

Chapter 10 Special Use Permit Act

Part 1 General Provisions

32B-10-101 Title.

This chapter is known as the "Special Use Permit Act."

Enacted by Chapter 276, 2010 General Session

32B-10-102 Definitions.

As used in this chapter, "special use permit" means a special use permit issued under this chapter, including:

- (1) a religious wine use permit;
- (2) an industrial or manufacturing use permit;
- (3) a scientific or educational use permit; and
- (4) a public service permit.

Enacted by Chapter 276, 2010 General Session

Part 2 Special Use Permitting General Provisions

32B-10-201 Commission's power to issue special use permit.

- (1) Before a person may purchase, use, store, sell, offer for sale, allow consumption, or manufacture an alcoholic product in a manner that requires a special use permit, the person shall first obtain a special use permit in accordance with this chapter.
- (2)
 - (a) The commission may issue a special use permit for the purchase, use, storage, sale, offer for sale, consumption, or manufacture of an alcoholic product for a limited purpose specified by this chapter and the rules of the commission.
 - (b) A special use permit authorizes the special use permittee to purchase, use, store, sell, offer for sale, consume, or manufacture an alcoholic product only in the quantity, in a type, and for a purpose stated in the special use permit.

Enacted by Chapter 276, 2010 General Session

32B-10-202 Application for special use permit -- Qualifications.

- (1) To obtain a special use permit, a person shall submit to the department:
 - (a) a written application in a form prescribed by the department;
 - (b) a nonrefundable application fee, if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies;
 - (c) an initial permit fee:
 - (i) if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies; and

- (ii) that is refundable if a special use permit is not issued;
 - (d) a one-time special use permit fee if required by a section of this chapter:
 - (i) applicable to the type of special use permit for which the person applies; and
 - (ii) that is refundable if a special use permit is not issued;
 - (e) a statement of the purpose for which the person applies for the special use permit;
 - (f) a description of the types of alcoholic product the person intends to use under authority of the special use permit;
 - (g) written consent of the local authority;
 - (h) if required, a bond as provided in Section 32B-10-205;
 - (i) a floor plan of the immediate area within the premises in which the person proposes that an alcoholic product will be used, mixed, stored, sold, or consumed if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies;
 - (j) a signed consent form stating that the special use permittee will permit any authorized representative of the commission, department, or any other law enforcement officer to have unrestricted right to enter the special use permittee's premises;
 - (k) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and
 - (l) any other information the commission or department may require.
- (2)
- (a) The commission may issue a special use permit only to a person who qualifies as follows:
 - (i) the commission may issue a religious wine use permit to a religious organization;
 - (ii) the commission may issue an industrial or manufacturing use permit to a person engaged in an industrial or manufacturing pursuit;
 - (iii) the commission may issue a scientific or educational use permit to a person engaged in a scientific or educational pursuit; and
 - (iv) the commission may issue a public service permit to an operator of an airline, railroad, or other public conveyance.
 - (b) The commission may not issue a special use permit to a person who is disqualified under Section 32B-1-304.
 - (c) If a person to whom a special use permit is issued no longer possesses the qualifications required by this title for obtaining that special use permit, the commission may suspend or revoke that special use permit.

Enacted by Chapter 276, 2010 General Session

32B-10-203 Renewal of special use permit.

- (1) A special use permit expires on December 31 of each year unless otherwise provided on the special use permit.
- (2) To renew a renewable special use permit, a person shall submit a completed renewal application to the department:
 - (a) no later than November 30; and
 - (b) in a form prescribed by the department.
- (3) Failure to meet the renewal requirements results in an automatic forfeiture of the special use permit, effective on the date the existing special use permit expires.

Enacted by Chapter 276, 2010 General Session

32B-10-204 Duties of commission and department before issuing special use permit.

