

GAMBLING AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Blake D. Chard

AN ACT RELATING TO THE CRIMINAL CODE; AMENDING THE OFFENSE OF GAMBLING TO INCLUDE VIDEO GAMING DEVICES; AND AMENDING OPERATIONAL RESTRICTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

32A-4-106, as last amended by Chapter 40, Laws of Utah 1997

32A-4-206, as last amended by Chapter 95, Laws of Utah 1994

32A-5-107, as last amended by Chapter 95, Laws of Utah 1994

32A-7-106, as last amended by Chapters 7 and 10, Laws of Utah 1993

32A-10-206, as last amended by Chapter 95, Laws of Utah 1994

76-10-1101, as enacted by Chapter 196, Laws of Utah 1973

76-10-1102, as enacted by Chapter 196, Laws of Utah 1973

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **32A-4-106** is amended to read:

32A-4-106. Operational restrictions.

Each person granted a restaurant liquor license and the employees and management personnel of the restaurant shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) (a) Liquor may not be purchased by a restaurant liquor licensee except from state stores or package agencies.

(b) Liquor purchased may be transported by the licensee from the place of purchase to the licensed premises.

(c) Payment for liquor shall be made in accordance with rules established by the commission.

(2) A restaurant liquor licensee may not sell or provide any primary liquor except in one ounce quantities dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title, except that:

(a) liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following restrictions:

(i) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary liquor;

(ii) the secondary ingredient is not the only liquor in the beverage;

(iii) the licensee shall designate a location where flavorings are stored on the floor plan provided to the department; and

(iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

(b) liquor need not be dispensed through a calibrated metered dispensing system if used as a flavoring on desserts and in the preparation of flaming food dishes, drinks, and desserts;

(c) wine may be served by the glass in quantities not exceeding five ounces per glass; and

(d) heavy beer may be served in original containers not exceeding one liter.

(3) (a) Restaurants licensed to sell liquor may sell beer in any size container not exceeding two liters, and on draft for on-premise consumption without obtaining a separate on-premise beer retailer license from the commission.

(b) Restaurants licensed under this chapter that sell beer pursuant to Subsection (3)(a) shall comply with all appropriate operational restrictions under Chapter 10, Beer Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are inconsistent with or less restrictive than the operational restrictions under this chapter.

(c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer Licenses, required by Subsection (3)(b) may result in a suspension or revocation of the restaurant's:

(i) state liquor license; and

(ii) alcoholic beverage license issued by the local authority.

(4) Wine may be served in accordance with commission rule in containers not exceeding 750 ml.

(5) (a) Liquor may not be stored or sold in any place other than as designated in the licensee's application, unless the licensee first applies for and receives approval from the department for a change of location within the restaurant.

(b) A patron may only make alcoholic beverage purchases in the restaurant from a server designated and trained by the licensee.

(c) Any alcoholic beverage may only be consumed at the patron's table.

(d) Liquor may not be stored where it is visible to patrons of the restaurant.

(6) (a) Alcoholic beverages may not be dispensed directly to a patron from the storage area.

(b) Alcoholic beverages shall be delivered by a server to the patron.

(7) The liquor storage area shall remain locked at all times other than those hours and days when liquor sales are authorized by law.

(8) (a) Liquor may not be sold or offered for sale at a restaurant during the following days or hours:

(i) on the day of any regular general election, regular primary election, or statewide special election until after the polls are closed;

(ii) on the day of any municipal, special district, or school election, but only:

(A) within the boundaries of the municipality, special district, or school district; and

(B) if closure is required by local ordinance; and

(iii) on any other day after 12 midnight and before 12 noon.

(b) The hours of beer sales are those specified in Chapter 10, Beer Retailer Licenses, for on-premise beer licensees.

(9) Alcoholic beverages may not be sold except in connection with an order for food prepared, sold, and served at the restaurant.

(10) Alcoholic beverages may not be sold, delivered, or furnished to any:

(a) minor;

(b) person actually, apparently, or obviously drunk;

(c) known habitual drunkard; or

(d) known interdicted person.

(11) (a) Liquor may not be sold except at prices fixed by the commission.

(b) Mixed drinks and wine may not be sold at discount prices on any date or at any time.

(12) Each restaurant patron may have only one alcoholic beverage at a time before the patron on the patron's table.

(13) No more than one ounce of primary liquor may be served to a patron at a time, except:

(a) wine as provided in Subsection (2)(c); and

(b) heavy beer as provided in Subsection (2)(d).

(14) Alcoholic beverages may not be purchased by the licensee, or any employee or agent of the licensee, for patrons of the restaurant.

(15) Alcoholic beverages purchased in a restaurant may not be served or consumed at any location where they are stored or dispensed.

(16) (a) A wine service may be performed and a service charge assessed by the restaurant as authorized by commission rule for wine purchased at the restaurant or carried in by a patron.

(b) If wine is carried in by a patron, the patron shall deliver the wine to a server or other representative of the licensee upon entering the licensee premises.

