

Chapter 1 Alcoholic Beverage Control General Provisions

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

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-3-1301.
 - (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

Part 3

Qualifications and Background

32B-1-301 Title.

This part is known as "Qualifications and Background."

Enacted by Chapter 276, 2010 General Session

32B-1-302 Definitions.

Reserved

Enacted by Chapter 276, 2010 General Session

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

- (1) The department may not employ a person if that person has been convicted of:
 - (a) within seven years before the day on which the department employs the person, a felony under a federal law or state law;
 - (b) within four years before the day on which the department employs the person:
 - (i) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or
 - (ii) a crime involving moral turpitude; or
 - (c) on two or more occasions within the five years before the day on which the department employs the person, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.
- (2) The director may terminate a department employee or take other disciplinary action consistent with Title 63A, Chapter 17, Utah State Personnel Management Act, if:

- (a) after the day on which the department employs the department employee, the department employee is found to have been convicted of an offense described in Subsection (1) before being employed by the department; or
- (b) on or after the day on which the department employs the department employee, the department employee:
 - (i) is convicted of an offense described in Subsection (1)(a) or (b); or
 - (ii)
 - (A) is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and
 - (B) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).
- (3) The director may immediately suspend a department employee for the period during which a criminal matter is being adjudicated if the department employee:
 - (a) is arrested on a charge for an offense described in Subsection (1)(a) or (b); or
 - (b)
 - (i) is arrested on a charge for the offense of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and
 - (ii) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

Amended by Chapter 345, 2021 General Session

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

- (1)
 - (a) Except as provided in Subsection (7), the commission may not issue a package agency, license, or permit to a person who has been convicted of:
 - (i) within seven years before the day on which the commission issues the package agency, license, or permit, a felony under a federal law or state law;
 - (ii) within four years before the day on which the commission issues the package agency, license, or permit:
 - (A) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or
 - (B) a crime involving moral turpitude; or
 - (iii) on two or more occasions within the five years before the day on which the package agency, license, or permit is issued, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.
 - (b) If the person is a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of an offense described in Subsection (1)(a):
 - (i) a partner;
 - (ii) a managing agent;
 - (iii) a manager;
 - (iv) an officer;
 - (v) a director;

- (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or
- (vii) a member who owns at least 20% of the limited liability company.
- (c) Except as provided in Subsection (7), the proscription under Subsection (1)(a) applies if a person who is employed to act in a supervisory or managerial capacity for a package agency, licensee, or permittee has been convicted of an offense described in Subsection (1)(a).
- (2) Except as described in Section 32B-8-501, the commission may immediately suspend or revoke a package agency, license, or permit, and terminate a package agency agreement, if a person described in Subsection (1):
 - (a) after the day on which the package agency, license, or permit is issued, is found to have been convicted of an offense described in Subsection (1)(a) before the package agency, license, or permit is issued; or
 - (b) on or after the day on which the package agency, license, or permit is issued:
 - (i) is convicted of an offense described in Subsection (1)(a)(i) or (ii); or
 - (ii)
 - (A) is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and
 - (B) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).
- (3) Except as described in Section 32B-8-501, the director may take emergency action by immediately suspending the operation of the package agency, licensee, or permittee for the period during which a criminal matter is being adjudicated if a person described in Subsection (1):
 - (a) is arrested on a charge for an offense described in Subsection (1)(a)(i) or (ii); or
 - (b)
 - (i) is arrested on a charge for the offense of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and
 - (ii) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).
- (4)
 - (a)
 - (i) The commission may not issue a package agency, license, or permit to a person who has had any type of agency, license, or permit issued under this title revoked within the last three years.
 - (ii) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if a partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the corporation, or member who owns at least 20% of the limited liability company is or was:
 - (A) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;
 - (B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or
 - (C) a manager or member who owns or owned at least 20% of a limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

- (b) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if any of the following had any type of agency, license, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:
 - (i) a partner or managing agent of a partnership;
 - (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation; or
 - (iii) a manager or member who owns at least 20% of a limited liability company.
- (c) The commission may not issue a package agency, license, or permit to a person acting in an individual capacity if that person was:
 - (i) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;
 - (ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or
 - (iii) a manager or member who owned at least 20% of the limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.
- (5)
 - (a) The commission may not issue a package agency, license, or permit to a minor.
 - (b) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if any of the following is a minor:
 - (i) a partner or managing agent of the partnership;
 - (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or
 - (iii) a manager or member who owns at least 20% of the limited liability company.
 - (c) For purposes of Subsection (5)(b), the commission may not consider a minor's position with or ownership interest in an entity that has an ownership interest in the entity that is applying for the package agency, license, or permit unless the minor would exercise direct decision-making control over the package agency, license, or permit.
- (6) Except as described in Section 32B-8-501, if a package agent, licensee, or permittee no longer possesses the qualifications required by this title for obtaining a package agency, license, or permit, the commission may terminate the package agency agreement, or revoke the license or permit.
- (7)
 - (a) If the licensee is a resort licensee:
 - (i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the resort, as the commission defines in rule; and
 - (ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the resort licensee or in relation to a sublicense of the resort license.
 - (b) If the permittee is a public service permittee under Chapter 10, Special Use Permit Act:
 - (i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the public service permittee, as the commission defines in rule; and
 - (ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the public service permittee.

Amended by Chapter 94, 2024 General Session

32B-1-305 Requirement for a background check.

