alcoholic Beverage Control. The department is
2368 governed by the commission.

2369 (2) The director of alcoholic beverage control appointed under Section 32B-2-205
2370 shall administer the department.

2371 (3) The director shall allocate the duties within the department into the divisions,
2372 bureaus, sections, offices, and committees as the director considers necessary for the
2373 administration of this title.

2374 (4) The department shall cooperate with any other recognized agency in the
2375 administration of this title and in the enforcement of a policy or rule of the commission or
2376 policy of the director.

2377 Section 48. Section **32B-2-204** is enacted to read:

2378 **32B-2-204. Powers and duties of the department -- Immunity.**

2379 (1) The department shall control liquor merchandise inventory including:

2380 (a) listing and delisting a product;

2381 (b) the procedures for testing a new product;

- 2382 (c) purchasing policy;
2383 (d) turnover requirements for a regularly coded product to be continued; and
2384 (e) the disposition of discontinued, distressed, or unsaleable merchandise.
2385 (2) (a) The department shall report to the governor on the administration of this title:
2386 (i) as the governor may require; and
2387 (ii) annually by no later than November 30, for the fiscal year ending June 30 of the
2388 year in which the report is made.
2389 (b) A report under this Subsection (2) shall contain:
2390 (i) a statement of the nature and amount of the business transacted by the department
2391 during the year;
2392 (ii) a statement of the department's assets and liabilities including a profit and loss
2393 account, and other accounts and matters necessary to show the results of operations of the
2394 department for the year;
2395 (iii) general information on the application of this title in the state; and
2396 (iv) any other information requested by the governor.
2397 (c) The department shall submit a copy of a report described in this Subsection (2) to
2398 the Legislature.
2399 (3) The department shall maintain insurance against loss on each motor vehicle
2400 operated by it on any public highway. A motor vehicle shall be covered for:
2401 (a) liability imposed by law upon the department for damages from bodily injuries
2402 suffered by one or more persons by reason of the ownership, maintenance, or use of the motor
2403 vehicle; and
2404 (b) liability or loss from damage to or destruction of property of any description,
2405 including liability of the department for the resultant loss of use of the property, which results
2406 from accident due to the ownership, maintenance, or use of the motor vehicle.
2407 (4) (a) The department may sue, be sued, and defend in a proceeding, in a court of law
2408 or otherwise, in the name of the department.
2409 (b) An action may not be taken:

2410 (i) against the commission; or
2411 (ii) in the name of a commissioner.
2412 (5) The department is liable to respond in damages in a case if a private corporation
2413 under the same circumstances would be liable.
2414 (6) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies in an action
2415 commenced against the department for damages sustained as a result of department
2416 ownership, maintenance, or use of a motor vehicle under Subsections (4) and (5).
2417 (b) In an action described in Subsection (6)(a), the commission and each
2418 commissioner are immune from suit.
2419 Section 49. Section **32B-2-205** is enacted to read:
2420 **32B-2-205. Director of alcoholic beverage control.**
2421 (1) (a) The commission by a vote of four of the five commissioners, and with the
2422 approval of the governor, shall appoint a director of alcoholic beverage control who is the
2423 administrative head of the department.
2424 (b) The director serves at the pleasure of the commission, except that the director may
2425 only be removed from office by a vote of four commissioners.
2426 (c) The director may not be a commissioner.
2427 (d) The director shall:
2428 (i) be qualified in administration;
2429 (ii) be knowledgeable by experience and training in the field of business management;
2430 and
2431 (iii) possess any other qualification prescribed by the commission.
2432 (2) The governor shall establish the director's compensation within the salary range
2433 fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
2434 (3) The director shall:
2435 (a) carry out the policies of the commission;
2436 (b) carry out the policies of the department;
2437 (c) fully inform the commission of the operations and administrative activities of the

2438 department; and

2439 (d) assist the commission in the proper discharge of the commission's duties.

2440 Section 50. Section **32B-2-206** is enacted to read:

2441 **32B-2-206. Powers and duties of the director.**

2442 Subject to the powers and responsibilities of the commission under this title, the
2443 director:

2444 (1) (a) shall prepare and propose to the commission general policies, rules, and
2445 procedures governing the administrative activities of the department; and

2446 (b) may submit other recommendations to the commission as the director considers in
2447 the interest of the commission's or the department's business;

2448 (2) within the general policies, rules, and procedures of the commission, shall:

2449 (a) provide day-to-day direction, coordination, and delegation of responsibilities in the
2450 administrative activities of the department's business; and

2451 (b) make internal department policies and procedures relating to:

2452 (i) department personnel matters; and

2453 (ii) the day-to-day operation of the department;

2454 (3) subject to Section 32B-2-207, shall appoint or employ personnel as considered
2455 necessary in the administration of this title, and with regard to the personnel shall:

2456 (a) prescribe the conditions of employment;

2457 (b) define the respective duties and powers;

2458 (c) fix the remuneration in accordance with Title 67, Chapter 19, Utah State Personnel
2459 Management Act;

2460 (d) designate those employees required to give a bond; and

2461 (e) specify the bond amounts;

2462 (4) shall establish and secure adherence to a system of reports, controls, and
2463 performance in matters relating to personnel, security, department property management, and
2464 operation of:

2465 (a) a department office;

- 2466 (b) a warehouse;
- 2467 (c) a state store; and
- 2468 (d) a package agency;
- 2469 (5) within the policies, rules, and procedures approved by the commission and
- 2470 provisions of law, shall purchase, store, keep for sale, sell, import, and control the storage,
- 2471 sale, furnishing, transportation, or delivery of an alcoholic product;
- 2472 (6) shall prepare for commission approval:
- 2473 (a) recommendations regarding the location, establishment, relocation, and closure of
- 2474 a state store or package agency;
- 2475 (b) recommendations regarding the issuance, denial, nonrenewal, suspension, or
- 2476 revocation of a license, permit, or certificate of approval;
- 2477 (c) an annual budget, proposed legislation, and reports as required by law and sound
- 2478 business principles;
- 2479 (d) plans for reorganizing divisions of the department and the functions of the
- 2480 divisions;
- 2481 (e) manuals containing commission and department policies, rules, and procedures;
- 2482 (f) an inventory control system;
- 2483 (g) any other report or recommendation requested by the commission;
- 2484 (h) rules described in Subsection 32B-2-202(1)(o) governing the credit terms of the
- 2485 sale of beer;
- 2486 (i) rules governing the calibration, maintenance, and regulation of a calibrated metered
- 2487 dispensing system;
- 2488 (j) rules governing the display of a list of types and brand names of liquor furnished
- 2489 through a calibrated metered dispensing system;
- 2490 (k) price lists issued and distributed showing the price to be paid for each class,
- 2491 variety, or brand of liquor kept for sale at a state store, package agency, or retail licensee;
- 2492 (l) policies or rules prescribing the books of account maintained by the department
- 2493 and by a state store, package agency, or retail licensee; and

2494 (m) a policy prescribing the manner of giving and serving a notice required by this
2495 title or rules made under this title;

2496 (7) shall make available through the department to any person, upon request, a copy of
2497 a policy made by the director;

2498 (8) shall make and maintain a current copy of a manual that contains the rules and
2499 policies of the commission and department available for public inspection;

2500 (9) (a) after consultation with the governor, shall determine whether an alcoholic
2501 product should not be sold, offered for sale, or otherwise furnished in an area of the state
2502 during a period of emergency that is proclaimed by the governor to exist in that area; and

2503 (b) shall issue a necessary public announcement or policy with respect to the
2504 determination described in Subsection (9)(a); and

2505 (10) shall perform any other duty required by the commission or by law.

2506 Section 51. Section **32B-2-207** is enacted to read:

2507 **32B-2-207. Department employees -- Requirements.**

2508 (1) Subject to this title, including the requirements of Chapter 1, Part 3, Qualifications
2509 and Background, the director may prescribe the qualifications of a department employee.

2510 (2) (a) A person who seeks employment with the department shall file with the
2511 department an application under oath or affirmation in a form prescribed by the commission.

2512 (b) Upon receiving an application, the department shall determine whether the
2513 individual is:

2514 (i) of good moral character; and

2515 (ii) qualified for the position sought.

2516 (c) The department shall select an individual for employment or advancement with the
2517 department in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

2518 (3) The following are not considered a department employee:

2519 (a) a package agent;

2520 (b) a licensee;

2521 (c) a staff member of a package agent; or

2522 (d) staff of a licensee.

2523 (4) The department may not employ a minor to:

2524 (a) work in:

2525 (i) a state store; or

2526 (ii) a department warehouse; or

2527 (b) engage in an activity involving the handling of an alcoholic product.

2528 Section 52. Section **32B-2-208** is enacted to read:

2529 **32B-2-208. Services of State Health Laboratory.**

2530 The State Health Laboratory shall make its services available to the department when
2531 necessary. The department shall pay for the services from the Liquor Control Fund to the
2532 Department of Health.

2533 Section 53. Section **32B-2-301** is enacted to read:

2534 **Part 3. Fiscal Matters**

2535 **32B-2-301. State property -- Liquor Control Fund.**

2536 (1) The following are property of the state:

2537 (a) the money received by the department in the administration of this title, except as
2538 otherwise provided; and

2539 (b) property acquired, administered, possessed, or received by the department.

2540 (2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

2541 (b) Except as provided in Section 32B-3-205, money received in the administration of
2542 this title shall be paid to the department and transferred to the Liquor Control Fund.

2543 (c) The state treasurer shall by warrant draw from the Liquor Control Fund the
2544 expenses, debts, and liabilities incurred by the department in connection with the
2545 administration of this title or any other expense necessary for the administration of this title,
2546 including:

2547 (i) salaries;

2548 (ii) premiums, if any, on a bond for which the department pays premiums; and

2549 (iii) an expenditure incurred in establishing, operating, or maintaining a state store or

2550 package agency.

2551 (d) The department shall transfer annually from the Liquor Control Fund to the
2552 General Fund a sum equal to the amount of net profit earned from the sale of liquor since the
2553 preceding transfer of money under this Subsection (2)(d). The transfer shall be made by no
2554 later than September 30 after a fiscal year.

2555 (3) (a) By the end of each day, the department shall:

2556 (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

2557 (ii) report the deposit to the state treasurer.

2558 (b) A commissioner or department employee is not personally liable for a loss caused
2559 by the default or failure of a qualified depository.

2560 (c) Money deposited in a qualified depository is entitled to the same priority of
2561 payment as other public funds of the state.

2562 (4) If the cash balance of the Liquor Control Fund is not adequate to cover a warrant
2563 drawn against the Liquor Control Fund by the state treasurer, the cash resources of the General
2564 Fund may be used to the extent necessary. At no time may the fund equity of the Liquor
2565 Control Fund fall below zero.

2566 Section 54. Section **32B-2-302** is enacted to read:

2567 **32B-2-302. Exempt from Division of Finance -- Annual audits.**

2568 (1) The laws that govern the Division of Finance are not applicable to the department
2569 in the purchase and sale of an alcoholic product.

2570 (2) (a) The state auditor, or a person appointed by the state auditor, shall annually
2571 audit the department's accounts.

2572 (b) If an audit is conducted by a person appointed by the state auditor, the person shall
2573 make the audit report to the state auditor.

2574 (c) The state auditor shall submit a copy of an audit report to the Legislature by no
2575 later than the January 1 following the close of the fiscal year for which the audit report is
2576 made.

2577 Section 55. Section **32B-2-303** is enacted to read:

2578 **32B-2-303. Purchase of liquor.**

2579 (1) The department may not purchase or stock spirituous liquor in a package smaller
2580 than 200 milliliters, except as otherwise allowed by the commission.

2581 (2) (a) An order by the department for the purchase of liquor, or a cancellation by the
2582 department of an order of liquor:

2583 (i) shall be executed in writing by the department; and

2584 (ii) is not valid or binding unless executed in writing.

2585 (b) The department shall maintain a copy of an order or cancellation on file for at least
2586 three years.

2587 (c) An electronic record satisfies Subsections (2)(a) and (b) pursuant to Title 46,
2588 Chapter 4, Uniform Electronic Transactions Act.

2589 Section 56. Section **32B-2-304** is enacted to read:

2590 **32B-2-304. Liquor prices -- School lunch program.**

2591 (1) For purposes of this section:

2592 (a) (i) "Landed case cost" means:

2593 (A) the cost of the product; and

2594 (B) inbound shipping costs incurred by the department.

2595 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse
2596 of the department to a state store.

2597 (b) "Proof gallon" has the same meaning as in 26 U.S.C. Sec. 5002.

2598 (c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who
2599 manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt
2600 beverage.

2601 (2) Except as provided in Subsection (3):

2602 (a) spirituous liquor sold by the department within the state shall be marked up in an
2603 amount not less than 86% above the landed case cost to the department;

2604 (b) wine sold by the department within the state shall be marked up in an amount not
2605 less than 86% above the landed case cost to the department;

2606 (c) heavy beer sold by the department within the state shall be marked up in an
2607 amount not less than 64.5% above the landed case cost to the department; and
2608 (d) a flavored malt beverage sold by the department within the state shall be marked
2609 up in an amount not less than 86% above the landed case cost to the department.
2610 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked
2611 up in an amount not less than 15% above the landed case cost to the department.
2612 (b) Except for spirituous liquor sold by the department to a military installation in
2613 Utah, spirituous liquor that is sold by the department within the state shall be marked up 47%
2614 above the landed case cost to the department if:
2615 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000
2616 proof gallons of spirituous liquor in a calendar year; and
2617 (ii) the manufacturer applies to the department for a reduced markup.
2618 (c) Except for wine sold by the department to a military installation in Utah, wine that
2619 is sold by the department within the state shall be marked up 47% above the landed case cost
2620 to the department if:
2621 (i) the wine is manufactured by a manufacturer producing less than 20,000 gallons of
2622 wine in a calendar year; and
2623 (ii) the manufacturer applies to the department for a reduced markup.
2624 (d) Except for heavy beer sold by the department to a military installation in Utah,
2625 heavy beer that is sold by the department within the state shall be marked up 30% above the
2626 landed case cost to the department if:
2627 (i) a small brewer manufactures the heavy beer; and
2628 (ii) the small brewer applies to the department for a reduced markup.
2629 (e) The department shall verify an amount described in Subsection (3)(b) or (c)
2630 pursuant to a federal or other verifiable production report.
2631 (4) The department shall deposit 10% of the total gross revenue from sales of liquor
2632 with the state treasurer to be credited to the Uniform School Fund and used to support the
2633 school lunch program administered by the State Board of Education under Section

2634 53A-19-201.

2635 (5) This section does not prohibit the department from selling discontinued items at a
2636 discount.

2637 Section 57. Section **32B-2-401** is enacted to read:

2638 **Part 4. Alcoholic Beverage Enforcement and Treatment Restricted Account Act**
2639 **32B-2-401. Title.**

2640 This part is known as the "Alcoholic Beverage Enforcement and Treatment Restricted
2641 Account Act."

2642 Section 58. Section **32B-2-402** is enacted to read:

2643 **32B-2-402. Definitions -- Calculations.**

2644 (1) As used in this part:

2645 (a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted
2646 Account created in Section 32B-2-403.

2647 (b) "Alcohol-related offense" means:

2648 (i) a violation of:

2649 (A) Section 41-6a-502; or

2650 (B) an ordinance that complies with the requirements of:

2651 (I) Subsection 41-6a-510(1); or

2652 (II) Section 76-5-207; or

2653 (ii) an offense involving the illegal:

2654 (A) sale of an alcoholic product;

2655 (B) consumption of an alcoholic product;

2656 (C) distribution of an alcoholic product;

2657 (D) transportation of an alcoholic product; or

2658 (E) possession of an alcoholic product.

2659 (c) "Annual conviction time period" means the time period that:

2660 (i) begins on July 1 and ends on June 30; and

2661 (ii) immediately precedes the fiscal year for which an appropriation under this part is

2662 made.

2663 (d) "Coordinating council" means the Utah Substance Abuse and Anti-Violence

2664 Coordinating Council created in Section 63M-7-301.

2665 (e) "Municipality" means:

2666 (i) a city; or

2667 (ii) a town.

2668 (2) For purposes of this part, the number of state stores, package agencies, and retail

2669 licensees located within the limits of a municipality or county:

2670 (a) is the number determined by the department to be so located;

2671 (b) includes the aggregate number of premises of the following:

2672 (i) a state store;

2673 (ii) a package agency; and

2674 (iii) a retail licensee, except for an on-premise beer retailer; and

2675 (c) for a county, consists only of the number located within an unincorporated area of

2676 the county.

2677 (3) The department shall determine:

2678 (a) a population figure according to the most current population estimate prepared by

2679 the Utah Population Estimates Committee;

2680 (b) a county's population for the 25% distribution to municipalities and counties under

2681 Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated

2682 areas of the county; and

2683 (c) a county's population for the 25% distribution to counties under Subsection

2684 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of

2685 a municipality.

2686 (4) (a) A conviction occurs in the municipality or county that actually prosecutes the

2687 offense to judgment.

2688 (b) If a conviction is based upon a guilty plea, the conviction is considered to occur in

2689 the municipality or county that, except for the guilty plea, would have prosecuted the offense.

2690 Section 59. Section **32B-2-403** is enacted to read:

2691 **32B-2-403. Alcoholic Beverage Enforcement and Treatment Restricted Account**
2692 **created.**

2693 (1) (a) There is created in the General Fund a restricted account known as the
2694 "Alcoholic Beverage Enforcement and Treatment Restricted Account."

2695 (b) The account is funded from:

2696 (i) money deposited by the state treasurer in accordance with Section 59-15-109;

2697 (ii) appropriations made to the account by the Legislature; and

2698 (iii) interest described in Subsection (1)(c).

2699 (c) Interest earned on the account shall be deposited into the account.

2700 (2) (a) Consistent with the policies provided in Subsection 32B-1-103(4)(b), money in
2701 the account shall be used for statewide public purposes, including promoting the reduction of
2702 the harmful effects of over consumption of alcoholic products by an adult and alcohol
2703 consumption by minors, by exclusively funding programs or projects related to prevention,
2704 treatment, detection, prosecution, and control of violations of this title and other offenses in
2705 which alcohol is a contributing factor except as provided in Subsection (2)(b).

2706 (b) The portion distributed under this part to a county may also be used for the
2707 confinement or treatment of persons arrested for or convicted of offenses in which alcohol is a
2708 contributing factor.

2709 (c) A municipality or county entitled to receive money shall use the money exclusively
2710 as required by this Subsection (2).

2711 (3) The appropriations provided for under Section 32B-2-404 are:

2712 (a) intended to supplement the budget of the appropriate agencies of each municipality
2713 and county within the state to enable the municipalities and counties to more effectively fund
2714 the programs and projects described in Subsection (2); and

2715 (b) not intended to replace money that would otherwise be allocated for the programs
2716 and projects in Subsection (2).

2717 Section 60. Section **32B-2-404** is enacted to read:

2718 **32B-2-404. Alcoholic Beverage Enforcement and Treatment Restricted Account**
2719 **distribution.**

2720 (1) (a) The money deposited into the account under Section 32B-2-403 shall be
2721 distributed to municipalities and counties:

2722 (i) to the extent appropriated by the Legislature, except that the Legislature shall
2723 appropriate each fiscal year an amount equal to at least the amount deposited in the account in
2724 accordance with Section 59-15-109; and

2725 (ii) as provided in this Subsection (1).

2726 (b) The amount appropriated from the account shall be distributed as follows:

2727 (i) 25% to municipalities and counties on the basis of the percentage of the state
2728 population residing in each municipality and county;

2729 (ii) 30% to municipalities and counties on the basis of each municipality's and
2730 county's percentage of the statewide convictions for all alcohol-related offenses;

2731 (iii) 20% to municipalities and counties on the basis of the percentage of the state
2732 stores, package agencies, liquor licensees, and beer licensees in the state that are located in
2733 each municipality and county; and

2734 (iv) 25% to the counties for confinement and treatment purposes authorized by this
2735 part on the basis of the percentage of the state population located in each county.

2736 (c) (i) Except as provided in Subsection (1)(c)(ii), if a municipality does not have a
2737 law enforcement agency:

2738 (A) the municipality may not receive money under this part; and

2739 (B) the State Tax Commission:

2740 (I) may not distribute the money the municipality would receive but for the
2741 municipality not having a law enforcement agency to that municipality; and

2742 (II) shall distribute the money that the municipality would have received but for it not
2743 having a law enforcement agency to the county in which the municipality is located for use by
2744 the county in accordance with this part.

2745 (ii) If the coordinating council finds that a municipality described in Subsection

2746 (1)(c)(i) demonstrates that the municipality can use the money that the municipality is
2747 otherwise eligible to receive in accordance with this part, the coordinating council may direct
2748 the State Tax Commission to distribute the money to the municipality.

2749 (2) To determine the distribution required by Subsection (1)(b)(ii), the State Tax
2750 Commission shall annually:

2751 (a) for an annual conviction time period:

2752 (i) multiply by two the total number of convictions in the state obtained during the
2753 annual conviction time period for violation of:

2754 (A) Section 41-6a-502; or

2755 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or
2756 Section 76-5-207; and

2757 (ii) add to the number calculated under Subsection (2)(a)(i) the number of convictions
2758 obtained during the annual conviction time period for the alcohol-related offenses other than
2759 the alcohol-related offenses described in Subsection (2)(a)(i);

2760 (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum
2761 obtained in Subsection (2)(a); and

2762 (c) multiply the amount calculated under Subsection (2)(b), by the number of
2763 convictions obtained in each municipality and county during the annual conviction time
2764 period for alcohol-related offenses.

2765 (3) By not later than September 1 each year:

2766 (a) the state court administrator shall certify to the State Tax Commission the number
2767 of convictions obtained for alcohol-related offenses in each municipality or county in the state
2768 during the annual conviction time period; and

2769 (b) the coordinating council shall notify the State Tax Commission of any
2770 municipality that does not have a law enforcement agency.

2771 (4) By not later than December 1 of each year, the coordinating council shall notify
2772 the State Tax Commission for the fiscal year of appropriation of:

2773 (a) a municipality that may receive a distribution under Subsection (1)(c)(ii);

2774 (b) a county that may receive a distribution allocated to a municipality described in
2775 Subsection (1)(c)(i);

2776 (c) a municipality or county that may not receive a distribution because the
2777 coordinating council has suspended the payment under Subsection 32B-2-405(2)(a); and

2778 (d) a municipality or county that receives a distribution because the suspension of
2779 payment has been cancelled under Subsection 32B-2-405(2).

2780 (5) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax
2781 Commission shall annually distribute to each municipality and county the portion of the
2782 appropriation that the municipality or county is eligible to receive under this part, except for
2783 any municipality or county that the coordinating council notifies the State Tax Commission in
2784 accordance with Subsection (4) may not receive a distribution in that fiscal year.

2785 (b) (i) The State Tax Commission shall prepare forms for use by a municipality or
2786 county in applying for a distribution under this part.

2787 (ii) A form described in this Subsection (5) may require the submission of information
2788 the State Tax Commission considers necessary to enable the State Tax Commission to comply
2789 with this part.

2790 Section 61. Section **32B-2-405** is enacted to read:

2791 **32B-2-405. Reporting by municipalities and counties -- Grants.**

2792 (1) A municipality or county that receives money under this part during a fiscal year
2793 shall by no later than October 1 following the fiscal year:

2794 (a) report to the coordinating council:

2795 (i) the programs or projects of the municipality or county that receive money under
2796 this part;

2797 (ii) if the money for programs or projects were exclusively used as required by
2798 Subsection 32B-2-403(2);

2799 (iii) indicators of whether the programs or projects that receive money under this part
2800 are effective; and

2801 (iv) if money received under this part was not expended by the municipality or county;

2802 and
2803 (b) provide the coordinating council a statement signed by the chief executive officer
2804 of the county or municipality attesting that the money received under this part was used in
2805 addition to money appropriated or otherwise available for the county's or municipality's law
2806 enforcement and was not used to supplant that money.
2807 (2) The coordinating council may, by a majority vote:
2808 (a) suspend future payments under Subsection 32B-2-404(4) to a municipality or
2809 county that:
2810 (i) does not file a report that meets the requirements of Subsection (1); or
2811 (ii) the coordinating council finds does not use the money as required by Subsection
2812 32B-2-403(2) on the basis of the report filed by the municipality or county under Subsection
2813 (1); and
2814 (b) cancel a suspension under Subsection (2)(a).
2815 (3) The State Tax Commission shall:
2816 (a) retain money that a municipality or county does not receive under Subsection
2817 (2)(a); and
2818 (b) notify the coordinating council of the balance of retained money under this
2819 Subsection (3) after the annual distribution under Subsection 32B-2-404(5).
2820 (4) (a) Subject to the requirements of this Subsection (4), the coordinating council
2821 shall award the balance of retained money under Subsection (3):
2822 (i) as prioritized by majority vote of the coordinating council; and
2823 (ii) as grants to:
2824 (A) a county;
2825 (B) a municipality;
2826 (C) the department;
2827 (D) the Department of Human Services;
2828 (E) the Department of Public Safety; or
2829 (F) the Utah State Office of Education.

2830 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating
2831 council shall notify the State Tax Commission of grants awarded under this Subsection (4).

2832 (c) The State Tax Commission shall make payments of a grant:

2833 (i) upon receiving notice as provided under Subsection (4)(b); and

2834 (ii) by not later than June 30 of the fiscal year of the appropriation.

2835 (d) An entity that receives a grant under this Subsection (4) shall use the grant money
2836 exclusively for programs or projects described in Subsection 32B-2-403(2).

2837 Section 62. Section **32B-2-501** is enacted to read:

2838 **Part 5. State Store**

2839 **32B-2-501. Commission's power to establish a state store.**

2840 (1) The commission may establish state stores in the numbers and at places, owned or
2841 leased by the department, that the commission considers proper for the sale of liquor by
2842 employees of the state, in accordance with this title and the rules made under this title.

2843 (2) The commission may not establish a total number of state stores that at any time
2844 exceeds the number determined by dividing the population of the state by 48,000.

2845 (3) The commission may not establish a state store at premises that do not meet the
2846 proximity requirements of Section 32B-1-202.

2847 (4) An employee of a state store is considered a department employee and shall meet
2848 the qualification requirements for employment in Sections 32B-1-303 and 32B-2-207.

2849 Section 63. Section **32B-2-502** is enacted to read:

2850 **32B-2-502. Commission and department duties before establishing a state store.**

2851 (1) (a) Before the commission may establish a state store, the department shall conduct
2852 an investigation and may hold public hearings to gather information and make
2853 recommendations to the commission to assure appropriate service to the general population of
2854 the state.

2855 (b) The department shall forward the information and recommendations described in
2856 Subsection (1)(a) to the commission to aid in the commission's determination.

2857 (2) Before establishing a state store, the commission shall:

- 2858 (a) determine that the local authority of the locality where the state store will be
2859 located is consulted;
- 2860 (b) determine that the state store complies with the zoning ordinances of the locality
2861 where the state store will be located;
- 2862 (c) consider the locality within which the proposed state store will be located
2863 including:
- 2864 (i) economic factors, such as:
- 2865 (A) bid price;
- 2866 (B) lease terms;
- 2867 (C) operating costs; and
- 2868 (D) local taxes;
- 2869 (ii) physical characteristics, such as:
- 2870 (A) condition of the premises;
- 2871 (B) space availability;
- 2872 (C) parking;
- 2873 (D) common areas;
- 2874 (E) conformance to building and safety codes;
- 2875 (F) delivery access; and
- 2876 (G) expandability; and
- 2877 (iii) operational factors, such as:
- 2878 (A) tourist traffic;
- 2879 (B) access to the public;
- 2880 (C) demographics;
- 2881 (D) population to be served;
- 2882 (E) the nature of surrounding establishments;
- 2883 (F) proximity to and density of other state stores, package agencies, and retail
2884 licensees;
- 2885 (G) proximity to residential communities; and

2886 (H) proximity to educational, religious, and recreational facilities; and

2887 (d) consider any other factor the commission considers necessary.

2888 Section 64. Section **32B-2-503** is enacted to read:

2889 **32B-2-503. Operational requirements for a state store.**

2890 (1) A state store shall display in a prominent place in the store a sign in large letters
2891 stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is
2892 prosecuted aggressively in Utah."

2893 (2) A state store may not sell, offer for sale, or furnish liquor except at a price fixed by
2894 the commission.

2895 (3) A state store may not sell, offer for sale, or furnish liquor to:

2896 (a) a minor;

2897 (b) a person actually, apparently, or obviously intoxicated;

2898 (c) a known interdicted person; or

2899 (d) a known habitual drunkard.

2900 (4) (a) A state store employee may not:

2901 (i) consume an alcoholic product on the premises of a state store; or

2902 (ii) allow any person to consume an alcoholic product on the premises of a state store.

2903 (b) A violation of this Subsection (4) is a class B misdemeanor.

2904 (5) (a) Sale or delivery of liquor may not be made on or from the premises of a state
2905 store, and a state store may not be kept open for the sale of liquor:

2906 (i) on Sunday; or

2907 (ii) on a state or federal legal holiday.

2908 (b) Sale or delivery of liquor may be made on or from the premises of a state store, and
2909 a state store may be open for the sale of liquor, only on a day and during hours that the
2910 commission directs by rule or order.

2911 (6) (a) A minor may not be admitted into, or be on the premises of a state store unless
2912 accompanied by a person who is:

2913 (i) 21 years of age or older; and

2914 (ii) the minor's parent, legal guardian, or spouse.

2915 (b) A state store employee that has reason to believe that a person who is on the
2916 premises of a state store is under the age of 21 and is not accompanied by a person described
2917 in Subsection (6)(a) may:

2918 (i) ask the suspected minor for proof of age;

2919 (ii) ask the person who accompanies the suspected minor for proof of age; and

2920 (iii) ask the suspected minor or the person who accompanies the suspected minor for
2921 proof of parental, guardianship, or spousal relationship.

2922 (c) A state store employee shall refuse to sell liquor to the suspected minor and to the
2923 person who accompanies the suspected minor into the state store if the suspected minor or
2924 person fails to provide information specified in Subsection (6)(b).

2925 (d) A state store employee shall require a suspected minor and the person who
2926 accompanies the suspected minor into the state store to immediately leave the premises of the
2927 state store if the suspected minor or person fails to provide information specified in Subsection
2928 (6)(b).

2929 (7) (a) A state store may not sell, offer for sale, or furnish liquor except in a sealed
2930 package.

2931 (b) A person may not open a sealed package on the premises of a state store.

2932 Section 65. Section **32B-2-504** is enacted to read:

2933 **32B-2-504. Delivery of liquor to state store.**

2934 (1) Liquor to be sold from a state store may be transported from a warehouse
2935 authorized by the department to the state store if transported by a person authorized by the
2936 department to transport the liquor to the state store, including a common carrier.

2937 (2) A person, while in or about a vehicle in which liquor is being transported, may not
2938 open, break, or allow to be opened or broken, a package containing liquor.

2939 (3) A person may not drink, use, or allow to be drunk or used, liquor while it is in
2940 transit under this section.

2941 Section 66. Section **32B-2-601** is enacted to read:

2942 **Part 6. Package Agency**2943 **32B-2-601. Commission's power to issue package agency.**

2944 (1) (a) The commission may, when the commission considers proper, issue authority
2945 to operate as a package agency by directing the department to enter into a package agency
2946 agreement with a person to sell, offer for sale, or furnish liquor in sealed packages from
2947 premises other than those owned or leased by the state.

2948 (b) The commission shall authorize a person to operate a package agency by issuing a
2949 record that designates the person in charge of the package agency as a "package agent."

2950 (2) (a) Subject to this Subsection (2), the commission may not issue a total number of
2951 package agencies that at any time exceeds the number determined by dividing the population
2952 of the state by 18,000.

2953 (b) (i) The commission may issue a seasonal package agency in an area the
2954 commission considers proper.

2955 (ii) A seasonal package agency shall be for a period of six consecutive months.

2956 (iii) A seasonal package agency issued for operation during a summer time period is
2957 known as a "Seasonal A" package agency. The period of operation for a Seasonal A package
2958 agency shall:

2959 (A) begin on May 1; and

2960 (B) end on October 31.

2961 (iv) A seasonal package agency issued for operation during a winter time period is
2962 known as a "Seasonal B" package agency. The period of operation for a Seasonal B package
2963 agency shall:

2964 (A) begin on November 1; and

2965 (B) end on April 30.

2966 (v) In determining the number of package agencies that the commission may issue
2967 under this section:

2968 (A) a seasonal package agency is counted as one-half of one package agency; and

2969 (B) each Seasonal A package agency shall be paired with a Seasonal B package

2970 agency.

2971 (c) (i) If the location, design, and construction of a hotel may require more than one
2972 package agency sales location to serve the public convenience, the commission may authorize
2973 a single package agent to sell liquor at as many as three locations within the hotel under one
2974 package agency if:

2975 (A) the hotel has a minimum of 150 guest rooms; and

2976 (B) all locations under the package agency are:

2977 (I) within the same hotel; and

2978 (II) on premises that are managed or operated, and owned or leased, by the package
2979 agent.

2980 (ii) A facility other than a hotel shall have a separate package agency for each location
2981 where liquor may be sold, offered for sale, or furnished.

2982 (3) (a) A package agent, under the direction of the department, is responsible for
2983 implementing and enforcing this title and the rules adopted under this title to the extent this
2984 title and the rules relate to the conduct of the package agency and a package agency's sale of
2985 liquor.

2986 (b) A package agent may not be a state employee. A package agent may not be
2987 construed to be a state employee or otherwise entitled to any benefit of employment from the
2988 state.

2989 (c) A package agent, when selling liquor from a package agency, is considered an
2990 agent of the state only to the extent specifically expressed in the package agency agreement.

2991 (4) The commission may prescribe by rule one or more types of package agencies
2992 issued under this part that are consistent with this title.

2993 Section 67. Section **32B-2-602** is enacted to read:

2994 **32B-2-602. Application requirements for a package agency.**

2995 (1) Before a person may store, sell, offer for sale, or furnish liquor in a sealed package
2996 on its premises under a package agency, the person shall first obtain a package agency issued
2997 by the commission in accordance with this part.

2998 (2) To obtain a package agency, a person seeking to be the package agent under this
2999 part shall submit to the department:

3000 (a) a written application in a form prescribed by the department;
3001 (b) a nonrefundable application fee of \$100;
3002 (c) written consent of the local authority;
3003 (d) evidence of proximity to any community location, with proximity requirements
3004 being governed by Section 32B-1-202;

3005 (e) a bond as specified by Section 32B-2-604;
3006 (f) a floor plan of the premises, including a description and highlighting of that part of
3007 the premises in which the person proposes that the package agency be located;

3008 (g) evidence that the package agency is carrying public liability insurance in an
3009 amount and form satisfactory to the department;

3010 (h) a signed consent form stating that the package agent permits any authorized
3011 representative of the commission, department, or any law enforcement officer to have
3012 unrestricted right to enter the premises of the package agency;

3013 (i) if the person applying is an entity, verification that a person who signs the package
3014 agency application is authorized to sign on behalf of the entity; and

3015 (j) any other information the commission or department may require.

3016 (3) The commission may not issue a package agency to a person who is disqualified
3017 under Section 32B-1-304.

3018 (4) The commission may not issue a package agency for premises that do not meet the
3019 proximity requirements of Section 32B-1-202.

3020 Section 68. Section **32B-2-603** is enacted to read:

3021 **32B-2-603. Commission and department duties before issuing a package agency.**

3022 (1) (a) Before the commission may issue a package agency, the department shall
3023 conduct an investigation and may hold public hearings to gather information and make
3024 recommendations to the commission to assure appropriate service to the general population of
3025 the state.

- 3026 (b) The department shall forward the information and recommendations described in
- 3027 Subsection (1)(a) to the commission to aid in the commission's determination.
- 3028 (2) Before issuing a package agency, the commission shall:
- 3029 (a) determine that the person filed a complete application and is in compliance with
- 3030 Section 32B-2-602;
- 3031 (b) determine that the person is not disqualified under Section 32B-1-304;
- 3032 (c) determine that the package agency premises complies with the zoning ordinances
- 3033 of the locality where the package agency will be located;
- 3034 (d) consider the locality within which the proposed package agency will be located,
- 3035 including:
- 3036 (i) physical characteristics, such as:
- 3037 (A) condition of the premises;
- 3038 (B) square footage;
- 3039 (C) parking; and
- 3040 (D) delivery access; and
- 3041 (ii) operational factors, such as:
- 3042 (A) tourist traffic;
- 3043 (B) access to the public;
- 3044 (C) demographics;
- 3045 (D) population to be served;
- 3046 (E) the nature of surrounding establishments;
- 3047 (F) proximity to and density of other state stores, package agencies, and retail
- 3048 licensees;
- 3049 (G) proximity to residential communities; and
- 3050 (H) the extent of and proximity to educational, religious, and recreational facilities;
- 3051 (e) consider the person's ability to manage and operate a package agency, including:
- 3052 (i) management experience;
- 3053 (ii) past retail liquor experience;

3054 (iii) the type of establishment or business in which the package agency may be
3055 located;

3056 (iv) hours of operation; and

3057 (v) ability to maintain inventory levels as set by the department; and

3058 (f) consider any other factor the commission considers necessary.

3059 Section 69. Section **32B-2-604** is enacted to read:

3060 **32B-2-604. Bond related to package agency.**

3061 (1) (a) A package agent who has a consignment liquor inventory owned by the state
3062 shall post a consignment surety bond payable to the department in the amount of the
3063 consignment inventory.

3064 (b) A consignment surety bond shall be conditioned upon a package agent's return of
3065 the unsold consignment liquor inventory at the termination of a package agency agreement.

3066 (2) (a) A package agent that owns the package agency's liquor inventory shall post a
3067 cash bond or surety bond:

3068 (i) in the penal amount fixed by the department, except that the penal amount shall be
3069 at least \$1,000; and

3070 (ii) payable to the department.

3071 (3) A package agent shall procure and maintain the bond required under this section
3072 for as long as the package agent continues to operate as a package agent.

3073 (4) A bond required under this section shall be:

3074 (a) in a form approved by the attorney general; and

3075 (b) conditioned upon the package agent's faithful compliance with this title, the rules
3076 of the commission, and the package agency agreement.

3077 Section 70. Section **32B-2-605** is enacted to read:

3078 **32B-2-605. Operational requirements for package agency.**

3079 (1) (a) A person may not operate a package agency until a package agency agreement
3080 is entered into by the package agent and the department.

3081 (b) A package agency agreement shall state the conditions of operation by which the

3082 package agent and the department are bound.

3083 (c) (i) If a package agent or staff of the package agent violates this title, rules under
3084 this title, or the package agency agreement, the department may take any action against the
3085 package agent that is allowed by the package agency agreement.

3086 (ii) An action against a package agent is governed solely by its package agency
3087 agreement and may include suspension or revocation of the package agency.

3088 (iii) Notwithstanding that this part refers to "package agency" or "package agent,"
3089 staff of the package agency or package agent is subject to the same requirement or prohibition.

3090 (2) (a) A package agency shall be operated by an individual who is either:

3091 (i) the package agent; or

3092 (ii) an individual designated by the package agent.

3093 (b) An individual who is a designee under this Subsection (2) shall be:

3094 (i) an employee of the package agent; and

3095 (ii) responsible for the operation of the package agency.

3096 (c) The conduct of the designee is attributable to the package agent.

3097 (d) A package agent shall submit the name of the person operating the package agency
3098 to the department for the department's approval.

3099 (e) A package agent shall state the name and title of a designee on the application for a
3100 package agency.

3101 (f) A package agent shall:

3102 (i) inform the department of a proposed change in the individual designated to operate
3103 a package agency; and

3104 (ii) receive prior approval from the department before implementing the change
3105 described in this Subsection (2)(f).

3106 (g) Failure to comply with the requirements of this Subsection (2) may result in the
3107 immediate termination of a package agency agreement.

3108 (3) A package agent shall display in a prominent place in the package agency:

3109 (a) the record issued by the commission that designates the package agency; and

3110 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
3111 drugs is a serious crime that is prosecuted aggressively in Utah."

3112 (4) A package agency may not display liquor or a price list in a window or showcase
3113 that is visible to passersby.

3114 (5) (a) A package agency may not purchase liquor from a person except from the
3115 department.

3116 (b) At the discretion of the department, liquor may be provided by the department to a
3117 package agency for sale on consignment.

3118 (6) A package agency may not store, sell, offer for sale, or furnish liquor in a place
3119 other than as designated in the package agent's application, unless the package agent first
3120 applies for and receives approval from the department for a change of location within the
3121 package agency premises.

3122 (7) A package agency may not sell, offer for sale, or furnish liquor except at a price
3123 fixed by the commission.

3124 (8) A package agency may not sell, offer for sale, or furnish liquor to:

3125 (a) a minor;

3126 (b) a person actually, apparently, or obviously intoxicated;

3127 (c) a known interdicted person;

3128 (d) a known habitual drunkard.

3129 (9) (a) A package agency may not employ a minor to handle liquor.

3130 (b) (i) Staff of a package agency may not:

3131 (A) consume an alcoholic product on the premises of a package agency; or

3132 (B) allow any person to consume an alcoholic product on the premises of a package
3133 agency.

3134 (ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

3135 (10) (a) A package agency may not close or cease operation for a period longer than
3136 72 hours, unless:

3137 (i) the package agency notifies the department in writing at least seven days before the

3138 closing; and
3139 (ii) the closure or cessation of operation is first approved by the department.
3140 (b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package
3141 agency shall immediately notify the department by telephone.
3142 (c) (i) The department may authorize a closure or cessation of operation for a period
3143 not to exceed 60 days.
3144 (ii) The department may extend the initial period an additional 30 days upon written
3145 request of the package agency and upon a showing of good cause.
3146 (iii) A closure or cessation of operation may not exceed a total of 90 days without
3147 commission approval.
3148 (d) The notice required by Subsection (10)(a) shall include:
3149 (i) the dates of closure or cessation of operation;
3150 (ii) the reason for the closure or cessation of operation; and
3151 (iii) the date on which the package agency will reopen or resume operation.
3152 (e) Failure of a package agency to provide notice and to obtain department
3153 authorization before closure or cessation of operation results in an automatic termination of
3154 the package agency agreement effective immediately.
3155 (f) Failure of a package agency to reopen or resume operation by the approved date
3156 results in an automatic termination of the package agency agreement effective on that date.
3157 (11) A package agency may not transfer its operations from one location to another
3158 location without prior written approval of the commission.
3159 (12) (a) A person, having been issued a package agency, may not sell, transfer, assign,
3160 exchange, barter, give, or attempt in any way to dispose of the package agency to another
3161 person, whether for monetary gain or not.
3162 (b) A package agency has no monetary value for any type of disposition.
3163 (13) (a) Subject to the other provisions of this Subsection (13):
3164 (i) sale or delivery of liquor may not be made on or from the premises of a package
3165 agency, and a package agency may not be kept open for the sale of liquor:

3166 (A) on Sunday; or
3167 (B) on a state or federal legal holiday.
3168 (ii) Sale or delivery of liquor may be made on or from the premises of a package
3169 agency, and a package agency may be open for the sale of liquor, only on a day and during
3170 hours that the commission directs by rule or order.
3171 (b) Subsection (13)(a) governs unless:
3172 (i) the package agency is located at a winery licensed in accordance with Chapter 11,
3173 Manufacturing and Related Licenses Act;
3174 (ii) the winery licensed in accordance with Chapter 11, Manufacturing and Related
3175 Licenses Act, holds:
3176 (A) a full-service restaurant license; or
3177 (B) a limited-service restaurant license;
3178 (iii) the restaurant is located at the winery;
3179 (iv) the restaurant sells wines produced at the winery;
3180 (v) the winery;
3181 (A) owns the restaurant; or
3182 (B) operates the restaurant;
3183 (vi) the package agency only sells wine produced at the winery; and
3184 (vii) the package agency's days and hours of sale are the same as the days and hours of
3185 sale at the restaurant.
3186 (c) (i) Subsection (13)(a) does not apply to a package agency held by a resort licensee
3187 if the package agent that holds the package agency to sell liquor at the resort does not sell
3188 liquor in a manner similar to a state store.
3189 (ii) The commission may by rule define what constitutes a package agency that sells
3190 liquor "in a manner similar to a state store."
3191 (14) (a) Except to the extent authorized by commission rule, a minor may not be
3192 admitted into, or be on the premises of a package agency unless accompanied by a person who
3193 is:

- 3194 (i) 21 years of age or older; and
3195 (ii) the minor's parent, legal guardian, or spouse.
3196 (b) A package agent or staff of a package agency that has reason to believe that a
3197 person who is on the premises of a package agency is under the age of 21 and is not
3198 accompanied by a person described in Subsection (14)(a) may:
3199 (i) ask the suspected minor for proof of age;
3200 (ii) ask the person who accompanies the suspected minor for proof of age; and
3201 (iii) ask the suspected minor or the person who accompanies the suspected minor for
3202 proof of parental, guardianship, or spousal relationship.
3203 (c) A package agent or staff of a package agency shall refuse to sell liquor to the
3204 suspected minor and to the person who accompanies the suspected minor into the package
3205 agency if the minor or person fails to provide any information specified in Subsection (14)(b).
3206 (d) A package agent or staff of a package agency shall require the suspected minor and
3207 the person who accompanies the suspected minor into the package agency to immediately
3208 leave the premises of the package agency if the minor or person fails to provide information
3209 specified in Subsection (14)(b).
3210 (15) (a) A package agency may not sell, offer for sale, or furnish liquor except in a
3211 sealed package.
3212 (b) A person may not open a sealed package on the premises of a package agency.
3213 (16) The department may pay or otherwise remunerate a package agent on any basis,
3214 including sales or volume of business done by the package agency.
3215 (17) The commission may prescribe by policy or rule general operational requirements
3216 of a package agency that are consistent with this title and relate to:
3217 (a) physical facilities;
3218 (b) conditions of operation;
3219 (c) hours of operation;
3220 (d) inventory levels;
3221 (e) payment schedules;

- 3222 (f) methods of payment;
- 3223 (g) premises security; and
- 3224 (h) any other matter considered appropriate by the commission.

3225 Section 71. Section **32B-2-606** is enacted to read:

3226 **32B-2-606. Delivery of liquor to package agency.**

3227 (1) Liquor to be sold from a package agency may be transported from a warehouse or
3228 state store authorized by the department to the package agency if transported by a person
3229 authorized by the department to transport the liquor to the package agency, including a
3230 common carrier.

3231 (2) A person, while in or about a vehicle in which liquor is being transported, may not
3232 open, break, or allow to be opened or broken, a package containing liquor.

3233 (3) A person may not drink, use, or allow to be drunk or used, any liquor while the
3234 liquor is in transit under this section.

3235 Section 72. Section **32B-2-607** is enacted to read:

3236 **32B-2-607. Return of inventory by package agent.**

3237 A package agent shall immediately return to the department liquor previously received
3238 from the department on consignment that remains unsold at the time the package agent's
3239 package agency agreement terminates or the liquor is subject to immediate seizure by the
3240 department.

3241 Section 73. Section **32B-3-101** is enacted to read:

3242 **CHAPTER 3. DISCIPLINARY ACTIONS AND ENFORCEMENT ACT**

3243 **Part 1. General Provisions**

3244 **32B-3-101. Title.**

3245 This chapter is known as the "Disciplinary Actions and Enforcement Act."

3246 Section 74. Section **32B-3-102** is enacted to read:

3247 **32B-3-102. Definitions.**

3248 As used in this chapter, "final adjudication" means an adjudication for which a final
3249 judgment or order is issued that:

3250 (1) is not appealed, and the time to appeal the judgment has expired; or

3251 (2) is appealed, and is affirmed, in whole or in part, on appeal.

3252 Section 75. Section **32B-3-201** is enacted to read:

3253 **Part 2. Disciplinary Proceedings**

3254 **32B-3-201. Nature of adjudicative proceedings under title.**

3255 (1) An adjudicative proceeding under this title, including a disciplinary proceeding, is
3256 a civil action, notwithstanding whether at issue in the adjudicative proceeding is a violation of
3257 statute that can be prosecuted criminally.

3258 (2) Unless specifically adopted in this title, a procedure or principal that is applicable
3259 to a criminal proceeding does not apply to an adjudicative proceeding permitted under this
3260 title including:

3261 (a) Title 76, Chapter 1, General Provisions;

3262 (b) Title 76, Chapter 2, Principles of Criminal Responsibility;

3263 (c) Title 76, Chapter 3, Punishments; and

3264 (d) Title 76, Chapter 4, Inchoate Offenses.

3265 (3) (a) The burden of proof in an adjudicative proceeding under this title is by a
3266 preponderance of the evidence.

3267 (b) If the subject of an adjudicative proceeding under this title asserts an affirmative
3268 defense, the subject has the burden of proof to establish the affirmative defense by the
3269 preponderance of the evidence.

3270 (4) In an adjudicative proceeding under this title, to find a violation of this title the
3271 commission:

3272 (a) is required to determine whether the conduct that constitutes the violation
3273 occurred; and

3274 (b) is not required to make a finding of knowledge or intent unless knowledge or intent
3275 is expressly made an element of the violation by statute.

3276 Section 76. Section **32B-3-202** is enacted to read:

3277 **32B-3-202. Timing of reporting violations.**

3278 Except when the person subject to administrative action is staff:

3279 (1) A disciplinary proceeding may not be initiated or maintained by the commission or
3280 department on the basis, in whole or in part, of a violation of this title unless a person subject
3281 to administrative action against whom the violation is alleged is notified by the department of
3282 the violation in accordance with this section.

3283 (2) (a) A nondepartment enforcement agency or nondepartment enforcement officer
3284 may not report a violation of this title to the department more than eight business days after
3285 the day on which a nondepartment enforcement officer or agency completes an investigation
3286 that finds a violation of this title.

3287 (b) If the commission or department wants the right to initiate or maintain a
3288 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a
3289 report described in Subsection (2)(a), the department shall notify a person subject to
3290 administrative action who is alleged by the report to have violated this title:

3291 (i) by no later than eight business days of the day on which the department receives
3292 the report described in Subsection (2)(a); and

3293 (ii) that the commission or department may initiate or maintain a disciplinary
3294 proceeding on the basis, in whole or in part, of the violation.

3295 (3) If the commission or department wants the right to initiate or maintain a
3296 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by a
3297 report of a department compliance officer, the department shall notify a person subject to
3298 administrative action who is alleged by the report to have violated this title:

3299 (a) by no later than eight business days of the day on which the department
3300 compliance officer completes an investigation that finds a violation of this title; and

3301 (b) that the commission or department may initiate or maintain a disciplinary
3302 proceeding on the basis, in whole or in part, of the violation.

3303 (4) (a) A notice required by this section may be done orally, if after the oral
3304 notification the department provides written notification.

3305 (b) The written notification described in Subsection (4)(a) may be sent outside the

3306 time periods required by this section.

3307 (5) The department shall maintain a record of a notification required by this section
3308 that includes:

3309 (a) the name of the person notified; and

3310 (b) the date of the notification.

3311 Section 77. Section **32B-3-203** is enacted to read:

3312 **32B-3-203. Initiating a disciplinary proceeding.**

3313 Subject to Section 32B-3-202:

3314 (1) The department may initiate a disciplinary proceeding described in Subsection (2)
3315 if the department receives:

3316 (a) a report from an investigator alleging that a person subject to administrative action
3317 violated this title or the rules of the commission;

3318 (b) a final adjudication of criminal liability against a person subject to administrative
3319 action on the basis of an alleged violation of this title; or

3320 (c) a final adjudication of civil liability in accordance with Chapter 15, Alcoholic
3321 Beverage Liability Act, against a person subject to administrative action on the basis of an
3322 alleged violation of this title.

3323 (2) If the condition of Subsection (1) is met, the department may initiate a disciplinary
3324 proceeding to determine:

3325 (a) whether a person subject to administrative action violated this title or rules of the
3326 commission; and

3327 (b) if a violation is found, the appropriate sanction to be imposed.

3328 (3) (a) Unless waived by the respondent, a disciplinary proceeding shall be held:

3329 (i) if required by law;

3330 (ii) before revoking or suspending a license, permit, or certificate of approval issued
3331 under this title; or

3332 (iii) before imposing a fine against a person subject to administrative action.

3333 (b) Inexcusable failure of a respondent to appear at a scheduled disciplinary

3334 proceeding hearing after receiving proper notice is an admission of the charged violation.

3335 (c) The validity of a disciplinary proceeding is not affected by the failure of a person
3336 to attend or remain in attendance.

3337 Section 78. Section **32B-3-204** is enacted to read:

3338 **32B-3-204. Disciplinary proceeding procedure.**

3339 (1) (a) Subject to Section 32B-3-202, the following may conduct an adjudicative
3340 proceeding to inquire into a matter necessary and proper for the administration of this title and
3341 rules adopted under this title:

3342 (i) the commission;

3343 (ii) a hearing examiner appointed by the commission to conduct a suspension or
3344 revocation hearing required by law;

3345 (iii) the director; and

3346 (iv) the department.

3347 (b) Except as provided in this section or Section 32B-2-605, a person described in
3348 Subsection (1)(a) shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in
3349 an adjudicative proceeding.

3350 (c) Except when otherwise provided by law, an adjudicative proceeding before the
3351 commission or a hearing examiner appointed by the commission shall be:

3352 (i) video or audio recorded; and

3353 (ii) subject to Subsection (3)(b), conducted in accordance with Title 52, Chapter 4,
3354 Open and Public Meetings Act.

3355 (d) A person listed in Subsection (1)(a) shall conduct an adjudicative proceeding
3356 concerning departmental personnel in accordance with Title 67, Chapter 19, Utah State
3357 Personnel Management Act.

3358 (e) A hearing that is informational, fact gathering, and nonadversarial in nature shall
3359 be conducted in accordance with rules, policies, and procedures made by the commission,
3360 director, or department.

3361 (2) (a) Subject to Section 32B-3-202, a disciplinary proceeding shall be conducted

3362 under the authority of the commission, which is responsible for rendering a final decision and
3363 order on a disciplinary matter.

3364 (b) (i) The commission may appoint a necessary officer, including a hearing examiner,
3365 from within or without the department, to administer the disciplinary proceeding process.

3366 (ii) A hearing examiner appointed by the commission:

3367 (A) may conduct a disciplinary proceeding hearing on behalf of the commission; and

3368 (B) shall submit to the commission a report including:

3369 (I) findings of fact determined on the basis of a preponderance of the evidence
3370 presented at the hearing;

3371 (II) conclusions of law; and

3372 (III) recommendations.

3373 (iii) A report of a hearing examiner under this Subsection (2)(b) may not recommend a
3374 penalty more severe than that initially sought by the department in the notice of agency action.

3375 (iv) A copy of a hearing examiner report under this Subsection (2)(b) shall be served
3376 upon the respective parties.

3377 (v) Before final commission action, the commission shall give a respondent and the
3378 department reasonable opportunity to file a written objection to a hearing examiner report.

3379 (3) (a) The commission or an appointed hearing examiner shall preside over a
3380 disciplinary proceeding hearing.

3381 (b) A disciplinary proceeding hearing may be closed only after the commission or
3382 hearing examiner makes a written finding that the public interest in an open hearing is clearly
3383 outweighed by factors enumerated in the closure order.

3384 (c) (i) The commission or its hearing examiner as part of a disciplinary proceeding
3385 hearing may:

3386 (A) administer an oath or affirmation;

3387 (B) take evidence;

3388 (C) take a deposition within or without this state; and

3389 (D) require by subpoena from a place within this state:

3390 (I) the testimony of a person at a hearing; and
3391 (II) the production of a record or other evidence considered relevant to the inquiry.
3392 (ii) A person subpoenaed in accordance with this Subsection (3)(c) shall testify and
3393 produce a record or tangible thing as required in the subpoena.
3394 (iii) A witness subpoenaed, called to testify, or called to produce evidence who claims
3395 a privilege against self-incrimination may not be compelled to testify, but the commission or
3396 the hearing examiner shall file a written report with the county attorney or district attorney in
3397 the jurisdiction where the privilege is claimed or where the witness resides setting forth the
3398 circumstance of the claimed privilege.
3399 (iv) (A) A person is not excused from obeying a subpoena without just cause.
3400 (B) A district court within the judicial district in which a person alleged to be guilty of
3401 willful contempt of court or refusal to obey a subpoena is found or resides, upon application
3402 by the party issuing the subpoena, may issue an order requiring the person to:
3403 (I) appear before the issuing party; and
3404 (II) (Aa) produce documentary evidence if so ordered; or
3405 (Bb) give evidence regarding the matter in question.
3406 (C) Failure to obey an order of the court may be punished by the court as contempt.
3407 (d) In a case heard by the commission, the commission shall issue its final decision
3408 and order in accordance with Subsection (2).
3409 (4) (a) The commission shall:
3410 (i) render a final decision and order on a disciplinary action; and
3411 (ii) cause its final order to be prepared in writing, issued, and served on all parties.
3412 (b) An order of the commission is final on the date the order is issued.
3413 (c) The commission, after the commission renders its final decision and order, may
3414 require the director to prepare, issue, and cause to be served on the parties the final written
3415 order on behalf of the commission.
3416 (5) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by
3417 the commission or a hearing examiner appointed by the commission shall proceed formally in

3418 accordance with Sections 63G-4-204 through 63G-4-209 if:
3419 (i) the alleged violation poses, or potentially poses, a grave risk to public safety,
3420 health, and welfare;
3421 (ii) the alleged violation involves:
3422 (A) selling or furnishing an alcoholic product to a minor;
3423 (B) attire, conduct, or entertainment prohibited by Chapter 1, Part 5, Attire, Conduct,
3424 and Entertainment Act;
3425 (C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf
3426 of the respondent;
3427 (D) interfering or refusing to cooperate with:
3428 (I) an authorized official of the department or the state in the discharge of the official's
3429 duties in relation to the enforcement of this title; or
3430 (II) a peace officer in the discharge of the peace officer's duties in relation to the
3431 enforcement of this title;
3432 (E) an unlawful trade practice under Chapter 4, Part 7, Trade Practices Act;
3433 (F) unlawful importation of an alcoholic product; or
3434 (G) unlawful supply of liquor by a liquor industry member, as defined in Section
3435 32B-4-702, to a person other than the department or a military installation, except to the extent
3436 permitted by this title; or
3437 (iii) the department determines to seek in a disciplinary proceeding hearing:
3438 (A) an administrative fine exceeding \$3,000;
3439 (B) a suspension of a license, permit, or certificate of approval of more than 10 days;
3440 or
3441 (C) a revocation of a license, permit, or certificate of approval.
3442 (b) If a respondent does not request a disciplinary proceeding hearing, a hearing shall
3443 proceed informally unless it is designated as a formal proceeding pursuant to rules adopted by
3444 the commission in accordance with Subsection (5)(c).
3445 (c) The commission shall make rules to provide a procedure to implement this

3446 Subsection (5).

3447 Section 79. Section **32B-3-205** is enacted to read:

3448 **32B-3-205. Penalties.**

3449 (1) If the commission is satisfied that a person subject to administrative action violates
3450 this title or the commission's rules, in accordance with Title 63G, Chapter 4, Administrative
3451 Procedures Act, the commission may:

3452 (a) suspend or revoke the person's license, permit, or certificate of approval;

3453 (b) subject to Subsection (2), impose a fine against the person, including individual
3454 staff of a licensee, permittee, or certificate holder;

3455 (c) assess the administrative costs of a disciplinary proceeding to the person if the
3456 person is a licensee, permittee, or certificate holder; or

3457 (d) take a combination of actions described in this Subsection (1).

3458 (2) (a) A fine imposed may not exceed \$25,000 in the aggregate for:

3459 (i) a single notice of agency action; or

3460 (ii) a single action against a package agency.

3461 (b) The commission shall by rule establish a schedule setting forth a range of fines for
3462 each violation.

3463 (3) The commission shall transfer the costs assessed under this section into the
3464 General Fund in accordance with Section 32B-2-301.

3465 (4) (a) If a license or permit is suspended under this section, the licensee or permittee
3466 shall prominently display a sign provided by the department:

3467 (i) during the suspension; and

3468 (ii) at the entrance of the premises of the licensee or permittee.

3469 (b) The sign required by this Subsection (4) shall:

3470 (i) read "The Utah Alcoholic Beverage Control Commission has suspended the
3471 alcoholic product license or permit of this establishment. An alcoholic product may not be
3472 sold, offered for sale, furnished, or consumed on these premises during the period of
3473 suspension."; and

3474 (ii) include the dates of the suspension period.
3475 (c) A licensee or permittee may not remove, alter, obscure, or destroy a sign required
3476 to be displayed under this Subsection (4) during the suspension period.
3477 (5) (a) If a license or permit is revoked, the commission may order the revocation of a
3478 bond posted by the licensee or permittee under this title.
3479 (b) Notwithstanding Subsection (5)(a), the department may make a claim against a
3480 bond posted by a licensee or permittee for money owed the department under this title without
3481 the commission first revoking the license or permit.
3482 (6) A licensee or permittee whose license or permit is revoked may not reapply for a
3483 license or permit under this title for three years from the date on which the license or permit is
3484 revoked.
3485 (7) If a staff member of a licensee, permittee, or certificate holder is found to have
3486 violated this title, in addition to imposing another penalty authorized by this title, the
3487 commission may prohibit the staff member from handling, selling, furnishing, distributing,
3488 manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as
3489 staff with a licensee, permittee, or certificate holder under this title for a period determined by
3490 the commission.
3491 (8) (a) If the commission makes the finding described in Subsection (8)(b), in addition
3492 to other penalties prescribed by this title, the commission may order:
3493 (i) the removal of an alcoholic product of the manufacturer's, supplier's, or importer's
3494 from the department's sales list; and
3495 (ii) a suspension of the department's purchase of an alcoholic product described in
3496 Subsection (8)(a)(i) for a period determined by the commission.
3497 (b) The commission may take the action described in Subsection (8)(a) if:
3498 (i) a manufacturer, supplier, or importer of liquor or its staff or representative violates
3499 this title; and
3500 (ii) the manufacturer, supplier, or importer:
3501 (A) directly commits the violation; or

3502 (B) solicits, requests, commands, encourages, or intentionally aids another to engage
3503 in the violation.

3504 (9) If the commission makes a finding that the brewer holding a certificate of approval
3505 violates this title or rules of the commission, the commission may take an action against the
3506 brewer holding a certificate of approval that the commission could take against a licensee
3507 including:

3508 (a) suspension or revocation of the certificate of approval; and

3509 (b) imposition of a fine.

3510 (10) Notwithstanding the other provisions of this title, the commission may not order a
3511 disciplinary action or fine in accordance with this section if the disciplinary action or fine is
3512 ordered on the basis of a violation:

3513 (a) of a provision in this title related to intoxication or becoming intoxicated; and

3514 (b) if the violation is first investigated by a law enforcement officer, as defined in
3515 Section 53-13-103, who has not received training regarding the requirements of this title
3516 related to responsible alcoholic product sale or service.

3517 Section 80. Section **32B-3-206** is enacted to read:

3518 **32B-3-206. Dishonored checks.**

3519 (1) If a check issued in payment of a fee or cost authorized or required by this title is
3520 returned to the department as dishonored:

3521 (a) the department may assess a service charge in an amount set by commission rule
3522 against the person on whose behalf the check was tendered;

3523 (b) if the check that is returned to the department is from a package agent, licensee, or
3524 permittee, the commission may:

3525 (i) suspend or revoke the license or permit; or

3526 (ii) suspend or terminate the operation of the package agency;

3527 (c) the department may require that the person who payed with the dishonored check
3528 only pay money owed to the department under this title with cash for the time period
3529 determined by the department; or

3530 (d) the department or commission may take a combination of actions as provided in
3531 this Subsection (1).

3532 (2) (a) If a license or permit is revoked under this section, the commission may require
3533 the forfeiture of the bond of the licensee or permittee.

3534 (b) Notwithstanding Subsection (2)(a), the department may make a claim against a
3535 bond posted by a licensee or permittee for money owed the department under this title without
3536 the commission first revoking the license or permit.

3537 (3) (a) If the operation of a package agency is terminated under this section and the
3538 department has posted a bond for the package agency, the commission may require the
3539 forfeiture of the bond.

3540 (b) Notwithstanding Subsection (3)(a), the department may make a claim against a
3541 bond posted for a package agency without the commission first terminating the operation of
3542 the package agency.

3543 Section 81. Section **32B-3-207** is enacted to read:

3544 **32B-3-207. Judicial review -- Enforcement.**

3545 (1) In a disciplinary proceeding, a respondent found in a final order of the commission
3546 to have violated this title or rules of the commission made under this title may seek judicial
3547 review in a court of competent jurisdiction pursuant to the judicial review provisions of
3548 Sections 63G-4-401 through 63G-4-405.

3549 (2) Notwithstanding Subsection 63G-4-403(4)(g), an appellate court may not grant
3550 relief on the basis that a finding of fact by the commission in a formal disciplinary proceeding
3551 is not supported, if the commission's finding of fact is supported by any evidence of substance
3552 in the record of the formal disciplinary proceeding when viewed in light of the whole record
3553 before the court.

3554 (3) In addition to another remedy provided by law, the commission may seek
3555 enforcement of a commission order in a disciplinary proceeding by seeking civil enforcement
3556 in a state district court in accordance with Section 63G-4-501.

3557 Section 82. Section **32B-3-301** is enacted to read:

3558 **Part 3. Nuisance Retail Licensee Act**

3559 **32B-3-301. Title.**

3560 This part is known as the "Nuisance Retail Licensee Act."

3561 Section 83. Section **32B-3-302** is enacted to read:

3562 **32B-3-302. Definitions.**

3563 As used in this part:

3564 (1) "Nuisance activity" means:

3565 (a) a judicial finding that a licensed establishment is a nuisance under Section
3566 32B-4-208; or

3567 (b) an act described in Section 32B-3-303.

3568 (2) "Objecting governmental entity" means:

3569 (a) a local government entity;

3570 (b) a prosecutor's office; or

3571 (c) a law enforcement agency.

3572 Section 84. Section **32B-3-303** is enacted to read:

3573 **32B-3-303. Acts making a person subject to this part.**

3574 (1) One or more of the following acts constitute a nuisance activity:

3575 (a) a single felony conviction within the last two years of:

3576 (i) a retail licensee; or

3577 (ii) supervisory or managerial level staff of the retail licensee;

3578 (b) a single conviction under Title 58, Chapter 37, Utah Controlled Substances Act:

3579 (i) (A) of a retail licensee; or

3580 (B) staff of the retail licensee;

3581 (ii) within the last two years; and

3582 (iii) made on the basis of an act that occurs on the licensed premises;

3583 (c) three or more convictions of patrons of a retail licensee under Title 58, Chapter 37,

3584 Utah Controlled Substances Act, if:

3585 (i) the convictions are made on the basis of an act that occurs on the licensed

3586 premises; and
3587 (ii) there is evidence that the retail licensee knew or should have known of the illegal
3588 activity;
3589 (d) a single conviction within the last two years of a retail licensee or staff of the retail
3590 licensee that is made on the basis of:
3591 (i) pornographic and harmful materials:
3592 (A) that violate Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials
3593 and Performances; and
3594 (B) if the violation occurs on the licensed premises;
3595 (ii) prostitution;
3596 (iii) engaging in or permitting gambling, as defined and proscribed in Title 76,
3597 Chapter 10, Part 11, Gambling, on the licensed premises;
3598 (iv) having any video gaming device, as defined and proscribed by Title 76, Chapter
3599 10, Part 11, Gambling, on the licensed premises;
3600 (v) on the licensed premises engaging in or permitting a contest, game, gaming
3601 scheme, or gaming device that requires the risking of something of value for a return or for an
3602 outcome when the return or outcome is based upon an element of chance, excluding the
3603 playing of an amusement device that confers only an immediate and unrecorded right of replay
3604 not exchangeable for value;
3605 (vi) a disturbance of the peace that occurs on the licensed premises; or
3606 (vii) disorderly conduct that occurs on the licensed premises; or
3607 (e) three or more adjudicated violations of this title within the last two years by a retail
3608 licensee or by staff of the retail licensee that result in a criminal citation or an administrative
3609 referral to the department relating to:
3610 (i) the sale, offer for sale, or furnishing of alcohol to a minor;
3611 (ii) the sale, offer for sale, or furnishing of alcohol to a person actually, apparently, or
3612 obviously intoxicated;
3613 (iii) the sale, offer for sale, or furnishing of alcohol after the lawful hours for the sale

3614 or furnishing; or

3615 (iv) acts or conduct on the licensed premises contrary to the public welfare and morals
3616 involving lewd acts or lewd entertainment prohibited by this title.

3617 (2) For purposes of Subsection (1), in the case of a retail licensee that is a partnership,
3618 corporation, or limited liability company, a conviction under Subsection (1)(c) includes a
3619 conviction of any of the following for an offense described in Subsection (1)(c):

3620 (a) a partner;

3621 (b) a managing agent;

3622 (c) a manager;

3623 (d) an officer;

3624 (e) a director;

3625 (f) a stockholder who holds at least 20% of the total issued and outstanding stock of a
3626 corporate licensee; or

3627 (g) a member who owns at least 20% of a limited liability company licensee.

3628 Section 85. Section **32B-3-304** is enacted to read:

3629 **32B-3-304. Rulemaking.**

3630 In accordance with this chapter, the commission may make rules that govern the filing
3631 under this chapter of:

3632 (1) a formal objection to the renewal of a retail license; and

3633 (2) a request for hearing filed by a retail licensee.

3634 Section 86. Section **32B-3-305** is enacted to read:

3635 **32B-3-305. Commission to prohibit nuisance activity by licensee -- License not**
3636 **renewed.**

3637 (1) In accordance with Section 32B-1-104, the commission shall require a retail
3638 licensee as a condition of being licensed under this title to operate in a manner so as not to
3639 endanger the public health, peace, safety, welfare, or morals of the community.

3640 (2) (a) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, and
3641 Sections 32B-3-306 and 32B-3-307, the commission may deny the renewal of a retail license

3642 if:

3643 (i) a formal objection to the renewal is filed; and

3644 (ii) the commission determines that the retail licensee has engaged in a nuisance
3645 activity to such an extent that the nuisance activity has adversely impacted the public health,
3646 peace, safety, welfare, or morals of the neighboring community of the licensed premises.

3647 (b) In making a determination under this Subsection (2), the commission may
3648 consider:

3649 (i) the type of nuisance activity in which a retail licensee engages;

3650 (ii) the frequency or pattern of the nuisance activity; and

3651 (iii) the retail licensee's notice of and failure to abate or correct the nuisance activity.

3652 Section 87. Section **32B-3-306** is enacted to read:

3653 **32B-3-306. Formal objections to renewal.**

3654 (1) The department shall notify governmental entities that in accordance with this part
3655 an objecting governmental entity may file with the commission an objection to the renewal of
3656 a retail licensee's license in the objecting governmental entity's community.

3657 (2) The department or an objecting governmental entity may file with the commission
3658 a formal objection to a retail license being renewed by the commission if the formal objection:

3659 (a) is filed on the basis of a nuisance activity;

3660 (b) is filed no later than 60 days before the expiration date of the retail licensee's
3661 license; and

3662 (c) states with particularity all relevant facts and circumstances relating to the
3663 nuisance activity that forms the basis for the formal objection.

