

Part 2 Miscellaneous Provisions

32B-1-201 Restrictions on number of retail licenses that may be issued -- Determining population -- Exempt licenses.

- (1) As used in this section:
- (a) "Alcohol-related law enforcement officer" means a law enforcement officer employed by the Department of Public Safety that has as a primary responsibility:
 - (i) the enforcement of this title; or
 - (ii) the enforcement of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.
 - (b) "Enforcement ratio" is the number calculated as follows:
 - (i) determine the quotient equal to the sum of the total number of quota retail licenses available and the total number of licensed premises operating under a master full-service restaurant license or under a master limited-service restaurant license divided by the total number of alcohol-related law enforcement officers; and
 - (ii) round the number determined in accordance with Subsection (1)(b)(i) up to the nearest whole number.
 - (c) "Quota retail license" means:
 - (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 operating as a tavern; and
 - (vi) a reception center license.
 - (d) "Total number of alcohol-related law enforcement officers" means the total number of positions designated as alcohol-related law enforcement officers that are funded as of a specified date as certified by the Department of Public Safety to the department.
 - (e) "Total number of quota retail licenses available" means the number calculated by:
 - (i) determining as of a specified date for each quota retail license the number of licenses that the commission may not exceed calculated by dividing the population of the state by the number specified in the relevant provision for the quota retail license; and
 - (ii) adding together the numbers determined under Subsection (1)(e)(i).
- (2)
- (a) Beginning on July 1, 2012, the department shall annually determine the enforcement ratio as of July 1 of that year.
 - (b) If, beginning on July 1, 2012, the enforcement ratio is greater than 52, the commission may not issue a quota retail license for the 12-month period beginning on the July 1 for which the enforcement ratio is greater than 52.
 - (c) Notwithstanding Subsection (2)(b), the commission may issue a quota retail license during the 12-month period described in Subsection (2)(b) beginning on the day on which a sufficient number of alcohol-related law enforcement officers are employed so that if the enforcement ratio is calculated, the enforcement ratio would be equal to or less than 52.
 - (d) Once the Department of Public Safety certifies under Subsection (1)(d) the total number of positions designated as alcohol-related law enforcement officers that are funded as of July 1, the Department of Public Safety may not use the funding for the designated alcohol-related law enforcement officers for a purpose other than funding those positions.

- (3) For purposes of determining the number of state stores that the commission may establish or the number of package agencies or retail licenses that the commission may issue, the commission shall determine population by:
 - (a) the most recent United States decennial or special census; or
 - (b) another population determination made by the United States or state governments.
- (4) The commission may not consider a retail license that meets the following conditions in determining the total number of licenses available for that type of retail license that the commission may issue at any time:
 - (a) the retail license was issued to a club licensee designated as a dining club as of July 1, 2011; and
 - (b) the dining club license is converted to another type of retail license in accordance with Section 32B-6-409.

Amended by Chapter 455, 2017 General Session

32B-1-202 Proximity to community location.

- (1) As used in this section:
 - (a) "Designated project area zone" means the area that is:
 - (i) bounded by:
 - (A) South Temple Street;
 - (B) 100 South Street;
 - (C) West Temple Street; and
 - (D) 400 West Street; and
 - (ii) within a project area as defined in Section 63N-3-1401.
 - (b)
 - (i) "Outlet" means:
 - (A) a state store;
 - (B) a package agency; or
 - (C) a retail licensee.
 - (ii) "Outlet" does not include:
 - (A) an airport lounge licensee; or
 - (B) a restaurant.
 - (c) "Restaurant" means:
 - (i) a full-service restaurant licensee;
 - (ii) a limited-service restaurant licensee;
 - (iii) a beer-only restaurant licensee; or
 - (iv) a restaurant venue on-premise banquet licensee.
- (2)
 - (a) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for an outlet if, on the date the commission takes final action to approve or deny the application, there is a community location:
 - (i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance of the proposed outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or
 - (ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest patron entrance of the proposed outlet to the nearest property boundary of the community location.