- (1) The department shall require an individual listed in Subsection (2), in accordance with this part, to:
 - (a) provide a signed waiver from the individual whose fingerprints may be registered in the Federal Bureau of Investigation Rap Back system that notifies the signee:
 - (i) that a criminal history background check will be conducted;
 - (ii) who will see the information; and
 - (iii) how the information will be used;
 - (b) submit to a background check in a form acceptable to the department; and
 - (c) consent to a background check by:
 - (i) the Utah Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.
- (2) The following shall comply with Subsection (1):
 - (a) an individual applying for employment with the department if:
 - (i) the department makes the decision to offer the individual employment with the department; and
 - (ii) once employed, the individual will receive benefits;
 - (b) an individual applying to the commission to operate a package agency;
 - (c) an individual applying to the commission for a license, unless the license is an off-premise beer retailer state license;
 - (d) an individual who with regard to an entity that is applying to the commission to operate a package agency or for a license is:
 - (i) a partner;
 - (ii) a managing agent;
 - (iii) a manager;
 - (iv) an officer;
 - (v) a director;
 - (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporation;
 - (vii) a member who owns at least 20% of a limited liability company; or
 - (viii) an individual employed to act in a supervisory or managerial capacity; or
 - (e) an individual who becomes involved with an entity that operates a package agency or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the day on which the entity:
 - (i) is approved to operate a package agency; or
 - (ii) is licensed by the commission.
- (3)
 - (a) Except as provided in Subsection (3)(b), the commission may not require an individual to comply with Subsection (1) based on the individual's position with or ownership interest in an entity that has an ownership interest in the entity that is applying for the package agency or license.
 - (b) The commission may require an individual described in Subsection (3)(a) to comply with Subsection (1) if the individual exercises direct decision making control over the day-to-day operations of the package agency or licensee.
- (4) The department shall require compliance with Subsection (2)(e) as a condition of an entity's:
 - (a) continued operation of a package agency; or
 - (b) renewal of a license.
- (5) The department may require as a condition of continued employment that a department employee:

- (a) submit to a background check in a form acceptable to the department; and
- (b) consent to a fingerprint criminal background check by:
 - (i) the Utah Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.

Amended by Chapter 219, 2020 General Session

32B-1-306 Use of information from a criminal background check.

The commission or department may use information obtained pursuant to Section 32B-1-305 only for one or more of the following purposes:

- (1) enforcing this title;
- (2) determining whether an individual is convicted of any of the following offenses that disqualify the individual under this title from acting in a capacity described in Subsection 32B-1-305(2):
 - (a) within the previous seven years, a felony under federal law or state law;
 - (b) within the previous four years:
 - (i) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or
 - (ii) a crime involving moral turpitude; or
 - (c) on two or more occasions within the previous five years, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs;
- (3) determining whether an individual fails to accurately disclose the individual's criminal history on an application or document filed with the department or commission;
- (4) approving or denying an application for employment with the department;
- (5) taking disciplinary action against a department employee, including possible termination of employment;
- (6) issuing or denying an application to operate a package agency;
- (7) issuing or denying an application for a license;
- (8) issuing or denying the renewal of a package agency agreement;
- (9) issuing or denying the renewal of a license;
- (10) suspending the operation of a package agency;
- (11) terminating a package agency contract; or
- (12) suspending or revoking a license.

Amended by Chapter 145, 2019 General Session

32B-1-307 Background check procedure.

- (1)
 - (a) An individual described in Subsections 32B-1-305(2)(b) through (e) shall submit to a background check in a form acceptable to the department, including submitting fingerprints, at the expense of the individual.
 - (b) The department shall pay the expense of obtaining a background check, including obtaining fingerprints, required of:
 - (i) an individual applying for employment with the department; or
 - (ii) a department employee.
- (2)
 - (a) The department shall establish a procedure for obtaining and evaluating relevant information from a criminal history record maintained by the Utah Bureau of Criminal Identification

pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for a purpose outlined in Section 32B-1-306.

- (b) An individual described in Subsections 32B-1-305(2)(b) through (e) shall pay to the department the expense of obtaining the criminal history record described in Subsection (2) (a).
- (c) The department shall pay the expense of obtaining the criminal history record required for:
 - (i) an individual applying for employment with the department; or
 - (ii) a department employee.
- (3)
 - (a) The department shall submit fingerprints obtained under Subsection (1) of an individual to the Utah Bureau of Criminal Identification to be forwarded to the Federal Bureau of Investigation for a nationwide criminal history record check.
 - (b) An individual described in Subsections 32B-1-305(2)(b) through (e) shall pay to the department the expense of obtaining the criminal history record described in Subsection (3) (a).
 - (c) The department shall pay the expense of obtaining the criminal history record required for:
 - (i) an individual applying for employment with the department; or
 - (ii) a department employee.
- (4)
 - (a) The Utah Bureau of Criminal Identification:
 - (i) shall check the fingerprints submitted under Subsection (1) against the applicable state and regional criminal records databases and submit the fingerprints to national criminal records databases;
 - (ii) shall maintain a separate file of fingerprints submitted under Subsection (1) for search by future submissions to the state and regional records databases, including latent prints, and notify the department when a new entry is made against a person whose fingerprints are held in the separate file;
 - (iii) shall release to the department all information received in response to the department's request; and
 - (iv) may request that the fingerprints be retained in the Federal Bureau of Investigation Rap Back system for search by future submissions to national criminal records databases, including latent prints.
 - (b) The department shall establish a privacy risk mitigation strategy to ensure that the department only receives notifications for individuals with whom the department maintains a regulatory or employment relationship.
- (5) The department shall pay the Utah Bureau of Criminal Identification the costs incurred in providing the department criminal background information.
- (6)
 - (a) The following may not disseminate a criminal history record obtained under this part to any person except for a purpose described in Section 32B-1-306:
 - (i) the commission;
 - (ii) a commissioner;
 - (iii) the director;
 - (iv) the department; or
 - (v) a department employee.
 - (b)
 - (i) Notwithstanding Subsection (6)(a), a criminal history record obtained under this part may be provided by the department to the individual who is the subject of the criminal history record.