(17) (a) A person may not bring onto the premises of a restaurant liquor licensee any alcoholic beverage for on-premise consumption, except a person may bring, subject to the discretion of the licensee, cork-finished wine onto the premises of any restaurant liquor licensee and consume wine pursuant to Subsection (16).

(b) A restaurant, whether licensed under this title or unlicensed, or its officers, managers, employees, or agents may not allow:

(i) a person to bring onto the restaurant premises any alcoholic beverage for on-premise consumption; or

(ii) consumption of any such alcoholic beverage on its premises, except cork-finished wine under Subsection (17)(a).

(c) If a restaurant licensee, or any of its officers, managers, employees, or agents violates this Subsection (17):

(i) the commission may immediately suspend or revoke the restaurant's liquor license and

the restaurant licensee is subject to possible criminal prosecution under Chapter 12; and

(ii) the local authority may immediately suspend or revoke the restaurant's:

(A) local liquor license;

(B) local consent under Subsection 32A-4-102(1)(c); or

(C) local business license.

(18) Alcoholic beverages purchased from the restaurant may not be removed from the restaurant premises.

(19) (a) Minors may not be employed by a restaurant licensee to sell or dispense alcoholic beverages.

(b) Notwithstanding Subsection (19)(a), a minor may be employed to enter the sale at a cash register or other sales recording device.

(20) An employee of a restaurant liquor licensee, while on duty, may not:

(a) consume an alcoholic beverage; or

(b) be under the influence of alcoholic beverages.

(21) (a) Advertising or other reference to the sale of liquor and wine is not allowed on a food menu except that a statement of availability of a liquor and wine menu on request, the content and form of which is approved by the department, may be attached to or carried on a food menu. The context of both food and liquor and wine menus may not in any manner attempt to promote or increase the sale of alcoholic beverages.

(b) A server, employee, or agent of a licensee may not draw attention to the availability of alcoholic beverages for sale, unless a patron or guest first inquires about it.

(c) Any set-up charge, service charge, chilling fee, or any other charge or fee made in connection with the sale, service, or consumption of liquor may be stated in food or alcoholic beverage menus.

(22) Each restaurant liquor licensee shall display in a prominent place in the restaurant:

(a) the liquor license that is issued by the department;

(b) a list of the types and brand names of liquor being served through its calibrated metered dispensing system; and

(c) a sign in large letters stating: "Warning: The consumption of alcoholic beverages purchased in this establishment may be hazardous to your health and the safety of others."

(23) The following acts or conduct in a restaurant licensed under this chapter are considered contrary to the public welfare and morals, and are prohibited upon the premises:

(a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;

(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (23)(a);

(c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;

(d) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection;

(f) permitting any person to remain in or upon the premises who exposes to public view any portion of that person's genitals or anus; or

(g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:

(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts prohibited by Utah law;

(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;

(iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this subsection; or

(iv) scenes wherein a person displays the vulva or the anus or the genitals.

(24) Nothing in Subsection (23) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (23).

(25) (a) Although live entertainment is permitted on the premises of a restaurant liquor licensee, a licensee may not allow any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.

(b) Nothing in Subsection (25)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (25)(a).

(26) A restaurant liquor licensee may not engage in or permit any form of gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the premises of the restaurant liquor licensee.

(27) (a) Each restaurant liquor licensee shall maintain an expense ledger or record showing in detail:

- (i) quarterly expenditures made separately for:
 - (A) malt or brewed beverages;
 - (B) set-ups;
 - (C) liquor;
 - (D) food; and
 - (E) all other items required by the department; and
- (ii) sales made separately for:
 - (A) malt or brewed beverages;
 - (B) set-ups;
 - (C) food; and
 - (D) all other items required by the department.

(b) The record required by Subsection (27)(a) shall be kept:

- (i) in a form approved by the department; and
 - (ii) current for each three-month period.
- (c) Each expenditure shall be supported by:

- (i) delivery tickets;
- (ii) invoices;
- (iii) receipted bills;
- (iv) canceled checks;
- (v) petty cash vouchers; or
- (vi) other sustaining data or memoranda.

(28) (a) Each restaurant liquor licensee shall maintain accounting and other records and documents as the department may require.

(b) Any restaurant or person acting for the restaurant, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the restaurant required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission, council, or department, or any of their officials or employees, is subject to the immediate suspension or revocation of the restaurant's liquor license and possible criminal prosecution under Chapter 12, Criminal Offenses.

(29) (a) A restaurant liquor licensee may not close or cease operation for a period longer than 240 hours, unless:

(i) the restaurant liquor license notifies the department in writing at least seven days before the closing; and

(ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (29)(a), in the case of emergency closure, immediate notice of closure shall be made to the department by telephone.

(c) The department may authorize a closure or cessation of operation for a period not to exceed 60 days. The department may extend the initial period an additional 30 days upon written request of the restaurant licensee and upon a showing of good cause. A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) Any notice shall include:

- (i) the dates of closure or cessation of operation;
- (ii) the reason for the closure or cessation of operation; and

(iii) the date on which the licensee will reopen or resume operation.