- (b) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for a restaurant if, on the date the commission takes final action to approve or deny the application, there is a community location:
 - (i) within 300 feet of the proposed restaurant, as measured from the nearest patron entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or
 - (ii) within 200 feet of the proposed restaurant, measured in a straight line from the nearest patron entrance of the proposed restaurant to the nearest property boundary of the community location.
- (3)
 - (a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under a previously approved variance to one or more proximity requirements in effect before May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or another outlet or restaurant with the same type of license as that outlet or restaurant, may operate under the previously approved variance regardless of whether:
 - (i) the outlet or restaurant changes ownership;
 - (ii) the property on which the outlet or restaurant is located changes ownership; or
 - (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse, the property is used for a different purpose.
 - (b) An outlet or a restaurant that has continuously operated at a location since before January 1, 2007, is considered to have a previously approved variance.
- (4) An outlet or restaurant that holds a license on May 12, 2020, and operates in accordance with the proximity requirements in effect at the time the commission issued the license or operates under a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant or an outlet or a restaurant with the same type of license as that outlet or restaurant may operate at the premises regardless of whether:
 - (a) the outlet or restaurant changes ownership;
 - (b) the property on which the outlet or restaurant is located changes ownership; or
 - (c) there is a lapse of one year or less in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.
- (5)
 - (a) If, after an outlet or a restaurant obtains a license under this title, a person establishes a community location on a property that puts the outlet or restaurant in violation of the proximity requirements in effect at the time the license is issued or a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant, may operate at the premises regardless of whether:
 - (i) the outlet or restaurant changes ownership;
 - (ii) the property on which the outlet or restaurant is located changes ownership; or
 - (iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.
 - (b) The provisions of this Subsection (5) apply regardless of when the outlet's or restaurant's license is issued.
- (6) The proximity requirements described in Subsection (2) do not apply if the proposed outlet or proposed restaurant and the community location are located within the boundaries of a designated project area zone.

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

Amended by Chapter 94, 2024 General Session

32B-1-202.1 Proximity for certain hotel and arena licensees.

- (1) As used in this section, "hotel" means the same as that term is defined in Section 32B-8b-102.
- (2) The commission may issue a hotel license for a proposed location that does not meet the proximity requirements under Section 32B-1-202, if:
 - (a) the proposed hotel is:
 - (i) located in a city classified as a city of the first class under Section 10-2-301;
 - (ii) within 650 feet of two community locations, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of each community location;
 - (iii) not within 300 feet of a community location, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; and
 - (iv) not within 200 feet of a community location, as measured in a straight line from the nearest patron entrance of the proposed hotel to the nearest property boundary of the community location;
 - (b) the proposed sublicensed premises of a bar establishment sublicense under the hotel license:
 - (i) is on the second or higher floor of a hotel;
 - (ii) is not accessible at street level; and
 - (iii) is only accessible to an individual who passes through another area of the hotel in which the bar establishment sublicense is located; and
 - (c) the applicant meets all other criteria under this title for the hotel license.
- (3) The commission may issue authority to operate as a package agency to a hotel licensee who meets the requirements described in Subsection (2).
- (4)
 - (a) The commission may issue an arena license for a proposed location that does not meet the proximity requirements described in Section 32B-1-202, if, on the day before the day on which the commission issues the license, each proposed sublicense of the arena license:
 - (i) operates as an outlet or restaurant; and
 - (ii)
 - (A) operates on the proposed sublicense premises under a variance to one or more proximity requirements in accordance with Section 32B-1-202; or
 - (B) has been in operation on the proposed sublicense premises for at least 10 years.
 - (b) After the commission issues an arena license in accordance with Subsection (4)(a), the commission may not issue the arena licensee an additional sublicense.

Amended by Chapter 371, 2023 General Session

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

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

- (a) may not issue a license to a person who violates this section; and
- (b) may suspend, revoke, or not renew the license of a licensee who violates this section.

Amended by Chapter 307, 2011 General Session

32B-1-204 Powers of local authority.

- (1) If this title expressly addresses an issue related to alcoholic product control in this state, a local authority may not regulate in relation to that issue except when a local authority is expressly granted regulatory authority to regulate the issue by this title.
- (2) If this title does not expressly address an issue related to alcoholic product control, a local authority may regulate that issue if the regulation:
 - (a) is of the sale, offer for sale, furnishing, or consumption of an alcoholic product; and
 - (b) does not conflict with this title.

Enacted by Chapter 276, 2010 General Session

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

- (1) A person required to make or maintain a record under this title or rules of the commission, or a person acting for that person, may not knowingly forge, falsify, alter, cancel, destroy, conceal, or remove the record for the purpose of deceiving the commission, a commissioner, the director, the department, a department employee, or a law enforcement officer.
- (2) A violation of this section may result in:
 - (a) disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, if the person who violates this section is a person subject to administrative action; or
 - (b) criminal prosecution if the violation is a criminal offense under Chapter 4, Criminal Offenses and Procedure Act.