- (ii) The department shall provide an individual who is the subject of a criminal history record and who requests the criminal history record an opportunity to:
 - (A) review the criminal history record; and
 - (B) respond to information in the criminal history record.
- (7) If an individual described in Subsection 32B-1-305(2) is determined to be disqualified under Subsection 32B-1-306(2), the department shall provide the individual with:
 - (a) notice of the reason for the disqualification; and
 - (b) an opportunity to respond to the disqualification.

Amended by Chapter 145, 2019 General Session

Part 4 Proof of Age Act

32B-1-401 Title.

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

Enacted by Chapter 276, 2010 General Session

32B-1-402 Definitions.

As used in this part:

- (1) "Authorized person" means a person authorized by law to sell or otherwise handle an alcoholic product.
- (2) "Restricted area" means a place where an alcoholic product is sold or consumed, but where under this title a minor is not permitted.
- (3) "Statement of age" means a statement signed under Section 32B-1-405 verifying the age of the person signing the statement.

Amended by Chapter 334, 2011 General Session

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

- (1)
 - (a) It is unlawful for a person to transfer that person's proof of age to another person to aid that person:
 - (i) in procuring an alcoholic product;
 - (ii) in gaining admittance to a restricted area; or
 - (iii) in obtaining employment that under this title may not be obtained by a minor.
 - (b) A person who permits that person's proof of age to be used by another for a purpose stated in Subsection (1)(a) is guilty of a class B misdemeanor.
- (2)
 - (a) It is unlawful for a person to use a proof of age containing false information with the intent to:
 - (i) procure an alcoholic product;
 - (ii) gain admittance to a restricted area; or
 - (iii) obtain employment that under this title may not be obtained by a minor.
 - (b) Except as provided in Section 32B-4-411, a person who violates this Subsection (2) is guilty of a class A misdemeanor.

Enacted by Chapter 276, 2010 General Session

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

- (1) To obtain one or more of the following, an individual shall present proof of age at the request of a person listed in Subsection (2):
 - (a) an alcoholic product;
 - (b) admittance to a restricted area; or
 - (c) employment that under this title may not be obtained by a minor.
- (2) To determine whether the individual described in Subsection (1) is 21 years of age, the following may request a person described in Subsection (1) to present proof of age:
 - (a) an authorized person;
 - (b) a peace officer;
 - (c) a representative of the State Bureau of Investigation of the Department of Public Safety, established in Section 53-10-301; or
 - (d) an authorized department employee.

Enacted by Chapter 276, 2010 General Session

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

- (1)
 - (a) In addition to requesting the presentation of proof of age under Section 32B-1-404, an authorized person shall require an individual whose age is in question to sign a statement of age on the form provided under Subsection (1)(b) that includes:
 - (i) the date the statement of age is signed; and
 - (ii) the number assigned to the individual's proof of age by the issuing authority.
 - (b) At the request of a retail licensee, the commissioner of public safety shall provide to a retail licensee the form for the statement of age described in this Subsection (1).
- (2)
 - (a) An authorized person shall:
 - (i) file in alphabetical order a statement of age obtained under Subsection (1) by no later than the close of business on the day on which the statement of age is executed; and
 - (ii) maintain a statement of age on file for three years.
 - (b) A statement of age is subject to examination by:
 - (i) a peace officer;
 - (ii) a representative of the State Bureau of Investigation of the Department of Public Safety, established in Section 53-10-301; or
 - (iii) an authorized department employee.

Enacted by Chapter 276, 2010 General Session

32B-1-406 Acceptance of identification.

- (1) An authorized person may accept as evidence of the legal age of the individual presenting the following:
 - (a) proof of age; or
 - (b) if a statement of age is required under Section 32B-1-405:
 - (i) proof of age; and
 - (ii) a statement of age.

- (2) A statement of age, if properly completed, signed, and filed in accordance with Section 32B-1-405, may be offered as a defense in a case when there is at issue the legality of:
 - (a) selling, offering for sale, or furnishing an alcoholic product to the individual who signed the statement of age;
 - (b) admitting the individual who signed the statement of age into a restricted area; or
 - (c) allowing the individual who signed the statement of age to be employed in employment that under this title may not be obtained by a minor.
- (3) An authorized person may not accept a driving privilege card issued in accordance with Section 53-3-207 as evidence of the legal age of an individual.

Enacted by Chapter 276, 2010 General Session

32B-1-407 Verification of proof of age by applicable licensees.