3664 Section 88. Section **32B-3-307** is enacted to read:

3665 **32B-3-307. Hearing on formal objections to renewal.**

3666 (1) Upon receipt of a formal objection that meets the requirements of Section
3667 32B-3-306, the department shall:

3668 (a) issue a notice of agency action; and

3669 (b) serve on the retail licensee no later than 30 days before the expiration of the retail

3670 licensee's license:
3671 (i) the notice of agency action; and
3672 (ii) a copy of the formal objection.
3673 (2) (a) A retail licensee against whom a notice of agency action is served under
3674 Subsection (1) may request a hearing.
3675 (b) The request for hearing described in Subsection (2)(a) shall be:
3676 (i) in writing; and
3677 (ii) filed with the commission within 10 days of the day on which the notice of agency
3678 action is served on the retail licensee.
3679 (c) If a retail licensee fails to file a request for hearing in accordance with this
3680 Subsection (2), the commission may not renew the license of the retail licensee.
3681 (3) (a) Upon receipt of a request for hearing meeting the requirements of Subsection
3682 (2), the department shall immediately schedule a hearing that shall be:
3683 (i) held no later than 10 days before the expiration date of the retail licensee's license;
3684 and
3685 (ii) electronically recorded by the department.
3686 (b) The retail licensee or an objecting governmental entity, at its own expense, may
3687 have a reporter approved by the department prepare a transcript from the department's record
3688 of the hearing.
3689 (c) (i) The department shall present information at the hearing that supports a finding
3690 that a nuisance activity occurred.
3691 (ii) The information described in Subsection (3)(c)(i) shall be made a part of the
3692 record of the hearing.
3693 (d) A retail licensee shall:
3694 (i) have the opportunity to challenge or explain whether any of the nuisance activity
3695 that forms the basis for the formal objection occurred; and
3696 (ii) be permitted to:
3697 (A) testify;

3698 (B) present evidence; and
3699 (C) comment on the issues at the hearing.
3700 (4) (a) A hearing held under this chapter shall be conducted under the authority of the
3701 commission.
3702 (b) The commission is responsible for rendering a final order on whether a retail
3703 licensee's license shall be renewed.
3704 (c) Notwithstanding Subsections (4)(a) and (b), the commission may appoint a
3705 necessary hearing examiner to administer the hearing process.
3706 (d) The commission or the hearing examiner appointed by the commission shall serve
3707 as the presiding officer at a hearing held under this section.
3708 (e) The presiding officer at a hearing held under this section:
3709 (i) shall evaluate:
3710 (A) the information presented at the hearing in support of the formal objection; and
3711 (B) any explanation and evidence offered by the retail licensee; and
3712 (ii) may consider such factors as:
3713 (A) the length of time the retail licensee has operated the licensed premises;
3714 (B) the condition of the licensed premises;
3715 (C) whether the retail licensee knew or should have known of the nuisance activity in
3716 question;
3717 (D) whether the retail licensee failed to:
3718 (I) make a substantial effort to correct the nuisance activity; and
3719 (II) work with law enforcement to curtail the nuisance activity;
3720 (E) whether the nuisance activity has been ongoing or temporary;
3721 (F) whether the retail licensee or the retail licensee's staff:
3722 (I) initiated contact with the law enforcement agency on the nuisance activity; and
3723 (II) cooperated with the law enforcement agency's investigation; and
3724 (G) whether prior efforts to stop the nuisance activity by the community or the retail
3725 licensee have been unsuccessful.

3726 (5) An order issued under this section shall:
3727 (a) be based on the evidence presented at the hearing; and
3728 (b) state whether:
3729 (i) the continued operation of the licensed premises will endanger the public health,
3730 peace, safety, welfare, or morals of the community; and
3731 (ii) the retail license should or should not be renewed.
3732 (6) (a) If the presiding officer is a hearing examiner appointed by the commission, the
3733 hearing officer shall issue a signed order in writing that:
3734 (i) complies with Subsection (5);
3735 (ii) recommends to the commission whether the retail license should or should not be
3736 renewed;
3737 (iii) states the reasons for the hearing officer's decision; and
3738 (iv) notifies the retail licensee and the objecting governmental entity that the hearing
3739 examiner's order will be considered by the commission at the next regularly scheduled meeting
3740 of the commission.
3741 (b) The department shall promptly mail a copy of the hearing examiner's order to:
3742 (i) the retail licensee; and
3743 (ii) any objecting governmental entity.
3744 (c) The commission at its next regularly scheduled meeting after receipt of a hearing
3745 examiner's order, shall decide whether to renew or not renew the retail license on the basis of:
3746 (i) the record and evidence presented at the hearing; and
3747 (ii) the hearing examiner's recommendation.
3748 (7) (a) As an alternative to ordering that a retail license not be renewed under this
3749 section, the commission may conditionally renew a retail license by requiring that:
3750 (i) the retail licensee and the licensed premises be closely monitored during the
3751 licensing year by:
3752 (A) the department;
3753 (B) local government officials; and

3754 (C) law enforcement; and
3755 (ii) the matter be reviewed before the next renewal period.
3756 (b) The commission may conditionally renew a retail license contingent on a person
3757 listed in Subsection (7)(b)(ii) divesting all interest in the retail licensed business if:
3758 (i) the retail licensee is a partnership, corporation, or limited liability company; and
3759 (ii) the formal objection filed under this section if filed solely on the basis of a felony
3760 conviction:
3761 (A) of:
3762 (I) a partner;
3763 (II) a managing agent;
3764 (III) a manager;
3765 (IV) an officer;
3766 (V) a director;
3767 (VI) a stockholder who holds at least 20% of the total issued and outstanding stock of
3768 a corporate licensee; or
3769 (VII) a member who owns at least 20% of a limited liability company licensee; and
3770 (B) for illegal activity that occurred off of the licensed premises.
3771 (8) (a) In accordance with this section, the commission shall issue a written order
3772 setting forth the commission's decision and the reason for the commission's decision.
3773 (b) The order described in Subsection (8)(a) is considered final on the date the order
3774 becomes effective.
3775 (c) The department shall serve a copy of the order on the retail licensee.
3776 (9) A retail licensee whose retail license is not renewed by order of the commission
3777 may seek judicial review under the procedures provided in Section 32B-3-207.
3778 (10) A retail licensee whose retail license is not renewed may not reapply for a license
3779 under this title for three years from the date the retail license is not renewed.

3780 Section 89. Section **32B-4-101** is enacted to read:

3781 **CHAPTER 4. CRIMINAL OFFENSES AND PROCEDURE ACT**

Part 1. General Provisions

32B-4-101. Title.

This chapter is known as the "Criminal Offenses and Procedure Act."

Section 90. Section 32B-4-102 is enacted to read:

32B-4-102. Definitions.

Reserved

Section 91. Section 32B-4-201 is enacted to read:

Part 2. Criminal Procedure

32B-4-201. Applicability of Utah Code of Criminal Procedure.

Except as otherwise provided in this title, the procedure in a criminal case arising under this title is governed by Title 77, Utah Code of Criminal Procedure, and any other rules adopted by the Utah Supreme Court.

Section 92. Section 32B-4-202 is enacted to read:

32B-4-202. Duties to enforce this title.

(1) It is the duty of the following to diligently enforce this title in their respective capacities:

- (a) the governor;
- (b) a commissioner;
- (c) the director;
- (d) an official, inspector, or department employee;
- (e) a prosecuting official of the state or its political subdivisions;
- (f) a county, city, or town;
- (g) a peace officer, sheriff, deputy sheriff, constable, marshal, or law enforcement official;
- (h) a state health official; and
- (i) a clerk of the court.

(2) Immediately upon conviction of a person for violation of this title or of a local ordinance relating to an alcoholic product, it is the duty of the clerk of the court to notify the

3810 department of the conviction in writing on forms supplied by the department.

3811 Section 93. Section **32B-4-203** is enacted to read:

3812 **32B-4-203. Authority to inspect.**

3813 (1) (a) This Subsection (1) applies to:

3814 (i) a commissioner;

3815 (ii) an authorized representative of the commission or department; or

3816 (iii) a law enforcement or peace officer.

3817 (b) An individual described in Subsection (1)(a):

3818 (i) shall be given access, ingress, and egress to and from premises or a conveyance
3819 used in the storage, sale, furnishing, manufacture, or transportation of an alcoholic product;

3820 (ii) may open a package containing, or supposed to contain, an article sold, or exposed
3821 for sale, held in possession, or manufactured with intent to sell in violation of this title or
3822 commission rules; and

3823 (iii) may inspect the contents and take samples of the contents for analysis from a
3824 package described in this Subsection (1).

3825 (2) The following shall assist, when requested by a person described in Subsection (1),
3826 in tracing, finding, or discovering the presence of an article prohibited by this title or
3827 commission rules to the extent assistance would not infringe upon the person's federal and
3828 state constitutional rights:

3829 (a) a dealer;

3830 (b) a clerk;

3831 (c) a bookkeeper;

3832 (d) an express agent;

3833 (e) a railroad or airline official;

3834 (f) a common or other carrier; and

3835 (g) an employee of a person listed in this Subsection (2).

3836 Section 94. Section **32B-4-204** is enacted to read:

3837 **32B-4-204. Arrests.**

3838 (1) Except as otherwise provided in this chapter, an arrest of a person for a violation of
3839 this title shall be made in accordance with:

3840 (a) Title 77, Chapter 7, Arrest, by Whom, and How Made; and

3841 (b) Rules 6 and 7, Utah Rules of Criminal Procedure.

3842 (2) A summons in lieu of a warrant of arrest shall be in accordance with Rule 6, Utah
3843 Rules of Criminal Procedure.

3844 Section 95. Section **32B-4-205** is enacted to read:

3845 **32B-4-205. Prosecutions.**

3846 (1) (a) A prosecution for a violation of this title shall be in the name of the state.

3847 (b) A criminal action for violation of a county or municipal ordinance enacted in
3848 furtherance of this title shall be in the name of the governmental entity involved.

3849 (2) (a) A prosecution for violation of this title shall be brought by the county attorney
3850 of the county or district attorney of the prosecution district where the violation occurs. If a
3851 county attorney or district attorney fails to initiate or diligently pursue a prosecution
3852 authorized and warranted under this title, the attorney general shall exercise supervisory
3853 authority over the county attorney or district attorney to ensure prosecution is initiated and
3854 diligently pursued.

3855 (b) If a violation occurs within a city or town, prosecution may be brought by either
3856 the county, district, or city attorney, notwithstanding any provision of law limiting the powers
3857 of a city attorney.

3858 (c) A city or town prosecutor has the responsibility of initiating and diligently
3859 pursuing prosecutions for a violation of a local ordinance enacted in furtherance of this title or
3860 commission rules.

3861 (3) (a) A prosecution for a violation of this title shall be commenced by the return of
3862 an indictment or the filing of an information with the district court of the county in which the
3863 offense occurs or where the premises are located upon which an alcoholic product is seized, if
3864 the offense involves an alcoholic product.

3865 (b) An offense prescribed by this title that is not described in Subsection (3)(a) shall

3866 be filed before a court having jurisdiction of the offense committed.

3867 (4) (a) Unless otherwise provided by law, an information may not be filed charging the
3868 commission of a felony or class A misdemeanor under this title unless authorized by a
3869 prosecuting attorney.

3870 (b) This Subsection (4) does not apply if the magistrate has reasonable cause to
3871 believe that the person to be charged may avoid apprehension or escape before approval can
3872 be obtained.

3873 (5) (a) In describing an offense respecting the sale, keeping for sale, or other disposal
3874 of an alcoholic product, or the possessing, keeping, purchasing, consumption, or giving of an
3875 alcoholic product in an information, indictment, summons, judgment, warrant, or proceeding
3876 under this title, it is sufficient to state the possessing, purchasing, keeping, sale, keeping for
3877 sale, giving, consumption, or disposal of the alcoholic product without stating:

3878 (i) the name or kind of alcoholic product;

3879 (ii) the price of the alcoholic product;

3880 (iii) any person to whom the alcoholic product is sold or disposed of;

3881 (iv) by whom the alcoholic product is taken or consumed; or

3882 (v) from whom the alcoholic product is purchased or received.

3883 (b) It is not necessary to state the quantity of alcoholic product possessed, purchased,
3884 kept, kept for sale, sold, given, consumed, or disposed of, except in the case of an offense
3885 when the quantity is essential, and then it is sufficient to allege the sale or disposal of more or
3886 less than the quantity.

3887 (6) If an offense is committed under a local ordinance enacted to carry out this title, it
3888 is sufficient if the charging document refers to the chapter and section of the ordinance under
3889 which the offense is committed.

3890 Section 96. Section **32B-4-206** is enacted to read:

3891 **32B-4-206. Searches, seizures, forfeitures, and fines.**

3892 (1) The following are subject to forfeiture pursuant to Title 24, Chapter 1, Utah
3893 Uniform Forfeiture Procedures Act:

3894 (a) an alcoholic product possessed, purchased, used, stored, sold, offered for sale,
3895 furnished, given, received, warehoused, manufactured, distributed, shipped, carried,
3896 transported, or adulterated in violation of this title or commission rules;

3897 (b) a package or property used or intended for use as a package for an alcoholic
3898 product in violation of this title or commission rules;

3899 (c) raw materials, products, and equipment used, or intended for use, in
3900 manufacturing, processing, delivering, importing, exporting, or adulterating an alcoholic
3901 product in violation of this title or commission rules;

3902 (d) implements, furniture, fixtures, or other personal property used or kept for a
3903 violation of this title or commission rules;

3904 (e) conveyances including an aircraft, vehicle, or vessel used or intended for use, to
3905 transport or in any manner facilitate the transportation, sale, receipt, possession, or
3906 concealment of property described in Subsection (1)(a), (b), (c), or (d); and

3907 (f) a record used or intended for use in violation of this title or commission rules.

3908 (2) (a) Property subject to forfeiture under this title may be seized by a peace officer of
3909 this state or any other person authorized by law upon process issued by a court having
3910 jurisdiction over the property in accordance with the Utah Rules of Criminal Procedure
3911 relating to search warrants or administrative warrants.

3912 (b) Notwithstanding Subsection (2)(a), seizure without process may be made when:

3913 (i) the seizure is incident to an arrest or search under a search warrant or an inspection
3914 under an administrative inspection warrant;

3915 (ii) the property subject to seizure has been the subject of a prior judgment in favor of
3916 the state in a criminal injunction or forfeiture proceeding under this title;

3917 (iii) the peace officer or other person authorized by law has probable cause to believe
3918 that the property is directly or indirectly dangerous to health or safety; or

3919 (iv) the peace officer or other person authorized by law has probable cause to believe
3920 that the property is being or has been used, intended to be used, held, or kept in violation of
3921 this title or commission rules.

3922 (3) If property is seized pursuant to a search or administrative warrant, a peace officer
3923 or other person authorized by law shall comply with the requirements of the Utah Rules of
3924 Criminal Procedure.

3925 (4) (a) If property is seized without process:

3926 (i) the peace officer or other person authorized by law shall make a return of the peace
3927 officer's or person's acts without delay directly to the district court of the county in which the
3928 property was located; and

3929 (ii) the district court shall have jurisdiction of the case.

3930 (b) A return shall describe:

3931 (i) the property seized;

3932 (ii) the place where the property is seized; and

3933 (iii) any person in apparent possession of the property.

3934 (c) A peace officer or other person described in Subsection (4)(a) shall promptly:

3935 (i) deliver a written inventory of anything seized to any person in apparent authority at
3936 the premises where the seizure is made; or

3937 (ii) post a written inventory of anything seized in a conspicuous place at the premises.

3938 (d) A written inventory under this Subsection (4) shall state the place where the
3939 property is being held.

3940 (5) Property taken or detained under this section is not repleviable but is considered in
3941 custody of the law enforcement agency making the seizure subject only to the orders of the
3942 court or the official having jurisdiction. When property is seized under this title, the
3943 appropriate person or agency may:

3944 (a) place the property under seal;

3945 (b) remove the property to a place designated by:

3946 (i) the person or agency; or

3947 (ii) the warrant under which the property is seized; or

3948 (c) take custody of the property and remove the property to an appropriate location for
3949 disposition in accordance with law.

3950 (6) When property is subject to forfeiture under this section, a proceeding shall be
3951 instituted in accordance with Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.

3952 (7) When property is ordered forfeited under Title 24, Chapter 1, Utah Uniform
3953 Forfeiture Procedures Act, by a finding of a court that no person is entitled to recover the
3954 property, the property, if an alcohol package or product used as a package for an alcoholic
3955 product, shall be disposed of as follows:

3956 (a) An alcoholic product shall be sold in accordance with Section 24-1-17 if the
3957 alcoholic product is:

3958 (i) unadulterated, pure, and free from crude, unrectified, or impure form of ethylic
3959 alcohol, or any other deleterious substance or liquid; and

3960 (ii) otherwise in saleable condition.

3961 (b) If the alcoholic product is impure, adulterated, or otherwise unfit for sale, the
3962 department shall destroy the alcoholic product and its package under competent supervision.

3963 (8) Except when otherwise provided, a fine or forfeiture levied under this title shall be
3964 paid to the county treasurer of the county in which the prosecution occurred.

3965 Section 97. Section **32B-4-207** is enacted to read:

3966 **32B-4-207. Right of appeal.**

3967 In a case arising under this title, the commission or the state has the right of appeal as
3968 to a question of law.

3969 Section 98. Section **32B-4-208** is enacted to read:

3970 **32B-4-208. Nuisances.**

3971 (1) As used in this section, "nuisance" means:

3972 (a) a room, house, building, structure, place, aircraft, vehicle, vessel, or other
3973 conveyance where an alcoholic product is possessed, purchased, used, kept, stored, sold,
3974 offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped,
3975 carried, transported, or adulterated in violation of this title; or

3976 (b) an alcoholic product, package, equipment, or other property kept or used in
3977 maintaining an item or property described in Subsection (1)(a).

3978 (2) A person who maintains or assists in maintaining a nuisance is guilty of a class B
3979 misdemeanor.

3980 (3) If a person has knowledge that, or has reason to believe that the person's room,
3981 house, building, structure, place, aircraft, vehicle, vessel, or other conveyance is occupied or
3982 used as a nuisance, or allows it to be occupied or used as a nuisance, the nuisance property is
3983 subject to a lien for and may be sold to pay the fines and costs assessed against the person
3984 guilty of the common nuisance. This lien may be enforced by action in a court having
3985 jurisdiction.

3986 (4) (a) The department shall bring an action to abate a nuisance in the name of the
3987 department in a court having jurisdiction.

3988 (b) An action brought under this Subsection (4) is an action in equity.

3989 (c) The department may not be required to post a bond to initiate an action under this
3990 Subsection (4).

3991 (d) A court may issue:

3992 (i) if it appears that a nuisance exists, a temporary writ of injunction restraining the
3993 defendant from conducting or permitting the continuance of the nuisance until the conclusion
3994 of the trial; and

3995 (ii) an order restraining the defendant and any other person from removing or
3996 interfering with an alcoholic product, package, equipment, or other property kept or used in
3997 violation of this title or commission rules.

3998 (e) In an action to abate or enjoin a nuisance, the court need not find that the property
3999 involved is being unlawfully used at the time of the hearing.

4000 (f) On finding that a material allegation of a petition or complaint is true, the court
4001 shall order that an alcoholic product may not be possessed, purchased, used, kept, stored, sold,
4002 offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped,
4003 carried, transported, or adulterated, in any portion of the room, house, building, structure,
4004 place, aircraft, vehicle, vessel, or other conveyance.

4005 (g) Upon judgment of a court ordering abatement of the nuisance, the court may order

4006 that the premises or conveyance in question may not be occupied or used for any purpose for
4007 one year, except under Subsection (4)(h).

4008 (h) A court may permit premises or conveyance described in Subsection (4)(g) to be
4009 occupied or used:

4010 (i) if its owner, lessee, tenant, or occupant gives bond in an appropriate amount with
4011 sufficient surety, approved by the court, payable to the state;

4012 (ii) on the condition that an alcoholic product will not be present in or on the premises
4013 or the conveyance; and

4014 (iii) on the condition that payment of the fines, costs, and damages assessed for
4015 violation of this title or commission rules will be made.

4016 (5) If a tenant of the premises uses the premises or any part of the premises in
4017 maintaining a nuisance, or knowingly permits use by another, the lease is void and the right to
4018 possession reverts to the owner or lessor who is entitled to the remedy provided by law for
4019 forcible detention of the premises.

4020 (6) A person is guilty of assisting in maintaining a nuisance as provided in Section
4021 76-10-804, if that person:

4022 (a) knowingly permits a building or premises owned or leased by the person, or under
4023 the person's control, or any part of a building or premises, to be used in maintaining a
4024 nuisance; or

4025 (b) after being notified in writing by a prosecutor or other citizen of the unlawful use,
4026 fails to take all proper measures to:

4027 (i) abate the nuisance; or

4028 (ii) remove the one or more persons from the premises.

4029 Section 99. Section **32B-4-209** is enacted to read:

4030 **32B-4-209. Lawful detention.**

4031 (1) (a) To inform a peace officer of a suspected violation and subject to the
4032 requirements of Subsection (1)(c), a person described in Subsection (1)(b) may:

4033 (i) detain a person; and

- 4034 (ii) hold any form of identification presented by the person.
- 4035 (b) The following may take an action described in Subsection (1)(a):
- 4036 (i) a state store employee;
- 4037 (ii) a package agent;
- 4038 (iii) a licensee or permittee;
- 4039 (iv) a beer retailer; or
- 4040 (v) staff of a person described in Subsections (1)(b)(ii) through (iv).
- 4041 (c) A person described in Subsection (1)(b) may take an action described in
- 4042 Subsection (1)(a) only:
- 4043 (i) if that person has reason to believe that the person against whom the action is taken
- 4044 is:
- 4045 (A) in a facility where liquor or beer is sold; and
- 4046 (B) in violation of Section 32B-4-409, 32B-4-412, or 32B-4-413;
- 4047 (ii) in a reasonable manner; and
- 4048 (iii) for a reasonable length of time.
- 4049 (2) Unless the detention is unreasonable under all circumstances, the detention or
- 4050 failure to detain does not create criminal or civil liability for:
- 4051 (a) false arrest;
- 4052 (b) false imprisonment;
- 4053 (c) slander; or
- 4054 (d) unlawful detention.

4055 Section 100. Section **32B-4-301** is enacted to read:

4056 **Part 3. Criminal Offenses in General**

4057 **32B-4-301. Applicability of Utah Criminal Code.**

4058 Except as otherwise provided, Title 76, Chapters 1, 2, 3, and 4, apply to the

4059 prosecution of a criminal offense defined in this chapter or expressly identified as a criminal

4060 offense in this title.

4061 Section 101. Section **32B-4-302** is enacted to read:

4062 **32B-4-302. Criminal responsibility for conduct of another.**

4063 In addition to Title 76, Chapter 2, Part 2, Criminal Responsibility for Conduct of
4064 Another, the following principles apply to a violation of this title:

4065 (1) (a) If a violation of this title is committed by a person in the employ of the
4066 occupant of premises in which the offense is committed, or by a person who is required by the
4067 occupant to be or remain in or upon the premises, or to act in any way for the occupant,
4068 notwithstanding the fact that the offense is committed by a person who is not proved to have
4069 committed it under or by the direction of the occupant, the occupant is:

4070 (i) prima facie considered a party to the offense committed; and

4071 (ii) liable as a principal offender.

4072 (b) This section does not relieve the person actually committing the offense from
4073 liability.

4074 (2) (a) If a violation of this title is committed by a corporation, association,
4075 partnership, or limited liability company, an officer or agent of the corporation or association,
4076 a partner of the partnership, or a manager or member of the limited liability company in charge
4077 of the premises in which the offense is committed is:

4078 (i) prima facie considered a party to the offense committed; and

4079 (ii) personally liable to the penalties prescribed for the offense as a principal offender.

4080 (b) This section does not relieve the corporation, association, partnership, or limited
4081 liability company, or the person who actually committed the offense from liability.

4082 Section 102. Section **32B-4-303** is enacted to read:

4083 **32B-4-303. Special burdens of proof -- Inferences and presumptions.**

4084 (1) In a prosecution of an offense defined in this title or in a proceeding brought to
4085 enforce this title:

4086 (a) it is not necessary that the state or commission establish:

4087 (i) the precise description or quantity of an alcoholic product; or

4088 (ii) the precise consideration, if any, given or received for an alcoholic product;

4089 (b) there is an inference, absent proof to the contrary, that an alcoholic product in

4090 question is an alcoholic product if the witness describes it:
4091 (i) as an alcoholic product;
4092 (ii) by a name that is commonly applied to an alcoholic product; or
4093 (iii) as intoxicating;
4094 (c) if it is alleged that an entity for which a record is required to be filed with the
4095 Division of Corporations and Commercial Code to be organized or conduct business in this
4096 state has violated this title, the fact of the entity is presumed absent proof to the contrary;
4097 (d) a record signed or purporting to be signed by a state chemist, assistant state
4098 chemist, or state crime laboratory chemist, as to the analysis or ingredients of an alcoholic
4099 product is:
4100 (i) prima facie evidence:
4101 (A) of the facts stated in that record; and
4102 (B) of the authority of the person giving or making the record; and
4103 (ii) admissible in evidence without proof of appointment or signature absent proof to
4104 the contrary; and
4105 (e) a copy of an entry made in a record of the United States internal revenue collector,
4106 certified by the collector or a qualified notary public, showing the payment of the United
4107 States internal revenue special tax for the manufacture or sale of an alcoholic product is prima
4108 facie evidence of the manufacture or sale by the party named in the entry within the period set
4109 forth in the record.
4110 (2) (a) In proving the unlawful purchase, sale, gift, or disposal, gratuitous or otherwise,
4111 or consumption of an alcoholic product, it is not necessary that the state or commission
4112 establish that money or other consideration actually passed or that an alcoholic product is
4113 actually consumed if the court or trier of fact is satisfied that:
4114 (i) a transaction in the nature of a purchase, sale, gift, or disposal actually occurs; or
4115 (ii) consumption of an alcoholic product is about to occur.
4116 (b) Proof of consumption or intended consumption of an alcoholic product on
4117 premises on which consumption is prohibited, by some person not authorized to consume an

4118 alcoholic product on those premises, is evidence that an alcoholic product is sold, given to, or
4119 purchased by the person consuming, about to consume, or carrying away the alcoholic product
4120 as against the occupant of the premises.

4121 (3) For purposes of a provision applicable under this chapter to a retail licensee or
4122 staff of a retail licensee, the provision is applicable to a resort licensee or a person operating
4123 under a sublicense of the resort licensee.

4124 (4) Notwithstanding the other provisions of this chapter, a criminal offense identified
4125 in this title as a criminal offense may not be enforced under this chapter if the criminal offense
4126 relates to a violation:

4127 (a) of a provision in this title related to intoxication or becoming intoxicated; and

4128 (b) if the violation is first investigated by a law enforcement officer, as defined in
4129 Section 53-13-103, who has not received training regarding the requirements of this title
4130 related to responsible alcoholic product sale or furnishing.

4131 Section 103. Section **32B-4-304** is enacted to read:

4132 **32B-4-304. Violation of title a misdemeanor.**

4133 (1) Unless otherwise provided in this title, a person is guilty of a class B misdemeanor
4134 if that person violates:

4135 (a) this chapter; or

4136 (b) a provision of this title that is expressly identified as a criminal offense.

4137 (2) This section is not applicable to an adjudicative proceeding under Chapter 3,
4138 Disciplinary Actions and Enforcement Act, but only:

4139 (a) makes a violation described in Subsection (1) a criminal offense; and

4140 (b) establishes a penalty for a violation described in Subsection (1) that is prosecuted
4141 criminally.

4142 Section 104. Section **32B-4-305** is enacted to read:

4143 **32B-4-305. Additional criminal penalties.**

4144 (1) (a) For purposes of this section, "business entity" means a corporation, partnership,
4145 association, limited liability company, or similar entity.

4146 (b) In addition to the penalties provided in Title 76, Chapter 3, Punishments, this
4147 section applies.

4148 (2) Upon a defendant's conviction of an offense defined in this title, the court may
4149 order the defendant to make restitution or pay costs in accordance with Title 77, Chapter 32a,
4150 Defense Costs.

4151 (3) (a) Upon a business entity's conviction of an offense defined in this title, and a
4152 failure of the business entity to pay a fine imposed upon it:

4153 (i) if it is a domestic business entity, the powers, rights, and privileges of the business
4154 entity may be suspended or revoked; and

4155 (ii) if it is a foreign business entity, it forfeits its right to do intrastate business in this
4156 state.

4157 (b) The department shall transmit the name of a business entity described in
4158 Subsection (3)(a) to the Division of Corporations and Commercial Code. Upon receipt of the
4159 information, the Division of Corporations and Commercial Code shall immediately record the
4160 action in a manner that makes the information available to the public.

4161 (c) A suspension, revocation, or forfeiture under this Subsection (3) is effective from
4162 the day on which the Division of Corporations and Commercial Code records the information.

4163 (d) A certificate of the Division of Corporations and Commercial Code is prima facie
4164 evidence of a suspension, revocation, or forfeiture.

4165 (e) This section may not be construed as affecting, limiting, or restricting a proceeding
4166 that otherwise may be taken for the imposition of any other punishment or the modes of
4167 enforcement or recovery of fines or penalties.

4168 (4) (a) Upon the conviction of a business entity required to have a business license to
4169 operate its business activities, or upon the conviction of any of its staff of any offense defined
4170 in this title, with the knowledge, consent, or acquiescence of the business entity, the
4171 department shall forward a copy of the judgment of conviction to the appropriate
4172 governmental entity responsible for issuing and revoking the business license.

4173 (b) A governmental entity that receives a copy of a judgment under this Subsection (4)

4174 may institute appropriate proceedings to revoke the business license.

4175 (c) Upon revocation under this Subsection (4), a governmental entity may not issue a
4176 business license to the business entity for at least one year from the date of revocation.

4177 (d) Upon the conviction for a second or other offense, the governmental entity may not
4178 issue a business license for at least two years from the date of revocation.

4179 (5) (a) Upon conviction of one of the following of an offense defined in this title, the
4180 department shall forward a certified copy of the judgment of conviction to the Division of
4181 Occupational and Professional Licensing:

4182 (i) a health care practitioner; or

4183 (ii) an individual licensed as a veterinarian under Title 58, Chapter 28, Veterinary
4184 Practice Act.

4185 (b) The Division of Occupational and Professional Licensing may bring a proceeding
4186 in accordance with Title 58, Occupations and Professions, to revoke the license issued under
4187 Title 58 of an individual described in Subsection (5)(a).

4188 (c) Upon revocation of a license under Subsection (5)(b):

4189 (i) the Division of Occupational and Professional Licensing may not issue a license to
4190 the individual under Title 58 for at least one year from the date of revocation; and

4191 (ii) if the individual is convicted of a second or subsequent offense, the Division of
4192 Occupational and Professional Licensing may not issue a license to the individual under Title
4193 58 for at least two years from the date of revocation.

4194 Section 105. Section **32B-4-401** is enacted to read:

4195 **Part 4. Sale, Purchase, Possession, and Consumption**

4196 **32B-4-401. Unlawful sale or furnishing.**

4197 (1) It is unlawful for a retail licensee, a permittee, or staff of a retail licensee or
4198 permittee to keep for sale, or to directly or indirectly, sell, offer for sale, or furnish to another,
4199 an alcoholic product, except as otherwise provided by this title.

4200 (2) It is unlawful for a person in the business of selling liquor, a manufacturer, a
4201 supplier, an importer of liquor, or staff of the person, manufacturer, supplier, or importer to

4202 sell, ship, transport, or cause to be sold, shipped, or transported liquor from an out-of-state
4203 location directly or indirectly into this state except to the extent authorized by this title to:

4204 (a) the department;

4205 (b) a military installation;

4206 (c) a holder of a special use permit, to the extent authorized in the special use permit;

4207 or

4208 (d) a liquor warehouser licensee licensed to distribute and transport liquor to:

4209 (i) the department; or

4210 (ii) an out-of-state wholesaler or retailer.

4211 (3) (a) It is unlawful for a person in the business of selling beer, a manufacturer, a
4212 supplier, an importer of beer, or staff of the person, manufacturer, or importer to sell, ship,
4213 transport, or cause to be sold, shipped, or transported beer from an out-of-state location
4214 directly or indirectly into this state except to the extent authorized by this title to:

4215 (i) a beer wholesaler licensee;

4216 (ii) a military installation; or

4217 (iii) a holder of a special use permit, to the extent authorized in the special use permit.

4218 (b) Subsection (3)(a) does not preclude a small brewer that holds a certificate of
4219 approval from selling, shipping, or transporting beer to the extent authorized by Subsection
4220 32B-11-503(5) directly to:

4221 (i) a beer retailer; or

4222 (ii) an event permittee.

4223 (4) (a) It is unlawful for a manufacturer, supplier, or importer of liquor in this state, or
4224 staff of the manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold,
4225 shipped, or transported liquor directly or indirectly to a person in this state except to the extent
4226 authorized by this title to:

4227 (i) the department;

4228 (ii) a military installation;

4229 (iii) a holder of a special use permit, to the extent authorized in the special use permit;

4230 or

4231 (iv) a liquor warehouser licensee who is licensed to distribute and transport liquor to:

4232 (A) the department; or

4233 (B) an out-of-state wholesaler or retailer.

4234 (b) Subsection (4)(a) does not preclude a winery manufacturing licensee located in this
4235 state from selling wine to a person on its winery premises:

4236 (i) to the extent authorized by Subsection 32B-11-303(4)(c); or

4237 (ii) under a package agency issued by the commission on the winery premises.

4238 (5) (a) It is unlawful for a manufacturer, supplier, or importer of beer in this state, or
4239 staff of the manufacturer, supplier, or importer to sell, ship, transport, or cause to be sold,
4240 shipped, or transported beer directly or indirectly to a person in this state except to the extent
4241 authorized by this title to:

4242 (i) a beer wholesaler licensee;

4243 (ii) a military installation; or

4244 (iii) a holder of a special use permit, to the extent authorized in the special use permit.

4245 (b) Subsection (5)(a) does not preclude:

4246 (i) a small brewer who is a brewery manufacturing licensee located in this state from
4247 selling, shipping, and transporting beer to the extent authorized by Subsection 32B-11-503(5)
4248 directly to one of the following in this state:

4249 (A) a beer retailer; or

4250 (B) an event permittee; or

4251 (ii) a brewery manufacturing licensee from selling beer to a person on its
4252 manufacturing premises under Subsection 32B-11-503(4)(c).

4253 (6) It is unlawful for a person other than a person described in Subsection (2) or (3) to
4254 sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic product from an
4255 out-of-state location directly or indirectly into this state, except as otherwise provided by this
4256 title.

4257 (7) It is unlawful for a person in this state other than a person described in Subsection

4258 (4) or (5) to sell, ship, transport, or cause to be sold, shipped, or transported an alcoholic
4259 product directly or indirectly to another person in this state, except as otherwise provided by
4260 this title.

4261 (8) (a) A violation of Subsection (1) is a class B misdemeanor, except when otherwise
4262 provided by this title.

4263 (b) A violation of Subsection (2), (3), (4), or (5) is a third degree felony.

4264 (c) A violation of Subsection (6) or (7) is a class B misdemeanor.

4265 Section 106. Section **32B-4-402** is enacted to read:

4266 **32B-4-402. Unauthorized sale, offer for sale, or furnishing.**

4267 A person authorized by this title to sell an alcoholic product and staff of that person
4268 may not sell, offer for sale, or furnish, an alcoholic product in any place, or at any day or time
4269 other than as authorized by this title or the rules of the commission.

4270 Section 107. Section **32B-4-403** is enacted to read:

4271 **32B-4-403. Unlawful sale, offer for sale, or furnishing to minor.**

4272 (1) A person may not sell, offer for sale, or furnish an alcoholic product to a minor.

4273 (2) (a) (i) Except as provided in Subsection (3), a person is guilty of a class B
4274 misdemeanor if the person who violates Subsection (1) negligently or recklessly fails to
4275 determine whether the recipient of the alcoholic product is a minor.

4276 (ii) As used in this Subsection (2)(a), "negligently" means with simple negligence.

4277 (b) Except as provided in Subsection (3), a person is guilty of a class A misdemeanor
4278 if the person who violates Subsection (1) knows the recipient of the alcoholic product is a
4279 minor.

4280 (3) This section does not apply to the furnishing of an alcoholic product to a minor in
4281 accordance with this title:

4282 (a) for medicinal purposes by:

4283 (i) the parent or guardian of the minor; or

4284 (ii) the health care practitioner of the minor, if the health care practitioner is
4285 authorized by law to write a prescription; or

4286 (b) as part of a religious organization's religious services.

4287 Section 108. Section **32B-4-404** is enacted to read:

4288 **32B-4-404. Unlawful sale, offer for sale, or furnishing to intoxicated person.**

4289 (1) A person may not sell, offer for sale, or furnish an alcoholic product to:

4290 (a) a person who is actually or apparently intoxicated; or

4291 (b) a person whom the person furnishing the alcoholic product knows or should know
4292 from the circumstances is actually or apparently intoxicated.

4293 (2) (a) A person who negligently or recklessly violates Subsection (1) is guilty of a
4294 class B misdemeanor.

4295 (b) A person who knowingly violates Subsection (1) is guilty of a class A
4296 misdemeanor.

4297 (3) As used in Subsection (2)(a), "negligently" means with simple negligence.

4298 Section 109. Section **32B-4-405** is enacted to read:

4299 **32B-4-405. Unlawful sale, offer for sale, or furnishing to interdicted person.**

4300 (1) A person may not sell, offer for sale, or furnish an alcoholic product to a known
4301 interdicted person.

4302 (2) This section does not apply to the sale, offer for sale, or furnishing of an alcoholic
4303 product to an interdicted person:

4304 (a) under an order of a health care practitioner who is authorized by law to write a
4305 prescription; or

4306 (b) administered by a hospital or health care practitioner authorized by law to
4307 administer the alcoholic product for medicinal purposes.

4308 Section 110. Section **32B-4-406** is enacted to read:

4309 **32B-4-406. Unlawful sale, offer for sale, or furnishing of beer.**

4310 (1) Except as provided in Subsection (2):

4311 (a) a person may not sell, offer for sale, or furnish beer to the general public in a
4312 package that exceeds two liters; and

4313 (b) a person may not purchase or possess beer in a package that exceeds two liters.

4314 (2) (a) A retail licensee may sell, offer for sale, or furnish beer on draft subject to the
4315 requirements of Section 32B-5-304.

4316 (b) A retail licensee may purchase or possess beer in a package that exceeds two liters
4317 to be dispensed on draft for consumption subject to the requirements of Section 32B-5-304.

4318 (c) A beer wholesaler licensee may sell, offer for sale, or furnish beer in a package that
4319 exceeds two liters to a retail licensee described in Subsection (2)(a).

4320 Section 111. Section **32B-4-407** is enacted to read:

4321 **32B-4-407. Unlawful sale, offer for sale, or furnishing during emergency.**

4322 During a period of emergency proclaimed by the governor to exist in an area of the
4323 state, it is unlawful for a person to sell, offer for sale, or furnish an alcoholic product in that
4324 area if the director publicly announces and directs that in that area a person may not sell, offer
4325 for sale, or furnish an alcoholic product in that area during the period of emergency.

4326 Section 112. Section **32B-4-408** is enacted to read:

4327 **32B-4-408. Unlawful purchase or acceptance.**

4328 (1) It is unlawful for a person or the person's staff to purchase, take, or accept an
4329 alcoholic product from another person, except as provided by this title or the rules of the
4330 commission adopted under this title.

4331 (2) An act is unlawful under Subsection (1) if it is taken:

4332 (a) directly or indirectly; or

4333 (b) upon a pretense or device.

4334 Section 113. Section **32B-4-409** is enacted to read:

4335 **32B-4-409. Unlawful purchase, possession, consumption by minor -- Measurable**
4336 **amounts in body.**

4337 (1) Unless specifically authorized by this title, it is unlawful for a minor to:

4338 (a) purchase an alcoholic product;

4339 (b) attempt to purchase an alcoholic product;

4340 (c) solicit another person to purchase an alcoholic product;

4341 (d) possess an alcoholic product;

- 4342 (e) consume an alcoholic product; or
- 4343 (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.
- 4344 (2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic
- 4345 product for a minor for:
- 4346 (a) a minor to misrepresent the minor's age; or
- 4347 (b) any other person to misrepresent the age of a minor.
- 4348 (3) It is unlawful for a minor to possess or consume an alcoholic product while riding
- 4349 in a limousine or chartered bus.
- 4350 (4) If a minor is found by a court to have violated this section and the violation is the
- 4351 minor's second or subsequent violation of this section, the court:
- 4352 (a) shall order the minor to participate in an educational series as defined in Section
- 4353 41-6a-501; and
- 4354 (b) may order the minor to participate in a screening as defined in Section 41-6a-501.
- 4355 (5) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
- 4356 found by a court to have violated this section, except as provided in Section 32B-4-411, the
- 4357 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.
- 4358 (b) Notwithstanding the provision in Subsection (5)(a), the court may reduce the
- 4359 suspension period required under Section 53-3-219 if:
- 4360 (i) the violation is the minor's first violation of this section; and
- 4361 (ii) the minor completes an educational series as defined in Section 41-6a-501.
- 4362 (6) When a minor who is at least 13 years old, but younger than 18 years old, is found
- 4363 by the court to have violated this section, Section 78A-6-606 applies to the violation.
- 4364 (7) When a court issues an order suspending a person's driving privileges for a
- 4365 violation of this section, the Driver License Division shall suspend the person's license under
- 4366 Section 53-3-219.
- 4367 (8) When the Department of Public Safety receives the arrest or conviction record of a
- 4368 person for a driving offense committed while the person's license is suspended pursuant to this
- 4369 section, the Department of Public Safety shall extend the suspension for an additional like

4370 period of time.

4371 (9) This section does not apply to a minor's consumption of an alcoholic product in
4372 accordance with this title:

4373 (a) for medicinal purposes if:

4374 (i) the minor is at least 18 years old; or

4375 (ii) the alcoholic product is furnished by:

4376 (A) the parent or guardian of the minor; or

4377 (B) the minor's health care practitioner, if the health care practitioner is authorized by
4378 law to write a prescription; or

4379 (b) as part of a religious organization's religious services.

4380 Section 114. Section **32B-4-410** is enacted to read:

4381 **32B-4-410. Unlawful admittance or attempt to gain admittance by minor.**

4382 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
4383 premises of:

4384 (a) a tavern; or

4385 (b) a social club licensee, except to the extent authorized by Section 32B-6-406.1.

4386 (2) A minor who violates this section is guilty of a class C misdemeanor.

4387 (3) If a minor is found by a court to have violated this section and the violation is the
4388 minor's second or subsequent violation of this section, the court:

4389 (a) shall order the minor to participate in an educational series as defined in Section
4390 41-6a-501; and

4391 (b) may order the minor to participate in a screening as defined in Section 41-6a-501.

4392 (4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
4393 found by a court to have violated this section, except as provided in Section 32B-4-411, the
4394 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

4395 (b) Notwithstanding the provision in Subsection (4)(a), the court may reduce the
4396 suspension period required under Section 53-3-219 if:

4397 (i) the violation is the minor's first violation of this section; and

4398 (ii) the minor completes an educational series as defined in Section 41-6a-501.

4399 (5) When a minor who is at least 13 years old, but younger than 18 years old, is found
4400 by a court to have violated this section, Section 78A-6-606 applies to the violation.

4401 (6) When a court issues an order suspending a person's driving privileges for a
4402 violation of this section, the Driver License Division shall suspend the person's license under
4403 Section 53-3-219.

4404 (7) When the Department of Public Safety receives the arrest or conviction record of a
4405 person for a driving offense committed while the person's license is suspended pursuant to this
4406 section, the Department of Public Safety shall extend the suspension for an additional like
4407 period of time.

4408 Section 115. Section **32B-4-411** is enacted to read:

4409 **32B-4-411. Minor's unlawful use of proof of age.**

4410 (1) As used in this section, "proof of age violation" means a violation by a minor of:

4411 (a) Chapter 1, Part 4, Proof of Age Act; or

4412 (b) if as part of the violation the minor uses a proof of age in violation of Chapter 1,
4413 Part 4, Proof of Age Act:

4414 (i) Section 32B-4-409; or

4415 (ii) Section 32B-4-410.

4416 (2) If a court finds a minor engaged in a proof of age violation, notwithstanding the
4417 penalties provided for in Subsection (1):

4418 (a) (i) for a first violation, the minor is guilty of a class B misdemeanor;

4419 (ii) for a second violation, the minor is guilty of a class A misdemeanor; and

4420 (iii) for a third or subsequent violation, the minor is guilty of a class A misdemeanor,

4421 except that the court may impose:

4422 (A) a fine of up to \$5,000;

4423 (B) screening, assessment, or substance abuse treatment, as defined in Section
4424 41-6a-501;

4425 (C) an educational series, as defined in Section 41-6a-501;

4426 (D) alcoholic product related community service or compensatory service work
 4427 program hours;

4428 (E) fees for restitution and treatment costs;

4429 (F) defensive driver education courses; or

4430 (G) a combination of these penalties; and

4431 (b) (i) for a minor who is at least 13 years old, but younger than 18 years old:

4432 (A) the court shall forward to the Driver License Division a record of an adjudication
 4433 under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under this section; and

4434 (B) the provisions regarding suspension of a driver license under Section 78A-6-606
 4435 apply; and

4436 (ii) for a minor who is at least 18 years old, but younger than 21 years old:

4437 (A) the court shall forward to the Driver License Division a record of conviction for a
 4438 violation under this section; and

4439 (B) the Driver License Division shall suspend the person's license under Section
 4440 53-3-220.

4441 (3) When the Department of Public Safety receives the arrest or conviction record of
 4442 an individual for a driving offense committed while the individual's license is suspended
 4443 pursuant to this section, the Department of Public Safety shall extend the suspension for an
 4444 additional like period of time.

4445 (4) A court may not fail to enter a judgment of conviction under this section under a
 4446 plea in abeyance agreement.

4447 Section 116. Section **32B-4-412** is enacted to read:

4448 **32B-4-412. Unlawful purchase by intoxicated person.**

4449 A person may not purchase an alcoholic product if the person is intoxicated.

4450 Section 117. Section **32B-4-413** is enacted to read:

4451 **32B-4-413. Unlawful purchase by interdicted person.**

4452 A person may not purchase or possess an alcoholic product if that person is an
 4453 interdicted person, except:

4454 (1) under an order of a health care practitioner who is authorized by law to write a
4455 prescription; or

4456 (2) when administered by a hospital or health care practitioner authorized by law to
4457 administer the alcoholic product for medicinal purposes.

4458 Section 118. Section **32B-4-414** is enacted to read:

4459 **32B-4-414. Unlawful possession -- Exceptions.**

4460 (1) A person may not possess liquor within this state unless authorized by this title or
4461 the rules of the commission, except that:

4462 (a) a person who clears United States Customs when entering this country may possess
4463 for personal consumption and not for sale or resale, a maximum of two liters of liquor
4464 purchased from without the United States;

4465 (b) a person who moves the person's residence to this state from outside of this state
4466 may possess for personal consumption and not for sale or resale, liquor previously purchased
4467 outside the state and brought into this state during the move, if the person:

4468 (i) obtains department approval before moving the liquor into the state; and

4469 (ii) pays the department a reasonable administrative handling fee as determined by the
4470 commission;

4471 (c) a person who inherits liquor as a beneficiary of an estate that is located outside the
4472 state, may possess the liquor and transport or cause the liquor to be transported into the state if
4473 the person:

4474 (i) obtains department approval before moving the liquor into the state;

4475 (ii) provides sufficient documentation to the department to establish the person's legal
4476 right to the liquor as a beneficiary; and

4477 (iii) pays the department a reasonable administrative handling fee as determined by
4478 the commission; or

4479 (d) a person may transport or possess liquor if:

4480 (i) the person transports or possesses the liquor:

4481 (A) for personal household use and consumption; and

- 4482 (B) not for:
- 4483 (I) sale;
- 4484 (II) resale;
- 4485 (III) gifting to another; or
- 4486 (IV) consumption on premises licensed by the commission;
- 4487 (ii) the liquor is purchased from a store or facility on a military installation; and
- 4488 (iii) the maximum amount the person transports or possesses under this Subsection

4489 (1)(d) is:

- 4490 (A) two liters of:
- 4491 (I) spirituous liquor;
- 4492 (II) wine; or
- 4493 (III) a combination of spirituous liquor and wine; and
- 4494 (B) (I) one case of heavy beer that does not exceed 288 ounces; or
- 4495 (II) one case of a flavored malt beverage that does not exceed 288 ounces.
- 4496 (2) (a) Approval under Subsection (1)(b) may be obtained by a person who:
- 4497 (i) is transferring the person's permanent residence to this state; or
- 4498 (ii) maintains separate residences both in and out of this state.
- 4499 (b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more
- 4500 than one time.

4501 Section 119. Section **32B-4-415** is enacted to read:

4502 **32B-4-415. Unlawful bringing onto premises for consumption.**

- 4503 (1) Except as provided in Subsection (4), a person may not bring an alcoholic product
- 4504 for on-premise consumption onto the premises of:
- 4505 (a) a retail licensee or person required to be licensed under this title as a retail licensee;
- 4506 (b) an establishment that conducts a business similar to a retail licensee;
- 4507 (c) an event where an alcoholic product is sold, offered for sale, or furnished under a
- 4508 single event permit or temporary beer event permit issued under this title; or
- 4509 (d) an establishment open to the general public.

4510 (2) Except as provided in Subsection (4), the following may not allow a person to
4511 bring onto its premises an alcoholic product for on-premise consumption or allow
4512 consumption of an alcoholic product brought onto its premises in violation of this section:

4513 (a) a retail licensee or a person required to be licensed under this title as a retail
4514 licensee;

4515 (b) an establishment that conducts a business similar to a retail licensee;

4516 (c) a single event permittee or temporary beer event permittee;

4517 (d) an establishment open to the general public; or

4518 (e) staff of a person listed in Subsections (2)(a) through (d).

4519 (3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an
4520 alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a
4521 passenger at a location from which the passenger departs in a private vehicle.

4522 (4) (a) A person may bring bottled wine onto the premises of the following and
4523 consume the wine pursuant to Subsection 32B-5-307:

4524 (i) a full-service restaurant licensee;

4525 (ii) a limited restaurant licensee;

4526 (iii) a club licensee; or

4527 (iv) a person operating under a resort spa sublicense.

4528 (b) A passenger of a limousine may bring onto, possess, and consume an alcoholic
4529 product on the limousine if:

4530 (i) the travel of the limousine begins and ends at:

4531 (A) the residence of the passenger;

4532 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

4533 (C) the temporary domicile of the passenger; and

4534 (ii) the driver of the limousine is separated from the passengers by partition or other
4535 means approved by the department.

4536 (c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic
4537 product on the chartered bus:

4538 (i) (A) but may consume only during travel to a specified destination of the chartered
4539 bus and not during travel back to the place where the travel begins; or
4540 (B) if the travel of the chartered bus begins and ends at:
4541 (I) the residence of the passenger;
4542 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or
4543 (III) the temporary domicile of the passenger; and
4544 (ii) if the chartered bus has a nondrinking designee other than the driver traveling on
4545 the chartered bus to monitor consumption.

4546 (5) A person may bring onto any premises, possess, and consume an alcoholic product
4547 at a private event.

4548 (6) The restrictions of Subsections (2) and (3) apply to a resort licensee or person
4549 operating under a sublicense in relationship to:

4550 (a) the boundary of a resort building; or
4551 (b) a sublicense premises.

4552 Section 120. Section **32B-4-416** is enacted to read:

4553 **32B-4-416. Unlawful permitting of consumption by minor.**

4554 (1) A person may not permit a minor to consume an alcoholic product in a chartered
4555 bus or limousine of which the person is the owner or operator.

4556 (2) A violation of Subsection (1) is an infraction.

4557 Section 121. Section **32B-4-417** is enacted to read:

4558 **32B-4-417. Unlawful possession by licensee or permittee.**

4559 Except as authorized by Section 32B-4-415, other provisions of this title, or the rules
4560 of the commission, a licensee or permittee may not possess, store, or allow consumption of
4561 liquor on its premises if the liquor is not purchased from:

4562 (1) the department;

4563 (2) a state store; or

4564 (3) a package agency.

4565 Section 122. Section **32B-4-418** is enacted to read:

4566 **32B-4-418. Unlawful storage.**

4567 It is unlawful for a person to store liquor on premises for which the person is
4568 authorized to sell beer for on-premise consumption, but for which the person is not licensed
4569 under this title to sell liquor.

4570 Section 123. Section **32B-4-419** is enacted to read:

4571 **32B-4-419. Unlawful permitting of intoxication.**

4572 (1) A person may not permit another person to become intoxicated or an intoxicated
4573 person to consume an alcoholic product in:

4574 (a) premises of which the person is the owner, tenant, or occupant; or

4575 (b) a chartered bus or limousine of which the person is the owner or operator.

4576 (2) A violation of Subsection (1) is a class C misdemeanor.

4577 Section 124. Section **32B-4-420** is enacted to read:

4578 **32B-4-420. Unlawful adulteration.**

4579 (1) For purposes of this section, "tamper" means to do one or more of the following to
4580 the contents of a package:

4581 (a) fortify;

4582 (b) adulterate;

4583 (c) contaminate;

4584 (d) dilute;

4585 (e) change its character or purity; or

4586 (f) otherwise change.

4587 (2) A person may not, for any purpose, mix or allow to be mixed with an alcoholic
4588 product sold or supplied by the person as a beverage any of the following:

4589 (a) a drug;

4590 (b) methylic alcohol;

4591 (c) a crude, unrectified, or impure form of ethylic alcohol; or

4592 (d) another deleterious substance.

4593 (3) (a) The following may not engage in an act listed in Subsection (3)(b):

- 4594 (i) a package agent;
- 4595 (ii) a retail licensee;
- 4596 (iii) a permittee;
- 4597 (iv) a beer wholesaler licensee;
- 4598 (v) a liquor warehouser licensee;
- 4599 (vi) a supplier; or
- 4600 (vii) an importer.
- 4601 (b) A person listed in Subsection (3)(a) may not:
- 4602 (i) tamper with the contents of a package of alcoholic product as originally marketed
- 4603 by a manufacturer;
- 4604 (ii) refill or partly refill with any substance the contents of an original package of
- 4605 alcoholic product as originally marketed by a manufacturer;
- 4606 (iii) misrepresent the brand of an alcoholic product sold or offered for sale; or
- 4607 (iv) sell or furnish a brand of alcoholic product that is not the same as that ordered by
- 4608 a purchaser without first advising the purchaser of the difference.
- 4609 Section 125. Section **32B-4-421** is enacted to read:
- 4610 **32B-4-421. Unlawful consumption in public place.**
- 4611 (1) A person may not consume liquor in a public building, park, or stadium, except as
- 4612 provided by this title.
- 4613 (2) A violation of this section is a class C misdemeanor.
- 4614 Section 126. Section **32B-4-422** is enacted to read:
- 4615 **32B-4-422. Unlawful dispensing.**
- 4616 (1) For purposes of this section:
- 4617 (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 4618 (b) "Primary spirituous liquor" does not include a secondary alcoholic product used as
- 4619 a flavoring in conjunction with the primary distilled spirit in a beverage.
- 4620 (2) A retail licensee licensed under this title to sell, offer for sale, or furnish spirituous
- 4621 liquor for consumption on the licensed premises, or staff of the retail licensee may not:

4622 (a) sell, offer for sale, or furnish a primary spirituous liquor to a person on the licensed
4623 premises except in a quantity that does not exceed 1.5 ounces per beverage dispensed through
4624 a calibrated metered dispensing system approved by the department;

4625 (b) sell, offer for sale, or furnish more than a total of 2.5 ounces of spirituous liquor
4626 per beverage;

4627 (c) allow a person on the licensed premises to have more than a total of 2.5 ounces of
4628 spirituous liquor at a time; or

4629 (d) (i) except as provided in Subsection (2)(d)(ii), allow a person to have more than
4630 two spirituous liquor beverages at a time; or

4631 (ii) allow a person on the premises of the following to have more than one spirituous
4632 liquor beverage at a time:

4633 (A) a full-service restaurant licensee;

4634 (B) a person operating under a full-service restaurant sublicense;

4635 (C) an on-premise banquet licensee;

4636 (D) a person operating under an on-premise banquet license; or

4637 (E) a single event permittee.

4638 (3) A violation of this section is a class C misdemeanor.

4639 Section 127. Section **32B-4-501** is enacted to read:

4640 **Part 5. Operations**

4641 **32B-4-501. Operating without a license or permit.**

4642 (1) A person may not operate the following businesses without first obtaining a license
4643 under this title if the business allows a person to purchase or consume an alcoholic product on
4644 the premises of the business:

4645 (a) a restaurant;

4646 (b) an airport lounge;

4647 (c) a business operated in the same manner as a club licensee;

4648 (d) a resort;

4649 (e) a business operated to sell, offer for sale, or furnish beer for on-premise

4650 consumption;

4651 (f) a business operated as an on-premise banquet licensee; or

4652 (g) a business similar to one listed in Subsections (1)(a) through (f).

4653 (2) A person conducting an event that is open to the general public may not directly or

4654 indirectly sell, offer for sale, or furnish an alcoholic product to a person attending the event

4655 without first obtaining an event permit under this title.

4656 (3) A person conducting a private event may not directly or indirectly sell or offer for

4657 sale an alcoholic product to a person attending the private event without first obtaining an

4658 event permit under this title.

4659 (4) A person may not operate the following businesses in this state without first

4660 obtaining a license under this title:

4661 (a) a winery manufacturer;

4662 (b) a distillery manufacturer;

4663 (c) a brewery manufacturer;

4664 (d) a local industry representative of:

4665 (i) a manufacturer of an alcoholic product;

4666 (ii) a supplier of an alcoholic product; or

4667 (iii) an importer of an alcoholic product;

4668 (e) a liquor warehouse; or

4669 (f) a beer wholesaler.

4670 (5) A person may not operate a public conveyance in this state without first obtaining

4671 a public service permit under this title if that public conveyance allows a person to purchase or

4672 consume an alcoholic product:

4673 (a) on the public conveyance; or

4674 (b) on the premises of a hospitality room located within a depot, terminal, or similar

4675 facility at which a service is provided to a patron of the public conveyance.

4676 Section 128. Section **32B-4-502** is enacted to read:

4677 **32B-4-502. Storing or possessing pursuant to federal stamp.**

4678 (1) Except as otherwise provided by this title, it is unlawful for a person who holds a
4679 stamp issued by the Bureau of Internal Revenue of the United States as a retail dealer in
4680 fermented malt liquor, or the person's operator or staff, to possess, hold, or store liquor in or on
4681 premises described in the stamp while the stamp remains in effect unless that person is:

4682 (a) acting for the commission; or

4683 (b) licensed under this title.

4684 (2) This section may not be construed to prevent a person from possessing and
4685 consuming, but not storing, liquor on premises described by the fermented malt liquor stamp,
4686 if that person is not:

4687 (a) an owner or operator of a retail dealer described in Subsection (1); or

4688 (b) a staff member of either the owner or operator.

4689 Section 129. Section **32B-4-503** is enacted to read:

4690 **32B-4-503. Tampering with a record.**

4691 (1) It is unlawful for a person who has custody of a record required to be filed or
4692 deposited with the commission or the department under this title to:

4693 (a) steal, falsify, alter, willfully destroy, mutilate, deface, remove, or conceal in whole
4694 or in part that record; or

4695 (b) knowingly permit another person to take an action described in Subsection (1)(a).

4696 (2) (a) Except as provided in Subsection (2)(b), a person is guilty of a class B
4697 misdemeanor.

4698 (b) A person who violates Subsection (1) is guilty of a third degree felony if that
4699 person is a commissioner, the director, or a department employee.

4700 Section 130. Section **32B-4-504** is enacted to read:

4701 **32B-4-504. Making false statements.**

4702 (1) (a) A person who makes a false material statement under oath or affirmation in an
4703 official proceeding before the commission or the department is guilty of a second degree
4704 felony.

4705 (b) As used in Subsection (1)(a), "material" statement is as defined in Section

4706 76-8-501.

4707 (2) A person is guilty of a class B misdemeanor if that person knowingly:

4708 (a) makes a false statement under oath or affirmation in an official proceeding before
4709 the commission or the department;

4710 (b) makes a false statement with a purpose to mislead a public servant in performing
4711 that public servant's official functions under this title;

4712 (c) makes a false statement and the statement is required by this title to be sworn or
4713 affirmed before a notary or other person authorized to administer oaths;

4714 (d) makes a false written statement on or pursuant to a record required by this title;

4715 (e) creates a false impression in a record required by this title by omitting information
4716 necessary to prevent a statement in them from being misleading;

4717 (f) makes a false written statement with intent to deceive a public servant in the
4718 performance of that public servant's official functions under this title; or

4719 (g) submits or invites reliance on a record required under this title which that person
4720 knows to lack authenticity.

4721 (3) A person is not guilty under Subsection (2) if that person retracts the falsification
4722 before it becomes apparent that the falsification is or will be exposed.

4723 Section 131. Section **32B-4-505** is enacted to read:

4724 **32B-4-505. Obstructing a search, official proceeding, or investigation.**

4725 (1) A person who is in the premises or has charge over premises may not refuse or fail
4726 to admit to the premises or obstruct the entry of any of the following who demands entry when
4727 acting under this title:

4728 (a) a commissioner;

4729 (b) an authorized representative of the commission or department; or

4730 (c) a law enforcement officer.

4731 (2) A person who is in the premises or has charge of the premises may not interfere
4732 with any of the following who is conducting an investigation under this title at the premises:

4733 (a) a commissioner;

4734 (b) an authorized representative of the commission or department; or

4735 (c) a law enforcement officer.

4736 (3) A person is guilty of a second degree felony if, believing that an official

4737 proceeding or investigation is pending or about to be instituted under this title, that person:

4738 (a) alters, destroys, conceals, or removes a record with a purpose to impair its verity or
4739 availability in the proceeding or investigation; or

4740 (b) makes, presents, or uses anything that the person knows to be false with a purpose
4741 to deceive any of the following who may be engaged in a proceeding or investigation under
4742 this title:

4743 (i) a commissioner;

4744 (ii) an authorized representative of the commission or department;

4745 (iii) a law enforcement officer; or

4746 (iv) other person.

4747 Section 132. Section **32B-4-506** is enacted to read:

4748 **32B-4-506. Conflicting interests.**

4749 (1) A commissioner, the director, or a department employee may not be directly or
4750 indirectly interested or engaged in another business or undertaking dealing in an alcoholic
4751 product:

4752 (a) as:

4753 (i) an owner;

4754 (ii) a part-owner;

4755 (iii) a partner;

4756 (iv) a member of a syndicate;

4757 (v) a shareholder;

4758 (vi) an agent; or

4759 (vii) an employee; or

4760 (b) (i) for the commissioner's, director's, or department employee's own benefit; or

4761 (ii) in a fiduciary capacity for another person.

4762 (2) A commissioner, the director, or a department employee may not enter into or
4763 participate in a business transaction with staff of a supplier of an alcoholic product to the
4764 department as:

- 4765 (a) a partner;
- 4766 (b) a co-owner;
- 4767 (c) a joint venturer; or
- 4768 (d) a shareholder.

4769 (3) The following are governed by Title 67, Chapter 16, Utah Public Officers' and
4770 Employees' Ethics Act:

- 4771 (a) a commissioner;
- 4772 (b) the director; or
- 4773 (c) a department employee.

4774 (4) This section does not prevent the purchase of an alcoholic product as authorized by
4775 this title by a commissioner, the director, or a department employee.

4776 Section 133. Section **32B-4-507** is enacted to read:

4777 **32B-4-507. Interfering with manufacturer, supplier, or importer.**

4778 (1) Except as provided in Subsection (2), a commissioner, the director, or a
4779 department employee may not directly or indirectly participate in any manner, by
4780 recommendation or otherwise, in the appointment, employment, or termination of appointment
4781 or employment of staff by:

- 4782 (a) a manufacturer of liquor;
- 4783 (b) a supplier of liquor; or
- 4784 (c) an importer of liquor to the department.

4785 (2) A person described in Subsection (1) may participate in the appointment,
4786 employment, or termination of appointment or employment to:

- 4787 (a) determine qualifications for licensing in accordance with Chapter 11,
4788 Manufacturing and Related Licenses Act; or
- 4789 (b) enforce compliance with this title.

4790 Section 134. Section **32B-4-508** is enacted to read:

4791 **32B-4-508. Offering or soliciting bribe, gift, or profits.**

4792 (1) If a person sold, sells, offered for sale, or offers to sell an alcoholic product to the
4793 commission or department, that person may not offer, make, tender, or in any way deliver or
4794 transfer to a commissioner, the director, a department employee, or a law enforcement officer
4795 responsible for the enforcement of this title the following:

4796 (a) a bribe;

4797 (b) a gift, as defined in Section 67-16-5; or

4798 (c) a share of profits.

4799 (2) A commissioner, the director, a department employee, or a law enforcement officer
4800 responsible for the enforcement of this title may not knowingly solicit, receive, accept, take, or
4801 seek, directly or indirectly, any of the following from a person who sold, sells, offered for sale,
4802 or offers to sell an alcoholic product:

4803 (a) a commission;

4804 (b) compensation, as defined in Section 67-16-3;

4805 (c) a gift, as defined in Section 67-16-5; or

4806 (d) a loan.

4807 (3) A violation of this section is punishable under Section 67-16-12.

4808 Section 135. Section **32B-4-509** is enacted to read:

4809 **32B-4-509. Forgery.**

4810 (1) (a) A person who with a purpose to defraud the commission or the department, or
4811 who with knowledge that the person is facilitating a fraud to be perpetrated by anyone, forges
4812 a record required under this title, is guilty of forgery as provided under Section 76-6-501.

4813 (b) A violation of Subsection (1)(a) is a second degree felony.

4814 (2) A person who with intent to defraud the commission or the department knowingly
4815 possesses a record that is a forgery as defined in Section 76-6-501 is guilty of a third degree
4816 felony.

4817 Section 136. Section **32B-4-510** is enacted to read:

4818 **32B-4-510. Advertising prohibited -- Exceptions.**

4819 (1) (a) The department may not advertise liquor, except:

4820 (i) the department may provide for an appropriate sign in the window or on the front
4821 of a state store or package agency denoting that it is a state authorized liquor retail facility;

4822 (ii) the department or a package agency may provide printed price lists to the public;

4823 (iii) the department may authorize the use of price posting and floor stacking of liquor
4824 within a state store;

4825 (iv) subject to Subsection (1)(b), the department may provide a listing of the address
4826 and telephone number of a state store in one or more printed or electronic directories available
4827 to the general public; and

4828 (v) subject to Subsection (1)(b), a package agency may provide a listing of its address
4829 and telephone number in one or more printed or electronic directories available to the general
4830 public.

4831 (b) A listing under Subsection (1)(a)(iv) or (v) in the business or yellow pages of a
4832 telephone directory may not be displayed in an advertisement or other promotional format.

4833 (2) (a) The department may not advertise an alcoholic product on a billboard.

4834 (b) A package agency may not advertise an alcoholic product on a billboard, except to
4835 the extent allowed by the commission by rule.

4836 (3) (a) The department may not display liquor or price lists in a window or showcase
4837 visible to passersby.

4838 (b) A package agency may not display liquor or price lists in a window or showcase
4839 visible to passersby, except to the extent allowed by the commission by rule.

4840 (4) Except to the extent prohibited by this title, the advertising of an alcoholic product
4841 is allowed under guidelines established by the commission by rule.

4842 (5) The advertising or use of any means or media to offer an alcoholic product to the
4843 general public without charge is prohibited.

4844 Section 137. Section **32B-4-601** is enacted to read:

4845 **Part 6. Transportation and Distribution**

4846 **32B-4-601. Unlawful removal from conveyance or diversion of shipment.**

4847 (1) It is unlawful for a person transporting an alcoholic product, including a motor
4848 carrier, in interstate or other commerce intended for, or consigned to, or claimed to be
4849 intended for or consigned to a person outside of this state, to remove or to permit a person to
4850 remove the alcoholic product or any part of the alcoholic product from the conveyance in
4851 which it is carried while within this state.

4852 (2) Notwithstanding Subsection (1), removal of an alcoholic product from a
4853 conveyance may be allowed if the person described in Subsection (1) notifies the department
4854 in writing at least 24 hours before the intended removal and complies with the instructions
4855 given by the department.

4856 (3) It is unlawful for a person to receive for storage or another purpose, or to possess
4857 an alcoholic product, that is removed from a vehicle or other conveyance in violation of this
4858 section.

4859 (4) It is unlawful for a person, including a motor vehicle, to divert to any place within
4860 this state, or to deliver to any person in this state, an alcoholic product that is consigned for
4861 shipment to any place without this state, unless the person:

4862 (a) first notifies the department in writing at least 24 hours before the intended
4863 diversion or delivery; and

4864 (b) complies with the instructions given by the department.

4865 (5) Upon receiving a notice under Subsection (2) or (4), the department shall take
4866 precautions as necessary to ensure compliance with the laws of this state relating to an
4867 alcoholic product.

4868 Section 138. Section **32B-4-602** is enacted to read:

4869 **32B-4-602. Unlawful transportation.**

4870 (1) It is unlawful for a person, including a motor carrier, or staff of the person to order
4871 or purchase an alcoholic product or to cause an alcoholic product to be shipped, carried, or
4872 transported into this state, or from one place to another within this state except as otherwise
4873 authorized by this title.

4874 (2) This section does not prohibit a person, including a motor carrier, from:
4875 (a) transporting an alcoholic product in the course of export from the state; or
4876 (b) transporting an alcoholic product across any part of this state while in transit
4877 pursuant to a bona fide consignment of the alcoholic product to a person outside of this state.

4878 Section 139. Section **32B-4-603** is enacted to read:

4879 **32B-4-603. Carriers' records.**

4880 (1) (a) A person, including a motor carrier, transporting an alcoholic product into or
4881 within this state shall make and maintain a record in which is entered, immediately on the
4882 receipt of an alcoholic product:

- 4883 (i) the name of every person to whom the alcoholic product is consigned;
- 4884 (ii) the amount and kind of alcoholic product received; and
- 4885 (iii) the date when the alcoholic product is delivered.

4886 (b) (i) Except as provided in Subsection (1)(b)(ii), a consignee shall sign the
4887 consignee's name.

4888 (ii) If the consignee is a corporation, partnership, or limited liability company, an
4889 agent authorized in writing shall sign the record described in Subsection (1)(a).

4890 (2) A person described in Subsection (1) shall make the record open to inspection by
4891 an authorized official of the state or local authority at any time during the person's business
4892 hours.

4893 (3) A record under this section constitutes prima facie evidence of the facts stated in
4894 the record and is admissible as evidence in a court proceeding to enforce this title.

4895 Section 140. Section **32B-4-701** is enacted to read:

4896 **Part 7. Trade Practices Act**

4897 **32B-4-701. Title.**

4898 This part is known as the "Trade Practices Act."

4899 Section 141. Section **32B-4-702** is enacted to read:

4900 **32B-4-702. Definitions.**

4901 As used in this part:

4902 (1) (a) For purposes of Section 32B-4-703, "exclusion" is as defined in 27 C.F.R. Sec.
4903 8.51 through 8.54.

4904 (b) For purposes of Section 32B-4-704, "exclusion" is as defined in 27 C.F.R. Sec.
4905 6.151 through 6.153.

