

Part 3 Limited-Service Restaurant License

32B-6-301 Title.

This part is known as "Limited-service Restaurant License."

Enacted by Chapter 276, 2010 General Session

32B-6-302 Definitions.

As used in this part:

- (1)
 - (a) "Grandfathered bar structure" means a bar structure in a licensed premises of a limited-service restaurant licensee that:
 - (i) as of May 11, 2009, has:
 - (A) patron seating at the bar structure;
 - (B) a partition at one or more locations on the bar structure that is along:
 - (I) the width of the bar structure; or
 - (II) the length of the bar structure; and
 - (C) facilities for the dispensing or storage of an alcoholic product:
 - (I) on the portion of the bar structure that is separated by the partition described in Subsection (1)(a)(i)(B); or
 - (II) if the partition as described in Subsection (1)(a)(i)(B)(II) is adjacent to the bar structure in a manner visible to a patron sitting at the bar structure;
 - (ii) is not operational as of May 12, 2009, if:
 - (A) a person applying for a limited-service restaurant license:
 - (I) has as of May 12, 2009, a building permit to construct the restaurant;
 - (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as defined by rule made by the commission; and
 - (III) is issued the limited-service restaurant license by no later than December 31, 2009; and
 - (B) once constructed, the licensed premises has a bar structure described in Subsection (1)(a)(i);
 - (iii) as of May 12, 2009, has no patron seating at the bar structure; or
 - (iv) is not operational as of May 12, 2009, if:
 - (A) a person applying for a limited-service restaurant license:
 - (I) has as of May 12, 2009, a building permit to construct the restaurant;
 - (II) is as of May 12, 2009, actively engaged in the construction of the restaurant, as defined by rule made by the commission; and
 - (III) is issued a limited-service restaurant license by no later than December 31, 2009; and
 - (B) once constructed, the licensed premises has a bar structure with no patron seating.
 - (b) "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection (1)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.
 - (c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.
- (2) "Seating grandfathered bar structure" means:
 - (a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or
 - (b) a bar structure grandfathered under Section 32B-6-409.

- (3) "Wine" includes an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic beverages made in the manner of wine containing not less than 7% and not more than 24% of alcohol by volume:
- (a) sparkling and carbonated wine;
 - (b) wine made from condensed grape must;
 - (c) wine made from other agricultural products than the juice of sound, ripe grapes;
 - (d) imitation wine;
 - (e) compounds sold as wine;
 - (f) vermouth;
 - (g) cider;
 - (h) perry; and
 - (i) sake.

Amended by Chapter 334, 2011 General Session

32B-6-303 Commission's power to issue limited-service restaurant license.

- (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of wine, heavy beer, or beer on its premises as a limited-service restaurant, the person shall first obtain a limited-service restaurant license from the commission in accordance with this part.
- (2)
- (a) The commission may issue a limited-service restaurant license to establish limited-service restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of wine, heavy beer, or beer on premises operated as a limited-service restaurant.
 - (b) A person may not sell, offer for sale, furnish, or allow the consumption of the following on the licensed premises of a limited-service restaurant licensee:
 - (i) spirituous liquor; or
 - (ii) a flavored malt beverage.
- (3) Subject to Section 32B-1-201:
- (a) The commission may not issue a total number of limited-service restaurant licenses that at any time exceeds the number determined by dividing the population of the state by 6,817.
 - (b) The commission may issue a seasonal limited-service restaurant license in accordance with Section 32B-5-206.
 - (c)
 - (i) If the location, design, and construction of a hotel may require more than one limited-service restaurant sales location within the hotel to serve the public convenience, the commission may authorize the sale of wine, heavy beer, and beer at as many as three limited-service restaurant locations within the hotel under one limited-service restaurant license if:
 - (A) the hotel has a minimum of 150 guest rooms; and
 - (B) the locations under the limited-service restaurant license are:
 - (I) within the same hotel; and
 - (II) on premises that are managed or operated, and owned or leased, by the limited-service restaurant licensee.
 - (ii) A facility other than a hotel shall have a separate limited-service restaurant license for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or furnished.
- (4)

- (a) Except as provided in Subsection (4)(b), the commission may not issue a limited-service restaurant license for premises that do not meet the proximity requirements of Section 32B-1-202.
- (b) With respect to the premises of a limited-service restaurant license issued by the commission that undergoes a change of ownership, the commission shall waive or vary the proximity requirements of Subsection 32B-1-202(2) in considering whether to issue a limited-service restaurant license to the new owner of the premises if:
 - (i) when a limited-service restaurant license was issued to a previous owner, the premises met the proximity requirements of Subsection 32B-1-202(2);
 - (ii) the premises has had a limited-service restaurant license at all times since the limited-service restaurant license described in Subsection (4)(b)(i) was issued without a variance; and
 - (iii) the community location was located within the proximity requirements of Subsection 32B-1-202(2) after the day on which the limited-service restaurant license described in Subsection (4)(b)(i) was issued.