- (1) As used in this section, "applicable licensee" means:
 - (a) a dining club;
 - (b) a bar;
 - (c) a tavern;
 - (d) a full-service restaurant;
 - (e) a limited-service restaurant; or
 - (f) a beer-only restaurant.
- (2) Notwithstanding any other provision of this part, an applicable licensee shall require that an authorized person for the applicable licensee verify proof of age as provided in this section.
- (3) An authorized person is required to verify proof of age under this section before an individual who appears to be 35 years of age or younger:
 - (a) gains admittance to the premises of a bar licensee or tavern;
 - (b) procures an alcoholic product on the premises of a dining club licensee; or
 - (c) procures an alcoholic product in a dispensing area in the premises of a full-service restaurant licensee, a limited-service restaurant licensee, or a beer-only restaurant licensee.
- (4) To comply with Subsection (3), an authorized person shall:
 - (a) request the individual present proof of age; and
 - (b)
 - (i) verify the validity of the proof of age electronically under the verification program created in Subsection (5); or
 - (ii) if the proof of age cannot be electronically verified as provided in Subsection (4)(b)(i), request that the individual comply with a process established by the commission by rule.
- (5) The commission shall establish by rule an electronic verification program that includes the following:
 - (a) the specifications for the technology used by the applicable licensee to electronically verify proof of age, including that the technology display to the person described in Subsection (2) no more than the following for the individual who presents the proof of age:
 - (i) the name;
 - (ii) the age;
 - (iii) the number assigned to the individual's proof of age by the issuing authority;
 - (iv) the birth date;
 - (v) the gender; and
 - (vi) the status and expiration date of the individual's proof of age; and
 - (b) the security measures that shall be used by an applicable licensee to ensure that information obtained under this section is:

- (i) used by the applicable licensee only for purposes of verifying proof of age in accordance with this section; and
 - (ii) retained by the applicable licensee for seven days after the day on which the applicable licensee obtains the information.
- (6)
- (a) An applicable licensee may not disclose information obtained under this section except as provided under this title.
 - (b) Information obtained under this section is considered a record for any purpose under Chapter 5, Part 3, Retail Licensee Operational Requirements.

Amended by Chapter 249, 2018 General Session

32B-1-408 Penalty.

- (1) Unless otherwise provided in this title, including Section 32B-4-411, a person who violates this part is guilty of a class B misdemeanor.
- (2) A person is not subject to a penalty for a violation of this part if it is proved to the commission or the court hearing the matter that the person charged with the violation acted in good faith.

Enacted by Chapter 276, 2010 General Session

Part 5
Attire, Conduct, and Entertainment Act

32B-1-501 Title.

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

Enacted by Chapter 276, 2010 General Session

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

- (1) This part establishes reasonable and uniform time, place, and manner of operation requirements relating to attire, conduct, and sexually oriented entertainers on premises or at an event at which an alcoholic product is sold, offered for sale, furnished, or allowed to be consumed under a retail license or permit issued by the commission so as to:
 - (a) reduce the adverse secondary effects that the attire, conduct, and sexually oriented entertainers may have upon communities of this state; and
 - (b) protect the health, peace, safety, welfare, and morals of the residents of communities of this state.
- (2) Nothing in this part allows the showing or display of any matter that is contrary to:
 - (a) applicable federal or state statutes prohibiting obscenity; or
 - (b) state statutes relating to lewdness or indecent public displays.
- (3) A local authority may be more restrictive of attire, conduct, or sexually oriented entertainers of the type prohibited in this part.

Enacted by Chapter 276, 2010 General Session

32B-1-503 Definitions.

Reserved

Enacted by Chapter 276, 2010 General Session

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

- (1) As used in this section, "obscene" means that:
 - (a) the average individual, applying contemporary community standards, would find the conduct or material, taken as a whole, appeals to the prurient interest;
 - (b) the conduct or material depicts or describes sexual conduct in a patently offensive way; and
 - (c) the conduct or material, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- (2) The following attire and conduct on premises or at an event regulated by the commission under this title are considered contrary to the public health, peace, safety, welfare, and morals, and are prohibited:
 - (a) employing or using a person in the sale, offer for sale, or furnishing of an alcoholic product while the person is in:
 - (i) a state of nudity;
 - (ii) a state of seminudity; or
 - (iii) performance attire or clothing that exposes to view any portion of:
 - (A) the female breast below the top of the areola; or
 - (B) the cleft of the buttocks;
 - (b) employing or using the services of a person to mingle with patrons while the person is in:
 - (i) a state of nudity;
 - (ii) a state of seminudity; or
 - (iii) performance attire or clothing that exposes to view any portion of:
 - (A) the female breast below the top of the areola; or
 - (B) the cleft of the buttocks;
 - (c) encouraging or permitting a person to:
 - (i) engage in or simulate an act of:
 - (A) sexual intercourse;
 - (B) masturbation;
 - (C) sodomy;
 - (D) bestiality;
 - (E) oral copulation;
 - (F) flagellation; or
 - (G) a sexual act that is prohibited by Utah law; or
 - (ii) caress or fondle the breast, anus, or genitals of any other person;
 - (d) permitting a person to wear or use a device or covering that:
 - (i) is exposed to view; and
 - (ii) simulates all or any portion of the human genitals, anus, pubic area, or female breast;
 - (e) permitting a person to use an artificial device or inanimate object to depict an act prohibited by this section;
 - (f) permitting a person to remain on premises or at an event who exposes to public view any portion of that person's:
 - (i) genitals, pubic area, or anus; or
 - (ii) in the case of a female, the areola and nipple of the breast; or

- (g) showing a film, still picture, electronic reproduction, or other visual reproduction depicting conduct or material that is obscene or in violation of other state or federal law regarding pornography or obscenity.
- (3) Subsection (2) does not apply to artistic expression that:
 - (a) when taken as a whole, has serious literary, artistic, political, or scientific value;
 - (b) is not in violation of state or federal law regarding pornography or obscenity; and
 - (c) occurs on premises or at an event regulated by the commission under this title that is not predominantly used for performances by sexually oriented entertainers.

Amended by Chapter 313, 2018 General Session

32B-1-505 Sexually oriented entertainer.