4906 (2) (a) "Industry member" means:

4907 (i) an alcoholic product manufacturer;

4908 (ii) a producer;

4909 (iii) a supplier;

4910 (iv) an importer;

4911 (v) a wholesaler;

4912 (vi) a bottler;

4913 (vii) a warehouse and bottler; or

4914 (viii) for a person described in Subsections (2)(a)(i) through (vii), any of its:

4915 (A) affiliates;

4916 (B) subsidiaries;

4917 (C) officers;

4918 (D) directors;

4919 (E) partners;

4920 (F) agents;

4921 (G) employees; or

4922 (H) representatives.

4923 (b) "Industry member" does not include:

4924 (i) the commission;

4925 (ii) a commissioner;

4926 (iii) the director;

4927 (iv) the department; or

4928 (v) a department employee.

4929 (3) "Product" means an alcoholic product or item associated with an alcoholic

4930 product.

4931 (4) "Retailer" means:

4932 (a) the holder of a license or permit issued by the commission or by a local authority to
4933 allow the holder to engage in the sale of an alcoholic product to a patron whether for
4934 consumption on or off the premises; or

4935 (b) an agent, officer, director, shareholder, partner, or employee of a holder described
4936 in Subsection (4)(a).

4937 Section 142. Section **32B-4-703** is enacted to read:

4938 **32B-4-703. Exclusive outlets.**

4939 (1) It is unlawful for an industry member, directly or indirectly, or through an affiliate,
4940 to require, by agreement or otherwise, that the department or a retailer purchase a product
4941 from the industry member or the department to the exclusion in whole or in part of a product
4942 that is sold or offered for sale by another person.

4943 (2) (a) Subsection (1) applies only to a transaction between:

4944 (i) one or more industry members; and

4945 (ii) (A) the department; or

4946 (B) one or more retailers.

4947 (b) Subsection (1) does not apply to a transaction between two or more industry
4948 members, including between a manufacturer and a wholesaler.

4949 (3) Subsection (1) includes purchases coerced by an industry member through an act
4950 or threat of physical or economic harm, as well as through a voluntary industry
4951 member-retailer purchase agreement.

4952 (4) (a) Subsection (1) includes a contract or agreement, written or unwritten, that has
4953 the effect of requiring the department or retailer to purchase an alcoholic product from the
4954 industry member beyond a single sales transaction.

4955 (b) Examples of a contract or agreement described in Subsection (4)(a) include:

4956 (i) an advertising contract between an industry member and a retailer with the express
4957 or implied requirement of the purchase of the advertiser's product; or

- 4958 (ii) a sales contract awarded on a competitive bid basis that has the effect of
4959 prohibiting the department or retailer from purchasing from another industry member by:
- 4960 (A) requiring that the retailer purchase a product or line of products exclusively from
4961 the industry member for the period of the agreement; or
- 4962 (B) requiring that the retailer purchase a specific or minimum quantity during the
4963 period of the agreement.
- 4964 (5) (a) Subsection (1) includes a contract, agreement, or other arrangement between an
4965 industry member and a third party nonretailer that requires the department or a retailer to
4966 purchase the industry member's product to the exclusion in whole or in part of a product sold
4967 or offered for sale by another person.
- 4968 (b) This Subsection (5) applies whether a contract, agreement, or other arrangement
4969 originates with the industry member or the third party.
- 4970 (c) Examples of a contract, agreement, or other arrangement described in this
4971 Subsection (5) include:
- 4972 (i) a contract, agreement, or arrangement:
- 4973 (A) with a third party, such as a ball club or municipal or private corporation, that is
4974 not a retailer;
- 4975 (B) under which the third party leases the concession rights and is able to control the
4976 purchasing decisions of a retailer; and
- 4977 (C) that requires the retailer to purchase the industry member's product to the
4978 exclusion in whole or in part of a product sold or offered for sale by another person; or
- 4979 (ii) a contract, agreement, or arrangement with a third party nonretailer that requires a
4980 retailer to purchase the industry member's product to the exclusion in whole or in part of a
4981 product sold or offered for sale by another person in return for which the third party provides a
4982 service or other thing of value such as:
- 4983 (A) sponsoring radio or television broadcasting;
- 4984 (B) paying for advertising; or
- 4985 (C) providing other services or things of value.

4986 Section 143. Section **32B-4-704** is enacted to read:

4987 **32B-4-704. Tied house -- Prohibitions.**

4988 (1) (a) It is unlawful for an industry member, directly or indirectly, or through an
4989 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or
4990 from the department to the exclusion in whole or in part of a product sold or offered for sale by
4991 another person by acquiring or holding an interest in a license with respect to the premises of a
4992 retailer, except when the license is held by a retailer that is completely owned by the industry
4993 member.

4994 (b) Interest in a retail license includes an interest acquired by a corporate official,
4995 partner, employee, or other representative of the industry member.

4996 (c) An interest in a retail license acquired by a separate corporation in which the
4997 industry member or the industry member's officials hold ownership or are otherwise affiliated
4998 is an interest in a retail license.

4999 (d) Less than complete ownership of a retail business by an industry member
5000 constitutes an interest in a retail license within the meaning of Subsection (1)(a).

5001 (2) (a) It is unlawful for an industry member, directly or indirectly, or through an
5002 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or
5003 from the department to the exclusion in whole or in part of a product sold or offered for sale by
5004 another person by acquiring an interest in real or personal property owned, occupied, or used
5005 by the retailer in the conduct of the retailer's business.

5006 (b) For purposes of Subsection (2)(a):

5007 (i) "interest" does not include complete ownership of a retail business by an industry
5008 member;

5009 (ii) interest in retail property includes an interest acquired by a corporate official,
5010 partner, employee, or other representative of the industry member;

5011 (iii) any interest in a retail license acquired by a separate corporation in which the
5012 industry member or its officials hold ownership or are otherwise affiliated is an interest in the
5013 retailer's property;

- 5014 (iv) less than complete ownership of a retail business by an industry member
5015 constitutes an interest in retail property;
- 5016 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry
5017 member constitutes an interest in the retailer's property; and
- 5018 (vi) the renting of display space by an industry member at a retail establishment
5019 constitutes an interest in the retailer's property.
- 5020 (3) (a) Subject to Section 32B-4-705, it is unlawful for an industry member, directly or
5021 indirectly, or through an affiliate, to induce a retailer to purchase an alcoholic product from the
5022 industry member or from the department to the exclusion in whole or in part of a product sold
5023 or offered for sale by another person by furnishing, giving, renting, lending, or selling to the
5024 retailer equipment, a fixture, a sign, supplies, money, a service, or other thing of value.
- 5025 (b) (i) For purposes of this Subsection (3), indirect inducement includes:
- 5026 (A) furnishing a thing of value to a third party when the benefit resulting from the
5027 thing of value flows to an individual retailer; and
- 5028 (B) making a payment for advertising to a retailer association or a display company
5029 when the resulting benefits flow to an individual retailer.
- 5030 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:
- 5031 (A) the thing of value is furnished to a retailer by the third party without the
5032 knowledge or intent of the industry member; or
- 5033 (B) the industry member does not reasonably foresee that the thing of value would be
5034 furnished to a retailer.
- 5035 (c) Anything that may lawfully be furnished, given, rented, lent, or sold by industry
5036 members to retailers under Section 32B-4-705 may be furnished directly by a third party to a
5037 retailer.
- 5038 (d) (i) A transaction in which equipment is sold to a retailer by an industry member,
5039 except as provided in Section 32B-4-705, is the selling of equipment within the meaning of
5040 Subsection (3)(a) regardless of how the equipment is sold.
- 5041 (ii) The negotiation by an industry member of a special price to a retailer for

5042 equipment from an equipment company is the furnishing of a thing of value within the
5043 meaning of Subsection (3)(a).

5044 (e) The furnishing of free warehousing by delaying delivery of an alcoholic product
5045 beyond the time that payment for the product is received, or if a retailer is purchasing on
5046 credit, delaying final delivery of products beyond the close of the period of time for which
5047 credit is lawfully extended, is the furnishing of a service or thing of value within the meaning
5048 of Subsection (3)(a).

5049 (f) A financial, legal, administrative, or influential assistance given a retailer by an
5050 industry member in the retailer's acquisition of the retailer's license is the furnishing of a
5051 service or thing of value within the meaning of Subsection (3)(a).

5052 (4) It is unlawful for an industry member, directly or indirectly, or through an affiliate,
5053 to induce a retailer to purchase an alcoholic product from the industry member or from the
5054 department to the exclusion in whole or in part of a product sold or offered for sale by another
5055 person by paying or crediting the retailer for an advertising, display, or distribution service:

5056 (a) as defined in and to the extent restricted by 27 C.F.R. Sec. 6.51 through 6.56; and

5057 (b) subject to the exceptions:

5058 (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

5059 (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

5060 (5) It is unlawful for an industry member, directly or indirectly, or through an affiliate,
5061 to induce a retailer to purchase an alcoholic product from the industry member or from the
5062 department to the exclusion in whole or in part of a product sold or offered for sale by another
5063 person by guaranteeing a loan or the repayment of a financial obligation of the retailer.

5064 (6) (a) It is unlawful for an industry member, directly or indirectly, or through an
5065 affiliate, to induce a retailer to purchase beer from the industry member to the exclusion in
5066 whole or in part of a beer product sold or offered for sale by another person by extending to a
5067 retailer credit for a period in excess of 15 days from the date of delivery to the date of full legal
5068 discharge from all indebtedness arising from the transaction by the retailer paying cash or its
5069 equivalent, unless:

5070 (i) beer purchased or delivered during the first 15 days of any month is paid for in
5071 cash or its equivalent on or before the 25th day of the same month; and

5072 (ii) beer purchased or delivered after the 15th day of any month is paid for in cash or
5073 its equivalent on or before the 10th day of the next succeeding month.

5074 (b) A first party in-state check is considered cash payment if the check is:

5075 (i) honored on presentment; and

5076 (ii) received under the terms prescribed in Subsection (6)(a).

5077 (c) An extension of credit for product purchased by an industry member to a retailer
5078 whose account is in arrears does not constitute a violation of Subsection (6)(a) if the retailer
5079 pays in advance or on delivery an amount equal to or greater than the value of each order,
5080 regardless of the manner in which the industry member applies the payment in its records.

5081 (7) (a) It is unlawful for an industry member, directly or indirectly, or through an
5082 affiliate, to induce a retailer to purchase an alcoholic product from the industry member or
5083 from the department to the exclusion in whole or in part of a product sold or offered for sale by
5084 another person by requiring:

5085 (i) the department to take and dispose of a certain quota of a product; or

5086 (ii) a beer retailer to take and dispose of a certain quota of a beer product.

5087 (b) (i) It is an unlawful means to induce to require:

5088 (A) the department to purchase one product in order to purchase another product; or

5089 (B) a beer retailer to purchase one beer product in order to purchase another beer
5090 product.

5091 (ii) This Subsection (7)(b) includes:

5092 (A) the requirement to take a minimum quantity of a product in standard packaging in
5093 order to obtain the same product in some type of premium package such as:

5094 (I) a distinctive decanter; or

5095 (II) a wooden or tin box; or

5096 (B) combination sales if one or more products may be purchased only in combination
5097 with another product and not individually.

5098 (c) This Subsection (7) does not preclude the selling, at a special combination price, of
5099 two or more kinds or brands of products so long as the department or beer retailer:

5100 (i) has the option of purchasing either product at the usual price; and

5101 (ii) is not required to purchase a product the department or beer retailer does not want.

5102 (d) An industry member may package and distribute an alcoholic product in
5103 combination with other nonalcoholic items.

5104 (e) A combination package shall be designed to be delivered intact to the consumer
5105 and the additional cost incurred by the industry member shall be included in the cost to the
5106 department or beer retailer.

5107 Section 144. Section **32B-4-705** is enacted to read:

5108 **32B-4-705. Exclusions from tied house prohibitions.**

5109 (1) Notwithstanding Subsection 32B-4-704(3), a thing of value may be furnished by
5110 an industry member to a retailer under the conditions and within the limitations prescribed in:

5111 (a) this section; and

5112 (b) the applicable federal laws cited in this section.

5113 (2) The following may be furnished by an industry member:

5114 (a) a product display as provided in 27 C.F.R. Sec. 6.83;

5115 (b) point of sale advertising material or a consumer advertising specialty as provided
5116 in 27 C.F.R. Sec. 6.84;

5117 (c) a thing of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;

5118 (d) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;

5119 (e) combination packaging as provided in 27 C.F.R. Sec. 6.93;

5120 (f) an educational seminar as provided in 27 C.F.R. Sec. 6.94;

5121 (g) a consumer promotion as provided in 27 C.F.R. Sec. 6.96;

5122 (h) an advertising service as provided in 27 C.F.R. Sec. 6.98;

5123 (i) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;

5124 (j) merchandise as provided in 27 C.F.R. Sec. 6.101; and

5125 (k) an outside sign as provided in 27 C.F.R. Sec. 6.102.

- 5126 (3) The following exceptions provided in federal law are not applicable:
5127 (a) the exception for a sample as provided in 27 C.F.R. Sec. 6.91;
5128 (b) the exception for a consumer tasting or sampling at a retail establishment as
5129 provided in 27 C.F.R. Sec. 6.95; and
5130 (c) the exception for participation in a retailer association activity provided in 27
5131 C.F.R. Sec. 6.100.
- 5132 (4) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall
5133 maintain a record:
5134 (a) of an item furnished to a retailer;
5135 (b) on the premises of the industry member; and
5136 (c) for a three-year period.
- 5137 (5) A sample of liquor may be provided to the department under the following
5138 conditions:
5139 (a) With the department's permission, an industry member may submit a department
5140 sample to the department for product testing, analysis, and sampling.
5141 (b) No more than two department samples of a particular type, vintage, and production
5142 lot of a particular branded product may be submitted to the department for department testing,
5143 analysis, and sampling within a consecutive 120-day period.
- 5144 (c) (i) A department sample may not exceed 1 liter.
5145 (ii) Notwithstanding Subsection (5)(c)(i), a department sample of the following may
5146 not exceed 1.5 liters unless that exact alcoholic product is only commercially packaged in a
5147 larger size, not to exceed 5 liters:
5148 (A) wine;
5149 (B) heavy beer; or
5150 (C) a flavored malt beverage.
- 5151 (d) A department sample submitted to the department:
5152 (i) shall be shipped prepaid by the industry member by common carrier; and
5153 (ii) may not be shipped by United States mail directly to the department's central

5154 administrative warehouse office.

5155 (e) A department sample may not be shipped to any other location within the state.

5156 (f) The industry member shall submit with a department sample submitted to the

5157 department a letter from the industry member that clearly:

5158 (i) identifies the product as a "department sample"; and

5159 (ii) states the FOB case price of the product.

5160 (g) (i) The department may transfer a listed item from current stock:

5161 (A) for use as a comparison control sample; or

5162 (B) to verify product spoilage as considered appropriate.

5163 (ii) The department shall charge back a sample transferred under this Subsection

5164 (5)(g) to the respective industry member.

5165 (h) The department shall:

5166 (i) account for, label, and record a department sample received or transferred;

5167 (ii) account for the department sample's disposition; and

5168 (iii) maintain a record of the sample and its disposition for a two-year period.

5169 (i) The department shall affix to each package of a department sample a label clearly

5170 identifying the product as a "department sample".

5171 (j) The department shall dispose of a department sample delivered to the department or

5172 transferred from the department's current stock in one of the following ways as chosen by the

5173 department:

5174 (i) test and analyze the department sample, with the remaining contents destroyed

5175 under controlled and audited conditions established by the department;

5176 (ii) destroy the entire contents of the department sample under controlled and audited

5177 conditions established by the department; or

5178 (iii) add the department sample to the inventory of the department for sale to the

5179 public.

5180 (k) A person other than an authorized department official may not be in possession of

5181 a department sample except as otherwise provided.

5182 (l) The department shall handle a liquor item received by the department from a
5183 supplier that is not designated as a sample by the supplier, but that is an item not specifically
5184 listed on a department purchase order, in accordance with this Subsection (5).

5185 (m) The department may not use its money to pay freight or charges on a sample or a
5186 liquor item:

5187 (i) shipped to the department by a supplier; and

5188 (ii) not listed on a department purchase order.

5189 (6) A sample of beer may be provided by a beer industry member to a retailer under
5190 the conditions listed in this Subsection (6).

5191 (a) A sample of beer may be provided by an industry member only to a retailer who
5192 has not purchased the brand of beer from that industry member within the last 12 months.

5193 (b) For each retailer, the industry member may give not more than three gallons of any
5194 brand of beer, except that if a particular product is not available in a size within the quantity
5195 limitation, an industry member may furnish the next largest size.

5196 (7) An educational seminar may involve an industry member under the conditions
5197 listed in this Subsection (7).

5198 (a) An industry member may provide or participate in an educational seminar:

5199 (i) involving:

5200 (A) the department;

5201 (B) a retailer;

5202 (C) a holder of a scientific or educational special use permit;

5203 (D) another industry member; or

5204 (E) an employee of a person listed in Subsections (7)(a)(i)(A) through (D); and

5205 (ii) regarding a topic such as:

5206 (A) merchandising and product knowledge;

5207 (B) use of equipment; and

5208 (C) a tour of an alcoholic product manufacturing facility.

5209 (b) An industry member may not pay the expenses of or compensate a person who is a

5210 department employee, a retailer, or a permittee for attending a seminar or tour described in
5211 Subsection (7)(a).

5212 (8) (a) A liquor industry member may conduct a tasting of a liquor product of the
5213 industry member:

5214 (i) for the department, at the department's request; and
5215 (ii) for a licensed industry representative, but only at the department's central
5216 administrative warehouse office.

5217 (b) A liquor industry member may only use a department sample or industry
5218 representative sample when conducting a tasting of the industry member's liquor product.

5219 (c) A beer industry member may conduct a tasting of a beer product for a beer retailer
5220 either at:

5221 (i) the industry member's premises; or
5222 (ii) a retail establishment.

5223 (d) Except to the extent authorized by commission rule, an alcoholic product industry
5224 member may not conduct tasting or sampling activities with:

5225 (i) a retailer; or
5226 (ii) a member of the general public.

5227 (9) A beer industry member may participate in a beer retailer association activity to
5228 the extent authorized by 27 C.F.R. Sec. 6.100.

5229 (10) (a) An industry member may contribute to a charitable, civic, religious, fraternal,
5230 educational, or community activity, except the contribution may not be given to influence a
5231 retailer in the selection of a product that may be sold at the activity.

5232 (b) An industry member or retailer violates this Subsection (10) if:

5233 (i) the industry member's contribution influences, directly or indirectly, the retailer in
5234 the selection of a product; and

5235 (ii) a competitor's product is excluded in whole or in part from sale at the activity.

5236 (11) (a) An industry member may lease or furnish equipment listed in Subsection
5237 (11)(b) to a retailer if:

5238 (i) the equipment is leased or furnished for a special event;
5239 (ii) a reasonable rental or service fee is charged for the equipment; and
5240 (iii) the period for which the equipment is leased or furnished does not exceed 30
5241 days.

5242 (b) This Subsection (11) applies to the following equipment:

- 5243 (i) a picnic pump;
- 5244 (ii) a cold plate;
- 5245 (iii) a tub;
- 5246 (iv) a keg box;
- 5247 (v) a refrigerated trailer;
- 5248 (vi) a refrigerated van; or
- 5249 (vii) a refrigerated draft system.

5250 (12) (a) A liquor industry member may assist the department in:

- 5251 (i) ordering, shipping, and delivering merchandise;
- 5252 (ii) new product notification;
- 5253 (iii) listing and delisting information;
- 5254 (iv) price quotations;
- 5255 (v) product sales analysis;
- 5256 (vi) shelf management; and
- 5257 (vii) an educational seminar.

5258 (b) (i) A liquor industry member may, to acquire a new listing:

- 5259 (A) solicit an order from the department; and
- 5260 (B) submit to the department a sample of the liquor industry member's products under
5261 Subsection (5) and price lists.

5262 (ii) (A) An industry member is confined to the customer areas when the industry
5263 member visits a state store or package agency unless otherwise approved.

5264 (B) An industry member is confined to the office area of a state warehouse when the
5265 industry member visits a state warehouse unless otherwise approved.

5266 (13) A beer industry member may assist a beer retailer in:

5267 (a) ordering, shipping, and delivering beer merchandise;

5268 (b) new product notification;

5269 (c) listing and delisting information;

5270 (d) price quotations;

5271 (e) product sales analysis;

5272 (f) shelf management; and

5273 (g) an educational seminar.

5274 (14) A beer industry member may, to acquire a new listing:

5275 (a) solicit an order from a beer retailer; and

5276 (b) submit to a beer retailer a sample of the beer industry member's beer products
5277 under Subsection (5) and price lists.

5278 Section 145. Section **32B-4-706** is enacted to read:

5279 **32B-4-706. Commercial bribery.**

5280 This section adopts and makes applicable to an industry member, including a beer
5281 industry member, doing business in this state, 27 U.S.C. Sec. 205(c) and 27 C.F.R. Sec. 10.1
5282 through 10.54, which make it unlawful for an industry member, directly or indirectly, or
5283 through an affiliate, to induce a wholesaler or retailer engaged in the sale of an alcoholic
5284 product to purchase the industry member's products, to the complete or partial exclusion of
5285 alcoholic beverages sold or offered for sale by other persons, by commercial bribery, or by
5286 offering or giving a bonus, premium, compensation, or other thing of value, to any officer,
5287 employee, or representative of the wholesaler or retailer.

5288 Section 146. Section **32B-4-707** is enacted to read:

5289 **32B-4-707. Consignment sale.**

5290 (1) This section adopts and makes applicable to an industry member, including a beer
5291 industry member, doing business in this state, 27 U.S.C. Sec. 205(d) and 27 C.F.R. Sec. 11.1
5292 through 11.46, which make it unlawful for an industry member, directly or indirectly, or
5293 through an affiliate to sell, offer for sale, or contract to sell to any wholesaler or retailer

5294 engaged in the sale of an alcoholic product, or for any wholesaler or retailer to purchase, offer
5295 to purchase, or contract to purchase any of those products on consignment or under
5296 conditional sale or with the privilege of return or on any basis otherwise than a bona fide sale,
5297 or where any part of the transaction involves, directly or indirectly, the acquisition by that
5298 person from the wholesaler or retailer or that person's agreement to acquire from the
5299 wholesaler or retailer other alcoholic beverages, if the sale, purchase, offer, or contract is made
5300 in the course of interstate or foreign commerce, or if the person or wholesaler or retailer
5301 engages in such practice to an extent so as substantially to restrain or prevent transactions in
5302 interstate or foreign commerce in any of those products or if the direct effect of the sale,
5303 purchase, offer, or contract is to prevent, deter, hinder, or restrict other persons from selling or
5304 offering for sale any of those products to the wholesaler or retailer in interstate or foreign
5305 commerce.

5306 (2) This section does not apply to a transaction involving solely the bona fide return of
5307 merchandise for ordinary and usual commercial reasons arising after the merchandise has been
5308 sold.

5309 Section 147. Section **32B-4-708** is enacted to read:

5310 **32B-4-708. Unlawful act involving consumers.**

5311 (1) (a) It is unlawful for an industry member, directly or indirectly, or through an
5312 affiliate, to give away any of its product to a person except for testing, analysis, and sampling
5313 purposes by the department or local industry representative licensee to the extent authorized by
5314 this title.

5315 (b) This Subsection (1) does not preclude an industry member from serving its product
5316 to others at a private event hosted by the industry member in the industry member's home or
5317 elsewhere so long as the product is not served:

5318 (i) as part of a promotion of the industry member's product; or

5319 (ii) as a subterfuge to provide a sample to a person for product testing, analysis, or
5320 sampling purposes.

5321 (2) It is unlawful for an industry member or retailer, directly or indirectly, or through

5322 an affiliate, to engage in an advertisement or promotional scheme that requires the purchase or
5323 sale of an alcoholic product, or consumption of an alcoholic product, in order to participate in
5324 a promotion, program, or other activity.

5325 (3) It is unlawful for an industry member or retailer, directly or indirectly, or through
5326 an affiliate, to pay, give, or deliver to a person money or any other thing of value, including a
5327 rebate, refund, or prize, on the basis of the purchase, display, use, sale, or consumption of an
5328 alcoholic product.

5329 (4) It is unlawful for an industry member or retailer to sponsor or underwrite an
5330 athletic, theatrical, scholastic, artistic, or scientific event that:

5331 (a) overtly promotes the consumption of a product;

5332 (b) offers a product to the general public without charge; or

5333 (c) takes place on the premises of a school, college, university, or other educational
5334 institution.

5335 Section 148. Section **32B-5-101** is enacted to read:

5336 **CHAPTER 5. RETAIL LICENSE ACT**

5337 **Part 1. General Provisions**

5338 **32B-5-101. Title.**

5339 This chapter is known as the "Retail License Act."

5340 Section 149. Section **32B-5-102** is enacted to read:

5341 **32B-5-102. Definitions.**

5342 Reserved

5343 Section 150. Section **32B-5-201** is enacted to read:

5344 **Part 2. Retail Licensing Process**

5345 **32B-5-201. Application requirements for retail license.**

5346 (1) (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of
5347 an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a
5348 retail license issued by the commission, notwithstanding whether the person holds a local
5349 license or a permit issued by a local authority.

- 5350 (b) Violation of this Subsection (1) is a class B misdemeanor.
- 5351 (2) To obtain a retail license under this title, a person shall submit to the department:
- 5352 (a) a written application in a form prescribed by the department;
- 5353 (b) a nonrefundable application fee in the amount specified in the relevant part under
- 5354 Chapter 6, Specific Retail License Act, for the type of retail license for which the person is
- 5355 applying;
- 5356 (c) an initial license fee:
- 5357 (i) in the amount specified in the relevant part under Chapter 6, Specific Retail
- 5358 License Act, for the type of retail license for which the person is applying; and
- 5359 (ii) that is refundable if a retail license is not issued;
- 5360 (d) written consent of the local authority;
- 5361 (e) a copy of the person's current business license;
- 5362 (f) evidence of proximity to any community location, with proximity requirements
- 5363 being governed by Section 32B-1-202;
- 5364 (g) a bond as specified by Section 32B-5-204;
- 5365 (h) a floor plan, and boundary map where applicable, of the premises of the retail
- 5366 license, including any:
- 5367 (i) consumption area; and
- 5368 (ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic
- 5369 beverage;
- 5370 (i) evidence that the retail licensee is carrying public liability insurance in an amount
- 5371 and form satisfactory to the department;
- 5372 (j) evidence that the retail licensee is carrying dramshop insurance coverage of at least
- 5373 \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
- 5374 (k) a signed consent form stating that the retail licensee will permit any authorized
- 5375 representative of the commission, department, or any law enforcement officer to have
- 5376 unrestricted right to enter the premises of the retail licensee;
- 5377 (l) if the person is an entity, proper verification evidencing that a person who signs the

5378 application is authorized to sign on behalf of the entity; and
5379 (m) any other information the commission or department may require.
5380 (3) The commission may not issue a retail license to a person who:
5381 (a) is disqualified under Section 32B-1-304; or
5382 (b) is not lawfully present in the United States.
5383 (4) Unless otherwise provided in the relevant part under Chapter 6, Specific Retail
5384 License Act, the commission may not issue a retail license to a person if the licensed premises
5385 does not meet the proximity requirements of Section 32B-1-202.
5386 Section 151. Section **32B-5-202** is enacted to read:
5387 **32B-5-202. Renewal requirements.**
5388 (1) A retail license expires each year on the day specified in the relevant part under
5389 Chapter 6, Specific Retail License Act, for that type of retail license.
5390 (2) To renew a person's retail license, a retail licensee shall, by no later than the day
5391 specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of
5392 retail license that is being renewed, submit:
5393 (a) a completed renewal application to the department in a form prescribed by the
5394 department; and
5395 (b) a renewal fee in the amount specified in the relevant part under Chapter 6, Specific
5396 Retail License Act, for the type of retail license that is being renewed.
5397 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
5398 retail license effective on the date the existing retail license expires.
5399 Section 152. Section **32B-5-203** is enacted to read:
5400 **32B-5-203. Commission and department duties before issuing a retail license.**
5401 (1) (a) Before the commission may issue a retail license, the department shall conduct
5402 an investigation and may hold public hearings to gather information and make
5403 recommendations to the commission as to whether a retail license should be issued.
5404 (b) The department shall forward the information and recommendations described in
5405 Subsection (1)(a) to the commission to aid in the commission's determination.

- 5406 (2) Before issuing a retail license, the commission shall:
- 5407 (a) determine that the person filed a complete application and is in compliance with:
- 5408 (i) Section 32B-5-201; and
- 5409 (ii) the specific licensing requirements specified in the relevant part under Chapter 6,
- 5410 Specific Retail License Act, for the type of retail license for which the person is applying;
- 5411 (b) determine that the person is not disqualified under Section 32B-1-304;
- 5412 (c) consider the locality within which the proposed licensed premises is located,
- 5413 including:
- 5414 (i) physical characteristics such as:
- 5415 (A) condition of the licensed premises;
- 5416 (B) square footage; and
- 5417 (C) parking availability; and
- 5418 (ii) operational factors such as:
- 5419 (A) tourist traffic;
- 5420 (B) demographics;
- 5421 (C) population to be served;
- 5422 (D) proximity to and density of other state stores, package agencies, and retail
- 5423 licensees; and
- 5424 (E) the extent of and proximity to any community location;
- 5425 (d) consider the person's ability to manage and operate a retail license of the type for
- 5426 which the person is applying, including:
- 5427 (i) management experience;
- 5428 (ii) past retail alcoholic product experience; and
- 5429 (iii) the type of management scheme to be used by the retail licensee;
- 5430 (e) consider the nature or type of retail licensee operation of the proposed retail
- 5431 licensee, including:
- 5432 (i) the type of menu items that will be offered and emphasized;
- 5433 (ii) whether the retail licensee will emphasize service to an adult clientele or to minors;

- 5434 (iii) the proposed hours of operation;
- 5435 (iv) the seating capacity of the premises; and
- 5436 (v) the estimated gross sales of food items; and
- 5437 (f) consider any other factor the commission considers necessary.

5438 Section 153. Section **32B-5-204** is enacted to read:

5439 **32B-5-204. Bond for retail license.**

5440 (1) (a) A retail licensee shall post a cash bond or surety bond:

5441 (i) in the amount specified in the relevant part under Chapter 6, Specific Retail
5442 License Act, for the type of retail license for which the person is applying; and

5443 (ii) payable to the department.

5444 (b) A retail licensee shall procure and maintain the bond required under this section
5445 for as long as the retail licensee continues to operate as a retail licensee.

5446 (2) A bond required under this section shall be:

5447 (a) in a form approved by the attorney general; and

5448 (b) conditioned upon the retail licensee's faithful compliance with this title and the
5449 rules of the commission.

5450 (3) (a) If a surety bond posted by a retail licensee under this section is canceled due to
5451 the retail licensee's negligence, the department may assess a \$300 reinstatement fee.

5452 (b) No part of a bond posted by a retail licensee under this section may be withdrawn:

5453 (i) during the period the retail license is in effect; or

5454 (ii) while a revocation proceeding is pending against the retail licensee.

5455 (4) (a) A bond posted under this section by a retail licensee may be forfeited if the
5456 retail license is revoked.

5457 (b) Notwithstanding Subsection (4)(a), the department may make a claim against a
5458 bond posted by a retail licensee for money owed the department under this title without the
5459 commission first revoking the retail license.

5460 Section 154. Section **32B-5-205** is enacted to read:

5461 **32B-5-205. Conditional retail license.**

- 5462 (1) As used in this section:
- 5463 (a) "Conditional retail license" means a retail license that:
- 5464 (i) is for one of the following:
- 5465 (A) a full-service restaurant license; or
- 5466 (B) a limited-service restaurant license;
- 5467 (ii) conditions the holder's ability to sell, offer for sale, furnish, or allow the
- 5468 consumption of an alcoholic product on its licensed premises on the person submitting to the
- 5469 department a copy of the holder's current business license before obtaining a valid retail
- 5470 license; and
- 5471 (iii) provides that the holder will be issued a valid retail license if the holder complies
- 5472 with the requirements of Subsection (3).
- 5473 (b) "Valid retail license" means a retail license issued pursuant to this part under
- 5474 which the holder is permitted to sell, offer for sale, furnish, or allow the consumption of an
- 5475 alcoholic product on its licensed premises.
- 5476 (2) Subject to the requirements of this section, the commission may issue a conditional
- 5477 retail license to a person if the person:
- 5478 (a) meets the requirements to obtain the retail license for which the person is applying
- 5479 except the requirement to submit a copy of the person's current business license; and
- 5480 (b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic
- 5481 product on its licensed premises before obtaining a valid retail license.
- 5482 (3) (a) A conditional retail license becomes a valid retail license on the day on which
- 5483 the department notifies the person who holds the conditional retail license that the department
- 5484 finds that the person has complied with Subsection (3)(b).
- 5485 (b) For a conditional retail license to become a valid retail license, a person who holds
- 5486 the conditional retail license shall:
- 5487 (i) submit to the department a copy of the person's current business license; and
- 5488 (ii) provide to the department evidence satisfactory to the department that:
- 5489 (A) there has been no change in the information submitted to the commission as part

5490 of the person's application for a retail license; and

5491 (B) the person continues to qualify for the retail license.

5492 (4) A conditional retail license expires six months after the day on which the

5493 commission issues the conditional retail license, unless the conditional retail license becomes

5494 a valid retail license before that day.

5495 Section 155. Section **32B-5-206** is enacted to read:

5496 **32B-5-206. Seasonal retail license.**

5497 (1) If authorized in the relevant part under Chapter 6, Specific Retail License Act, for

5498 the type of retail license, the commission may in accordance with this section issue a seasonal

5499 retail license located in an area the commission considers proper.

5500 (2) (a) A seasonal retail license shall be for a period of six consecutive months.

5501 (b) A seasonal retail license issued for operation during a summer time period is

5502 known as a "Seasonal A" retail license. The period of operation for a Seasonal A retail license:

5503 (i) begins on May 1; and

5504 (ii) ends on October 31.

5505 (c) A seasonal retail license issued for operation during a winter time period is known

5506 as a "Seasonal B" retail license. The period of operation for a Seasonal B retail license:

5507 (i) begins on November 1; and

5508 (ii) ends on April 30.

5509 (3) In determining the number of each type of retail license that the commission may

5510 issue under the relevant part under Chapter 6, Specific Retail License Act:

5511 (a) a seasonal retail license is counted as one-half of one retail license of the specific

5512 type of retail license; and

5513 (b) each Seasonal A retail license shall be paired with a Seasonal B retail license of the

5514 same type of retail license.

5515 Section 156. Section **32B-5-301** is enacted to read:

5516 **Part 3. Retail Licensee Operational Requirements**

5517 **32B-5-301. General operational requirements.**

5518 (1) (a) A retail licensee and staff of a retail licensee shall comply with this title and the
5519 rules of the commission, including the relevant part under Chapter 6, Specific Retail License
5520 Act, for the specific type of retail license.

5521 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
5522 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

5523 (i) a retail licensee;

5524 (ii) individual staff of a retail licensee; or

5525 (iii) both a retail licensee and staff of the retail licensee.

5526 (2) (a) If there is a conflict between this part and the relevant part under Chapter 6,
5527 Specific Retail License Act, for the specific type of retail license, the relevant part under
5528 Chapter 6 governs.

5529 (b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail
5530 licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product
5531 specifically authorized by the relevant part under Chapter 6, Specific Retail License Act.

5532 (c) Notwithstanding that this part or the relevant part under Chapter 6, Specific Retail
5533 License Act, refers to "retail licensee," staff of the retail licensee is subject to the same
5534 requirement or prohibition.

5535 (3) A retail licensee shall display in a prominent place in the licensed premises:

5536 (a) the retail license that is issued by the department; and

5537 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
5538 drugs is a serious crime that is prosecuted aggressively in Utah."

5539 (4) A retail licensee may not on the licensed premises:

5540 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
5541 Chapter 10, Part 11, Gambling;

5542 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
5543 Part 11, Gambling; or

5544 (c) engage in or permit a contest, game, gaming scheme, or gaming device that
5545 requires the risking of something of value for a return or for an outcome when the return or

5546 outcome is based upon an element of chance, excluding the playing of an amusement device
5547 that confers only an immediate and unrecorded right of replay not exchangeable for value.

5548 (5) A retail licensee may not knowingly allow a person on the licensed premises to, in
5549 violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
5550 Paraphernalia Act:

5551 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
5552 58-37-2; or

5553 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
5554 Section 58-37a-3.

5555 (6) Upon the presentation of credentials, at any time during which a retail licensee is
5556 open for the transaction of business, the retail licensee shall immediately:

5557 (a) admit a commissioner, authorized department employee, or law enforcement
5558 officer to the retail licensee's premises; and

5559 (b) permit, without hindrance or delay, the person described in Subsection (6)(a) to
5560 inspect completely:

5561 (i) the entire premises of the retail licensee; and

5562 (ii) the records of the retail licensee.

5563 Section 157. Section **32B-5-302** is enacted to read:

5564 **32B-5-302. Recordkeeping.**

5565 (1) A retail licensee shall make and maintain a record showing in detail:

5566 (a) quarterly expenditures made separately for:

5567 (i) malt or brewed beverages;

5568 (ii) liquor;

5569 (iii) set-ups;

5570 (iv) food; and

5571 (v) any other item required by the department; and

5572 (b) sales made separately for:

5573 (i) malt or brewed beverages;

- 5574 (ii) set-ups;
5575 (iii) food; and
5576 (iv) any other item required by the department.
5577 (2) A retail licensee shall make and maintain a record required by Subsection (1):
5578 (a) in a form approved by the department; and
5579 (b) current for each three-month period.
5580 (3) A retail licensee shall support an expenditure by:
5581 (a) a delivery ticket;
5582 (b) an invoice;
5583 (c) a receipted bill;
5584 (d) a canceled check;
5585 (e) a petty cash voucher; or
5586 (f) other sustaining datum or memorandum.
5587 (4) In addition to a record required under Subsection (1), a retail licensee shall make
5588 and maintain any other record the department may require.
5589 (5) (a) A record of a retail licensee is subject to inspection by an authorized
5590 representative of the commission and the department.
5591 (b) A retail licensee shall allow the department, through an auditor or examiner of the
5592 department, to audit the records of the retail licensee at times the department considers
5593 advisable.
5594 (6) Section 32B-1-205 applies to a record required to be made or maintained in
5595 accordance with this section.
5596 Section 158. Section **32B-5-303** is enacted to read:
5597 **32B-5-303. Purchase and storage of an alcoholic product by a retail licensee.**
5598 (1) (a) A retail licensee may not purchase liquor except from a state store or package
5599 agency.
5600 (b) A retail licensee may transport liquor purchased from a state store or package
5601 agency from the place of purchase to the licensed premises.

5602 (c) A retail licensee shall pay for liquor in accordance with rules established by the
5603 commission.

5604 (2) (a) (i) A beer retailer may not purchase, acquire, possess for the purpose of resale,
5605 or sell beer except beer that the beer retailer purchases from:

5606 (A) a beer wholesaler licensee; or

5607 (B) a small brewer that manufactures the beer.

5608 (ii) Violation of this Subsection (2)(a) is a class A misdemeanor.

5609 (b) (i) If a beer retailer purchases beer under Subsection (2)(a) from a beer wholesaler
5610 licensee, the beer retailer shall purchase beer only from a beer wholesaler licensee who is
5611 designated by the manufacturer to sell beer in the geographical area in which the beer retailer
5612 is located, unless an alternate wholesaler is authorized by the department to sell to the beer
5613 retailer as provided in Section 32B-13-301.

5614 (ii) Violation of Subsection (2)(b) is a class B misdemeanor.

5615 (3) A retail licensee may not store, sell, offer for sale, or furnish an alcoholic product
5616 in a place other than as designated in the retail licensee's application, unless the retail licensee
5617 first applies for and receives approval from the department for a change of location within the
5618 licensed premises.

5619 (4) A liquor storage area shall remain locked at all times other than those hours and
5620 days when liquor sales are authorized by law.

5621 Section 159. Section **32B-5-304** is enacted to read:

5622 **32B-5-304. Portions in which alcoholic product may be sold.**

5623 (1) A retail licensee may sell, offer for sale, or furnish a primary spirituous liquor only
5624 in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated
5625 metered dispensing system approved by the department in accordance with commission rules
5626 adopted under this title, except that:

5627 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
5628 system if used as a secondary flavoring ingredient in a beverage subject to the following
5629 requirements:

5630 (i) the secondary ingredient may be dispensed only in conjunction with the purchase
5631 of a primary spirituous liquor;

5632 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

5633 (iii) the retail licensee shall designate a location where flavorings are stored on the
5634 floor plan submitted to the department; and

5635 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

5636 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
5637 system if used:

5638 (i) as a flavoring on a dessert; and

5639 (ii) in the preparation of a flaming food dish, drink, or dessert; and

5640 (c) a patron may have no more than 2.5 ounces of spirituous liquor at a time.

5641 (2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an
5642 individual portion that does not exceed 5 ounces per glass or individual portion.

5643 (ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to
5644 a patron in more than one glass if the total amount of wine does not exceed 5 ounces.

5645 (b) (i) A retail licensee may sell, offer for sale, or furnish wine in a package not
5646 exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

5647 (ii) A retail licensee may sell, offer for sale, or furnish wine in a package not to exceed
5648 750 milliliters at a price fixed by the commission to a table of less than four persons.

5649 (3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original
5650 package at a price fixed by the commission, except that the original package may not exceed
5651 one liter.

5652 (4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an
5653 original package at a price fixed by the commission, except that the original package may not
5654 exceed one liter.

5655 (5) (a) Subject to Subsection (5)(b), a retail licensee may sell, offer for sale, or furnish
5656 beer for on-premise consumption:

5657 (i) in an open original package; and

5658 (ii) in a package on draft.
5659 (b) A retail licensee may not sell, offer for sale, or furnish beer under Subsection
5660 (5)(a):
5661 (i) in a size of package that exceeds two liters; or
5662 (ii) to an individual patron in a size of package that exceeds one liter.
5663 Section 160. Section **32B-5-305** is enacted to read:
5664 **32B-5-305. Pricing of alcoholic product -- Other charge.**
5665 (1) (a) A retail licensee may sell, offer for sale, or furnish liquor only at a price fixed
5666 by the commission.
5667 (b) A retail licensee may not sell liquor at a discount price on any date or at any time.
5668 (2) (a) A retail licensee may not sell, offer for sale, or furnish an alcoholic product at
5669 less than the cost of the alcoholic product to the retail licensee.
5670 (b) A retail licensee may not sell, offer for sale, or furnish an alcoholic product at a
5671 special or reduced price that encourages over consumption or intoxication.
5672 (c) A retail licensee may not sell, offer for sale, or furnish an alcoholic product at a
5673 special or reduced price for only certain hours of the retail licensee's business day, such as a
5674 "happy hour."
5675 (d) A retail licensee may not sell, offer for sale, or furnish more than one alcoholic
5676 product for the price of a single alcoholic product.
5677 (e) A retail licensee may not sell, offer for sale, or furnish an indefinite or unlimited
5678 number of alcoholic products during a set period for a fixed price.
5679 (f) A retail licensee may not engage in a promotion involving or offering a free
5680 alcoholic product to the general public.
5681 (3) As authorized by commission rule, a retail licensee may charge a patron for
5682 providing:
5683 (a) a service related to liquor purchased at the licensed premises; or
5684 (b) wine service performed for wine carried in by a patron in accordance with Section
5685 32B-5-307.

5686 Section 161. Section **32B-5-306** is enacted to read:

5687 **32B-5-306. Purchasing or selling alcoholic product.**

5688 (1) A retail licensee may not sell, offer for sale, or furnish an alcoholic product to:

5689 (a) a minor;

5690 (b) a person actually, apparently, or obviously intoxicated;

5691 (c) a known interdicted person; or

5692 (d) a known habitual drunkard.

5693 (2) (a) A patron may only purchase an alcoholic product in the licensed premises of a
5694 retail licensee from and be served by an individual who is:

5695 (i) staff of the retail licensee; and

5696 (ii) designated and trained by the retail licensee to sell and serve an alcoholic product.

5697 (b) An individual may sell, offer for sale, or furnish an alcoholic product to a patron
5698 only if the individual is:

5699 (i) staff of the retail licensee; and

5700 (ii) designated and trained by the retail licensee to sell and serve an alcoholic product.

5701 (c) Notwithstanding Subsection (2)(a) or (b), a patron who purchases bottled wine
5702 from staff of the retail licensee or carries bottled wine onto the retail licensee's premises
5703 pursuant to Section 32B-5-307 may thereafter serve wine from the bottle to the patron or
5704 others at the patron's table.

5705 (3) The following may not purchase an alcoholic product for a patron:

5706 (a) a retail licensee; or

5707 (b) staff of a retail licensee.

5708 Section 162. Section **32B-5-307** is enacted to read:

5709 **32B-5-307. Bringing onto or removing alcoholic product from premises.**

5710 (1) Except as provided in Subsection (3):

5711 (a) A person may not bring onto the licensed premises of a retail licensee an alcoholic
5712 product for on-premise consumption.

5713 (b) A retail licensee may not allow a person to:

5714 (i) bring onto licensed premises an alcoholic product for on-premise consumption; or
5715 (ii) consume an alcoholic product brought onto the licensed premises by a person
5716 other than the retail licensee.

5717 (2) Except as provided in Subsection (3):

5718 (a) A person may not carry from a licensed premises of a retail licensee an open
5719 package that:

5720 (i) is used primarily for drinking purposes; and

5721 (ii) contains an alcoholic product.

5722 (b) A retail licensee may not permit a patron to carry from the licensed premises an
5723 open package described in Subsection (2)(a).

5724 (3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for
5725 on-premise consumption if:

5726 (i) permitted by the retail licensee; and

5727 (ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

5728 (b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the
5729 patron shall deliver the bottled wine to a server or other representative of the retail licensee
5730 upon entering the licensed premises.

5731 (c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a
5732 wine service for a bottled wine carried onto the licensed premises in accordance with this
5733 Subsection (3).

5734 (d) A patron may remove from a licensed premises the unconsumed contents of a
5735 bottle of wine purchased in the licensed premises, or brought onto the licensed premises in
5736 accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

5737 Section 163. Section **32B-5-308** is enacted to read:

5738 **32B-5-308. Requirements on staff or others on premises -- Employing a minor.**

5739 (1) Staff of a retail licensee, while on duty, may not:

5740 (a) consume an alcoholic product; or

5741 (b) be intoxicated.

5742 (2) (a) A retail licensee may not employ a minor to sell, offer for sale, furnish, or
5743 dispense an alcoholic product.

5744 (b) Notwithstanding Subsection (2)(a), unless otherwise in the provisions related to the
5745 specific type of retail license, a retail licensee may employ a minor who is at least 16 years of
5746 age to enter the sale at a cash register or other sales recording device.

5747 Section 164. Section **32B-5-309** is enacted to read:

5748 **32B-5-309. Ceasing operation -- Prohibiting transfer of license.**

5749 (1) (a) Except as provided in Subsection (1)(h), a retail licensee may not close or cease
5750 operation for a period longer than 240 hours, unless:

5751 (i) the retail licensee notifies the department in writing at least seven days before the
5752 day on which the retail licensee closes or ceases operation; and

5753 (ii) the closure or cessation of operation is first approved by the department.

5754 (b) Notwithstanding Subsection (1)(a), in the case of emergency closure, a retail
5755 licensee shall immediately notify the department by telephone.

5756 (c) (i) The department may authorize a closure or cessation of operation of a retail
5757 licensee for a period not to exceed 60 days.

5758 (ii) The department may extend the initial period an additional 30 days upon:

5759 (A) written request of the retail licensee; and

5760 (B) a showing of good cause.

5761 (d) A closure or cessation of operation may not exceed a total of 90 days without
5762 commission approval.

5763 (e) A notice required under this Subsection (1) shall include:

5764 (i) the dates of closure or cessation of operation;

5765 (ii) the reason for the closure or cessation of operation; and

5766 (iii) the date on which the retail licensee will reopen or resume operation.

5767 (f) Failure of a retail licensee to provide notice and to obtain department approval
5768 before closure or cessation of operation results in an automatic forfeiture of:

5769 (i) the retail license; and

5770 (ii) the unused portion of the retail license fee for the remainder of the retail license
5771 year effective immediately.

5772 (g) Failure of a retail licensee to reopen or resume operation by the approved date
5773 results in an automatic forfeiture of:

5774 (i) the retail license; and

5775 (ii) the unused portion of the retail license fee for the remainder of the retail license
5776 year.

5777 (h) This Subsection (1) does not apply to:

5778 (i) an on-premise beer retailer who is not a tavern; or

5779 (ii) an airport lounge licensee.

5780 (2) A retail licensee may not transfer a retail license from one location to another
5781 location, without prior written approval of the commission.

5782 (3) (a) A person, having been issued a retail license may not sell, transfer, assign,
5783 exchange, barter, give, or attempt in any way to dispose of the retail license to another person
5784 whether for monetary gain or not.

5785 (b) A retail license has no monetary value for any type of disposition.

5786 Section 165. Section **32B-5-310** is enacted to read:

5787 **32B-5-310. Notifying department of change in ownership.**

5788 The commission may suspend or revoke a retail license if the retail licensee does not
5789 immediately notify the department of a change in:

5790 (1) ownership of the premises of the retail license;

5791 (2) for a corporate owner, the:

5792 (a) corporate officers or directors of the retail licensee; or

5793 (b) shareholders holding at least 20% of the total issued and outstanding stock of the
5794 corporation; or

5795 (3) for a limited liability company:

5796 (a) managers of the limited liability company; or

5797 (b) members owning at least 20% of the limited liability company.

5798 Section 166. Section **32B-5-401** is enacted to read:

5799 **Part 4. Alcohol Training and Education Act**

5800 **32B-5-401. Title.**

5801 This part is known as the "Alcohol Training and Education Act."

5802 Section 167. Section **32B-5-402** is enacted to read:

5803 **32B-5-402. Definitions.**

5804 Reserved

5805 Section 168. Section **32B-5-403** is enacted to read:

5806 **32B-5-403. Alcohol training and education -- Revocation, suspension, or**
5807 **nonrenewal of retail license.**

5808 (1) The commission may suspend, revoke, or not renew a license of a retail licensee if
5809 any of the following individuals, as defined in Section 62A-15-401, fail to complete an alcohol
5810 training and education seminar:

5811 (a) an individual who manages operations at the licensed premises for consumption on
5812 the licensed premises;

5813 (b) an individual who supervises the furnishing of an alcoholic product to a patron for
5814 consumption on the licensed premises; or

5815 (c) an individual who serves an alcoholic product to a patron for consumption on the
5816 licensed premises.

5817 (2) A city, town, or county in which a retail licensee conducts its business may
5818 suspend, revoke, or not renew the business license of the retail licensee if an individual
5819 described in Subsection (1) fails to complete an alcohol training and education seminar.

5820 (3) A local authority that issues an off-premise beer retailer license to a business that is
5821 engaged in the retail sale of beer for consumption off the beer retailer's premises may
5822 immediately suspend the off-premise beer retailer license if any of the following individuals
5823 fails to complete an alcohol training and education seminar, an individual who:

5824 (a) directly supervises the sale of beer to a patron for consumption off the premises of
5825 the off-premise beer retailer; or

5826 (b) sells beer to a patron for consumption off the premises of the off-premise beer
5827 retailer.

5828 Section 169. Section **32B-5-404** is enacted to read:

5829 **32B-5-404. Alcohol training and education for off-premise consumption.**

5830 (1) (a) A local authority that issues an off-premise beer retailer license to a business to
5831 sell beer at retail for off-premise consumption shall require the following to have a valid record
5832 that the individual completed an alcohol training and education seminar in the time periods
5833 required by Subsection (1)(b), an individual who:

5834 (i) directly supervises the sale of beer to a patron for consumption off the premises of
5835 the off-premise beer retailer; or

5836 (ii) sells beer to a patron for consumption off the premises of the off-premise beer
5837 retailer.

5838 (b) If an individual on the date the individual becomes staff to an off-premise beer
5839 retailer does not have a valid record that the individual has completed an alcohol training and
5840 education seminar for purposes of this part, the individual shall complete an alcohol training
5841 and education seminar within 30 days of the day on which the individual becomes staff of an
5842 off-premise beer retailer.

5843 (c) Section 62A-15-401 governs the validity of a record that an individual has
5844 completed an alcohol training and education seminar required by this part.

5845 (2) In accordance with Section 32B-5-403, a local authority may immediately suspend
5846 the license of an off-premise beer retailer that allows staff to directly supervise the sale of beer
5847 or to sell beer to a patron without having a valid record that the individual completed an
5848 alcohol training and education seminar in accordance with Subsection (1).

5849 Section 170. Section **32B-6-101** is enacted to read:

5850 **CHAPTER 6. SPECIFIC RETAIL LICENSE ACT**

5851 **Part 1. General Provisions**

5852 **32B-6-101. Title.**

5853 This chapter is known as the "Specific Retail License Act."

5854 Section 171. Section **32B-6-102** is enacted to read:

5855 **32B-6-102. Definitions.**

5856 As used in this chapter:

5857 (1) (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a
5858 full-service restaurant licensee or limited-service restaurant licensee that:

5859 (i) as of May 11, 2009, has:

5860 (A) patron seating at the bar structure;

5861 (B) a partition at one or more locations on the bar structure that is along:

5862 (I) the width of the bar structure; or

5863 (II) the length of the bar structure; and

5864 (C) facilities for the dispensing or storage of an alcoholic product:

5865 (I) on the portion of the bar structure that is separated by the partition described in

5866 Subsection (1)(a)(i)(B); or

5867 (II) if the partition is described in Subsection (1)(a)(i)(B)(II), adjacent to the bar

5868 structure in a manner visible to a patron sitting at the bar structure;

5869 (ii) is not operational as of May 12, 2009, if:

5870 (A) a person applying for a full-service restaurant license or limited-service restaurant
5871 license:

5872 (I) has as of May 12, 2009, a building permit to construct the restaurant;

5873 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
5874 defined by rule made by the commission; and

5875 (III) is issued the full-service restaurant license or limited-service restaurant license by
5876 no later than December 31, 2009; and

5877 (B) once constructed, the licensed premises has a bar structure described in Subsection
5878 (1)(a)(i):

5879 (iii) as of May 12, 2009, has no patron seating at the bar structure; or

5880 (iv) is not operational as of May 12, 2009, if:

5881 (A) a person applying for a full-service restaurant license or limited-service restaurant

5882 license:

5883 (I) has as of May 12, 2009, a building permit to construct the restaurant;

5884 (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
5885 defined by rule made by the commission; and

5886 (III) is issued a full-service restaurant license or limited-service restaurant license by
5887 no later than December 31, 2009; and

5888 (B) once constructed, the licensed premises has a bar structure with no patron seating.

5889 (b) "Grandfathered bar structure" does not include a grandfathered bar structure
5890 described in Subsection (1)(a) on or after the day on which a restaurant remodels the
5891 grandfathered bar structure, as defined by rule made by the commission.

5892 (c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered
5893 bar structure notwithstanding whether a restaurant undergoes a change of ownership.

5894 (2) "Seating grandfathered bar structure" means a grandfathered bar structure
5895 described in Subsection (1)(a)(i) or (ii).

5896 Section 172. Section **32B-6-201** is enacted to read:

5897 **Part 2. Full-service Restaurant License**

5898 **32B-6-201. Title.**

5899 This part is known as "Full-service Restaurant License."

5900 Section 173. Section **32B-6-202** is enacted to read:

5901 **32B-6-202. Definitions.**

5902 Reserved

5903 Section 174. Section **32B-6-203** is enacted to read:

5904 **32B-6-203. Commission's power to issue full-service restaurant license.**

5905 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
5906 an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a
5907 full-service restaurant license from the commission in accordance with this part.

5908 (2) The commission may issue a full-service restaurant license to establish full-service
5909 restaurant licensed premises at places and in numbers the commission considers proper for the

5910 storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises
5911 operated as a full-service restaurant.

5912 (3) (a) The commission may not issue a total number of full-service restaurant licenses
5913 that at any time exceeds the number determined by dividing the population of the state by
5914 5,200.

5915 (b) The commission may issue a seasonal full-service restaurant license in accordance
5916 with Section 32B-5-206.

5917 (c) (i) If the location, design, and construction of a hotel may require more than one
5918 full-service restaurant sales location within the hotel to serve the public convenience, the
5919 commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as
5920 many as three full-service restaurant locations within the hotel under one full-service
5921 restaurant license if:

5922 (A) the hotel has a minimum of 150 guest rooms; and

5923 (B) the locations under the full-service restaurant license are:

5924 (I) within the same hotel; and

5925 (II) on premises that are managed or operated, and owned or leased, by the full-service
5926 restaurant licensee.

5927 (ii) A facility other than a hotel shall have a separate full-service restaurant license for
5928 each full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.

5929 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a
5930 full-service restaurant license for premises that do not meet the proximity requirements of
5931 Section 32B-1-202.

5932 (b) With respect to the premises of a full-service restaurant license issued by the
5933 commission that undergoes a change of ownership, the commission shall waive or vary the
5934 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a
5935 full-service restaurant license to the new owner of the premises if:

5936 (i) when a full-service restaurant license was issued to a previous owner, the premises
5937 met the proximity requirements of Subsection 32B-1-202(2);

5938 (ii) the premises has had a full-service restaurant license at all times since the
5939 full-service restaurant license described in Subsection (4)(b)(i) was issued without a variance;
5940 and

5941 (iii) the community location was located within the proximity requirements of
5942 Subsection 32B-1-202(2) after the day on which the full-service restaurant license described in
5943 Subsection (4)(b)(i) was issued.

5944 Section 175. Section **32B-6-204** is enacted to read:

5945 **32B-6-204. Specific licensing requirements for full-service restaurant license.**

5946 (1) To obtain a full-service restaurant license a person shall comply with Chapter 5,
5947 Part 2, Retail Licensing Process.

5948 (2) (a) A full-service restaurant license expires on October 31 of each year.

5949 (b) To renew a person's full-service restaurant license, a person shall comply with the
5950 renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
5951 September 30.

5952 (3) (a) The nonrefundable application fee for a full-service restaurant license is \$250.

5953 (b) The initial license fee for a full-service restaurant license is \$1,750.

5954 (c) The renewal fee for a full-service restaurant license is in the following amount:

<u>Gross Cost of Liquor in Previous License Year for the Licensee</u>	<u>Renewal Fee</u>
5955 <u>under \$5,000</u>	5956 <u>\$750</u>
5957 <u>equals or exceeds \$5,000 but less than \$10,000</u>	5958 <u>\$900</u>
5958 <u>equals or exceeds \$10,000 but less than \$25,000</u>	5959 <u>\$1,250</u>
5959 <u>equals or exceeds \$25,000</u>	5960 <u>\$1,500</u>

5960 (4) The bond amount required for a full-service restaurant license is the penal sum of
5961 \$10,000.

5962 Section 176. Section **32B-6-205** is enacted to read:

5963 **32B-6-205. Specific operational requirements for a full-service restaurant**
5964 **license.**

5965 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational

5966 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
5967 shall comply with this section.

5968 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
5969 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

5970 (i) a full-service restaurant licensee;

5971 (ii) individual staff of a full-service restaurant licensee; or

5972 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
5973 licensee.

5974 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant
5975 licensee shall display in a prominent place in the restaurant a list of the types and brand names
5976 of liquor being furnished through the full-service restaurant licensee's calibrated metered
5977 dispensing system.

5978 (3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee
5979 shall store an alcoholic product in a storage area described in Subsection (12)(a).

5980 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
5981 licensee's premises shall make a written beverage tab for each table or group that orders or
5982 consumes an alcoholic product on the premises.

5983 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
5984 alcoholic product ordered or consumed.

5985 (5) A person's willingness to serve an alcoholic product may not be made a condition
5986 of employment as a server with a full-service restaurant licensee.

5987 (6) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish liquor at
5988 the licensed premises on any day during the period that:

5989 (i) begins at midnight; and

5990 (ii) ends at 11:59 a.m.

5991 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
5992 hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer.

5993 (7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant

5994 business from the sale of food, which does not include:

5995 (a) mix for an alcoholic product; or

5996 (b) a service charge.

5997 (8) (a) A full-service restaurant may not sell, offer for sale, or furnish an alcoholic

5998 product except in connection with an order for food prepared, sold, and furnished at the

5999 licensed premises.

6000 (b) A full-service restaurant shall maintain on the licensed premises adequate culinary

6001 facilities for food preparation and dining accommodations.

6002 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have

6003 more than two alcoholic products of any kind at a time before the patron.

6004 (b) A patron may not have more than one spirituous liquor drink at a time before the

6005 patron.

6006 (c) An individual portion of wine is considered to be one alcoholic product under

6007 Subsection (9)(a).

6008 (10) A patron may consume an alcoholic product only:

6009 (a) at:

6010 (i) the patron's table;

6011 (ii) a counter; or

6012 (iii) a seating grandfathered bar structure; and

6013 (b) where food is served.

6014 (11) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an

6015 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar

6016 structure that is not a seating grandfathered bar structure.

6017 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older

6018 may:

6019 (i) sit;

6020 (ii) be furnished an alcoholic product; and

6021 (iii) consume an alcoholic product.

6022 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
6023 full-service restaurant licensee may not permit a minor to, and a minor may not:

6024 (i) sit; or

6025 (ii) consume food or beverages.

6026 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is
6027 employed by a full-service restaurant licensee:

6028 (A) as provided in Subsection 32B-5-308(2); or

6029 (B) to perform maintenance and cleaning services during an hour when the full-service
6030 restaurant licensee is not open for business.

6031 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
6032 remaining or sitting at the bar structure en route to an area of a full-service restaurant
6033 licensee's premises in which the minor is permitted to be.

6034 (12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee
6035 may dispense an alcoholic product only if:

6036 (a) the alcoholic product is dispensed from:

6037 (i) a grandfathered bar structure;

6038 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
6039 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
6040 12, 2009; or

6041 (iii) an area that is:

6042 (A) separated from an area for the consumption of food by a patron by a solid, opaque,
6043 permanent structural barrier such that the facilities for the storage or dispensing of an
6044 alcoholic product are:

6045 (I) not readily visible to a patron; and

6046 (II) not accessible by a patron; and

6047 (B) apart from an area used:

6048 (I) for dining;

6049 (II) for staging; or

6050 (III) as a lobby or waiting area;
6051 (b) the full-service restaurant licensee uses an alcoholic product that is:
6052 (i) stored in an area described in Subsection (12)(a); or
6053 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
6054 (A) immediately before the alcoholic product is dispensed it is in an unopened
6055 package;
6056 (B) the unopened package is taken to an area described in Subsection (12)(a) before it
6057 is opened; and
6058 (C) once opened, the package is stored in an area described in Subsection (12)(a); and
6059 (c) any instrument or equipment used to dispense alcoholic product is located in an
6060 area described in Subsection (12)(a).
6061 (13) A full-service restaurant licensee may state in a food or alcoholic product menu a
6062 charge or fee made in connection with the sale, service, or consumption of liquor including:
6063 (a) a set-up charge;
6064 (b) a service charge; or
6065 (c) a chilling fee.
6066 Section 177. Section **32B-6-205.1** is enacted to read:
6067 **32B-6-205.1. Credit for grandfathered bar structures of full-service restaurant**
6068 **licensee.**
6069 (1) A full-service restaurant licensee that has a grandfathered bar structure may receive
6070 a credit for purchases from a state store or package agency if:
6071 (a) the full-service restaurant licensee completes a remodel of the grandfathered bar
6072 structure by no later than December 31, 2011;
6073 (b) the remodeling described in Subsection (1)(a) results in the full-service restaurant
6074 licensee engaging in an activity described in Subsection 32B-6-205(12) only in an area
6075 described in Subsection 32B-6-205(12)(a)(iii);
6076 (c) the full-service restaurant licensee requests the credit by no later than April 1,
6077 2012;

6078 (d) the department determines that the full-service restaurant licensee has completed a
6079 remodel described in Subsections (1)(a) and (b); and

6080 (e) the department authorizes the credit, including the amount of the credit under
6081 Subsection (2), on the basis that:

6082 (i) the full-service restaurant licensee complied with this section; and
6083 (ii) the aggregate of credits authorized under this section and Section 32B-6-305.1
6084 before the current authorization does not exceed the amount described in Subsection (5)(a).

6085 (2) The amount of the credit described in this section is the lesser of:

6086 (a) the actual costs of the remodel as evidenced by receipts, copies of which are
6087 submitted to the department as part of the request for the credit; or

6088 (b) \$30,000.

6089 (3) For a full-service restaurant licensee, a credit under this section:

6090 (a) begins on the day on which the department authorizes the credit under Subsection
6091 (1); and

6092 (b) ends the day on which the full-service restaurant licensee uses all of the credit.

6093 (4) The department shall by contract provide for how a package agency accounts for a
6094 credit purchase made at the package agency by a full-service restaurant licensee under this
6095 section.

6096 (5) (a) Notwithstanding the other provisions of this section, the department may not
6097 authorize a credit if the aggregate of credits authorized under this section and Section
6098 32B-6-305.1 before the department authorizes the credit exceeds:

6099 (i) \$1,000,000, for the aggregate of credits under this section and Section
6100 32B-6-305.1, if the credit could be used on or before June 30, 2010; and

6101 (ii) subject to Subsection (5)(a)(i), \$1,090,000 for the aggregate of all credits that can
6102 be authorized under this section and Section 32B-6-305.1.

6103 (b) The department shall authorize credits in the order that the department receives a
6104 request described in Subsection (1)(c) from a full-service restaurant licensee requesting a
6105 credit under this section.

6106 Section 178. Section **32B-6-301** is enacted to read:

6107 **Part 3. Limited-service Restaurant License**

6108 **32B-6-301. Title.**

6109 This part is known as "Limited-service Restaurant License."

6110 Section 179. Section **32B-6-302** is enacted to read:

6111 **32B-6-302. Definitions.**

6112 For purposes of this part, wine includes an alcoholic beverage defined as wine under
6113 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made
6114 in the manner of wine containing not less than 7% and not more than 24% of alcohol by
6115 volume:

6116 (1) sparkling and carbonated wine;

6117 (2) wine made from condensed grape must;

6118 (3) wine made from other agricultural products than the juice of sound, ripe grapes;

6119 (4) imitation wine;

6120 (5) compounds sold as wine;

6121 (6) vermouth;

6122 (7) cider;

6123 (8) perry; and

6124 (9) sake.

6125 Section 180. Section **32B-6-303** is enacted to read:

6126 **32B-6-303. Commission's power to issue limited-service restaurant license.**

6127 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
6128 wine, heavy beer, or beer on its premises as a limited-service restaurant, the person shall first
6129 obtain a limited-service restaurant license from the commission in accordance with this part.

6130 (2) (a) The commission may issue a limited-service restaurant license to establish
6131 limited-service restaurant licensed premises at places and in numbers the commission
6132 considers proper for the storage, sale, offer for sale, furnishing, and consumption of wine,
6133 heavy beer, or beer on premises operated as a limited-service restaurant.

6134 (b) A person may not sell, offer for sale, furnish, or allow the consumption of the
6135 following on the licensed premises of a limited-service restaurant licensee:

6136 (i) spirituous liquor; or

6137 (ii) a flavored malt beverage.

6138 (3) (a) The commission may not issue a total number of limited-service restaurant
6139 licenses that at any time exceeds the number determined by dividing the population of the
6140 state by 9,300.

6141 (b) The commission may issue a seasonal limited-service restaurant license in
6142 accordance with Section 32B-5-206.

6143 (c) (i) If the location, design, and construction of a hotel may require more than one
6144 limited-service restaurant sales location within the hotel to serve the public convenience, the
6145 commission may authorize the sale of wine, heavy beer, and beer at as many as three
6146 limited-service restaurant locations within the hotel under one limited-service restaurant
6147 license if:

6148 (A) the hotel has a minimum of 150 guest rooms; and

6149 (B) the locations under the limited-service restaurant license are:

6150 (I) within the same hotel; and

6151 (II) on premises that are managed or operated, and owned or leased by the
6152 limited-service restaurant licensee.

6153 (ii) A facility other than a hotel shall have a separate limited-service restaurant license
6154 for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or
6155 furnished.

6156 (4) (a) Except as provided in Subsection (4)(b), the commission may not issue a
6157 limited-service restaurant license for premises that do not meet the proximity requirements of
6158 Section 32B-1-202.

6159 (b) With respect to the premises of a limited-service restaurant license issued by the
6160 commission that undergoes a change of ownership, the commission shall waive or vary the
6161 proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a

6162 limited-service restaurant license to the new owner of the premises if:

6163 (i) when a limited-service restaurant license was issued to a previous owner, the
6164 premises met the proximity requirements of Subsection 32B-1-202(2):

6165 (ii) the premises has had a limited-service restaurant license at all times since the
6166 limited-service restaurant license described in Subsection (4)(b)(i) was issued without a
6167 variance; and

6168 (iii) the community location was located within the proximity requirements of
6169 Subsection 32B-1-202(2) after the day on which the limited-service restaurant license
6170 described in Subsection (4)(b)(i) was issued.

6171 Section 181. Section **32B-6-304** is enacted to read:

6172 **32B-6-304. Specific licensing requirements for limited-service restaurant license.**

6173 (1) To obtain a limited-service restaurant license a person shall comply with Chapter
6174 5, Part 2, Retail Licensing Process.

6175 (2) (a) A limited-service restaurant license expires on October 31 of each year.

6176 (b) To renew a person's limited-service restaurant license, a person shall comply with
6177 the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
6178 September 30.

6179 (3) (a) The nonrefundable application fee for a limited-service restaurant license is
6180 \$250.

6181 (b) The initial license fee for a limited-service restaurant license is \$500.

6182 (c) The renewal fee for a limited-service restaurant license is \$300.

6183 (4) The bond amount required for a limited-service restaurant license is the penal sum
6184 of \$5,000.

6185 Section 182. Section **32B-6-305** is enacted to read:

6186 **32B-6-305. Specific operational requirements for a limited-service restaurant**
6187 **license.**

6188 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
6189 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant

6190 licensee shall comply with this section.

6191 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
6192 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

6193 (i) a limited-service restaurant licensee;

6194 (ii) individual staff of a limited-service restaurant licensee; or

6195 (iii) both a limited-service restaurant licensee and staff of the limited-service
6196 restaurant licensee.

6197 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell,
6198 offer for sale, furnish, or allow consumption of:

6199 (i) spirituous liquor; or

6200 (ii) a flavored malt beverage.

6201 (b) A product listed in Subsection (2)(a) may not be on the premises of a
6202 limited-service restaurant licensee except for use:

6203 (i) as a flavoring on a dessert; and

6204 (ii) in the preparation of a flaming food dish, drink, or dessert.

6205 (3) In addition to complying with Section 32B-5-303, a limited-service restaurant
6206 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).

6207 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant
6208 licensee's premises shall make a written beverage tab for each table or group that orders or
6209 consumes an alcoholic product on the premises.

6210 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
6211 alcoholic product ordered or consumed.

6212 (5) A person's willingness to serve an alcoholic product may not be made a condition
6213 of employment as a server with a limited-service restaurant licensee.