(e) Failure of the licensee to provide notice and to obtain department authorization prior to closure or cessation of operation shall result in an automatic forfeiture of:

(i) the license; and

(ii) the unused portion of the license fee for the remainder of the license year effective immediately.

(f) Failure of the licensee to reopen or resume operation by the approved date shall result in an automatic forfeiture of:

(i) the license; and

(ii) the unused portion of the license fee for the remainder of the license year.

(30) Each restaurant liquor licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include mix for alcoholic beverages or service charges.

(31) A person may not transfer a restaurant liquor license from one location to another, without prior written approval of the commission.

(32) (a) A person, having been granted a restaurant liquor license may not sell, exchange, barter, give, or attempt in any way to dispose of the license whether for monetary gain or not.

(b) A restaurant liquor license has no monetary value for the purpose of any type of disposition.

(33) Each server of alcoholic beverages in a licensee's establishment shall keep a written beverage tab for each table or group that orders or consumes alcoholic beverages on the premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or consumed.

(34) A person's willingness to serve alcoholic beverages may not be made a condition of employment as a server with a restaurant that has a restaurant liquor license.

Section 2. Section **32A-4-206** is amended to read:

32A-4-206. Operational restrictions.

Each person granted an airport lounge liquor license and the employees and management personnel of the airport lounge shall comply with the following conditions and requirements. Failure

to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) Liquor may not be purchased by an airport lounge liquor licensee except from state stores or package agencies. Liquor purchased may be transported by the licensee from the place of purchase to the licensed premises. Payment for liquor shall be made in accordance with the rules established by the commission.

(2) An airport lounge liquor licensee may not sell or provide any primary liquor except in one ounce quantities dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title, except that:

(a) liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following restrictions:

(i) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary liquor;

(ii) the secondary ingredient is not the only liquor in the beverage;

(iii) the licensee shall designate a location where flavorings are stored on the floor plan provided to the department; and

(iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

(b) wine may be served by the glass in quantities not exceeding five ounces per glass; and

(c) heavy beer may be served in original containers not exceeding one liter.

(3) (a) Airport lounges may sell beer in any size container not exceeding two liters, and on draft without obtaining a separate on-premise beer retailer license from the commission.

(b) Airport lounges that sell beer pursuant to Subsection (3)(a) shall comply with all appropriate operational restrictions under Chapter 10 that apply to on-premise beer retailers except when those restrictions are inconsistent with or less restrictive than the operational restrictions under this chapter that apply to airport lounges.

(c) Failure to comply with the operational restrictions under Chapter 10 as set forth in Subsection (3)(b) may result in a suspension or revocation of the airport lounge's state liquor license and its alcoholic beverage license issued by the local authority.

(4) Wine may be served in accordance with commission rule in containers not exceeding 750 ml.

(5) (a) Liquor may not be stored or sold in any place other than as designated in the licensee's application, unless the licensee first applies for and receives approval from the department for a change of location within the airport lounge.

(b) A patron or guest may only make purchases in the airport lounge from a server designated and trained by the licensee.

(c) Alcoholic beverages may not be stored where they are visible to persons outside the airport lounge.

(6) The liquor storage area shall remain locked at all times other than those hours and days when liquor sales are authorized by law.

(7) Alcoholic beverages may not be sold or offered for sale at an airport lounge during the following days or hours:

(a) on the day of any regular general election, regular primary election, or statewide special election until after the polls are closed; and

(b) on any other day after 12 midnight and before 8 a.m.

(8) Alcoholic beverages may not be sold, delivered, or furnished to any:

(a) minor;

(b) person actually, apparently, or obviously drunk;

(c) known habitual drunkard; or

(d) known interdicted person.

(9) Liquor may not be sold except at prices fixed by the commission. Mixed drinks and wine may not be sold at discount prices on any day or at any time.

(10) An airport lounge patron or guest may have only one alcoholic beverage at a time before him.

(11) No more than one ounce of primary liquor may be served to a patron or guest at a time, except wine as provided in Subsection (2)(b) and heavy beer as provided in Subsection (2)(c).

(12) Alcoholic beverages may not be purchased by the licensee, or any employee or agent

of the licensee, for patrons or guests of the airport lounge.

(13) (a) Beginning January 1, 1991, a person may not bring onto the premises of an airport lounge licensee any alcoholic beverage for on-premise consumption.

(b) Beginning January 1, 1991, an airport lounge or its officers, managers, employees, or agents may not allow a person to bring onto the airport lounge premises any alcoholic beverage for on-premise consumption or allow consumption of any such alcoholic beverage on its premises.

(c) Beginning January 1, 1991, if any airport lounge liquor licensee or any of its officers, managers, employees, or agents violates Subsection (13):

(i) the commission may immediately suspend or revoke the airport lounge's liquor license and the airport lounge liquor licensee is subject to criminal prosecution under Chapter 12; and

(ii) the local authority may immediately suspend or revoke the airport lounge's local liquor license, local consent under Subsection 32A-4-202(1)[(e)], or local business license.