Enacted by Chapter 276, 2010 General Session

32B-1-206 Advertising prohibited -- Exceptions.

- (1)
 - (a) The department may not advertise liquor, except:
 - (i) the department may provide for an appropriate sign in the window or on the front of a state store or package agency denoting that it is a state authorized liquor retail facility;
 - (ii) the department or a package agency may provide a printed price list to the public;
 - (iii) the department may authorize the use of price posting and floor stacking of liquor within a state store;
 - (iv) subject to Subsection (1)(b), the department may provide a listing of the address and telephone number of a state store in one or more printed or electronic directories available to the general public; and
 - (v) subject to Subsection (1)(b), a package agency may provide a listing of its address and telephone number in one or more printed or electronic directories available to the general public.
 - (b) A listing under Subsection (1)(a)(iv) or (v) in the business or yellow pages of a telephone directory may not be displayed in an advertisement or other promotional format.
- (2)
 - (a) The department may not advertise an alcoholic product on a billboard.

- (b) A package agency may not advertise an alcoholic product on a billboard, except to the extent allowed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3)
 - (a) The department may not display liquor or a price list in a window or showcase visible to passersby.
 - (b) A package agency may not display liquor or a price list in a window or showcase visible to passersby, except to the extent allowed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) A public transit district, as defined in Section 17B-2a-802, may not allow advertising on a transit vehicle, as defined in Section 17B-2a-802, that promotes an alcoholic product.
- (5) Advertising of an alcoholic product may not:
 - (a) promote the intoxicating effects of alcohol; or
 - (b) emphasize the high alcohol content of the alcoholic product.
- (6) Except to the extent prohibited by this title, the advertising of an alcoholic product is allowed under guidelines established by the commission by rule.
- (7) The advertising or use of any means or media to offer an alcoholic product to the general public without charge is prohibited.

Amended by Chapter 371, 2023 General Session

32B-1-207 Calculation of ratio of gross receipts of food to alcoholic product.

In calculating the annual gross receipts of a retail license or sublicense for purposes of determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food or an alcoholic product, a retail licensee may not include in the calculation the money from the sale of:

- (1) a bottle of wine by the retail licensee or under a sublicense that is in excess of \$175;
- (2) an individual portion of wine, as described in Subsection 32B-5-304(2)(a), by the retail licensee or under a sublicense that is in excess of \$30; or
- (3) an individual portion of spirituous liquor, as described in Subsection 32B-5-304(1), by the retail licensee or under a sublicense that is in excess of \$30.

Amended by Chapter 291, 2021 General Session

32B-1-208 Percentage lease agreements.

- (1) As used in this section:
 - (a) "Percentage lease agreement" means a lease agreement in which the lessee:
 - (i) is a retail licensee; and
 - (ii) pays the lessor:
 - (A) a base rent; and
 - (B) percentage rent.
 - (b) "Percentage rent" means a percentage:
 - (i) agreed upon between a lessor and lessee; and
 - (ii) of the total sales revenue that:
 - (A) exceed a fixed dollar amount of sales revenue; and
 - (B) the lessee earns while doing business on the rental premises.
- (2)
 - (a) The parties to a percentage lease agreement shall submit a copy of the percentage lease agreement to the department.

- (b) If there is a material change to the percentage lease agreement submitted to the department under Subsection (2)(a), the parties to the percentage lease agreement shall promptly submit a copy of the changed percentage lease agreement to the department.
- (3) If a percentage lease agreement requires a retail licensee to pay the lessor a percentage rent of 6% or less, the department may not conduct any further investigation into the percentage lease agreement.
- (4) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:
 - (a) the maximum percentage of revenue from alcohol sales a percentage lease agreement may require; and
 - (b) the procedure for submitting a percentage lease agreement under Subsection (2).
- (5)
 - (a) The provisions of this section do not apply to a percentage lease agreement in which the lessee is an airport lounge licensee.
 - (b) Nothing in this title prohibits an airport lounge licensee from entering into a percentage lease agreement, regardless of the percentage rent specified in the percentage lease agreement.

Amended by Chapter 3, 2020 Special Session 5