

Effective 5/12/2020

Chapter 8d Sublicense Act

Part 1 General Provisions

32B-8d-101 Title.

This chapter is known as the "Sublicense Act."

Enacted by Chapter 219, 2020 General Session

32B-8d-102 Definitions.

As used in this chapter:

- (1) "Boundary of a hotel" means the same as that term is defined in Section 32B-8b-102.
- (2) "Boundary of a resort building" means the same as that term is defined in Section 32B-8b-102.
- (3) "Hotel" means the same as that term is defined in Section 32B-8b-102.
- (4) "Resort building" means the same as that term is defined in Section 32B-8-102.
- (5) "Spa" means a spa:
 - (a) as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (b) that is within the:
 - (i) boundary of a resort building; or
 - (ii) boundary of a hotel.

Amended by Chapter 447, 2022 General Session

32B-8d-103 Commission's power to issue a sublicense.

- (1) Before a person as a sublicensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicensed premises, the person shall first obtain a sublicense from the commission in accordance with:
 - (a) this chapter;
 - (b) Chapter 8, Resort License Act;
 - (c) Chapter 8b, Hotel License Act; and
 - (d) Chapter 8c, Arena License Act.
- (2)
 - (a) The commission may issue to a person a sublicense to allow the storage, sale, offering for sale, furnishing, or consumption of an alcoholic product on the premises of the sublicense, if the person is:
 - (i) a principal licensee; or
 - (ii) a person seeking a principal license, contingent on the issuance of the principal license.
 - (b) The commission may not:
 - (i) issue a sublicense that is separate from a principal license; or
 - (ii) issue a single sublicense that covers more than one outlet in or on the boundaries of the principal licensee.

- (3) When determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to that sublicense.
- (4) If a principal licensee seeks to add a sublicense after the commission issues the person's principal license, the principal licensee shall file with the department:
 - (a) a nonrefundable \$300 application fee;
 - (b) an initial license fee of \$2,250, which the commission shall refund if the commission does not issue the proposed sublicense;
 - (c) written consent of the local authority;
 - (d) a copy of:
 - (i) the principal licensee's current business; and
 - (ii) the proposed sublicensee's current business license, if the relevant political subdivision determines that the proposed sublicensee's business license is separate from the principal licensee's business license;
 - (e) evidence that the proposed sublicensed premises is entirely within the boundary of the principal license;
 - (f) a description, floor plan, and boundary map of the proposed sublicensed premises designating:
 - (i) each location at which the principal licensee proposes that an alcoholic product be stored; and
 - (ii) each location from which the principal licensee proposes that an alcoholic product be sold, furnished, or consumed;
 - (g) evidence that the principal licensee carries:
 - (i) public liability insurance in an amount and form satisfactory to the department; and
 - (ii) dramshop insurance coverage in the amount required by Section 32B-5-201 that covers the proposed sublicense;
 - (h) a signed consent form stating that the principal licensee will permit any authorized representative of the commission or department, or any law enforcement officer, to have an unrestricted right to enter the proposed sublicensed premises;
 - (i) if the principal licensee is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and
 - (j) any other information the commission or department may require.

Amended by Chapter 371, 2023 General Session

32B-8d-104 General operational requirements for a sublicense.

- (1) Except as provided in Subsections (2) through (5), a person operating under a sublicense is subject to the operational requirements under the provisions applicable to the sublicense.
- (2) Notwithstanding a requirement in the provisions applicable to the sublicense, a person operating under the sublicense is not subject to a requirement that a certain percentage of the gross receipts for the sublicense be from the sale of food, except to the extent that the gross receipts for the sublicense are included in calculating the percentages under Subsections 32B-8-401(3), 32B-8b-301(6), and 32B-8c-301(3).
- (3) Notwithstanding Section 32B-5-307, a patron may transport beer between the sublicensed premises of an arena licensee's accompanying sublicenses, if the patron transports the beer from and to an area of each sublicensed premises:
 - (a) that is adjacent to the other; and
 - (b) where the consumption of beer is permitted.