(14) Alcoholic beverages purchased from the airport lounge may not be removed from the airport lounge premises.

(15) Minors may not be employed by an airport lounge licensee to sell or dispense alcoholic beverages.

(16) An employee of a licensee, while on duty, may not consume an alcoholic beverage or be under the influence of alcoholic beverages.

(17) Each airport lounge liquor licensee shall display in a prominent place in the airport lounge:

(a) the liquor license that is issued by the department;

(b) a list of the types and brand names of liquor being served through its calibrated metered dispensing system; and

(c) a sign in large letters stating: "Warning: The consumption of alcoholic beverages purchased in this establishment may be hazardous to your health and the safety of others."

(18) (a) Each airport lounge liquor licensee shall maintain an expense ledger or record showing in detail:

(i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all other

items required by the department; and

(ii) sales made separately for malt or brewed beverages, food, and all other items required by the department.

(b) This record shall be kept in a form approved by the department and shall be kept current for each three-month period. Each expenditure shall be supported by delivery tickets, invoices, receipted bills, canceled checks, petty cash vouchers, or other sustaining data or memoranda.

(19) Each airport lounge liquor licensee shall maintain accounting and other records and documents as the department may require. Any airport lounge or person acting for the airport lounge, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the airport lounge required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission, council, or department, or any of their officials or employees, is subject to the immediate suspension or revocation of the airport lounge's liquor license and possible criminal prosecution under Chapter 12.

(20) There shall be no transfer of an airport lounge liquor license from one location to another, without prior written approval of the commission.

(21) (a) A person, having been granted an airport lounge liquor license, may not sell, exchange, barter, give, or attempt in any way to dispose of the license whether for monetary gain or not.

(b) An airport lounge liquor license has no monetary value for the purpose of any type of disposition.

(22) Each server of alcoholic beverages in a licensee's establishment shall keep a written beverage tab for each table or group that orders or consumes alcoholic beverages on the premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or consumed.

(23) An airport lounge liquor licensee's premises may not be leased for private functions.

(24) An airport lounge liquor licensee may not engage in or permit any form of gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the premises of the airport lounge licensee.

Section 3. Section **32A-5-107** is amended to read:

32A-5-107. Operational restrictions.

Each corporation or association granted a private club liquor license and its employees, officers, managing agent, and members shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) Each private club shall hold regular meetings as required by its articles or bylaws and conduct its business through regularly elected officers. Within ten days following the election of any officer, the department shall be notified in writing of the officer's name, address, and office to which the officer has been elected, and the term of that office.

(2) Each private club may admit members only on written application signed by the applicant, following investigation and approval of the governing body. Admissions shall be recorded in the official minutes of a regular meeting of the governing body and the application, whether approved or disapproved, shall be filed as a part of the official records of the licensee. An applicant may not be accorded the privileges of a member until a quorum of the governing body has formally voted upon and approved the applicant as a member. An applicant may not be admitted to membership until seven days after the application is submitted.

(3) Each private club shall maintain a current and complete membership record showing the date of application of each proposed member, the member's address, the date of admission following application, and the date initiation fees and dues were assessed and paid. The record shall also show the serial number of the membership card issued to each member. A current record shall also be kept indicating when members were dropped or resigned.

(4) Each private club shall establish in the club bylaws initial fees and monthly dues, as established by commission rules, which are collected from all members.

(5) Each private club may allow guests or visitors to use the premises only when previously authorized by a member. A member is responsible for all services extended to guests and visitors. If the guest or visitor is a member of the same fraternal organization as the private club liquor licensee, no previous authorization is required.

(6) Each private club shall limit the issuance of visitor cards for a period not to exceed two weeks and assess and collect a fee from each visitor of not less than \$5 for each two-week period the visitor card is issued. One dollar of every visitor card fee shall be remitted quarterly to the department for the administration of this title. A current record of the issuance of each card shall be maintained and shall contain the name of the member sponsoring the visitor.

(7) A private club may not sell alcoholic beverages to any person other than a member, guest, or visitor who holds a valid visitor card issued under Subsection (6).

(8) A person who is under 21 years of age may not be a member, officer, director, or trustee of a private club.

(9) An employee of a club, while on duty, may not consume an alcoholic beverage, be under the influence of alcoholic beverages, sponsor a person for visitor privileges, or act as a host for a guest.

(10) A visitor to a club may not host more than five guests at one time.

(11) Each private club shall maintain an expense ledger or record showing in detail all expenditures separated by payments for malt or brewed beverages, liquor, food, detailed payroll, entertainment, rent, utilities, supplies, and all other expenditures. This record shall be kept in a form approved by the department and balanced each month. Each expenditure shall be supported by delivery tickets, invoices, receipted bills, canceled checks, petty cash vouchers, or other sustaining data or memoranda. All invoices and receipted bills for the current calendar or fiscal year documenting purchases made by officers of the club for the benefit of the club shall also be maintained.