- (1) Subject to the requirements of this part, live entertainment is permitted on premises or at an event regulated by the commission.
- (2) Notwithstanding Subsection (1), a retail licensee or permittee may not permit a person to:
 - (a) appear or perform in a state of nudity;
 - (b) perform or simulate an act of:
 - (i) sexual intercourse;
 - (ii) masturbation;
 - (iii) sodomy;
 - (iv) bestiality;
 - (v) oral copulation;
 - (vi) flagellation; or
 - (vii) a sexual act that is prohibited by Utah law; or
 - (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.
- (3) A sexually oriented entertainer may perform in a state of seminudity:
 - (a) only in:
 - (i) a tavern; or
 - (ii) a bar license premises; and
 - (b) only if:
 - (i) the windows, doors, and other apertures to the premises are darkened or otherwise constructed to prevent anyone outside the premises from seeing the performance; and
 - (ii) the outside entrance doors of the premises remain unlocked.
- (4) A sexually oriented entertainer may perform only upon a stage or in a designated performance area that is:
 - (a) approved by the commission in accordance with rules made by the commission;
 - (b) configured so as to preclude a patron from:
 - (i) touching the sexually oriented entertainer; or
 - (ii) placing any money or object on or within the performance attire or the person of the sexually oriented entertainer; and
 - (c) configured so as to preclude the sexually oriented entertainer from touching a patron.
- (5) A sexually oriented entertainer may not touch a patron:
 - (a) during the sexually oriented entertainer's performance; or
 - (b) while the sexually oriented entertainer is dressed in performance attire.
- (6) A sexually oriented entertainer, while in the portion of the premises used by patrons, shall be dressed in opaque clothing which covers and conceals the sexually oriented entertainer's performance attire from the top of the breast to the knee.

- (7) A patron may not be on the stage or in the performance area while a sexually oriented entertainer is appearing or performing on the stage or in the performance area.
- (8) A patron may not:
 - (a) touch a sexually oriented entertainer:
 - (i) during the sexually oriented entertainer's performance; or
 - (ii) while the sexually oriented entertainer is dressed in performance attire; or
 - (b) place money or any other object on or within the performance attire or the person of the sexually oriented entertainer.
- (9) A minor may not be on premises described in Subsection (3).
- (10) A person who appears or performs for the entertainment of patrons on premises or at an event regulated by the commission that is not a tavern or bar licensee:
 - (a) may not appear or perform in a state of nudity or a state of seminudity; and
 - (b) may appear or perform in opaque clothing that completely covers the person's genitals, pubic area, and anus if the covering:
 - (i) is not 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;
 - (ii) does not taper to less than one inch wide at the narrowest point; and
 - (iii) if covering a female, completely covers the breast below the top of the areola.

Amended by Chapter 455, 2017 General Session

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

- (1) A retail licensee, a permittee, and staff of a licensee or permittee shall comply with this part.
- (2) Failure to comply with this part may result in a disciplinary proceeding pursuant to Chapter 3, Disciplinary Actions and Enforcement Act, against:
 - (a) a licensee or permittee;
 - (b) staff of the licensee or permittee;
 - (c) both a licensee and staff of the licensee; or
 - (d) both a permittee and staff of the permittee.

Enacted by Chapter 276, 2010 General Session

**Part 6
Malted Beverage Act**

32B-1-601 Title.

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

Enacted by Chapter 276, 2010 General Session

32B-1-602 Definitions.

As used in this part:

- (1) "Malted beverage" means:
 - (a) beer;
 - (b) a flavored malt beverage; and

- (c) heavy beer.
- (2) "Packaging" means the outer packaging that is visible to a consumer such as a carton, case, or other wrapper of a container.

Amended by Chapter 307, 2011 General Session

Amended by Chapter 334, 2011 General Session

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

- (1) The commission and department shall regulate a flavored malt beverage as liquor.
- (2)
 - (a) The department shall make available to the public on the Internet a list of the flavored malt beverages authorized to be sold in this state as liquor.
 - (b) The list described in Subsection (2)(a) shall be updated at least quarterly.
- (3)
 - (a) A manufacturer shall file, under penalty of perjury, a report with the department listing each flavored malt beverage manufactured by the manufacturer that the manufacturer wants to distribute in this state subject to the manufacturer holding:
 - (i) a brewery manufacturing license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License; or
 - (ii) a certificate of approval.
 - (b) A manufacturer may not distribute or sell in this state a flavored malt beverage if the manufacturer does not list the flavored malt beverage in a filing with the department in accordance with this Subsection (3) before distributing or selling the flavored malt beverage.
- (4) The department may require a manufacturer of a flavored malt beverage to provide the department with a copy of the following filed with the federal Alcohol and Tobacco Tax and Trade Bureau, pursuant to 27 C.F.R. Sec. 25.55:
 - (a) a statement of process; or
 - (b) a formula.
- (5)
 - (a) A manufacturer of an alcoholic product that the department is classifying or proposes to classify as a flavored malt beverage may submit evidence to the department that the manufacturer's alcoholic product should not be treated as a flavored malt beverage under this section because the alcoholic product is beer or heavy beer.
 - (b) The department shall review the evidence submitted by the manufacturer under this Subsection (5).
 - (c) The department shall make available to the public on the Internet a list of the alcoholic products authorized under this Subsection (5) to be sold as beer in this state.
 - (d) A decision of the department under this Subsection (5) may be appealed to the commission.

Amended by Chapter 371, 2023 General Session

32B-1-603.5 Requirements for beer flavorings -- Procedure for approval -- Department review.