6214 (6) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish wine
6215 or heavy beer at the licensed premises on any day during the period that:

6216 (i) begins at midnight; and

6217 (ii) ends at 11:59 a.m.

6218 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during
6219 the hours specified in Part 7, On-premise Beer Retailer License, for an on-premise beer
6220 retailer.

6221 (7) A limited-service restaurant licensee shall maintain at least 70% of its total
6222 restaurant business from the sale of food, which does not include a service charge.

6223 (8) (a) A limited-service restaurant may not sell, offer for sale, or furnish an alcoholic
6224 product except in connection with an order for food prepared, sold, and furnished at the
6225 licensed premises.

6226 (b) A limited-service restaurant shall maintain on the licensed premises adequate
6227 culinary facilities for food preparation and dining accommodations.

6228 (9) (a) Subject to the other provisions of this Subsection (9), a patron may not have
6229 more than two alcoholic products of any kind at a time before the patron.

6230 (b) An individual portion of wine is considered to be one alcoholic product under
6231 Subsection (9)(a).

6232 (10) A patron may consume an alcoholic product only:

6233 (a) at:

6234 (i) the patron's table;

6235 (ii) a counter; or

6236 (iii) a seating grandfathered bar structure; and

6237 (b) where food is served.

6238 (11) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
6239 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
6240 structure that is not a seating grandfathered bar structure.

6241 (b) At a seating grandfathered bar structure a patron who is 21 years of age or older
6242 may:

6243 (i) sit;

6244 (ii) be furnished an alcoholic product; and

6245 (iii) consume an alcoholic product.

6246 (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a
6247 limited-service restaurant licensee may not permit a minor to, and a minor may not:

6248 (i) sit; or

6249 (ii) consume food or beverages.

6250 (d) (i) A minor may be at a seating grandfathered bar structure if the minor is
6251 employed by a limited-service restaurant licensee:

6252 (A) as provided in Subsection 32B-5-308(2); or

6253 (B) to perform maintenance and cleaning services during an hour when the
6254 limited-service restaurant licensee is not open for business.

6255 (ii) A minor may momentarily pass by a seating grandfathered bar structure without
6256 remaining or sitting at the bar structure en route to an area of a limited-service restaurant
6257 licensee's premises in which the minor is permitted to be.

6258 (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant
6259 licensee may dispense an alcoholic product only if:

6260 (a) the alcoholic product is dispensed from:

6261 (i) a grandfathered bar structure;

6262 (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
6263 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
6264 12, 2009; or

6265 (iii) an area that is:

6266 (A) separated from an area for the consumption of food by a patron by a solid, opaque,
6267 permanent structural barrier such that the facilities for the storage or dispensing of an
6268 alcoholic product are:

6269 (I) not readily visible to a patron; and

6270 (II) not accessible by a patron; and

6271 (B) apart from an area used:

6272 (I) for dining;

6273 (II) for staging; or

6274 (III) as a lobby or waiting area;
6275 (b) the limited-service restaurant licensee uses an alcoholic product that is:
6276 (i) stored in an area described in Subsection (12)(a); or
6277 (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
6278 (A) immediately before the alcoholic product is dispensed it is in an unopened
6279 package;
6280 (B) the unopened package is taken to an area described in Subsection (12)(a) before it
6281 is opened; and
6282 (C) once opened, the package is stored in an area described in Subsection (12)(a); and
6283 (c) any instrument or equipment used to dispense alcoholic product is located in an
6284 area described in Subsection (12)(a).
6285 (13) A limited-service restaurant licensee may state in a food or alcoholic product
6286 menu a charge or fee made in connection with the sale, service, or consumption of wine or
6287 heavy beer including:
6288 (a) a set-up charge;
6289 (b) a service charge; or
6290 (c) a chilling fee.
6291 Section 183. Section **32B-6-305.1** is enacted to read:
6292 **32B-6-305.1. Credit for grandfathered bar structures for limited-service**
6293 **restaurant licensee.**
6294 (1) A limited-service restaurant licensee that has a grandfathered bar structure may
6295 receive a credit for purchases from a state store or package agency if:
6296 (a) the limited-service restaurant licensee completes a remodel of the grandfathered
6297 bar structure by no later than December 31, 2011;
6298 (b) the remodeling described in Subsection (1)(a) results in the limited-service
6299 restaurant licensee engaging in an activity described in Subsection 32B-6-305(12) only in an
6300 area described in Subsection 32B-6-305(12)(a)(iii);
6301 (c) the limited-service restaurant licensee requests the credit by no later than April 1,

6302 2012;

6303 (d) the department determines that the limited-service restaurant licensee has
6304 completed a remodel described in Subsections (1)(a) and (b); and

6305 (e) the department authorizes the credit, including the amount of the credit under
6306 Subsection (2), on the basis that:

6307 (i) the limited-service restaurant licensee complied with this section; and

6308 (ii) the aggregate of credits authorized under this section and Section 32B-6-205.1
6309 before the current authorization does not exceed the amount described in Subsection (5)(a).

6310 (2) The amount of the credit described in this section is the lesser of:

6311 (a) the actual costs of the remodel as evidenced by receipts, copies of which are
6312 submitted to the department as part of the request for the credit; or

6313 (b) \$30,000.

6314 (3) For a limited-service restaurant licensee, a credit under this section:

6315 (a) begins on the day on which the department authorizes the credit under Subsection
6316 (1); and

6317 (b) ends the day on which the limited-service restaurant licensee uses all of the credit.

6318 (4) The department shall by contract provide for how a package agency accounts for a
6319 credit purchase made at the package agency by a limited-service restaurant licensee under this
6320 section.

6321 (5) (a) Notwithstanding the other provisions of this section, the department may not
6322 authorize a credit if the aggregate of credits authorized under this section and Section
6323 32B-6-205.1 before the department authorizes the credit exceeds:

6324 (i) \$1,000,000, for the aggregate of credits under this section and Section
6325 32B-6-205.1, if the credit could be used on or before June 30, 2010; and

6326 (ii) subject to Subsection (5)(a)(i), \$1,090,000 for the aggregate of all credits that can
6327 be authorized under this section and Section 32B-6-205.1.

6328 (b) The department shall authorize credits in the order that the department receives a
6329 request described in Subsection (1)(c) from a limited-service restaurant licensee requesting a

6330 credit under this section.

6331 Section 184. Section **32B-6-401** is enacted to read:

6332 **Part 4. Club License**

6333 **32B-6-401. Title.**

6334 This part is known as "Club License."

6335 Section 185. Section **32B-6-402** is enacted to read:

6336 **32B-6-402. Definitions.**

6337 Reserved

6338 Section 186. Section **32B-6-403** is enacted to read:

6339 **32B-6-403. Commission's power to issue club license.**

6340 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
6341 an alcoholic product on its premises as a club licensee, the person shall first obtain a club
6342 license from the commission in accordance with this part.

6343 (2) The commission may issue a club license to establish club licensed premises at
6344 places and in numbers the commission considers proper for the storage, sale, offer for sale,
6345 furnishing, and consumption of an alcoholic product on premises operated by a club licensee.

6346 (3) (a) The commission may not issue a total number of club licenses that at any time
6347 exceeds the number determined by dividing the population of the state by 7,850.

6348 (b) The commission may issue a seasonal club license in accordance with Section
6349 32B-5-206 to:

6350 (i) a dining club licensee; or

6351 (ii) a social club licensee.

6352 (c) (i) If the location, design, and construction of a hotel may require more than one
6353 dining club license or social club license location within the hotel to serve the public
6354 convenience, the commission may authorize as many as three club license locations within the
6355 hotel under one club license if:

6356 (A) the hotel has a minimum of 150 guest rooms; and

6357 (B) all locations under the club license are:

6358 (I) within the same hotel; and
6359 (II) on premises that are managed or operated, and owned or leased, by the club
6360 licensee.

6361 (ii) A facility other than a hotel shall have a separate club license for each club license
6362 location where an alcoholic product is sold, offered for sale, or furnished.

6363 Section 187. Section **32B-6-404** is enacted to read:

6364 **32B-6-404. Types of club license.**

6365 (1) To obtain an equity club license, in addition to meeting the other requirements of
6366 this part, a person shall:

6367 (a) whether incorporated or unincorporated:

6368 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal
6369 purpose;

6370 (ii) have members;

6371 (iii) limit access to its licensed premises to a member or a guest of the member; and

6372 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold
6373 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

6374 (b) own, maintain, or operate a substantial recreational facility in conjunction with a
6375 club house such as:

6376 (i) a golf course; or

6377 (ii) a tennis facility;

6378 (c) have at least 50% of the total membership having:

6379 (i) full voting rights; and

6380 (ii) an equal share of the equity of the club; and

6381 (d) if there is more than one class of membership, have at least one class of
6382 membership that entitles each member in that class to:

6383 (i) full voting rights; and

6384 (ii) an equal share of the equity of the club.

6385 (2) To obtain a fraternal club license, in addition to meeting the other requirements of

6386 this part, a person shall:

6387 (a) whether incorporated or unincorporated:

6388 (i) be organized and operated solely for a social, recreational, patriotic, or fraternal
6389 purpose;

6390 (ii) have members;

6391 (iii) limit access to its licensed premises to a member or a guest of the member; and

6392 (iv) desire to maintain premises upon which an alcoholic product may be stored, sold
6393 to, offered for sale to, furnished to, and consumed by a member or a guest of a member;

6394 (b) have no capital stock;

6395 (c) exist solely for:

6396 (i) the benefit of its members and their beneficiaries; and

6397 (ii) a lawful social, intellectual, educational, charitable, benevolent, moral, fraternal,
6398 patriotic, or religious purpose for the benefit of its members or the public, carried on through
6399 voluntary activity of its members in their local lodges;

6400 (d) have a representative form of government;

6401 (e) have a lodge system in which:

6402 (i) there is a supreme governing body;

6403 (ii) subordinate to the supreme governing body are local lodges, however designated,
6404 into which individuals are admitted as members in accordance with the laws of the fraternal;

6405 (iii) the local lodges are required by the laws of the fraternal to hold regular meetings
6406 at least monthly; and

6407 (iv) the local lodges regularly engage in one or more programs involving member
6408 participation to implement the purposes of Subsection (2)(c); and

6409 (f) own or lease a building or space in a building used for lodge activities.

6410 (3) To obtain a dining club license, in addition to meeting the other requirements of

6411 this part, a person shall:

6412 (a) maintain at least 50% of its total club business from the sale of food, not including:

6413 (i) mix for alcoholic products; or

6414 (ii) service charges; and
6415 (b) obtain a determination by the commission that the person will operate as a dining
6416 club licensee, as part of which the commission may consider:
6417 (i) the square footage and seating capacity of the premises;
6418 (ii) what portion of the square footage and seating capacity will be used for a dining
6419 area in comparison to the portion that will be used as a lounge or bar area;
6420 (iii) whether full meals including appetizers, main courses, and desserts are served;
6421 (iv) whether the person will maintain adequate on-premise culinary facilities to
6422 prepare full meals, except a person who is located on the premise of a hotel or resort facility
6423 may use the culinary facilities of the hotel or resort facility;
6424 (v) whether the entertainment provided at the club is suitable for minors; and
6425 (vi) the club management's ability to manage and operate a dining club license
6426 including:
6427 (A) management experience;
6428 (B) past dining club licensee or restaurant management experience; and
6429 (C) the type of management scheme used by the dining club license.
6430 (4) To obtain a social club license, a person is required to meet the requirements of
6431 this part except those listed in Subsection (1), (2), or (3).
6432 (5) (a) At the time that the commission issues a club license, the commission shall
6433 designate the type of club license for which the person qualifies.
6434 (b) If requested by a club licensee, the commission may approve a change in the type
6435 of club license in accordance with rules made by the commission.
6436 (6) To the extent not prohibited by law, this part does not prevent a dining club
6437 licensee or social club licensee from restricting access to the club's licensed premises on the
6438 basis of an individual:
6439 (a) paying a fee; or
6440 (b) agreeing to being on a list of individuals who have access to the club's licensed
6441 premises.

- 6442 Section 188. Section **32B-6-405** is enacted to read:
- 6443 **32B-6-405. Specific licensing requirements for club license.**
- 6444 (1) To obtain a club license, in addition to complying with Chapter 5, Part 2, Retail
- 6445 Licensing Process, a person shall submit with the written application:
- 6446 (a) (i) a statement as to whether the person is seeking to qualify as:
- 6447 (A) an equity club licensee;
- 6448 (B) a fraternal club licensee;
- 6449 (C) a dining club licensee; or
- 6450 (D) a social club licensee; and
- 6451 (ii) evidence that the person meets the requirements for the type of club license for
- 6452 which the person is applying;
- 6453 (b) evidence that the person operates club premises where a variety of food is prepared
- 6454 and served in connection with dining accommodations; and
- 6455 (c) if the person is applying for an equity club license or fraternal club license, a copy
- 6456 of the club's bylaws or house rules, and an amendment to those records.
- 6457 (2) The commission may refuse to issue a club license to a person for an equity club
- 6458 license or fraternal club license if the commission determines that a provision of the person's
- 6459 bylaws or house rules, or amendments to those records is not:
- 6460 (a) reasonable; and
- 6461 (b) consistent with:
- 6462 (i) the declared nature and purpose of the club licensee; and
- 6463 (ii) the purposes of this part.
- 6464 (3) (a) A club license expires on June 30 of each year.
- 6465 (b) To renew a club license, a person shall comply with the requirements of Chapter 5,
- 6466 Part 2, Retail Licensing Process, by no later than May 31.
- 6467 (4) (a) The nonrefundable application fee for a club license is \$250.
- 6468 (b) The initial license fee for a club license is \$2,500.
- 6469 (c) The renewal fee for a club license is \$1,600.

6470 (5) The bond amount required for a full-service restaurant license is the penal sum of
6471 \$10,000.

6472 Section 189. Section **32B-6-406** is enacted to read:

6473 **32B-6-406. Specific operational requirements for a club license.**

6474 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
6475 Requirements, a club licensee and staff of the club licensee shall comply with this section.

6476 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
6477 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

6478 (i) a club licensee;

6479 (ii) individual staff of a club licensee; or

6480 (iii) both a club licensee and staff of the club licensee.

6481 (2) In addition to complying with Subsection 32B-5-301(3), a club licensee shall
6482 display in a prominent place in the club licensed premises a list of the types and brand names
6483 of liquor being furnished through the club licensee's calibrated metered dispensing system.

6484 (3) (a) In addition to complying with Section 32B-5-302, a club licensee shall
6485 maintain for a minimum of three years:

6486 (i) a record required by Section 32B-5-302; and

6487 (ii) a record maintained or used by the club licensee, as the department requires.

6488 (b) Section 32B-1-205 applies to a record required to be made, maintained, or used in
6489 accordance with this Subsection (3).

6490 (c) The department shall audit the records of a club licensee at least once annually.

6491 (4) (a) A club licensee may not sell, offer for sale, or furnish liquor on the licensed
6492 premises on any day during a period that:

6493 (i) begins at 1 a.m.; and

6494 (ii) ends at 9:59 a.m.

6495 (b) A club licensee may sell, offer for sale, or furnish beer during the hours specified
6496 in Part 7, On-premise Beer Retailer License, for an on-premise beer retailer license.

6497 (c) (i) Notwithstanding Subsections (4)(a) and (b), a club licensee shall keep its

6498 licensed premises open for one hour after the club licensee ceases the sale and furnishing of an
6499 alcoholic product during which time a patron of the club licensee may finish consuming:
6500 (A) a single drink containing spirituous liquor;
6501 (B) a single serving of wine not exceeding five ounces;
6502 (C) a single serving of heavy beer;
6503 (D) a single serving of beer not exceeding 26 ounces; or
6504 (E) a single serving of a flavored malt beverage.
6505 (ii) A club licensee is not required to remain open:
6506 (A) after all patrons have vacated the premises; or
6507 (B) during an emergency.
6508 (d) A club licensee may not allow a patron to remain on the licensed premises of the
6509 club licensee to consume an alcoholic product on the licensed premises during a period that:
6510 (i) begins at 2 a.m.; and
6511 (ii) ends at 9:59 a.m.
6512 (5) (a) A minor may not be admitted into, use, or be in:
6513 (i) a lounge or bar area of the premises of:
6514 (A) an equity club licensee;
6515 (B) a fraternal club licensee; or
6516 (C) a dining club licensee; or
6517 (ii) the premises of:
6518 (A) a dining club licensee unless accompanied by an individual who is 21 years of age
6519 or older; or
6520 (B) a social club licensee, except to the extent provided for under Section
6521 32B-6-406.1.
6522 (b) Notwithstanding Section 32B-5-308, a club licensee may not employ a minor to:
6523 (i) work in a lounge or bar area of an equity club licensee, fraternal club licensee, or
6524 dining club licensee; or
6525 (ii) handle an alcoholic product.

6526 (c) Notwithstanding Section 32B-5-308, a minor may not be employed on the licensed
6527 premises of a social club licensee.

6528 (d) Nothing in this part or Section 32B-5-308 precludes a local authority from being
6529 more restrictive of a minor's admittance to, use of, or presence on the licensed premises of a
6530 club licensee.

6531 (6) A club licensee shall have food available at all times when an alcoholic product is
6532 sold, offered for sale, furnished, or consumed on the licensed premises.

6533 (7) (a) Subject to the other provisions of this Subsection (7), a patron may not have
6534 more than two alcoholic products of any kind at a time before the patron.

6535 (b) A patron may not have two spirituous liquor drinks before the club licensee patron
6536 if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other
6537 spirituous liquor drink.

6538 (c) An individual portion of wine is considered to be one alcoholic product under
6539 Subsection (7)(a).

6540 (8) A club licensee shall have available on the premises for a patron to review at the
6541 time that the patron requests it, a written alcoholic product price list or a menu containing the
6542 price of an alcoholic product sold, offered for sale, or furnished by the club licensee including:

6543 (a) a set-up charge;

6544 (b) a service charge; or

6545 (c) a chilling fee.

6546 (9) Subject to Section 32B-5-309, a club licensee may not temporarily rent or
6547 otherwise temporarily lease its premises to a person unless:

6548 (a) the person to whom the club licensee rents or leases the premises agrees in writing
6549 to comply with this title as if the person is the club licensee, except for a requirement related to
6550 making or maintaining a record; and

6551 (b) the club licensee takes reasonable steps to ensure that the person complies with this
6552 section as provided in Subsection (9)(a).

6553 (10) If a club licensee is an equity club licensee or fraternal club licensee, the club

6554 licensee shall comply with Section 32B-6-407.

6555 (11) If a club licensee is a dining club licensee or social club licensee, the club
6556 licensee shall comply with Section 32B-1-407.

6557 (12) (a) A club licensee shall own or lease premises suitable for the club licensee's
6558 activities.

6559 (b) A club licensee may not maintain licensed premises in a manner that barricades or
6560 conceals the club licensee's operation.

6561 Section 190. Section **32B-6-406.1** is enacted to read:

6562 **32B-6-406.1. Specific operational restrictions related to dance or concert hall.**

6563 (1) A minor who is at least 18 years of age may be admitted into, use, or be on the
6564 premises of a dance or concert hall if:

6565 (a) the dance or concert hall is located:

6566 (i) on the licensed premises of a social club licensee; or

6567 (ii) on the property that immediately adjoins the licensed premises of and is operated
6568 by a social club licensee; and

6569 (b) the social club licensee holds a permit to operate a dance or concert hall that was
6570 issued on or before May 11, 2009:

6571 (i) on the basis of the operational requirements described in Subsection (2); and

6572 (ii) when the social club licensee was licensed as a class D private club.

6573 (2) A social club licensee that holds a dance or concert hall permit shall operate in
6574 such a way that:

6575 (a) the social club licensee's lounge, bar, or other area for alcoholic product
6576 consumption is:

6577 (i) not accessible to a minor;

6578 (ii) clearly defined; and

6579 (iii) separated from the dance or concert hall area by one or more walls, multiple floor
6580 levels, or other substantial physical barriers;

6581 (b) a bar or dispensing area is not visible to a minor;

- 6582 (c) consumption of an alcoholic product may not occur in:
6583 (i) the dance or concert hall area; or
6584 (ii) an area of the social club license premises accessible to a minor;
6585 (d) the social club licensee maintains sufficient security personnel to prevent the
6586 passing of beverages from the social club licensee's lounge, bar, or other area for alcoholic
6587 product consumption to:
6588 (i) the dance or concert hall area; or
6589 (ii) an area of the social club licensee premises accessible to a minor;
6590 (e) there are one or more separate entrances, exits, and restroom facilities from the
6591 social club licensee's lounge, bar, or other area for alcoholic product consumption than for:
6592 (i) the dance or concert hall area; or
6593 (ii) an area accessible to a minor; and
6594 (f) the social club licensee complies with any other requirements imposed by the
6595 commission by rule.
6596 (3) (a) A minor under 18 years of age who is accompanied at all times by a parent or
6597 legal guardian may be admitted into, use, or be on the premises of a concert hall described in
6598 Subsection (1) if:
6599 (i) the requirements of Subsection (2) are met; and
6600 (ii) signage, product, and dispensing equipment containing recognition of an alcoholic
6601 product is not visible to the minor.
6602 (b) A minor under 18 years of age but who is 14 years of age or older who is not
6603 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
6604 a concert hall described in Subsection (1) if:
6605 (i) the requirements of Subsections (2) and (3)(a) are met; and
6606 (ii) there is no alcoholic product, sales, furnishing, or consumption on the premises of
6607 the social club licensee.
6608 (4) The commission may suspend or revoke a dance or concert permit issued to a
6609 social club licensee and suspend or revoke the license of the social club licensee if:

- 6610 (a) the social club licensee fails to comply with the requirements in this section;
- 6611 (b) the social club licensee sells, offers for sale, or furnishes an alcoholic product to a
- 6612 minor;
- 6613 (c) the social club licensee or a supervisory or managerial level staff of the social club
- 6614 licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis
- 6615 of an activity that occurs on:
 - 6616 (i) the licensed premises; or
 - 6617 (ii) the dance or concert hall that is located on property that immediately adjoins the
 - 6618 licensed premises of and is operated by the social club licensee;
- 6619 (d) there are three or more convictions of patrons of the social club licensee under
- 6620 Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities that occur on:
 - 6621 (i) the licensed premises; or
 - 6622 (ii) the dance or concert hall that is located on property that immediately adjoins the
 - 6623 licensed premises of and is operated by the social club licensee;
 - 6624 (iii) there is more than one conviction:
 - 6625 (A) of:
 - 6626 (I) the social club licensee;
 - 6627 (II) staff of the social club licensee;
 - 6628 (III) an entertainer contracted by the social club licensee; or
 - 6629 (IV) a patron of the social club licensee; and
 - 6630 (B) made on the basis of a lewd act or lewd entertainment prohibited by this title that
 - 6631 occurs on:
 - 6632 (I) the licensed premises; or
 - 6633 (II) the dance or concert hall that is located on property that immediately adjoins the
 - 6634 licensed premises of and is operated by the social club licensee; or
 - 6635 (e) the commission finds acts or conduct contrary to the public welfare and morals
 - 6636 involving lewd acts or lewd entertainment prohibited by this title that occurs on:
 - 6637 (i) the licensed premises; or

6638 (ii) the dance or concert hall that is located on property that immediately adjoins the
6639 licensed premises of and is operated by the social club licensee.

6640 (5) Nothing in this section prohibits a social club licensee from selling, offering for
6641 sale, or furnishing an alcoholic product in a dance or concert area located on the social club
6642 licensed premises on days and times when the social club licensee does not allow a minor into
6643 those areas.

6644 Section 191. Section **32B-6-407** is enacted to read:

6645 **32B-6-407. Specific operational requirements for equity club license or fraternal**
6646 **club license.**

6647 (1) For purposes of this section only:

6648 (a) "Club licensee" means an equity club licensee or fraternal club licensee.

6649 (b) "Club licensee" does not include a dining club licensee or social club licensee.

6650 (2) (a) A club licensee shall have a governing body that:

6651 (i) consists of three or more members of the club; and

6652 (ii) holds regular meetings to:

6653 (A) review membership applications; and

6654 (B) conduct other business as required by the bylaws or house rules of the club.

6655 (b) (i) A club licensee shall maintain a minute book that is posted currently by the club
6656 licensee.

6657 (ii) The minute book required by this Subsection (2) shall contain the minutes of a
6658 regular or special meeting of the governing body.

6659 (3) A club licensee may admit an individual as a member only on written application
6660 signed by the person, subject to:

6661 (a) the person paying an application fee; and

6662 (b) investigation, vote, and approval of a quorum of the governing body.

6663 (4) A club licensee shall:

6664 (a) record an admission of a member in the official minutes of a regular meeting of the
6665 governing body; and

6666 (b) whether approved or disapproved, file an application as a part of the official
6667 records of the club licensee.

6668 (5) The spouse of a member of a club licensee has the rights and privileges of the
6669 member:

6670 (a) to the extent permitted by the bylaws or house rules of the club licensee; and

6671 (b) except to the extent restricted by this title.

6672 (6) A minor child of a member of a club licensee has the rights and privileges of the
6673 member:

6674 (a) to the extent permitted by the bylaws or house rules of the club licensee; and

6675 (b) except to the extent restricted by this title.

6676 (7) A club licensee shall maintain:

6677 (a) a current and complete membership record showing:

6678 (i) the date of application of a proposed member;

6679 (ii) a member's address;

6680 (iii) the date the governing body approved a member's admission;

6681 (iv) the date initiation fees and dues are assessed and paid; and

6682 (v) the serial number of the membership card issued to a member;

6683 (b) a membership list; and

6684 (c) a current record indicating when a member is removed as a member or resigns.

6685 (8) (a) A club licensee shall have bylaws or house rules that include provisions
6686 respecting the following:

6687 (i) standards of eligibility for members;

6688 (ii) limitation of members, consistent with the nature and purpose of the club;

6689 (iii) the period for which dues are paid, and the date upon which the period expires;

6690 (iv) provisions for removing a member from the club membership for the nonpayment
6691 of dues or other cause;

6692 (v) provisions for guests; and

6693 (vi) application fees and membership dues.

6694 (b) A club licensee shall maintain a current copy of the club licensee's current bylaws
6695 and current house rules.

6696 (c) A club licensee shall maintain its bylaws or house rules, and any amendments to
6697 those records, on file with the department at all times.

6698 (9) A club licensee may, in its discretion, allow an individual to be admitted to or use
6699 the club licensed premises as a guest subject to the following conditions:

6700 (a) the individual is allowed to use the club licensee premises only to the extent
6701 permitted by the club licensee's bylaws or house rules;

6702 (b) the individual must be previously authorized by a member of the club who agrees
6703 to host the individual as a guest into the club;

6704 (c) the individual has only those privileges derived from the individual's host for the
6705 duration of the individual's visit to the club licensee premises; and

6706 (d) a club licensee or staff of the club licensee may not enter into an agreement or
6707 arrangement with a club member to indiscriminately host a member of the general public into
6708 the club licensee premises as a guest.

6709 (10) Notwithstanding Subsection (9), an individual may be allowed as a guest in a
6710 club licensed premises without a host if:

6711 (a) (i) the club licensee is an equity club licensee; and

6712 (ii) the individual is a member of an equity club licensee that has reciprocal guest
6713 privileges with the equity club licensee for which the individual is a guest; or

6714 (b) (i) the club licensee is a fraternal club licensee; and

6715 (ii) the individual is a member of the same fraternal organization as the fraternal club
6716 licensee for which the individual is a guest.

6717 (11) Unless the patron is a member or guest, a club licensee may not:

6718 (a) sell, offer for sale, or furnish an alcoholic product to the patron; or

6719 (b) allow the patron to be admitted to or use the licensed premises.

6720 (12) A minor may not be a member, officer, director, or trustee of a club licensee.

6721 (13) Public advertising related to a club licensee by the following shall clearly identify

6722 a club as being "a club for members":

6723 (a) the club licensee;

6724 (b) staff of the club licensee; or

6725 (c) a person under a contract or agreement with the club licensee.

6726 Section 192. Section **32B-6-408** is enacted to read:

6727 **32B-6-408. Information obtained by investigator.**

6728 (1) Subject to Subsection (2), if an investigator is permitted by another provision of
6729 this title to inspect a record of a club licensee, in addition to any other rights under this title,
6730 the investigator may inspect, have a copy of, or otherwise review any record of the club
6731 licensee that is a visual recording of the operations of the club licensee.

6732 (2) An investigator who is a peace officer may not inspect, have a copy of, or
6733 otherwise review a visual recording described in Subsection (1) without probable cause.

6734 Section 193. Section **32B-6-501** is enacted to read:

6735 **Part 5. Airport Lounge License**

6736 **32B-6-501. Title.**

6737 This part is known as "Airport Lounge License."

6738 Section 194. Section **32B-6-502** is enacted to read:

6739 **32B-6-502. Definitions.**

6740 Reserved

6741 Section 195. Section **32B-6-503** is enacted to read:

6742 **32B-6-503. Commission's power to issue airport lounge license.**

6743 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
6744 an alcoholic product on its premises as an airport lounge licensee, the person shall first obtain
6745 an airport lounge license from the commission in accordance with this part.

6746 (2) The commission may issue an airport lounge license to establish airport lounge
6747 licensed premises at an international airport and in the numbers the commission considers
6748 proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product
6749 on licensed premises operated as an airport lounge.

6750 (3) The commission may not issue a total number of airport lounge licenses that at any
6751 time exceed one lounge per terminal plus one lounge per concourse located beyond the
6752 security point at that international airport.

6753 Section 196. Section **32B-6-504** is enacted to read:

6754 **32B-6-504. Specific licensing requirements for airport lounge license.**

6755 (1) To obtain an airport lounge license, in addition to complying with Chapter 5, Part
6756 2, Retail Licensing Process, a person shall submit with the written application:

6757 (a) both the written consent of the local authority and the written consent of the airport
6758 authority; and

6759 (b) a copy of the sign proposed to be used by the airport lounge licensee on its licensed
6760 premises to inform the public that alcoholic products are sold and consumed on the licensed
6761 premises.

6762 (2) (a) An airport lounge license expires on October 31 of each year.

6763 (b) To renew a person's airport lounge license, a person shall comply with the renewal
6764 requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

6765 (3) (a) The nonrefundable application fee for an airport lounge license is \$250.

6766 (b) The initial license fee for an airport lounge license is \$7,000.

6767 (c) The renewal fee for an airport lounge license is \$5,000.

6768 (4) The bond amount required for an airport lounge license is the penal sum of
6769 \$10,000.

6770 (5) An airport lounge license is not subject to the proximity requirements of Section
6771 32B-1-202.

6772 Section 197. Section **32B-6-505** is enacted to read:

6773 **32B-6-505. Specific operational requirements for an airport lounge license.**

6774 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
6775 Requirements, an airport lounge licensee and staff of the airport lounge licensee shall comply
6776 with this section.

6777 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action

6778 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

6779 (i) an airport lounge licensee;

6780 (ii) individual staff of an airport lounge licensee; or

6781 (iii) both an airport lounge licensee and staff of the airport lounge licensee.

6782 (2) In addition to complying with Subsection 32B-5-301(3), an airport lounge licensee
6783 shall display in a prominent place in the airport lounge:

6784 (a) a list of the types and brand names of liquor being furnished through airport lounge
6785 licensee's calibrated metered dispensing system; and

6786 (b) a sign to inform the public that alcoholic products are sold and consumed on the
6787 licensed premises.

6788 (3) Notwithstanding Section 32B-5-307:

6789 (a) An airport lounge licensee may not permit a patron to bring a bottled wine onto the
6790 premises of the retail licensee.

6791 (b) An airport lounge licensee may not permit a patron to remove an alcoholic product
6792 from the licensed premises.

6793 (4) (a) A server of an alcoholic product in an airport lounge licensee's premises shall
6794 make a written beverage tab for each table or group that orders or consumes an alcoholic
6795 product on the premises.

6796 (b) A beverage tab required by this Subsection (4) shall list the type and amount of an
6797 alcoholic product ordered or consumed.

6798 (5) An airport lounge licensee may not sell, offer for sale, or furnish an alcoholic
6799 product at an airport lounge on any day during a period that:

6800 (a) begins at midnight; and

6801 (b) ends at 7:59 a.m.

6802 (6) (a) Subject to the other provisions of this Subsection (6), a patron may not have
6803 more than two alcoholic products of any kind at a time before the patron.

6804 (b) A patron may not have two spirituous liquor drinks before the patron if one of the
6805 spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous

6806 liquor drink.

6807 (c) An individual portion of wine is considered to be one alcoholic product under this
6808 Subsection (6).

6809 (7) An airport lounge licensee may state in a food or alcoholic product menu a charge
6810 or fee made in connection with the sale, furnishing, or consumption of liquor menu including:

6811 (a) a set-up charge;

6812 (b) a service charge; or

6813 (c) a chilling fee.

6814 (8) An airport lounge liquor licensee's premises may not be leased for a private event.

6815 Section 198. Section **32B-6-601** is enacted to read:

6816 **Part 6. On-premise Banquet License**

6817 **32B-6-601. Title.**

6818 This part is known as "On-premise Banquet License."

6819 Section 199. Section **32B-6-602** is enacted to read:

6820 **32B-6-602. Definitions.**

6821 Reserved

6822 Section 200. Section **32B-6-603** is enacted to read:

6823 **32B-6-603. Commission's power to issue on-premise banquet license -- Contracts**
6824 **as host.**

6825 (1) (a) Before a person may store, sell, offer for sale, furnish, or allow the consumption
6826 of an alcoholic product in connection with the person's banquet and room service activities at
6827 one of the following, the person shall first obtain an on-premise banquet license in accordance
6828 with this part:

6829 (i) a hotel;

6830 (ii) a resort facility;

6831 (iii) a sports center; or

6832 (iv) a convention center.

6833 (b) This part does not prohibit an alcoholic product on the premises of a person listed

6834 in Subsection (1)(a) to the extent otherwise permitted by this title.

6835 (c) This section does not prohibit a person who applies for an on-premise banquet
6836 license to also apply for a package agency if otherwise qualified.

6837 (2) The commission may issue an on-premise banquet license to establish on-premise
6838 banquet licensees in the numbers the commission considers proper for the storage, sale, offer
6839 for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room
6840 service activities operated by an on-premise banquet licensee.

6841 (3) The commission may not issue a total number of on-premise banquet licenses that
6842 at any time exceed the number determined by dividing the population of the state by 30,000.

6843 (4) (a) As used in this Subsection (4), "grandfathered facility" means a facility:

6844 (i) for which the commission issued an on-premise banquet license that is in effect on
6845 May 11, 2009, on the basis that the facility is a convention center; and

6846 (ii) that no longer qualifies as a convention center as defined in Section 32B-1-102
6847 solely because it is in total less than 30,000 square feet.

6848 (b) Notwithstanding the definition of "convention center" in Section 32B-1-102, an
6849 on-premise banquet license applicable to a grandfathered facility may be renewed until
6850 October 31, 2011, if the on-premise banquet licensee is qualified for an on-premise banquet
6851 license except for the requirement that the facility be in total at least 30,000 square feet.

6852 (5) Pursuant to a contract between the host of a banquet and an on-premise banquet
6853 licensee:

6854 (a) the host of the banquet may request an on-premise banquet licensee to provide an
6855 alcoholic product served at the banquet; and

6856 (b) an on-premise banquet licensee may provide an alcoholic product served at the
6857 banquet.

6858 (6) At a banquet, an on-premise banquet licensee may furnish an alcoholic product:

6859 (a) without charge; or

6860 (b) with a charge to a patron at the banquet.

6861 Section 201. Section **32B-6-604** is enacted to read:

6862 **32B-6-604. Specific licensing requirements for an on-premise banquet license.**

6863 (1) To obtain an on-premise banquet license a person shall comply with Chapter 5,
6864 Part 2, Retail Licensing Process.

6865 (2) (a) An on-premise banquet license expires on October 31 of each year.

6866 (b) To renew a person's on-premise banquet license, a person shall comply with the
6867 requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

6868 (3) (a) The nonrefundable application fee for an on-premise banquet license is \$250.

6869 (b) The initial license fee for an on-premise banquet license is \$500.

6870 (c) The renewal fee for an on-premise banquet license is \$500.

6871 (4) The bond amount required for an on-premise banquet license is the penal sum of
6872 \$10,000.

6873 (5) Notwithstanding the other provisions of this part, if an applicant is a state agency
6874 or political subdivision of the state it is not required to:

6875 (a) pay an application fee, initial license fee, or renewal fee;

6876 (b) obtain the written consent of the local authority;

6877 (c) submit a copy of the applicant's current business license; or

6878 (d) post a bond as specified by Section 32B-5-204.

6879 (6) Notwithstanding Subsection 32B-5-303(3), the department may approve an
6880 additional location in or on the licensed premises of an on-premise banquet licensee from
6881 which the on-premise banquet licensee may store, sell, offer for sale, furnish, or allow the
6882 consumption of an alcoholic product that is not included in its original application only:

6883 (a) upon proper application by an on-premise banquet licensee; and

6884 (b) in accordance with guidelines approved by the commission.

6885 Section 202. Section **32B-6-605** is enacted to read:

6886 **32B-6-605. Specific operational requirements for on-premise banquet license.**

6887 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
6888 Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee
6889 shall comply with this section.

6890 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
6891 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

6892 (i) an on-premise banquet licensee;

6893 (ii) individual staff of an on-premise banquet licensee; or

6894 (iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

6895 (2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and
6896 (5) for the entire premises of the hotel, resort facility, sports center, or convention center that is
6897 the basis for the on-premise banquet license.

6898 (3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee
6899 shall provide the department with advance notice of a scheduled banquet in accordance with
6900 rules made by the commission.

6901 (b) Any of the following may conduct a random inspection of a banquet:

6902 (i) an authorized representative of the commission or the department; or

6903 (ii) a law enforcement officer.

6904 (4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall
6905 make and maintain the records the commission or department requires.

6906 (b) Section 32B-1-205 applies to a record required to be made or maintained in
6907 accordance with this Subsection (4).

6908 (5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may
6909 sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the
6910 location of the banquet.

6911 (b) A host of a banquet, a patron, or a person other than the on-premise banquet
6912 licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product
6913 from the premises of the banquet.

6914 (c) Notwithstanding Section 32B-5-307, a patron at a banquet may not bring an
6915 alcoholic product into or onto, or remove an alcoholic product from the premises of a banquet.

6916 (6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at
6917 the banquet following the conclusion of the banquet.

6918 (b) At the conclusion of a banquet, an on-premise banquet licensee shall:
6919 (i) destroy an opened and unused alcoholic product that is not saleable, under
6920 conditions established by the department; and
6921 (ii) return to the on-premise banquet licensee's approved locked storage area any:
6922 (A) opened and unused alcoholic product that is saleable; and
6923 (B) unopened package of an alcoholic product.
6924 (c) Except as provided in Subsection (6)(b) with regard to an open or sealed package
6925 of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:
6926 (i) shall store the alcoholic product in the on-premise banquet licensee's approved
6927 locked storage area; and
6928 (ii) may use the alcoholic product at more than one banquet.
6929 (7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not
6930 employ a minor to sell, furnish, or dispense an alcoholic product in connection with the
6931 on-premise banquet licensee's banquet and room service activities.
6932 (8) An on-premise banquet licensee may not sell, offer for sale, or furnish an alcoholic
6933 product at a banquet or in connection with room service any day during a period that:
6934 (a) begins at 1 a.m.; and
6935 (b) ends at 9:59 a.m.
6936 (9) An on-premise banquet licensee shall maintain at least 50% of its total annual
6937 banquet gross receipts from the sale of food, not including:
6938 (a) mix for an alcoholic product; and
6939 (b) a charge in connection with the furnishing of an alcoholic product.
6940 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
6941 more than two alcoholic products of any kind at a time before the patron.
6942 (b) A patron may not have more than one spirituous liquor drink at a time before the
6943 patron.
6944 (c) An individual portion of wine is considered to be one alcoholic product under
6945 Subsection (10)(a).

6974 premises operated as an on-premise beer retailer.

6975 (b) At the time that the commission issues an on-premise beer retailer license, the
6976 commission shall designate whether the on-premise beer retailer is a tavern.

6977 (c) The commission may change its designation of whether an on-premise beer retailer
6978 is a tavern in accordance with rules made by the commission.

6979 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission
6980 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of
6981 beer for consumption on the establishment's premises.

6982 (ii) In making a determination under this Subsection (2)(d), the commission shall
6983 consider:

6984 (A) whether the on-premise beer retailer will operate as one of the following:

6985 (I) a beer bar;

6986 (II) a parlor;

6987 (III) a lounge;

6988 (IV) a cabaret; or

6989 (V) a nightclub;

6990 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):

6991 (I) whether the on-premise beer retailer will sell food in the establishment; and

6992 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer
6993 will exceed the revenue of the sale of food;

6994 (C) whether full meals including appetizers, main courses, and desserts will be served;

6995 (D) the square footage and seating capacity of the premises;

6996 (E) what portion of the square footage and seating capacity will be used for a dining
6997 area in comparison to the portion that will be used as a lounge or bar area;

6998 (F) whether the person will maintain adequate on-premise culinary facilities to prepare
6999 full meals, except a person that is located on the premises of a hotel or resort facility may use
7000 the culinary facilities of the hotel or resort facility;

7001 (G) whether the entertainment provided on the premises of the beer retailer will be

7002 suitable for minors; and
7003 (H) the beer retailer management's ability to manage and operate an on-premise beer
7004 retailer license including:
7005 (I) management experience;
7006 (II) past beer retailer management experience; and
7007 (III) the type of management scheme that will be used by the beer retailer.
7008 (3) (a) The commission may not issue a total number of on-premise beer retailer
7009 licenses that are taverns that at any time exceeds the number determined by dividing the
7010 population of the state by 30,500.
7011 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
7012 in accordance with Section 32B-5-206.
7013 (4) (a) Unless otherwise provided in Subsection (4)(b):
7014 (i) only one on-premise beer retailer license is required for each building or resort
7015 facility owned or leased by the same person; and
7016 (ii) a separate license is not required for each retail beer dispensing location in the
7017 same building or on the same resort premises owned or operated by the same person.
7018 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
7019 building or resort facility operates in the same manner.
7020 (ii) If each retail beer dispensing location does not operate in the same manner:
7021 (A) one on-premise beer retailer license designated as a tavern is required for the
7022 locations in the same building or on the same resort premises that operate as a tavern; and
7023 (B) one on-premise beer retailer license is required for the locations in the same
7024 building or on the same resort premises that do not operate as a tavern.
7025 Section 206. Section **32B-6-704** is enacted to read:
7026 **32B-6-704. Local authority to issue a license.**
7027 (1) A local authority may issue a license to operate as an on-premise beer retailer,
7028 subject to:
7029 (a) the requirement under this part that a person obtain an on-premise beer retailer

7030 license issued by the commission to operate as an on-premise beer retailer; and

7031 (b) subject to Title 11, Chapter 10, Businesses Allowing Consumption of an Alcoholic
7032 Product on Premises.

7033 (2) For a violation of this title, rules of the commission, or a local ordinance, a local
7034 authority may suspend or revoke a business license described in Subsection (1).

7035 (3) (a) If the commission suspends or revokes an on-premise beer retailer license
7036 issued by the commission under this title, the on-premise beer retailer may not continue to
7037 operate under a license issued by a local authority.

7038 (b) If a local authority suspends or revokes a business license described in Subsection
7039 (1), an on-premise beer retailer may not continue to operate under the on-premise beer retailer
7040 license issued by the commission.

7041 (4) A person issued a business license issued by a local authority as described in
7042 Subsection (1) shall comply with this title, including a provision related to the storage, sale,
7043 offer for sale, furnishing, consumption, warehousing, or distribution of beer.

7044 Section 207. Section **32B-6-705** is enacted to read:

7045 **32B-6-705. Specific licensing requirements for on-premise beer retailer license.**

7046 (1) To obtain an on-premise beer retailer license a person shall comply with Chapter 5,
7047 Part 2, Retail Licensing Process, except that an on-premise beer retailer is required to carry
7048 dramshop insurance coverage in accordance with Section 32B-5-201 only if the on-premise
7049 beer retailer sells more than \$5,000 of beer annually.

7050 (2) (a) An on-premise beer retailer license expires on the last day of February each
7051 year.

7052 (b) To renew a person's on-premise beer retailer license, a person shall comply with
7053 the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than
7054 January 31.

7055 (3) (a) The nonrefundable application fee for an on-premise beer retailer license is
7056 \$250.

7057 (b) (i) The initial license fee for an on-premise beer retailer license that is not a tavern

7058 is \$150.

7059 (ii) The initial license fee for an on-premise beer retailer license that is a tavern is
7060 \$1,250.

7061 (c) (i) The renewal fee for an on-premise beer retailer license that is not a tavern is
7062 \$200.

7063 (ii) The renewal fee for an on-premise beer retailer license that is a tavern is \$1,000.

7064 (4) The bond amount required for an on-premise beer retailer license is the penal sum
7065 of \$2,000.

7066 (5) Notwithstanding the other provisions of this part, if an applicant is a state agency
7067 or political subdivision of the state it is not required to:

7068 (a) pay an application fee, initial license fee, or renewal fee;

7069 (b) obtain the written consent of the local authority;

7070 (c) submit a copy of the applicant's current business license; or

7071 (d) post a bond as specified by Section 32B-5-204.

7072 Section 208. Section **32B-6-706** is enacted to read:

7073 **32B-6-706. Specific operational requirements for on-premise beer retailer**
7074 **license.**

7075 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
7076 Requirements, an on-premise beer retailer and staff of the on-premise beer retailer shall
7077 comply with this section.

7078 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
7079 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

7080 (i) an on-premise beer retailer;

7081 (ii) individual staff of an on-premise beer retailer; or

7082 (iii) both an on-premise beer retailer and staff of the on-premise beer retailer.

7083 (2) (a) An on-premise beer retailer is not subject to Section 32B-5-302, but shall make
7084 and maintain the records the department requires.

7085 (b) Section 32B-1-205 applies to a record required to be made or maintained in

7086 accordance with this Subsection (2).

7087 (3) Notwithstanding Section 32B-5-303, an on-premise beer retailer may not store or
7088 sell liquor on its licensed premises.

7089 (4) Beer sold in a sealed package by an on-premise beer retailer may be removed from
7090 the on-premise beer retailer premises in the sealed package.

7091 (5) (a) Only an on-premise beer retailer that operates as a tavern is subject to
7092 Subsection 32B-5-309(1).

7093 (b) An on-premise beer retailer is subject to Subsections 32B-5-309(2) and (3)
7094 regardless of whether it operates as a tavern.

7095 (6) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at its
7096 licensed premises during a period that:

7097 (i) begins at 1 a.m.; and

7098 (ii) ends at 9:59 a.m.

7099 (b) (i) Notwithstanding Subsection (5)(a), a tavern shall remain open for one hour after
7100 the tavern ceases the sale and furnishing of beer during which time a patron of the tavern may
7101 finish consuming a single serving of beer not exceeding 26 ounces.

7102 (ii) A tavern is not required to remain open:

7103 (A) after all patrons have vacated the premises; or

7104 (B) during an emergency.

7105 (c) A tavern may not allow a patron to remain on the licensed premises to consume
7106 beer on the licensed premises during a period that:

7107 (i) begins at 2 a.m.; and

7108 (ii) ends at 9:59 a.m.

7109 (7) Notwithstanding Section 32B-5-308, a minor may not be on the premises of a
7110 tavern.

7111 (8) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the
7112 purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases
7113 from:

7114 (A) a beer wholesaler licensee; or
7115 (B) a small brewer that manufactures the beer.
7116 (ii) Violation of Subsection (8)(a) is a class A misdemeanor.
7117 (b) (i) If an on-premise beer retailer purchases beer under this Subsection (8) from a
7118 beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer
7119 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
7120 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by
7121 the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

7122 (ii) Violation of Subsection (2)(b) is a class B misdemeanor.

7123 Section 209. Section **32B-6-707** is enacted to read:

7124 **32B-6-707. Application of part to other retail license type.**

7125 (1) A retail licensee who is not an on-premise beer retailer, but who sells, offers for
7126 sale, or furnishes beer pursuant to a different part under this chapter:

7127 (a) may sell, offer for sale, or furnish beer without obtaining a separate on-premise
7128 beer retailer license from the commission; and

7129 (b) shall comply with the operational requirements under this part that apply to an
7130 on-premise beer retailer, except when a requirement of this part is inconsistent with or less
7131 restrictive than an operational requirement under the relevant part under this chapter for the
7132 type of retail license.

7133 (2) Failure of a retail licensee or staff of the retail licensee to comply with a
7134 requirement of this part may result in disciplinary action in accordance with Chapter 3,
7135 Disciplinary Actions and Enforcement Act, against:

7136 (a) a retail licensee;

7137 (b) individual staff of a retail licensee; or

7138 (c) both a retail licensee and staff of the retail licensee.

7139 Section 210. Section **32B-6-708** is enacted to read:

7140 **32B-6-708. Information obtained by investigator.**

7141 (1) Subject to Subsection (2), if an investigator is permitted by another provision of

7142 this title to inspect a record of an on-premise beer retailer that is a tavern, in addition to any
7143 other rights under this title, the investigator may inspect, have a copy of, or otherwise review
7144 any record of the tavern that is a visual recording of the operations of the tavern.

7145 (2) An investigator who is a peace officer may not inspect, have a copy of, or
7146 otherwise review a visual recording described in Subsection (1) without probable cause.

7147 Section 211. Section **32B-7-101** is enacted to read:

7148 **CHAPTER 7. OFF-PREMISE BEER RETAILER ACT**

7149 **Part 1. General Provisions**

7150 **32B-7-101. Title.**

7151 This chapter is known as the "Off-premise Beer Retailer Act."

7152 Section 212. Section **32B-7-102** is enacted to read:

7153 **32B-7-102. Definitions.**

7154 Reserved

7155 Section 213. Section **32B-7-201** is enacted to read:

7156 **Part 2. Off-premise Beer Retailer Local Authority**

7157 **32B-7-201. State and local licensing -- Limitations.**

7158 (1) Subject to the other provisions of this title, a local authority may:

7159 (a) tax or prohibit the retail sale of beer;

7160 (b) subject to this part, issue, suspend, and revoke a local license to sell beer at retail
7161 for off-premise consumption;

7162 (c) establish proximity requirements for establishing premises where beer is sold at
7163 retail for off-premise consumption in relation to any community location; and

7164 (d) otherwise regulate the retail sale of beer for off-premise consumption subject to the
7165 requirements of Section 32B-7-202 and Part 3, Off-premise Beer Retailer Enforcement Act.

7166 (2) A local authority may not issue to a minor a local license to sell beer at retail for
7167 off-premise consumption.

7168 Section 214. Section **32B-7-202** is enacted to read:

7169 **32B-7-202. General operational requirements for off-premise beer retailer.**

7170 (1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply
7171 with this section.

7172 (b) Failure to comply with this section may result in a suspension or revocation of a
7173 local license.

7174 (2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the
7175 purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases
7176 from:

7177 (A) a beer wholesaler licensee; or

7178 (B) a small brewer that manufactures the beer.

7179 (ii) A violation of Subsection (2)(a) is a class A misdemeanor.

7180 (b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a
7181 beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer
7182 wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area
7183 in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by
7184 the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

7185 (ii) A violation of Subsection (2)(b) is a class B misdemeanor.

7186 (3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in
7187 a package larger than two liters.

7188 (4) A minor may not sell beer on the licensed premises of an off-premise beer retailer
7189 unless:

7190 (a) the sale is done under the supervision of a person 21 years of age or older who is
7191 on the licensed premises; and

7192 (b) the minor is at least 16 years of age.

7193 (5) (a) Subject to the other provisions of this Subsection (5), an off-premise beer
7194 retailer shall:

7195 (i) display beer sold by the off-premise beer retailer in an area that is visibly separate
7196 and distinct from the area where nonalcoholic beverages are displayed; and

7197 (ii) display a sign in the area described in Subsection (5)(a)(i) that:

- 7198 (A) is prominent;
7199 (B) is easily readable by a consumer;
7200 (C) meets the requirements for format established by the commission by rule; and
7201 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages
7202 contain alcohol. Please read the label carefully."
7203 (b) Notwithstanding Subsection (5)(a), a nonalcoholic beer may be displayed with
7204 beer if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.
7205 (c) The requirements of this Subsection (5) apply to beer notwithstanding that it is
7206 labeled, packaged, or advertised as:
7207 (i) a malt cooler; or
7208 (ii) a beverage that may provide energy.
7209 (d) The commission shall define by rule what constitutes an "area that is visibly
7210 separate and distinct from the area where a nonalcoholic beverage is displayed."
7211 (e) A violation of this Subsection (5) is an infraction.
7212 (6) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or
7213 who sells beer to a patron for consumption off the premises of the off-premise beer retailer
7214 shall wear a unique identification badge:
7215 (i) on the front of the staff's clothing;
7216 (ii) visible above the waist;
7217 (iii) bearing the staff's:
7218 (A) first or last name;
7219 (B) initials; or
7220 (C) unique identification in letters or numbers; and
7221 (iv) with the number or letters on the unique identification badge being sufficiently
7222 large to be clearly visible and identifiable while engaging in or directly supervising the retail
7223 sale of beer.
7224 (b) An off-premise beer retailer shall make and maintain a record of each current
7225 staff's unique identification badge assigned by the off-premise beer retailer that includes the

7226 staff's:
7227 (i) full name;
7228 (ii) address; and
7229 (iii) (A) driver license number; or
7230 (B) similar identification number.
7231 (c) An off-premise beer retailer shall make available a record required to be made or
7232 maintained under this Subsection (6) for immediate inspection by:
7233 (i) a peace officer; or
7234 (ii) a representative of the local authority that issues the off-premise beer retailer
7235 license.

7236 (d) A local authority may impose a fine of up to \$250 against an off-premise beer
7237 retailer that does not comply or require its staff to comply with this Subsection (6).

7238 Section 215. Section **32B-7-301** is enacted to read:

7239 **Part 3. Off-premise Beer Retailer Enforcement Act**

7240 **32B-7-301. Title.**

7241 This part is known as the "Off-premise Beer Retailer Enforcement Act."

7242 Section 216. Section **32B-7-302** is enacted to read:

7243 **32B-7-302. Definitions.**

7244 Reserved

7245 Section 217. Section **32B-7-303** is enacted to read:

7246 **32B-7-303. Penalties related to sales to minors.**

7247 (1) (a) In addition to any criminal penalty that may be imposed, an individual is
7248 subject to the administrative penalties described in Subsection (1)(b) imposed by a local
7249 authority if:

- 7250 (i) the individual completes an alcohol training and education seminar;
- 7251 (ii) after completing the alcohol training and education seminar, the individual is
7252 found in violation of a law involving the sale of an alcoholic product to a minor;
- 7253 (iii) the violation described in Subsection (1)(a)(ii) is based on conduct that occurs

7254 while the individual is on duty as staff of an off-premise beer retailer; and
7255 (iv) the local authority brings an adjudicative proceeding against the individual.
7256 (b) If the conditions of Subsection (1)(a) are met, a local authority shall impose the
7257 following administrative penalties:
7258 (i) upon a first violation, the individual may not sell or directly supervise the sale of
7259 beer to a patron for consumption off the premises of the off-premise beer retailer until the
7260 individual retakes and completes an alcohol training and education seminar;
7261 (ii) upon a second violation, the individual may not sell or directly supervise the sale
7262 of beer to a patron for consumption off the premises of the off-premise beer retailer until the
7263 later of:
7264 (A) 90 days from the day on which the administrative penalty is imposed; and
7265 (B) the day on which the individual:
7266 (I) retakes and completes the alcohol training and education seminar; and
7267 (II) completes any additional training that the local authority may require; and
7268 (iii) upon a third or subsequent violation, the individual may not sell or directly
7269 supervise the sale of beer to a patron for consumption off the premises of the off-premise beer
7270 retailer until the later of:
7271 (A) one year from the day on which the administrative penalty is imposed; and
7272 (B) the day on which the individual:
7273 (I) retakes and completes an alcohol training and education seminar; and
7274 (II) completes any additional training that the local authority may require.
7275 (2) (a) During the time period in which an individual is prohibited from selling or
7276 directly supervising the sale of beer under Subsection (1)(b), an off-premise beer retailer may
7277 not allow that individual to:
7278 (i) directly supervise the sale of beer for the off-premise beer retailer; or
7279 (ii) sell beer for the off-premise beer retailer.
7280 (b) A violation of this Subsection (2) is grounds for the immediate suspension of the
7281 off-premise beer retailer's license.

7282 (3) (a) In addition to any criminal penalty that may be imposed, an off-premise beer
7283 retailer is subject to the administrative penalties imposed by a local authority described in
7284 Subsection (3)(b) if:

7285 (i) staff of the off-premise beer retailer is found in violation of a law involving the sale
7286 of an alcoholic product to a minor;

7287 (ii) the violation described in Subsection (3)(a)(i) occurs while the staff is on duty for
7288 the off-premise beer retailer; and

7289 (iii) the local authority brings an adjudicative proceeding against the off-premise beer
7290 retailer.

7291 (b) If the conditions of Subsection (3)(a) are met, a local authority shall impose the
7292 following administrative penalties:

7293 (i) upon a first violation, the local authority shall issue a written warning against an
7294 off-premise beer retailer;

7295 (ii) upon a second violation, an off-premise beer retailer shall pay a civil fine of \$250;
7296 (iii) upon a third violation, an off-premise beer retailer shall pay a civil fine of \$500;
7297 (iv) upon a fourth or subsequent violation, an off-premise beer retailer shall:

7298 (A) pay a civil fine of \$500;

7299 (B) have its off-premise beer retailer license suspended for a period of 30 consecutive
7300 days from the date on which the administrative penalty is imposed; and

7301 (C) be placed on probation for a period of one year from the date on which the
7302 administrative penalty is imposed; and

7303 (v) upon any violation by the off-premise beer retailer or any on-duty staff of the
7304 off-premise beer retailer during the period of probation specified in Subsection (3)(b)(iv)(C):

7305 (A) the off-premise beer retailer's license to sell beer shall be revoked; and
7306 (B) the off-premise beer retailer may not reapply for a new license for at least six
7307 months from the date of revocation.

7308 (4) (a) An off-premise beer retailer's failure to pay a fine imposed under Subsection (3)
7309 within 30 days of the day on which a fine is imposed is grounds for the immediate suspension

7310 of the off-premise beer retailer's license to sell beer until payment is made.

7311 (b) An off-premise beer retailer's failure to pay the fine described in Subsection (4)(a)
7312 within the time period described in Subsection (4)(a) is grounds for revocation of the
7313 off-premise beer retailer's license.

7314 Section 218. Section **32B-7-304** is enacted to read:

7315 **32B-7-304. Hearings.**

7316 (1) A local authority shall conduct a hearing under this part if one of the following
7317 requests a hearing before the local authority:

7318 (a) an off-premise beer retailer;

7319 (b) an individual who directly supervises the sale of beer to a patron for consumption
7320 off the premises of the off-premise beer retailer; or

7321 (c) an individual who sells beer to a patron for consumption off the premises of the
7322 off-premise beer retailer.

7323 (2) A local authority conducting a hearing under this section shall provide the person
7324 requesting the hearing:

7325 (a) notice of the hearing; and

7326 (b) an opportunity to be heard at the hearing.

7327 Section 219. Section **32B-7-305** is enacted to read:

7328 **32B-7-305. Tracking of enforcement actions -- Costs of enforcement actions.**

7329 (1) A local authority that pursuant to this part adjudicates an administrative penalty
7330 for a violation of a law involving the sale of an alcoholic product to a minor, shall:

7331 (a) maintain a record of an adjudicated violation until the record is expunged under
7332 Subsection (3);

7333 (b) include in the record described in Subsection (1)(a):

7334 (i) the name of the individual who commits the violation;

7335 (ii) the name of the off-premise beer retailer for whom the individual is a staff member
7336 at the time of the violation; and

7337 (iii) the date of the adjudication of the violation; and

7338 (c) provide the information described in Subsection (1)(b) to the Highway Safety
7339 Office of the Department of Public Safety within 30 days of the date on which a violation is
7340 adjudicated.

7341 (2) (a) The Highway Safety Office shall develop and operate a system to collect,
7342 analyze, maintain, track, and disseminate the violation history information received under
7343 Subsection (1).

7344 (b) The Highway Safety Office shall make the system described in Subsection (2)(a)
7345 available to:

7346 (i) assist a local authority in assessing administrative penalties under Section
7347 32B-7-303; and

7348 (ii) inform an off-premise beer retailer of an individual who has an administrative
7349 violation history under Section 32B-7-303.

7350 (c) The Highway Safety Office shall maintain a record of violation history information
7351 received pursuant to Subsection (1) until the record is expunged under Subsection (3).

7352 (3) (a) A local authority and the Highway Safety Office shall expunge from the records
7353 maintained an administrative penalty imposed under Section 32B-7-303 for purposes of
7354 determining future administrative penalties under Section 32B-7-303 if the individual has not
7355 been found in violation of any law involving the sale of an alcoholic product to a minor for a
7356 period of 36 consecutive months from the day on which the individual is last adjudicated as
7357 violating a law involving the sale of an alcoholic product to a minor.

7358 (b) A local authority shall expunge from the records maintained by the local authority
7359 an administrative penalty imposed under Section 32B-7-303 against an off-premise beer
7360 retailer for purposes of determining future administrative penalties under Section 32B-7-303 if
7361 the off-premise beer retailer or any staff of that off-premise beer retailer has not been found in
7362 violation of any law involving the sale of an alcoholic product to a minor for a period of 36
7363 consecutive months from the day on which the off-premise beer retailer or staff of the
7364 off-premise beer retailer is last adjudicated as violating a law involving the sale of an alcoholic
7365 product to a minor.

7366 (4) The Highway Safety Office shall administer a program to reimburse a municipal or
7367 county law enforcement agency:

7368 (a) for the actual costs of an alcohol-related compliance check investigation conducted
7369 pursuant to Section 77-39-101 on the premises of an off-premise beer retailer;

7370 (b) for administrative costs associated with reporting the compliance check
7371 investigation described in Subsection (4)(a);

7372 (c) if the municipal or county law enforcement agency completes and submits to the
7373 Highway Safety Office a report within 90 days of the compliance check investigation
7374 described in Subsection (4)(a) in a format required by the Highway Safety Office; and

7375 (d) in the order that the municipal or county law enforcement agency submits the
7376 report required by Subsection (4)(c) until the amount allocated by the Highway Safety Office
7377 to reimburse a municipal or county law enforcement agency is spent.

7378 (5) The Highway Safety Office shall report to the Utah Substance Abuse and
7379 Anti-Violence Coordinating Council by no later than October 1 following a fiscal year on the
7380 following funded during the prior fiscal year:

7381 (a) compliance check investigations reimbursed under Subsection (4); and

7382 (b) the collection, analysis, maintenance, tracking, and dissemination of violation
7383 history information described in Subsection (2).

7384 Section 220. Section **32B-8-101** is enacted to read:

7385 **CHAPTER 8. RESORT LICENSE ACT**

7386 **Part 1. General Provisions**

7387 **32B-8-101. Title.**

7388 This chapter is known as the "Resort License Act."

7389 Section 221. Section **32B-8-102** is enacted to read:

7390 **32B-8-102. Definitions.**

7391 As used in this chapter:

7392 (1) "Boundary of a resort building" means the physical boundary of the land
7393 reasonably related to a resort building and any structure or improvement to that land as

- 7394 determined by the commission.
- 7395 (2) "Dwelling" means a portion of a resort building:
- 7396 (a) owned by one or more individuals;
- 7397 (b) that is used or designated for use as a residence by one or more persons; and
- 7398 (c) that may be rented, loaned, leased, or hired out for a period of no longer than 30
- 7399 consecutive days by a person who uses it for a residence.
- 7400 (3) "Engaged in the management of the resort" may be defined by the commission by
- 7401 rule.
- 7402 (4) "Invitee" means an individual who in accordance with Subsection 32B-8-304(12)
- 7403 is authorized to use a resort spa by a host who is:
- 7404 (a) a resident; or
- 7405 (b) a public customer.
- 7406 (5) "Provisions applicable to a sublicense" means:
- 7407 (a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-service Restaurant
- 7408 License;
- 7409 (b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-service
- 7410 Restaurant License;
- 7411 (c) for a club sublicense, Chapter 6, Part 4, Club License;
- 7412 (d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-premise Banquet
- 7413 License;
- 7414 (e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-premise Beer
- 7415 Retailer License; and
- 7416 (f) for a resort spa sublicense, Part 3, Resort Spa Sublicense.
- 7417 (6) "Public customer" means an individual who holds a customer card in accordance
- 7418 with Subsection 32B-8-304(13).
- 7419 (7) "Resident" means an individual who:
- 7420 (a) owns a dwelling located within a resort building; or
- 7421 (b) rents lodging accommodations for 30 consecutive days or less from:

- 7422 (i) an owner of a dwelling described in Subsection (7)(a); or
- 7423 (ii) the resort licensee.
- 7424 (8) "Resort" means a location:
- 7425 (a) on which is located one resort building; and
- 7426 (b) that is affiliated with a ski area that physically touches the boundary of the resort
- 7427 building.
- 7428 (9) "Resort building" means a building:
- 7429 (a) that is primarily operated to provide dwellings or lodging accommodations;
- 7430 (b) that has at least 150 units that consist of a dwelling or lodging accommodations;
- 7431 (c) that consists of at least 400,000 square feet:
- 7432 (i) including only the building itself; and
- 7433 (ii) not including areas such as above ground surface parking; and
- 7434 (d) of which at least 50% of the units described in Subsection (9)(b) consist of
- 7435 dwellings owned by a person other than the resort licensee.
- 7436 (10) "Resort spa" means a spa, as defined by rule by the commission, that is within the
- 7437 boundary of a resort building.
- 7438 (11) "Sublicense" means:
- 7439 (a) a full-service restaurant sublicense;
- 7440 (b) a limited-service restaurant sublicense;
- 7441 (c) a club sublicense;
- 7442 (d) an on-premise banquet sublicense;
- 7443 (e) an on-premise beer retailer sublicense; and
- 7444 (f) a resort spa sublicense.
- 7445 (12) "Sublicense premises" means a building, enclosure, or room used pursuant to a
- 7446 sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic
- 7447 product, unless otherwise defined in this title or in the rules made by the commission.

7448 Section 222. Section **32B-8-201** is enacted to read:

7449 **Part 2. Resort Licensing Process**

7450 **32B-8-201.** Commission's power to issue a resort license.

7451 (1) Before a person as a resort may store, sell, offer for sale, furnish, or allow the
7452 consumption of an alcoholic product on sublicense premises, the person shall first obtain a
7453 resort license from the commission in accordance with this part.

7454 (2) (a) The commission may issue to a person a resort license to allow the storage,
7455 sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with a
7456 resort designated in the resort license if the person operates at least four sublicenses under the
7457 resort license.

7458 (b) A resort license shall:

7459 (i) consist of:

7460 (A) a general resort license; and

7461 (B) the four or more sublicenses; and

7462 (ii) designate the boundary of the resort building.

7463 (c) This chapter does not prohibit an alcoholic product on the boundary of the resort
7464 building to the extent otherwise permitted by this title.

7465 (d) The commission may not issue a sublicense that is separate from a resort license.

7466 (3) (a) The commission may not issue a total number of resort licenses that at any time
7467 totals more than four.

7468 (b) Subject to Subsection (3)(c), when determining the total number of licenses the
7469 commission has issued for each type of retail license, the commission may not include a
7470 sublicense as one of the retail licenses issued under the provisions applicable to the sublicense.

7471 (c) If a resort license issued under this chapter includes a sublicense that before the
7472 issuance of the resort license was a retail licensee under this chapter, the commission shall
7473 include the sublicense as one of the retail licenses issued under the provisions applicable to the
7474 sublicense in determining if the total number of licenses issued under the provisions applicable
7475 to the sublicense exceeds the number calculated by dividing the population of the state by the
7476 number specified in the provisions applicable to the sublicense.

7477 Section 223. Section **32B-8-202** is enacted to read:

- 7478 **32B-8-202. Specific licensing requirements for resort license.**
- 7479 (1) To obtain a resort license, in addition to complying with Chapter 5, Part 2, Retail
- 7480 Licensing Process, a person shall submit with the written application:
- 7481 (a) the current business license for each sublicense, if the business license is separate
- 7482 from the person's business license;
- 7483 (b) evidence:
- 7484 (i) of proximity of the resort building to any community location, with proximity
- 7485 requirements being governed by Section 32B-1-202;
- 7486 (ii) that each of the four or more sublicense premises is entirely within the boundaries
- 7487 of the resort building; and
- 7488 (iii) that the building designated in the application as the resort building qualifies as a
- 7489 resort building;
- 7490 (c) a description and boundary map of the resort building;
- 7491 (d) a description, floor plan, and boundary map of each sublicense premises
- 7492 designating:
- 7493 (i) any location at which the person proposes that an alcoholic product be stored; and
- 7494 (ii) a designated location on the sublicense premises from which the person proposes
- 7495 that an alcoholic product be sold, furnished, or consumed;
- 7496 (e) evidence that the resort license person carries dramshop insurance coverage equal
- 7497 to the sum of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate to cover both
- 7498 the general resort license and each sublicense; and
- 7499 (f) a signed consent form stating that the person will permit any authorized
- 7500 representative of the commission, department, or any law enforcement officer to have
- 7501 unrestricted right to enter the boundary of the resort building and each sublicense premises.
- 7502 (2) (a) A resort license expires on October 31 of each year.
- 7503 (b) To renew a person's resort license, the person shall comply with the requirements
- 7504 of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.
- 7505 (3) (a) The nonrefundable application fee for a resort license is \$250.

7506 (b) The initial license fee for a resort license is calculated as follows:
 7507 (i) \$10,000 if four sublicenses are being applied for under the resort license; or
 7508 (ii) if more than four sublicenses are being applied for under the resort license, the
 7509 sum of:
 7510 (A) \$10,000; and
 7511 (B) \$2,000 for each sublicense in excess of four sublicenses for which the person is
 7512 applying.
 7513 (c) The renewal fee for a resort license is \$1,000 for each sublicense under the resort
 7514 license.
 7515 (4) (a) The bond amount required for a resort license is the penal sum of \$25,000.
 7516 (b) A resort licensee is not required to have a separate bond for each sublicense, except
 7517 that the aggregate of the bonds posted by the resort licensee shall cover each sublicense under
 7518 the resort license.
 7519 (5) The commission may not issue a resort license for a resort building that does not
 7520 meet the proximity requirements of Section 32B-1-202.
 7521 Section 224. Section **32B-8-203** is enacted to read:
 7522 **32B-8-203. Specific qualifications for resort license.**
 7523 (1) For purposes of this chapter, the commission shall apply:
 7524 (a) Subsection 32B-1-304(1)(a) to a partnership, corporation, or limited liability
 7525 company, only if an individual listed in Subsection 32B-1-304(1)(b) will engage in the
 7526 management of the resort; and
 7527 (b) Subsection 32B-1-304(1)(c) to an individual who is employed to act in a
 7528 supervisory or managerial capacity for the resort licensee or in relation to a sublicense.
 7529 (2) The following are subject to Section 32B-8-501:
 7530 (a) an action of the commission under Subsection 32B-1-304(2);
 7531 (b) an action of the director under Subsection 32B-1-304(3); and
 7532 (c) termination of a resort license under Subsection 32B-1-304(6).
 7533 (3) (a) A person employed to act in a supervisory or managerial capacity for a

7534 sublicense is subject to the qualification requirements in the provisions applicable to the
7535 sublicense.

