

Part 1 General Provisions

32B-1-101 Title.

- (1) This title is known as the "Alcoholic Beverage Control Act."
- (2) This chapter is known as "Alcoholic Beverage Control General Provisions."

Enacted by Chapter 276, 2010 General Session

32B-1-102 Definitions.

As used in this title:

- (1) "Airport lounge" means a business location:
 - (a) at which an alcoholic product is sold at retail for consumption on the premises; and
 - (b) that is located at an international airport or domestic airport.
- (2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- (3) "Alcoholic beverage" means the following:
 - (a) beer; or
 - (b) liquor.
- (4)
 - (a) "Alcoholic product" means a product that:
 - (i) contains at least .5% of alcohol by volume; and
 - (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.
 - (b) "Alcoholic product" includes an alcoholic beverage.
 - (c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:
 - (i) except as provided in Subsection (4)(d), an extract;
 - (ii) vinegar;
 - (iii) preserved nonintoxicating cider;
 - (iv) essence;
 - (v) tincture;
 - (vi) food preparation; or
 - (vii) an over-the-counter medicine.
 - (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.
- (5) "Alcohol training and education seminar" means a seminar that is:
 - (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
 - (b) described in Section 26B-5-205.
- (6) "Arena" means an enclosed building:
 - (a) that is managed by:
 - (i) the same person who owns the enclosed building;
 - (ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or
 - (iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

- (b) that operates as a venue; and
 - (c) that has an occupancy capacity of at least 12,500.
- (7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.
- (8) "Banquet" means an event:
- (a) that is a private event or a privately sponsored event;
 - (b) that is held at one or more designated locations approved by the commission in or on the premises of:
 - (i) a hotel;
 - (ii) a resort facility;
 - (iii) a sports center;
 - (iv) a convention center;
 - (v) a performing arts facility;
 - (vi) an arena; or
 - (vii) a restaurant venue;
 - (c) for which there is a contract:
 - (i) between a person operating a facility listed in Subsection (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and
 - (ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and
 - (d) at which food and alcoholic products may be sold, offered for sale, or furnished.
- (9)
- (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
 - (b) "Bar establishment license" includes:
 - (i) a dining club license;
 - (ii) an equity license;
 - (iii) a fraternal license; or
 - (iv) a bar license.
- (10) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
- (11)
- (a) "Beer" means a product that:
 - (i) contains:
 - (A) at least .5% of alcohol by volume; and
 - (B) no more than 5% of alcohol by volume or 4% by weight;
 - (ii) is obtained by fermentation, infusion, or decoction of:
 - (A) malt; or
 - (B) a malt substitute; and
 - (iii) is clearly marketed, labeled, and identified as:
 - (A) beer;
 - (B) ale;
 - (C) porter;
 - (D) stout;
 - (E) lager;
 - (F) a malt;
 - (G) a malted beverage; or
 - (H) seltzer.

- (b) "Beer" may contain:
 - (i) hops extract;
 - (ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or
 - (iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:
 - (A) is used in the production of beer;
 - (B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and
 - (C) does not contribute more than 10% of the overall alcohol content of the beer.
- (c) "Beer" does not include:
 - (i) a flavored malt beverage;
 - (ii) a product that contains alcohol derived from:
 - (A) except as provided in Subsection (11)(b)(iii), spirituous liquor; or
 - (B) wine; or
 - (iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- (12) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- (13) "Beer retailer" means a business that:
 - (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and
 - (b) is licensed as:
 - (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or
 - (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.
- (14) "Beer wholesaling license" means a license:
 - (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
 - (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.
- (15) "Billboard" means a public display used to advertise, including:
 - (a) a light device;
 - (b) a painting;
 - (c) a drawing;
 - (d) a poster;
 - (e) a sign;
 - (f) a signboard; or
 - (g) a scoreboard.
- (16) "Brewer" means a person engaged in manufacturing:
 - (a) beer;
 - (b) heavy beer; or
 - (c) a flavored malt beverage.
- (17) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.
- (18) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.
- (19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:
 - (a) under a single contract;

