

Part 3

Criminal Offenses in General

32B-4-301 Applicability of Utah Criminal Code.

Except as otherwise provided, Title 76, Chapter 1, General Provisions, Chapter 2, Principles of Criminal Responsibility, Chapter 3, Punishments, and Chapter 4, Inchoate Offenses, apply to the prosecution of a criminal offense defined in this chapter or expressly identified as a criminal offense in this title.

Enacted by Chapter 276, 2010 General Session

32B-4-302 Criminal responsibility for conduct of another.

In addition to Title 76, Chapter 2, Part 2, Criminal Responsibility for Conduct of Another, the following principles apply to a violation of this title:

- (1)
 - (a) If a violation of this title is committed by a person in the employ of the occupant of premises in which the offense is committed, or by a person who is required by the occupant to be or remain in or upon the premises, or to act in any way for the occupant, notwithstanding the fact that the offense is committed by a person who is not proved to have committed it under or by the direction of the occupant, the occupant is:
 - (i) prima facie considered a party to the offense committed; and
 - (ii) liable as a principal offender.
 - (b) This section does not relieve the person actually committing the offense from liability.
- (2)
 - (a) If a violation of this title is committed by a corporation, association, partnership, or limited liability company, an officer or agent of the corporation or association, a partner of the partnership, or a manager or member of the limited liability company in charge of the premises in which the offense is committed is:
 - (i) prima facie considered a party to the offense committed; and
 - (ii) personally liable to the penalties prescribed for the offense as a principal offender.
 - (b) This section does not relieve the corporation, association, partnership, or limited liability company, or the person who actually committed the offense from liability.

Enacted by Chapter 276, 2010 General Session

32B-4-303 Special burdens of proof -- Inferences and presumptions.

- (1) In a prosecution of an offense defined in this title or in a proceeding brought to enforce this title:
 - (a) it is not necessary that the state or commission establish:
 - (i) the precise description or quantity of an alcoholic product; or
 - (ii) the precise consideration, if any, given or received for an alcoholic product;
 - (b) there is an inference, absent proof to the contrary, that an alcoholic product in question is an alcoholic product if the witness describes it:
 - (i) as an alcoholic product;
 - (ii) by a name that is commonly applied to an alcoholic product; or
 - (iii) as intoxicating;

- (c) if it is alleged that an entity for which a record is required to be filed with the Division of Corporations and Commercial Code to be organized or conduct business in this state has violated this title, the fact of the entity is presumed absent proof to the contrary;
 - (d) a record signed or purporting to be signed by a state chemist, assistant state chemist, or state crime laboratory chemist, as to the analysis or ingredients of an alcoholic product is:
 - (i) prima facie evidence:
 - (A) of the facts stated in that record; and
 - (B) of the authority of the person giving or making the record; and
 - (ii) admissible in evidence without proof of appointment or signature absent proof to the contrary; and
 - (e) a copy of an entry made in a record of the United States internal revenue collector, certified by the collector or a qualified notary public, showing the payment of the United States internal revenue special tax for the manufacture or sale of an alcoholic product is prima facie evidence of the manufacture or sale by the party named in the entry within the period set forth in the record.
- (2)
- (a) In proving the unlawful purchase, sale, gift, or disposal, gratuitous or otherwise, or consumption of an alcoholic product, it is not necessary that the state or commission establish that money or other consideration actually passed or that an alcoholic product is actually consumed if the court or trier of fact is satisfied that:
 - (i) a transaction in the nature of a purchase, sale, gift, or disposal actually occurs; or
 - (ii) consumption of an alcoholic product is about to occur.
 - (b) Proof of consumption or intended consumption of an alcoholic product on premises on which consumption is prohibited, by some person not authorized to consume an alcoholic product on those premises, is evidence that an alcoholic product is sold, given to, or purchased by the person consuming, about to consume, or carrying away the alcoholic product as against the occupant of the premises.
- (3) For purposes of a provision applicable under this chapter to a retail licensee or staff of a retail licensee, the provision is applicable to a resort licensee or hotel licensee or a person operating under a sublicense of the resort licensee or hotel licensee.
- (4) Notwithstanding the other provisions of this chapter, a criminal offense identified in this title as a criminal offense may not be enforced under this chapter if the criminal offense relates to a violation:
- (a) of a provision in this title related to intoxication or becoming intoxicated; and
 - (b) if the violation is first investigated by a law enforcement officer, as defined in Section 53-13-103, who has not received training regarding the requirements of this title related to responsible alcoholic product sale or furnishing.