Amended by Chapter 82, 2016 General Session

32B-6-304 Specific licensing requirements for limited-service restaurant license.

- (1) To obtain a limited-service restaurant license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.
- (2)
 - (a) A limited-service restaurant license expires on October 31 of each year.
 - (b) To renew a person's limited-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.
- (3)
 - (a) The nonrefundable application fee for a limited-service restaurant license is \$330.
 - (b) The initial license fee for a limited-service restaurant license is \$1,275.
 - (c) The renewal fee for a limited-service restaurant license is \$750.
- (4) The bond amount required for a limited-service restaurant license is the penal sum of \$5,000.

Amended by Chapter 82, 2016 General Session

32B-6-305 Specific operational requirements for a limited-service restaurant license.

- (1)
 - (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant licensee 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 limited-service restaurant licensee;
 - (ii) individual staff of a limited-service restaurant licensee; or
 - (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.
- (2)
 - (a) A limited-service restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of:

- (i) spirituous liquor; or
 - (ii) a flavored malt beverage.
- (b) A product listed in Subsection (2)(a) may not be on the premises of a limited-service restaurant licensee except for use:
 - (i) as a flavoring on a dessert; and
 - (ii) in the preparation of a flaming food dish, drink, or dessert.
- (3) In addition to complying with Section 32B-5-303, a limited-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).
- (4)
 - (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.
 - (b) A beverage tab required by this Subsection (4) shall list the type and amount of an alcoholic product ordered or consumed.
- (5) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a limited-service restaurant licensee.
- (6)
 - (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish wine or heavy beer at the licensed premises on any day during the period that:
 - (i) begins at midnight; and
 - (ii) ends at 11:29 a.m.
 - (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer, except that a limited-service restaurant licensee may not sell, offer for sale, or furnish beer before 11:30 a.m. on any day.
- (7) A limited-service restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include a service charge.
- (8)
 - (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product except after the limited-service restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.
 - (b) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.
- (9)
 - (a) Subject to the other provisions of this Subsection (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.
 - (b) An individual portion of wine is considered to be one alcoholic product under Subsection (9)
 - (a).
- (10) A patron may consume an alcoholic product only:
 - (a) at:
 - (i) the patron's table;
 - (ii) a counter; or
 - (iii) a seating grandfathered bar structure; and
 - (b) where food is served.
- (11)
 - (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.

- (b) At a seating grandfathered bar structure a patron who is 21 years of age or older may:
 - (i) sit;
 - (ii) be furnished an alcoholic product; and
 - (iii) consume an alcoholic product.
- (c) Except as provided in Subsection (11)(d), at a seating grandfathered bar structure a limited-service restaurant licensee may not permit a minor to, and a minor may not:
 - (i) sit; or
 - (ii) consume food or beverages.
- (d)
 - (i) A minor may be at a seating grandfathered bar structure if the minor is employed by a limited-service restaurant licensee:
 - (A) as provided in Subsection 32B-5-308(2); or
 - (B) to perform maintenance and cleaning services during an hour when the limited-service restaurant licensee is not open for business.
 - (ii) A minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a limited-service restaurant licensee's premises in which the minor is permitted to be.
- (12) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant licensee may dispense an alcoholic product only if:
 - (a) the alcoholic product is dispensed from:
 - (i) a grandfathered bar structure;
 - (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or
 - (iii) an area that is:
 - (A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:
 - (I) not readily visible to a patron; and
 - (II) not accessible by a patron; and
 - (B) apart from an area used:
 - (I) for dining;
 - (II) for staging; or
 - (III) as a lobby or waiting area;
 - (b) the limited-service restaurant licensee uses an alcoholic product that is:
 - (i) stored in an area described in Subsection (12)(a); or
 - (ii) in an area not described in Subsection (12)(a) on the licensed premises and:
 - (A) immediately before the alcoholic product is dispensed it is in an unopened container;
 - (B) the unopened container is taken to an area described in Subsection (12)(a) before it is opened; and
 - (C) once opened, the container is stored in an area described in Subsection (12)(a); and
 - (c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (12)(a).
- (13) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer including:
 - (a) a set-up charge;
 - (b) a service charge; or

- (c) a chilling fee.

Amended by Chapter 353, 2013 General Session

32B-6-305.1 Credit for grandfathered bar structures for limited-service restaurant licensee.