(12) Each private club shall maintain a bank account that shows all income and expenditures as a control on the income and disbursements records. This account shall be balanced each month under the direction of the treasurer or other officer of the licensee.

(13) Each private club shall maintain a minute book that is posted currently by the secretary. This record shall contain the minutes of all regular and special meetings of the governing body and all committee meetings held to conduct club business. Membership lists shall also be maintained.

(14) Each private club shall maintain current copies of the club's articles of incorporation,

current bylaws, and current house rules. Changes in the bylaws are not effective unless submitted to the department within ten days after adoption, and become effective 15 days after received by the department unless rejected by the department before the expiration of the 15-day period.

(15) Each private club shall maintain accounting and other records and documents as the department may require.

(16) Any club or person acting for the club, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the club required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission, council, or department, or any of their officials or employees, is subject to the immediate suspension or revocation of the club's license and possible criminal prosecution under Chapter 12.

(17) Each private club shall maintain and keep all the records required by this section and all other books, records, receipts, and disbursements maintained or utilized by the licensee, as the department requires, for a minimum period of three years. All records, books, receipts, and disbursements are subject to inspection by authorized representatives of the commission, department, and council. The club shall allow the department, through its auditors or examiners, to audit all records of the club at times the department considers advisable. The department shall audit the records of the licensee at least once annually.

(18) Each private club shall make available to the department, upon request, verified copies of any returns filed with the United States Treasury Department, Internal Revenue Service, under the federal Internal Revenue Code. Failure to provide any returns and supporting documents upon reasonable request by the department or, alternatively, to provide evidence of an extension granted by the Internal Revenue Service, constitutes sufficient grounds for the commission to suspend or revoke a license. Any return or copy of a return so filed with the department is confidential and may not be used in any manner not directly connected with the enforcement of this title, nor may it be disclosed to any person or any department or agency of government, whether federal, state, or local.

(19) Each private club shall own or lease premises suitable for its activities in its own name. A copy of the lease shall be filed with the department.

(20) Each private club shall operate the club under the supervision of a manager or house committee, appointed by the governing body of the club.

(21) A private club may not maintain facilities in any manner that barricades or conceals the club operation. Any member of the commission, authorized department personnel, member of the council, or any peace officer shall, upon presentation of credentials, be admitted immediately to the club and permitted without hindrance or delay to inspect completely the entire club premises and all books and records of the licensee, at any time during which the same are open for the transaction of business to its members.

(22) A private club may not pay any person or entity any fee, salary, rent, or other payment of any kind in excess of the fair market value for the service rendered, goods furnished, or facilities or equipment rented. It is the intention of this subsection to insure that no officer, managing agent, employee, or other person derives a principal economic benefit from the operation of a club.

(23) A private club may not engage in any public solicitation or public advertising calculated to increase its membership.

(24) Each private club shall comply with the following operational restrictions:

(a) The liquor storage and sales area shall remain locked at all times when it is not open for business.

(b) Liquor may not be purchased by a private club liquor licensee except from state stores or package agencies. Liquor so purchased may be transported by the licensee from the place of purchase to the licensed premises. Payment for liquor shall be made in accordance with rules established by the commission.

(c) Beginning July 1, 1991, a private club liquor licensee may not sell or provide any primary liquor except in one ounce quantities dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title, except that:

(i) liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following restrictions:

(A) the beverage shall contain liquor from a lawfully purchased container;

- (B) the secondary ingredient is not the only liquor in the beverage;
- (C) the licensee shall designate a location where flavorings are stored on the floor plan provided to the department; and
- (D) all flavoring containers shall be plainly and conspicuously labeled "flavorings";
 - (ii) liquor need not be dispensed through a calibrated metered dispensing system if used as a flavoring on desserts and in the preparation of flaming food dishes, drinks, and desserts;
 - (iii) wine may be served by the glass in quantities not exceeding five ounces per glass; and
 - (iv) heavy beer may be served in standard containers not exceeding one liter.
- (d) (i) Private clubs licensed to sell liquor may sell beer in any size container not exceeding two liters, and on draft without obtaining a separate on-premise beer retailer license from the commission.
 - (ii) Private clubs licensed under this chapter that sell beer pursuant to Subsection (24)(d)(i) shall comply with all appropriate operational restrictions under Title 32A, Chapter 10, Beer Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are inconsistent with or less restrictive than the operational restrictions under this chapter.
 - (iii) Failure to comply with the operational restrictions under Title 32A, Chapter 10, as set forth in Subsection (24)(d)(ii) may result in a suspension or revocation of the private club's state liquor license and its alcoholic beverage license issued by the local authority.
- (e) Wine may be served in accordance with commission rule in containers not exceeding 750 ml.
- (f) A private club may not charge for the service or supply of glasses, ice, or mixers unless the charges are fixed in the house rules of the club and a copy of the rules is kept on the club premises and available at all times for examination by the members, guests, and visitors to the club.
- (g) Minors may not be employed by any club to sell, dispense, or handle any alcoholic beverage.
- (h) An officer, director, managing agent, employee, and any other person employed by or acting for or in behalf of any licensee, may not sell, deliver, or furnish, or cause or permit to be sold, delivered, or furnished any liquor to any:

- (i) minor;
- (ii) person actually, apparently, or obviously drunk;
- (iii) known habitual drunkard; or
- (iv) known interdicted person.