7536 (b) If a person described under Subsection (3)(a) no longer possesses the qualifications
7537 required by this Subsection (3), the commission may suspend or revoke the sublicense that is
7538 part of the resort license.

7539 Section 225. Section **32B-8-204** is enacted to read:

7540 **32B-8-204. Commission and department duties before issuing resort license.**

7541 (1) Before the issuance of a resort license, the department shall comply with the
7542 requirements of Subsection 32B-8-202(1) in relation to the resort license and each sublicense.

7543 (2) Before issuing a resort license, in addition to considering the factors described in
7544 Section 32B-8-202, the commission shall:

7545 (a) consider the resort license person's ability to manage and operate a resort license
7546 and the ability of any individual who will act in a supervisory or managerial capacity for a
7547 sublicense, including:

7548 (i) past management experience;

7549 (ii) past alcoholic product license experience; and

7550 (iii) the type of management scheme to be used by the resort license person;

7551 (b) consider the nature or type of:

7552 (i) the person's business operation of the resort license; and

7553 (ii) the business operation of each sublicense; and

7554 (c) subject to Subsection (3), determine that each sublicense meets the requirements
7555 imposed under the provisions applicable to each sublicense.

7556 (3) (a) Subject to Subsection (3)(b), notwithstanding the requirements to obtain a retail
7557 license under the provisions applicable to a sublicense, a sublicense of a resort license is not
7558 subject to:

7559 (i) a requirement to submit an application or renewal application that is separate from
7560 the resort license application;

7561 (ii) a requirement to carry public liability insurance or dramshop insurance coverage

7562 that is separate from that carried by the resort licensee; or
7563 (iii) a requirement to post a bond that is separate from the bond posted by the resort
7564 licensee.
7565 (b) If a resort licensee seeks to add a sublicense after its resort license is issued, the
7566 resort licensee shall file with the department:
7567 (i) a nonrefundable \$250 application fee;
7568 (ii) an initial license fee of \$2,000, which is refundable if the sublicense is not issued;
7569 (iii) written consent of the local authority;
7570 (iv) a copy of:
7571 (A) the resort licensee's current business license; and
7572 (B) the current business license for the sublicense, if the business licensee is separate
7573 from the resort licensee's business license;
7574 (v) evidence that the sublicense premises is entirely within the boundary of the resort
7575 building;
7576 (vi) a description, floor plan, and boundary map of the sublicense premises
7577 designating:
7578 (A) any location at which the person proposes that an alcoholic product be stored; and
7579 (B) any designated location on the sublicense premises from which the person
7580 proposes that an alcoholic product be sold, furnished, or consumed;
7581 (vii) evidence that the person carries public liability insurance in an amount and form
7582 satisfactory to the department;
7583 (viii) evidence that the person carries dramshop insurance coverage in the amount
7584 required by Section 32B-8-202 that covers the sublicense to be added;
7585 (ix) a signed consent form stating that the resort licensee will permit any authorized
7586 representative of the commission, department, or any law enforcement officer to have
7587 unrestricted right to enter the sublicense premises;
7588 (x) if the resort licensee is an entity, proper verification evidencing that a person who
7589 signs the application is authorized to sign on behalf of the entity; and

7590 (xi) any other information the commission or department may require.

7591 Section 226. Section **32B-8-301** is enacted to read:

7592 **Part 3. Resort Spa Sublicense**

7593 **32B-8-301. Commission's power to issue resort spa sublicense.**

7594 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
7595 an alcoholic product on its premises as a resort spa sublicensee, a resort licensee or a person
7596 applying for a resort license shall first obtain a resort spa sublicense from the commission in
7597 accordance with this part.

7598 (2) The commission may issue a resort spa sublicense to establish a resort spa license
7599 within the boundary of a resort building for the storage, sale, offer for sale, furnishing, and
7600 consumption of liquor on premises operated as a resort spa.

7601 (3) The resort spa sublicense premises shall fall entirely within the boundary of a
7602 resort building.

7603 Section 227. Section **32B-8-302** is enacted to read:

7604 **32B-8-302. Specific licensing requirements for resort spa sublicense.**

7605 (1) A person may not file a written application with the department to obtain a resort
7606 spa sublicense that is separate from the application of the resort license, unless the resort spa
7607 sublicense is being sought after the issuing of a resort license.

7608 (2) If a resort licensee seeks to add a resort spa sublicense after its resort license is
7609 issued, the resort licensee shall comply with Subsection 32B-8-204(3)(b).

7610 (3) (a) A resort spa sublicense expires on October 31 of each year.

7611 (b) A resort licensee desiring to renew the resort licensee's resort spa sublicense shall
7612 renew the resort spa sublicense as part of renewing the resort license.

7613 (c) Failure to meet the renewal requirements for a resort license results in an automatic
7614 forfeiture of the resort spa sublicense effective on the date the resort license expires.

7615 Section 228. Section **32B-8-303** is enacted to read:

7616 **32B-8-303. Specific qualifications for resort spa sublicense.**

7617 (1) A person employed to act in a supervisory or managerial capacity for the resort spa

7618 sublicense is subject to qualification requirements of Section 32B-8-203.

7619 (2) If a person no longer possesses the qualifications required by Section 32B-8-203
7620 for obtaining the resort license or resort spa sublicense, the commission may suspend or
7621 revoke the resort spa sublicense that is part of the resort license.

7622 Section 229. Section **32B-8-304** is enacted to read:

7623 **32B-8-304. Specific operational requirements for resort spa sublicense.**

7624 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
7625 Requirements, a resort licensee, staff of the resort licensee, or a person otherwise related to a
7626 resort spa sublicense shall comply with this section.

7627 (b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a)
7628 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and
7629 Enforcement Act, against:

7630 (i) a retail licensee;

7631 (ii) staff of the retail licensee;

7632 (iii) a person otherwise related to a resort spa sublicense; or

7633 (iv) any combination of the persons listed in this Subsection (1)(b).

7634 (2) A person operating under a resort spa sublicense shall display in a prominent place
7635 in the resort spa a list of the types and brand names of liquor being furnished through its
7636 calibrated metered dispensing system.

7637 (3) (a) For purposes of the resort spa sublicense, the resort licensee shall ensure that a
7638 record required by this title is maintained, and a record is maintained or used for the resort spa
7639 sublicense:

7640 (i) as the department requires; and

7641 (ii) for a minimum period of three years.

7642 (b) A record is subject to inspection by an authorized representative of the commission
7643 and the department.

7644 (c) A resort licensee shall allow the department, through an auditor or examiner of the
7645 department, to audit the records for a resort spa sublicense at the times the department

7646 considers advisable.

7647 (d) The department shall audit the records for a resort spa sublicense at least once
7648 annually.

7649 (e) Section 32B-1-205 applies to a record required to be made, maintained, or used in
7650 accordance with this Subsection (3).

7651 (4) (a) A person operating under a resort spa sublicense may not sell, offer for sale, or
7652 furnish liquor at a resort spa during a period that:

7653 (i) begins at 1 a.m.; and

7654 (ii) ends at 9:59 a.m.

7655 (b) A person operating under a resort spa sublicense may sell, offer for sale, or furnish
7656 beer during the hours specified in Chapter 6, Part 7, On-premise Beer Retailer License, for an
7657 on-premise beer retailer.

7658 (c) (i) Notwithstanding Subsections (4)(a) and (b), a resort spa shall remain open for
7659 one hour after the resort spa ceases the sale and furnishing of an alcoholic product during
7660 which time a person at the resort spa may finish consuming:

7661 (A) a single drink containing spirituous liquor;

7662 (B) a single serving of wine not exceeding five ounces;

7663 (C) a single serving of heavy beer;

7664 (D) a single serving of beer not exceeding 26 ounces; or

7665 (E) a single serving of a flavored malt beverage.

7666 (ii) A resort spa is not required to remain open:

7667 (A) after all persons have vacated the resort spa sublicense premises; or

7668 (B) during an emergency.

7669 (d) A person operating under a resort spa sublicense may not allow a person to remain
7670 on the resort spa sublicense premises to consume an alcoholic product on the resort spa
7671 sublicense premises during a period that:

7672 (i) begins at 2 a.m.; and

7673 (ii) ends at 9:59 a.m.

- 7674 (5) A minor may not be admitted into, use, or be on:
7675 (a) the sublicense premises of a resort spa unless accompanied by a person 21 years of
7676 age or older; or
7677 (b) a lounge or bar area of the resort spa sublicense premises.
7678 (6) A resort spa shall have food available at all times when an alcoholic product is
7679 sold, offered for sale, furnished, or consumed on the resort spa sublicense premises.
7680 (7) (a) Subject to the other provisions of this Subsection (7), a patron may not have
7681 more than two alcoholic products of any kind at a time before the patron.
7682 (b) A resort spa patron may not have two spirituous liquor drinks before the resort spa
7683 patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for
7684 the other spirituous liquor drink.
7685 (c) An individual portion of wine is considered to be one alcoholic product under this
7686 Subsection (7).
7687 (8) (a) An alcoholic product may only be consumed at a table or counter.
7688 (b) An alcoholic product may not be served to or consumed by a patron at a bar.
7689 (9) (a) A person operating under a resort spa sublicense shall have available on the
7690 resort spa sublicense premises for a patron to review at the time that the patron requests it, a
7691 written alcoholic product price list or a menu containing the price of an alcoholic product sold
7692 or furnished by the resort spa including:
7693 (i) a set-up charge;
7694 (ii) a service charge; or
7695 (iii) a chilling fee.
7696 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
7697 may be stated in food or alcoholic product menus including:
7698 (i) a set-up charge;
7699 (ii) a service charge; or
7700 (iii) a chilling fee.
7701 (10) (a) A resort licensee shall own or lease premises suitable for the resort spa's

7702 activities.

7703 (b) A resort licensee may not maintain premises in a manner that barricades or
7704 conceals the resort spa sublicense's operation.

7705 (11) Subject to the other provisions of this section, a person operating under a resort
7706 spa sublicense may not sell an alcoholic product to or allow a person to be admitted to or use
7707 the resort spa sublicense premises other than:

7708 (a) a resident;

7709 (b) a public customer who holds a valid customer card issued under Subsection (13);

7710 or

7711 (c) an invitee.

7712 (12) A person operating under a resort spa sublicense may allow an individual to be
7713 admitted to or use the resort spa sublicense premises as an invitee subject to the following
7714 conditions:

7715 (a) the individual must be previously authorized by one of the following who agrees to
7716 host the individual as an invitee into the resort spa:

7717 (i) a resident; or

7718 (ii) a public customer as described in Subsection (11);

7719 (b) the individual has only those privileges derived from the individual's host for the
7720 duration of the invitee's visit to the resort spa; and

7721 (c) a resort licensee, resort spa, or staff of the resort licensee or resort spa may not
7722 enter into an agreement or arrangement with a resident or public customer to indiscriminately
7723 host a member of the general public into the resort spa as an invitee.

7724 (13) A person operating under a resort spa sublicense may issue a customer card to
7725 allow an individual to enter and use the resort spa sublicense premises on a temporary basis
7726 under the following conditions:

7727 (a) the resort spa may not issue a customer card for a time period that exceeds three
7728 weeks;

7729 (b) the resort spa shall assess a fee to a public customer for a customer card;

7730 (c) the resort spa may not issue a customer card to a minor; and

7731 (d) a public customer may not host more than seven invitees at one time.

7732 Section 230. Section **32B-8-401** is enacted to read:

7733 **Part 4. Operational Requirements**

7734 **32B-8-401. Specific operational requirements for resort license.**

7735 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
7736 Requirements, a resort licensee, staff of the resort licensee, and a person otherwise operating
7737 under a sublicense shall comply with this section.

7738 (b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a)
7739 may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and
7740 Enforcement Act, against:

7741 (i) a resort licensee;

7742 (ii) individual staff of a resort licensee;

7743 (iii) a person otherwise operating under a sublicense;

7744 (iv) individual staff of a person otherwise operating under a sublicense; or

7745 (v) any combination of the persons listed in this Subsection (1)(b).

7746 (2) (a) A resort licensee may not sell, offer for sale, or furnish an alcoholic product
7747 except:

7748 (i) on a sublicense premises;

7749 (ii) pursuant to a permit issued under this title; or

7750 (iii) under a package agency agreement with the department, subject to Chapter 2, Part
7751 6, Package Agency.

7752 (b) A resort licensee who sells, offers for sale, or furnishes an alcoholic product as
7753 provided in Subsection (2)(a), shall sell, offer for sale, or furnish the alcoholic product:

7754 (i) if on a sublicense premises, in accordance with the operational requirements under
7755 the provisions applicable to the sublicense, except as provided in Section 32B-8-402;

7756 (ii) if under a permit issued under this title, in accordance with the operational
7757 requirements under the provisions applicable to the permit; and

7758 (iii) if as a package agency, in accordance with the contract with the department and
7759 Chapter 2, Part 6, Package Agency.

7760 (3) A resort licensee shall comply with Subsections 32B-5-301(4) and (5) within the
7761 boundary of the resort building.

7762 (4) (a) Subject to Subsection (4)(b), a resort licensee shall operate in a manner so that
7763 at least 70% of the annual aggregate of the gross receipts related to the sale of food or
7764 beverages for the resort license and each of its sublicenses is from the sale of food, not
7765 including:

7766 (i) mix for an alcoholic product; and

7767 (ii) a charge in connection with the service of an alcoholic product.

7768 (b) In calculating the annual aggregate of the gross receipts described in Subsection
7769 (4)(a), a resort licensee is not required to include in the calculation money from the sale of a
7770 bottle of wine by the resort licensee or under a sublicense in excess of \$250.

7771 (5) (a) A resort licensee shall supervise and direct a person involved in the sale, offer
7772 for sale, or furnishing of an alcoholic product under a resort license.

7773 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
7774 under a resort license shall complete the alcohol training and education seminar.

7775 (6) (a) Room service of an alcoholic product to a lodging accommodation of a resort
7776 licensee shall be provided in person by staff of a resort licensee only to an adult occupant in
7777 the lodging accommodation.

7778 (b) An alcoholic product may not be left outside a lodging accommodation for
7779 retrieval by an occupant.

7780 (c) A resort licensee may only provide an alcoholic product for room service in a
7781 sealed package.

7782 Section 231. Section **32B-8-402** is enacted to read:

7783 **32B-8-402. Specific operational requirements for a sublicense.**

7784 (1) A person operating under a sublicense is subject to the operational requirements
7785 under the provisions applicable to the sublicense except that, notwithstanding a requirement in

7786 the provisions applicable to the sublicense, a person operating under the sublicense is not
7787 subject to a requirement that a certain percentage of the gross receipts for the sublicense be
7788 from the sale of food, except to the extent that the gross receipts for the sublicense are
7789 included in calculating the percentages under Subsection 32B-8-401(4).

7790 (2) Subject to Section 32B-8-502, for purposes of interpreting an operational
7791 requirement imposed by the provisions applicable to a sublicense:

7792 (a) a requirement imposed on a person operating under a sublicense applies to the
7793 resort licensee; and

7794 (b) a requirement imposed on staff of a person operating under a sublicense applies to
7795 staff of the resort licensee.

7796 Section 232. Section **32B-8-501** is enacted to read:

7797 **Part 5. Enforcement**

7798 **32B-8-501. Enforcement of qualifications for resort license or sublicense.**

7799 (1) The commission or department may not take an action described in Subsection (2)
7800 with regard to a resort license unless the person who is found not to meet the qualifications of
7801 Section 32B-8-203 is one of the following who is engaged in the management of the resort:

7802 (a) a partner;

7803 (b) a managing agent;

7804 (c) a manager;

7805 (d) an officer;

7806 (e) a director;

7807 (f) a stockholder who holds at least 20% of the total issued and outstanding stock of
7808 the corporation;

7809 (g) a member who owns at least 20% of the limited liability company; or

7810 (h) a person employed to act in a supervisory or managerial capacity for the resort
7811 licensee.

7812 (2) Subsection (1) applies to:

7813 (a) the commission immediately suspending or revoking a resort license, if after the

7814 day on which the resort license is issued, a person described in Subsection 32B-8-203(1):
7815 (i) is found to have been convicted of an offense described in Subsection
7816 32B-1-304(1)(a) before the resort license is issued; or
7817 (ii) on or after the day on which the resort license is issued:
7818 (A) is convicted of an offense described in Subsection 32B-1-304(1)(a)(i), (ii), or (iii);
7819 or
7820 (B) (I) is convicted of driving under the influence of alcohol, a drug, or the combined
7821 influence of alcohol and a drug; and
7822 (II) was convicted of driving under the influence of alcohol, a drug, or the combined
7823 influence of alcohol and a drug within five years before the day on which the person is
7824 convicted of the offense described in Subsection (2)(b)(ii)(A);
7825 (b) the director taking an emergency action by immediately suspending the operation
7826 of a resort license in accordance with Title 63G, Chapter 4, Administrative Procedures Act, for
7827 the period during which the criminal matter is being adjudicated if a person described in
7828 Subsection 32B-8-203(1):
7829 (i) is arrested on a charge for an offense described in Subsection 32B-1-304(1)(a)(i),
7830 (ii), or (iii); or
7831 (ii) (A) is arrested on a charge for the offense of driving under the influence of alcohol,
7832 a drug, or the combined influence of alcohol and a drug; and
7833 (B) was convicted of driving under the influence of alcohol, a drug, or the combined
7834 influence of alcohol and a drug within five years before the day on which the person is arrested
7835 on a charge described in Subsection (2)(b)(ii)(A); and
7836 (c) the commission suspending or revoking a resort license because a person to whom
7837 a resort license is issued under this chapter no longer possesses the qualifications required by
7838 this title for obtaining the resort license.
7839 (3) This section does not prevent the commission from suspending or revoking a
7840 sublicense that is part of a resort license if a person employed to act in a supervisory or
7841 managerial capacity for a sublicense no longer meets the qualification requirements in the

7842 provisions applicable to the sublicense.

7843 Section 233. Section **32B-8-502** is enacted to read:

7844 **32B-8-502. Enforcement of operational requirements for resort license or**
7845 **sublicense.**

7846 (1) (a) Except as provided in Subsection (2) and in addition to Subsection (3), failure
7847 by a person described in Subsection (1)(b) to comply with this chapter or an operational
7848 requirement under a provision applicable to a sublicense may result in disciplinary action in
7849 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

7850 (i) a resort licensee;

7851 (ii) individual staff of a resort licensee;

7852 (iii) a person otherwise operating under a sublicense;

7853 (iv) individual staff of a person otherwise operating under a sublicense; or

7854 (v) any combination of the persons listed in this Subsection (1)(a).

7855 (b) This Subsection (1) applies to:

7856 (i) a resort licensee;

7857 (ii) a person operating under a sublicense; or

7858 (iii) staff of a resort licensee or other person operating under a sublicense.

7859 (2) (a) Notwithstanding the other provisions of this title, if the failure to comply with
7860 this chapter described in Subsection (1) relates to a sale, offer for sale, or furnishing of an
7861 alcoholic product on a sublicense premises, a resort licensee or an individual member of the
7862 resort licensee's management personnel is subject to a sanction described in Subsection (1),
7863 only if the commission finds that:

7864 (i) during the three years before the day on which the commission makes the finding,
7865 there are three or more disciplinary proceedings against any person operating under a
7866 sublicense of the resort licensee for failure to comply with an operational requirement
7867 applicable to the sublicense; and

7868 (ii) the resort licensee has not taken reasonable steps to prevent persons operating
7869 under a sublicense of the resort licensee from failing to comply with operational requirements

7870 applicable to the sublicense.

7871 (b) This Subsection (2) applies if the three or more disciplinary proceedings described
7872 in Subsection (2)(a) are against:

7873 (i) the same person operating under a sublicense of the resort licensee; or

7874 (ii) two or more different persons operating under a sublicense of the resort licensee.

7875 (3) An operational requirement applicable to a person operating under a sublicense is
7876 enforced as provided by the provisions applicable to the sublicense.

7877 Section 234. Section **32B-8-503** is enacted to read:

7878 **32B-8-503. Enforcement of Nuisance Retail Licensee Act.**

7879 Chapter 3, Part 3, Nuisance Retail Licensee Act, applies to a resort license only if three
7880 or more of the sublicenses of the resort license have not been renewed in accordance with
7881 Chapter 3, Part 3, Nuisance Retail Licensee Act, within three years from the day on which a
7882 resort licensee applies for the renewal of its resort license.

7883 Section 235. Section **32B-9-101** is enacted to read:

7884 **CHAPTER 9. EVENT PERMIT ACT**

7885 **Part 1. General Provisions**

7886 **32B-9-101. Title.**

7887 This chapter is known as the "Event Permit Act."

7888 Section 236. Section **32B-9-102** is enacted to read:

7889 **32B-9-102. Definitions.**

7890 As used in this chapter:

7891 (1) "Single event permit" means an event permit issued in accordance with Part 3,
7892 Single Event Permit.

7893 (2) "Temporary beer event permit" means an event permit issued in accordance with
7894 Part 4, Temporary Beer Event Permit.

7895 Section 237. Section **32B-9-201** is enacted to read:

7896 **Part 2. Event Permitting General Provisions**

7897 **32B-9-201. Application requirements for event permit.**

- 7898 (1) To obtain an event permit, a person shall submit to the department:
- 7899 (a) a written application in a form that the department prescribes;
- 7900 (b) an event permit fee:
- 7901 (i) in the amount specified in the relevant part under this chapter for the type of event
- 7902 permit for which the person is applying; and
- 7903 (ii) that is refundable if an event permit is not issued;
- 7904 (c) written consent of the local authority;
- 7905 (d) a bond as specified by Section 32B-9-203;
- 7906 (e) the times, dates, location, estimated attendance, nature, and purpose of the event;
- 7907 (f) a description or floor plan designating:
- 7908 (i) the area in which the person proposes that an alcoholic product be stored;
- 7909 (ii) the site from which the person proposes that an alcoholic product be sold, offered
- 7910 for sale, or furnished; and
- 7911 (iii) the area in which the person proposes that an alcoholic product be allowed to be
- 7912 consumed;
- 7913 (g) a signed consent form stating that the event permittee will permit any authorized
- 7914 representative of the commission, department, or any law enforcement officer to have
- 7915 unrestricted right to enter the premises during the event;
- 7916 (h) if the person is an entity, proper verification evidencing that a person who signs
- 7917 the application is authorized to sign on behalf of the entity; and
- 7918 (i) any other information as the commission or department may require.
- 7919 (2) An entity applying for a permit need not meet the requirements of Subsections
- 7920 (1)(b), (c), and (d) if the entity is:
- 7921 (a) a state agency; or
- 7922 (b) a political subdivision of the state.
- 7923 (3) The commission may not issue an event permit to a person who is disqualified
- 7924 under Section 32B-1-304.
- 7925 (4) (a) The proximity requirements of Section 32B-1-202 do not apply to an event

7926 permit.

7927 (b) Notwithstanding Subsection (4)(a), nothing in this section prevents the
7928 commission from considering the proximity of an educational, religious, or recreational
7929 facility, or any other relevant factor in deciding whether to issue an event permit.

7930 Section 238. Section **32B-9-202** is enacted to read:

7931 **32B-9-202. Commission and department duties before issuing event permit.**

7932 (1) (a) Before the commission may issue an event permit, the department shall conduct
7933 an investigation and may hold public hearings to gather information and make
7934 recommendations to the commission as to whether the commission should issue an event
7935 permit.

7936 (b) The department shall forward the information and recommendations described in
7937 Subsection (1)(a) to the commission to aid in the commission's determination.

7938 (2) Before issuing an event permit, the commission shall:

7939 (a) determine that the person filed a complete application and is in compliance with:

7940 (i) Section 32B-9-201; and

7941 (ii) the relevant part under this chapter for the type of permit for which the person is
7942 applying;

7943 (b) determine that the person is not disqualified under Section 32B-1-304;

7944 (c) consider the purpose of the organization or its local lodge, chapter, or other local
7945 unit;

7946 (d) consider the times, dates, location, estimated attendance, nature, and purpose of
7947 the event;

7948 (e) to minimize the risk of minors being sold or furnished alcohol or adults being
7949 overserved alcohol at the event, assess the adequacy of control measures for:

7950 (i) a large-scale public event when the estimated attendance is in excess of 1,000
7951 people; or

7952 (ii) an outdoor public event; and

7953 (f) consider any other factor the commission considers necessary.

7954 (3) Once the commission issues an event permit, the department shall send a copy of
7955 the approved application and the event permit to the state and local law enforcement
7956 authorities before the scheduled event.

7957 Section 239. Section **32B-9-203** is enacted to read:

7958 **32B-9-203. Bond for event permit.**

7959 (1) (a) A person applying for an event permit shall post a cash bond or surety bond:

7960 (i) in the amount specified in the relevant part under this chapter for the type of event
7961 permit for which the person is applying; and

7962 (ii) payable to the department.

7963 (b) An event permittee shall procure and maintain a bond required under this section
7964 for as long as the event permit is in effect.

7965 (2) A bond posted by an event permittee under this section shall be:

7966 (a) in a form approved by the attorney general; and

7967 (b) conditioned upon the event permittee's faithful compliance with this title and the
7968 rules of the commission.

7969 (3) No part of a bond posted by an event permittee under this section may be
7970 withdrawn during the period the event permit is in effect.

7971 (4) (a) A bond posted by an event permittee under this section may be forfeited if the
7972 event permit is revoked.

7973 (b) Notwithstanding Subsection (4)(a), the department may make a claim against a
7974 bond posted by an event permittee for money owed the department under this title without the
7975 commission first revoking the event permit.

7976 Section 240. Section **32B-9-204** is enacted to read:

7977 **32B-9-204. General operational requirements for an event permit.**

7978 (1) (a) An event permittee and a person involved in the storage, sale, offer for sale, or
7979 furnishing of an alcoholic product at an event for which an event permit is issued, shall
7980 comply with this title and rules of the commission.

7981 (b) Failure to comply as provided in Subsection (1)(a):

7982 (i) may result in:
7983 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
7984 Enforcement Act, against:
7985 (I) an event permittee;
7986 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
7987 product at the event; or
7988 (III) any combination of the persons listed in this Subsection (1)(b);
7989 (B) immediate revocation of the event permit;
7990 (C) forfeiture of a bond; or
7991 (D) immediate seizure of an alcoholic product present at the event; and
7992 (ii) if the event permit is revoked, disqualifies the event permittee from applying for an
7993 event permit for a period of three years from the date of revocation of the event permit.
7994 (c) An alcoholic product seized under this Subsection (1) shall be returned to the event
7995 permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.
7996 (2) (a) If there is a conflict between this part and the relevant part under this chapter
7997 for the specific type of special use permit held by the special use permittee, the relevant part
7998 governs.
7999 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an
8000 event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the
8001 relevant part under this chapter for the type of event permit that is held by the event permittee.
8002 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
8003 event permit held by an event permittee refers to "event permittee," a person involved in the
8004 storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the
8005 event permit is issued is subject to the same requirement or prohibition.
8006 (3) An event permittee shall display a copy of the event permit in a prominent place in
8007 the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.
8008 (4) An event permittee may not on the premises of the event:
8009 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,

8010 Chapter 10, Part 11, Gambling:

8011 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
8012 Part 11, Gambling; or

8013 (c) engage in or permit a contest, game, gaming scheme, or gaming device that
8014 requires the risking of something of value for a return or for an outcome when the return or
8015 outcome is based upon an element of chance, excluding the playing of an amusement device
8016 that confers only an immediate and unrecorded right of replay not exchangeable for value.

8017 (5) An event permittee may not knowingly allow a person at an event to, in violation
8018 of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug
8019 Paraphernalia Act:

8020 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
8021 58-37-2; or

8022 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
8023 Section 58-37a-3.

8024 (6) An event permittee may not sell, offer for sale, or furnish beer except beer
8025 purchases from:

8026 (a) a beer wholesaler licensee;

8027 (b) a beer retailer; or

8028 (c) a small brewer.

8029 (7) An event permittee may not store, sell, offer for sale, furnish, or allow the
8030 consumption of an alcoholic product purchased for an event in a location other than that
8031 described in the application and designated on the event permit unless the event permittee first
8032 applies for and receives approval from the commission for a change of location.

8033 (8) (a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or
8034 furnish beer for on-premise consumption:

8035 (i) in an open original package; and

8036 (ii) in a package on draft.

8037 (b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to

8038 Subsection (8)(a):

8039 (i) in a size of package that exceeds two liters; or

8040 (ii) to an individual patron in a size of package that exceeds one liter.

8041 (9) (a) An event permittee may not sell or offer for sale an alcoholic product at less

8042 than the cost of the alcoholic product to the event permittee.

8043 (b) An event permittee may not sell or offer for sale an alcoholic product at a price that

8044 encourages over consumption or intoxication.

8045 (c) An event permittee may not sell or offer for sale an alcoholic product at a special or

8046 reduced price for only certain hours of the day of an event.

8047 (d) An event permittee may not sell, offer for sale, or furnish more than one alcoholic

8048 product at the price of a single alcoholic product.

8049 (e) An event permittee may not engage in a public promotion involving or offering a

8050 free alcoholic product to the general public.

8051 (10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

8052 (a) a minor;

8053 (b) a person actually, apparently, or obviously intoxicated;

8054 (c) a known interdicted person; or

8055 (d) a known habitual drunkard.

8056 (11) (a) An alcoholic product is considered under the control of the event permittee

8057 during an event.

8058 (b) A patron at an event may not bring an alcoholic product onto the premises of the

8059 event.

8060 (12) An event permittee may not permit a patron to carry from the premises an open

8061 package that:

8062 (a) is used primarily for drinking purposes; and

8063 (b) contains an alcoholic product.

8064 (13) (a) A person involved in the storage, sale, or furnishing of an alcoholic product at

8065 an event is considered under the supervision and direction of the event permittee.

8066 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
8067 at an event may not, while on duty:

8068 (i) consume an alcoholic product; or

8069 (ii) be intoxicated.

8070 (14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an
8071 event.

8072 (15) The location specified in an event permit may not be changed without prior
8073 written approval of the commission.

8074 (16) An event permittee may not sell, transfer, assign, exchange, barter, give, or
8075 attempt in any way to dispose of the event permit to another person whether for monetary gain
8076 or not.

8077 (17) (a) An event permittee may not sell, offer for sale, furnish, or allow the
8078 consumption of an alcoholic product during a period that:

8079 (i) begins at 1 a.m.; and

8080 (ii) ends at 9:59 a.m.

8081 (b) This Subsection (17) does not preclude a local authority from being more
8082 restrictive with respect to the hours of sale, offer for sale, furnishing, or consumption of an
8083 alcoholic product at an event.

8084 (18) A patron may have no more than one alcoholic product of any kind at a time
8085 before the patron.

8086 Section 241. Section **32B-9-301** is enacted to read:

8087 **Part 3. Single Event Permit**

8088 **32B-9-301. Title.**

8089 This part is known as "Single Event Permit."

8090 Section 242. Section **32B-9-302** is enacted to read:

8091 **32B-9-302. Definitions.**

8092 As used in this chapter:

8093 (1) "120 hour single event permit" means a single event permit that authorizes under

8094 this part the storage, sale, offering for sale, furnishing, and consumption of liquor for a period
8095 not to exceed 120 consecutive hours.

8096 (2) "72 hour single event permit" means a single event permit that authorizes under
8097 this part the storage, sale, offering for sale, furnishing, and consumption of liquor for a period
8098 not to exceed 72 consecutive hours.

8099 (3) "Single event permit" means:

8100 (a) a 120 hour single event permit; and

8101 (b) a 72 hour single event permit.

8102 Section 243. Section **32B-9-303** is enacted to read:

8103 **32B-9-303. Commission's power to issue single event permit.**

8104 (1) Before a person may sell, offer for sale, or furnish liquor at retail for on-premise
8105 consumption at an event, the person shall first obtain a single event permit from the
8106 commission in accordance with this part.

8107 (2) (a) The commission may issue a single event permit to any of the following that is
8108 conducting a convention, civic, or community enterprise, a bona fide:

8109 (i) partnership;

8110 (ii) corporation;

8111 (iii) limited liability company;

8112 (iv) religious organization;

8113 (v) political organization;

8114 (vi) incorporated association;

8115 (vii) recognized subordinate lodge, chapter, or other local unit of an entity described in
8116 this Subsection (2)(a);

8117 (viii) state agency; or

8118 (ix) political subdivision of the state.

8119 (b) The commission may not issue a single event permit to an entity that has not been
8120 in existence as a bona fide entity for at least one year before the day on which the entity
8121 applies for a single event permit.

- 8122 (3) (a) A single event permit may authorize:
8123 (i) the storage, sale, offering for sale, furnishing, and consumption of liquor at an
8124 event at which the storage, sale, offering for sale, furnishing, or consumption of liquor is
8125 otherwise prohibited by this title under either:
8126 (A) a 120 hour single event permit; or
8127 (B) a 72 hour single event permit; and
8128 (ii) the storage, sale, offer for sale, furnishing, and consumption of beer at the same
8129 event for the period that the storage, sale, offer for sale, furnishing, or consumption of liquor is
8130 authorized under Subsection (3)(a)(i) for the single event permit.
8131 (b) The single event permit shall state in writing whether it is:
8132 (i) a 120 hour single event permit; or
8133 (ii) a 72 hour single event permit.
8134 (4) The commission may not issue more than:
8135 (a) four single event permits in any one calendar year to the same person listed in
8136 Subsection (2) if one or more of the single event permits is a 120 hour single event permit; or
8137 (b) 12 single event permits in any one calendar year to the same person listed in
8138 Subsection (2) if each of the single event permits issued to that person is a 72 hour single
8139 event permit.
8140 Section 244. Section **32B-9-304** is enacted to read:
8141 **32B-9-304. Specific permitting requirements for single event permit.**
8142 (1) To obtain a single event permit, in addition to complying with Part 2, Event
8143 Permitting General Provisions, an entity described in Subsection 32B-9-303(2)(a) shall state in
8144 its written application:
8145 (a) the purpose of the entity described in Subsection 32B-9-303(2)(a);
8146 (b) the time period under Subsection 32B-9-303(3)(a)(i)(A) or (B) for which the entity
8147 is applying; and
8148 (c) if submitting the first request for a single event permit in a calendar year, whether
8149 it is requesting to be under Subsection 32B-9-303(4)(a) or (b).

8150 (2) The application fee for a single event permit is \$100.

8151 (3) The bond amount required for a single event permit is the penal sum of \$1,000.

8152 Section 245. Section **32B-9-305** is enacted to read:

8153 **32B-9-305. Specific operational requirements for single event permit.**

8154 (1) (a) In addition to complying with Section 32B-9-204, a single event permittee or a
8155 person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the
8156 event shall comply with this section.

8157 (b) Failure to comply as provided in Subsection (1)(a):

8158 (i) may result in:

8159 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
8160 Enforcement Act, against:

8161 (I) a single event permittee;

8162 (II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic
8163 product at the event; or

8164 (III) any combination of persons listed in this Subsection (1)(b);

8165 (B) immediate revocation of the single event permit;

8166 (C) forfeiture of a bond; or

8167 (D) immediate seizure of an alcoholic product present at the event; and

8168 (ii) if the single event permit is revoked, disqualifies the single event permittee from
8169 applying for a single event permit or temporary beer event permit for a period of three years
8170 from the date of revocation of the single event permit.

8171 (c) An alcoholic product seized under this Subsection (1) shall be returned to the
8172 single event permittee after an event if forfeiture proceedings are not instituted under Section
8173 32B-4-206.

8174 (2) (a) A single event permittee shall make and maintain an expense and revenue
8175 ledger or record showing:

8176 (i) expenditures made for:

8177 (A) liquor;

- 8178 (B) beer;
- 8179 (C) set-ups; and
- 8180 (D) an ingredient or component of an alcoholic product other than a set-up; and
- 8181 (ii) the revenue from the sale of an alcoholic product.
- 8182 (b) Section 32B-1-205 applies to a record required to be made or maintained in
- 8183 accordance with this Subsection (2).
- 8184 (3) A single event permittee shall purchase liquor stored, sold, offered for sale,
- 8185 furnished, or consumed at an event from a state store or package agency.
- 8186 (4) (a) A single event permittee may not sell, offer for sale, or furnish a primary
- 8187 spirituous liquor in a quantity that exceeds 1.5 ounces per beverage, except that additional
- 8188 spirituous liquor may be used in a beverage if:
- 8189 (i) used as a secondary flavoring ingredient;
- 8190 (ii) used in conjunction with the primary spirituous liquor;
- 8191 (iii) the secondary ingredient is not the only spirituous liquor in the beverage;
- 8192 (iv) a patron has no more than 2.5 ounces of spirituous liquor at a time before the
- 8193 patron; and
- 8194 (v) a patron has no more than one spirituous liquor drink at a time before the patron.
- 8195 (b) Spirituous liquor need not be dispensed through a calibrated metered dispensing
- 8196 system.
- 8197 (5) (a) A single event permittee may sell, offer for sale, or furnish wine by the glass or
- 8198 an individual portion, except that a glass or individual portion may not exceed five ounces.
- 8199 (b) A single event permittee may furnish an individual portion served to a patron in
- 8200 more than one glass if the total amount of wine does not exceed five ounces.
- 8201 (c) An individual portion of wine is considered to be one alcoholic product under
- 8202 Subsection 32B-9-204(12).
- 8203 (d) A single event permittee may sell, offer for sale, or furnish wine in a package not
- 8204 exceeding 1.5 liters at a price fixed by the commission.
- 8205 (6) A single event permittee may sell, offer for sale, or furnish heavy beer in an

8206 original package at a price fixed by the commission, except that the original package may not
8207 exceed one liter.

8208 (7) A single event permittee may sell, offer for sale, or furnish a flavored malt
8209 beverage in an original package at a price fixed by the commission, except that the original
8210 package may not exceed one liter.

8211 (8) (a) A single event permittee may sell liquor only at a price fixed by the
8212 commission.

8213 (b) A single event permittee may not sell liquor at a discount price on any date or at
8214 any time.

8215 (9) A single event permittee may perform a service and assess a service charge as
8216 authorized by commission rule for liquor purchased at an event.

8217 Section 246. Section **32B-9-401** is enacted to read:

8218 **Part 4. Temporary Beer Event Permit**

8219 **32B-9-401. Title.**

8220 This part is known as "Temporary Beer Event Permit."

8221 Section 247. Section **32B-9-402** is enacted to read:

8222 **32B-9-402. Definitions.**

8223 Reserved

8224 Section 248. Section **32B-9-403** is enacted to read:

8225 **32B-9-403. Commission's power to issue temporary beer event permit.**

8226 (1) Before a person may sell, offer for sale, or furnish beer at retail for on-premise
8227 consumption at an event, the person shall obtain in accordance with this part:

8228 (a) a single event permit; or

8229 (b) (i) a temporary beer event permit; and

8230 (ii) (A) a beer permit issued by the local authority as provided in Section 32B-9-404;

8231 or

8232 (B) written consent of the local authority to sell beer at retail for on-premise

8233 consumption at the event.

8234 (2) (a) The commission may issue a temporary beer event permit to allow the sale,
8235 offering for sale, or furnishing of beer for on-premise consumption only at an event that does
8236 not last longer than 30 days.

8237 (b) A temporary beer event permit authorizes, for a period not to exceed 30 days, the
8238 storage, sale, offer for sale, furnishing, and consumption of beer at an event.

8239 (c) If a person obtains a temporary beer event permit for an event that lasts no longer
8240 than 30 days, an on-premise beer retailer license is not required for the sale of beer at the
8241 event.

8242 (3) (a) The commission may not issue a temporary beer event permit to a person if the
8243 aggregate of the days that the person is authorized to store, sell, offer for sale, or furnish an
8244 alcoholic product under a temporary beer event permit will exceed a total of 90 days in any
8245 one calendar year.

8246 (b) The commission may not issue, and a person may not obtain, a temporary beer
8247 event permit to avoid or attempt to avoid the requirement to be licensed under Chapter 6, Part
8248 7, On-premise Beer Retailer License.

8249 Section 249. Section **32B-9-404** is enacted to read:

8250 **32B-9-404. Local authority's power to issue temporary beer event permit.**

8251 (1) A local authority may issue, suspend, and revoke a temporary permit to sell, offer
8252 for sale, or furnish beer for on-premise consumption at an event, except that the local authority
8253 may not issue a temporary permit if the event lasts longer than 30 days.

8254 (2) Suspension or revocation of a temporary beer event permit issued by the
8255 commission under Section 32B-9-403 or a temporary permit issued by a local authority under
8256 this section prohibits the temporary beer event permittee who has a permit suspended or
8257 revoked by either the commission or local authority from continuing to operate under the other
8258 state or local permit.

8259 Section 250. Section **32B-9-405** is enacted to read:

8260 **32B-9-405. Specific permitting requirements for temporary beer event permit**
8261 **issued by commission.**

8262 (1) To obtain a temporary beer event permit, in addition to complying with Part 2,
8263 Event Permitting General Provisions, a person shall state in the person's written application the
8264 purpose of the event for which the person seeks a temporary beer event permit.

8265 (2) The application fee for a beer permit is \$75.

8266 (3) The bond amount required for a beer permit is the penal sum of \$500.

8267 Section 251. Section **32B-9-406** is enacted to read:

8268 **32B-9-406. Specific operational requirements for temporary beer event permit.**

8269 (1) (a) In addition to complying with the requirements of Section 32B-9-204, a
8270 temporary beer event permittee or a person involved in the storage, sale, offer for sale, or
8271 furnishing of beer at the event shall comply with this section.

8272 (b) Failure to comply as provided in Subsection (1)(a):

8273 (i) may result in:

8274 (A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and
8275 Enforcement Act, against:

8276 (I) a temporary beer event permittee;

8277 (II) a person involved in the storage, sale, offer for sale, or furnishing of beer at the
8278 event; or

8279 (III) any combination of persons listed in this Subsection (1)(b);

8280 (B) immediate revocation of the temporary beer event permit;

8281 (C) forfeiture of a bond; or

8282 (D) immediate seizure of beer present at the event; and

8283 (ii) if the temporary beer event permit is revoked, disqualifies the temporary beer event
8284 permittee from applying for a temporary beer event permit or single event permit for a period
8285 of three years from the date of revocation of the temporary beer event permit.

8286 (c) Beer seized under this Subsection (1) shall be returned to the event permittee after
8287 an event if forfeiture proceedings are not instituted under Section 32B-4-206.

8288 (2) A temporary beer event permittee may not sell, offer for sale, or furnish an
8289 alcoholic product other than beer pursuant to a temporary beer event permit.

8290 (3) (a) A temporary beer event permittee shall make and maintain an expense and
8291 revenue ledger or record showing:
8292 (i) expenditures made for beer; and
8293 (ii) the revenue from sale of beer.
8294 (b) Section 32B-1-205 applies to a record required to be made or maintained in
8295 accordance with this Subsection (3).

8296 Section 252. Section **32B-10-101** is enacted to read:

8297 **CHAPTER 10. SPECIAL USE PERMIT ACT**

8298 **Part 1. General Provisions**

8299 **32B-10-101. Title.**

8300 This chapter is known as the "Special Use Permit Act."

8301 Section 253. Section **32B-10-102** is enacted to read:

8302 **32B-10-102. Definitions.**

8303 As used in this chapter, "special use permit" means a special use permit issued under
8304 this chapter, including:

- 8305 (1) a religious wine use permit;
- 8306 (2) an industrial or manufacturing use permit;
- 8307 (3) a scientific or educational use permit; and
- 8308 (4) a public service permit.

8309 Section 254. Section **32B-10-201** is enacted to read:

8310 **Part 2. Special Use Permitting General Provisions**

8311 **32B-10-201. Commission's power to issue special use permit.**

8312 (1) Before a person may purchase, use, store, sell, offer for sale, allow consumption, or
8313 manufacture an alcoholic product in a manner that requires a special use permit, the person
8314 shall first obtain a special use permit in accordance with this chapter.

8315 (2) (a) The commission may issue a special use permit for the purchase, use, storage,
8316 sale, offer for sale, consumption, or manufacture of an alcoholic product for a limited purpose
8317 specified by this chapter and the rules of the commission.

8318 (b) A special use permit authorizes the special use permittee to purchase, use, store,
8319 sell, offer for sale, consume, or manufacture an alcoholic product only in the quantity, in a
8320 type, and for a purpose stated in the special use permit.

8321 Section 255. Section **32B-10-202** is enacted to read:

8322 **32B-10-202. Application for special use permit -- Qualifications.**

8323 (1) To obtain a special use permit, a person shall submit to the department:

8324 (a) a written application in a form prescribed by the department;

8325 (b) a nonrefundable application fee, if required by the relevant part of this chapter
8326 applicable to the type of special use permit for which the person applies;

8327 (c) an initial permit fee:

8328 (i) if required by the relevant part of this chapter applicable to the type of special use
8329 permit for which the person applies; and

8330 (ii) that is refundable if a special use permit is not issued;

8331 (d) a one-time special use permit fee if required by a section of this chapter:

8332 (i) applicable to the type of special use permit for which the person applies; and

8333 (ii) that is refundable if a special use permit is not issued;

8334 (e) a statement of the purpose for which the person applies for the special use permit;

8335 (f) a description of the types of alcoholic product the person intends to use under
8336 authority of the special use permit;

8337 (g) written consent of the local authority;

8338 (h) if required, a bond as provided in Section 32B-10-205;

8339 (i) a floor plan of the immediate area within the premises in which the person proposes
8340 that an alcoholic product will be used, mixed, stored, sold, or consumed if required by the
8341 relevant part of this chapter applicable to the type of special use permit for which the person
8342 applies;

8343 (j) a signed consent form stating that the special use permittee will permit any
8344 authorized representative of the commission, department, or any other law enforcement officer
8345 to have unrestricted right to enter the special use permittee's premises;

8346 (k) if the person is an entity, proper verification evidencing that a person who signs
8347 the application is authorized to sign on behalf of the entity; and

8348 (l) any other information the commission or department may require.

8349 (2) (a) The commission may issue a special use permit only to a person who qualifies
8350 as follows:

8351 (i) the commission may issue a religious wine use permit to a religious organization;

8352 (ii) the commission may issue an industrial or manufacturing use permit to a person
8353 engaged in an industrial or manufacturing pursuit;

8354 (iii) the commission may issue a scientific or educational use permit to a person
8355 engaged in a scientific or educational pursuit; and

8356 (iv) the commission may issue a public service permit to an operator of an airline,
8357 railroad, or other public conveyance.

8358 (b) The commission may not issue a special use permit to a person who is disqualified
8359 under Section 32B-1-304.

8360 (c) If a person to whom a special use permit is issued no longer possesses the
8361 qualifications required by this title for obtaining that special use permit, the commission may
8362 suspend or revoke that special use permit.

8363 Section 256. Section **32B-10-203** is enacted to read:

8364 **32B-10-203. Renewal of special use permit.**

8365 (1) A special use permit expires on December 31 of each year unless otherwise
8366 provided on the special use permit.

8367 (2) To renew a renewable special use permit, a person shall submit a completed
8368 renewal application to the department:

8369 (a) no later than November 30; and

8370 (b) in a form prescribed by the department.

8371 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
8372 special use permit, effective on the date the existing special use permit expires.

8373 Section 257. Section **32B-10-204** is enacted to read:

8374 **32B-10-204. Duties of commission and department before issuing special use**
8375 **permit.**

8376 (1) (a) Before the commission issues a special use permit, the department shall
8377 conduct an investigation and may hold public hearings to gather information and make
8378 recommendations to the commission as to whether a special use permit should be issued.

8379 (b) The department shall forward the information it gathers and its recommendations
8380 to the commission to aid in the commission's determination.

8381 (2) Before issuing a special use permit, the commission shall:

8382 (a) determine that the person filed a complete application and is in compliance with:

8383 (i) Section 32B-10-202; and

8384 (ii) the relevant part under this chapter that applies to the special use permit for which
8385 the person is applying;

8386 (b) determine that the person is not disqualified under Section 32B-1-304;

8387 (c) consider the physical characteristics of the premises where an alcoholic product is
8388 proposed to be used, mixed, stored, sold, offered for sale, or furnished such as:

8389 (i) the condition of the premises;

8390 (ii) public visibility; and

8391 (iii) safety considerations;

8392 (d) consider the person's ability to properly use the special use permit within the
8393 requirements of this title and the commission rules including:

8394 (i) the proposed use of the special use permit; and

8395 (ii) the nature and type of person making use of the special use permit;

8396 (e) consider specific factors regarding the specific type of special use permit sought by
8397 the person;

8398 (f) approve of the location and equipment used by the person to distill alcohol for
8399 experimental testing purposes or use as a fuel; and

8400 (g) consider any other factor the commission considers necessary.

8401 Section 258. Section **32B-10-205** is enacted to read:

8402 **32B-10-205. Bond for special use permit.**

8403 (1) A special use permittee shall post a cash bond or surety bond only if the relevant
8404 part under this chapter for the type of special use permit requires posting of a bond.

8405 (2) (a) If a special use permittee is required to post a bond as provided in Subsection
8406 (1), the special use permittee shall procure and maintain the bond for as long as the special use
8407 permittee continues to operate under the special use permit.

8408 (b) A bond required under this section shall be:

8409 (i) in a form approved by the attorney general; and

8410 (ii) conditioned upon the special use permittee's faithful compliance with this title and
8411 the rules of the commission.

8412 (3) If a surety bond posted by a special use permittee under this section is canceled
8413 due to a special use permittee's negligence, the department may assess a \$300 reinstatement
8414 fee.

8415 (4) No part of a bond posted by a special use permittee under this section may be
8416 withdrawn during the period that the special use permit is in effect.

8417 (5) (a) A bond posted by a special use permittee under this section may be forfeited if
8418 the special use permit is revoked.

8419 (b) Notwithstanding Subsection (5)(a), the department may make a claim against a
8420 bond posted by a special use permittee for money owed the department under this title without
8421 the commission first revoking the special use permit.

8422 Section 259. Section **32B-10-206** is enacted to read:

8423 **32B-10-206. General operational requirements for special use permit.**

8424 (1) (a) A special use permittee and staff of the special use permittee shall comply with
8425 this title and rules of the commission, including the relevant part of the chapter that applies to
8426 the type of special use permit held by the special use permittee.

8427 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
8428 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

8429 (i) a special use permittee;

- 8430 (ii) individual staff of a special use permittee; or
8431 (iii) a special use permittee and staff of the special use permittee.
8432 (c) The commission may suspend or revoke a special use permit with or without cause.
8433 (2) (a) If there is a conflict between this part and the relevant part under this chapter
8434 for the specific type of special use permit, the relevant part under this chapter governs.
8435 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a
8436 special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or
8437 manufacture an alcoholic product authorized for the special use permit that is held by the
8438 special use permittee.
8439 (c) Notwithstanding that this part or the relevant part under this chapter for the type of
8440 special use permit held by a special use permittee refers to "special use permittee," a person
8441 involved in the purchase, use, store, sell, offer for sale, allow consumption, or manufacture of
8442 an alcoholic product for which the special use permit is issued is subject to the same
8443 requirement or prohibition.
8444 (3) (a) A special use permittee shall make and maintain a record, as required by
8445 commission rule, of any alcoholic product purchased, used, sold, or manufactured.
8446 (b) Section 32B-1-205 applies to a record required to be made or maintained in
8447 accordance with this Subsection (3).
8448 (4) (a) Except as otherwise provided in this title, a special use permittee may not
8449 purchase liquor except from a state store or package agency.
8450 (b) A special use permittee may transport liquor purchased by the special use
8451 permittee in accordance with this Subsection (4) from the place of purchase to the special use
8452 permittee's premises.
8453 (c) A special use permittee shall purchase liquor at prices set by the commission.
8454 (d) When authorized by a special use permit, a special use permittee may purchase and
8455 receive an alcoholic product directly from a manufacturer for a purpose that is industrial,
8456 educational, scientific, or manufacturing.
8457 (e) A health care facility may purchase and receive an alcoholic product directly from

8458 a manufacturer for use at the health care facility.

8459 (5) A special use permittee may not use, mix, store, sell, offer for sale, furnish,
8460 manufacture, or allow consumption of an alcoholic product in a location other than as
8461 designated in a special use permittee's application.

8462 (6) Except as otherwise provided, a special use permittee may not sell, offer for sale,
8463 or furnish an alcoholic product to:

8464 (a) a minor;

8465 (b) a person actually, apparently, or obviously intoxicated;

8466 (c) a known interdicted person; or

8467 (d) a known habitual drunkard.

8468 (7) A special use permittee may not employ a minor to handle an alcoholic product.

8469 (8) (a) The location specified in a special use permit may not be transferred from one
8470 location to another location, without prior written approval of the commission.

8471 (b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or
8472 attempt in any way to dispose of the permit to another person whether for monetary gain or
8473 not.

8474 (9) A special use permittee may not purchase, use, mix, store, sell, offer for sale,
8475 furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized
8476 by the special use permit.

8477 (10) The commission may prescribe by policy or rule consistent with this title, the
8478 general operational requirements of a special use permittee relating to:

8479 (a) physical facilities;

8480 (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an
8481 alcoholic product;

8482 (c) purchase, storage, and sales quantity limitations; and

8483 (d) other matters considered appropriate by the commission.

8484 Section 260. Section **32B-10-207** is enacted to read:

8485 **32B-10-207. Notifying department of change of ownership.**

8486 The commission may suspend or revoke a special use permit if a special use permittee
8487 does not immediately notify the department of a change in:

8488 (1) ownership of the permittee's business;

8489 (2) for a corporate owner, the:

8490 (a) corporate officers or directors; or

8491 (b) shareholders holding at least 20% of the total issued and outstanding stock of the
8492 corporation; or

8493 (3) for a limited liability company:

8494 (a) managers; or

8495 (b) members owning at least 20% of the limited liability company.

8496 Section 261. Section **32B-10-301** is enacted to read:

8497 **Part 3. Public Service Permit**

8498 **32B-10-301. Title.**

8499 This part is known as "Public Service Permit."

8500 Section 262. Section **32B-10-302** is enacted to read:

8501 **32B-10-302. Definitions.**

8502 Reserved

8503 Section 263. Section **32B-10-303** is enacted to read:

8504 **32B-10-303. Specific application and renewal requirements for public service**
8505 **permit.**

8506 (1) To obtain a public service permit, in addition to complying with Section
8507 32B-10-202, a person shall submit to the department:

8508 (a) a statement of the total of regularly numbered flights, trains, buses, boats, or other
8509 types of public conveyance for which the person plans to use the special use permit;

8510 (b) a floor plan of any room or facility in which the person plans to establish a
8511 hospitality room where the sale, offer for sale, or furnishing of an alcoholic product is made to
8512 a patron then in transit, using the host company's airline, railroad, bus, boat, or other public
8513 conveyance; and

8514 (c) evidence of proximity of a proposed hospitality room to the arrival and departure
8515 area used by a person traveling on the host company's airline, railroad, bus, boat, or other
8516 public conveyance.

8517 (2) (a) The nonrefundable application fee for a public service permit is \$50.

8518 (b) The initial permit fee for a public service permit is \$200.

8519 (c) The bond amount required for a public service permittee is the penal sum of
8520 \$1,000.

8521 (3) (a) To renew a public service permit, a person shall comply with Section
8522 32B-10-203.

8523 (b) The renewal fee for a public service permit is \$30 for each regularly numbered
8524 passenger airplane flight, passenger train, bus, boat, or any other regularly scheduled public
8525 conveyance upon which an alcoholic product is sold, offered for sale, or furnished.

8526 Section 264. Section **32B-10-304** is enacted to read:

8527 **32B-10-304. Specific operational requirements for a public service permit.**

8528 (1) (a) In addition to complying with Section 32B-10-206, a public service permittee
8529 and staff of the public service permittee shall comply with this section.

8530 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
8531 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

8532 (i) a public service permittee;

8533 (ii) individual staff of a public service permittee; or

8534 (iii) both a public service permittee and staff of the public service permittee.

8535 (2) (a) A public service permittee whose public conveyances operate on an interstate
8536 basis may do the following:

8537 (i) purchase an alcoholic product outside of the state;

8538 (ii) bring an alcoholic product purchased outside of the state into the state; and

8539 (iii) sell, offer for sale, and furnish an alcoholic product purchased outside of the state
8540 to a passenger traveling on the public service permittee's public conveyance for consumption
8541 while en route on the public conveyance.

8542 (b) A public service permittee whose public conveyance operates solely within the
8543 state, to sell, offer for sale, or furnish to a passenger traveling on the public service permittee's
8544 public conveyance for consumption while en route on the public conveyance, shall purchase:

8545 (i) liquor from a state store or package agency; and

8546 (ii) beer from a beer wholesaler licensee.

8547 (3) (a) A public service permittee may establish a hospitality room in which an
8548 alcoholic product may be stored, sold, offered for sale, furnished, and consumed, if:

8549 (i) the room is located within a depot, terminal, or similar facility adjacent to and
8550 servicing the public service permittee's airline, railroad, bus, boat, or other public conveyance;

8551 (ii) the room is completely enclosed and the interior is not visible to the public;

8552 (iii) the sale, offer for sale, or furnishing of an alcoholic product is made only to a
8553 person:

8554 (A) then in transit using the host company's airline, railroad, bus line, or other public
8555 conveyance; and

8556 (B) holding a valid boarding pass or similar travel document issued by the host
8557 company; and

8558 (iv) (A) liquor is purchased from:

8559 (I) a state store; or

8560 (II) a package agency; and

8561 (B) beer is purchased from a beer wholesaler licensee.

8562 (b) A public service permittee operating a hospitality room shall display in a
8563 prominent place in the hospitality room, a sign in large letters stating: "Warning: Driving
8564 under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in
8565 Utah."

8566 (c) A hospitality room shall be operated in accordance with this chapter and rules
8567 adopted by the commission.

8568 Section 265. Section **32B-10-401** is enacted to read:

8569 **Part 4. Industrial or Manufacturing Use Permit**

8570 **32B-10-401. Title.**

8571 This part is known as "Industrial or Manufacturing Use Permit."

8572 Section 266. Section **32B-10-402** is enacted to read:

8573 **32B-10-402. Definitions.**

8574 Reserved

8575 Section 267. Section **32B-10-403** is enacted to read:

8576 **32B-10-403. Specific application requirements for industrial or manufacturing**
8577 **use permit.**

8578 (1) To obtain an industrial or manufacturing use permit, in addition to complying with
8579 Section 32B-10-202, a person shall submit to the department:

8580 (a) a floor plan of the immediate area within the premises in which the person
8581 proposes that an alcoholic product be used, mixed, stored, sold, offered for sale, furnished, or
8582 consumed; and

8583 (b) if the person is applying for an industrial or manufacturing use permit to produce
8584 gasohol or any alcoholic product, evidence that the person has:

8585 (i) an approved Notice of Registration of Distilled Spirits Plant; and

8586 (ii) the appropriate permit from the federal Alcohol and Tobacco Tax and Trade
8587 Bureau.

8588 (2) (a) The nonrefundable application fee for an industrial or manufacturing use
8589 permit is \$50.

8590 (b) The one-time special use permit fee for an industrial or manufacturing use permit
8591 is \$200.

8592 (c) The bond amount required for an industrial or manufacturing use permit is the
8593 penal sum of \$1,000.

8594 Section 268. Section **32B-10-404** is enacted to read:

8595 **32B-10-404. Specific operational requirements for industrial or manufacturing**
8596 **use permit.**

8597 (1) (a) In addition to complying with Section 32B-10-206, an industrial or

8598 manufacturing use permittee and staff of the industrial or manufacturing use permittee shall
8599 comply with this section.

8600 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
8601 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

8602 (i) an industrial or manufacturing use permittee;

8603 (ii) individual staff of an industrial or manufacturing use permittee; or

8604 (iii) an industrial or manufacturing use permittee and staff of the industrial or
8605 manufacturing use permittee.

8606 (2) An industrial or manufacturing use permittee may produce for lawful use and sale
8607 the following:

8608 (a) vinegar;

8609 (b) preserved nonintoxicating cider;

8610 (c) a food preparation;

8611 (d) a United States Pharmacopoeia or national formulary preparation in conformity
8612 with Title 58, Chapters 17b, 37, 37a, 37b, and 37c, if the preparation:

8613 (i) conforms to standards established by:

8614 (A) the Department of Agriculture and Food; and

8615 (B) the Department of Health; and

8616 (ii) contains no more alcohol than is necessary to preserve or extract the medicinal,
8617 flavoring, or perfumed properties of the treated substances; and

8618 (e) wood and denatured alcohol if manufactured in compliance with the formulas and
8619 regulations under Title 27, C.F.R. Parts 19, 20, and 21.

8620 (3) (a) An industrial or manufacturing use permittee that produces patent or
8621 proprietary medicines containing alcohol may sell or offer for sale the medicines in the
8622 original and unbroken package if the medicine contains sufficient medication to prevent its
8623 use as an alcoholic product.

8624 (b) An industrial or manufacturing use permittee described in this Subsection (3) shall,
8625 upon request by the department, provide a sufficient sample of the medicine to enable the

8626 department to have the medicine analyzed for purposes of this section.

8627 Section 269. Section **32B-10-501** is enacted to read:

8628 **Part 5. Scientific or Educational Use Permit**

8629 **32B-10-501. Title.**

8630 This part is known as "Scientific or Educational Use Permit."

8631 Section 270. Section **32B-10-502** is enacted to read:

8632 **32B-10-502. Definitions.**

8633 Reserved

8634 Section 271. Section **32B-10-503** is enacted to read:

8635 **32B-10-503. Specific application requirements for scientific or educational use**
8636 **permit.**

8637 (1) To obtain a scientific or educational use permit, a person shall comply with
8638 Section 32B-10-202.

8639 (2) The one-time special use permit fee for a scientific or educational use permit is
8640 \$100.

8641 Section 272. Section **32B-10-601** is enacted to read:

8642 **Part 6. Religious Use of Alcoholic Products**

8643 **32B-10-601. Title.**

8644 This part is known as "Religious Use of Alcoholic Products."

8645 Section 273. Section **32B-10-602** is enacted to read:

8646 **32B-10-602. Definitions.**

8647 Reserved

8648 Section 274. Section **32B-10-603** is enacted to read:

8649 **32B-10-603. Specific application requirements for religious wine use permit.**

8650 (1) To purchase an alcoholic product from the department at the department's cost plus
8651 freight charges, a religious organization shall obtain a religious wine use permit.

8652 (2) To obtain a religious wine permit, a person shall comply with Section 32B-10-202.

8653 (3) The one-time special use permit fee for a religious wine use permit is \$100.

8654 Section 275. Section **32B-10-604** is enacted to read:

8655 **32B-10-604. Specific operational requirements for religious wine use permit.**

8656 (1) (a) In addition to complying with Section 32B-10-207, a religious wine permittee
8657 and staff of the religious wine permittee shall comply with this section.

8658 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
8659 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

8660 (i) a religious wine permittee;

8661 (ii) individual staff of a religious wine permittee; or

8662 (iii) a religious wine permittee and staff of the religious wine permittee.

8663 (2) A religious wine use permittee may purchase wine from a state store as the
8664 department may designate at the department's cost plus freight charges.

8665 (3) A religious wine use permittee may not use wine purchased under a religious wine
8666 use permit for a purpose other than a religious purpose.

8667 Section 276. Section **32B-10-605** is enacted to read:

8668 **32B-10-605. Religious organization exemption.**

8669 (1) A religious organization that provides or allows to be provided an alcoholic
8670 product to a person as part of the religious organization's religious services:

8671 (a) does not violate this title by providing or allowing the provision of an alcoholic
8672 product as part of a religious service; and

8673 (b) is not required to hold a license or special use permit to provide or allow the
8674 provision of an alcoholic product for religious services.

8675 (2) This exemption does not exempt a religious organization from complying with this
8676 title with respect to an alcoholic product purchased by the religious organization for a purpose
8677 other than one purpose stated in Subsection (1).

8678 Section 277. Section **32B-10-701** is enacted to read:

8679 **Part 7. Health Care Facility or Practitioner Use of Alcoholic Products**

8680 **32B-10-701. Title.**

8681 This part is known as "Health Care Facility or Practitioner Use of Alcoholic Products."

8682 Section 278. Section **32B-10-702** is enacted to read:

8683 **32B-10-702. Definitions.**

8684 As used in this part, "health care facility" means a facility that is licensed by the
8685 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and
8686 Inspection Act.

8687 Section 279. Section **32B-10-703** is enacted to read:

8688 **32B-10-703. Health care facility exemption.**

8689 (1) (a) This Subsection (1) applies to a health care facility that administers or allows to
8690 be administered an alcoholic product to a patient of the health care facility if the alcoholic
8691 product is prescribed by a person licensed by the state to write a prescription.

8692 (b) A health care facility described in Subsection (1)(a):

8693 (i) is not in violation of this title; and

8694 (ii) is not required to hold a license or special use permit to make or allow the
8695 administration of an alcoholic product.

8696 (2) This exemption does not apply to an alcoholic product purchased by a health care
8697 facility for administration to a patient or a use other than one stated in Subsection (1).

8698 Section 280. Section **32B-10-704** is enacted to read:

8699 **32B-10-704. Health care practitioner exemption.**

8700 (1) This section applies to an individual who:

8701 (a) (i) is a health care practitioner; or

8702 (ii) is a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act;

8703 (b) is acting within the scope of individual's professional responsibility; and

8704 (c) in a professional capacity, prescribes, prepares, or administers an alcoholic product
8705 to a person being treated or within the scope of the health care practitioner's license authority.

8706 (2) A person described in Subsection (1):

8707 (a) is not in violation of this title; and

8708 (b) is not required to hold any type of license or permit to use an alcoholic product
8709 professionally.

8710 Section 281. Section **32B-11-101** is enacted to read:

8711 **CHAPTER 11. MANUFACTURING AND RELATED LICENSES ACT**

8712 **Part 1. General Provisions**

8713 **32B-11-101. Title.**

8714 This chapter is known as the "Manufacturing and Related Licenses Act."

8715 Section 282. Section **32B-11-102** is enacted to read:

8716 **32B-11-102. Definitions.**

8717 As used in this chapter, "manufacturing license" means an alcoholic product
8718 manufacturing license issued under this chapter.

8719 Section 283. Section **32B-11-201** is enacted to read:

8720 **Part 2. Manufacturing Licensing General Provisions**

8721 **32B-11-201. Commission's power to issue a manufacturing license -- Certificates**
8722 **of approval.**

8723 (1) (a) Except as provided in Section 32B-11-202, before a person may manufacture
8724 an alcoholic product in this state, the person shall obtain an alcoholic product manufacturing
8725 license issued by the commission in accordance with this part.

8726 (b) A separate license is required for each place of storage, sale, and manufacture of an
8727 alcoholic product.

8728 (c) A violation of this Subsection (1) is a class B misdemeanor.

8729 (2) The commission may issue an alcoholic product manufacturing license to a
8730 manufacturer whose business is located in this state for the storage, sale, and manufacture of
8731 an alcoholic product for each type of manufacturing license provided by this chapter.

8732 (3) The types of manufacturing licenses issued under this chapter are known as:

8733 (a) a winery manufacturing license;

8734 (b) a distillery manufacturing license; and

8735 (c) a brewery manufacturing license.

8736 (4) (a) A brewer located outside the state is not required to be licensed under this
8737 chapter.

- 8738 (b) A brewer described in Subsection (4)(a) shall obtain a certificate of approval from
8739 the department before selling or delivering:
- 8740 (i) beer to a beer wholesaler licensee in this state;
8741 (ii) a flavored malt beverage to:
- 8742 (A) the department; or
8743 (B) a military installation; or
8744 (iii) if a small brewer, beer to one of the following in the state:
- 8745 (A) a beer wholesaler licensee;
8746 (B) a beer retailer; or
8747 (C) an event permittee.
- 8748 (c) To obtain a certificate of approval, a brewer shall submit to the department:
- 8749 (i) a written application in a form prescribed by the department;
8750 (ii) a nonrefundable \$50 application fee;
8751 (iii) an initial certificate of approval fee of \$250 that is refundable if a certificate of
8752 approval is not issued;
- 8753 (iv) evidence of authority from the federal Alcohol and Tobacco Tax and Trade
8754 Bureau to brew beer, heavy beer, or a flavored malt beverage; and
- 8755 (v) any other information the commission or department may require.
- 8756 (d) (i) A written application under this Subsection (4) shall be signed and verified by
8757 oath or affirmation by:
- 8758 (A) a partner if the brewer is a partnership; or
8759 (B) an executive officer, manager, or person specifically authorized by a corporation
8760 or limited liability company to sign the application.
- 8761 (ii) A brewer filing an application shall attach to the application written evidence of
8762 the authority of the person described in Subsection (4)(d)(i) to sign the application.
- 8763 (e) (i) A certificate of approval expires on December 31 of each year.
8764 (ii) A brewer desiring to renew its certificate of approval shall submit to the
8765 department by no later than November 30 of the year the certificate of approval expires:

- 8766 (A) a completed renewal application in the form prescribed by the department; and
- 8767 (B) a renewal fee of \$200.
- 8768 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
- 8769 certificate of approval effective on the date the existing certificate of approval expires.

8770 Section 284. Section **32B-11-202** is enacted to read:

8771 **32B-11-202. Exemption for manufacture in personal residence of fermented**

8772 **beverage.**

8773 (1) As used in this section, "fermented alcoholic beverage" means:

- 8774 (a) beer;
- 8775 (b) heavy beer; or
- 8776 (c) wine.

8777 (2) An individual may without being licensed under this chapter manufacture in the

8778 individual's personal residence a fermented alcoholic beverage if:

- 8779 (a) the individual is 21 years of age or older;
- 8780 (b) the individual manufactures no more than:
- 8781 (i) 100 gallons in a calendar year, if there is one individual that is 21 years of age or
- 8782 older residing in the household; or

8783 (ii) 200 gallons in a calendar year, if there are two or more individuals who are 21

8784 years of age or older residing in the household;

8785 (c) the fermented alcoholic beverage is manufactured and used for personal or family

8786 use and consumption, including use at an organized event where fermented alcoholic

8787 beverages are judged as to taste and quality; and

8788 (d) the fermented alcoholic beverage is not for:

- 8789 (i) sale or offering for sale; or
- 8790 (ii) consumption on a licensed premise.

8791 (3) An individual may store a fermented alcoholic beverage manufactured as provided

8792 in Subsection (2) in the individual's personal residence.

8793 (4) A fermented alcoholic beverage manufactured in accordance with Subsection (2)

8794 may be removed from the premises where it is manufactured:

8795 (a) for personal or family use, including use at an organized event where fermented
8796 alcoholic beverages are judged as to taste and quality;

8797 (b) if the fermented alcoholic beverage is transported in compliance with Section
8798 41-6a-526; and

8799 (c) if the fermented alcoholic beverage is removed only in the following quantities:

8800 (i) for personal and family use that is unrelated to an organized event where fermented
8801 alcoholic beverages are judged as to taste and quality, the quantity that may be possessed at
8802 one time is:

8803 (A) one liter of wine for each individual who is 21 years of age or older residing in the
8804 household;

8805 (B) 72 ounces of heavy beer for each individual who is 21 years of age or older
8806 residing in the household; or

8807 (C) 72 ounces of beer for each individual who is 21 years of age or older residing in
8808 the household; and

8809 (ii) for on-premise consumption at an organized event where fermented alcoholic
8810 beverages are judged as to taste and quality, the quantity that may be removed for each
8811 organized event is:

8812 (A) one liter of wine for each wine category in which the individual enters, except that
8813 the individual may not remove wine for more than three categories for the same organized
8814 event;

8815 (B) 72 ounces of heavy beer for each heavy beer category in which the individual
8816 enters, except that the individual may not remove heavy beer for more than three categories for
8817 the same organized event; or

8818 (C) 72 ounces of beer for each beer category in which the individual enters, except
8819 that the individual may not remove beer for more than three categories for the same organized
8820 event.