- (b) at a fixed charge in accordance with the bus company's tariff; and
 - (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.
- (20) "Church" means a building:
- (a) set apart for worship;
 - (b) in which religious services are held;
 - (c) with which clergy is associated; and
 - (d) that is tax exempt under the laws of this state.
- (21) "Commission" means the Alcoholic Beverage Services Commission created in Section 32B-2-201.
- (22) "Commissioner" means a member of the commission.
- (23) "Community location" means:
- (a) a public or private school as defined in Subsection 32B-1-102(115);
 - (b) a church;
 - (c) a public library;
 - (d) a public playground; or
 - (e) a public park.
- (24) "Community location governing authority" means:
- (a) the governing body of the community location; or
 - (b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.
- (25) "Container" means a receptacle that contains an alcoholic product, including:
- (a) a bottle;
 - (b) a vessel; or
 - (c) a similar item.
- (26) "Controlled group of manufacturers" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (27) "Convention center" means a facility that is:
- (a) in total at least 30,000 square feet; and
 - (b) otherwise defined as a "convention center" by the commission by rule.
- (28)
- (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.
 - (b) "Counter" does not include a dispensing structure.
- (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- (30) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.
- (31) "Department compliance officer" means an individual who is:
- (a) an auditor or inspector; and
 - (b) employed by the department.
- (32) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.
- (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.
- (34) "Director," unless the context requires otherwise, means the director of the department.
- (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

- (a) against a person subject to administrative action; and
 - (b) that is brought on the basis of a violation of this title.
- (36)
- (a) Subject to Subsection (36)(b), "dispense" means:
 - (i) drawing an alcoholic product; and
 - (ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.
 - (b) The definition of "dispense" in this Subsection (36) applies only to:
 - (i) a full-service restaurant license;
 - (ii) a limited-service restaurant license;
 - (iii) a reception center license;
 - (iv) a beer-only restaurant license;
 - (v) a bar license;
 - (vi) an on-premise beer retailer;
 - (vii) an airport lounge license;
 - (viii) an on-premise banquet license; and
 - (ix) a hospitality amenity license.
- (37) "Dispensing structure" means a surface or structure on a licensed premises:
- (a) where an alcoholic product is dispensed; or
 - (b) from which an alcoholic product is served.
- (38) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.
- (39) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.
- (40) "Domestic airport" means an airport that:
- (a) has at least 15,000 commercial airline passenger boardings in any five-year period;
 - (b) receives scheduled commercial passenger aircraft service; and
 - (c) is not an international airport.
- (41) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.
- (42) "Event permit" means:
- (a) a single event permit; or
 - (b) a temporary beer event permit.
- (43) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.
- (44)
- (a) "Flavored malt beverage" means a beverage:
 - (i) that contains at least .5% alcohol by volume;
 - (ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and
 - (iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

- (b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.
- (c) "Flavored malt beverage" does not include beer or heavy beer.
- (d) "Flavored malt beverage" is considered liquor for purposes of this title.
- (45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.
- (46) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.
- (47)
 - (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.
 - (b) "Furnish" includes to:
 - (i) serve;
 - (ii) deliver; or
 - (iii) otherwise make available.
- (48) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).
- (49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.
- (50) "Health care practitioner" means:
 - (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
 - (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
 - (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
 - (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;
 - (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
 - (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;
 - (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;
 - (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
 - (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;
 - (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
 - (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and
 - (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.
- (51)
 - (a) "Heavy beer" means a product that:
 - (i)
 - (A) contains more than 5% alcohol by volume;
 - (B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes more than 10% of the overall alcohol content of the product; or
 - (C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and has a label or packaging that is rejected under Subsection 32B-1-606(3)(b); and
 - (ii) is obtained by fermentation, infusion, or decoction of:

- (A) malt; or
 - (B) a malt substitute.
- (b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume, contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the heavy beer.
- (c) "Heavy beer" does not include:
- (i) a flavored malt beverage;
 - (ii) a product that contains alcohol derived from:
 - (A) except as provided in Subsections (51)(a)(i)(B) and (51)(b), spirituous liquor; or
 - (B) wine; or
 - (iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- (d) "Heavy beer" is considered liquor for the purposes of this title.
- (52) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.
- (53)
- (a) "Hotel" means a commercial lodging establishment that:
- (i) offers at least 40 rooms as temporary sleeping accommodations for compensation;
 - (ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and
 - (iii)
 - (A) has adequate kitchen or culinary facilities on the premises to provide complete meals;
 - (B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or
 - (C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.
- (b) "Hotel" includes a commercial lodging establishment that:
- (i) meets the requirements under Subsection (53)(a); and
 - (ii) has one or more privately owned dwelling units.
- (54) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.
- (55) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.
- (56) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.
- (57) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.
- (58) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:
- (a) law; or
 - (b) court order.
- (59) "International airport" means an airport:
- (a) with a United States Customs and Border Protection office on the premises of the airport; and
 - (b) at which international flights may enter and depart.

- (60) "Intoxicated" or "intoxication" means that
an individual exhibits plain and easily observable outward manifestations of behavior or
physical signs produced by or as a result of the use of:
- (a) an alcoholic product;
 - (b) a controlled substance;
 - (c) a substance having the property of releasing toxic vapors; or
 - (d) a combination of products or substances described in Subsections (60)(a) through (c).
- (61) "Investigator" means an individual who is:
- (a) a department compliance officer; or
 - (b) a nondepartment enforcement officer.
- (62) "License" means:
- (a) a retail license;
 - (b) a sublicense;
 - (c) a license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License;
 - (d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;
 - (e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
 - (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or
 - (g) a license issued in accordance with Chapter 17, Liquor Transport License Act.
- (63) "Licensee" means a person who holds a license.
- (64) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- (65) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:
- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;
 - (b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and
 - (c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.
- (66)
- (a)
 - (i) "Liquor" means a liquid that:
 - (A) is:
 - (I) alcohol;
 - (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
 - (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
 - (IV) other drink or drinkable liquid; and
 - (B)
 - (I) contains at least .5% alcohol by volume; and
 - (II) is suitable to use for beverage purposes.
 - (ii) "Liquor" includes:
 - (A) heavy beer;
 - (B) wine; and
 - (C) a flavored malt beverage.
 - (b) "Liquor" does not include beer.
- (67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.
- (68) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

- (69) "Liquor warehousing license" means a license that is issued:
- (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
 - (b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.
- (70) "Local authority" means:
- (a) for premises that are located in an unincorporated area of a county, the governing body of a county;
 - (b) for premises that are located in an incorporated city or town, the governing body of the city or town; or
 - (c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.
- (71) "Lounge or bar area" is as defined by rule made by the commission.
- (72) "Malt substitute" means:
- (a) rice;
 - (b) grain;
 - (c) bran;
 - (d) glucose;
 - (e) sugar; or
 - (f) molasses.
- (73) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.
- (74) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.
- (75)
- (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:
 - (i)
 - (A) under the control of the United States Department of Defense; or
 - (B) of the National Guard;
 - (ii) that is located within the state; and
 - (iii) including a leased facility.
 - (b) "Military installation" does not include a facility used primarily for:
 - (i) civil works;
 - (ii) a rivers and harbors project; or
 - (iii) a flood control project.
- (76) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.
- (77) "Minor" means an individual under 21 years old.
- (78) "Nondepartment enforcement agency" means an agency that:
- (a)
 - (i) is a state agency other than the department; or
 - (ii) is an agency of a county, city, or town; and
 - (b) has a responsibility to enforce one or more provisions of this title.
- (79) "Nondepartment enforcement officer" means an individual who is:
- (a) a peace officer, examiner, or investigator; and
 - (b) employed by a nondepartment enforcement agency.

(80)

- (a) "Off-premise beer retailer" means a beer retailer who is:
 - (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
 - (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

- (b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(81) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License.