(i) (i) Liquor may not be sold or offered for sale at any private club during the following days or hours:

(A) on the day of any regular general election, regular primary election, or statewide special election until after the polls are closed;

(B) on the day of any municipal, special district, or school election, but only within the boundaries of the municipality, special district, or school district, and only if closure is required by local ordinance; and

(C) on Sunday and any state or federal legal holiday after 12 midnight and before 12 noon.

(ii) The hours of beer sales are those specified in Chapter 10 for on-premise beer licensees.

(j) On all other days the liquor storage and sales area in the club shall be closed from 1 a.m. until 10 a.m.

(k) Liquor may not be sold except at prices fixed by the commission. Mixed drinks and wine may not be sold at discount prices on any date or at any time.

(l) Beginning July 1, 1991, no more than one ounce of primary liquor may be served to a member, guest, or visitor at a time, except wine as provided in Subsection (24)(c)(iii) and heavy beer as provided in Subsection (24)(c)(iv).

(m) (i) Beginning January 1, 1991, a person may not bring onto the premises of a private club liquor licensee any alcoholic beverage for on-premise consumption, except a person may bring, subject to the discretion of the licensee, cork-finished wine onto the premises of any private club liquor licensee and consume wine pursuant to Subsection (24)(n).

(ii) Beginning January 1, 1991, a private club or its officers, managers, employees, or agents may not allow a person to bring onto the private club premises any alcoholic beverage for on-premise consumption, except cork-finished wine under Subsection (24)(m)(i).

(iii) Beginning January 1, 1991, if any private club licensee or any of its officers, managers,

employees, or agents violates this subsection:

(A) the commission may immediately suspend or revoke the private club's liquor license and the private club licensee is subject to criminal prosecution under Chapter 12; and

(B) the local authority may immediately suspend or revoke the private club's local liquor license, local consent under Subsection 32A-5-102(1)[(c)], or local business license.

(n) A wine service may be performed and a service charge assessed by the private club as authorized by commission rule for wine purchased at the private club or carried in by a member, guest, or visitor. If wine is carried in by a member, guest, or visitor, the member, guest, or visitor shall deliver the wine to a server or other representative of the licensee upon entering the licensee premises.

(o) A member, guest, or visitor to a club may not carry from a club premises an open container used primarily for drinking purposes containing any alcoholic beverage.

(p) Each private club liquor licensee shall display in a prominent place in the private club:

(i) the private club liquor license that is issued by the department;

(ii) a list of the types and brand names of liquor being served through its calibrated metered dispensing system; and

(iii) a sign in large letters stating: "Warning: The consumption of alcoholic beverages purchased in this establishment may be hazardous to your health and the safety of others."

(q) The following acts or conduct in a private club licensed under this chapter are considered contrary to the public welfare and morals, and are prohibited upon the premises:

(i) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;

(ii) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (24)(q)(i);

(iii) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;

(iv) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

(v) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection;

(vi) permitting any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus; or

(vii) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:

(A) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts prohibited by Utah law;

(B) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;

(C) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this subsection; or

(D) scenes wherein a person displays the vulva or the anus or the genitals.

(r) Nothing in Subsection (24)(q) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (24)(q).

(s) (i) Although live entertainment is permitted on the premises of a club liquor licensee, a licensee may not allow any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.

(ii) Nothing in Subsection (24)(s)(i) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (24)(s)(i).

(25) A private club may not engage in or permit any form of gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling, on the premises of the private club.

(26) (a) A private club may not close or cease operation for a period longer than 240 hours,

unless written notice is given to the department at least seven days before the closing, and the closure or cessation of operation is first approved by the department.

(b) In the case of emergency closure, immediate notice of closure shall be made to the department by telephone.

(c) The department may authorize a closure or cessation of operation for a period not to exceed 60 days. The department may extend the initial period an additional 30 days upon written request of the private club and upon a showing of good cause. A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) Any notice shall include the dates of closure or cessation of operation, the reason for the closure or cessation of operation, and the date on which the licensee will reopen or resume operation.

(e) Failure of the licensee to provide notice and to obtain department authorization prior to closure or cessation of operation shall result in an automatic forfeiture of the license and the forfeiture of the unused portion of the license fee for the remainder of the license year effective immediately.

(f) Failure of the licensee to reopen or resume operation by the approved date shall result in an automatic forfeiture of the license and the forfeiture of the unused portion of the club's license fee for the remainder of the license year.

(27) Each private club shall conduct its affairs so that it is not operated for a pecuniary profit.

(28) A private club may not transfer a private club liquor license from one location to another, without prior written approval of the commission.