8821 (5) A partnership, corporation, or association may not manufacture a fermented

8822 alcoholic beverage under this section for personal or family use and consumption without
8823 obtaining a license under this chapter, except that an individual who operates a brewery under
8824 this chapter as an individual owner or in partnership with others, may remove beer from the
8825 brewery for personal or family use in the amounts described in Subsection (2)(b).

8826 Section 285. Section **32B-11-203** is enacted to read:

8827 **32B-11-203. Application requirements for a manufacturing license.**

8828 To obtain an alcoholic product manufacturing license, a person shall submit to the
8829 department:

8830 (1) a written application in a form prescribed by the department;

8831 (2) a nonrefundable application fee of \$250;

8832 (3) an initial license fee of \$3,250:

8833 (a) unless otherwise provided in this chapter; and

8834 (b) that is refundable if a license is not issued;

8835 (4) written consent of the local authority;

8836 (5) a statement of the purpose for which the person has applied for the manufacturing
8837 license;

8838 (6) evidence that the person is authorized by the United States to manufacture an
8839 alcoholic product;

8840 (7) a bond as specified by Section 32B-11-207;

8841 (8) evidence that the person is carrying public liability insurance in an amount and
8842 form satisfactory to the department;

8843 (9) a signed consent form stating that the manufacturing licensee will permit any
8844 authorized representative of the commission, department, or any law enforcement officer to
8845 have unrestricted right to enter the licensed premises;

8846 (10) if the person is an entity, proper verification evidencing that a person who signs
8847 the application is authorized to sign on behalf of the entity; and

8848 (11) any other information the commission or department may require.

8849 Section 286. Section **32B-11-204** is enacted to read:

8850 **32B-11-204. Renewal requirements for a manufacturing license.**

8851 (1) A manufacturing license expires on December 31 of each year.

8852 (2) To renew a manufacturing license, a person shall submit by no later than

8853 November 30 of the year the license expires:

8854 (a) a completed renewal application to the department, in a form prescribed by the
8855 department; and

8856 (b) a renewal fee in the following amount of:

8857 (i) \$2,500, except for a wine manufacturing license described in Subsection (2)(b)(ii);

8858 or

8859 (ii) \$1,200 for a winery manufacturing license if the winery manufacturing licensee
8860 produces less than 20,000 gallons of wine in the calendar year preceding the year in which the
8861 manufacturing licensee seeks renewal.

8862 (3) Failure to meet the renewal requirements results in an automatic forfeiture of a
8863 manufacturing license effective on the date the existing manufacturing license expires.

8864 Section 287. Section **32B-11-205** is enacted to read:

8865 **32B-11-205. Specific qualifications for a manufacturing license.**

8866 (1) The commission may not issue a manufacturing license to a person who:

8867 (a) is disqualified under Section 32B-1-304; or

8868 (b) has not met an applicable federal requirement for the operation of a winery,
8869 distillery, or brewery.

8870 (2) If a person to whom a manufacturing license is issued under this chapter no longer
8871 possesses the qualifications required by this title for obtaining that manufacturing license, the
8872 commission may suspend or revoke that manufacturing license.

8873 Section 288. Section **32B-11-206** is enacted to read:

8874 **32B-11-206. Duties of commission and department before issuing manufacturing**
8875 **license.**

8876 (1) (a) Before the commission may issue a manufacturing license, the department shall
8877 conduct an investigation and may hold public hearings to gather information and make

8878 recommendations to the commission as to whether a manufacturing license should be issued.

8879 (b) The department shall forward to the commission the information and
8880 recommendations under Subsection (1)(a) to aid in the commission's determination.

8881 (2) Before issuing a manufacturing license, the commission shall:

8882 (a) determine that the person filed a complete application and is in compliance with:

8883 (i) Sections 32B-11-203 and 32B-11-205; and

8884 (ii) the relevant part under this chapter for the specific type of manufacturing license;

8885 (b) determine that the person is not disqualified under Section 32B-1-304;

8886 (c) consider the physical characteristics of the premises where an alcoholic product is
8887 proposed to be stored, mixed, or manufactured such as:

8888 (i) condition of the premises; and

8889 (ii) safety and security considerations;

8890 (d) consider the person's ability to properly use the manufacturing license within the
8891 requirements of this title and the commission rules including:

8892 (i) manufacturing capacity;

8893 (ii) extent of product distribution; and

8894 (iii) the nature and type of entity making use of the manufacturing license;

8895 (e) consider any special factor as provided in this chapter that may be unique to the
8896 specific type of manufacturing license sought by the person;

8897 (f) approve of the location and equipment used by the person to manufacture an
8898 alcoholic product; and

8899 (g) consider any other factor the commission considers necessary.

8900 Section 289. Section **32B-11-207** is enacted to read:

8901 **32B-11-207. Bond for manufacturing license.**

8902 (1) (a) A manufacturing licensee shall post a cash bond or surety bond in the penal
8903 sum of \$10,000 payable to the department.

8904 (b) A manufacturing licensee shall procure and maintain a bond required by this
8905 section for as long as the manufacturing licensee continues to operate as a manufacturing

8906 licensee.

8907 (2) A bond posted under this section shall be:

8908 (a) in a form approved by the attorney general; and

8909 (b) conditioned upon a manufacturing licensee's faithful compliance with this title and
8910 the rules of the commission.

8911 (3) If a surety bond posted by a manufacturing licensee under this section is cancelled
8912 due to a manufacturing licensee's negligence, the department may assess a \$300 reinstatement
8913 fee.

8914 (4) No part of a bond posted under this section may be withdrawn during the period
8915 the manufacturing license is in effect.

8916 (5) (a) A bond posted by a manufacturing licensee under this section may be forfeited
8917 if the manufacturing license is revoked.

8918 (b) Notwithstanding Subsection (5)(a), the department may make a claim against a
8919 bond posted by a manufacturing licensee for money owed the department under this title
8920 without the commission first revoking the manufacturing license.

8921 Section 290. Section **32B-11-208** is enacted to read:

8922 **32B-11-208. General operational requirements for manufacturing license.**

8923 (1) (a) A manufacturing licensee and staff of the manufacturing licensee shall comply
8924 with this title and the rules of the commission, including the relevant part of this chapter
8925 applicable to the type of manufacturing license held by the manufacturing licensee.

8926 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
8927 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

8928 (i) a manufacturing licensee;

8929 (ii) individual staff of a manufacturing licensee; or

8930 (iii) a manufacturing licensee and staff of the manufacturing licensee.

8931 (2) A manufacturing licensee shall prominently display the manufacturing license on
8932 the licensed premises.

8933 (3) (a) A manufacturing licensee shall make and maintain the records required by the

8934 department.

8935 (b) Section 32B-1-205 applies to a record required to be made or maintained in
8936 accordance with this Subsection (3).

8937 (4) A manufacturing licensee may not sell liquor within the state except to:

8938 (a) the department; or

8939 (b) a military installation.

8940 (5) A manufacturing license may not be transferred from one location to another
8941 location, without prior written approval of the commission.

8942 (6) (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give,
8943 or attempt in any way to dispose of the license to another person, whether for monetary gain or
8944 not.

8945 (b) A manufacturing license has no monetary value for any type of disposition.

8946 (7) A manufacturing licensee may not advertise its product in violation of this title or
8947 any other federal or state law, except that nothing in this title prohibits the advertising or
8948 solicitation of an order for industrial alcohol from a holder of a special use permit.

8949 (8) A manufacturing licensee shall from time to time, on request of the department,
8950 furnish for analytical purposes a sample of the alcoholic product that the manufacturing
8951 licensee has:

8952 (a) for sale; or

8953 (b) in the course of manufacture for sale in this state.

8954 (9) The commission may prescribe by policy or rule, consistent with this title, the
8955 general operational requirements of a manufacturing licensee relating to:

8956 (a) physical facilities;

8957 (b) conditions of storage, sale, or manufacture of an alcoholic product;

8958 (c) storage and sales quantity limitations; and

8959 (d) other matters considered appropriate by the commission.

8960 Section 291. Section **32B-11-209** is enacted to read:

8961 **32B-11-209. Notifying department of change in ownership.**

8962 The commission may suspend or revoke a manufacturing license if the manufacturing
8963 licensee does not immediately notify the department of a change in:

- 8964 (1) ownership of the manufacturing licensee;
- 8965 (2) for a corporate owner, the:
- 8966 (a) corporate officers or directors; or
- 8967 (b) shareholders holding at least 20% of the total issued and outstanding stock of the
8968 corporation; or

- 8969 (3) for a limited liability company:
- 8970 (a) managers; or
- 8971 (b) members owning at least 20% of the limited liability company.

8972 Section 292. Section **32B-11-301** is enacted to read:

Part 3. Winery Manufacturing License

8974 **32B-11-301. Title.**

8975 This part is known as "Winery Manufacturing License."

8976 Section 293. Section **32B-11-302** is enacted to read:

8977 **32B-11-302. Definitions.**

8978 Reserved

8979 Section 294. Section **32B-11-303** is enacted to read:

8980 **32B-11-303. Specific authority and operational requirements for winery**
8981 **manufacturing license.**

8982 (1) A winery manufacturing license allows a winery manufacturing licensee to:

- 8983 (a) store, manufacture, transport, import, or export wine;
- 8984 (b) sell wine at wholesale to the department and to out-of-state customers;
- 8985 (c) purchase liquor for fortifying wine, if the department is notified of the purchase
8986 and date of delivery; and

8987 (d) warehouse on the licensed premises liquor that is manufactured or purchased for
8988 manufacturing purposes.

8989 (2) (a) A wine, brandy, wine spirit, or other liquor imported under authority of a

8990 winery manufacturing license shall conform to the standards of identity and quality established
8991 in the regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

8992 (b) The federal definitions, standards of identity, and quality and labeling
8993 requirements for wine, in regulations issued under Federal Alcohol Administration Act, 27
8994 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are not contrary to or
8995 inconsistent with the laws of this state.

8996 (3) If considered necessary, the commission or department may require:

8997 (a) the alteration of the plant, equipment, or licensed premises;

8998 (b) the alteration or removal of unsuitable wine-making equipment or material;

8999 (c) a winery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve
9000 the sanitary and working conditions of the plant, licensed premises, and wine-making
9001 equipment;

9002 (d) that a marc, pomace, or fruit be destroyed, denatured, or removed from the
9003 licensed premises because it is considered:

9004 (i) unfit for wine making; or

9005 (ii) as producing or likely to produce an unsanitary condition;

9006 (e) a winery manufacturing licensee to distill or cause to be distilled or disposed of
9007 under the department's supervision:

9008 (i) any unsound, poor quality finished wine; or

9009 (ii) unfinished wine that will not be satisfactory when finished; or

9010 (f) that a record pertaining to the grapes and other materials and ingredients used in
9011 the manufacture of wine be available to the commission or department upon request.

9012 (4) A winery manufacturing licensee may not permit wine to be consumed on its
9013 premises, except under the following circumstances:

9014 (a) A winery manufacturing licensee may allow its staff to consume on the licensed
9015 premises wine as the winery manufacturing licensee furnishes to the staff without charge.

9016 (b) A winery manufacturing licensee may allow a person who can lawfully purchase
9017 wine for wholesale or retail distribution to consume a bona fide sample of the winery

9018 manufacturing licensee's product on the licensed premises.

9019 (c) A winery manufacturing licensee may operate on its licensed premises a retail
9020 facility allowing consumption of a sample on the licensed premises of wine as long as food is
9021 also available. This type of retail facility located on the licensed premises shall be operated or
9022 supervised by the winery manufacturing licensee.

9023 Section 295. Section **32B-11-401** is enacted to read:

9024 **Part 4. Distillery Manufacturing License**

9025 **32B-11-401. Title.**

9026 This part is known as "Distillery Manufacturing License."

9027 Section 296. Section **32B-11-402** is enacted to read:

9028 **32B-11-402. Definitions.**

9029 Reserved

9030 Section 297. Section **32B-11-403** is enacted to read:

9031 **32B-11-403. Specific authority and operational requirements for distillery**
9032 **manufacturing license.**

9033 (1) A distillery manufacturing license allows a distillery manufacturing licensee to:

9034 (a) store, manufacture, transport, import, or export liquor;

9035 (b) sell liquor to:

9036 (i) the department;

9037 (ii) an out-of-state customer; and

9038 (iii) as provided in Subsection (2);

9039 (c) purchase an alcoholic product for mixing and manufacturing purposes if the
9040 department is notified of:

9041 (i) the purchase; and

9042 (ii) the date of delivery; and

9043 (d) warehouse on its licensed premises an alcoholic product that the distillery

9044 manufacturing licensee manufactures or purchases for manufacturing purposes.

9045 (2) (a) Subject to the other provisions of this Subsection (2), a distillery manufacturing

9046 licensee may directly sell an alcoholic product to a person engaged within the state in:

9047 (i) a mechanical or industrial business that requires the use of an alcoholic product; or

9048 (ii) scientific pursuits that require the use of an alcoholic product.

9049 (b) A person who purchases an alcoholic product under Subsection (2)(a) shall hold a

9050 valid special use permit issued in accordance with Chapter 10, Special Use Permit Act,

9051 authorizing the use of the alcoholic product.

9052 (c) A distillery manufacturing licensee may sell to a special use permittee described in

9053 Subsection (2)(b) an alcoholic product only in the type for which the special use permit

9054 provides.

9055 (d) The sale of an alcoholic product under this Subsection (2) is subject to rules

9056 prescribed by the department and the federal government.

9057 (3) The federal definitions, standards of identity and quality, and labeling

9058 requirements for distilled liquor, in the regulations issued under Federal Alcohol

9059 Administration Act, 27 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are

9060 not contrary to or inconsistent with laws of this state.

9061 (4) If considered necessary, the commission or department may require:

9062 (a) the alteration of the plant, equipment, or licensed premises;

9063 (b) the alteration or removal of unsuitable alcoholic product-making equipment or

9064 material;

9065 (c) a distillery manufacturing licensee to clean, disinfect, ventilate, or otherwise

9066 improve the sanitary and working conditions of the plant, licensed premises, and equipment;

9067 or

9068 (d) that a record pertaining to the materials and ingredients used in the manufacture of

9069 an alcoholic product be made available to the commission or department upon request.

9070 (5) A distillery manufacturing licensee may not permit an alcoholic product to be

9071 consumed on its premises, except that:

9072 (a) a distillery manufacturing licensee may allow its staff to consume on the licensed

9073 premises an alcoholic product that the distillery furnishes to the staff without charge; and

9074 (b) a distillery manufacturing licensee may allow a person who can lawfully purchase
9075 an alcoholic product for wholesale or retail distribution to consume a bona fide sample of the
9076 distillery manufacturing licensee's product on the licensed premises.

9077 Section 298. Section **32B-11-501** is enacted to read:

9078 **Part 5. Brewery Manufacturing License**

9079 **32B-11-501. Title.**

9080 This part is known as "Brewery Manufacturing License."

9081 Section 299. Section **32B-11-502** is enacted to read:

9082 **32B-11-502. Definitions.**

9083 Reserved

9084 Section 300. Section **32B-11-503** is enacted to read:

9085 **32B-11-503. Specific authority and operational requirements for brewery**
9086 **manufacturing license.**

9087 (1) A brewery manufacturing license allows a brewery manufacturing licensee to:

9088 (a) store, manufacture, brew, transport, or export beer, heavy beer, and flavored malt
9089 beverages;

9090 (b) sell heavy beer and a flavored malt beverage to:

9091 (i) the department;

9092 (ii) a military installation; or

9093 (iii) an out-of-state customer;

9094 (c) sell beer to a beer wholesaler licensee;

9095 (d) in the case of a small brewer, in accordance with Subsection (5), sell beer

9096 manufactured by the small brewer to:

9097 (i) a retail licensee;

9098 (ii) an off-premise beer retailer; or

9099 (iii) an event permittee; and

9100 (e) warehouse on its premises an alcoholic product that the brewery manufacturing
9101 licensee manufactures or purchases for manufacturing purposes.

9102 (2) A brewery manufacturing licensee may not sell the following to a person within the
9103 state except the department or a military installation:

9104 (a) heavy beer; or

9105 (b) a flavored malt beverage.

9106 (3) If considered necessary, the commission or department may require:

9107 (a) the alteration of the plant, equipment, or licensed premises;

9108 (b) the alteration or removal of any unsuitable alcoholic product-making equipment or
9109 material;

9110 (c) a brewery manufacturing licensee to clean, disinfect, ventilate, or otherwise
9111 improve the sanitary and working conditions of the plant, licensed premises, and equipment;

9112 or

9113 (d) that a record pertaining to the materials and ingredients used in the manufacture of
9114 an alcoholic product be available to the commission or department upon request.

9115 (4) A brewery manufacturing licensee may not permit any beer, heavy beer, or
9116 flavored malt beverage to be consumed on the licensed premises, except under the
9117 circumstances described in this Subsection (4).

9118 (a) A brewery manufacturing licensee may allow its off-duty staff to consume beer,
9119 heavy beer, or a flavored malt beverage on its premises without charge.

9120 (b) A brewery manufacturing licensee may allow a person who can lawfully purchase
9121 the following for wholesale or retail distribution to consume a bona fide sample of the brewery
9122 manufacturing licensee's product on the licensed premises:

9123 (i) beer;

9124 (ii) heavy beer; or

9125 (iii) a flavored malt beverage.

9126 (c) (i) A brewery manufacturing licensee may operate on its licensed premises a retail
9127 facility allowing consumption on premises of beer in a bottle or on draft if food is also
9128 available.

9129 (ii) A retail facility located on the licensed premises of a brewery manufacturing

9130 licensee shall be operated or supervised by the brewery manufacturing licensee.

9131 (iii) In operating a retail facility under this Subsection (4)(c), a brewery manufacturing
9132 licensee shall comply with the requirements of Chapter 7, Part 2, Off-premise Beer Retailer
9133 Local Authority.

9134 (5) (a) A small brewer shall own, lease, or maintain and control a warehouse facility
9135 located in this state for the storage of beer to be sold to a person described in Subsection (1)(d)
9136 if the small brewer:

9137 (i) (A) (I) is located in this state; and
9138 (II) holds a brewery manufacturing license; or
9139 (B) (I) is located outside this state; and
9140 (II) holds a certificate of approval to sell beer in this state; and
9141 (ii) sells beer manufactured by the small brewer directly to a person described in
9142 Subsection (1)(d).

9143 (b) A small brewer may not sell beer to a person described in Subsection (1)(d) unless
9144 the beer:

9145 (i) is manufactured by the small brewer; and
9146 (ii) is first placed in the small brewer's warehouse facility in this state.
9147 (c) (i) A small brewer warehouse shall make and maintain complete beer importation,
9148 inventory, tax, distribution, sales records, and other records as the department and State Tax
9149 Commission may require.

9150 (ii) The records described in Subsection (5)(c)(i) are subject to inspection by:
9151 (A) the department; and
9152 (B) the State Tax Commission.

9153 (iii) Section 32B-1-205 applies to a record required to be made or maintained in
9154 accordance with this Subsection (5), except that the provision is considered to include an
9155 action described in Section 32B-1-205 made for the purpose of deceiving the State Tax
9156 Commission, or an official or employee of the State Tax Commission.

9157 Section 301. Section **32B-11-601** is enacted to read:

9158 **Part 6. Local Industry Representative License Act**

9159 **32B-11-601. Title.**

9160 This part is known as the "Local Industry Representative License Act."

9161 Section 302. Section **32B-11-602** is enacted to read:

9162 **32B-11-602. Definitions.**

9163 Reserved

9164 Section 303. Section **32B-11-603** is enacted to read:

9165 **32B-11-603. Commission's power to issue local industry representative license.**

9166 (1) (a) Before a person described in Subsection (2) may represent an alcoholic product
9167 of a manufacturer, supplier, or importer, the person shall obtain a local industry representative
9168 license from the commission in accordance with this part.

9169 (b) A violation of this Subsection (1) is a class B misdemeanor.

9170 (2) The commission may issue a local industry representative license to a person who

9171 is:

9172 (a) (i) an individual resident of Utah;

9173 (ii) a Utah partnership;

9174 (iii) a Utah corporation; or

9175 (iv) a Utah limited liability company; and

9176 (b) employed by a manufacturer, supplier, or importer, to represent a liquor product
9177 with the department, a package agency, licensee, or permittee under this title, whether
9178 compensated by salary, commission, or another means.

9179 (3) An individual staff member of a local industry representative licensee is not
9180 required to be separately licensed.

9181 (4) A local industry representative may represent more than one manufacturer,
9182 supplier, or importer at a time.

9183 (5) (a) A manufacturer, supplier, or importer is not required to use a local industry
9184 representative to represent its products with the department, a package agency, licensee, or
9185 permittee, except that staff of a manufacturer, supplier, or importer who is not a local industry

9186 representative shall register with the department, on a form provided by the department, before
9187 the staff represents an alcoholic product while in the state with the department, a package
9188 agency, licensee, or permittee.

9189 (b) A manufacturer, supplier, or importer described in Subsection (5)(a) and its staff
9190 are subject to the same operational requirements of this part and Chapter 4, Criminal Offenses
9191 and Procedure Act.

9192 Section 304. Section **32B-11-604** is enacted to read:

9193 **32B-11-604. Application for local industry representative license.**

9194 (1) To obtain a local industry representative license, a person shall submit to the
9195 department:

9196 (a) a written application in a form prescribed by the department;

9197 (b) a nonrefundable \$50 application fee;

9198 (c) an initial license fee of \$100, which is refundable if a local industry representative
9199 license is not issued;

9200 (d) verification that the person is:

9201 (i) a resident of Utah;

9202 (ii) a Utah partnership;

9203 (iii) a Utah corporation; or

9204 (iv) a Utah limited liability company;

9205 (e) an affidavit stating the name and address of any manufacturer, supplier, or
9206 importer the person will represent;

9207 (f) a signed consent form stating that the local industry representative will permit any
9208 authorized representative of the commission, department, or any law enforcement officer to
9209 have an unrestricted right to enter, during normal business hours, the specific premises where
9210 the local industry representative conducts business;

9211 (g) if the person is an entity, proper verification evidencing that a person who signs
9212 the application is authorized to sign on behalf of the entity; and

9213 (h) any other information the commission or department may require.

9214 (2) A local industry representative licensee is not required to pay an additional license
9215 fee to represent more than one manufacturer, supplier, or importer.

9216 Section 305. Section **32B-11-605** is enacted to read:

9217 **32B-11-605. Renewal requirements for local industry representative license.**

9218 (1) A local industry representative license expires on December 31 of each year.

9219 (2) To renew a local industry representative license, a person shall submit to the
9220 department by no later than November 30 of the year the license expires:

9221 (a) a completed renewal application in a form prescribed by the department;

9222 (b) a renewal fee of \$100; and

9223 (c) an affidavit stating the name and address of any manufacturer, supplier, or
9224 importer the local industry representative licensee represents at the time of submitting the
9225 renewal application.

9226 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
9227 local industry representative license effective on the date the existing local industry
9228 representative license expires.

9229 Section 306. Section **32B-11-606** is enacted to read:

9230 **32B-11-606. Specific qualifications for local industry representative.**

9231 (1) The commission may not issue a local industry representative license to:

9232 (a) a person who is disqualified under Section 32B-1-304; or

9233 (b) unless otherwise provided:

9234 (i) a retail licensee that sells, offers for sale, or furnishes liquor;

9235 (ii) staff of a retail licensee that sells, offers for sale, or furnishes liquor; or

9236 (iii) an individual, partnership, corporation, or limited liability company who holds an
9237 interest in a retail licensee that sells, offers for sale, or furnishes liquor.

9238 (2) If a person to whom a local industry representative license is issued under this part
9239 no longer possesses the qualifications required by this title for obtaining that local industry
9240 representative license, the commission may suspend or revoke that local industry
9241 representative license.

9242 Section 307. Section **32B-11-607** is enacted to read:

9243 **32B-11-607. Commission and department duties before issuing local**
9244 **representative license.**

9245 (1) (a) Before the commission may issue a local industry representative license, the
9246 department shall conduct an investigation and may hold public hearings to gather information
9247 and make recommendations to the commission as to whether a local industry representative
9248 license should be issued.

9249 (b) The department shall forward the information and recommendations described in
9250 Subsection (1)(a) to the commission to aid in the commission's determination.

9251 (2) Before issuing a local industry representative license, the commission shall:

9252 (a) determine that the person filed a complete application and is in compliance with
9253 Sections 32B-11-604 and 32B-11-606;

9254 (b) determine that the person is not disqualified under Section 32B-1-304; and

9255 (c) consider any other factor the commission considers necessary.

9256 Section 308. Section **32B-11-608** is enacted to read:

9257 **32B-11-608. Operational requirements for local industry representative license.**

9258 (1) (a) A local industry representative licensee, staff of the local industry
9259 representative licensee, or staff of a manufacturer, supplier, or importer who is conducting
9260 business in the state, shall comply with this title and rules of the commission.

9261 (b) If a person knowingly violates Subsection (1)(a):

9262 (i) the violation may result in disciplinary action in accordance with Chapter 3,
9263 Disciplinary Actions and Enforcement Act, against:

9264 (A) a local industry representative licensee;

9265 (B) individual staff of a local industry representative licensee; or

9266 (C) both a local industry representative licensee and staff of the local industry
9267 representative licensee; and

9268 (ii) if the conditions of Subsection (1)(c) are met, the commission may order:

9269 (A) the removal of the manufacturer's, supplier's, or importer's products from the

- 9270 department's sales list; and
- 9271 (B) a suspension of the department's purchase of those products for a period
- 9272 determined by the commission.
- 9273 (c) Subsection (1)(b)(ii) applies if the manufacturer, supplier, or importer:
- 9274 (i) directly commits the violation; or
- 9275 (ii) solicits, requests, commands, encourages, or intentionally aides another to engage
- 9276 in the violation.
- 9277 (2) A local industry representative licensee shall display its license in the local
- 9278 industry representative licensee's principal place of business.
- 9279 (3) (a) A local industry representative licensee shall maintain on file with the
- 9280 department a current accounts list of the names and addresses of the manufacturers, suppliers,
- 9281 and importers the local industry representative licensee represents.
- 9282 (b) A local industry representative licensee shall notify the department in writing of a
- 9283 change to its accounts list within 14 days from the date the local industry representative
- 9284 licensee:
- 9285 (i) acquires the account of a manufacturer, supplier, or importer; or
- 9286 (ii) loses the account of a manufacturer, supplier, or importer.
- 9287 (4) (a) A local industry representative licensee shall make and maintain the records the
- 9288 department requires for at least three years.
- 9289 (b) Section 32B-1-205 applies to a record required to be made or maintained in
- 9290 accordance with this Subsection (4).
- 9291 (5) Staff of a local industry representative licensee may not be:
- 9292 (a) a retail licensee that sells, offers for sale, or furnishes liquor;
- 9293 (b) staff of a retail licensee that sells, offers for sale, or furnishes liquor; or
- 9294 (c) a minor.
- 9295 (6) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
- 9296 give, or attempt in any way to dispose of the license to another person, whether for monetary
- 9297 gain or not.

9298 (b) A local industry representative license has no monetary value for any type of
9299 disposition.

9300 (7) A local industry representative licensee, staff of the local industry representative
9301 licensee, or staff of a manufacturer, supplier, or importer who is conducting business in the
9302 state:

9303 (a) only to the extent authorized by Chapter 4, Criminal Offenses and Procedure Act,
9304 may:

9305 (i) assist the department in:

9306 (A) ordering, shipping, and delivering merchandise;

9307 (B) providing new product notification;

9308 (C) obtaining listing and delisting information;

9309 (D) receiving price quotations;

9310 (E) providing product sales analysis;

9311 (F) conducting shelf management; and

9312 (G) conducting educational seminars; and

9313 (ii) to acquire new listings:

9314 (A) solicit orders from the department; and

9315 (B) submit to the department price lists and samples of the products of the
9316 manufacturer, supplier, or importer;

9317 (b) may not sell liquor within the state except to:

9318 (i) the department; and

9319 (ii) a military installation;

9320 (c) may not ship or transport, or cause to be shipped or transported, liquor into this
9321 state or from one place to another within this state;

9322 (d) may not sell or furnish any liquor to any person within this state other than to:

9323 (i) the department; or

9324 (ii) a military installation;

9325 (e) except as otherwise provided, may not advertise a product the local industry

9326 representative licensee represents in violation of this title or any other federal or state law;

9327 (f) shall comply with the trade practices provided in Chapter 4, Part 7, Trade Practices
9328 Act; and

9329 (g) may only provide a sample of a product of the manufacturer, supplier, or importer
9330 for tasting and sampling purposes as provided in Section 32B-4-705 by the department.

9331 (8) A local industry representative licensee may, to become educated as to the quality
9332 and characteristics of a liquor that the licensee represents, taste and analyze an industry
9333 representative sample under the conditions listed in this Subsection (8).

9334 (a) A local industry representative licensee may not receive more than two industry
9335 representative samples of a particular type, vintage, and production lot of a particular branded
9336 product within a consecutive 120-day period.

9337 (b) (i) An industry representative sample of liquor may not exceed one liter.

9338 (ii) Notwithstanding Subsection (8)(b)(i), an industry representative sample of the
9339 following may not exceed 1.5 liters unless that exact product is only commercially packaged in
9340 a larger size, not to exceed 5 liters:

9341 (A) wine;

9342 (B) heavy beer; or

9343 (C) a flavored malt beverage.

9344 (c) An industry representative sample may only be of a product not presently listed on
9345 the department's sales list.

9346 (d) (i) An industry representative sample shall be shipped:

9347 (A) prepaid by the manufacturer, supplier, or importer;

9348 (B) by common carrier and not via United States mail; and

9349 (C) directly to the department's central administrative warehouse office.

9350 (ii) An industry representative sample may not be shipped to any other location within
9351 the state.

9352 (e) An industry representative sample shall be accompanied by a letter from the
9353 manufacturer, supplier, or importer:

- 9354 (i) clearly identifying the product as an "industry representative sample"; and
9355 (ii) clearly stating:
9356 (A) the FOB case price of the product; and
9357 (B) the name of the local industry representative for whom it is intended.
9358 (f) The department shall assess a reasonable handling, labeling, and storage fee for
9359 each industry representative sample received.
9360 (g) The department shall affix to a package a label clearly identifying the product as an
9361 "industry representative sample."
9362 (h) The department shall:
9363 (i) account for and record each industry representative sample received;
9364 (ii) account for the industry representative sample's disposition; and
9365 (iii) maintain a record of the industry representative sample and its disposition for a
9366 two-year period.
9367 (i) An industry representative sample may not leave the premises of the department's
9368 central administrative warehouse office.
9369 (j) A local industry representative licensee's and a local industry representative
9370 licensee's staff may, at regularly scheduled days and times established by the department, taste
9371 and analyze one or more industry representative samples on the premises of the department's
9372 central administrative warehouse office.
9373 (k) The department shall destroy the unused contents of an opened product remaining
9374 after a product is sampled under controlled and audited conditions established by the
9375 department.
9376 (l) An industry representative sample that is not tasted within 30 days of receipt by the
9377 department shall be disposed of at the discretion of the department in one of the following
9378 ways:
9379 (i) the contents destroyed under controlled and audited conditions established by the
9380 department; or
9381 (ii) added to the inventory of the department for sale to the public.

9382 Section 309. Section **32B-11-609** is enacted to read:

9383 **32B-11-609. Notifying department of change in ownership.**

9384 The commission may suspend or revoke a local industry representative license if a
9385 local industry representative licensee does not immediately notify the department of a change
9386 in:

9387 (1) ownership of the business;

9388 (2) for a corporate owner, the:

9389 (a) corporate officers or directors; or

9390 (b) shareholders holding at least 20% of the total issued and outstanding stock of the
9391 corporation; or

9392 (3) for a limited liability company:

9393 (a) managers; or

9394 (b) members owning at least 20% of the limited liability company.

9395 Section 310. Section **32B-12-101** is enacted to read:

9396 **CHAPTER 12. LIQUOR WAREHOUSING LICENSE ACT**

9397 **Part 1. General Provisions**

9398 **32B-12-101. Title.**

9399 This chapter is known as the "Liquor Warehousing License Act."

9400 Section 311. Section **32B-12-102** is enacted to read:

9401 **32B-12-102. Definitions.**

9402 Reserved

9403 Section 312. Section **32B-12-201** is enacted to read:

9404 **Part 2. Liquor Warehousing License Process**

9405 **32B-12-201. Commission's power to issue liquor warehousing license.**

9406 (1) (a) Before a person may warehouse, distribute, or transport liquor for resale to a
9407 wholesale or retail customer, the person shall first obtain a liquor warehousing license issued
9408 by the commission in accordance with this chapter.

9409 (b) A separate liquor warehousing license is required for each warehousing facility.

- 9410 (c) A violation of this Subsection (1) is a class B misdemeanor.
- 9411 (2) The commission may issue a liquor warehousing license in accordance with this
- 9412 chapter for the warehousing, distribution, and transportation of liquor.
- 9413 Section 313. Section **32B-12-202** is enacted to read:
- 9414 **32B-12-202. Application requirements for liquor warehousing license.**
- 9415 To obtain a liquor warehousing license, a person shall submit to the department:
- 9416 (1) a written application in a form prescribed by the department;
- 9417 (2) a nonrefundable \$250 application fee;
- 9418 (3) an initial license fee of \$750, which is refundable if a liquor warehousing license is
- 9419 not issued;
- 9420 (4) written consent of the local authority;
- 9421 (5) a copy of the person's current business license;
- 9422 (6) a bond as specified by Section 32B-12-206;
- 9423 (7) a floor plan of the person's warehouse, including the area in which the person
- 9424 proposes that liquor be stored;
- 9425 (8) evidence that the person is carrying public liability insurance in an amount and
- 9426 form satisfactory to the department;
- 9427 (9) a signed consent form stating that the liquor warehousing licensee will permit any
- 9428 authorized representative of the commission, department, or any law enforcement officer to
- 9429 have unrestricted right to enter the licensed premises;
- 9430 (10) if the person is an entity, proper verification evidencing that a person who signs
- 9431 the application is authorized to sign on behalf of the entity; and
- 9432 (11) any other information the commission or department may require.
- 9433 Section 314. Section **32B-12-203** is enacted to read:
- 9434 **32B-12-203. Renewal requirements for liquor warehousing license.**
- 9435 (1) A liquor warehousing license expires on December 31 of each year.
- 9436 (2) To renew a liquor warehousing license, a person shall submit to the department by
- 9437 no later than November 30 of the year the license expires:

- 9438 (a) a completed renewal application in a form prescribed by the department; and
- 9439 (b) a renewal fee of \$1,000.
- 9440 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
- 9441 liquor warehousing license effective on the date the existing liquor warehousing license
- 9442 expires.

9443 Section 315. Section **32B-12-204** is enacted to read:

9444 **32B-12-204. Specific qualifications for liquor warehousing license.**

9445 (1) The commission may not issue a liquor warehousing license to a person who is

9446 disqualified under Section 32B-1-304.

9447 (2) A person, through its staff, or otherwise, either directly or indirectly, may not hold

9448 at the same time both a liquor warehousing license and another kind of package agency,

9449 license, or permit issued under this title except:

- 9450 (a) a temporary beer event permit;
- 9451 (b) a manufacturing license issued in accordance with Chapter 11, Manufacturing and
- 9452 Related Licenses Act; or
- 9453 (c) a beer wholesaling license issued in accordance with this chapter.

9454 (3) If a person to whom a liquor warehousing license is issued under this chapter no

9455 longer possesses the qualifications required by this title for obtaining that liquor warehousing

9456 license, the commission may suspend or revoke that liquor warehousing license.

9457 Section 316. Section **32B-12-205** is enacted to read:

9458 **32B-12-205. Duties of commission and department before issuing liquor**

9459 **warehousing license.**

9460 (1) (a) Before the commission may issue a warehousing license, the department shall

9461 conduct an investigation and may hold public hearings to gather information and make

9462 recommendations to the commission as to whether a liquor warehousing license should be

9463 issued.

9464 (b) The department shall forward the information and recommendations described in

9465 Subsection (1)(a) to the commission to aid in the commission's determination.

- 9466 (2) Before issuing a liquor warehousing license, the commission shall:
- 9467 (a) determine that the person filed a complete application and has complied with
- 9468 Sections 32B-12-202 and 32B-12-204;
- 9469 (b) determine that the person is not disqualified under Section 32B-1-304;
- 9470 (c) consider the physical characteristics of the premises where it is proposed that
- 9471 liquor be warehoused, such as:
- 9472 (i) location;
- 9473 (ii) proximity to transportation; and
- 9474 (iii) condition, size, and security of the licensed premises;
- 9475 (d) consider the person's ability to properly use the liquor warehousing license within
- 9476 the requirements of this title and the commission rules including:
- 9477 (i) the types of products other than liquor that the person is warehousing;
- 9478 (ii) the brands of liquor the person intends to warehouse; and
- 9479 (iii) the means the person intends to use to distribute the liquor; and
- 9480 (e) consider any other factor the commission considers necessary.
- 9481 Section 317. Section **32B-12-206** is enacted to read:
- 9482 **32B-12-206. Bond for liquor warehousing license.**
- 9483 (1) (a) A liquor warehouser licensee shall post a cash bond or surety bond in the penal
- 9484 sum of \$10,000 payable to the department.
- 9485 (b) A liquor warehouser licensee shall procure and maintain the bond required by this
- 9486 section for as long as the liquor warehouser licensee continues to operate as a liquor
- 9487 warehouser licensee.
- 9488 (2) A bond posted under this section shall be:
- 9489 (a) in a form approved by the attorney general; and
- 9490 (b) conditioned upon the liquor warehouser licensee's faithful compliance with this
- 9491 title and the rules of the commission.
- 9492 (3) If a surety bond posted by a liquor warehouser licensee under this section is
- 9493 canceled due to a liquor warehouser licensee's negligence, the department may assess a \$300

9494 reinstatement fee.

9495 (4) No part of a bond posted under this section may be withdrawn during the period
9496 the liquor warehousing license is in effect.

9497 (5) (a) A bond posted by a liquor warehouser licensee may be forfeited if the liquor
9498 warehousing license is revoked.

9499 (b) Notwithstanding Subsection (5)(a), the department may make a claim against a
9500 bond posted by a liquor warehouser licensee for money owed the department under this title
9501 without the commission first revoking the liquor warehousing license.

9502 Section 318. Section **32B-12-301** is enacted to read:

9503 **Part 3. Operational Requirements for Liquor Warehousing License**

9504 **32B-12-301. General operational requirements for liquor warehousing license.**

9505 (1) (a) A liquor warehouser licensee and staff of the liquor warehouser licensee shall
9506 comply with this title and the rules of the commission.

9507 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
9508 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

9509 (i) a liquor warehouser licensee;

9510 (ii) individual staff of a liquor warehouser licensee; or

9511 (iii) both a liquor warehouser licensee and staff of the liquor warehouser licensee.

9512 (2) (a) A liquor warehouser licensee shall make and maintain records required by the
9513 department.

9514 (b) Section 32B-1-205 applies to a record required to be made or maintained in
9515 accordance with this Subsection (2).

9516 (3) A liquor warehousing license may not be transferred from one location to another
9517 location, without prior written approval of the commission.

9518 (4) (a) A liquor warehouser licensee may not sell, transfer, assign, exchange, barter,
9519 give, or attempt in any way to dispose of the license to another person, whether for monetary
9520 gain or not.

9521 (b) A liquor warehousing license has no monetary value for any type of disposition.

9522 (5) A liquor warehouser licensee may not employ a minor to handle an alcoholic
9523 product.

9524 (6) Liquor that is warehoused in this state and sold to an out-of-state consignee, may
9525 be transported out of the state only by a motor carrier regulated under Title 72, Chapter 9,
9526 Motor Carrier Safety Act.

9527 (7) Liquor that is warehoused in this state and sold to the department may be
9528 transported only by a motor carrier approved by the department.

9529 (8) Liquor transported to or from a liquor warehouser licensee's licensed premises shall
9530 be carried in a sealed conveyance that is made available for inspection by the department
9531 while en route within the state.

9532 (9) A liquor warehouser licensee may not ship, convey, distribute, or remove liquor
9533 from a warehouse in less than a full case lot.

9534 (10) A liquor warehouser licensee may not ship, convey, distribute, or remove liquor
9535 from a warehouse to a consignee outside the state that is not licensed as a liquor wholesaler or
9536 retailer by the state in which the consignee is domiciled.

9537 (11) A liquor warehouser licensee may not receive, warehouse, distribute, transport,
9538 ship, or convey liquor that the commission has not authorized the liquor warehouser licensee
9539 to handle through its warehouse.

9540 (12) The commission may prescribe by policy or rule, consistent with this title, the
9541 general operational requirements of licensees relating to:

9542 (a) physical facilities;

9543 (b) conditions of storage, distribution, or transport of liquor; and

9544 (c) other matters considered appropriate by the commission.

9545 Section 319. Section **32B-12-302** is enacted to read:

9546 **32B-12-302. Notifying the department of change in ownership.**

9547 The commission may suspend or revoke a liquor warehousing license if a liquor
9548 warehouser licensee does not immediately notify the department of a change in:

9549 (1) ownership of the liquor warehouser licensee;

- 9550 (2) for a corporate owner, the:
- 9551 (a) corporate officers or directors; or
- 9552 (b) shareholders holding at least 20% of the total issued and outstanding stock of the
- 9553 corporation; or
- 9554 (3) for a limited liability company:
- 9555 (a) managers; or
- 9556 (b) members owning at least 20% of the limited liability company.

9557 Section 320. Section **32B-13-101** is enacted to read:

CHAPTER 13. BEER WHOLESALING LICENSE ACT

Part 1. General Provisions

32B-13-101. Title.

This chapter is known as the "Beer Wholesaling License Act."

9562 Section 321. Section **32B-13-102** is enacted to read:

32B-13-102. Definitions.

Reserved

9565 Section 322. Section **32B-13-201** is enacted to read:

Part 2. Beer Wholesaling License Process

32B-13-201. Commission's power to issue beer wholesaling license.

9568 (1) Before a person may purchase, store, sell, offer for sale, distribute, or import beer
9569 to a person who sells at retail or acts in any way as a beer wholesaler, the person shall first
9570 obtain a beer wholesaling license issued by the commission in accordance with this chapter.

9571 (2) (a) The commission may issue a beer wholesaling license for the purchase, storage,
9572 sale, distribution, transportation, and import of beer.

9573 (b) A beer wholesaling license entitles the beer wholesaler licensee to:

9574 (i) purchase and import beer into the state;

9575 (ii) store beer in an approved warehouse; and

9576 (iii) sell and distribute beer directly to:

9577 (A) a beer retailer; or

- 9578 (B) an event permittee.
- 9579 (c) A violation of Subsection (2)(a) is a class A misdemeanor.
- 9580 (3) Nothing in this section precludes a small brewer from selling beer the small brewer
9581 manufactures directly to:
- 9582 (a) a retail licensee;
- 9583 (b) an off-premise beer retailer; or
- 9584 (c) an event permittee.
- 9585 Section 323. Section **32B-13-202** is enacted to read:
- 9586 **32B-13-202. Application requirements for beer wholesaling license.**
- 9587 To obtain a beer wholesaling license, a person shall submit to the department:
- 9588 (1) a written application in a form prescribed by the department;
- 9589 (2) a nonrefundable \$250 application fee;
- 9590 (3) an initial license fee of \$2,000 that is refundable if a beer wholesaling license is
9591 not issued;
- 9592 (4) written consent of the local authority;
- 9593 (5) a copy of the person's current business license;
- 9594 (6) a bond as specified in Section 32B-13-206;
- 9595 (7) a statement of the brands of beer the person is authorized to sell and distribute;
- 9596 (8) a statement of the geographical areas in which the person is authorized by the beer
9597 manufacturer to sell and distribute beer;
- 9598 (9) evidence that the person is carrying public liability insurance in an amount and
9599 form satisfactory to the department;
- 9600 (10) a signed consent form stating that the beer wholesaling licensee will permit any
9601 authorized representative of the commission, department, or any law enforcement officer to
9602 have unrestricted right to enter the licensed premises;
- 9603 (11) if the person is an entity, proper verification evidencing that a person who signs
9604 the application is authorized to sign on behalf of the entity; and
- 9605 (12) any other information that the commission or department may require.

9606 Section 324. Section **32B-13-203** is enacted to read:

9607 **32B-13-203. Renewal requirements for beer wholesaling license.**

9608 (1) A beer wholesaling license expires on December 31 of each year.

9609 (2) To renew a beer wholesaling license, a person shall submit to the department by no
9610 later than November 30 of the year the license expires:

9611 (a) a completed renewal application in a form prescribed by the department; and

9612 (b) a renewal fee in the following amount:

<u>Case Sales in Previous License Year for the Licensee</u>	<u>Renewal Fee</u>
<u>under 500,000 cases</u>	<u>\$1,000</u>
<u>equals or exceeds 500,000 cases but less than 1,000,000 cases</u>	<u>\$2,000</u>
<u>equals or exceeds 1,000,000 cases</u>	<u>\$3,000.</u>

9617 (3) Failure to meet the renewal requirements results in an automatic forfeiture of the
9618 beer wholesaling license effective on the date the existing beer wholesaling license expires.

9619 Section 325. Section **32B-13-204** is enacted to read:

9620 **32B-13-204. Specific qualifications for beer wholesaling license.**

9621 (1) The commission may not issue a beer wholesaling license to a person who:

9622 (a) is disqualified under Section 32B-1-304; or

9623 (b) does not meet any applicable federal requirement for beer wholesaling.

9624 (2) (a) The commission may not issue one of the following licenses to a beer
9625 wholesaler licensee simultaneously with the beer wholesaling license, and a beer wholesaler
9626 licensee may not, directly or indirectly, hold, through a wholly or partially owned subsidiary or
9627 otherwise, one of the following licenses:

9628 (i) a brewery manufacturing license; or

9629 (ii) a beer retailer license.

9630 (b) The commission may not issue to a beer retailer, and a beer retailer, directly or
9631 indirectly, may not hold, through a wholly or partially owned subsidiary or otherwise, a beer
9632 wholesaling license.

9633 (3) If a person to whom a beer wholesaling license is issued under this chapter no

9634 longer possesses the qualifications required by this title for obtaining that beer wholesaling
9635 license, the commission may suspend or revoke that beer wholesaling license.

9636 Section 326. Section **32B-13-205** is enacted to read:

9637 **32B-13-205. Commission and department duties before issuing beer wholesaling**
9638 **license.**

9639 (1) (a) Before the commission may issue a beer wholesaling license, the department
9640 shall conduct an investigation and may hold public hearings to gather information and make
9641 recommendations to the commission as to whether a beer wholesaling license should be
9642 issued.

9643 (b) The department shall forward the information and recommendations described in
9644 Subsection (1)(a) to the commission to aid in the commission's determination.

9645 (2) Before issuing a beer wholesaling license, the commission shall:

9646 (a) determine that the person filed a complete application and is in compliance with
9647 Sections 32B-13-202 and 32B-13-204;

9648 (b) determine that the person is not disqualified under Section 32B-1-304;

9649 (c) consider the physical characteristics of the licensed premises where it is proposed
9650 that beer be stored by the person, such as:

9651 (i) location;

9652 (ii) proximity to transportation; and

9653 (iii) condition, size, and security of the licensed premises;

9654 (d) consider the person's ability to manage and operate a beer wholesaling operation,
9655 including:

9656 (i) management experience;

9657 (ii) past wholesaling experience;

9658 (iii) the brands the person intends to wholesale; and

9659 (iv) the means the person intends to use to distribute beer; and

9660 (e) consider any other factor that the commission considers necessary.

9661 Section 327. Section **32B-13-206** is enacted to read:

9662 **32B-13-206. Bond for a beer wholesaling license.**

9663 (1) (a) A beer wholesaler licensee shall post a cash bond or surety bond in the penal
9664 sum of \$10,000 payable to the department.

9665 (b) A beer wholesaler licensee shall procure and maintain a bond required by this
9666 section for as long as the beer wholesaler licensee continues to operate as a beer wholesaler
9667 licensee.

9668 (2) A bond posted under this section shall be:

9669 (a) in a form approved by the attorney general; and

9670 (b) conditioned upon a beer wholesaler licensee's faithful compliance with this title
9671 and the rules of the commission.

9672 (3) If a surety bond posted by a beer wholesaler licensee under this section is canceled
9673 due to a beer wholesaler licensee's negligence, the department may assess a \$300 reinstatement
9674 fee.

9675 (4) No part of a bond posted under this section may be withdrawn during the period
9676 the beer wholesaling license is in effect.

9677 (5) (a) A bond posted under this section by a beer wholesaler licensee may be forfeited
9678 if the beer wholesaling license is revoked.

9679 (b) Notwithstanding Subsection (5)(a), the department may make a claim against a
9680 bond posted by a beer wholesaler licensee for money owed the department under this title
9681 without the commission first revoking the beer wholesaling license.

9682 Section 328. Section **32B-13-301** is enacted to read:

9683 **Part 3. Operational Requirements for Beer Wholesaling License**

9684 **32B-13-301. General operational requirements for beer wholesaling license.**

9685 (1) (a) A beer wholesaler licensee and staff of the beer wholesaler licensee shall
9686 comply with this title and the rules of the commission.

9687 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
9688 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

9689 (i) a beer wholesaler licensee;

9690 (ii) individual staff of a beer wholesaler licensee; or
9691 (iii) both a beer wholesaler licensee and staff of the beer wholesaler licensee.
9692 (2) (a) A beer wholesaler licensee shall make and maintain the records required by the
9693 department.
9694 (b) Section 32B-1-205 applies to a record required to be made or maintained in
9695 accordance with this Subsection (2).
9696 (3) A beer wholesaler licensee may not employ a minor to handle an alcoholic product.
9697 (4) A beer wholesaler licensee may not sell, transfer, assign, exchange, barter, give, or
9698 attempt in any way to dispose of the beer wholesaling license to a person, whether for
9699 monetary gain or not, unless it is done:
9700 (a) in accordance with the commission rules; and
9701 (b) after written consent is given by the commission.
9702 (5) A beer wholesaler licensee may not wholesale a beer manufactured within the state
9703 by a brewer who is not licensed by the commission as a brewery manufacturing licensee.
9704 (6) A beer wholesaler licensee may not wholesale a beer manufactured out of state by
9705 a brewer who has not obtained a certificate of approval from the department.
9706 (7) (a) A beer wholesaler licensee may not sell or distribute beer to a person within the
9707 state except to:
9708 (i) a retail licensee;
9709 (ii) an off-premise beer retailer; or
9710 (iii) an event permittee.
9711 (b) A violation of this Subsection (7) is a class A misdemeanor.
9712 (8) (a) A beer wholesaler licensee may not sell or distribute a beer to a person who
9713 sells the beer at retail outside of the geographic area designated on its application, except that
9714 if a beer wholesaler licensee is temporarily unable to supply a person within the beer
9715 wholesaler licensee's authorized geographical area, the department may grant temporary
9716 authority to another beer wholesaler licensee who distributes the same brand in another area to
9717 supply:

- 9718 (i) a retail licensee; or
9719 (ii) an off-premise beer retailer.
9720 (b) A violation of this Subsection (8) is a class B misdemeanor.
9721 (9) (a) A beer wholesaler licensee shall own, lease, or otherwise control and maintain a
9722 warehouse facility located in this state for the receipt, storage, and further distribution of beer
9723 sold by the beer wholesaler licensee to a person within the state.
9724 (b) A beer wholesaler licensee may not sell beer to a person in this state, other than the
9725 department, unless the beer is first:
9726 (i) physically removed from the vehicle used to transport the beer from the supplier to
9727 the beer wholesaler licensee; and
9728 (ii) delivered into the actual possession and control of the beer wholesaler licensee in
9729 its warehouse or other facility.
9730 (10) A beer wholesaler licensee may not sell or distribute an alcoholic product that has
9731 not had its label and packaging approved by the department in accordance with Chapter 1,
9732 Part 6, Malted Beverage Act.
9733 (11) The commission may prescribe by policy or rule, consistent with this title, the
9734 general operational requirements of a beer wholesaling licensee relating to:
9735 (a) physical facilities; and
9736 (b) the conditions of importation, purchase, storage, sale, offering for sale,
9737 distribution, or transportation of beer within the state.
9738 Section 329. Section **32B-13-302** is enacted to read:
9739 **32B-13-302. Notifying the department of a change of ownership.**
9740 The commission may suspend or revoke a beer wholesaling license if a beer wholesaler
9741 licensee does not immediately notify the department of change in:
9742 (1) ownership of the beer wholesaler licensee;
9743 (2) for a corporate owner, the:
9744 (a) corporate officers or directors; or
9745 (b) shareholders holding at least 20% of the total issued and outstanding stock of the

9746 corporation; or

9747 (3) for a limited liability company:

9748 (a) managers; or

9749 (b) members owning at least 20% of the limited liability company.

9750 Section 330. Section **32B-14-101** is enacted to read:

9751 **CHAPTER 14. UTAH BEER INDUSTRY DISTRIBUTION ACT**

9752 **Part 1. General Provisions**

9753 **32B-14-101. Title -- Legislative intent.**

9754 (1) This chapter is known as the "Utah Beer Industry Distribution Act."

9755 (2) (a) It is the policy of the Legislature to regulate and control the importation, sale,
9756 and distribution of beer within the state in the exercise of its powers under the Twenty-first
9757 Amendment to the Constitution of the United States and pursuant to the Utah Constitution.

9758 (b) In furtherance of the policy described in Subsection (2)(a), this chapter is enacted
9759 to:

9760 (i) promote good faith and fair dealing in the business relationships between suppliers,
9761 wholesalers, and retailers of beer; and

9762 (ii) provide for the establishment and maintenance of an orderly system for the
9763 distribution of beer in accordance with the laws of the state regulating the sale and distribution
9764 of beer to the public.

9765 Section 331. Section **32B-14-102** is enacted to read:

9766 **32B-14-102. Definitions.**

9767 As used in this chapter:

9768 (1) "Affected party" means a supplier or wholesaler who is a party to a distributorship
9769 agreement that a terminating party seeks to terminate or not renew.

9770 (2) (a) "Distributorship agreement" means a written agreement between a supplier and
9771 a wholesaler pursuant to which the wholesaler has the right to purchase, resell, and distribute
9772 in a designated geographical area any brand of beer manufactured, imported, or distributed by
9773 the supplier.

9774 (b) For purposes of this chapter, a separate agreement between a supplier and a
9775 wholesaler is considered to be part of a distributorship agreement if it relates to:

9776 (i) the relationship between the supplier and the wholesaler; or

9777 (ii) the duties of either the supplier or the wholesaler under a distributorship
9778 agreement.

9779 (3) "Good cause" means the material failure by a supplier or a wholesaler to comply
9780 with an essential, reasonable, and lawful requirement imposed by a distributorship agreement
9781 if the failure occurs after the supplier or wholesaler acting in good faith provides notice of
9782 deficiency and an opportunity to correct in accordance with Part 2, Termination.

9783 (4) "Good faith" is as defined in Subsection 70A-1a-201(2)(t).

9784 (5) "Retailer" means a beer retailer.

9785 (6) "Sales territory" means the geographic area of distribution and sale responsibility
9786 designated by a distributorship agreement.

9787 (7) "Supplier," notwithstanding Section 32B-1-102, means a brewer or other person
9788 who sells beer to a wholesaler for resale in this state.

9789 (8) "Terminating party" means a supplier or wholesaler who:

9790 (a) is a party to a distributorship agreement; and

9791 (b) seeks to terminate or not renew the distributorship agreement.

9792 Section 332. Section **32B-14-103** is enacted to read:

9793 **32B-14-103. Modifying statutory requirements not permitted.**

9794 (1) Nothing in this chapter is intended to restrict the right of a supplier to contractually
9795 require its wholesaler to comply with the supplier's operational standards of performance that
9796 are:

9797 (a) consistent with this chapter; and

9798 (b) uniformly established for its wholesalers according to the supplier's good faith
9799 business judgment.

9800 (2) Notwithstanding Subsection (1), the requirements of this chapter may not be
9801 modified by agreement.

- 9830 (1):
- 9831 (i) in writing;
- 9832 (ii) by registered mail, return receipt requested; and
- 9833 (iii) to the affected party not less than 90 days before the date on which the
- 9834 distributorship agreement will be terminated or not renewed.
- 9835 (b) A terminating party shall state in the notification required under Subsection (1):
- 9836 (i) the intention to terminate or not renew;
- 9837 (ii) the reasons for the termination or nonrenewal; and
- 9838 (iii) the date, not less than 90 days from the date of mailing, on which the termination
- 9839 or nonrenewal shall take effect if the reasons for the action are not eliminated by that date.
- 9840 (3) A supplier or wholesaler may take an action described in Subsection
- 9841 32B-14-201(1) without furnishing prior notification if:
- 9842 (a) the affected party is insolvent, bankrupt, in dissolution, or in liquidation;
- 9843 (b) the affected party makes an assignment for the benefit of creditors or similar
- 9844 disposition of substantially all of the assets of the affected party's business; or
- 9845 (c) the affected party or a person owning more than 10% of the stock or other
- 9846 ownership interest in the affected party:
- 9847 (i) is convicted of, pleads guilty to, or pleads no contest to a felony under federal law
- 9848 or a law of this state that in the reasonable, good faith judgment of the terminating party
- 9849 materially and adversely affects the good will or business of the terminating party;
- 9850 (ii) has its license or permit revoked or suspended for a period of 31 days or more; or
- 9851 (iii) engages in intentional fraudulent conduct in its dealings with the terminating
- 9852 party that in the reasonable, good faith judgment of the terminating party materially and
- 9853 adversely affects the good will or business of the terminating party.
- 9854 (4) Notwithstanding Subsection (3)(c)(i), a supplier may not take an action under
- 9855 Subsection (3)(c)(i) because of a conviction or plea by an owner of the affected party, if:
- 9856 (a) any other approved owner of the affected party purchases the ownership interest of
- 9857 the offending owner;

9858 (b) the offending owner was not materially involved in the management of the affected
9859 party; and

9860 (c) the purchase described in Subsection (4)(a) is completed within 90 days after the
9861 conviction or plea.

9862 (5) Subsection (3)(c)(iii) does not apply to conduct by a non-owner employee or
9863 representative of the affected party if the conduct occurred without the prior knowledge or
9864 consent of an owner of the affected party.

9865 Section 335. Section **32B-14-301** is enacted to read:

9866 **Part 3. Operational Provisions**

9867 **32B-14-301. Distributorship agreements in general.**

9868 A distributorship agreement may be for a definite or indefinite period.

9869 Section 336. Section **32B-14-302** is enacted to read:

9870 **32B-14-302. Prohibited conduct of supplier.**

9871 (1) A supplier may not:

9872 (a) induce or coerce, or attempt to induce or coerce, a wholesaler to engage in an
9873 illegal act or course of conduct;

9874 (b) impose a requirement that is discriminatory by its terms or in the methods of
9875 enforcement as compared to requirements imposed by the supplier on similarly situated
9876 wholesalers;

9877 (c) prohibit a wholesaler from selling a product of another supplier;

9878 (d) fix or maintain the price at which a wholesaler may resell beer;

9879 (e) fail to execute with each wholesaler of its brands a written distributorship
9880 agreement;

9881 (f) require a wholesaler to accept delivery of beer or any other item that is not
9882 voluntarily ordered by the wholesaler;

9883 (g) restrict or inhibit, directly or indirectly, the right of a wholesaler to participate in
9884 an organization representing interests of wholesalers for a lawful purpose;

9885 (h) require a wholesaler to participate in or contribute to a local, regional, or national

9886 advertising fund or other promotional activity that:

9887 (i) is not used for an advertising or promotional activity in the wholesaler's sales
9888 territory; or

9889 (ii) would require a contribution by the wholesaler in excess of the amounts specified
9890 in the distributorship agreement;

9891 (i) retaliate against a wholesaler that files a complaint with the department or the
9892 applicable federal agency regarding an alleged violation by the supplier of a state or federal
9893 statute or administrative rule;

9894 (j) require without good cause a change in the manager of a wholesaler who has
9895 previously been approved by the supplier;

9896 (k) if a wholesaler changes its approved manager, prohibit the change unless the new
9897 manager fails to meet the reasonable standards for similarly situated wholesalers of the
9898 supplier as stated in the distributorship agreement; or

9899 (l) refuse to deliver a beer product covered by a distributorship agreement to the
9900 wholesaler:

9901 (i) in a reasonable quantity; and

9902 (ii) within a reasonable time after receipt of the wholesaler's order.

9903 (2) Notwithstanding Subsection (1)(l), the supplier may refuse to deliver a beer
9904 product if the refusal is due to:

9905 (a) the wholesaler's failure to pay the supplier pursuant to the distributorship
9906 agreement;

9907 (b) an unforeseeable event beyond the supplier's control;

9908 (c) a work stoppage or delay due to a strike or labor problem;

9909 (d) a bona fide shortage of materials; or

9910 (e) a freight embargo.

9911 Section 337. Section **32B-14-303** is enacted to read:

9912 **32B-14-303. Prohibited conduct of wholesaler.**

9913 (1) A wholesaler may not:

- 9914 (a) induce or coerce, or attempt to induce or coerce, a retailer to engage in an illegal
9915 act or course of conduct;
- 9916 (b) impose a requirement that is discriminatory by its terms or in the methods of
9917 enforcement as compared to requirements imposed by the wholesaler on similarly situated
9918 retailers;
- 9919 (c) prohibit a retailer from selling a product of another wholesaler;
- 9920 (d) fix or maintain the price at which a retailer may resell beer;
- 9921 (e) require a retailer to accept delivery of beer or any other item that is not voluntarily
9922 ordered by the retailer;
- 9923 (f) restrict or inhibit, directly or indirectly, the right of a retailer to participate in an
9924 organization representing interests of retailers for a lawful purpose;
- 9925 (g) require a retailer to participate in or contribute to a local, regional, or national
9926 advertising fund or other promotional activity;
- 9927 (h) retaliate against a retailer that files a complaint with the department or the
9928 applicable federal agency regarding an alleged violation by the wholesaler of a state or federal
9929 statute or administrative rule; and
- 9930 (i) refuse to deliver a beer product carried by the wholesaler to a properly licensed
9931 retailer who resides within the wholesaler's sales territory:
- 9932 (i) in a reasonable quantity; and
- 9933 (ii) within a reasonable time after receipt of the retailer's order.
- 9934 (2) Notwithstanding Subsection (1)(i), the wholesaler may refuse to deliver a beer
9935 product if the refusal is due to:
- 9936 (a) the retailer's failure to pay the wholesaler pursuant to Subsection 32B-4-704(6);
- 9937 (b) an unforeseeable event beyond the wholesaler's control;
- 9938 (c) a work stoppage or delay due to a strike or labor problem;
- 9939 (d) a bona fide shortage of materials; or
- 9940 (e) a freight embargo.
- 9941 Section 338. Section **32B-14-304** is enacted to read:

9942 **32B-14-304. Sale or transfer of business assets or ownership.**

9943 (1) Without the prior written approval of a sale or transfer by the supplier:

9944 (a) a wholesaler may not sell or transfer its business, or any portion of its business,
9945 including the distributorship agreement, to a successor in interest; and

9946 (b) the owner of an interest in a wholesaler may not sell or transfer all or part of the
9947 owner's interest in the wholesaler to a successor in interest.

9948 (2) A supplier may not unreasonably withhold or delay its approval of a sale or
9949 transfer, including the wholesaler's rights and obligations under the terms of the
9950 distributorship agreement, if the person to be substituted meets reasonable standards that are
9951 imposed:

9952 (a) by the supplier pursuant to the distributorship agreement; and

9953 (b) on other wholesalers of that supplier of the same general class, taking into account
9954 the size and location of the sales territory and market to be served.

9955 (3) Notwithstanding Subsection (1), a wholesaler may not violate Subsection
9956 32B-13-301(8).

9957 Section 339. Section **32B-14-305** is enacted to read:

9958 **32B-14-305. Sale or transfer of supplier's business.**

9959 (1) (a) For purposes of this section, "successor" means a supplier who obtains a
9960 distribution right of a brand that a wholesaler distributes in this state pursuant to a
9961 distributorship agreement with another supplier who previously had the distribution rights of
9962 the brand.

9963 (b) For purposes of Subsection (1)(a), the successor may obtain a distribution right:

9964 (i) by any means, including:

9965 (A) merger;

9966 (B) purchase of corporate shares; or

9967 (C) purchase of assets; and

9968 (ii) from:

9969 (A) a supplier; or

9970 (B) a person acting in an official capacity who is not a supplier including a nominee,
9971 representative, or fiduciary.

9972 (2) (a) A successor to a supplier that acquires a supplier's product or brand in this state
9973 is bound by the terms and conditions of each distributorship agreement with a wholesaler in
9974 this state that was in effect on the date on which the successor receives the assets or rights of
9975 the previous supplier.

9976 (b) Notwithstanding Subsection (2)(a), if the requirements of Subsection (2)(c) are
9977 met, a successor may contractually require the wholesaler to:

9978 (i) execute a new distributorship agreement; and

9979 (ii) comply with the successor's operational standards of performance.

9980 (c) A successor may impose a requirement under Subsection (2)(b) if:

9981 (i) the operational standards of performance being required are consistent with this
9982 chapter;

9983 (ii) the operational standards of performance being required are uniformly imposed by
9984 the successor on similarly situated wholesalers; and

9985 (iii) the successor provides the wholesaler at least one year to:

9986 (A) execute a new distributorship agreement; and

9987 (B) comply with the operational standards of performance.

9988 Section 340. Section **32B-14-401** is enacted to read:

9989 **Part 4. Remedies**

9990 **32B-14-401. Reasonable compensation -- Arbitration.**

9991 (1) (a) If a supplier violates Section 32B-14-201 or 32B-14-304, the supplier is liable
9992 to the wholesaler for the sum of:

9993 (i) the laid-in cost of inventory of the affected brands; and

9994 (ii) any diminution in the fair market value of the wholesaler's business with relation
9995 to an affected brand.

9996 (b) In determining fair market value, consideration shall be given to all elements of
9997 value, including good will and going concern value.

9998 (2) (a) A distributorship agreement may require that any or all disputes between a
9999 supplier and a wholesaler be submitted to binding arbitration.

10000 (b) In the absence of an applicable arbitration provision in a distributorship agreement,
10001 either the supplier or the wholesaler may request arbitration if a supplier and a wholesaler are
10002 unable to mutually agree on:

10003 (i) whether good cause exists for termination or nonrenewal;

10004 (ii) whether the supplier unreasonably withheld approval of a sale or transfer under
10005 Section 32B-14-304; or

10006 (iii) the reasonable compensation to be paid for the value of the wholesaler's business
10007 in accordance with Subsection (1).

10008 (c) If a supplier or wholesaler requests arbitration under Subsection (2)(b) and the
10009 other party agrees to submit the matter to arbitration, an arbitration panel shall be created with
10010 the following members:

10011 (i) one member selected by the supplier in a writing delivered to the wholesaler within
10012 10 business days of the date arbitration was requested under Subsection (2)(b);

10013 (ii) one member selected by the wholesaler in a writing delivered to the supplier within
10014 10 business days of the date arbitration was requested under Subsection (2)(b); and

10015 (iii) one member selected by the two arbitrators appointed under Subsections (2)(c)(i)
10016 and (ii).

10017 (d) If the arbitrators fail to choose a third arbitrator under Subsection (2)(c)(iii) within
10018 10 business days of the day on which the arbitrators under Subsections (2)(c)(i) and (ii) are
10019 selected, a judge of a district court in the county in which the wholesaler's principal place of
10020 business is located shall select the third arbitrator.

10021 (e) Arbitration costs shall be divided equally between the wholesaler and the supplier.

10022 (f) The award of the arbitration panel is binding on the parties unless appealed within
10023 20 days from the date of the award.

10024 (g) Subject to the requirements of this chapter, arbitration and a proceeding on appeal
10025 are governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

10026 Section 341. Section **32B-14-402** is enacted to read:

10027 **32B-14-402. Judicial remedies.**

10028 (1) A supplier or wholesaler who is a party to a distributorship agreement may
10029 maintain a civil action against the supplier or wholesaler in a court of competent jurisdiction
10030 in the county in which the wholesaler's principal place of business is located if:

10031 (a) the supplier or wholesaler violates this chapter; or

10032 (b) (i) the supplier and wholesaler are not able to mutually agree on reasonable
10033 compensation under Section 32B-14-401; and

10034 (ii) the parties do not agree to submit the matter to arbitration in accordance with
10035 Section 32B-14-401 before or within 20 days following service of process on the electing
10036 party in the civil action.

10037 (2) (a) The prevailing party in an action under Subsection (1) shall recover:

10038 (i) actual damages, including the value of the wholesaler's business as specified in
10039 Section 32B-14-401 if applicable; and

10040 (ii) reasonable attorney fees and court costs.

10041 (b) In addition to the amount awarded under Subsection (2)(a), the court may grant
10042 such relief in law or equity as the court determines to be necessary or appropriate considering
10043 the purposes of this chapter.

10044 (3) If either party elects arbitration under Subsection (1)(b)(ii) following service of
10045 process, the civil action is stayed pending a decision by the arbitration panel.

10046 Section 342. Section **32B-15-101** is enacted to read:

10047 **CHAPTER 15. ALCOHOLIC PRODUCT LIABILITY ACT**

10048 **Part 1. General Provisions**

10049 **32B-15-101. Title.**

10050 This chapter is known as the "Alcoholic Product Liability Act."

10051 Section 343. Section **32B-15-102** is enacted to read:

10052 **32B-15-102. Definitions.**

10053 As used in this chapter:

10082 or drugs; or
10083 (D) an individual who is a known interdicted person; and
10084 (iii) the injury or death described in Subsection (1)(a) results from the intoxication of
10085 the individual who is provided the alcoholic product.
10086 (2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable
10087 for:
10088 (i) any and all injury and damage, except punitive damages to:
10089 (A) a third person; or
10090 (B) the heir, as defined in Section 78B-3-105, of that third person; or
10091 (ii) the death of the third person.
10092 (b) A person is liable under Subsection (2)(a) if:
10093 (i) that person directly gives or otherwise provides an alcoholic product to an
10094 individual who the person knows or should have known is under the age of 21 years;
10095 (ii) those actions caused the intoxication of the individual provided the alcoholic
10096 product;
10097 (iii) the injury or death described in Subsection (2)(a) results from the intoxication of
10098 the individual who is provided the alcoholic product; and
10099 (iv) the person is not liable under Subsection (1), because the person did not directly
10100 give or provide the alcoholic product as part of the commercial sale, storage, service,
10101 manufacture, distribution, or consumption of an alcoholic product.
10102 (3) This section does not apply to a business licensed in accordance with Chapter 7,
10103 Off-premise Beer Retailer Act, to sell beer at retail only for off-premise consumption.
10104 Section 345. Section **32B-15-202** is enacted to read:
10105 **32B-15-202. Liability for employees -- Employee protected in exercising**
10106 **judgment.**
10107 (1) (a) Except for a violation of Subsection 32B-15-201(2), an employer is liable for
10108 the actions of its staff in violation of this chapter.
10109 (b) This Subsection (1) does not apply to a business licensed in accordance with

10110 Chapter 7, Off-premise Beer Retailer Act, to sell beer at retail only for off-premise
10111 consumption.

10112 (2) An employer may not sanction or terminate the employment of individual staff of a
10113 retail licensee or other establishment serving an alcoholic product as a result of the staff
10114 having exercised the staff's independent judgment to refuse to sell an alcoholic product to a
10115 person the staff considers to meet one or more of the conditions described in Subsection
10116 32B-15-201(1)(b).