- (1) A manufacturer of a beer that contains a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent as described in Subsection 32B-1-102(11)(b)(iii) may not sell or distribute the beer in the state unless the manufacturer obtains:
 - (a) the department's approval to sell or distribute the beer under this section; and

- (b) the department's approval of the label and packaging of the beer under Sections 32B-1-604 through 32B-1-606.
- (2)
- (a) To obtain approval to sell or distribute a beer that contains a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent as described in Subsection 32B-1-102(11)(b)(iii), the manufacturer of the beer shall submit an application to the department for approval.
 - (b) The application shall require:
 - (i) a copy of:
 - (A) the statement of process and formula filed with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 for the beer; and
 - (B) the formula approval from the federal Alcohol and Tobacco Tax and Trade Bureau for the beer;
 - (ii) a complete list of each propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent in the beer;
 - (iii) a description of the total amount of alcohol each propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent contributes to the beer; and
 - (iv) other information required by the department to determine whether the beer complies with Subsection 32B-1-102(11)(b)(iii).
- (3) The department may:
- (a) assess a fee established under Section 63J-1-504 for reviewing an application for approval under this section; and
 - (b) approve a manufacturer's application to sell or distribute a beer that contains a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent after determining that the beer complies with Subsection 32B-1-102(11)(b)(iii).
- (4) If a manufacturer of a beer revises the formula for the beer that the department approved for sale or distribution, the manufacturer shall obtain the department's approval for the revised formula before selling or distributing the beer.
- (5)
- (a) The department may revoke a previous approval under this section upon determining that the beer is not in compliance with this title or the rules of the commission.
 - (b) The department shall notify the manufacturer that applied for an approval under this section at least 30 business days before the day on which the approval is revoked.
 - (c) Within 20 business days after the day on which a manufacturer receives the notice under Subsection (5)(b), the manufacturer may present a written argument or evidence to the department regarding why the revocation should not occur.
- (6)
- (a) A manufacturer that applies for approval under this section may appeal a denial or revocation of the approval to the commission.
 - (b) During the period in which a manufacturer appeals a denial or revocation to the commission under Subsection (6)(a), the denial or revocation remains in force.
- (7)
- (a) Before July 1, 2024, the department shall review each beer that is sold or distributed in this state to determine whether the beer complies with Subsection 32B-1-102(11) and this part.
 - (b) Before November 30, 2024, the department shall provide a report to the Business and Labor Interim Committee regarding:
 - (i) the process used to conduct the review;
 - (ii) the results of the review; and
 - (iii) any recommendations for legislation based on the results.

Enacted by Chapter 371, 2023 General Session

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

- (1) A manufacturer may not distribute or sell a malted beverage:
 - (a) unless the label and packaging of the malted beverage:
 - (i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; and
 - (ii) clearly gives notice to the public that the malted beverage is an alcoholic product; and
 - (b) until the day on which the department in accordance with this title and rules of the commission approves the label and packaging of the malted beverage.
- (2) The department shall review the label and packaging of a malted beverage to ensure that the label and packaging meet the requirements of Subsection (1)(a).
- (3) Except as otherwise required under Section 32B-1-606, a manufacturer may comply with the requirement of Subsection (1)(a)(ii) by including on a label and packaging for a malted beverage any of the following terms in obvious and clearly visible contrast to the background of the text:
 - (a) beer;
 - (b) ale;
 - (c) porter;
 - (d) stout;
 - (e) lager;
 - (f) lager beer;
 - (g) hard seltzer;
 - (h) spiked seltzer; or
 - (i) another class or type designation commonly applied to a malted beverage that conveys by a recognized term that the product contains alcohol.

Amended by Chapter 447, 2022 General Session

32B-1-605 General procedure for approval.

- (1) To obtain approval of the label and packaging of a malted beverage, the manufacturer of the malted beverage shall submit an application to the department for approval.
- (2) The application described in Subsection (1) shall be on a form approved by the department and include the following for each brand and label for which the manufacturer seeks approval:
 - (a)
 - (i) a copy of a federal certificate of label approval from the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau; or
 - (ii) if the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau does not require label approval, a copy of formula approval from the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau;
 - (b) a complete set of original labels for each size of container of the malted beverage;
 - (c) a description of the size of the container on which a label will be placed;
 - (d) a description of each type of container of the malted beverage; and
 - (e) a description of any packaging for the malted beverage.
- (3) The department may assess a reasonable fee for reviewing a label and packaging for approval.
- (4)

- (a) The department shall notify a manufacturer within 30 days after the day on which the manufacturer submits a complete application whether the label and packaging is approved or denied.
- (b) If the department determines that an unusual circumstance requires additional time, the department may extend the time period described in Subsection (4)(a).
- (5) A manufacturer shall obtain the approval of the department of a revision of a previously approved label and packaging before a malted beverage using the revised label and packaging may be distributed or sold in this state.
- (6)
 - (a) The department may revoke a label and packaging previously approved upon a finding that the label and packaging is not in compliance with this title or rules of the commission.
 - (b) The department shall notify the manufacturer who applied for an approved label and packaging at least 30 business days before the day on which the label and packaging approval is considered revoked.
 - (c) Within 20 business days after the day on which a manufacturer receives the notice under Subsection (6)(b), the manufacturer may present written argument or evidence to the department on why the revocation should not occur.
- (7)
 - (a) A manufacturer that applies for approval of a label and packaging may appeal a denial or revocation of a label and packaging approval to the commission.
 - (b) During the period in which a manufacturer appeals a denial or revocation of a label and packaging approval to the commission, as permitted under Subsection (7)(a), the denial or revocation shall remain in force.