(29) A person, having been granted a private club liquor license, may not sell, exchange, barter, give, or attempt in any way to dispose of the license, whether for monetary gain or not. A private club liquor license has no monetary value for the purpose of any type of disposition.

Section 4. Section **32A-7-106** is amended to read:

32A-7-106. Operational restrictions.

(1) Any organization granted a single event permit and any person involved in the storage, sale, or service of liquor at the event for which the permit is issued, shall abide by this title, the rules of the commission, and the special conditions and requirements provided in this section. Failure to

do so may result in an immediate revocation of the permit, forfeiture of the surety bond, immediate seizure of all liquor present at the event, and disqualifies the organization from applying for a single event permit for a period of three years from the date of revocation of the permit. Any liquor seized under this subsection shall be returned to the organization after the event if forfeiture proceedings are not instituted under Section 32A-13-103.

(2) Special conditions and requirements for single event permittees include, but are not limited to, the following:

(a) All persons involved in the storage, sale, or service of liquor at the event do so under the supervision and direction of the permittee.

(b) All liquor stored, sold, served, and consumed at the event shall be purchased by the permittee from a state store or package agency, and is considered under the control of the permittee during the event. Attendees of the event may not bring any liquor other than that furnished by the permittee onto the premises of the event.

(c) A permittee may not charge more than the maximum amount set forth in the permit for any alcoholic beverage.

(d) Each permittee shall post in a prominent place in the area in which liquor is being sold, served, and consumed, a copy of the permit, together with a list of the operational restrictions and requirements of single event permittees set forth in this section.

(e) Liquor purchased for the event may not be stored in any place other than that described in the application and designated on the permit.

(f) Liquor purchased for the event may not be sold or served in any place other than the site described in the application and designated on the permit.

(g) Liquor purchased for the event may not be consumed in any area other than that described in the application and designated on the permit.

(h) (i) A single event permittee may not provide any primary liquor except in one ounce quantities, except that:

(A) additional liquor may be used in a beverage if used as a secondary flavoring ingredient, but only in conjunction with the primary liquor and only if the secondary ingredient is not the only

liquor in the beverage;

- (B) wine may be served by the glass in quantities not exceeding five ounces per glass; and
- (C) heavy beer may be served in original containers not exceeding one liter.

(ii) Liquor otherwise need not be dispensed through a calibrated metered dispensing system.

(i) Hours of sale, service, and consumption shall be in accordance with any local ordinance restrictions.

(j) Liquor may not be sold, served, or otherwise furnished on the day of any regular general election, regular primary election, or statewide special election until after the polls are closed.

(k) Liquor may not be sold, served, delivered, or furnished to any:

- (i) minor;
- (ii) person actually, apparently, or obviously drunk;
- (iii) known habitual drunkard; or
- (iv) known interdicted person.

(l) Minors may not sell, serve, dispense, or handle any alcoholic beverage at the event.

(m) Public advertising of the event may not include reference to the availability of any alcoholic beverage at the event. However, the permittee may use signs or similar displays at the site of the event to inform attendees of the locations where alcoholic beverages are being dispensed.

(3) The following acts or conduct at an event for which a permit is issued under this chapter are considered contrary to the public welfare and morals, and are prohibited upon the premises:

(a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;

(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (a);

(c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;

(d) permitting any employee or person to wear or use any device or covering, exposed to

view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection;

(f) permitting any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus;

(g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:

(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts prohibited by Utah law;

(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;

(iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this subsection; or

(iv) scenes wherein a person displays the vulva or the anus or the genitals.

(4) Nothing in Subsection (3) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (3).

(5) (a) Although live entertainment is permitted at the event for which a permit has been issued under this chapter, a permittee may not allow any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.

(b) Nothing in Subsection (a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (a).

(6) The permittee shall maintain an expense and revenue ledger or record showing:

(a) expenditures made for liquor, set-ups, and other ingredients and components of alcoholic beverages; and

(b) the revenue from sale of alcoholic beverages.

(7) Single event permits are not transferable.

(8) A single event permittee may not engage in or allow any form of gambling, or have any video gaming device as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the premises serviced by the single event permittee.

Section 5. Section **32A-10-206** is amended to read:

32A-10-206. Operational restrictions.

Each person granted an on-premise beer retailer license and the employees and management personnel of the on-premise beer retailer licensee shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) On-premise beer retailer licensees may sell beer in open containers, in any size not exceeding two liters, and on draft.

(2) Liquor may not be stored or sold on the premises of any on-premise beer retailer licensee.

(3) A patron or guest may only make purchases in the on-premise beer retailer licensee from a server designated and trained by the licensee.

(4) (a) Beer may not be sold or offered for sale at any on-premise beer retailer licensee after 1 a.m. and before 10 a.m.

(b) Beer may not be sold, delivered, or furnished to any:

- (i) minor;
- (ii) person actually, apparently, or obviously drunk;
- (iii) known habitual drunkard; or
- (iv) known interdicted person.