(82) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(83) "On-premise beer retailer" means a beer retailer who is:

- (a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
- (b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:
 - (i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and
 - (ii) on and after March 1, 2012, operating:
 - (A) as a tavern; or
 - (B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(84) "Opaque" means impenetrable to sight.

(85) "Package agency" means a retail liquor location operated:

- (a) under an agreement with the department; and
- (b) by a person:
 - (i) other than the state; and
 - (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

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

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

- (a) a customer;
- (b) a member;
- (c) a guest;
- (d) an attendee of a banquet or event;
- (e) an individual who receives room service;
- (f) a resident of a resort; or
- (g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

(88)

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

- (i) is primarily used to present various types of performing arts, including dance, music, and theater;
 - (ii) contains over 2,500 seats;
 - (iii) is owned and operated by a governmental entity; and
 - (iv) is located in a city of the first class.

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

(89) "Permittee" means a person issued a permit under:

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

(90) "Person subject to administrative action" means:

- (a) a licensee;
- (b) a permittee;
- (c) a manufacturer;
- (d) a supplier;
- (e) an importer;
- (f) one of the following holding a certificate of approval:
 - (i) an out-of-state brewer;
 - (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- (g) staff of:
 - (i) a person listed in Subsections (90)(a) through (f); or
 - (ii) a package agent.

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

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

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

(93)

- (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

(94) "Principal license" means:

- (a) a resort license;
- (b) a hotel license; or
- (c) an arena license.

(95)

- (a) "Private event" means a specific social, business, or recreational event:
 - (i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and
 - (ii) that is limited in attendance to people who are specifically designated and their guests.
- (b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(96) "Privately sponsored event" means a specific social, business, or recreational event:

- (a) that is held in or on the premises of an on-premise banquet licensee; and
- (b) to which entry is restricted by an admission fee.

(97)

- (a) "Proof of age" means:
 - (i) an identification card;
 - (ii) an identification that:
 - (A) is substantially similar to an identification card;
 - (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
 - (C) includes date of birth; and
 - (D) has a picture affixed;
 - (iii) a valid driver license certificate that:

- (A) includes date of birth;
- (B) has a picture affixed; and
- (C) is issued under Title 53, Chapter 3, Uniform Driver License Act, in accordance with the laws of the state in which it is issued, or in accordance with federal law by the United States Department of State;
- (iv) a military identification card that:
 - (A) includes date of birth; and
 - (B) has a picture affixed; or
- (v) a valid passport.
- (b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.
- (98) "Provisions applicable to a sublicense" means:
 - (a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;
 - (b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;
 - (c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;
 - (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;
 - (e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;
 - (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;
 - (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and
 - (h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Resort Spa Sublicense.
- (99)
 - (a) "Public building" means a building or permanent structure that is:
 - (i) owned or leased by:
 - (A) the state; or
 - (B) a local government entity; and
 - (ii) used for:
 - (A) public education;
 - (B) transacting public business; or
 - (C) regularly conducting government activities.
 - (b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.
- (100) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.
- (101) "Reception center" means a business that:
 - (a) operates facilities that are at least 5,000 square feet; and
 - (b) has as its primary purpose the leasing of the facilities described in Subsection (101)(a) to a third party for the third party's event.
- (102) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(103)

(a) "Record" means information that is:

- (i) inscribed on a tangible medium; or
- (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

- (i) a book;
- (ii) a book of account;
- (iii) a paper;
- (iv) a contract;
- (v) an agreement;
- (vi) a document; or
- (vii) a recording in any medium.

(104) "Residence" means a person's principal place of abode within Utah.

(105) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

(106) "Resort" means the same as that term is defined in Section 32B-8-102.

(107) "Resort facility" is as defined by the commission by rule.

(108) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

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

- (a) over-serving alcoholic beverages to customers;
- (b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and
- (c) serving alcoholic beverages to minors.

(110) "Restaurant" means a business location:

- (a) at which a variety of foods are prepared;
- (b) at which complete meals are served; and
- (c) that is engaged primarily in serving meals.