- (4) Notwithstanding Section 32B-5-307, staff of a sublicensee or person otherwise operating under a sublicense of a hotel licensee or a resort licensee may transport an alcoholic beverage from and to sublicensed premises of the hotel license or resort license, if:
- (a) the sublicensee is:
 - (i) a full-service restaurant sublicensee;
 - (ii) a limited-service restaurant sublicensee;
 - (iii) a bar establishment sublicensee;
 - (iv) a beer-only restaurant sublicensee; or
 - (v) an on-premise beer retailer sublicensee;
 - (b) the individual staff carries the alcoholic beverage:
 - (i) from the sublicensed premises of a sublicensee described in Subsection (4)(a);
 - (ii) briefly through an unlicensed area or briefly through sublicensed premises on which the type of alcoholic beverage that the individual staff carries is permitted; and
 - (iii) to the sublicensed premises of a sublicensee described in Subsection (4)(a); and
 - (c) the individual staff at all times stays within:
 - (i) the boundary of the hotel; or
 - (ii) the boundary of the resort building.
- (5)
- (a) Notwithstanding Section 32B-5-307, 32B-6-605, or 32B-6-1005, a patron may transport an alcoholic beverage between any of the following locations, if the patron lawfully obtained the alcoholic beverage on the premises of a sublicensee described in Subsections (5)(a)(i) through (iv) and complies with Subsection (5)(b):
 - (i) a bar establishment sublicensee's sublicensed premises;
 - (ii) a hospitality amenity sublicensee's sublicensed premises;
 - (iii) an on-premise banquet sublicensee's sublicensed premises; and
 - (iv) a guest room.
 - (b) A patron may transport an alcoholic beverage in accordance with Subsection (5)(a) only if:
 - (i) the patron travels exclusively within a designated conveyance area as defined in Section 32B-8-102 or 32B-8b-102; and
 - (ii) the alcoholic beverage:
 - (A) is not in the alcoholic beverage's original container; and
 - (B) is in an opaque or solid color container that is readily identifiable as intended for use in a designated conveyance area.
- (6) Except as provided in Section 32B-8-502, for purposes of interpreting an operational requirement imposed by the provisions applicable to a sublicense:
- (a) a requirement imposed on a sublicensee or person operating under a sublicense applies to the principal licensee; and
 - (b) a requirement imposed on staff of a sublicensee or person operating under a sublicense applies to staff of the principal licensee.

Amended by Chapter 94, 2024 General Session

32B-8d-105 Enforcement of operational requirements.

- (1) Except as provided in Subsection 32B-8-502(2) and in addition to Subsection (2), failure by a person to comply with this chapter or an operational requirement under a provision applicable to a sublicense may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
- (a) a principal licensee;

- (b) individual staff of a principal licensee;
 - (c) a sublicensee or person otherwise operating under a sublicense;
 - (d) individual staff of a sublicensee or person otherwise operating under a sublicense; or
 - (e) any combination of the persons listed in Subsections (1)(a) through (d).
- (2) An operational requirement applicable to a sublicensee or person operating under a sublicense is enforced as provided by the provisions applicable to the sublicense.

Enacted by Chapter 219, 2020 General Session

Part 2

Resort Spa Sublicense

32B-8d-201 Title.

This part is known as " Spa Sublicense."

Amended by Chapter 447, 2022 General Session

32B-8d-202 Commission's power to issue a spa sublicense.

- (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on the person's premises as a spa sublicensee, a resort licensee, a hotel licensee, or a person applying for a resort license or a hotel license shall first obtain a spa sublicense from the commission in accordance with this part.
- (2) The commission may only issue a spa sublicense to:
 - (a) a resort licensee;
 - (b) a hotel licensee;
 - (c) a person applying for a resort license, contingent on the issuance of the resort license; or
 - (d) a person applying for a hotel license, contingent on the issuance of the hotel license.
- (3) A spa sublicense premises shall fall entirely within the:
 - (a) boundary of a resort building that is part of the resort to which the spa sublicense is connected; or
 - (b) boundary of a hotel that is part of the hotel to which the spa sublicense is connected.

Amended by Chapter 447, 2022 General Session

32B-8d-203 Specific licensing requirements for spa sublicense.

- (1)
 - (a) In accordance with Subsection 32B-8d-103(2), a person may not file a written application with the department to obtain a spa sublicense that is separate from the person's application for a resort license or a hotel license, unless the person seeks the spa sublicense after the commission issues the person a resort license or a hotel license.
 - (b) If a resort licensee or a hotel licensee seeks to add a spa sublicense after the licensee's resort license or hotel license is issued, the licensee shall comply with Subsection 32B-8d-103(4).
- (2)
 - (a) A spa sublicense expires on October 31 of each year.

- (b) To renew a spa sublicense, the corresponding resort licensee or hotel licensee shall renew the spa sublicense as part of renewing the licensee's resort license or hotel license.
- (c)
 - (i) Failure of a resort licensee to meet the renewal requirements for a resort license results in an automatic forfeiture of the spa sublicense effective the day on which the resort license expires.
 - (ii) Failure of a hotel licensee to meet the renewal requirements for a hotel license results in an automatic forfeiture of the spa sublicense effective the day on which the hotel license expires.

Amended by Chapter 447, 2022 General Session

32B-8d-204 Specific qualifications for a spa sublicense.

- (1) A person employed to act in a supervisory or managerial capacity for the spa sublicense is subject to qualification requirements of Section 32B-1-304 for licensees.
- (2) If a person no longer possesses the qualifications required by Section 32B-1-304 for obtaining the spa sublicense or the corresponding resort license or hotel license, the commission may suspend or revoke the spa sublicense that is part of the resort license or hotel license.

Amended by Chapter 447, 2022 General Session

32B-8d-205 Specific operational requirements for a spa sublicense.