Amended by Chapter 447, 2022 General Session

32B-1-606 Special procedure for approval of labeling and packaging for certain malted beverages.

- (1) A manufacturer of a malted beverage may not distribute or sell the malted beverage in the state until the day on which the manufacturer receives approval of the labeling and packaging of the malted beverage from the department in accordance with:
 - (a) Sections 32B-1-604 and 32B-1-605; and
 - (b) this section, if the malted beverage is labeled or packaged in a manner that is:
 - (i) similar to a label or packaging used for a nonalcoholic beverage; or
 - (ii) likely to confuse or mislead a patron to believe the malted beverage is a nonalcoholic beverage.
- (2) The department may not approve the labeling and packaging of a malted beverage described in Subsection (1) unless, in addition to the requirements of Section 32B-1-604, the labeling and packaging complies with the following:
 - (a) the front of the label on the malted beverage bears a prominently displayed label or a firmly affixed sticker that provides the following information in a font that measures at least three millimeters high and is in obvious and clearly visible contrast to the background of the text:
 - (i) the statement:
 - (A) "alcoholic beverage"; or
 - (B) "contains alcohol"; and
 - (ii) the alcohol content of the malted beverage, if the alcohol content is not otherwise provided:
 - (A) in a serving facts statement on the container; and
 - (B) in a format allowed by the Federal Alcohol and Tobacco Tax Trade Bureau;

- (b) the packaging of the malted beverage prominently includes, either imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging in a font that measures at least three millimeters high and is in obvious and clearly visible contrast to the background of the text, the statement:
 - (i) "alcoholic beverage"; or
 - (ii) "contains alcohol";
 - (c) a statement required under Subsection (2)(a) or (b) appears in a format required under rule made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (d) a statement of alcohol content required under Subsection (2)(a)(ii):
 - (i) states the alcohol content as a percentage of alcohol by volume or by weight; and
 - (ii) is in a format required under rule made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) The department:
- (a) may reject a label or packaging for a malted beverage that appears designed to obscure the information required under Subsection (2); and
 - (b) shall reject a label or packaging for a malted beverage to be sold by an off-premise beer retailer if the label or packaging for the malted beverage complies with Subsection (2) but remains so similar to a label or packaging used on a well-known or widely available nonalcoholic beverage that the label or packaging for the malted beverage is likely to confuse or mislead a patron to believe the malted beverage is a nonalcoholic beverage.
- (4) To determine whether a malted beverage is described in Subsection (1) and subject to this section, the department may consider in addition to other factors one or more of the following factors:
- (a) whether the coloring, carbonation, and packaging of the malted beverage:
 - (i) is similar to those of a nonalcoholic beverage or product; or
 - (ii) can be confused with a nonalcoholic beverage;
 - (b) whether the malted beverage possesses a character and flavor distinctive from a traditional malted beverage;
 - (c) whether the malted beverage:
 - (i) is prepackaged;
 - (ii) contains high levels of caffeine and other additives; and
 - (iii) is marketed as a beverage that is specifically designed to provide energy;
 - (d) whether the malted beverage contains added sweetener or sugar substitutes; or
 - (e) whether the malted beverage contains an added fruit flavor or other flavor that masks the taste of a traditional malted beverage.

Amended by Chapter 371, 2023 General Session

32B-1-607 Rulemaking authority.

- (1) The commission may adopt rules necessary to implement this part.
- (2) Notwithstanding Subsections 32B-1-102(12) and (51), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules that allow for a tolerance in the alcohol content of beer or heavy beer as follows:
 - (a) up to 0.18% above or below when measured by volume; or
 - (b) up to 0.15% above or below when measured by weight.

Amended by Chapter 291, 2021 General Session

32B-1-608 Disciplinary proceeding for violation.

A person who violates this part:

- (1) is subject to a disciplinary proceeding under Chapter 3, Disciplinary Actions and Enforcement Act; and
- (2) may be subject to penalties under Chapter 4, Criminal Offenses and Procedure Act.

Amended by Chapter 371, 2023 General Session

Part 7
Alcohol Training and Education Act

32B-1-701 Definitions.

As used in this part:

- (1) "Off-premise retail manager" means an individual who manages operations at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.
- (2)
 - (a) "Off-premise retail staff" means an individual who sells beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.
 - (b) "Off-premise retail staff" does not include an off-premise retail manager.
- (3) "Retail manager" means an individual who:
 - (a) manages operations at a premises that is licensed under Chapter 5, Retail License Act; or
 - (b) supervises the furnishing of an alcoholic product at a premises that is licensed under Chapter 5, Retail License Act.
- (4)
 - (a) "Retail staff" means an individual who serves an alcoholic product at a premises licensed under Chapter 5, Retail License Act.
 - (b) "Retail staff" does not include a retail manager.

Amended by Chapter 447, 2022 General Session

32B-1-702 Alcohol training and education -- Revocation, suspension, or nonrenewal of retail license.

- (1) The commission may suspend, revoke, or not renew a license of a retail licensee if any of the following individuals fail to complete an alcohol training and education seminar:
 - (a) a retail manager; or
 - (b) retail staff.
- (2) A city, town, or county in which a retail licensee conducts business may suspend, revoke, or not renew the business license of the retail licensee if a retail manager or retail staff fails to complete an alcohol training and education seminar.
- (3) A local authority that issues an off-premise beer retailer license to a business that is engaged in the retail sale of beer for consumption off the beer retailer's premises may immediately suspend the off-premise beer retailer license if any of the following individuals fails to complete an alcohol training and education seminar:
 - (a) an off-premise retail manager; or
 - (b) off-premise retail staff.