(111) "Restaurant license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;
- (b) a limited-service restaurant license; or
- (c) a beer-only restaurant license.

(112) "Restaurant venue" means a room within a restaurant that:

- (a) is located on the licensed premises of a restaurant licensee;
- (b) is separated from the area within the restaurant for a patron's consumption of food by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a patron in the area within the restaurant for a patron's consumption of food; and

(c)

- (i) has at least 1,000 square feet that:
 - (A) may be reserved for a banquet; and
 - (B) accommodates at least 75 individuals; or
- (ii) if the restaurant is located in a small or unincorporated locality, has an appropriate amount of space, as determined by the commission, that may be reserved for a banquet.

(113) "Retail license" means one of the following licenses issued under this title:

- (a) a full-service restaurant license;
- (b) a master full-service restaurant license;
- (c) a limited-service restaurant license;

- (d) a master limited-service restaurant license;
 - (e) a bar establishment license;
 - (f) an airport lounge license;
 - (g) an on-premise banquet license;
 - (h) an on-premise beer license;
 - (i) a reception center license;
 - (j) a beer-only restaurant license;
 - (k) a hospitality amenity license;
 - (l) a resort license;
 - (m) a hotel license; or
 - (n) an arena license.
- (114) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:
- (a) hotel; or
 - (b) resort facility.
- (115)
- (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:
 - (i) elementary school;
 - (ii) secondary school; or
 - (iii) kindergarten.
 - (b) "School" does not include:
 - (i) a nursery school;
 - (ii) a day care center;
 - (iii) a trade and technical school;
 - (iv) a preschool;
 - (v) a home school;
 - (vi) a home-based microschool as defined in Section 53G-6-201; or
 - (vii) a micro-education entity as defined in Section 53G-6-201.
- (116) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.
- (117) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.
- (118) "Serve" means to place an alcoholic product before an individual.
- (119) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:
- (a) for the entertainment of one or more patrons;
 - (b) on the premises of:
 - (i) a bar licensee; or
 - (ii) a tavern;
 - (c) on behalf of or at the request of the licensee described in Subsection (119)(b);
 - (d) on a contractual or voluntary basis; and
 - (e) whether or not the person is designated as:
 - (i) an employee;

- (ii) an independent contractor;
 - (iii) an agent of the licensee; or
 - (iv) a different type of classification.
- (120) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).
- (121) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.
- (122) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:
- (a) if the brewer is part of a controlled group of manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of manufacturers; and
 - (b) excluding beer, heavy beer, or flavored malt beverage the brewer:
 - (i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (ii) does not sell for consumption as, or in, a beverage.
- (123) "Small or unincorporated locality" means:
- (a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;
 - (b) a town, as classified under Section 10-2-301; or
 - (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.
- (124) "Spa sublicense" means a sublicense:
- (a) to a resort license or hotel license; and
 - (b) that the commission issues in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.
- (125) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.
- (126)
- (a) "Spirituos liquor" means liquor that is distilled.
 - (b) "Spirituos liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- (127) "Sports center" is as defined by the commission by rule.
- (128)
- (a) "Staff" means an individual who engages in activity governed by this title:
 - (i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;
 - (ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or
 - (iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.
 - (b) "Staff" includes:
 - (i) an officer;
 - (ii) a director;
 - (iii) an employee;
 - (iv) personnel management;
 - (v) an agent of the licensee, including a managing agent;
 - (vi) an operator; or
 - (vii) a representative.
- (129) "State of nudity" means:

- (a) the appearance of:
 - (i) the nipple or areola of a female human breast;
 - (ii) a human genital;
 - (iii) a human pubic area; or
 - (iv) a human anus; or
 - (b) a state of dress that fails to opaquely cover:
 - (i) the nipple or areola of a female human breast;
 - (ii) a human genital;
 - (iii) a human pubic area; or
 - (iv) a human anus.
- (130) "State of seminudity" means a state of dress in which opaque clothing covers no more than:
- (a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and
 - (b) the human genitals, pubic area, and anus:
 - (i) with no less than the following at its widest point:
 - (A) four inches coverage width in the front of the human body; and
 - (B) five inches coverage width in the back of the human body; and
 - (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- (131)
- (a) "State store" means a facility for the sale of packaged liquor:
 - (i) located on premises owned or leased by the state; and
 - (ii) operated by a state employee.
 - (b) "State store" does not include:
 - (i) a package agency;
 - (ii) a licensee; or
 - (iii) a permittee.
- (132)
- (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.
 - (b) "Store" means to place or maintain in a location an alcoholic product.
- (133) "Sublicense" means:
- (a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:
 - (i) a full-service restaurant license;
 - (ii) a limited-service restaurant license;
 - (iii) a bar establishment license;
 - (iv) an on-premise banquet license;
 - (v) an on-premise beer retailer license;
 - (vi) a beer-only restaurant license; or
 - (vii) a hospitality amenity license; or
 - (b) a spa sublicense.
- (134) "Supplier" means a person who sells an alcoholic product to the department.
- (135) "Tavern" means an on-premise beer retailer who is:
- (a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
 - (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

- (136) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.
- (137) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.
- (138) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.
- (139) "Unsaleable liquor merchandise" means a container that:
- (a) is unsaleable because the container is:
 - (i) unlabeled;
 - (ii) leaky;
 - (iii) damaged;
 - (iv) difficult to open; or
 - (v) partly filled;
 - (b)
 - (i) has faded labels or defective caps or corks;
 - (ii) has contents that are:
 - (A) cloudy;
 - (B) spoiled; or
 - (C) chemically determined to be impure; or
 - (iii) contains:
 - (A) sediment; or
 - (B) a foreign substance; or
 - (c) is otherwise considered by the department as unfit for sale.
- (140)
- (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.
 - (b) "Wine" includes:
 - (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and
 - (ii) hard cider.
 - (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.
- (141) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Amended by Chapter 438, 2024 General Session

Amended by Chapter 464, 2024 General Session

32B-1-103 Policy.

The policies of the state are as follows:

- (1) This title shall be administered in a manner that is nonpartisan and free of partisan political influence.
- (2) Alcoholic product control shall be operated as a public business using sound management principles and practices. This public business shall:
 - (a) be governed by a commission;
 - (b) be operated by a department; and
 - (c) function with the intent of servicing the public demand for alcoholic products.

- (3) The commission and department may not promote or encourage the sale or consumption of alcoholic products.
- (4) The commission shall conduct, license, and regulate the sale of alcoholic products in a manner and at prices that:
 - (a) reasonably satisfy the public demand and protect the public interest, including the rights of citizens who do not wish to be involved with alcoholic products; and
 - (b) will promote the reduction of the harmful effects of:
 - (i) overconsumption of alcoholic products by adults; and
 - (ii) consumption of alcoholic products by minors.

Enacted by Chapter 276, 2010 General Session

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

- (1)
 - (a) This title is an exercise of the police powers of the state for the protection of the public health, peace, safety, welfare, and morals, and regulates the storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product.
 - (b) This title governs alcoholic product control unless otherwise provided in this title.
- (2)
 - (a) A licensee or permittee has the rights and privileges described in this title that are applicable to the licensee's or permittee's license or permit.
 - (b) A licensee or permittee may engage in an activity related to the storage, sale, offer for sale, furnishing, consumption, manufacture, or distribution of an alcoholic product only if the activity is expressly permitted under this title or a rule authorized under this title and made by the commission.
- (3) The department and the commission:
 - (a) shall implement and enforce the provisions of this title in accordance with the express language of the provisions of this title and in a manner consistent with the policy described in Section 32B-1-103; and
 - (b) may not waive any provision of this title.
- (4) If a provision of this title or the application of a provision to a person or circumstance is held invalid, the remainder of this title shall be given effect without the invalid provision or application. The provisions of this title are severable.

Amended by Chapter 455, 2017 General Session