- (1)
 - (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a resort licensee, staff of the resort licensee, a hotel licensee, and staff of the hotel licensee, shall comply with this section.
 - (b) A spa sublicensee or a person otherwise operating under a spa sublicense and staff of a spa sublicensee or a person otherwise operating under a spa sublicense shall comply with:
 - (i) Chapter 5, Part 3, Retail Licensee Operational Requirements as if the spa sublicensee is a retail licensee, unless a provision conflicts with this chapter; and
 - (ii) this chapter.
 - (c) Subject to Section 32B-8-502, 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 resort licensee;
 - (ii) staff of a resort licensee;
 - (iii) a hotel licensee;
 - (iv) staff of a hotel licensee;
 - (v) a spa sublicensee or person otherwise operating under a spa sublicense;
 - (vi) individual staff of a spa sublicensee or person otherwise operating under a spa sublicense;or
 - (vii) any combination of the persons listed in Subsections (1)(c)(i) through (vi).
- (2)
 - (a) For purposes of the spa sublicense, the corresponding resort licensee or hotel licensee shall ensure that a record is maintained or used for the spa sublicense:
 - (i) as the department requires; and
 - (ii) for a minimum period of three years.

- (b) A spa sublicensee record is subject to inspection by an authorized representative of the commission and the department.
 - (c) A resort licensee or a hotel licensee shall allow the department, through a compliance officer of the department, to audit the records for a spa sublicense at the times the department considers advisable.
 - (d) The department shall audit the records for a spa sublicense at least once annually.
 - (e) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (2).
- (3)
- (a) A spa sublicensee or person operating under a spa sublicense may not sell, offer for sale, or furnish liquor at a spa during a period that:
 - (i) begins at 1 a.m.; and
 - (ii) ends at 9:59 a.m.
 - (b) A spa sublicensee or person operating under a spa sublicense may sell, offer for sale, or furnish beer during the hours specified in Chapter 6, Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer.
 - (c)
 - (i) Notwithstanding Subsections (3)(a) and (b), a spa shall remain open for one hour after the spa ceases the sale and furnishing of an alcoholic product during which time a person at the spa may finish consuming:
 - (A) a single drink containing spirituous liquor;
 - (B) except as provided in Subsection (3)(c)(i)(C), a single serving of wine not exceeding five ounces;
 - (C) a single serving not exceeding 16 ounces of hard cider that is furnished in a sealed container and contains no more than 5% of alcohol by volume;
 - (D) a single serving of heavy beer;
 - (E) a single serving not exceeding 26 ounces of beer; or
 - (F) a single serving of a flavored malt beverage.
 - (ii) A spa is not required to remain open:
 - (A) after all individuals have vacated the spa sublicensee's sublicensed premises; or
 - (B) during an emergency.
- (4)
- (a) A minor may not be admitted into, use, or be on the sublicensed premises of a spa sublicense unless accompanied by an individual 21 years old or older.
 - (b) A minor permitted under Subsection (4)(a) to be admitted into, use, or be on the sublicensed premises of a spa sublicense:
 - (i) may only be admitted into or be on a lounge or bar area of the spa sublicensee's sublicensed premises momentarily while en route to another area of the spa; and
 - (ii) may not remain or sit in the lounge or bar area of the spa sublicensee's sublicensed premises.
- (5) A spa sublicensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the spa sublicensee's sublicensed premises.
- (6)
- (a) Subject to the other provisions of this Subsection (6), a patron may not have more than two alcoholic products of any kind at a time before the patron.
 - (b) A spa patron may not have two spirituous liquor drinks before the spa patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

- (c) An individual portion of wine is considered to be one alcoholic product under this Subsection (6).
- (7)
 - (a) An alcoholic product may only be consumed at a table or counter.
 - (b) An alcoholic product may not be served to or consumed by a patron at a dispensing structure.
- (8)
 - (a) A spa sublicensee or person operating under a spa sublicense shall have available on the spa sublicense's sublicensed premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold or furnished by the spa sublicensee including:
 - (i) a set-up charge;
 - (ii) a service charge; or
 - (iii) a chilling fee.
 - (b) A charge or fee made in connection with the sale, service, or consumption of liquor may be stated in food or alcoholic product menus including:
 - (i) a set-up charge;
 - (ii) a service charge; or
 - (iii) a chilling fee.
- (9)
 - (a) A resort licensee or hotel licensee shall own or lease premises suitable for the spa sublicense's activities.
 - (b) A resort licensee or hotel licensee may not maintain premises in a manner that barricades or conceals the spa sublicense's operation.
- (10) Subject to the other provisions of this section, a spa sublicensee or person operating under a spa sublicense may not sell an alcoholic product to or allow an individual to be admitted to or use the spa sublicensee's sublicensed premises other than:
 - (a) a resident; or
 - (b) a customer.

Amended by Chapter 371, 2023 General Session