- (1)
 - (a) Before the commission issues a special use permit, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a special use permit should be issued.
 - (b) The department shall forward the information it gathers and its recommendations to the commission to aid in the commission's determination.
- (2) Before issuing a special use permit, the commission shall:
 - (a) determine that the person filed a complete application and is in compliance with:
 - (i) Section 32B-10-202; and
 - (ii) the relevant part under this chapter that applies to the special use permit for which the person is applying;
 - (b) determine that the person is not disqualified under Section 32B-1-304;
 - (c) consider the physical characteristics of the premises where an alcoholic product is proposed to be used, mixed, stored, sold, offered for sale, or furnished such as:
 - (i) the condition of the premises;
 - (ii) public visibility; and
 - (iii) safety considerations;
 - (d) consider the person's ability to properly use the special use permit within the requirements of this title and the commission rules including:
 - (i) the proposed use of the special use permit; and
 - (ii) the nature and type of person making use of the special use permit;
 - (e) consider specific factors regarding the specific type of special use permit sought by the person;
 - (f) approve of the location and equipment used by the person to distill alcohol for experimental testing purposes or use as a fuel; and
 - (g) consider any other factor the commission considers necessary.

Enacted by Chapter 276, 2010 General Session

32B-10-205 Bond for special use permit.

- (1) A special use permittee shall post a cash bond or surety bond only if the relevant part under this chapter for the type of special use permit requires posting of a bond.
- (2)
 - (a) If a special use permittee is required to post a bond as provided in Subsection (1), the special use permittee shall procure and maintain the bond for as long as the special use permittee continues to operate under the special use permit.
 - (b) A bond required under this section shall be:
 - (i) in a form approved by the attorney general; and
 - (ii) conditioned upon the special use permittee's faithful compliance with this title and the rules of the commission.
- (3) If a surety bond posted by a special use permittee under this section is canceled due to a special use permittee's negligence, the department may assess a \$300 reinstatement fee.
- (4) No part of a bond posted by a special use permittee under this section may be withdrawn during the period that the special use permit is in effect.
- (5)
 - (a) A bond posted by a special use permittee under this section may be forfeited if the special use permit is revoked.

- (b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a special use permittee for money owed the department under this title without the commission first revoking the special use permit.

Enacted by Chapter 276, 2010 General Session

32B-10-206 General operational requirements for special use permit.

- (1)
 - (a) A special use permittee and staff of the special use permittee shall comply with this title and rules of the commission, including the relevant part of the chapter that applies to the type of special use permit held by the special use permittee.
 - (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
 - (i) a special use permittee;
 - (ii) individual staff of a special use permittee; or
 - (iii) a special use permittee and staff of the special use permittee.
 - (c) The commission may suspend or revoke a special use permit with or without cause.
- (2)
 - (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit, the relevant part under this chapter governs.
 - (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or manufacture an alcoholic product authorized for the special use permit that is held by the special use permittee.
 - (c) Notwithstanding that this part or the relevant part under this chapter for the type of special use permit held by a special use permittee refers to "special use permittee," a person involved in the purchase, use, store, sell, offer for sale, allow consumption, or manufacture of an alcoholic product for which the special use permit is issued is subject to the same requirement or prohibition.
- (3)
 - (a) A special use permittee shall make and maintain a record, as required by commission rule, of any alcoholic product purchased, used, sold, or manufactured.
 - (b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3).
- (4)
 - (a) Except as otherwise provided in this title, a special use permittee may not purchase liquor except from a state store or package agency.
 - (b) A special use permittee may transport liquor purchased by the special use permittee in accordance with this Subsection (4) from the place of purchase to the special use permittee's premises.
 - (c) A special use permittee shall purchase liquor at prices set by the commission.
 - (d) When authorized by a special use permit, a special use permittee may purchase and receive an alcoholic product directly from a manufacturer for a purpose that is industrial, educational, scientific, or manufacturing.
 - (e) A health care facility may purchase and receive an alcoholic product directly from a manufacturer for use at the health care facility.