- (1) A limited-service restaurant licensee that has a grandfathered bar structure may receive a credit for purchases from a state store or package agency if:
 - (a) the limited-service restaurant licensee completes a remodel of the grandfathered bar structure by no later than December 31, 2011;
 - (b) the remodeling described in Subsection (1)(a) results in the limited-service restaurant licensee engaging in an activity described in Subsection 32B-6-305(12) only in an area described in Subsection 32B-6-305(12)(a)(iii);
 - (c) the limited-service restaurant licensee requests the credit by no later than April 1, 2012;
 - (d) the department determines that the limited-service restaurant licensee has completed a remodel described in Subsections (1)(a) and (b); and
 - (e) the department authorizes the credit, including the amount of the credit under Subsection (2), on the basis that:
 - (i) the limited-service restaurant licensee complied with this section; and
 - (ii) the aggregate of credits authorized under this section and Section 32B-6-205.1 before the current authorization does not exceed the amount described in Subsection (5)(a).
- (2) The amount of the credit described in this section is the lesser of:
 - (a) the actual costs of the remodel as evidenced by receipts, copies of which are submitted to the department as part of the request for the credit; or
 - (b) \$30,000.
- (3) For a limited-service restaurant licensee, a credit under this section:
 - (a) begins on the day on which the department authorizes the credit under Subsection (1); and
 - (b) ends the day on which the limited-service restaurant licensee uses all of the credit.
- (4) The department shall by contract provide for how a package agency accounts for a credit purchase made at the package agency by a limited-service restaurant licensee under this section.
- (5)
 - (a) Notwithstanding the other provisions of this section, the department may not authorize a credit if the aggregate of credits authorized under this section and Section 32B-6-205.1 before the department authorizes the credit exceeds:
 - (i) \$1,000,000, for the aggregate of credits under this section and Section 32B-6-205.1, if the credit could be used on or before June 30, 2010; and
 - (ii) subject to Subsection (5)(a)(i), \$1,090,000 for the aggregate of all credits that can be authorized under this section and Section 32B-6-205.1.
 - (b) The department shall authorize credits in the order that the department receives a request described in Subsection (1)(c) from a limited-service restaurant licensee requesting a credit under this section.

Enacted by Chapter 276, 2010 General Session

32B-6-306 Master limited-service restaurant license.

- (1)
 - (a) The commission may issue a master limited-service restaurant license that authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product

- on premises at multiple locations as limited-service restaurants if the person applying for the master limited-service restaurant license:
- (i) owns each of the limited-service restaurants;
 - (ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of a limited-service restaurant under the master limited-service restaurant license separately meets the requirements of this part; and
 - (iii) the master limited-service restaurant includes at least five limited-service restaurant locations.
- (b) The person seeking a master limited-service restaurant license shall designate which limited-service restaurant locations the person seeks to have under the master limited-service restaurant license.
- (c) A limited-service restaurant location under a master limited-service restaurant license is considered separately licensed for purposes of this title, except as provided in this section.
- (2) A master limited-service restaurant license and each location under Subsection (1) are considered a single limited-service restaurant license for purposes of Subsection 32B-6-303(3)
- (a).
- (3)
- (a) A master limited-service restaurant license expires on October 31 of each year.
- (b) To renew a person's master limited-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.
- (4)
- (a) The nonrefundable application fee for a master limited-service restaurant license is \$330.
- (b) The initial license fee for a master limited-service restaurant license is \$5,000 plus a separate initial license fee for each newly licensed limited-service restaurant license under the master limited-service restaurant license determined in accordance with Subsection 32B-6-304(3)(b).
- (c) The renewal fee for a master limited-service restaurant license is \$500 plus a separate renewal fee for each limited-service license under the master limited-service restaurant license determined in accordance with Subsection 32B-6-304(3)(c).
- (5) A new location may be added to a master limited-service restaurant license after the master limited-service restaurant license is issued if:
- (a) the master limited-service restaurant licensee pays a nonrefundable application fee of \$330; and
- (b) including payment of the initial license fee, the location separately meets the requirements of this part.
- (6)
- (a) A master limited-service restaurant licensee shall notify the department of a change in the persons managing a location covered by a master limited-service restaurant license:
- (i) immediately, if the management personnel is not management personnel at a location covered by the master limited-service restaurant licensee at the time of the change; or
 - (ii) within 30 days of the change, if the master limited-service restaurant licensee is transferring management personnel from one location to another location covered by the master limited-service restaurant licensee.
- (b) A location covered by a master limited-service restaurant license shall keep its own records on its premises so that the department may audit the records.
- (c) A master limited-service restaurant licensee may not transfer alcoholic products between different locations covered by the master limited-service restaurant license.
- (7)

- (a) If there is a violation of this title at a location covered by a master limited-service restaurant license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
 - (i) the single location under a master limited-service restaurant license;
 - (ii) individual staff of the location under the master limited-service restaurant license; or
 - (iii) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).
- (b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master limited-service restaurant licensee or individual staff of the master limited-service restaurant licensee if during a period beginning on November 1 and ending October 31:
 - (i) at least 25% of the locations covered by the master limited-service restaurant license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or
 - (ii) at least 50% of the locations covered by the master limited-service restaurant license have been found by the commission to have violated this title.
- (8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a person may apply for a master limited-service restaurant license under this section.

Enacted by Chapter 349, 2013 General Session