(5) Beer sold in sealed containers by the on-premise beer retailer licensee may be removed from the on-premise beer retailer premises.

(6) (a) Beginning January 1, 1991, a person may not bring onto the premises of an on-premise beer retailer licensee any alcoholic beverage for on-premise consumption.

(b) Beginning January 1, 1991, an on-premise beer retailer licensee or its officers, managers, employees, or agents may not allow a person to bring onto the on-premise beer retailer licensee

premises any alcoholic beverage for on-premise consumption or allow consumption of any such alcoholic beverage on its premises.

(c) Beginning January 1, 1991, if any on-premise beer retailer licensee or any of its officers, managers, employees, or agents violates Subsection (6):

(i) the commission may immediately suspend or revoke the on-premise beer retailer license and the on-premise beer retailer licensee is subject to possible criminal prosecution under Chapter 12; and

(ii) the local authority may immediately suspend or revoke the business license of the on-premise beer retailer licensee.

(7) Minors may not be employed by or be on the premises of an on-premise beer retailer licensee to sell or dispense beer. Minors may not be employed by or be on the premises of any tavern.

(8) An employee of a licensee, while on duty, may not consume an alcoholic beverage or be under the influence of alcoholic beverages.

(9) Each on-premise beer retailer licensee shall display in a prominent place in the on-premise beer retailer licensee:

(a) the on-premise beer retailer license that is issued by the department; and

(b) a sign in large letters stating: "Warning: The consumption of alcoholic beverages purchased in this establishment may be hazardous to your health and the safety of others."

(10) The following acts or conduct in an on-premise beer retailer outlet licensed under this part are considered contrary to the public welfare and morals, and are prohibited upon the premises:

(a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;

(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing as described in Subsection (10)(a);

(c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks,

anus, or genitals of any other person;

(d) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this section;

(f) permitting any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus; or

(g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:

(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts that are prohibited by Utah law;

(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;

(iii) scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described in this section; or

(iv) scenes wherein a person displays the vulva or the anus or the genitals.

(11) Nothing in Subsection (10) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (10).

(12) An on-premise beer retailer licensee may not engage in or permit any form of gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling, on the premises of the on-premise beer retailer licensee.

(13) (a) Although live entertainment is permitted on the premises of an on-premise beer retailer licensee, a licensee may not permit any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.

(b) Nothing in Subsection (13)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (13)(a).

(14) Each on-premise beer retailer licensee shall maintain accounting and other records and documents as the department may require. Any on-premise beer retailer licensee or person acting for the on-premise beer retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the on-premise beer retailer licensee required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission, council, or department, or any of their officials or employees, is subject to the immediate suspension or revocation of the on-premise beer retailer license and possible criminal prosecution under Chapter 12.

(15) There shall be no transfer of an on-premise beer retailer license from one location to another, without prior written approval of the commission.

(16) (a) A person having been granted an on-premise beer retailer license may not sell, exchange, barter, give, or attempt in any way to dispose of the license whether for monetary gain or not.

(b) An on-premise beer retailer license has no monetary value for the purpose of any type of disposition.

Section 6. Section **76-10-1101** is amended to read:

76-10-1101. Definitions.

For the purpose of this part:

(1) "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome is based upon an element of chance and is in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome, and gambling includes a lottery; gambling does not include:

- (a) A lawful business transaction, or
- (b) Playing an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

[~~(3)~~] (2) "Gambling bet" means money, checks, credit, or any other representation of value.

[~~(4)~~] (3) "Gambling device or record" means anything specifically designed for use in

gambling or used primarily for gambling.

[(5)] (4) "Gambling proceeds" means anything of value used in gambling.

[(2)] (5) "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property, or portion of it, or for any share or any interest in property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it may be known.

(6) "Video gaming device" means any device that possesses all of the following characteristics:

(a) a video display and computer mechanism for playing a game;

(b) the length of play of any single game is not substantially affected by the skill, knowledge, or dexterity of the player;

(c) a meter, tracking, or recording mechanism that records or tracks any money, tokens, games, or credits accumulated or remaining;

(d) a play option that permits a player to spend or risk varying amounts of money, tokens, or credits during a single game, in which the spending or risking of a greater amount of money, tokens, or credits:

(i) does not significantly extend the length of play time of any single game; and

(ii) provides for a chance of greater return of credits, games, or money; and

(e) an operating mechanism that requires inserting money, tokens, or other valuable consideration in order to function.

Section 7. Section **76-10-1102** is amended to read:

76-10-1102. Gambling.

(1) A person is guilty of gambling if he:

(a) participates in gambling[, or];

(b) knowingly permits any gambling to be played, conducted, or dealt upon or in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part[.; or

(c) knowingly allows the use of any video gaming device that is:

(i) in any business establishment or public place; and

(ii) accessible for use by any person within the establishment or public place.

(2) Gambling is a class B misdemeanor, provided, however, that any person who is twice convicted under this section shall be guilty of a class A misdemeanor.