- (5) A special use permittee may not use, mix, store, sell, offer for sale, furnish, manufacture, or allow consumption of an alcoholic product in a location other than as designated in a special use permittee's application.
- (6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or furnish an alcoholic product to:
 - (a) a minor;
 - (b) a person actually, apparently, or obviously intoxicated;
 - (c) a known interdicted person; or
 - (d) a known habitual drunkard.
- (7) A special use permittee may not employ a minor to handle an alcoholic product.
- (8)
 - (a) The location specified in a special use permit may not be transferred from one location to another location, without prior written approval of the commission.
 - (b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to another person whether for monetary gain or not.
- (9) A special use permittee may not purchase, use, mix, store, sell, offer for sale, furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized by the special use permit.
- (10) The commission may prescribe by policy or rule consistent with this title, the general operational requirements of a special use permittee relating to:
 - (a) physical facilities;
 - (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an alcoholic product;
 - (c) purchase, storage, and sales quantity limitations; and
 - (d) other matters considered appropriate by the commission.

Enacted by Chapter 276, 2010 General Session

32B-10-207 Notifying department of change of ownership.

The commission may suspend or revoke a special use permit if a special use permittee does not immediately notify the department of a change in:

- (1) ownership of the permittee's business;
- (2) for a corporate owner, the:
 - (a) corporate officers or directors; or
 - (b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation;or
- (3) for a limited liability company:
 - (a) managers; or
 - (b) members owning at least 20% of the limited liability company.

Enacted by Chapter 276, 2010 General Session

Part 3
Public Service Permit

32B-10-301 Title.

This part is known as "Public Service Permit."

Enacted by Chapter 276, 2010 General Session

32B-10-302 Definitions.

Reserved

Enacted by Chapter 276, 2010 General Session

32B-10-303 Specific application and renewal requirements for public service permit.

- (1) To obtain a public service permit, in addition to complying with Section 32B-10-202, a person shall submit to the department:
 - (a) a statement of the total of regularly numbered flights, trains, buses, boats, or other types of public conveyance for which the person plans to use the special use permit;
 - (b) a floor plan of any room or facility in which the person plans to establish a hospitality room where the sale, offer for sale, or furnishing of an alcoholic product is made to a patron then in transit, using the host company's airline, railroad, bus, boat, or other public conveyance; and
 - (c) evidence of proximity of a proposed hospitality room to the arrival and departure area used by a person traveling on the host company's airline, railroad, bus, boat, or other public conveyance.
- (2)
 - (a) The nonrefundable application fee for a public service permit is \$75.
 - (b) The initial permit fee for a public service permit is \$250.
 - (c) The bond amount required for a public service permittee is the penal sum of \$1,000.
- (3)
 - (a) To renew a public service permit, a person shall comply with Section 32B-10-203.
 - (b) The renewal fee for a public service permit is \$30 for each regularly numbered passenger airplane flight, passenger train, bus, boat, or any other regularly scheduled public conveyance upon which an alcoholic product is sold, offered for sale, or furnished.

Amended by Chapter 334, 2011 General Session

32B-10-304 Specific operational requirements for a public service permit.

- (1)
 - (a) In addition to complying with Section 32B-10-206, a public service permittee and staff of the public service permittee shall comply with this section.
 - (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
 - (i) a public service permittee;
 - (ii) individual staff of a public service permittee; or
 - (iii) both a public service permittee and staff of the public service permittee.
- (2)
 - (a) A public service permittee whose public conveyances operate on an interstate basis may do the following:
 - (i) purchase an alcoholic product outside of the state;
 - (ii) bring an alcoholic product purchased outside of the state into the state; and