Amended by Chapter 80, 2016 General Session

32B-4-304 Violation of title a misdemeanor.

- (1) Unless otherwise provided in this title, a person is guilty of a class B misdemeanor if that person violates:
 - (a) this chapter; or
 - (b) a provision of this title that is expressly identified as a criminal offense.
- (2) This section is not applicable to an adjudicative proceeding under Chapter 3, Disciplinary Actions and Enforcement Act, but only:
 - (a) makes a violation described in Subsection (1) a criminal offense; and

- (b) establishes a penalty for a violation described in Subsection (1) that is prosecuted criminally.

Enacted by Chapter 276, 2010 General Session

32B-4-305 Additional criminal penalties.

- (1)
 - (a) As used in this section, "business entity" means a corporation, partnership, association, limited liability company, or similar entity.
 - (b) In addition to the penalties provided in Title 76, Chapter 3, Punishments, this section applies.
- (2) Upon a defendant's conviction of an offense defined in this title, the court may order the defendant to pay restitution or costs in accordance with Subsection 76-3-201(4).
- (3)
 - (a) Upon a business entity's conviction of an offense defined in this title, and a failure of the business entity to pay a fine imposed upon it:
 - (i) if the business entity is a domestic business entity, the powers, rights, and privileges of the business entity may be suspended or revoked; and
 - (ii) if the business entity is a foreign business entity, it forfeits its right to do intrastate business in this state.
 - (b) The department shall transmit the name of a business entity described in Subsection (3)
 - (a) to the Division of Corporations and Commercial Code. Upon receipt of the information, the Division of Corporations and Commercial Code shall immediately record the action in a manner that makes the information available to the public.
 - (c) A suspension, revocation, or forfeiture under this Subsection (3) is effective from the day on which the Division of Corporations and Commercial Code records the information.
 - (d) A certificate of the Division of Corporations and Commercial Code is prima facie evidence of a suspension, revocation, or forfeiture.
 - (e) This section may not be construed as affecting, limiting, or restricting a proceeding that otherwise may be taken for the imposition of any other punishment or the modes of enforcement or recovery of fines or penalties.
- (4)
 - (a) Upon the conviction of a business entity required to have a business license to operate the business entity's activities, or upon the conviction of any of the business entity's staff of any offense defined in this title, with the knowledge, consent, or acquiescence of the business entity, the department shall forward a copy of the judgment of conviction to the appropriate governmental entity responsible for issuing and revoking the business license.
 - (b) A governmental entity that receives a copy of a judgment under this Subsection (4) may institute appropriate proceedings to revoke the business license.
 - (c) Upon revocation under this Subsection (4), a governmental entity may not issue a business license to the business entity for at least one year from the date of revocation.
 - (d) Upon the conviction for a second or other offense, the governmental entity may not issue a business license for at least two years from the date of revocation.
- (5)
 - (a) Upon conviction of one of the following of an offense defined in this title, the department shall forward a certified copy of the judgment of conviction to the Division of Professional Licensing:
 - (i) a health care practitioner; or
 - (ii) an individual licensed as a veterinarian under Title 58, Chapter 28, Veterinary Practice Act.

- (b) The Division of Professional Licensing may bring a proceeding in accordance with Title 58, Occupations and Professions, to revoke the license issued under Title 58, Occupations and Professions, of an individual described in Subsection (5)(a).
- (c) Upon revocation of a license under Subsection (5)(b):
 - (i) the Division of Professional Licensing may not issue a license to the individual under Title 58, Occupations and Professions, for at least one year from the date of revocation; and
 - (ii) if the individual is convicted of a second or subsequent offense, the Division of Professional Licensing may not issue a license to the individual under Title 58, Occupations and Professions, for at least two years from the date of revocation.

Amended by Chapter 415, 2022 General Session