

**Effective 6/25/2020**

**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