- (iii) sell, offer for sale, and furnish an alcoholic product purchased outside of the state to a passenger traveling on the public service permittee's public conveyance for consumption while en route on the public conveyance.
- (b) A public service permittee whose public conveyance operates solely within the state, to sell, offer for sale, or furnish to a passenger traveling on the public service permittee's public conveyance for consumption while en route on the public conveyance, shall purchase:
 - (i) liquor from a state store or package agency; and
 - (ii) beer from a beer wholesaler licensee.
- (3)
 - (a) A public service permittee may establish a hospitality room in which an alcoholic product may be stored, sold, offered for sale, furnished, and consumed, if:
 - (i) the room is located within a depot, terminal, or similar facility adjacent to and servicing the public service permittee's airline, railroad, bus, boat, or other public conveyance;
 - (ii) the room is completely enclosed and the interior is not visible to the public;
 - (iii) the sale, offer for sale, or furnishing of an alcoholic product is made only to a person:
 - (A) then in transit using the host company's airline, railroad, bus line, or other public conveyance; and
 - (B) holding a valid boarding pass or similar travel document issued by the host company; and
 - (iv)
 - (A) liquor is purchased from:
 - (I) a state store; or
 - (II) a package agency; and
 - (B) beer is purchased from a beer wholesaler licensee.
 - (b)
 - (i) A public service permittee operating a hospitality room shall display in a prominent place in the hospitality room, a sign in large letters that consists of text in the following order:
 - (A) a header that reads: "WARNING";
 - (B) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";
 - (C) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";
 - (D) a header that reads: "WARNING"; and
 - (E) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."
 - (ii)
 - (A) The text described in Subsections (3)(b)(i)(A) through (C) shall be in a different font style than the text described in Subsections (3)(b)(i)(D) and (E).
 - (B) The warning statements in the sign described in Subsection (3)(b)(i) shall be in the same font size.
 - (iii) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.
 - (c) A hospitality room shall be operated in accordance with this chapter and rules adopted by the commission.

Amended by Chapter 334, 2011 General Session

Part 4

Industrial or Manufacturing Use Permit

32B-10-401 Title.

This part is known as "Industrial or Manufacturing Use Permit."

Enacted by Chapter 276, 2010 General Session

32B-10-402 Definitions.

Reserved

Enacted by Chapter 276, 2010 General Session

32B-10-403 Specific application requirements for industrial or manufacturing use permit.

- (1) To obtain an industrial or manufacturing use permit, in addition to complying with Section 32B-10-202, a person shall submit to the department:
 - (a) a floor plan of the immediate area within the premises in which the person proposes that an alcoholic product be used, mixed, stored, sold, offered for sale, furnished, or consumed; and
 - (b) if the person is applying for an industrial or manufacturing use permit to produce gasohol or any alcoholic product, evidence that the person has:
 - (i) an approved Notice of Registration of Distilled Spirits Plant; and
 - (ii) the appropriate permit from the federal Alcohol and Tobacco Tax and Trade Bureau.
- (2)
 - (a) The nonrefundable application fee for an industrial or manufacturing use permit is \$75.
 - (b) The one-time special use permit fee for an industrial or manufacturing use permit is \$250.
 - (c) The bond amount required for an industrial or manufacturing use permit is the penal sum of \$1,000.

Amended by Chapter 334, 2011 General Session

32B-10-404 Specific operational requirements for industrial or manufacturing use permit.

- (1)
 - (a) In addition to complying with Section 32B-10-206, an industrial or manufacturing use permittee and staff of the industrial or manufacturing use permittee shall comply with this section.
 - (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
 - (i) an industrial or manufacturing use permittee;
 - (ii) individual staff of an industrial or manufacturing use permittee; or
 - (iii) an industrial or manufacturing use permittee and staff of the industrial or manufacturing use permittee.
- (2) An industrial or manufacturing use permittee may produce for lawful use and sale the following:
 - (a) vinegar;
 - (b) preserved nonintoxicating cider;
 - (c) a food preparation;
 - (d) a United States Pharmacopoeia or national formulary preparation in conformity with Title 58, Chapter 17b, Pharmacy Practice Act, Chapter 37, Utah Controlled Substances Act, Chapter

37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, and Chapter 37c, Utah Controlled Substance Precursor Act, if the preparation:

- (i) conforms to standards established by:
 - (A) the Department of Agriculture and Food; and
 - (B) the Department of Health; and
 - (ii) contains no more alcohol than is necessary to preserve or extract the medicinal, flavoring, or perfumed properties of the treated substances; and
 - (e) wood and denatured alcohol if manufactured in compliance with the formulas and regulations under Title 27, C.F.R. Parts 19, 20, and 21.
- (3)
- (a) An industrial or manufacturing use permittee that produces patent or proprietary medicines containing alcohol may sell or offer for sale the medicines in the original and unbroken container if the medicine contains sufficient medication to prevent its use as an alcoholic product.
 - (b) An industrial or manufacturing use permittee described in this Subsection (3) shall, upon request by the department, provide a sufficient sample of the medicine to enable the department to have the medicine analyzed for purposes of this section.