Amended by Chapter 438, 2024 General Session

32B-1-703 Alcohol training and education for off-premise consumption.

- (1)
- (a) A local authority that issues an off-premise beer retailer license to a business to sell beer at retail for off-premise consumption shall require the following to have a valid record that the individual completed an alcohol training and education seminar in the time periods required by Subsection (1)(b):
 - (i) an off-premise retail manager; or
 - (ii) off-premise retail staff.
 - (b) If an individual on the date the individual becomes staff to an off-premise beer retailer does not have a valid record that the individual has completed an alcohol training and education seminar for purposes of this part, the individual shall complete an alcohol training and education seminar in accordance with Section 26B-5-205 before the day on which the individual begins work as staff of an off-premise beer retailer.
 - (c) An off-premise beer retailer may not permit an individual who is not in compliance with Subsection (1)(b) to:
 - (i) directly supervise the sale of beer to a customer for consumption off the premises of the off-premise beer retailer; or
 - (ii) sell beer to a customer for consumption off the premises of the off-premise beer retailer.
- (2) A licensee that violates this section is subject to Section 32B-1-702.

Amended by Chapter 328, 2023 General Session

Amended by Chapter 371, 2023 General Session

32B-1-704 Department training programs.

- (1) No later than January 1, 2018, the department shall develop the following training programs that are provided either in-person or online:
- (a) a training program for retail managers that addresses:
 - (i) the statutes and rules that govern alcohol sales and consumption in the state;
 - (ii) the requirements for operating as a retail licensee;
 - (iii) using compliance assistance from the department; and
 - (iv) any other topic the department determines beneficial to a retail manager; and
 - (b) a training program for an individual employed by a retail licensee or an off-premise beer retailer who violates a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor, that addresses:
 - (i) the statutes and rules that govern the most common types of violations under this title;
 - (ii) how to avoid common violations; and
 - (iii) any other topic the department determines beneficial to the training program.
- (2) No later than January 1, 2019, the department shall develop a training program for off-premise retail managers that is provided either in-person or online and addresses:
- (a) the statutes and rules that govern sales at an off-premise beer retailer;
 - (b) the requirements for operating an off-premise beer retailer;
 - (c) using compliance assistance from the department; and
 - (d) any other topic the department determines beneficial to an off-premise retail manager.

- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the department shall make rules to develop and implement the training programs described in this section, including rules that establish:
 - (a) the requirements for each training program described in this section;
 - (b) measures that accurately identify each individual who takes and completes a training program;
 - (c) measures that ensure an individual taking a training program is focused and actively engaged in the training material throughout the training program;
 - (d) a record that certifies that an individual has completed a training program; and
 - (e) a fee for participation in a training program to cover the department's cost of providing the training program.
- (4)
 - (a) Each retail manager shall complete the training described in Subsection (1)(a) no later than the later of:
 - (i) 30 days after the day on which the retail manager is hired; or
 - (ii) the day on which the retail licensee obtains a retail license.
 - (b) Each off-premise retail manager shall complete the training described in Subsection (2) no later than the later of:
 - (i) 30 days after the day on which the off-premise retail manager is hired; or
 - (ii) 30 days after the day on which the off-premise beer retailer obtains an off-premise beer retailer state license.
 - (c)
 - (i) If the commission finds that a retail licensee violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator, all retail staff, and each retail manager shall complete the training program described in Subsection (1)(b).
 - (ii) If the commission finds that an off-premise beer retailer violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator and each off-premise retail manager shall complete the training program described in Subsection (1)(b).
- (5) If an individual fails to complete a required training program under this section:
 - (a) the commission may suspend, revoke, or not renew the retail license or off-premise beer retailer state license;
 - (b) a city, town, or county in which the retail licensee or off-premise beer retailer is located may suspend, revoke, or not renew the retail licensee's or off-premise beer retailer's business license; or
 - (c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's license.

Amended by Chapter 438, 2024 General Session

32B-1-705 Tracking certain enforcement actions.

- (1) For each violation of a provision of this title involving the sale of an alcoholic product to a minor that staff of a retail licensee or off-premise beer retailer commits, the commission shall:
 - (a) maintain a record of the violation until the record is expunged in accordance with Subsection (3);
 - (b) include in the record described in Subsection (1)(a):

- (i) the name of the individual who committed the violation;
 - (ii) the name of the retail licensee or off-premise beer retailer; and
 - (iii) the date of the adjudication of the violation; and
- (c) provide the information described in Subsection (1)(b) to the Department of Public Safety within 30 days after the day on which the violation is adjudicated.
- (2)
- (a) The Department of Public Safety shall develop and operate a system to collect, analyze, maintain, track, and disseminate the information that the Department of Public Safety receives in accordance with Subsection (1).
 - (b) The Department of Public Safety shall make the system described in Subsection (2)(a) available to:
 - (i) assist the commission in assessing penalties under this title; and
 - (ii) inform a retail licensee or off-premise beer retailer of an individual who has a violation history in the system.
- (3) The commission and the Department of Public Safety shall expunge each record in the system described in Subsection (2) that relates to an individual if the individual does not violate a provision of this title related to the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the individual's last violation related to the sale of an alcoholic product to a minor was adjudicated.

Amended by Chapter 371, 2023 General Session