10117 (3) An employer who terminates an employee or imposes sanctions on the employee
10118 contrary to this section is considered to have discriminated against that employee and is
10119 subject to the conditions and penalties set forth in Title 34A, Chapter 5, Utah
10120 Antidiscrimination Act.

10121 Section 346. Section **32B-15-203** is enacted to read:

10122 **32B-15-203. Governmental immunity.**

10123 This title does not create civil liability on the part of the following arising out of one of
10124 the following's actions in regulating, controlling, authorizing, or otherwise being involved in
10125 the sale or other distribution of an alcoholic product:

- 10126 (1) the state;
- 10127 (2) a state agency;
- 10128 (3) a state employee;
- 10129 (4) the commission;
- 10130 (5) the department; or
- 10131 (6) a political subdivision.

10132 Section 347. Section **32B-15-301** is enacted to read:

10133 **Part 3. Civil Action**

10134 **32B-15-301. Cause of action -- Statute of limitations.**

10135 (1) (a) A person who suffers an injury under Subsection 32B-15-201 has a cause of
10136 action against the person who provided the alcoholic product in violation of Section
10137 32B-15-201.

10138 (b) If a person having rights or liabilities under this chapter dies, the rights or
10139 liabilities provided by this chapter survive to or against that person's estate.

10140 (2) The total amount that may be awarded to any person pursuant to a cause of action
10141 for injury and damage under this chapter that arises after January 1, 2010, is limited to
10142 \$1,000,000 and the aggregate amount which may be awarded to all persons injured as a result
10143 of one occurrence is limited to \$2,000,000.

10144 (3) An action based upon a cause of action under this chapter shall be commenced
10145 within two years after the date of the injury and damage.

10146 (4) (a) Nothing in this chapter precludes any cause of action or additional recovery
10147 against the person causing the injury.

10148 (b) A cause of action or additional recovery against the person causing the injury and
10149 damage, which action is not brought under this chapter, is exempt from the damage cap in
10150 Subsection (2).

10151 (c) A cause of action brought under this chapter is exempt from Sections 78B-5-817
10152 through 78B-5-823.

10153 (5) This section does not apply to a business licensed in accordance with Chapter 7,
10154 Off-premise Beer Retailer Act, to sell beer at retail only for off-premise consumption.

10155 Section 348. Section **32B-15-302** is enacted to read:

10156 **32B-15-302. Action for contribution by provider of an alcoholic product.**

10157 (1) (a) Except as provided in Subsections (2) and (3), a person, as defined under
10158 Section 32B-15-201 or Subsection 32B-15-202(1), against whom an award is made under this
10159 chapter, may bring a separate cause of action for contribution against any person causing the
10160 injury and damage.

10161 (b) The maximum amount for which a person causing the injury and damage may be
10162 liable to a person seeking contribution is that percentage or proportion of the damages
10163 equivalent to the percentage or proportion of fault attributed to that person causing the injury
10164 and damage.

10165 (2) This action for contribution under this section may not be brought against:

10166 (a) a person entitled to recovery as described in Subsection 32B-15-201(1)(a)(i) or (ii);

10167 or

10168 (b) a person entitled to recover as described in Subsection 32B-15-201(2)(a)(i) or (ii).

10169 (3) An action for contribution under this section may not diminish the amount of

10170 recovery for injury or damages awarded and received to a person entitled to recover as

10171 described in Subsection 32B-15-201(1)(a)(i) or (ii) or 32B-15-201(2)(a)(i) or (ii):

10172 (a) in a cause of action brought under this chapter; or

10173 (b) in a separate cause of action for injury and damage that is not brought under this

10174 chapter.

10175 Section 349. Section **32B-16-101** is enacted to read:

10176 **CHAPTER 16. MINOR LIABILITY ACT**

10177 **Part 1. General Provisions**

10178 **32B-16-101. Title.**

10179 This chapter is known as the "Minor Liability Act."

10180 Section 350. Section **32B-16-102** is enacted to read:

10181 **32B-16-102. Definitions.**

10182 As used in this chapter:

10183 (1) "Applicable fine" means the sum of the following imposed or assessed under this

10184 title by the commission for a violation related to a minor:

10185 (a) a fine; and

10186 (b) administrative costs of a disciplinary proceeding.

10187 (2) "Violation related to a minor" means a violation under this title:

10188 (a) that is, in whole or in part, based on a retail licensee, or staff of the retail licensee:

10189 (i) selling, offering for sale, or furnishing an alcoholic product to a minor;

10190 (ii) purchasing or otherwise obtaining an alcoholic product for a minor;

10191 (iii) permitting a minor to consume an alcoholic product;

10192 (iv) permitting a minor to gain admittance to an area into which a minor is not

10193 permitted under this title; or

10194 (v) offering or providing employment to a minor that under this title may not be
10195 obtained by a minor; and

10196 (b) if as part of the violation the minor uses proof of age in violation of Chapter 1, Part
10197 4, Proof of Age Act.

10198 Section 351. Section **32B-16-201** is enacted to read:

10199 **Part 2. Liability to Retail Licensee**

10200 **32B-16-201. Liability related to applicable fine.**

10201 (1) A minor is liable to a retail licensee in an amount described in Subsection (2) if:

10202 (a) the commission imposes an applicable fine against the retail licensee on the basis
10203 of a violation related to a minor; and

10204 (b) the minor, as part of the minor's involvement in the violation described in
10205 Subsection (1)(a), uses proof of age in violation of Chapter 1, Part 4, Proof of Age Act.

10206 (2) If the conditions of Subsection (1) are met, a minor is liable to a retail licensee for
10207 an amount equal to the sum of:

10208 (a) one-half of the amount of the applicable fine imposed against the retail licensee;
10209 and

10210 (b) the costs and attorney fees incurred by the retail licensee under Section
10211 32B-16-301 to collect the amount owed under this section.

10212 Section 352. Section **32B-16-301** is enacted to read:

10213 **Part 3. Civil Action**

10214 **32B-16-301. Bringing an action.**

10215 (1) Subject to the other provisions of this section, a retail licensee to whom a minor is
10216 liable under Section 32B-16-201 may bring an action in a court of competent jurisdiction to
10217 collect the amount described in Section 32B-16-201.

10218 (2) The action allowed under this section may be brought against:

10219 (a) the minor; or

10220 (b) if the minor is less than 18 years of age, a parent or guardian of the minor.

10221 (3) An action under this chapter may not be commenced more than two years after the

10222 day on which the applicable fine is imposed by the commission.

10223 (4) Nothing in this chapter precludes a cause of action or additional recovery against a
10224 minor under law other than this chapter.

10225 (5) Notwithstanding the other provisions of this part:

10226 (a) the state or an agency of the state is not liable under this part when a state agency
10227 has legal or protective custody of, or has guardianship of a minor at the time:

10228 (i) the minor engages in conduct with regard to a violation related to a minor; or

10229 (ii) an applicable fine is imposed on the retail licensee by the commission; and

10230 (b) a retail licensee may not bring an action against the state or an agency of the state
10231 under the circumstances described in Subsection (5)(a).

10232 Section 353. Section **32B-16-302** is enacted to read:

10233 **32B-16-302. Action for contribution.**

10234 (1) (a) Subject to Subsections (2) and (3), a minor liable under Section 32B-16-201
10235 against whom an award is made under this chapter, may bring a separate cause of action for
10236 contribution against a person causing the liability under Section 32B-16-201.

10237 (b) The maximum amount for which a person described in Subsection (1)(a) may be
10238 liable to a minor seeking contribution is that percentage or proportion of the amount described
10239 in Section 32B-16-201 equivalent to the percentage or proportion of fault attributed to that
10240 person causing the liability under Section 32B-16-201.

10241 (2) An action for contribution under this section may not be brought against:

10242 (a) the retail licensee to whom the minor is liable; or

10243 (b) staff of the retail licensee.

10244 (3) An action for contribution under this section may not diminish the amount
10245 collected by a retail licensee under this chapter.

10246 Section 354. Section **41-6a-526** is amended to read:

10247 **41-6a-526. Drinking alcoholic beverage and open containers in motor vehicle**
10248 **prohibited -- Definitions -- Exceptions.**

10249 (1) As used in this section:

- 10250 (a) "Alcoholic beverage" has the same meaning as defined in Section [~~32A-1-105~~
10251 32B-1-102.
- 10252 (b) "Chartered bus" has the same meaning as defined in Section [~~32A-1-105~~
10253 32B-1-102.
- 10254 (c) "Limousine" has the same meaning as defined in Section [~~32A-1-105~~] 32B-1-102.
- 10255 (d) (i) "Passenger compartment" means the area of the vehicle normally occupied by
10256 the operator and passengers.
- 10257 (ii) "Passenger compartment" includes areas accessible to the operator and passengers
10258 while traveling, including a utility or glove compartment.
- 10259 (iii) "Passenger compartment" does not include a separate front or rear trunk
10260 compartment or other area of the vehicle not accessible to the operator or passengers while
10261 inside the vehicle.
- 10262 (2) A person may not drink any alcoholic beverage while operating a motor vehicle or
10263 while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any
10264 highway.
- 10265 (3) A person may not keep, carry, possess, transport, or allow another to keep, carry,
10266 possess, or transport in the passenger compartment of a motor vehicle, when the vehicle is on
10267 any highway, any container which contains any alcoholic beverage if the container has been
10268 opened, its seal broken, or the contents of the container partially consumed.
- 10269 (4) Subsections (2) and (3) do not apply to a passenger:
- 10270 (a) in the living quarters of a motor home or camper;
- 10271 (b) who has carried an alcoholic beverage onto a limousine or chartered bus that is in
10272 compliance with Subsections [~~32A-12-213(3)~~] 32B-4-415(4)(b) and (c); or
- 10273 (c) in a motorboat or on the waters of this state as these terms are defined in Section
10274 73-18-2.
- 10275 (5) Subsection (3) does not apply to passengers traveling in any licensed taxicab or
10276 bus.
- 10277 Section 355. Section **53-3-207** is amended to read:

10278 **53-3-207. License certificates or driving privilege cards issued to drivers by class**
10279 **of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary**
10280 **licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.**

10281 (1) As used in this section:

10282 (a) "driving privilege" means the privilege granted under this chapter to drive a motor
10283 vehicle;

10284 (b) "governmental entity" means the state and its political subdivisions as defined in
10285 this Subsection (1);

10286 (c) "political subdivision" means any county, city, town, school district, public transit
10287 district, community development and renewal agency, special improvement or taxing district,
10288 local district, special service district, an entity created by an interlocal agreement adopted
10289 under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or
10290 public corporation; and

10291 (d) "state" means this state, and includes any office, department, agency, authority,
10292 commission, board, institution, hospital, college, university, children's justice center, or other
10293 instrumentality of the state.

10294 (2) (a) The division shall issue to every person privileged to drive a motor vehicle, a
10295 regular license certificate, a limited-term license certificate, or a driving privilege card
10296 indicating the type or class of motor vehicle the person may drive.

10297 (b) A person may not drive a class of motor vehicle unless granted the privilege in that
10298 class.

10299 (3) (a) Every regular license certificate, limited-term license certificate, or driving
10300 privilege card shall bear:

10301 (i) the distinguishing number assigned to the person by the division;

10302 (ii) the name, birth date, and Utah residence address of the person;

10303 (iii) a brief description of the person for the purpose of identification;

10304 (iv) any restrictions imposed on the license under Section 53-3-208;

10305 (v) a photograph of the person;

10306 (vi) a photograph or other facsimile of the person's signature; and
10307 (vii) an indication whether the person intends to make an anatomical gift under Title
10308 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended
10309 under Subsection 53-3-214(3).

10310 (b) A new license certificate issued by the division may not bear the person's Social
10311 Security number.

10312 (c) (i) The regular license certificate, limited-term license certificate, or driving
10313 privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

10314 (ii) Except as provided under Subsection (4)(b), the size, form, and color of the regular
10315 license certificate, limited-term license certificate, or driving privilege card shall be as
10316 prescribed by the commissioner.

10317 (iii) The commissioner may also prescribe the issuance of a special type of limited
10318 regular license certificate, limited-term license certificate, or driving privilege card under
10319 Subsection 53-3-220(4).

10320 (4) (a) (i) The division, upon determining after an examination that an applicant is
10321 mentally and physically qualified to be granted a driving privilege, may issue to an applicant a
10322 receipt for the fee if the applicant is eligible for a regular license certificate or limited-term
10323 license certificate.

10324 (ii) The receipt serves as a temporary regular license certificate or limited-term license
10325 certificate allowing the person to drive a motor vehicle while the division is completing its
10326 investigation to determine whether the person is entitled to be granted a driving privilege.

10327 (b) The receipt shall be in the person's immediate possession while driving a motor
10328 vehicle, and it is invalid when the person's regular license certificate or limited-term license
10329 certificate has been issued or when, for good cause, the privilege has been refused.

10330 (c) The division shall indicate on the receipt a date after which it is not valid as a
10331 temporary license.

10332 (d) (i) Except as provided in Subsection (4)(d)(ii), the division may not issue a receipt
10333 that serves as a temporary driving privilege card or other temporary permit to an applicant for

10334 a driving privilege card.

10335 (ii) The division may issue a learner permit issued in accordance with Section
10336 53-3-210.5 to an applicant for a driving privilege card.

10337 (5) (a) The division shall distinguish learner permits, temporary permits, regular
10338 license certificates, limited-term license certificates, and driving privilege cards issued to any
10339 person younger than 21 years of age by use of plainly printed information or the use of a color
10340 or other means not used for other regular license certificates, limited-term license certificates,
10341 or driving privilege cards.

10342 (b) The division shall distinguish a regular license certificate, limited-term license
10343 certificate, or driving privilege card issued to any person:

10344 (i) younger than 21 years of age by use of a portrait-style format not used for other
10345 regular license certificates, limited-term license certificates, or driving privilege cards and by
10346 plainly printing the date the regular license certificate, limited-term license certificate, or
10347 driving privilege card holder is 21 years of age, which is the legal age for purchasing an
10348 alcoholic beverage or alcoholic product under Section [~~32A-12-203~~] 32B-14-403; and

10349 (ii) younger than 19 years of age, by plainly printing the date the regular license
10350 certificate, limited-term license certificate, or driving privilege card holder is 19 years of age,
10351 which is the legal age for purchasing tobacco products under Section 76-10-104.

10352 (6) The division shall distinguish a limited-term license certificate by clearly
10353 indicating on the document:

10354 (a) that it is temporary; and

10355 (b) its expiration date.

10356 (7) (a) The division shall only issue a driving privilege card to a person whose
10357 privilege was obtained without providing evidence of lawful presence in the United States as
10358 required under Subsection 53-3-205(8).

10359 (b) The division shall distinguish a driving privilege card from a license certificate by:

10360 (i) use of a format, color, font, or other means; and

10361 (ii) clearly displaying on the front of the driving privilege card a phrase substantially

10362 similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

10363 (8) The provisions of Subsection (5)(b) do not apply to a learner permit, temporary
10364 permit, or any other temporary permit or receipt issued by the division.

10365 (9) The division shall issue temporary license certificates of the same nature, except as
10366 to duration, as the license certificates that they temporarily replace, as are necessary to
10367 implement applicable provisions of this section and Section 53-3-223.

10368 (10) (a) A governmental entity may not accept a driving privilege card as proof of
10369 personal identification.

10370 (b) A driving privilege card may not be used as a document providing proof of a
10371 person's age for any government required purpose.

10372 (11) A person who violates Subsection (2)(b) is guilty of a class C misdemeanor.

10373 (12) Unless otherwise provided, the provisions, requirements, classes, endorsements,
10374 fees, restrictions, and sanctions under this code apply to a:

10375 (a) driving privilege in the same way as a license or limited-term license issued under
10376 this chapter; and

10377 (b) limited-term license certificate or driving privilege card in the same way as a
10378 regular license certificate issued under this chapter.

10379 Section 356. Section **53-3-219** is amended to read:

10380 **53-3-219. Suspension of minor's driving privileges.**

10381 (1) The division shall immediately suspend all driving privileges of any person upon
10382 receipt of an order suspending driving privileges under Section [~~32A-12-209~~] 32B-4-409,
10383 Section [~~32A-12-209.5~~] 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606.

10384 (2) (a) (i) Except as provided in Subsection (2)(a)(ii), upon receipt of the first order
10385 suspending a person's driving privileges under Section [~~32A-12-209 or 32A-12-209.5~~]
10386 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606 for a violation
10387 that was committed on or after July 1, 2009, the division shall:

10388 (A) impose a suspension for a period of one year;

10389 (B) if the person has not been issued an operator license, deny the person's application

10390 for a license or learner's permit for a period of one year; or

10391 (C) if the person is under the age of eligibility for a driver license, deny the person's
10392 application for a license or learner's permit beginning on the date of conviction and continuing
10393 for one year beginning on the date of eligibility for a driver license.

10394 (ii) Upon receipt of the first order suspending a person's driving privileges under this
10395 section, the division shall reduce the suspension period under Subsection (2)(a)(i)(A), (B), or
10396 (C) if ordered by the court in accordance with Subsection [~~32A-12-209~~] 32B-4-409(5)(b),
10397 [~~32A-12-209.5~~] 32B-4-410(4)(b), 76-9-701(4)(b), or 78A-6-606(3)(b).

10398 (b) Upon receipt of a second or subsequent order suspending a person's driving
10399 privileges under Section [~~32A-12-209 or 32A-12-209.5~~] 32B-4-409, Section 32B-4-410,
10400 Subsection 76-9-701(1), or Section 78A-6-606 for a violation that was committed on or after
10401 July 1, 2009, the division shall:

10402 (i) impose a suspension for a period of two years; or

10403 (ii) if the person has not been issued an operator license or is under the age of
10404 eligibility for a driver license, deny the person's application for a license or learner's permit for
10405 a period of two years.

10406 (c) The Driver License Division shall impose a suspension for the suspension period in
10407 effect prior to July 1, 2009, if the order suspending driving privileges under Section
10408 [~~32A-12-209 or 32A-12-209.5~~] 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or
10409 Section 78A-6-606 is for a violation committed prior to July 1, 2009.

10410 (3) The Driver License Division shall subtract from any suspension or revocation
10411 period for a conviction of a violation of Section [~~32A-12-209~~] 32B-4-409 the number of days
10412 for which a license was previously suspended under Section 53-3-231, if the previous sanction
10413 was based on the same occurrence upon which the record of conviction is based.

10414 (4) After reinstatement of the license [~~under~~] described in Subsection (1)[~~(a)~~], a report
10415 authorized under Section 53-3-104 may not contain evidence of the suspension of a minor's
10416 license under this section if the minor has not been convicted of any other offense for which
10417 the suspension under Subsection (1)[~~(a)~~] may be extended.

10418 Section 357. Section **53-3-220** is amended to read:

10419 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
10420 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
10421 **Limited driving privileges.**

10422 (1) (a) The division shall immediately revoke or, when this chapter or Title 41,
10423 Chapter 6a, Traffic Code, specifically provides for denial, suspension, or disqualification, the
10424 division shall deny, suspend, or disqualify the license of a person upon receiving a record of
10425 the person's conviction for:

10426 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or
10427 automobile homicide under Section 76-5-207 or 76-5-207.5;

10428 (ii) driving or being in actual physical control of a motor vehicle while under the
10429 influence of alcohol, any drug, or combination of them to a degree that renders the person
10430 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited
10431 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

10432 (iii) driving or being in actual physical control of a motor vehicle while having a blood
10433 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance
10434 that complies with the requirements of Subsection 41-6a-510(1);

10435 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
10436 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles
10437 or regulating driving on highways;

10438 (v) any felony under the motor vehicle laws of this state;

10439 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

10440 (vii) failure to stop and render aid as required under the laws of this state if a motor
10441 vehicle accident results in the death or personal injury of another;

10442 (viii) two charges of reckless driving, impaired driving, or any combination of reckless
10443 driving and impaired driving committed within a period of 12 months; but if upon a first
10444 conviction of reckless driving or impaired driving the judge or justice recommends suspension
10445 of the convicted person's license, the division may after a hearing suspend the license for a

10446 period of three months;

10447 (ix) failure to bring a motor vehicle to a stop at the command of a peace officer as
10448 required in Section 41-6a-210;

10449 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
10450 requires disqualification;

10451 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
10452 allowing the discharge of a firearm from a vehicle;

10453 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
10454 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

10455 (xiii) operating or being in actual physical control of a motor vehicle while having any
10456 measurable controlled substance or metabolite of a controlled substance in the person's body in
10457 violation of Section 41-6a-517;

10458 (xiv) until July 30, 2015, operating or being in actual physical control of a motor
10459 vehicle while having any alcohol in the person's body in violation of Section 53-3-232;

10460 (xv) operating or being in actual physical control of a motor vehicle while having any
10461 measurable or detectable amount of alcohol in the person's body in violation of Section
10462 41-6a-530;

10463 (xvi) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
10464 violation of Section 41-6a-606; or

10465 (xvii) operating or being in actual physical control of a motor vehicle in this state
10466 without an ignition interlock system in violation of Section 41-6a-518.2.

10467 (b) The division shall immediately revoke the license of a person upon receiving a
10468 record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for:

10469 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
10470 allowing the discharge of a firearm from a vehicle; or

10471 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
10472 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

10473 (c) Except when action is taken under Section 53-3-219 for the same offense, the

10474 division shall immediately suspend for six months the license of a person upon receiving a
10475 record of conviction for:

10476 (i) any violation of:

10477 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

10478 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

10479 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

10480 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

10481 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

10482 (ii) any criminal offense that prohibits:

10483 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any
10484 substance that is prohibited under the acts described in Subsection (1)(c)(i); or

10485 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or
10486 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

10487 (d) (i) The division shall immediately suspend a person's driver license for conviction
10488 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

10489 (A) an order from the sentencing court requiring that the person's driver license be
10490 suspended; and

10491 (B) a record of the conviction.

10492 (ii) An order of suspension under this section is at the discretion of the sentencing
10493 court, and may not be for more than 90 days for each offense.

10494 (e) (i) The division shall immediately suspend for one year the license of a person
10495 upon receiving a record of:

10496 (A) conviction for the first time for a violation under Section [~~32A-12-223~~]
10497 32B-4-411; or

10498 (B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a
10499 violation under Section [~~32A-12-223~~] 32B-4-411.

10500 (ii) The division shall immediately suspend for a period of two years the license of a
10501 person upon receiving a record of:

10502 (A) (I) conviction for a second or subsequent violation under Section [~~32A-12-223~~]
10503 32B-4-411; and

10504 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior
10505 conviction for a violation under Section [~~32A-12-223~~] 32B-4-411; or

10506 (B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court
10507 Act of 1996, for a violation under Section [~~32A-12-223~~] 32B-4-411; and

10508 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a
10509 prior adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation
10510 under Section [~~32A-12-223~~] 32B-4-411.

10511 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

10512 (A) for a conviction or adjudication described in Subsection (1)(e)(i):

10513 (I) impose a suspension for one year beginning on the date of conviction; or

10514 (II) if the person is under the age of eligibility for a driver license, impose a suspension
10515 that begins on the date of conviction and continues for one year beginning on the date of
10516 eligibility for a driver license; or

10517 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):

10518 (I) impose a suspension for a period of two years; or

10519 (II) if the person is under the age of eligibility for a driver license, impose a suspension
10520 that begins on the date of conviction and continues for two years beginning on the date of
10521 eligibility for a driver license.

10522 (2) The division shall extend the period of the first denial, suspension, revocation, or
10523 disqualification for an additional like period, to a maximum of one year for each subsequent
10524 occurrence, upon receiving:

10525 (a) a record of the conviction of any person on a charge of driving a motor vehicle
10526 while the person's license is denied, suspended, revoked, or disqualified;

10527 (b) a record of a conviction of the person for any violation of the motor vehicle law in
10528 which the person was involved as a driver;

10529 (c) a report of an arrest of the person for any violation of the motor vehicle law in

10530 which the person was involved as a driver; or

10531 (d) a report of an accident in which the person was involved as a driver.

10532 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
10533 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
10534 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
10535 or revocation originally imposed under Section 53-3-221.

10536 (4) (a) The division may extend to a person the limited privilege of driving a motor
10537 vehicle to and from the person's place of employment or within other specified limits on
10538 recommendation of the judge in any case where a person is convicted of any of the offenses
10539 referred to in Subsections (1) and (2) except:

10540 (i) automobile homicide under Subsection (1)(a)(i);

10541 (ii) those offenses referred to in Subsections (1)(a)(ii), (a)(iii), (a)(xi), (a)(xii), (a)(xiii),
10542 (1)(b), and (1)(c); and

10543 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
10544 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
10545 41-6a-517, a local ordinance which complies with the requirements of Subsection
10546 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the
10547 person was charged with violating as a result of a plea bargain after having been originally
10548 charged with violating one or more of these sections or ordinances, unless:

10549 (A) the person has had the period of the first denial, suspension, revocation, or
10550 disqualification extended for a period of at least three years;

10551 (B) the division receives written verification from the person's primary care physician
10552 that:

10553 (I) to the physician's knowledge the person has not used any narcotic drug or other
10554 controlled substance except as prescribed by a licensed medical practitioner within the last
10555 three years; and

10556 (II) the physician is not aware of any physical, emotional, or mental impairment that
10557 would affect the person's ability to operate a motor vehicle safely; and

10558 (C) for a period of one year prior to the date of the request for a limited driving
10559 privilege:

10560 (I) the person has not been convicted of a violation of any motor vehicle law in which
10561 the person was involved as the operator of the vehicle;

10562 (II) the division has not received a report of an arrest for a violation of any motor
10563 vehicle law in which the person was involved as the operator of the vehicle; and

10564 (III) the division has not received a report of an accident in which the person was
10565 involved as an operator of a vehicle.

10566 (b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege
10567 authorized in this Subsection (4):

10568 (A) is limited to when undue hardship would result from a failure to grant the
10569 privilege; and

10570 (B) may be granted only once to any person during any single period of denial,
10571 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
10572 or disqualification.

10573 (ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

10574 (A) is limited to when the limited privilege is necessary for the person to commute to
10575 school or work; and

10576 (B) may be granted only once to any person during any single period of denial,
10577 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
10578 or disqualification.

10579 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
10580 Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or
10581 denied under this chapter.

10582 Section 358. Section **53-3-229** is amended to read:

10583 **53-3-229. Prohibited uses of license certificate -- Penalty.**

10584 (1) It is a class C misdemeanor for a person to:

10585 (a) lend or knowingly permit the use of a license certificate issued to the person, by a

10586 person not entitled to it;

10587 (b) display or to represent as the person's own a license certificate not issued to the
10588 person;

10589 (c) refuse to surrender to the division or a peace officer upon demand any license
10590 certificate issued by the division;

10591 (d) use a false name or give a false address in any application for a license or any
10592 renewal or duplicate of the license certificate, or to knowingly make a false statement, or to
10593 knowingly conceal a material fact or otherwise commit a fraud in the application;

10594 (e) display a canceled, denied, revoked, suspended, or disqualified driver license
10595 certificate as a valid driver license certificate;

10596 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic
10597 driver license certificate issued by a governmental entity if the item is not an authentic driver
10598 license certificate issued by that governmental entity; or

10599 (g) alter any information on an authentic driver license certificate so that it no longer
10600 represents the information originally displayed.

10601 (2) The provisions of Subsection (1)(e) do not prohibit the use of a person's driver
10602 license certificate as a means of personal identification.

10603 (3) It is a class A misdemeanor to:

10604 (a) knowingly issue a driver license certificate with false or fraudulent information;

10605 (b) knowingly issue a driver license certificate to a person younger than 21 years of
10606 age if the driver license certificate is not distinguished as required for a person younger than
10607 21 years of age under Section 53-3-207; or

10608 (c) knowingly acquire, use, display, or transfer a false or altered driver license
10609 certificate to procure cigarettes, tobacco, or tobacco products.

10610 (4) A person may not use, display, or transfer a false or altered driver license
10611 certificate to procure alcoholic beverages, gain admittance to a place where alcoholic
10612 beverages are sold or consumed, or obtain employment that may not be obtained by a minor in
10613 violation of Section [~~32A-1-301~~] 32B-1-403.

10614 (5) It is a third degree felony if a person's acquisition, use, display, or transfer of a
10615 false or altered driver license certificate:

10616 (a) aids or furthers the person's efforts to fraudulently obtain goods or services; or

10617 (b) aids or furthers the person's efforts to commit a violent felony.

10618 Section 359. Section **53-3-231** is amended to read:

10619 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
10620 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
10621 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
10622 **Referral to local substance abuse authority or program.**

10623 (1) (a) As used in this section:

10624 (i) "Local substance abuse authority" has the same meaning as provided in Section
10625 62A-15-102.

10626 (ii) "Substance abuse program" means any substance abuse program licensed by the
10627 Department of Human Services or the Department of Health and approved by the local
10628 substance abuse authority.

10629 (b) Calculations of blood, breath, or urine alcohol concentration under this section
10630 shall be made in accordance with the procedures in Subsection 41-6a-502(1).

10631 (2) (a) A person younger than 21 years of age may not operate or be in actual physical
10632 control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol
10633 concentration in the person's body as shown by a chemical test.

10634 (b) A person who violates Subsection (2)(a), in addition to any other applicable
10635 penalties arising out of the incident, shall have the person's operator license denied or
10636 suspended as provided in Subsection (8).

10637 (3) (a) When a peace officer has reasonable grounds to believe that a person may be
10638 violating or has violated Subsection (2), the peace officer may, in connection with arresting
10639 the person for a violation of Section [~~32A-12-209~~] 32B-4-409, request that the person submit
10640 to a chemical test or tests to be administered in compliance with the standards under Section
10641 41-6a-520.

10642 (b) The peace officer shall advise a person prior to the person's submission to a
10643 chemical test that a test result indicating a violation of Subsection (2)(a) will result in denial or
10644 suspension of the person's license to operate a motor vehicle or a refusal to issue a license.

10645 (c) If the person submits to a chemical test and the test results indicate a blood, breath,
10646 or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a
10647 determination, based on reasonable grounds, that the person is otherwise in violation of
10648 Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the
10649 arrest, give notice of the division's intention to deny or suspend the person's license to operate
10650 a vehicle or refusal to issue a license under this section.

10651 (4) When a peace officer gives notice on behalf of the division, the peace officer shall:

10652 (a) take the Utah license certificate or permit, if any, of the operator;

10653 (b) issue a temporary license certificate effective for only 29 days from the date of
10654 arrest if the driver had a valid operator's license; and

10655 (c) supply to the operator, in a manner specified by the division, basic information
10656 regarding how to obtain a prompt hearing before the division.

10657 (5) A citation issued by a peace officer may, if provided in a manner specified by the
10658 division, also serve as the temporary license certificate under Subsection (4)(b).

10659 (6) As a matter of procedure, a peace officer shall send to the division within 10
10660 calendar days after the day on which notice is provided:

10661 (a) the person's driver license certificate, if any;

10662 (b) a copy of the citation issued for the offense;

10663 (c) a signed report in a manner specified by the Driver License Division indicating the
10664 chemical test results, if any; and

10665 (d) any other basis for a peace officer's determination that the person has violated
10666 Subsection (2).

10667 (7) (a) (i) Upon request in a manner specified by the division, the Driver License
10668 Division shall grant to the person an opportunity to be heard within 29 days after the date of
10669 arrest under Section [~~32A-12-209~~] 32B-4-409.

10670 (ii) The request shall be made within 10 calendar days of the day on which notice is
10671 provided.

10672 (b) (i) Except as provided in Subsection (7)(b)(ii), a hearing, if held, shall be before
10673 the division in:

10674 (A) the county in which the arrest occurred; or

10675 (B) a county that is adjacent to the county in which the arrest occurred.

10676 (ii) The division may hold a hearing in some other county if the division and the
10677 person both agree.

10678 (c) The hearing shall be documented and shall cover the issues of:

10679 (i) whether a peace officer had reasonable grounds to believe the person was operating
10680 a motor vehicle or motorboat in violation of Subsection (2)(a);

10681 (ii) whether the person refused to submit to the test; and

10682 (iii) the test results, if any.

10683 (d) In connection with a hearing, the division or its authorized agent may administer
10684 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant
10685 books and papers and records as defined in Section 46-4-102.

10686 (e) One or more members of the division may conduct the hearing.

10687 (f) Any decision made after a hearing before any number of the members of the
10688 division is as valid as if made after a hearing before the full membership of the division.

10689 (8) If, after a hearing, the division determines that a peace officer had reasonable
10690 grounds to believe that the person was driving a motor vehicle in violation of Subsection
10691 (2)(a), if the person fails to appear before the division as required in the notice, or if the person
10692 does not request a hearing under this section, the division shall:

10693 (a) deny the person's license until the person is 21 years of age or for a period of 120
10694 days, whichever is longer, beginning on the 30th day after the date of arrest for a first offense
10695 under Subsection (2)(a) committed on or after July 1, 2009;

10696 (b) suspend the person's license until the person is 21 years of age or for a period of
10697 two years, whichever is longer, beginning on the 30th day after the date of arrest for a second

10698 or subsequent offense under Subsection (2)(a):

10699 (i) within 10 years of a prior denial or suspension; and

10700 (ii) committed on or after July 1, 2009;

10701 (c) deny the person's application for a license or learner's permit until the person is 21

10702 years of age or for a period of one year, whichever is longer, if:

10703 (i) the person has not been issued an operator license; and

10704 (ii) the suspension is for a first offense under Subsection (2)(a) committed on or after

10705 July 1, 2009;

10706 (d) deny the person's application for a license or learner's permit until the person is 21

10707 years of age or for a period of two years, whichever is longer, if:

10708 (i) the person has not been issued an operator license; and

10709 (ii) the suspension is for a second or subsequent offense under Subsection (2)(a):

10710 (A) within 10 years of a prior denial or suspension; and

10711 (B) committed on or after July 1, 2009; or

10712 (e) deny or suspend a person's license for the denial and suspension periods in effect

10713 prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed prior to July

10714 1, 2009.

10715 (9) (a) (i) Following denial or suspension the division shall assess against a person, in

10716 addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105,

10717 which shall be paid before the person's driving privilege is reinstated, to cover administrative

10718 costs.

10719 (ii) This fee shall be canceled if the person obtains an unappealed division hearing or

10720 court decision that the suspension was not proper.

10721 (b) A person whose operator license has been denied, suspended, or postponed by the

10722 division under this section following an administrative hearing may file a petition within 30

10723 days after the suspension for a hearing on the matter which, if held, is governed by Section

10724 53-3-224.

10725 (10) After reinstatement of an operator license for a first offense under this section, a

10726 report authorized under Section 53-3-104 may not contain evidence of the denial or
10727 suspension of the person's operator license under this section if the person has not been
10728 convicted of any other offense for which the denial or suspension may be extended.

10729 (11) (a) In addition to the penalties in Subsection (8), a person who violates
10730 Subsection (2)(a) shall:

10731 (i) obtain an assessment and recommendation for appropriate action from a substance
10732 abuse program, but any associated costs shall be the person's responsibility; or

10733 (ii) be referred by the division to the local substance abuse authority for an assessment
10734 and recommendation for appropriate action.

10735 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator
10736 license within five years of the effective date of the license sanction under Subsection (8) is
10737 contingent upon successful completion of the action recommended by the local substance
10738 abuse authority or the substance abuse program.

10739 (ii) The local substance abuse authority's or the substance abuse program's
10740 recommended action shall be determined by an assessment of the person's alcohol abuse and
10741 may include:

10742 (A) a targeted education and prevention program;

10743 (B) an early intervention program; or

10744 (C) a substance abuse treatment program.

10745 (iii) Successful completion of the recommended action shall be determined by
10746 standards established by the Division of Substance Abuse and Mental Health.

10747 (c) At the conclusion of the penalty period imposed under Subsection (2), the local
10748 substance abuse authority or the substance abuse program shall notify the division of the
10749 person's status regarding completion of the recommended action.

10750 (d) The local substance abuse authorities and the substance abuse programs shall
10751 cooperate with the division in:

10752 (i) conducting the assessments;

10753 (ii) making appropriate recommendations for action; and

10754 (iii) notifying the division about the person's status regarding completion of the
 10755 recommended action.

10756 (e) (i) The local substance abuse authority is responsible for the cost of the assessment
 10757 of the person's alcohol abuse, if the assessment is conducted by the local substance abuse
 10758 authority.

10759 (ii) The local substance abuse authority or a substance abuse program selected by a
 10760 person is responsible for:

10761 (A) conducting an assessment of the person's alcohol abuse; and

10762 (B) for making a referral to an appropriate program on the basis of the findings of the
 10763 assessment.

10764 (iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees
 10765 associated with the recommended program to which the person selected or is referred.

10766 (B) The costs and fees under Subsection (11)(e)(iii)(A) shall be based on a sliding
 10767 scale consistent with the local substance abuse authority's policies and practices regarding fees
 10768 for services or determined by the substance abuse program.

10769 Section 360. Section **53-3-806** is amended to read:

10770 **53-3-806. Portrait-style format -- Minor's card distinguishable.**

10771 (1) The division shall use a portrait-style format for all identification cards, similar to
 10772 the format used for license certificates issued to a person younger than 21 years of age under
 10773 Section 53-3-207.

10774 (2) The identification card issued to a person younger than 21 years of age shall be
 10775 distinguished by use of plainly printed information or by the use of a color or other means not
 10776 used for the identification card issued to a person 21 years of age or older.

10777 (3) The division shall distinguish an identification card issued to any person:

10778 (a) younger than 21 years of age by plainly printing the date the identification card
 10779 holder is 21 years of age, which is the legal age for purchasing an alcoholic beverage or
 10780 alcoholic product under Section [~~32A-12-203~~] 32B-4-403; and

10781 (b) younger than 19 years of age by plainly printing the date the identification card

10782 holder is 19 years of age, which is the legal age for purchasing tobacco products under Section
10783 76-10-104.

10784 (4) The division shall distinguish a limited-term identification card by clearly
10785 indicating on the card:

10786 (a) that it is temporary; and

10787 (b) its expiration date.

10788 Section 361. Section **53-3-810** is amended to read:

10789 **53-3-810. Prohibited uses of identification card -- Penalties.**

10790 (1) It is a class C misdemeanor to:

10791 (a) lend or knowingly permit the use of an identification card issued to the person, by
10792 a person not entitled to it;

10793 (b) display or to represent as the person's own an identification card not issued to the
10794 person;

10795 (c) refuse to surrender to the division or a peace officer upon demand any
10796 identification card issued by the division;

10797 (d) use a false name or give a false address in any application for an identification card
10798 or any renewal or duplicate of the identification card, or to knowingly make a false statement,
10799 or to knowingly conceal a material fact in the application;

10800 (e) display a revoked identification card as a valid identification card;

10801 (f) knowingly acquire, use, display, or transfer an item that purports to be an authentic
10802 identification card issued by a governmental entity if the item is not an authentic identification
10803 card issued by that governmental entity; or

10804 (g) alter any information contained on an authentic identification card so that it no
10805 longer represents the information originally displayed.

10806 (2) It is a class A misdemeanor to:

10807 (a) knowingly issue an identification card with false or fraudulent information;

10808 (b) knowingly issue an identification card to any person younger than 21 years of age
10809 if the identification card is not distinguished as required for a person younger than 21 years of

10810 age under Section 53-3-806; or

10811 (c) knowingly acquire, use, display, or transfer a false or altered identification card to
10812 procure cigarettes, tobacco, or tobacco products.

10813 (3) A person may not knowingly use, display, or transfer a false or altered
10814 identification card to procure alcoholic beverages, gain admittance to a place where alcoholic
10815 beverages are sold or consumed, or obtain employment that may not be obtained by a minor in
10816 violation of Section [~~32A-1-301~~] 32B-1-403.

10817 (4) It is a third degree felony if a person's acquisition, use, display, or transfer of a
10818 false or altered identification card:

10819 (a) aids or furthers the person's efforts to fraudulently obtain goods or services; or

10820 (b) aids or furthers the person's efforts to commit a violent felony.

10821 Section 362. Section **53-10-102** is amended to read:

10822 **53-10-102. Definitions.**

10823 As used in this chapter:

10824 (1) "Administration of criminal justice" means performance of any of the following:
10825 detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication,
10826 correctional supervision, or rehabilitation of accused persons or criminal offenders.

10827 (2) "Alcoholic beverage" is as defined in Section [~~32A-1-105~~] 32B-1-102.

10828 (3) "Alcoholic product" is as defined in Section [~~32A-1-105~~] 32B-1-102.

10829 (4) "Commission" means the Alcoholic Beverage Control Commission.

10830 (5) "Communications services" means the technology of reception, relay, and
10831 transmission of information required by public safety agencies in the performance of their
10832 duty.

10833 (6) "Conviction record" means criminal history information indicating a record of a
10834 criminal charge which has led to a declaration of guilt of an offense.

10835 (7) "Criminal history record information" means information on individuals consisting
10836 of identifiable descriptions and notations of:

10837 (a) arrests, detentions, indictments, informations, or other formal criminal charges,

10838 and any disposition arising from any of them; and

10839 (b) sentencing, correctional supervision, and release.

10840 (8) "Criminalist" means the scientific discipline directed to the recognition,
10841 identification, individualization, and evaluation of physical evidence by application of the
10842 natural sciences in law-science matters.

10843 (9) "Criminal justice agency" means courts or a government agency or subdivision of
10844 a government agency that administers criminal justice under a statute, executive order, or local
10845 ordinance and that allocates greater than 50% of its annual budget to the administration of
10846 criminal justice.

10847 (10) "Department" means the Department of Public Safety.

10848 (11) "Director" means the division director appointed under Section 53-10-103.

10849 (12) "Division" means the Criminal Investigations and Technical Services Division
10850 created in Section 53-10-103.

10851 (13) "Executive order" means an order of the president of the United States or the
10852 chief executive of a state that has the force of law and that is published in a manner permitting
10853 regular public access to it.

10854 (14) "Forensic" means dealing with the application of scientific knowledge relating to
10855 criminal evidence.

10856 (15) "Missing child" means any person under the age of 18 years who is missing from
10857 ~~his or her~~ the person's home environment or a temporary placement facility for any reason
10858 and whose location cannot be determined by the person responsible for the child's care.

10859 (16) "Missing person" is as defined in Section 26-2-27.

10860 (17) "Pathogens" means disease-causing agents.

10861 (18) "Physical evidence" means something submitted to the bureau to determine the
10862 truth of a matter using scientific methods of analysis.

10863 (19) "Qualifying entity" means a business, organization, or a governmental entity that
10864 employs persons or utilizes volunteers who deal with:

10865 (a) national security interests;

- 10866 (b) care, custody, or control of children;
- 10867 (c) fiduciary trust over money;
- 10868 (d) health care to children or vulnerable adults; or
- 10869 (e) the provision of any of the following to a vulnerable adult:
- 10870 (i) care;
- 10871 (ii) protection;
- 10872 (iii) food, shelter, or clothing;
- 10873 (iv) assistance with the activities of daily living; or
- 10874 (v) assistance with financial resource management.

10875 Section 363. Section **53-10-112** is amended to read:

10876 **53-10-112. Director and officers to have peace officer powers.**

10877 The director and enforcement officers:

- 10878 (1) are vested with the powers of peace officers throughout the several counties of the
- 10879 state, with the exception of the power to serve civil process;
- 10880 (2) have the powers and duties of inspectors under Title [~~32A~~] 32B, Alcoholic
- 10881 Beverage Control Act;
- 10882 (3) may serve criminal process and arrest and prosecute violators of any law of this
- 10883 state; and
- 10884 (4) have the same rights as other peace officers to require aid in executing their duties.

10885 Section 364. Section **53-10-113** is amended to read:

10886 **53-10-113. Other agencies to cooperate with division.**

- 10887 (1) All agencies of the state and local governments shall cooperate with the division in
- 10888 discharging its responsibilities under:
- 10889 (a) this chapter[;];
- 10890 (b) Title [~~32A~~] 32B, Alcoholic Beverage Control Act[;];
- 10891 (c) Title 58, Chapter 37, Utah Controlled Substance Act[;];
- 10892 (d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act[;];
- 10893 (e) Title 58, Chapter 37b, Imitation Controlled Substances Act[;]; and

10894 (f) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act.

10895 (2) This part does not relieve local law enforcement agencies or officers of the
10896 responsibility of enforcing laws relating to alcoholic beverages and alcoholic products or any
10897 other laws.

10898 (3) The powers and duties conferred upon the director and the officers of the division
10899 are not a limitation upon the powers and duties of other peace officers in the state.

10900 Section 365. Section **53-10-304** is amended to read:

10901 **53-10-304. Narcotics and alcoholic product enforcement -- Responsibility and**
10902 **jurisdiction.**

10903 The bureau shall:

10904 (1) have specific responsibility for the enforcement of all laws of the state pertaining
10905 to alcoholic beverages and alcoholic products;

10906 (2) have general law enforcement jurisdiction throughout the state;

10907 (3) have concurrent law enforcement jurisdiction with all local law enforcement
10908 agencies and their officers;

10909 (4) cooperate and exchange information with any other state agency and with other
10910 law enforcement agencies of government, both within and outside this state, to obtain
10911 information that may achieve more effective results in the prevention, detection, and control of
10912 crime and apprehension of criminals;

10913 (5) sponsor or supervise programs or projects related to prevention, detection, and
10914 control of violations of:

10915 (a) Title [~~32A~~] 32B, Alcoholic Beverage Control Act;

10916 (b) Title 58, Chapter 37, Utah Controlled Substance Act;

10917 (c) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

10918 (d) Title 58, Chapter 37b, Imitation Controlled Substances Act;

10919 (e) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and

10920 (f) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

10921 (6) assist the governor in an emergency or as the governor may require.

10922 Section 366. Section **53-10-305** is amended to read:

10923 **53-10-305. Duties of bureau chief.**

10924 The bureau chief, with the consent of the commissioner, shall do the following:

10925 (1) conduct in conjunction with the state boards of education and higher education in
10926 state schools, colleges, and universities, an educational program concerning alcoholic
10927 beverages and alcoholic products, and work in conjunction with civic organizations, churches,
10928 local units of government, and other organizations in the prevention of alcoholic beverage,
10929 alcoholic product, and drug violations;

10930 (2) coordinate law enforcement programs throughout the state and accumulate and
10931 disseminate information related to the prevention, detection, and control of violations of this
10932 chapter and Title [~~32A~~] 32B, Alcoholic Beverage Control Act, as it relates to storage or
10933 consumption of [~~alcoholic beverages~~] an alcoholic beverage or alcoholic product on premises
10934 maintained by a club licensee, or a person required to [~~be licensed as a club licensee~~] obtain a
10935 club license, as defined in Section [~~32A-1-105~~] 32B-1-102;

10936 (3) make inspections and investigations as required by the commission and the
10937 Department of Alcoholic Beverage Control;

10938 (4) perform other acts as may be necessary or appropriate concerning control of the
10939 use of [~~alcoholic beverages and products~~] an alcoholic beverage or alcoholic product and
10940 drugs; and

10941 (5) make reports and recommendations to the Legislature, the governor, the
10942 commissioner, the commission, and the Department of Alcoholic Beverage Control as may be
10943 required or requested.

10944 Section 367. Section **53A-11-904** is amended to read:

10945 **53A-11-904. Grounds for suspension or expulsion from a public school.**

10946 (1) A student may be suspended or expelled from a public school for any of the
10947 following reasons:

10948 (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive
10949 behavior, including the use of foul, profane, vulgar, or abusive language;

- 10950 (b) willful destruction or defacing of school property;
- 10951 (c) behavior or threatened behavior which poses an immediate and significant threat to
- 10952 the welfare, safety, or morals of other students or school personnel or to the operation of the
- 10953 school;
- 10954 (d) possession, control, or use of an alcoholic beverage as defined in Section
- 10955 [~~32A-1-105~~] 32B-1-102;
- 10956 (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the
- 10957 school or school property, to a person associated with the school, or property associated with
- 10958 that person, regardless of where it occurs; or
- 10959 (f) possession or use of pornographic material on school property.
- 10960 (2) (a) A student shall be suspended or expelled from a public school for any of the
- 10961 following reasons:
- 10962 (i) any serious violation affecting another student or a staff member, or any serious
- 10963 violation occurring in a school building, in or on school property, or in conjunction with any
- 10964 school activity, including:
- 10965 (A) the possession, control, or actual or threatened use of a real weapon, explosive, or
- 10966 noxious or flammable material;
- 10967 (B) the actual or threatened use of a look alike weapon with intent to intimidate
- 10968 another person or to disrupt normal school activities; or
- 10969 (C) the sale, control, or distribution of a drug or controlled substance as defined in
- 10970 Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug
- 10971 paraphernalia as defined in Section 58-37a-3; or
- 10972 (ii) the commission of an act involving the use of force or the threatened use of force
- 10973 which if committed by an adult would be a felony or class A misdemeanor.
- 10974 (b) A student who commits a violation of Subsection (2)(a) involving a real or look
- 10975 alike weapon, explosive, or flammable material shall be expelled from school for a period of
- 10976 not less than one year subject to the following:
- 10977 (i) within 45 days after the expulsion the student shall appear before the student's local

10978 school board superintendent, the superintendent's designee, chief administrative officer of a
10979 charter school, or the chief administrative officer's designee, accompanied by a parent or legal
10980 guardian; and

10981 (ii) the superintendent, chief administrator, or designee shall determine:

10982 (A) what conditions must be met by the student and the student's parent for the student
10983 to return to school;

10984 (B) if the student should be placed on probation in a regular or alternative school
10985 setting consistent with Section 53A-11-907, and what conditions must be met by the student
10986 in order to ensure the safety of students and faculty at the school the student is placed in; and

10987 (C) if it would be in the best interest of both the school district or charter school, and
10988 the student, to modify the expulsion term to less than a year, conditioned on approval by the
10989 local school board or governing board of a charter school and giving highest priority to
10990 providing a safe school environment for all students.

10991 (3) A student may be denied admission to a public school on the basis of having been
10992 expelled from that or any other school during the preceding 12 months.

10993 (4) A suspension or expulsion under this section is not subject to the age limitations
10994 under Subsection 53A-11-102(1).

10995 (5) Each local school board and governing board of a charter school shall prepare an
10996 annual report for the State Board of Education on:

10997 (a) each violation committed under this section; and

10998 (b) each action taken by the school district against a student who committed the
10999 violation.

11000 Section 368. Section **58-37-2** is amended to read:

11001 **58-37-2. Definitions.**

11002 (1) As used in this chapter:

11003 (a) "Administer" means the direct application of a controlled substance, whether by
11004 injection, inhalation, ingestion, or any other means, to the body of a patient or research subject
11005 by:

11006 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized
11007 agent; or

11008 (ii) the patient or research subject at the direction and in the presence of the
11009 practitioner.

11010 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a
11011 manufacturer, distributor, or practitioner but does not include a motor carrier, public
11012 warehouseman, or employee of any of them.

11013 (c) "Consumption" means ingesting or having any measurable amount of a controlled
11014 substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a
11015 controlled substance.

11016 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
11017 partnership, corporation, business trust, association, or other legal entity, and any union or
11018 groups of individuals associated in fact although not a legal entity, and includes illicit as well
11019 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
11020 the commission of episodes of activity made unlawful by Title 58, Chapters 37, 37a, 37b, 37c,
11021 or 37d, which episodes are not isolated, but have the same or similar purposes, results,
11022 participants, victims, methods of commission, or otherwise are interrelated by distinguishing
11023 characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct
11024 and be related either to each other or to the enterprise.

11025 (e) "Control" means to add, remove, or change the placement of a drug, substance, or
11026 immediate precursor under Section 58-37-3.

11027 (f) (i) "Controlled substance" means a drug or substance included in Schedules I, II,
11028 III, IV, or V of Section 58-37-4, and also includes a drug or substance included in Schedules I,
11029 II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513, or any
11030 controlled substance analog.

11031 (ii) "Controlled substance" does not include:

11032 (A) distilled spirits, wine, or malt beverages, as those terms are defined or used in Title
11033 [~~32A~~] 32B, Alcoholic Beverage Control Act, regarding tobacco or food;

11034 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
11035 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
11036 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
11037 transferred, or furnished as an over-the-counter medication without prescription; or

11038 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances
11039 including concentrates or extracts, which are not otherwise regulated by law, which may
11040 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
11041 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

11042 (g) (i) "Controlled substance analog" means a substance the chemical structure of
11043 which is substantially similar to the chemical structure of a controlled substance listed in
11044 Schedules I and II of Section 58-37-4, or in Schedules I and II of the federal Controlled
11045 Substances Act, Title II, P.L. 91-513:

11046 (A) which has a stimulant, depressant, or hallucinogenic effect on the central nervous
11047 system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central
11048 nervous system of controlled substances in the schedules set forth in Subsection (1)(f); or

11049 (B) which, with respect to a particular individual, is represented or intended to have a
11050 stimulant, depressant, or hallucinogenic effect on the central nervous system substantially
11051 similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of
11052 controlled substances in the schedules set forth in this Subsection (1).

11053 (ii) "Controlled substance analog" does not include:

11054 (A) a controlled substance currently scheduled in Schedules I through V of Section
11055 58-37-4;

11056 (B) a substance for which there is an approved new drug application;

11057 (C) a substance with respect to which an exemption is in effect for investigational use
11058 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,
11059 to the extent the conduct with respect to the substance is permitted by the exemption;

11060 (D) any substance to the extent not intended for human consumption before an
11061 exemption takes effect with respect to the substance;

11062 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
11063 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
11064 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
11065 transferred, or furnished as an over-the-counter medication without prescription; or

11066 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances
11067 including concentrates or extracts, which are not otherwise regulated by law, which may
11068 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
11069 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

11070 (h) "Conviction" means a determination of guilt by verdict, whether jury or bench, or
11071 plea, whether guilty or no contest, for any offense proscribed by Title 58, Chapters 37, 37a,
11072 37b, 37c, or 37d, or for any offense under the laws of the United States and any other state
11073 which, if committed in this state, would be an offense under Title 58, Chapters 37, 37a, 37b,
11074 37c, or 37d.

11075 (i) "Counterfeit substance" means:

11076 (i) any substance or container or labeling of any substance that without authorization
11077 bears the trademark, trade name, or other identifying mark, imprint, number, device, or any
11078 likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons
11079 who in fact manufactured, distributed, or dispensed the substance which falsely purports to be
11080 a controlled substance distributed by, any other manufacturer, distributor, or dispenser; or

11081 (ii) any substance that is represented to be a controlled substance.

11082 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
11083 controlled substance or a listed chemical, whether or not an agency relationship exists.

11084 (k) "Department" means the Department of Commerce.

11085 (l) "Depressant or stimulant substance" means:

11086 (i) a drug which contains any quantity of barbituric acid or any of the salts of
11087 barbituric acid;

11088 (ii) a drug which contains any quantity of:

11089 (A) amphetamine or any of its optical isomers;

- 11090 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
- 11091 (C) any substance which the Secretary of Health and Human Services or the Attorney
- 11092 General of the United States after investigation has found and by regulation designated
- 11093 habit-forming because of its stimulant effect on the central nervous system;
- 11094 (iii) lysergic acid diethylamide; or
- 11095 (iv) any drug which contains any quantity of a substance which the Secretary of
- 11096 Health and Human Services or the Attorney General of the United States after investigation
- 11097 has found to have, and by regulation designated as having, a potential for abuse because of its
- 11098 depressant or stimulant effect on the central nervous system or its hallucinogenic effect.
- 11099 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an
- 11100 ultimate user pursuant to the lawful order or prescription of a practitioner, and includes
- 11101 distributing to, leaving with, giving away, or disposing of that substance as well as the
- 11102 packaging, labeling, or compounding necessary to prepare the substance for delivery.
- 11103 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.
- 11104 (o) "Distribute" means to deliver other than by administering or dispensing a
- 11105 controlled substance or a listed chemical.
- 11106 (p) "Distributor" means a person who distributes controlled substances.
- 11107 (q) "Division" means the Division of Occupational and Professional Licensing created
- 11108 in Section 58-1-103.
- 11109 (r) "Drug" means:
- 11110 (i) articles recognized in the official United States Pharmacopoeia, Official
- 11111 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any
- 11112 supplement to any of them;
- 11113 (ii) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention
- 11114 of disease in man or other animals;
- 11115 (iii) articles, other than food, intended to affect the structure or function of man or
- 11116 other animals; and
- 11117 (iv) articles intended for use as a component of any articles specified in Subsection

11118 (1)(r)(i), (ii), or (iii); but does not include devices or their components, parts, or accessories.

11119 (s) "Drug dependent person" means any individual who unlawfully and habitually uses
11120 any controlled substance to endanger the public morals, health, safety, or welfare, or who is so
11121 dependent upon the use of controlled substances as to have lost the power of self-control with
11122 reference to the individual's dependency.

11123 (t) "Food" means:

11124 (i) any nutrient or substance of plant, mineral, or animal origin other than a drug as
11125 specified in this chapter, and normally ingested by human beings; and

11126 (ii) foods for special dietary uses as exist by reason of a physical, physiological,
11127 pathological, or other condition including but not limited to the conditions of disease,
11128 convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and
11129 overweight; uses for supplying a particular dietary need which exist by reason of age including
11130 but not limited to the ages of infancy and childbirth, and also uses for supplementing and for
11131 fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for
11132 use of a food. Any particular use of a food is a special dietary use regardless of the nutritional
11133 purposes.

11134 (u) "Immediate precursor" means a substance which the Attorney General of the
11135 United States has found to be, and by regulation designated as being, the principal compound
11136 used or produced primarily for use in the manufacture of a controlled substance, or which is an
11137 immediate chemical intermediary used or likely to be used in the manufacture of a controlled
11138 substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the
11139 controlled substance.

11140 (v) "Indian" means a member of an Indian tribe.

11141 (w) "Indian religion" means any religion:

11142 (i) the origin and interpretation of which is from within a traditional Indian culture or
11143 community; and

11144 (ii) which is practiced by Indians.

11145 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or

11146 community of Indians, including any Alaska Native village, which is legally recognized as
11147 eligible for and is consistent with the special programs, services, and entitlements provided by
11148 the United States to Indians because of their status as Indians.

11149 (y) "Manufacture" means the production, preparation, propagation, compounding, or
11150 processing of a controlled substance, either directly or indirectly by extraction from substances
11151 of natural origin, or independently by means of chemical synthesis or by a combination of
11152 extraction and chemical synthesis.

11153 (z) "Manufacturer" includes any person who packages, repackages, or labels any
11154 container of any controlled substance, except pharmacists who dispense or compound
11155 prescription orders for delivery to the ultimate consumer.

11156 (aa) "Marijuana" means all species of the genus cannabis and all parts of the genus,
11157 whether growing or not; the seeds of it; the resin extracted from any part of the plant; and
11158 every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds,
11159 or resin. The term does not include the mature stalks of the plant, fiber produced from the
11160 stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt,
11161 derivative, mixture, or preparation of the mature stalks, except the resin extracted from them,
11162 fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Any
11163 synthetic equivalents of the substances contained in the plant cannabis sativa or any other
11164 species of the genus cannabis which are chemically indistinguishable and pharmacologically
11165 active are also included.

11166 (bb) "Money" means officially issued coin and currency of the United States or any
11167 foreign country.

11168 (cc) "Narcotic drug" means any of the following, whether produced directly or
11169 indirectly by extraction from substances of vegetable origin, or independently by means of
11170 chemical synthesis, or by a combination of extraction and chemical synthesis:

11171 (i) opium, coca leaves, and opiates;

11172 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or
11173 opiates;

- 11174 (iii) opium poppy and poppy straw; or
- 11175 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of
- 11176 the substance, which is chemically identical with any of the substances referred to in
- 11177 Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca
- 11178 leaves or extracts of coca leaves which do not contain cocaine or ecgonine.
- 11179 (dd) "Negotiable instrument" means documents, containing an unconditional promise
- 11180 to pay a sum of money, which are legally transferable to another party by endorsement or
- 11181 delivery.
- 11182 (ee) "Opiate" means any drug or other substance having an addiction-forming or
- 11183 addiction-sustaining liability similar to morphine or being capable of conversion into a drug
- 11184 having addiction-forming or addiction-sustaining liability.
- 11185 (ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the
- 11186 seeds of the plant.
- 11187 (gg) "Person" means any corporation, association, partnership, trust, other institution
- 11188 or entity or one or more individuals.
- 11189 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after
- 11190 mowing.
- 11191 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,
- 11192 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing,
- 11193 injection, or consumption, as distinguished from distribution, of controlled substances and
- 11194 includes individual, joint, or group possession or use of controlled substances. For a person to
- 11195 be a possessor or user of a controlled substance, it is not required that the person be shown to
- 11196 have individually possessed, used, or controlled the substance, but it is sufficient if it is shown
- 11197 that the person jointly participated with one or more persons in the use, possession, or control
- 11198 of any substances with knowledge that the activity was occurring, or the controlled substance
- 11199 is found in a place or under circumstances indicating that the person had the ability and the
- 11200 intent to exercise dominion and control over it.
- 11201 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,

11202 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or
11203 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or
11204 use in teaching or chemical analysis a controlled substance in the course of professional
11205 practice or research in this state.

11206 (kk) "Prescribe" means to issue a prescription orally or in writing.

11207 (ll) "Prescription" means an order issued by a licensed practitioner, in the course of
11208 that practitioner's professional practice, for a controlled substance, other drug, or device which
11209 it dispenses or administers for use by a patient or an animal. The order may be issued by word
11210 of mouth, written document, telephone, facsimile transmission, computer, or other electronic
11211 means of communication as defined by rule.

11212 (mm) "Production" means the manufacture, planting, cultivation, growing, or
11213 harvesting of a controlled substance.

11214 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of
11215 property.

11216 (oo) "State" means the state of Utah.

11217 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance
11218 for the person's own use, for the use of a member of the person's household, or for
11219 administration to an animal owned by the person or a member of the person's household.

11220 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,
11221 Utah Criminal Code, shall apply.

11222 Section 369. Section **58-82-102 (Effective 07/01/12)** is amended to read:

11223 **58-82-102 (Effective 07/01/12). Definitions.**

11224 As used in this chapter:

11225 (1) "Drug" is as defined in Section 58-37-2.

11226 (2) "Electronic prescribing" means the electronic generation and transmission of a
11227 prescription between a practitioner and a pharmacy.

11228 (3) "Existing patient" means a person who a practitioner has:

11229 (a) obtained information regarding, in the usual course of professional practice, that is

11230 sufficient to:

11231 (i) establish a diagnoses;

11232 (ii) identify conditions; and

11233 (iii) identify contraindications to potential treatment; and

11234 (b) accepted as a patient.

11235 (4) (a) "Federal controlled substance" means a drug or substance included in

11236 Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513, or

11237 any federal controlled substance analog.

11238 (b) "Federal controlled substance" does not include:

11239 (i) distilled spirits, wine, or malt beverages, as those terms are defined or used in Title

11240 ~~[32A]~~ 32B, Alcoholic Beverage Control Act, regarding tobacco or food;

11241 (ii) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or

11242 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,

11243 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,

11244 transferred, or furnished as an over-the-counter medication without prescription; or

11245 (iii) dietary supplements, vitamins, minerals, herbs, or other similar substances

11246 including concentrates or extracts, which are not otherwise regulated by law, which may

11247 contain naturally occurring amounts of chemicals or substances listed in this chapter, or in

11248 rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

11249 (5) (a) "Federal controlled substance analog" means a substance the chemical structure

11250 of which is substantially similar to the chemical structure of a controlled substance listed in

11251 Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513:

11252 (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous

11253 system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central

11254 nervous system of controlled substances in the schedules set forth in Subsection (4); or

11255 (ii) which, with respect to a particular individual, is represented or intended to have a

11256 stimulant, depressant, or hallucinogenic effect on the central nervous system substantially

11257 similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of

- 11258 controlled substances in the schedules set forth in Subsection (4).
- 11259 (b) "Federal controlled substance analog" does not include:
- 11260 (i) a controlled substance currently scheduled in Schedules I through V of Section
- 11261 58-37-4;
- 11262 (ii) a substance for which there is an approved new drug application;
- 11263 (iii) a substance with respect to which an exemption is in effect for investigational use
- 11264 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,
- 11265 to the extent the conduct with respect to the substance is permitted by the exemption;
- 11266 (iv) any substance to the extent not intended for human consumption before an
- 11267 exemption takes effect with respect to the substance;
- 11268 (v) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
- 11269 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
- 11270 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
- 11271 transferred, or furnished as an over-the-counter medication without prescription; or
- 11272 (vi) dietary supplements, vitamins, minerals, herbs, or other similar substances
- 11273 including concentrates or extracts, which are not otherwise regulated by law, which may
- 11274 contain naturally occurring amounts of chemicals or substances listed in this chapter, or in
- 11275 rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 11276 (6) "Pharmacy" is as defined in Section 58-17b-102.
- 11277 (7) "Practitioner" means an individual currently licensed, registered, or otherwise
- 11278 authorized by the state to prescribe and administer a drug in the course of professional
- 11279 practice.
- 11280 (8) "Prescription" is as defined in Section 58-37-2.
- 11281 Section 370. Section **59-15-101** is amended to read:
- 11282 **59-15-101. Tax basis -- Rate.**
- 11283 (1) (a) A tax is imposed at the rate specified in Subsection (1)(b) on all beer, as
- 11284 defined in Section [~~32A-1-105~~] 32B-1-102, that is imported or manufactured for sale, use, or
- 11285 distribution in this state.

- 11286 (b) The tax described in Subsection (1)(a) shall be imposed at a rate of:
- 11287 (i) \$11 per 31-gallon barrel for beer imported or manufactured:
- 11288 (A) before July 1, 2003; and
- 11289 (B) for sale, use, or distribution in this state; and
- 11290 (ii) \$12.80 per 31-gallon barrel for beer imported or manufactured:
- 11291 (A) on or after July 1, 2003; and
- 11292 (B) for sale, use, or distribution in this state.
- 11293 (c) The tax imposed under this Subsection (1):
- 11294 (i) shall be imposed at a proportionate rate for:
- 11295 (A) any quantity of beer other than a 31-gallon barrel; or
- 11296 (B) the fractional parts of a 31-gallon barrel; and
- 11297 (ii) may not be imposed more than once on the same beer.
- 11298 (2) A tax may not be imposed on beer:
- 11299 (a) sold to the United States and its agencies; or
- 11300 (b) (i) manufactured or imported for sale, use, or distribution outside the state; and
- 11301 (ii) exported from the state.
- 11302 Section 371. Section **59-15-109** is amended to read:
- 11303 **59-15-109. Tax moneys to be paid to state treasurer.**
- 11304 (1) Taxes collected under this chapter shall be paid by the commission to the state
- 11305 treasurer daily for deposit as follows:
- 11306 [~~(a) for fiscal year 2003-04:~~]
- 11307 [~~(i) \$2,525,666 shall be deposited into the Alcoholic Beverage Enforcement and~~
- 11308 ~~Treatment Restricted Account created in Section 32A-1-115; and]~~
- 11309 [~~(ii) the revenue collected in excess of \$2,525,666 shall be deposited into the General~~
- 11310 ~~Fund;]~~
- 11311 [~~(b) for fiscal year 2004-05:~~]
- 11312 [~~(i) \$3,133,777 shall be deposited into the Alcoholic Beverage Enforcement and~~
- 11313 ~~Treatment Restricted Account created in Section 32A-1-115; and]~~

11314 ~~[(ii) the revenue collected in excess of \$3,133,777 shall be deposited into the General~~
 11315 ~~Fund;]~~

11316 ~~[(c) for fiscal year 2005-06:]~~

11317 ~~[(i) \$3,741,888 shall be deposited into the Alcoholic Beverage Enforcement and~~
 11318 ~~Treatment Restricted Account created in Section 32A-1-115; and]~~

11319 ~~[(ii) the revenue collected in excess of \$3,741,888 shall be deposited into the General~~
 11320 ~~Fund;]~~

11321 ~~[(d) for fiscal year 2006-07:]~~

11322 ~~[(i) \$4,350,000 shall be deposited into the Alcoholic Beverage Enforcement and~~
 11323 ~~Treatment Restricted Account created in Section 32A-1-115; and]~~

11324 ~~[(ii) the revenue collected in excess of \$4,350,000 shall be deposited into the General~~
 11325 ~~Fund; and]~~

11326 ~~[(e) beginning with fiscal year 2007-08:]~~

11327 ~~[(i)]~~ (a) the greater of the following shall be deposited into the Alcoholic Beverage
 11328 Enforcement and Treatment Restricted Account created in Section ~~[32A-1-115]~~ 32B-2-403:

11329 ~~[(A)]~~ (i) 40% of the revenue collected for the fiscal year two years preceding the fiscal
 11330 year for which the deposit is made; or

11331 ~~[(B)]~~ (ii) \$4,350,000; and

11332 ~~[(i)]~~ (b) the revenue collected in excess of the amount deposited in accordance with
 11333 Subsection (1)~~[(e)(i)]~~(a) shall be deposited into the General Fund.

11334 (2) (a) ~~[Beginning with September 1, 2006, the]~~ The commission shall notify the
 11335 entities described in Subsection (2)(b) not later than the September 1 preceding the fiscal year
 11336 of the deposit of:

11337 (i) the amount of the proceeds of the beer excise tax collected in accordance with this
 11338 section for the fiscal year two years preceding the fiscal year of deposit; and

11339 (ii) an amount equal to 40% of the amount listed in Subsection (2)(a)(i).

11340 (b) The notification required by Subsection (2)(a) shall be sent to:

11341 (i) the Governor's Office of Planning and Budget; and

- 11342 (ii) the Legislative Fiscal Analyst.
- 11343 Section 372. Section **62A-15-401** is amended to read:
- 11344 **62A-15-401. Alcohol training and education seminar.**
- 11345 (1) As used in this part:
- 11346 (a) "Instructor" means a person that directly provides the instruction during an alcohol
- 11347 training and education seminar for a seminar provider.
- 11348 (b) "Licensee" means a person who is:
- 11349 (i) (A) a new or renewing licensee under Title [~~32A~~] 32B, Alcoholic Beverage Control
- 11350 Act; and
- 11351 (B) engaged in the retail sale of [~~alcoholic beverages~~] an alcoholic product for
- 11352 consumption on the premises of the licensee; or
- 11353 (ii) a business that is:
- 11354 (A) a new or renewing licensee licensed by a city, town, or county; and
- 11355 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.
- 11356 (c) "Off-premise beer retailer" is as defined in Section [~~32A-1-105~~] 32B-1-102.
- 11357 (d) "Seminar provider" means a person other than the division who provides an
- 11358 alcohol training and education seminar meeting the requirements of this section.
- 11359 (2) (a) This section applies to an individual who, as defined by the board by rule:
- 11360 (i) manages operations at the premises of a licensee engaged in the retail sale of
- 11361 [~~alcoholic beverages~~] an alcoholic product for consumption on the premises of the licensee;
- 11362 (ii) supervises the serving of [~~alcoholic beverages~~] an alcoholic product to a customer
- 11363 for consumption on the premises of a licensee;
- 11364 (iii) serves [~~alcoholic beverages~~] an alcoholic product to a customer for consumption
- 11365 on the premises of a licensee;
- 11366 (iv) directly supervises the sale of beer to a customer for consumption off the premises
- 11367 of an off-premise beer retailer [~~licensee~~]; or
- 11368 (v) sells beer to a customer for consumption off the premises of an off-premise beer
- 11369 retailer [~~licensee~~].