Amended by Chapter 307, 2011 General Session

Amended by Chapter 334, 2011 General Session

Part 5 Scientific or Educational Use Permit

32B-10-501 Title.

This part is known as "Scientific or Educational Use Permit."

Enacted by Chapter 276, 2010 General Session

32B-10-502 Definitions.

Reserved

Enacted by Chapter 276, 2010 General Session

32B-10-503 Specific application requirements for scientific or educational use permit.

- (1) To obtain a scientific or educational use permit, a person shall comply with Section 32B-10-202.
- (2) The one-time special use permit fee for a scientific or educational use permit is \$125.

Amended by Chapter 334, 2011 General Session

Part 6 Religious Use of Alcoholic Products

32B-10-601 Title.

This part is known as "Religious Use of Alcoholic Products."

Enacted by Chapter 276, 2010 General Session

32B-10-602 Definitions.

Reserved

Enacted by Chapter 276, 2010 General Session

32B-10-603 Specific application requirements for religious wine use permit.

- (1) To purchase an alcoholic product from the department at the department's cost plus freight charges, a religious organization shall obtain a religious wine use permit.
- (2) To obtain a religious wine permit, a person shall comply with Section 32B-10-202.
- (3) The one-time special use permit fee for a religious wine use permit is \$125.

Amended by Chapter 334, 2011 General Session

32B-10-604 Specific operational requirements for religious wine use permit.

- (1)
 - (a) In addition to complying with Section 32B-10-206, a religious wine permittee and staff of the religious wine permittee shall comply with this section.
 - (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
 - (i) a religious wine permittee;
 - (ii) individual staff of a religious wine permittee; or
 - (iii) a religious wine permittee and staff of the religious wine permittee.
- (2) A religious wine use permittee may purchase wine from a state store as the department may designate at the department's cost plus freight charges.
- (3) A religious wine use permittee may not use wine purchased under a religious wine use permit for a purpose other than a religious purpose.

Amended by Chapter 369, 2012 General Session

32B-10-605 Religious organization exemption.

- (1) A religious organization that provides or allows to be provided an alcoholic product to a person as part of the religious organization's religious services:
 - (a) does not violate this title by providing or allowing the provision of an alcoholic product as part of a religious service; and
 - (b) is not required to hold a license or special use permit to provide or allow the provision of an alcoholic product for religious services.
- (2) This exemption does not exempt a religious organization from complying with this title with respect to an alcoholic product purchased by the religious organization for a purpose other than one purpose stated in Subsection (1).

Enacted by Chapter 276, 2010 General Session

Part 7

Health Care Facility or Practitioner Use of Alcoholic Products

32B-10-701 Title.

This part is known as "Health Care Facility or Practitioner Use of Alcoholic Products."

Enacted by Chapter 276, 2010 General Session

32B-10-702 Definitions.

As used in this part, "health care facility" means a facility that is licensed by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

Enacted by Chapter 276, 2010 General Session

32B-10-703 Health care facility exemption.

- (1)
 - (a) This Subsection (1) applies to a health care facility that administers or allows to be administered an alcoholic product to a patient of the health care facility if the alcoholic product is prescribed by a person licensed by the state to write a prescription.
 - (b) A health care facility described in Subsection (1)(a):
 - (i) is not in violation of this title; and
 - (ii) is not required to hold a license or special use permit to make or allow the administration of an alcoholic product.
- (2) This exemption does not apply to an alcoholic product purchased by a health care facility for administration to a patient or a use other than one stated in Subsection (1).

Enacted by Chapter 276, 2010 General Session

32B-10-704 Health care practitioner exemption.

- (1) This section applies to an individual who:
 - (a)
 - (i) is a health care practitioner; or
 - (ii) is a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act;
 - (b) is acting within the scope of individual's professional responsibility; and
 - (c) in a professional capacity, prescribes, prepares, or administers an alcoholic product to a person being treated or within the scope of the health care practitioner's license authority.
- (2) A person described in Subsection (1):
 - (a) is not in violation of this title; and
 - (b) is not required to hold any type of license or permit to use an alcoholic product professionally.

Enacted by Chapter 276, 2010 General Session