11370 (b) If the individual does not have a valid ~~[certificate]~~ record that the individual has
11371 completed an alcohol training and education seminar, an individual described in Subsection
11372 (2)(a) shall:

11373 (i) (A) complete an alcohol training and education seminar within 30 days of the
11374 following if the individual is described in Subsections (2)(a)(i) through (iii):

11375 (I) if the individual is an employee, the day the individual begins employment;

11376 (II) if the individual is an independent contractor, the day the individual is first hired;

11377 or

11378 (III) if the individual holds an ownership interest in the licensee, the day that the
11379 individual first engages in an activity that would result in that individual being required to
11380 complete an alcohol training and education seminar; or

11381 (B) complete an alcohol training and education seminar within the time periods
11382 specified in Subsection ~~[32A-10-103]~~ 32B-5-404(1) if the individual is described in
11383 Subsections (2)(a)(iv) and (v); and

11384 (ii) pay a fee:

11385 (A) to the seminar provider; and

11386 (B) that is equal to or greater than the amount established under Subsection (4)(h).

11387 (c) An individual shall have a valid ~~[certificate]~~ record that the individual completed
11388 an alcohol training and education seminar within the time period provided in this Subsection
11389 (2) to engage in an activity described in Subsection (2)(a).

11390 (d) A ~~[certificate]~~ record that an individual has completed an alcohol training and
11391 education seminar is valid for:

11392 (i) three years from the day on which the ~~[certificate]~~ record is issued for an individual
11393 described in Subsection (2)(a)(i), (ii), or (iii); and

11394 (ii) five years from the day on which the ~~[certificate]~~ record is issued for an individual
11395 described in Subsection (2)(a)(iv) or (v).

11396 (3) (a) A licensee may not permit an individual who is not in compliance with
11397 Subsection (2) to:

- 11398 (i) serve or supervise the serving of [~~alcoholic beverages~~] an alcoholic product to a
11399 customer for consumption on the premises of the licensee;
- 11400 (ii) engage in any activity that would constitute managing operations at the premises
11401 of a licensee that engages in the retail sale of [~~alcoholic beverages~~] an alcoholic product for
11402 consumption on the premises of the licensee;
- 11403 (iii) directly supervise the sale of beer to a customer for consumption off the premises
11404 of an off-premise beer retailer [~~licensee~~]; or
- 11405 (iv) sell beer to a customer for consumption off the premises of an off-premise beer
11406 retailer [~~licensee~~].
- 11407 (b) A licensee that violates Subsection (3)(a) is subject to Section [~~32A-1-401~~]
11408 32B-5-403.
- 11409 (4) The division shall:
- 11410 (a) (i) provide alcohol training and education seminars; or
11411 (ii) certify one or more seminar providers;
- 11412 (b) establish the curriculum for an alcohol training and education seminar that
11413 includes the following subjects:
- 11414 (i) (A) alcohol as a drug; and
11415 (B) alcohol's effect on the body and behavior;
11416 (ii) recognizing the problem drinker or signs of intoxication;
11417 (iii) an overview of state alcohol laws related to responsible beverage sale or service,
11418 as determined in consultation with the Department of Alcoholic Beverage Control;
- 11419 (iv) dealing with the problem customer, including ways to terminate sale or service;
11420 and
- 11421 (v) for those supervising or engaging in the retail sale of [~~alcoholic beverages~~] an
11422 alcoholic product for consumption on the premises of a licensee, alternative means of
11423 transportation to get the customer safely home;
- 11424 (c) recertify each seminar provider every three years;
11425 (d) monitor compliance with the curriculum described in Subsection (4)(b);

- 11426 (e) maintain for at least five years a record of every person who has completed an
11427 alcohol training and education seminar;
- 11428 (f) provide the information described in Subsection (4)(e) on request to:
11429 (i) the Department of Alcoholic Beverage Control;
11430 (ii) law enforcement; or
11431 (iii) a person licensed by the state or a local government to sell [~~alcoholic beverages~~]
11432 an alcoholic product;
- 11433 (g) provide the Department of Alcoholic Beverage Control on request a list of any
11434 seminar provider certified by the division; and
- 11435 (h) establish a fee amount for each person attending an alcohol training and education
11436 seminar that is sufficient to offset the division's cost of administering this section.
- 11437 (5) The board shall by rule made in accordance with Title 63G, Chapter 3, Utah
11438 Administrative Rulemaking Act:
- 11439 (a) define what constitutes under this section an individual who:
11440 (i) manages operations at the premises of a licensee engaged in the retail sale of
11441 [~~alcoholic beverages~~] an alcoholic product for consumption on the premises of the licensee;
11442 (ii) supervises the serving of [~~alcoholic beverages~~] an alcoholic product to a customer
11443 for consumption on the premises of a licensee;
11444 (iii) serves [~~alcoholic beverages~~] an alcoholic product to a customer for consumption
11445 on the premises of a licensee;
11446 (iv) directly supervises the sale of beer to a customer for consumption off the premises
11447 of an off-premise beer retailer [~~beer licensee~~]; or
11448 (v) sells beer to a customer for consumption off the premises of an off-premise beer
11449 retailer [~~licensee~~];
- 11450 (b) establish criteria for certifying and recertifying a seminar provider; and
11451 (c) establish guidelines for the manner in which an instructor provides an alcohol
11452 education and training seminar.
- 11453 (6) A seminar provider shall:

- 11454 (a) obtain recertification by the division every three years;
- 11455 (b) ensure that an instructor used by the seminar provider:
- 11456 (i) follows the curriculum established under this section; and
- 11457 (ii) conducts an alcohol training and education seminar in accordance with the
- 11458 guidelines established by rule;
- 11459 (c) ensure that any information provided by the seminar provider or instructor of a
- 11460 seminar provider is consistent with:
- 11461 (i) the curriculum established under this section; and
- 11462 (ii) this section;
- 11463 (d) provide the division with the names of all persons who complete an alcohol
- 11464 training and education seminar provided by the seminar provider;
- 11465 (e) (i) collect a fee for each person attending an alcohol training and education
- 11466 seminar in accordance with Subsection (2); and
- 11467 (ii) forward to the division the portion of the fee that is equal to the amount described
- 11468 in Subsection (4)(h); and
- 11469 (f) issue a [~~certificate~~] record to an individual that completes an alcohol training and
- 11470 education seminar provided by the seminar provider.
- 11471 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,
- 11472 Administrative Procedures Act, the division finds that a seminar provider violates this section
- 11473 or that an instructor of the seminar provider violates this section, the division may:
- 11474 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;
- 11475 (ii) revoke the certification of the seminar provider;
- 11476 (iii) require the seminar provider to take corrective action regarding an instructor; or
- 11477 (iv) prohibit the seminar provider from using an instructor until such time that the
- 11478 seminar provider establishes to the satisfaction of the division that the instructor is in
- 11479 compliance with Subsection (6)(b).
- 11480 (b) The division may certify a seminar provider whose certification is revoked:
- 11481 (i) no sooner than 90 days from the date the certification is revoked; and

11482 (ii) if the seminar provider establishes to the satisfaction of the division that the
11483 seminar provider will comply with this section.

11484 Section 373. Section **63G-4-201** is amended to read:

11485 **63G-4-201. Commencement of adjudicative proceedings.**

11486 (1) Except as otherwise permitted by Section 63G-4-502, all adjudicative proceedings
11487 shall be commenced by either:

11488 (a) a notice of agency action, if proceedings are commenced by the agency; or

11489 (b) a request for agency action, if proceedings are commenced by persons other than
11490 the agency.

11491 (2) A notice of agency action shall be filed and served according to the following
11492 requirements:

11493 (a) The notice of agency action shall be in writing, signed by a presiding officer, and
11494 shall include:

11495 (i) the names and mailing addresses of all persons to whom notice is being given by
11496 the presiding officer, and the name, title, and mailing address of any attorney or employee who
11497 has been designated to appear for the agency;

11498 (ii) the agency's file number or other reference number;

11499 (iii) the name of the adjudicative proceeding;

11500 (iv) the date that the notice of agency action was mailed;

11501 (v) a statement of whether the adjudicative proceeding is to be conducted informally
11502 according to the provisions of rules adopted under Sections 63G-4-202 and 63G-4-203, or
11503 formally according to the provisions of Sections 63G-4-204 through 63G-4-209;

11504 (vi) if the adjudicative proceeding is to be formal, a statement that each respondent
11505 must file a written response within 30 days of the mailing date of the notice of agency action;

11506 (vii) if the adjudicative proceeding is to be formal, or if a hearing is required by statute
11507 or rule, a statement of the time and place of any scheduled hearing, a statement of the purpose
11508 for which the hearing is to be held, and a statement that a party who fails to attend or
11509 participate in the hearing may be held in default;

11510 (viii) if the adjudicative proceeding is to be informal and a hearing is required by
11511 statute or rule, or if a hearing is permitted by rule and may be requested by a party within the
11512 time prescribed by rule, a statement that the parties may request a hearing within the time
11513 provided by the agency's rules;

11514 (ix) a statement of the legal authority and jurisdiction under which the adjudicative
11515 proceeding is to be maintained;

11516 (x) the name, title, mailing address, and telephone number of the presiding officer; and

11517 (xi) a statement of the purpose of the adjudicative proceeding and, to the extent known
11518 by the presiding officer, the questions to be decided.

11519 (b) When adjudicative proceedings are commenced by the agency, the agency shall:

11520 (i) mail the notice of agency action to each party;

11521 (ii) publish the notice of agency action, if required by statute; and

11522 (iii) mail the notice of agency action to any other person who has a right to notice
11523 under statute or rule.

11524 (3) (a) Where the law applicable to the agency permits persons other than the agency
11525 to initiate adjudicative proceedings, that person's request for agency action shall be in writing
11526 and signed by the person invoking the jurisdiction of the agency, or by that person's
11527 representative, and shall include:

11528 (i) the names and addresses of all persons to whom a copy of the request for agency
11529 action is being sent;

11530 (ii) the agency's file number or other reference number, if known;

11531 (iii) the date that the request for agency action was mailed;

11532 (iv) a statement of the legal authority and jurisdiction under which agency action is
11533 requested;

11534 (v) a statement of the relief or action sought from the agency; and

11535 (vi) a statement of the facts and reasons forming the basis for relief or agency action.

11536 (b) The person requesting agency action shall file the request with the agency and shall
11537 mail a copy to each person known to have a direct interest in the requested agency action.

11538 (c) An agency may, by rule, prescribe one or more forms eliciting the information
11539 required by Subsection (3)(a) to serve as the request for agency action when completed and
11540 filed by the person requesting agency action.

11541 (d) The presiding officer shall promptly review a request for agency action and shall:

11542 (i) notify the requesting party in writing that the request is granted and that the
11543 adjudicative proceeding is completed;

11544 (ii) notify the requesting party in writing that the request is denied and, if the
11545 proceeding is a formal adjudicative proceeding, that the party may request a hearing before the
11546 agency to challenge the denial; or

11547 (iii) notify the requesting party that further proceedings are required to determine the
11548 agency's response to the request.

11549 (e) (i) Any notice required by Subsection (3)(d)(ii) shall contain the information
11550 required by Subsection 63G-4-203(1)(i) in addition to disclosure required by Subsection
11551 (3)(d)(ii).

11552 (ii) The agency shall mail any notice required by Subsection (3)(d) to all parties,
11553 except that any notice required by Subsection (3)(d)(iii) may be published when publication is
11554 required by statute.

11555 (iii) The notice required by Subsection (3)(d)(iii) shall:

11556 (A) give the agency's file number or other reference number;

11557 (B) give the name of the proceeding;

11558 (C) designate whether the proceeding is one of a category to be conducted informally
11559 according to the provisions of rules enacted under Sections 63G-4-202 and 63G-4-203, with
11560 citation to the applicable rule authorizing that designation, or formally according to Sections
11561 63G-4-204 through 63G-4-209;

11562 (D) in the case of a formal adjudicative proceeding, and where respondent parties are
11563 known, state that a written response must be filed within 30 days of the date of the agency's
11564 notice if mailed, or within 30 days of the last publication date of the agency's notice, if
11565 published;

11566 (E) if the adjudicative proceeding is to be formal, or if a hearing is to be held in an
11567 informal adjudicative proceeding, state the time and place of any scheduled hearing, the
11568 purpose for which the hearing is to be held, and that a party who fails to attend or participate
11569 in a scheduled and noticed hearing may be held in default;

11570 (F) if the adjudicative proceeding is to be informal, and a hearing is required by statute
11571 or rule, or if a hearing is permitted by rule and may be requested by a party within the time
11572 prescribed by rule, state the parties' right to request a hearing and the time within which a
11573 hearing may be requested under the agency's rules; and

11574 (G) give the name, title, mailing address, and telephone number of the presiding
11575 officer.

11576 (4) When initial agency determinations or actions are not governed by this chapter, but
11577 agency and judicial review of those initial determinations or actions are subject to the
11578 provisions of this chapter, the request for agency action seeking review must be filed with the
11579 agency within the time prescribed by the agency's rules.

11580 (5) For designated classes of adjudicative proceedings, an agency may, by rule,
11581 provide for a longer response time than allowed by this section, and may provide for a shorter
11582 response time if required or permitted by applicable federal law.

11583 (6) Unless the agency provides otherwise by rule or order, an application for a package
11584 agency, license, permit, or certificate of approval filed under authority of Title [~~32A~~] 32B,
11585 Alcoholic Beverage Control Act, is not considered to be a request for agency action under this
11586 chapter.

11587 (7) If the purpose of the adjudicative proceeding is to award a license or other
11588 privilege as to which there are multiple competing applicants, the agency may, by rule or
11589 order, conduct a single adjudicative proceeding to determine the award of that license or
11590 privilege.

11591 Section 374. Section **76-5-113** is amended to read:

11592 **76-5-113. Surreptitious administration of certain substances -- Definitions --**
11593 **Penalties -- Defenses.**

- 11594 (1) As used in this section:
- 11595 (a) "Administer" means the introduction of a substance into the body by injection,
- 11596 inhalation, ingestion, or by any other means.
- 11597 (b) "Alcoholic beverage" has the same meaning as "alcoholic beverage" in Section
- 11598 [~~32A-1-105~~] 32B-1-102.
- 11599 (c) "Bodily injury" has the same definition as in Section 76-1-601.
- 11600 (d) "Controlled substance" has the same definition as in Section 58-37-2.
- 11601 (e) "Deleterious substance" means a substance which, if administered, would likely
- 11602 cause bodily injury.
- 11603 (f) "Poisonous" means a substance which, if administered, would likely cause serious
- 11604 bodily injury or death.
- 11605 (g) "Prescription drug" has the same definition as in Section 58-17b-102.
- 11606 (h) "Serious bodily injury" has the same definition as in Section 19-2-115.
- 11607 (i) "Substance" means a controlled substance, poisonous substance, or deleterious
- 11608 substance as defined in this Subsection (1).
- 11609 (2) In addition to any other offense the actor's conduct may constitute, it is a criminal
- 11610 offense for a person, surreptitiously or by means of fraud, deception, or misrepresentation, to
- 11611 cause another person to unknowingly consume or receive the administration of:
- 11612 (a) any poisonous, deleterious, or controlled substance; or
- 11613 (b) any alcoholic beverage.
- 11614 (3) A violation of Subsection (2) is:
- 11615 (a) a second degree felony if the substance is a poisonous substance, regardless of
- 11616 whether the substance is a controlled substance or a prescription drug;
- 11617 (b) a third degree felony if the substance is not within the scope of Subsection (3)(a),
- 11618 and is a controlled substance or a prescription drug; and
- 11619 (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic
- 11620 beverage.
- 11621 (4) (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:

11622 (i) provided the appropriate administration of a prescription drug; and
11623 (ii) acted on the reasonable belief that [his] the actor's conduct was in the best interest
11624 of the well-being of the person to whom the prescription drug was administered.

11625 (b) (i) The defendant shall file and serve on the prosecuting attorney a notice in
11626 writing of [his] the defendant's intention to claim a defense under Subsection (4)(a) not fewer
11627 than 20 days before the trial.

11628 (ii) The notice shall specifically identify the factual basis for the defense and the
11629 names and addresses of the witnesses the defendant proposes to examine to establish the
11630 defense.

11631 (c) The prosecuting attorney shall file and serve the defendant with a notice containing
11632 the names and addresses of the witnesses the prosecutor proposes to examine in order to
11633 contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a).
11634 This notice shall be filed or served not more than 10 days after receipt of the defendant's notice
11635 under Subsection (4)(b), or at another time as the court may direct.

11636 (d) (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c)
11637 entitles the opposing party to a continuance to allow for preparation.

11638 (ii) If the court finds that a party's failure to comply is the result of bad faith, it may
11639 impose appropriate sanctions.

11640 (5) This section does not diminish the scope of authorized health care by a health care
11641 provider as defined in Section 26-23a-1.

11642 Section 375. Section **76-10-1506** is amended to read:

11643 **76-10-1506. Threatening breach of peace -- Disorderly conduct -- Foul language**
11644 **-- Refusing requests -- Use of controlled substance, liquor, or tobacco -- Ejection of**
11645 **passenger.**

11646 (1) A person is guilty of a class C misdemeanor, if the person:

11647 (a) threatens a breach of the peace, is disorderly, or uses obscene, profane, or vulgar
11648 language on a bus;

11649 (b) is in or upon any bus while unlawfully under the influence of a controlled

11650 substance as defined in Section 58-37-2;

11651 (c) fails to obey a reasonable request or order of a bus driver, bus company
11652 representative, a nondrinking designee other than the driver as provided in Subsection
11653 [~~32A-12-213(3)~~] 32B-4-415(4)(c)(ii), or other person in charge or control of a bus or terminal;

11654 (d) ingests any controlled substance, unless prescribed by a physician or medical
11655 facility, in or upon any bus, or drinks intoxicating liquor in or upon any bus, except a
11656 chartered bus as defined and provided in Sections [~~32A-1-105~~] 32B-1-102 and 41-6a-526; or

11657 (e) smokes tobacco or other products in or upon any bus, except a chartered bus.

11658 (2) If any person violates Subsection (1), the driver of the bus or person in charge
11659 thereof may stop at the place where the offense is committed or at the next regular or
11660 convenient stopping place and remove such person, using only such force as may be necessary
11661 to accomplish the removal, and the driver or person in charge may request the assistance of
11662 passengers to assist in the removal.

11663 (3) The driver or person in charge may cause the person so removed to be detained and
11664 delivered to the proper authorities.

11665 Section 376. Section **76-10-1602** is amended to read:

11666 **76-10-1602. Definitions.**

11667 As used in this part:

11668 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
11669 business trust, association, or other legal entity, and any union or group of individuals
11670 associated in fact although not a legal entity, and includes illicit as well as licit entities.

11671 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
11672 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
11673 have the same or similar purposes, results, participants, victims, or methods of commission, or
11674 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
11675 demonstrate continuing unlawful conduct and be related either to each other or to the
11676 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have
11677 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful

11678 activity as defined by this part shall have occurred within five years of the commission of the
11679 next preceding act alleged as part of the pattern.

11680 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
11681 interest in property, including state, county, and local governmental entities.

11682 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
11683 command, encourage, or intentionally aid another person to engage in conduct which would
11684 constitute any offense described by the following crimes or categories of crimes, or to attempt
11685 or conspire to engage in an act which would constitute any of those offenses, regardless of
11686 whether the act is in fact charged or indicted by any authority or is classified as a
11687 misdemeanor or a felony:

11688 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized
11689 Recording Practices Act;

11690 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality
11691 Code, Sections 19-1-101 through 19-7-109;

11692 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary
11693 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources
11694 Code of Utah, or Section 23-20-4;

11695 (d) false claims for medical benefits, kickbacks, and any other act prohibited by Title
11696 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

11697 (e) any act prohibited by the criminal provisions of [~~Title 32A, Chapter 12, Criminal~~
11698 ~~Offenses~~] Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

11699 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
11700 Land Sales Practices Act;

11701 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
11702 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,
11703 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,
11704 Clandestine Drug Lab Act;

11705 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform

- 11706 Securities Act;
- 11707 (i) any act prohibited by the criminal provisions of Title 63G, Chapter 6 Utah
- 11708 Procurement Code;
- 11709 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;
- 11710 (k) a terroristic threat, Section 76-5-107;
- 11711 (l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;
- 11712 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- 11713 (n) sexual exploitation of a minor, Section 76-5a-3;
- 11714 (o) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- 11715 (p) causing a catastrophe, Section 76-6-105;
- 11716 (q) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- 11717 (r) burglary of a vehicle, Section 76-6-204;
- 11718 (s) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
- 11719 (t) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- 11720 (u) theft, Section 76-6-404;
- 11721 (v) theft by deception, Section 76-6-405;
- 11722 (w) theft by extortion, Section 76-6-406;
- 11723 (x) receiving stolen property, Section 76-6-408;
- 11724 (y) theft of services, Section 76-6-409;
- 11725 (z) forgery, Section 76-6-501;
- 11726 (aa) fraudulent use of a credit card, Sections 76-6-506.1, 76-6-506.2, and 76-6-506.4;
- 11727 (bb) deceptive business practices, Section 76-6-507;
- 11728 (cc) bribery or receiving bribe by person in the business of selection, appraisal, or
- 11729 criticism of goods, Section 76-6-508;
- 11730 (dd) bribery of a labor official, Section 76-6-509;
- 11731 (ee) defrauding creditors, Section 76-6-511;
- 11732 (ff) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 11733 (gg) unlawful dealing with property by fiduciary, Section 76-6-513;

- 11734 (hh) bribery or threat to influence contest, Section 76-6-514;
- 11735 (ii) making a false credit report, Section 76-6-517;
- 11736 (jj) criminal simulation, Section 76-6-518;
- 11737 (kk) criminal usury, Section 76-6-520;
- 11738 (ll) fraudulent insurance act, Section 76-6-521;
- 11739 (mm) retail theft, Section 76-6-602;
- 11740 (nn) computer crimes, Section 76-6-703;
- 11741 (oo) identity fraud, Section 76-6-1102;
- 11742 (pp) mortgage fraud, Section 76-6-1203;
- 11743 (qq) sale of a child, Section 76-7-203;
- 11744 (rr) bribery to influence official or political actions, Section 76-8-103;
- 11745 (ss) threats to influence official or political action, Section 76-8-104;
- 11746 (tt) receiving bribe or bribery by public servant, Section 76-8-105;
- 11747 (uu) receiving bribe or bribery for endorsement of person as public servant, Section
- 11748 76-8-106;
- 11749 (vv) official misconduct, Sections 76-8-201 and 76-8-202;
- 11750 (ww) obstruction of justice, Section 76-8-306;
- 11751 (xx) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 11752 (yy) false or inconsistent material statements, Section 76-8-502;
- 11753 (zz) false or inconsistent statements, Section 76-8-503;
- 11754 (aaa) written false statements, Section 76-8-504;
- 11755 (bbb) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 11756 (ccc) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 11757 (ddd) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 11758 (eee) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
- 11759 76-8-1205;
- 11760 (fff) unemployment insurance fraud, Section 76-8-1301;
- 11761 (ggg) intentionally or knowingly causing one animal to fight with another, Subsection

- 11762 76-9-301(2)(d) or (e), or Section 76-9-301.1;
- 11763 (hhh) possession, use, or removal of explosives, chemical, or incendiary devices or
11764 parts, Section 76-10-306;
- 11765 (iii) delivery to common carrier, mailing, or placement on premises of an incendiary
11766 device, Section 76-10-307;
- 11767 (jjj) possession of a deadly weapon with intent to assault, Section 76-10-507;
- 11768 (kkk) unlawful marking of pistol or revolver, Section 76-10-521;
- 11769 (lll) alteration of number or mark on pistol or revolver, Section 76-10-522;
- 11770 (mmm) forging or counterfeiting trademarks, trade name, or trade device, Section
11771 76-10-1002;
- 11772 (nnn) selling goods under counterfeited trademark, trade name, or trade devices,
11773 Section 76-10-1003;
- 11774 (ooo) sales in containers bearing registered trademark of substituted articles, Section
11775 76-10-1004;
- 11776 (ppp) selling or dealing with article bearing registered trademark or service mark with
11777 intent to defraud, Section 76-10-1006;
- 11778 (qqq) gambling, Section 76-10-1102;
- 11779 (rrr) gambling fraud, Section 76-10-1103;
- 11780 (sss) gambling promotion, Section 76-10-1104;
- 11781 (ttt) possessing a gambling device or record, Section 76-10-1105;
- 11782 (uuu) confidence game, Section 76-10-1109;
- 11783 (vvv) distributing pornographic material, Section 76-10-1204;
- 11784 (www) inducing acceptance of pornographic material, Section 76-10-1205;
- 11785 (xxx) dealing in harmful material to a minor, Section 76-10-1206;
- 11786 (yyy) distribution of pornographic films, Section 76-10-1222;
- 11787 (zzz) indecent public displays, Section 76-10-1228;
- 11788 (aaaa) prostitution, Section 76-10-1302;
- 11789 (bbbb) aiding prostitution, Section 76-10-1304;

11790 (cccc) exploiting prostitution, Section 76-10-1305;
11791 (dddd) aggravated exploitation of prostitution, Section 76-10-1306;
11792 (eeee) communications fraud, Section 76-10-1801;
11793 (ffff) any act prohibited by the criminal provisions of Chapter 10, Part 19, Money
11794 Laundering and Currency Transaction Reporting Act;
11795 (gggg) vehicle compartment for contraband, Section 76-10-2801;
11796 (hhhh) any act prohibited by the criminal provisions of the laws governing taxation in
11797 this state; and
11798 (iiii) any act illegal under the laws of the United States and enumerated in [~~Title 18,~~
11799 ~~Section] 18 U.S.C. Sec. 1961 (1)(B), (C), and (D) [~~of the United States Code~~].
11800 Section 377. Section **77-39-101** is amended to read:
11801 **77-39-101. Investigation of sales of alcohol and tobacco to under age persons.**
11802 (1) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer
11803 Classifications, may investigate the possible violation of:
11804 (i) Section [~~32A-12-203~~] 32B-4-403 by requesting an individual under the age of 21
11805 years to enter into and attempt to purchase or make a purchase of alcohol from a retail
11806 establishment; or
11807 (ii) Section 76-10-104 by requesting an individual under the age of 19 years to enter
11808 into and attempt to purchase or make a purchase from a retail establishment of:
11809 (A) a cigar;
11810 (B) a cigarette; or
11811 (C) tobacco in any form.
11812 (b) A peace officer who is present at the site of a proposed purchase shall direct,
11813 supervise, and monitor the individual requested to make the purchase.
11814 (c) Immediately following a purchase or attempted purchase or as soon as practical the
11815 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
11816 establishment that the attempted purchaser was under the legal age to purchase:
11817 (i) alcohol; or~~

- 11818 (ii) (A) a cigar;
- 11819 (B) a cigarette; or
- 11820 (C) tobacco in any form.
- 11821 (d) If a citation or information is issued, it shall be issued within seven days of the
- 11822 purchase.
- 11823 (2) (a) If an individual under the age of 18 years old is requested to attempt a
- 11824 purchase, a written consent of that individual's parent or guardian shall be obtained prior to
- 11825 that individual participating in any attempted purchase.
- 11826 (b) An individual requested by the peace officer to attempt a purchase may:
- 11827 (i) be a trained volunteer; or
- 11828 (ii) receive payment, but may not be paid based on the number of successful purchases
- 11829 of alcohol or tobacco.
- 11830 (3) The individual requested by the peace officer to attempt a purchase and anyone
- 11831 accompanying the individual attempting a purchase may not during the attempted purchase
- 11832 misrepresent the age of the individual by false or misleading identification documentation in
- 11833 attempting the purchase.
- 11834 (4) An individual requested to attempt to purchase or make a purchase pursuant to this
- 11835 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
- 11836 purchase of, or possession of alcohol, a cigar, a cigarette, or tobacco in any form if a peace
- 11837 officer directs, supervises, and monitors the individual.
- 11838 (5) (a) Except as provided in Subsection (5)(b), a purchase attempted under this
- 11839 section shall be conducted:
- 11840 (i) on a random basis; and
- 11841 (ii) within a 12-month period at any one retail establishment location not more often
- 11842 than:
- 11843 (A) four times for the attempted purchase of:
- 11844 (I) a cigar;
- 11845 (II) a cigarette; or

11846 (III) tobacco in any form; and
11847 (B) four times for the attempted purchase of alcohol.
11848 (b) Nothing in this section shall prohibit an investigation under this section if:
11849 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
11850 cigar, a cigarette, or tobacco in any form to an individual under the age established by Section
11851 [~~32A-12-203~~] 32B-4-403 or 76-10-104; and
11852 (ii) the supervising peace officer makes a written record of the grounds for the
11853 reasonable suspicion.
11854 (6) (a) The peace officer exercising direction, supervision, and monitoring of the
11855 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
11856 was made.
11857 (b) The report required by this Subsection (6) shall include:
11858 (i) the name of the supervising peace officer;
11859 (ii) the name of the individual attempting the purchase;
11860 (iii) a photograph of the individual attempting the purchase showing how that
11861 individual appeared at the time of the attempted purchase;
11862 (iv) the name and description of the cashier or proprietor from whom the individual
11863 attempted the purchase;
11864 (v) the name and address of the retail establishment; and
11865 (vi) the date and time of the attempted purchase.
11866 Section 378. Section **78A-6-117** is amended to read:
11867 **78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**
11868 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**
11869 **sample.**
11870 (1) (a) When a minor is found to come within the provisions of Section 78A-6-103,
11871 the court shall so adjudicate. The court shall make a finding of the facts upon which it bases
11872 its jurisdiction over the minor. However, in cases within the provisions of Subsection
11873 78A-6-103(1), findings of fact are not necessary.

11874 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
11875 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided
11876 to the school superintendent of the district in which the minor resides or attends school.

11877 Notice shall be made to the district superintendent within three days of the adjudication and
11878 shall include:

11879 (i) the specific offenses for which the minor was adjudicated; and

11880 (ii) if available, if the victim:

11881 (A) resides in the same school district as the minor; or

11882 (B) attends the same school as the minor.

11883 (2) Upon adjudication the court may make the following dispositions by court order:

11884 (a) (i) The court may place the minor on probation or under protective supervision in
11885 the minor's own home and upon conditions determined by the court, including compensatory
11886 service as provided in Subsection (2)(m)(iii).

11887 (ii) The court may place the minor in state supervision with the probation department
11888 of the court, under the legal custody of:

11889 (A) the minor's parent or guardian;

11890 (B) the Division of Juvenile Justice Services; or

11891 (C) the Division of Child and Family Services.

11892 (iii) If the court orders probation or state supervision, the court shall direct that notice
11893 of its order be provided to designated persons in the local law enforcement agency and the
11894 school or transferee school, if applicable, that the minor attends. The designated persons may
11895 receive the information for purposes of the minor's supervision and student safety.

11896 (iv) Any employee of the local law enforcement agency and the school that the minor
11897 attends who discloses the court's order of probation is not:

11898 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
11899 provided in Section 63G-7-202; and

11900 (B) civilly or criminally liable except when the disclosure constitutes a knowing
11901 violation of Section 63G-2-801.

11902 (b) The court may place the minor in the legal custody of a relative or other suitable
11903 person, with or without probation or protective supervision, but the juvenile court may not
11904 assume the function of developing foster home services.

11905 (c) (i) The court may:

11906 (A) vest legal custody of the minor in the Division of Child and Family Services,
11907 Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health;
11908 and

11909 (B) order the Department of Human Services to provide dispositional
11910 recommendations and services.

11911 (ii) For minors who may qualify for services from two or more divisions within the
11912 Department of Human Services, the court may vest legal custody with the department.

11913 (iii) (A) A minor who is committed to the custody of the Division of Child and Family
11914 Services on grounds other than abuse or neglect is subject to the provisions of Title 78A,
11915 Chapter 6, Part 4, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title
11916 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

11917 (B) Prior to the court entering an order to place a minor in the custody of the Division
11918 of Child and Family Services on grounds other than abuse or neglect, the court shall provide
11919 the division with notice of the hearing no later than five days before the time specified for the
11920 hearing so the division may attend the hearing.

11921 (C) Prior to committing a child to the custody of the Division of Child and Family
11922 Services, the court shall make a finding as to what reasonable efforts have been attempted to
11923 prevent the child's removal from the child's home.

11924 (d) (i) The court may commit a minor to the Division of Juvenile Justice Services for
11925 secure confinement.

11926 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,
11927 or dependency under Subsection 78A-6-103(1)(c) may not be committed to the Division of
11928 Juvenile Justice Services.

11929 (e) The court may commit a minor, subject to the court retaining continuing

11930 jurisdiction over the minor, to the temporary custody of the Division of Juvenile Justice
11931 Services for observation and evaluation for a period not to exceed 45 days, which period may
11932 be extended up to 15 days at the request of the director of the Division of Juvenile Justice
11933 Services.

11934 (f) (i) The court may commit a minor to a place of detention or an alternative to
11935 detention for a period not to exceed 30 days subject to the court retaining continuing
11936 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions
11937 ordered by the court.

11938 (ii) This Subsection (2)(f) applies only to a minor adjudicated for:

11939 (A) an act which if committed by an adult would be a criminal offense; or

11940 (B) contempt of court under Section 78A-6-1101.

11941 (g) The court may vest legal custody of an abused, neglected, or dependent minor in
11942 the Division of Child and Family Services or any other appropriate person in accordance with
11943 the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and
11944 Dependency Proceedings.

11945 (h) The court may place a minor on a ranch or forestry camp, or similar facility for
11946 care and also for work, if possible, if the person, agency, or association operating the facility
11947 has been approved or has otherwise complied with all applicable state and local laws. A minor
11948 placed in a forestry camp or similar facility may be required to work on fire prevention,
11949 forestation and reforestation, recreational works, forest roads, and on other works on or off the
11950 grounds of the facility and may be paid wages, subject to the approval of and under conditions
11951 set by the court.

11952 (i) (i) The court may order a minor to repair, replace, or otherwise make restitution for
11953 damage or loss caused by the minor's wrongful act, including costs of treatment as stated in
11954 Section 78A-6-321 and impose fines in limited amounts.

11955 (ii) The court may also require a minor to reimburse an individual, entity, or
11956 governmental agency who offered and paid a reward to a person or persons for providing
11957 information resulting in a court adjudication that the minor is within the jurisdiction of the

11958 juvenile court due to the commission of a criminal offense.

11959 (iii) If a minor is returned to this state under the Interstate Compact on Juveniles, the
11960 court may order the minor to make restitution for costs expended by any governmental entity
11961 for the return.

11962 (j) The court may issue orders necessary for the collection of restitution and fines
11963 ordered by the court, including garnishments, wage withholdings, and executions.

11964 (k) (i) The court may through its probation department encourage the development of
11965 employment or work programs to enable minors to fulfill their obligations under Subsection
11966 (2)(i) and for other purposes considered desirable by the court.

11967 (ii) Consistent with the order of the court, the probation officer may permit a minor
11968 found to be within the jurisdiction of the court to participate in a program of work restitution
11969 or compensatory service in lieu of paying part or all of the fine imposed by the court.

11970 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in
11971 addition to any other disposition authorized by this section:

11972 (A) restrain the minor from driving for periods of time the court considers necessary;
11973 and

11974 (B) take possession of the minor's driver license.

11975 (ii) The court may enter any other disposition under Subsection (2)(l)(i)~~;~~ however,
11976 However, the suspension of driving privileges for an offense under Section 78A-6-606 ~~[are]~~ is
11977 governed only by Section 78A-6-606.

11978 (m) (i) When a minor is found within the jurisdiction of the juvenile court under
11979 Section 78A-6-103 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug
11980 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court
11981 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a
11982 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory
11983 completion of an approved substance abuse prevention or treatment program may be credited
11984 by the court as compensatory service hours.

11985 (ii) When a minor is found within the jurisdiction of the juvenile court under Section

11986 78A-6-103 because of a violation of Section [~~32A-12-209~~] 32B-4-409 or Subsection
11987 76-9-701(1), the court may, upon the first adjudication, and shall, upon a second or
11988 subsequent adjudication, order that the minor perform a minimum of 20 hours, but no more
11989 than 100 hours of compensatory service, in addition to any fines or fees otherwise imposed.
11990 Satisfactory completion of an approved substance abuse prevention or treatment program may
11991 be credited by the court as compensatory service hours.

11992 (iii) When a minor is found within the jurisdiction of the juvenile court under Section
11993 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court
11994 may order the minor to clean up graffiti created by the minor or any other person at a time and
11995 place within the jurisdiction of the court. Compensatory service required under this section
11996 may be performed in the presence and under the direct supervision of the minor's parent or
11997 legal guardian. The parent or legal guardian shall report completion of the order to the court.
11998 The minor or the minor's parent or legal guardian, if applicable, shall be responsible for
11999 removal costs as determined under Section 76-6-107, unless waived by the court for good
12000 cause. The court may also require the minor to perform other alternative forms of restitution
12001 or repair to the damaged property pursuant to Subsection 77-18-1(8).

12002 (A) For a first adjudication, the court may require the minor to clean up graffiti for not
12003 less than eight hours.

12004 (B) For a second adjudication, the court may require the minor to clean up graffiti for
12005 not less than 16 hours.

12006 (C) For a third adjudication, the court may require the minor to clean up graffiti for
12007 not less than 24 hours.

12008 (n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:

12009 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

12010 (B) receive other special care.

12011 (ii) For purposes of receiving the examination, treatment, or care described in
12012 Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.

12013 (iii) In determining whether to order the examination, treatment, or care described in

12014 Subsection (2)(n)(i), the court shall consider:

12015 (A) the desires of the minor;

12016 (B) if the minor is under the age of 18, the desires of the parents or guardian of the
12017 minor; and

12018 (C) whether the potential benefits of the examination, treatment, or care outweigh the
12019 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain
12020 function impairment, or emotional or physical harm resulting from the compulsory nature of
12021 the examination, treatment, or care.

12022 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the
12023 interest of the minor, and may appoint as guardian a public or private institution or agency in
12024 which legal custody of the minor is vested.

12025 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
12026 private agency or institution, the court shall give primary consideration to the welfare of the
12027 minor. When practicable, the court may take into consideration the religious preferences of
12028 the minor and of a child's parents.

12029 (p) (i) In support of a decree under Section 78A-6-103, the court may order reasonable
12030 conditions to be complied with by a minor's parents or guardian, a minor, a minor's custodian,
12031 or any other person who has been made a party to the proceedings. Conditions may include:

12032 (A) parent-time by the parents or one parent;

12033 (B) restrictions on the minor's associates;

12034 (C) restrictions on the minor's occupation and other activities; and

12035 (D) requirements to be observed by the parents or custodian.

12036 (ii) A minor whose parents or guardians successfully complete a family or other
12037 counseling program may be credited by the court for detention, confinement, or probation
12038 time.

12039 (q) The court may order the child to be committed to the physical custody of a local
12040 mental health authority, in accordance with the procedures and requirements of Title 62A,
12041 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse

12042 and Mental Health.

12043 (r) (i) The court may make an order committing a minor within the court's jurisdiction
12044 to the Utah State Developmental Center if the minor has mental retardation in accordance with
12045 the provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility.

12046 (ii) The court shall follow the procedure applicable in the district courts with respect to
12047 judicial commitments to the Utah State Developmental Center when ordering a commitment
12048 under Subsection (2)(r)(i).

12049 (s) The court may terminate all parental rights upon a finding of compliance with the
12050 provisions of Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

12051 (t) The court may make any other reasonable orders for the best interest of the minor
12052 or as required for the protection of the public, except that a child may not be committed to jail
12053 or prison.

12054 (u) The court may combine the dispositions listed in this section if they are
12055 compatible.

12056 (v) Before depriving any parent of custody, the court shall give due consideration to
12057 the rights of parents concerning their child. The court may transfer custody of a minor to
12058 another person, agency, or institution in accordance with the requirements and procedures of
12059 Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

12060 (w) Except as provided in Subsection (2)(y)(i), an order under this section for
12061 probation or placement of a minor with an individual or an agency shall include a date certain
12062 for a review of the case by the court. A new date shall be set upon each review.

12063 (x) In reviewing foster home placements, special attention shall be given to making
12064 adoptable children available for adoption without delay.

12065 (y) (i) The juvenile court may enter an order of permanent custody and guardianship
12066 with an individual or relative of a child where the court has previously acquired jurisdiction as
12067 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an
12068 order for child support on behalf of the child against the natural or adoptive parents of the
12069 child.

12070 (ii) Orders under Subsection (2)(y)(i):
12071 (A) shall remain in effect until the child reaches majority;
12072 (B) are not subject to review under Section 78A-6-118; and
12073 (C) may be modified by petition or motion as provided in Section 78A-6-1103.

12074 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
12075 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
12076 of the juvenile court.

12077 (3) In addition to the dispositions described in Subsection (2), when a minor comes
12078 within the court's jurisdiction, the minor may be given a choice by the court to serve in the
12079 National Guard in lieu of other sanctions, provided:

12080 (a) the minor meets the current entrance qualifications for service in the National
12081 Guard as determined by a recruiter, whose determination is final;

12082 (b) the minor is not under the jurisdiction of the court for any act that:

12083 (i) would be a felony if committed by an adult;

12084 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

12085 (iii) was committed with a weapon; and

12086 (c) the court retains jurisdiction over the minor under conditions set by the court and
12087 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

12088 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
12089 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
12090 designated employees of the court or, if the minor is in the legal custody of the Division of
12091 Juvenile Justice Services, then by designated employees of the division under Subsection
12092 53-10-404(5)(b).

12093 (b) The responsible agency shall ensure that employees designated to collect the saliva
12094 DNA specimens receive appropriate training and that the specimens are obtained in
12095 accordance with accepted protocol.

12096 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the
12097 DNA Specimen Restricted Account created in Section 53-10-407.

12098 (d) Payment of the reimbursement is second in priority to payments the minor is
12099 ordered to make for restitution under this section and treatment under Section 78A-6-321.

12100 Section 379. Section **78A-6-606** is amended to read:

12101 **78A-6-606. Suspension of license for certain offenses.**

12102 (1) This section applies to a minor who is at least 13 years of age when found by the
12103 court to be within its jurisdiction by the commission of an offense under:

12104 (a) Section [~~32A-12-209~~] 32B-4-409;

12105 (b) Section [~~32A-12-209.5~~] 32B-4-410;

12106 (c) Section [~~32A-12-223~~] 32B-4-411;

12107 (d) Section 58-37-8;

12108 (e) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

12109 (f) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

12110 (g) Subsection 76-9-701(1).

12111 (2) If the court hearing the case determines that the minor committed an offense under
12112 Section 58-37-8 or Title 58, Chapter 37a or 37b, the court shall prepare and send to the Driver
12113 License Division of the Department of Public Safety an order to suspend that minor's driving
12114 privileges.

12115 (3) (a) The court hearing the case shall suspend the minor's driving privileges if:

12116 (i) the minor violated Section [~~32A-12-209 or 32A-12-209.5~~] 32B-4-409, Section
12117 32B-4-410, or Subsection 76-9-701(1); and

12118 (ii) the violation described in Subsection (3)(a)(i) was committed on or after July 1,
12119 2009.

12120 (b) Notwithstanding the requirement in Subsection (3)(a), the court may reduce the
12121 suspension period required under Section 53-3-219 if:

12122 (i) the violation is the minor's first violation of Section [~~32A-12-209 or 32A-12-209.5~~]
12123 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); and

12124 (ii) the minor completes an educational series as defined in Section 41-6a-501.

12125 (c) The suspension periods and requirements that were in effect prior to July 1, 2009,

12126 apply:

12127 (i) to a minor that violated Section [~~32A-12-209~~ or ~~32A-12-209.5~~] 32B-4-409, Section
12128 32B-4-410, or Subsection 76-9-701(1); and

12129 (ii) for a violation that was committed prior to July 1, 2009.

12130 (d) If a minor commits a proof of age violation, as defined in Section [~~32A-12-223~~]
12131 32B-4-411:

12132 (i) the court shall forward a record of adjudication to the Department of Public Safety
12133 for a first or subsequent violation; and

12134 (ii) the minor's driving privileges will be suspended:

12135 (A) for a period of at least one year under Section 53-3-220 for a first conviction for a
12136 violation of Section [~~32A-12-223~~] 32B-4-411; or

12137 (B) for a period of two years for a second or subsequent conviction for a violation of
12138 Section [~~32A-12-223~~] 32B-4-411.

12139 (4) A minor's license shall be suspended under Section 53-3-219 when a court issues
12140 an order suspending the minor's driving privileges for a violation of:

12141 (a) Section [~~32A-12-209~~] 32B-4-409;

12142 (b) Section [~~32A-12-209.5~~] 32B-4-410;

12143 (c) Section 58-37-8;

12144 (d) Title 58, Chapter 37a or 37b; or

12145 (e) Subsection 76-9-701(1).

12146 (5) When the Department of Public Safety receives the arrest or conviction record of a
12147 person for a driving offense committed while the person's license is suspended under this
12148 section, the Department of Public Safety shall extend the suspension for a like period of time.

12149 Section 380. Section **78A-6-1001** is amended to read:

12150 **78A-6-1001. Jurisdiction over adults for offenses against minors -- Proof of**
12151 **delinquency not required for conviction.**

12152 (1) The court shall have jurisdiction, concurrent with the district court or justice court
12153 otherwise having subject matter jurisdiction, to try adults for the following offenses committed

12154 against minors:

12155 (a) unlawful sale or [~~supply of alcohol beverage or product~~] furnishing of an alcoholic
12156 product to minors in violation of Section [~~32A-12-203~~] 32B-4-403;

12157 (b) failure to report abuse or neglect, as required by Title 62A, Chapter 4a, Part 4,
12158 Child Abuse or Neglect Reporting Requirements;

12159 (c) harboring a runaway in violation of Section 62A-4a-501;

12160 (d) misdemeanor custodial interference in violation of Section 76-5-303;

12161 (e) contributing to the delinquency of a minor in violation of Section 76-10-2301; and

12162 (f) failure to comply with compulsory education requirements in violation of Section
12163 53A-11-101.5.

12164 (2) It is not necessary for the minor to be found to be delinquent or to have committed
12165 a delinquent act for the court to exercise jurisdiction under Subsection (1).

12166 Section 381. Section **78A-6-1202** is amended to read:

12167 **78A-6-1202. Definitions.**

12168 (1) "Adult" means a person 18 years of age or older.

12169 (2) "Gang activity" means any criminal activity that is conducted as part of an
12170 organized youth gang. It includes any criminal activity that is done in concert with other gang
12171 members, or done alone if it is to fulfill gang purposes. "Gang activity" does not include
12172 graffiti.

12173 (3) "Minor offense" means any unlawful act that is a status offense or would be a class
12174 B or C misdemeanor, infraction, or violation of a municipal or county ordinance if the youth
12175 were an adult. "Minor offense" does not include:

12176 (a) class A misdemeanors;

12177 (b) felonies of any degree;

12178 (c) any offenses that are committed as part of gang activity;

12179 (d) any of the following offenses which would carry mandatory dispositions if referred
12180 to the juvenile court under Section 78A-6-606:

12181 (i) a second violation of Section [~~32A-12-209~~] 32B-4-409, Unlawful Purchase,

- 12182 Possession or Consumption by Minors -- Measurable Amounts in Body;
- 12183 (ii) a violation of Section 41-6a-502, Driving Under the Influence;
- 12184 (iii) a violation of Section 58-37-8, Controlled Substances Act;
- 12185 (iv) a violation of Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 12186 (v) a violation of Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- 12187 (vi) a violation of Section 76-9-701, Intoxication; or
- 12188 (e) any offense where a dangerous weapon, as defined in Subsection 76-1-601(5), is
- 12189 used in the commission of the offense.
- 12190 (4) "Sponsoring entity" means any political subdivision of the state, including a school
- 12191 or school district, juvenile court, law enforcement agency, prosecutor's office, county, city, or
- 12192 town.
- 12193 (5) "Status offense" means a violation of the law that would not be a violation but for
- 12194 the age of the offender.
- 12195 (6) "Youth" means a person under the age of 18 years or who is 18 but still attending
- 12196 high school.
- 12197 Section 382. Section **78B-6-1602** is amended to read:
- 12198 **78B-6-1602. Definitions.**
- 12199 As used in this part:
- 12200 (1) "Alcoholic beverage" is as defined in Section [~~32A-1-105~~] 32B-1-102.
- 12201 (2) "Emergency response provider" means an individual providing services on behalf
- 12202 of:
- 12203 (a) a law enforcement agency;
- 12204 (b) a fire suppression agency; or
- 12205 (c) another agency or a political subdivision of the state.
- 12206 (3) "Law enforcement officer" is as defined in Section 53-13-103.
- 12207 (4) "Local entity" means the political subdivision for which an emergency response
- 12208 provider provides emergency services.
- 12209 (5) "Minor" means an individual under the age of 18 years old.

12210 (6) (a) Subject to Subsection (6)(b), "response costs" means the actual costs directly
12211 associated with an emergency response provider responding to, remaining at, or otherwise
12212 dealing with an underage drinking gathering, including:

12213 (i) the costs of medical treatment to or for an emergency response provider injured
12214 because of an activity described in this Subsection (6)(a); and

12215 (ii) the cost of repairing damage to equipment or property of a local entity that is
12216 attributable to an activity described in this Subsection (6)(a).

12217 (b) "Response costs" does not include:

12218 (i) the salary and benefits of an emergency response provider for the amount of time
12219 spent responding to, remaining at, or otherwise dealing with an underage drinking gathering;
12220 or

12221 (ii) the administrative costs attributable to an activity described in Subsection
12222 (6)(b)(i).

12223 (7) "Underage drinking gathering" means a gathering of two or more individuals:

12224 (a) at which an individual knowingly serves, aids in the service of, or allows the
12225 service of an alcoholic beverage to an underage person; and

12226 (b) to which an emergency response provider is required to respond, except for a
12227 response related solely to providing medical care at the location of the gathering.

12228 (8) "Underage person" means an individual under the age of 21 years old.

12229 Section 383. **Repealer.**

12230 This bill repeals:

12231 Section **32A-1-101, Short title.**

12232 Section **32A-1-102, Application of title -- Severability.**

12233 Section **32A-1-103, Exercise of police powers.**

12234 Section **32A-1-104, Policy.**

12235 Section **32A-1-105, Definitions.**

12236 Section **32A-1-106, Alcoholic Beverage Control Commission -- Membership --**
12237 **Oaths and bond -- Per diem -- Offices -- Removal -- Meetings.**

- 12238 Section **32A-1-107, Powers and duties of the commission.**
- 12239 Section **32A-1-108, Director of alcoholic beverage control.**
- 12240 Section **32A-1-109, Powers and duties of the director.**
- 12241 Section **32A-1-110, Department of Alcoholic Beverage Control -- Created --**
- 12242 **Organization.**
- 12243 Section **32A-1-111, Department employees -- Requirements.**
- 12244 Section **32A-1-112, Services of State Health Laboratory.**
- 12245 Section **32A-1-113, Department expenditures and revenues -- Liquor Control**
- 12246 **Fund -- Exempt from Division of Finance -- Annual audits.**
- 12247 Section **32A-1-115, Alcoholic Beverage Enforcement and Treatment Restricted**
- 12248 **Account -- Distribution.**
- 12249 Section **32A-1-116, Purchase of liquor.**
- 12250 Section **32A-1-117, Department may sue and be sued.**
- 12251 Section **32A-1-118, Liability insurance -- Governmental immunity.**
- 12252 Section **32A-1-119, Disciplinary proceedings -- Procedure.**
- 12253 Section **32A-1-119.5, Timing of reporting violations.**
- 12254 Section **32A-1-120, Judicial review -- Enforcement.**
- 12255 Section **32A-1-121, Reports.**
- 12256 Section **32A-1-122, Liquor prices -- School lunch program.**
- 12257 Section **32A-1-123, Licensee compliance with other laws.**
- 12258 Section **32A-1-301, Unlawful transfer or use of proof of age -- False information.**
- 12259 Section **32A-1-302, Presentation of proof of age upon request.**
- 12260 Section **32A-1-303, Additional requirements when age is in question.**
- 12261 Section **32A-1-304, Acceptance of identification -- Evidence.**
- 12262 Section **32A-1-304.5, Verification of proof of age by certain club licensees.**
- 12263 Section **32A-1-305, Penalty.**
- 12264 Section **32A-1-401, Alcohol training and education -- Revocation, suspension, or**
- 12265 **nonrenewal of licenses.**

- 12266 Section 32A-1-601, Title -- Purpose -- Application to other laws.
- 12267 Section 32A-1-602, General restrictions on attire and conduct.
- 12268 Section 32A-1-603, Sexually oriented entertainer.
- 12269 Section 32A-1-604, Compliance -- Disciplinary proceeding.
- 12270 Section 32A-1-701, Title.
- 12271 Section 32A-1-702, Requirement for a criminal background check.
- 12272 Section 32A-1-703, Use of information from a criminal background check.
- 12273 Section 32A-1-704, Criminal background check procedure.
- 12274 Section 32A-1-801, Title.
- 12275 Section 32A-1-802, Definitions.
- 12276 Section 32A-1-803, Power of the commission and department to classify flavored
- 12277 **malt beverages.**
- 12278 Section 32A-1-804, Requirements for labeling and packaging -- Authority of the
- 12279 **commission and department.**
- 12280 Section 32A-1-805, General procedure for approval.
- 12281 Section 32A-1-806, Special procedure for flavored malt beverages.
- 12282 Section 32A-1-807, Rulemaking authority.
- 12283 Section 32A-1-808, Disciplinary proceeding for violation.
- 12284 Section 32A-1-809, Transition protections.
- 12285 Section 32A-2-101, Commission's power to establish state stores -- Limitations.
- 12286 Section 32A-2-102, State store -- Commission and department duties before
- 12287 **establishing.**
- 12288 Section 32A-2-103, Operational restrictions.
- 12289 Section 32A-2-104, Delivery of liquor to state stores.
- 12290 Section 32A-3-101, Commission's power to establish package agencies --
- 12291 **Limitations.**
- 12292 Section 32A-3-102, Application requirements.
- 12293 Section 32A-3-103, Qualifications.

- 12294 Section **32A-3-104, Commission and department duties before establishing.**
- 12295 Section **32A-3-105, Bond.**
- 12296 Section **32A-3-106, Operational restrictions.**
- 12297 Section **32A-3-107, Delivery of liquor to package agencies.**
- 12298 Section **32A-3-108, Return of inventory.**
- 12299 Section **32A-4-101, Commission's power to grant licenses -- Limitations.**
- 12300 Section **32A-4-102, Application and renewal requirements.**
- 12301 Section **32A-4-103, Qualifications.**
- 12302 Section **32A-4-104, Commission and department duties before granting licenses.**
- 12303 Section **32A-4-105, Bond.**
- 12304 Section **32A-4-106, Operational restrictions.**
- 12305 Section **32A-4-201, Commission's power to grant licenses -- Limitations.**
- 12306 Section **32A-4-202, Application and renewal requirements.**
- 12307 Section **32A-4-203, Qualifications.**
- 12308 Section **32A-4-204, Commission and department duties before granting licenses.**
- 12309 Section **32A-4-205, Bond.**
- 12310 Section **32A-4-206, Operational restrictions.**
- 12311 Section **32A-4-301, Definitions.**
- 12312 Section **32A-4-302, Commission's power to grant licenses -- Limitations.**
- 12313 Section **32A-4-303, Application and renewal requirements.**
- 12314 Section **32A-4-304, Qualifications.**
- 12315 Section **32A-4-305, Commission and department duties before granting licenses.**
- 12316 Section **32A-4-306, Bond.**
- 12317 Section **32A-4-307, Operational restrictions.**
- 12318 Section **32A-4-401, Definitions -- Commission's power to grant licenses --**
- 12319 **Limitations.**
- 12320 Section **32A-4-402, Application and renewal requirements.**
- 12321 Section **32A-4-403, Qualifications.**

- 12322 Section **32A-4-404, Commission and department duties before granting licenses.**
- 12323 Section **32A-4-405, Bond.**
- 12324 Section **32A-4-406, Operational restrictions.**
- 12325 Section **32A-4a-101, Title.**
- 12326 Section **32A-4a-102, Definitions.**
- 12327 Section **32A-4a-201, Commission's power to license a resort -- Limitations.**
- 12328 Section **32A-4a-202, Application and renewal requirements.**
- 12329 Section **32A-4a-203, Qualifications.**
- 12330 Section **32A-4a-204, Commission and department duties before granting resort**
- 12331 **license.**
- 12332 Section **32A-4a-205, Bond.**
- 12333 Section **32A-4a-301, Commission's power to grant resort spa sublicense --**
- 12334 **Limitations.**
- 12335 Section **32A-4a-302, Application and renewal requirements.**
- 12336 Section **32A-4a-303, Qualifications.**
- 12337 Section **32A-4a-304, Commission and department duties before granting a resort**
- 12338 **spa sublicense.**
- 12339 Section **32A-4a-305, Operational restrictions.**
- 12340 Section **32A-4a-401, Operational restrictions for resort license.**
- 12341 Section **32A-4a-402, Operational restrictions for a sublicense.**
- 12342 Section **32A-4a-501, Enforcement of qualifications for a resort license or**
- 12343 **sublicense.**
- 12344 Section **32A-4a-502, Enforcement of operational restrictions for a resort license**
- 12345 **or sublicense.**
- 12346 Section **32A-4a-503, Enforcement of Nuisance Licensee Act.**
- 12347 Section **32A-5-101, Commission's power to license clubs -- Limitations.**
- 12348 Section **32A-5-102 (Subsec (1)(j) Superseded 07/01/10), Application and renewal**
- 12349 **requirements.**

- 12350 Section **32A-5-102 (Subsec (1)(j) Effective 07/01/10), Application and renewal**
- 12351 **requirements.**
- 12352 Section **32A-5-103, Qualifications.**
- 12353 Section **32A-5-104, Commission and department duties before granting licenses.**
- 12354 Section **32A-5-106, Bond.**
- 12355 Section **32A-5-107, Operational restrictions.**
- 12356 Section **32A-5-109, Transition in types of clubs.**
- 12357 Section **32A-5-110, Information obtained by investigator.**
- 12358 Section **32A-6-101, Commission's power to issue permits -- Limitations.**
- 12359 Section **32A-6-102, Application and renewal requirements.**
- 12360 Section **32A-6-103, Qualifications.**
- 12361 Section **32A-6-104, Duties of commission and department before issuing permits.**
- 12362 Section **32A-6-105, Operational restrictions.**
- 12363 Section **32A-6-201, Application and renewal requirements.**
- 12364 Section **32A-6-202, Operational restrictions.**
- 12365 Section **32A-6-301, Application requirements.**
- 12366 Section **32A-6-302, Operational restrictions.**
- 12367 Section **32A-6-401, Application requirements.**
- 12368 Section **32A-6-501, Operational restrictions.**
- 12369 Section **32A-6-502, Church or religious organization exemption.**
- 12370 Section **32A-6-503, Application requirements.**
- 12371 Section **32A-6-601, Licensed health care facility exemption.**
- 12372 Section **32A-6-602, Health professions exemption.**
- 12373 Section **32A-6-603, Application requirements.**
- 12374 Section **32A-7-101, Commission's power to issue permits -- Limitations.**
- 12375 Section **32A-7-102, Application requirements.**
- 12376 Section **32A-7-103, Qualifications.**
- 12377 Section **32A-7-104, Commission and department duties before granting permits.**

- 12378 Section **32A-7-105, Bond.**
- 12379 Section **32A-7-106, Operational restrictions.**
- 12380 Section **32A-8-101, Commission's power to grant licenses -- Limitations --**
- 12381 **Exceptions.**
- 12382 Section **32A-8-102, Application and renewal requirements.**
- 12383 Section **32A-8-103, Qualifications.**
- 12384 Section **32A-8-104, Duties of commission and department before issuing licenses.**
- 12385 Section **32A-8-105, Bond.**
- 12386 Section **32A-8-106, Operational restrictions.**
- 12387 Section **32A-8-201, Authority and operational restrictions.**
- 12388 Section **32A-8-301, Distillery license -- Specific authority and restrictions.**
- 12389 Section **32A-8-401, Authority and operational restrictions.**
- 12390 Section **32A-8-501, Commission's power to grant licenses.**
- 12391 Section **32A-8-502, Application and renewal requirements.**
- 12392 Section **32A-8-503, Qualifications.**
- 12393 Section **32A-8-504, Commission and department duties before granting licenses,**
- 12394 **and in issuing licenses.**
- 12395 Section **32A-8-505, Operational restrictions.**
- 12396 Section **32A-9-101, Commission's power to issue licenses.**
- 12397 Section **32A-9-102, Application and renewal requirements.**
- 12398 Section **32A-9-103, Qualifications.**
- 12399 Section **32A-9-104, Duties of commission and department before issuing licenses.**
- 12400 Section **32A-9-105, Bond.**
- 12401 Section **32A-9-106, Operational restrictions.**
- 12402 Section **32A-10-101, State and local licensing -- Limitations.**
- 12403 Section **32A-10-102, General restrictions.**
- 12404 Section **32A-10-103, Alcohol training and education for off-premise consumption**
- 12405 **-- Requirements on off-premise beer retailer licensees -- Penalties related to sales to**

- 12406 **minors -- Hearings -- Tracking.**
- 12407 Section **32A-10-201, Commission's power to grant licenses -- Limitations.**
- 12408 Section **32A-10-202, Application and renewal requirements.**
- 12409 Section **32A-10-203, Qualifications.**
- 12410 Section **32A-10-204, Commission and department duties before granting licenses.**
- 12411 Section **32A-10-205, Bond.**
- 12412 Section **32A-10-206, Operational restrictions.**
- 12413 Section **32A-10-207, Information obtained by investigator.**
- 12414 Section **32A-10-301, Commission's power to grant temporary special event beer**
- 12415 **permits -- Limitations.**
- 12416 Section **32A-10-302, Application requirements.**
- 12417 Section **32A-10-303, Qualifications.**
- 12418 Section **32A-10-304, Commission and department duties before granting permits.**
- 12419 Section **32A-10-305, Bond.**
- 12420 Section **32A-10-306, Operational restrictions.**
- 12421 Section **32A-11-101, Commission's power to issue licenses.**
- 12422 Section **32A-11-102, Application and renewal requirements.**
- 12423 Section **32A-11-103, Qualifications.**
- 12424 Section **32A-11-104, Commission and department duties before issuing licenses.**
- 12425 Section **32A-11-105, Bond.**
- 12426 Section **32A-11-106, Operational restrictions.**
- 12427 Section **32A-11a-101, Title -- Legislative intent.**
- 12428 Section **32A-11a-102, Definitions.**
- 12429 Section **32A-11a-103, Termination of distributorship agreements.**
- 12430 Section **32A-11a-104, Notice of termination.**
- 12431 Section **32A-11a-105, Prohibited conduct of supplier.**
- 12432 Section **32A-11a-106, Prohibited conduct of wholesaler.**
- 12433 Section **32A-11a-107, Sale or transfer of business assets or ownership.**

- 12434 Section **32A-11a-108, Reasonable compensation -- Arbitration.**
- 12435 Section **32A-11a-109, Sale or transfer of supplier's business.**
- 12436 Section **32A-11a-110, Judicial remedies.**
- 12437 Section **32A-11a-111, Modifying statutory requirements not permitted.**
- 12438 Section **32A-12-101, Applicability of Utah Criminal Code.**
- 12439 Section **32A-12-102, Special burdens of proof -- Inferences and presumptions.**
- 12440 Section **32A-12-103, Criminal responsibility for conduct of another.**
- 12441 Section **32A-12-104, Violation of title a misdemeanor.**
- 12442 Section **32A-12-105, Additional criminal penalties.**
- 12443 Section **32A-12-201, Unlawful sale or furnishing.**
- 12444 Section **32A-12-202, Unauthorized sale or supply.**
- 12445 Section **32A-12-203, Unlawful sale or furnishing to minors.**
- 12446 Section **32A-12-204, Unlawful sale or furnishing to intoxicated persons.**
- 12447 Section **32A-12-205, Unlawful sale or supply to interdicted persons.**
- 12448 Section **32A-12-206, Unlawful sale or supply of beer.**
- 12449 Section **32A-12-207, Unlawful sale or furnishing during emergency.**
- 12450 Section **32A-12-208, Unlawful purchase or acceptance.**
- 12451 Section **32A-12-209, Unlawful purchase, possession, consumption by minors --**
- 12452 **Measurable amounts in body.**
- 12453 Section **32A-12-209.5, Unlawful admittance or attempt to gain admittance by**
- 12454 **minor.**
- 12455 Section **32A-12-210, Unlawful purchase by intoxicated persons.**
- 12456 Section **32A-12-211, Unlawful purchase by interdicted persons.**
- 12457 Section **32A-12-212, Unlawful possession -- Exceptions.**
- 12458 Section **32A-12-213, Unlawful bringing onto premises for consumption.**
- 12459 Section **32A-12-214, Unlawful possession by licensees or permittees.**
- 12460 Section **32A-12-215, Unlawful storage.**
- 12461 Section **32A-12-216, Unlawful permitting of intoxication.**

- 12462 Section 32A-12-217, **Unlawful permitting of consumption by minors.**
- 12463 Section 32A-12-219, **Unlawful adulteration -- Licensing tampering.**
- 12464 Section 32A-12-220, **Unlawful consumption in public places.**
- 12465 Section 32A-12-221, **Lawful detention.**
- 12466 Section 32A-12-222, **Unlawful dispensing.**
- 12467 Section 32A-12-223, **Minor's unlawful use of proof of age.**
- 12468 Section 32A-12-301, **Operating without a license or permit.**
- 12469 Section 32A-12-302, **Storing or possessing pursuant to federal stamp.**
- 12470 Section 32A-12-303, **Tampering with records.**
- 12471 Section 32A-12-304, **Making false statements.**
- 12472 Section 32A-12-305, **Obstructing an officer making a search or an official**
- 12473 **proceeding or investigation.**
- 12474 Section 32A-12-306, **Conflicting interests.**
- 12475 Section 32A-12-307, **Interfering with suppliers.**
- 12476 Section 32A-12-308, **Offering or soliciting bribes or gifts.**
- 12477 Section 32A-12-310, **Forgery.**
- 12478 Section 32A-12-401, **Advertising prohibited -- Exceptions.**
- 12479 Section 32A-12-501, **Disposition of liquor items shipped to the department.**
- 12480 Section 32A-12-502, **Unlawful removal from conveyance or diversion of**
- 12481 **shipments.**
- 12482 Section 32A-12-504, **Unlawful transportation.**
- 12483 Section 32A-12-505, **Lawful transportation.**
- 12484 Section 32A-12-506, **Carriers' records.**
- 12485 Section 32A-12-601, **Definitions.**
- 12486 Section 32A-12-602, **Exclusive outlets.**
- 12487 Section 32A-12-603, **Tied house -- Prohibitions.**
- 12488 Section 32A-12-604, **Commercial bribery.**
- 12489 Section 32A-12-605, **Consignment sales.**

- 12490 Section **32A-12-606, Unlawful acts involving consumers.**
- 12491 Section **32A-13-101, Utah Code of Criminal Procedure applicable.**
- 12492 Section **32A-13-102, Arrests.**
- 12493 Section **32A-13-103, Searches, seizures, and forfeitures.**
- 12494 Section **32A-13-104, Prosecutions.**
- 12495 Section **32A-13-105, Fines and forfeitures.**
- 12496 Section **32A-13-106, Nuisances.**
- 12497 Section **32A-13-107, Right of appeal.**
- 12498 Section **32A-13-108, Duties to enforce this title.**
- 12499 Section **32A-13-109, Authority to inspect.**
- 12500 Section **32A-14a-101, Definitions.**
- 12501 Section **32A-14a-102, Liability for injuries and damage resulting from**
- 12502 **distribution of alcoholic beverages -- Causes of action -- Statute of limitations --**
- 12503 **Employee protections.**
- 12504 Section **32A-14a-103, Employee protected in exercising judgment.**
- 12505 Section **32A-14a-104, Governmental immunity.**
- 12506 Section **32A-14a-105, Action for contribution by provider of alcoholic beverages.**
- 12507 Section **32A-14b-101, Title.**
- 12508 Section **32A-14b-102, Definitions.**
- 12509 Section **32A-14b-201, Liability related to applicable fine.**
- 12510 Section **32A-14b-202, Bringing an action.**
- 12511 Section **32A-14b-203, Action for contribution.**
- 12512 Section **32A-15a-101, Title.**
- 12513 Section **32A-15a-102, Definitions.**
- 12514 Section **32A-15a-103, Rulemaking.**
- 12515 Section **32A-15a-201, Commission to prohibit nuisance activities by licensees --**
- 12516 **License not renewed.**
- 12517 Section **32A-15a-202, Formal objections to renewal.**

12518 Section **32A-15a-203, Hearing on formal objections to renewal.**
12519 Section 384. **Effective date.**
12520 This bill takes effect on July 1, 2011, except the amendments to Section
12521 58-82-102(Effective 07/01/12) take effect on July 1, 2012.
12522 Section 385. **Revisor instructions.**
12523 It is the intent of the Legislature that the Office of Legislative Research and General
12524 Counsel, in preparing the Utah Code database for publication make the following changes to
12525 take effect on July 1, 2011:
12526 (1) for a section newly enacted during the 2010 General Session in Title 32A,
12527 Alcoholic Beverage Control Act, that is not referred to in this bill, the Office of Legislative
12528 Research and General Counsel shall renumber the section to the corresponding chapter and
12529 part in Title 32B, Alcoholic Beverage Control Act; and
12530 (2) for a cross reference to Title 32A newly enacted during the 2010 General Session,
12531 that is not referred to in this bill, the Office of Legislative Research and General Counsel shall
12532 change the cross reference to the corresponding cross reference in Title 32B.
12533 Section 386. **Coordinating this S.B. 167 with S.B. 141 -- Technically merging**
12534 **changes.**
12535 If this S.B. 167 and S.B. 141, Utah Substance Abuse and Anti-violence Coordinating
12536 Council Amendments, both pass, it is the intent of the Legislature that the Office of
12537 Legislative Research and General Counsel, in preparing the Utah Code database for
12538 publication make the following changes in the following subsections enacted in this bill to
12539 take effect July 1, 2011:
12540 (1) (a) modify Subsection 32B-2-402(1)(d) to read "(b) "Advisory council" means the
12541 Utah Substance Abuse Advisory Council created in Section 63M-7-301."; and
12542 (b) reorder the remaining definitions in Subsection 32B-2-402(1) to be in alphabetical
12543 order; and
12544 (2) change the reference in Subsection 32B-7-305(5) from "Utah Substance Abuse and
12545 Anti-violence Coordinating Council" to "Utah Substance Abuse Advisory Council".

12546