

1                                   **LIQUOR PACKAGE AGENCY CONTRACTS**

2   1999 GENERAL SESSION

3   STATE OF UTAH

4   **Sponsor: Michael R. Styler**

5 AN ACT RELATING TO ALCOHOLIC BEVERAGES; PROVIDING FOR COST-OF-LIVING  
6 ADJUSTMENTS UNDER PACKAGE AGENCY AGREEMENTS; AND MAKING  
7 TECHNICAL CORRECTIONS.

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

9 AMENDS:

10           **32A-3-101**, as last amended by Chapter 132, Laws of Utah 1991

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

12           Section 1. Section **32A-3-101** is amended to read:

13           **32A-3-101. Commission's power to establish package agencies -- Limitations.**

14           (1) (a) The commission may, when considered necessary, create package agencies by  
15 entering into contractual relationships with persons to sell liquor in sealed packages from premises  
16 other than those owned or leased by the state. [~~Authorization~~]

17           (b) The commission authorizes a person to operate a package agency [~~is made~~] by [~~the~~  
18 ~~issuance of~~] issuing a certificate from the commission that designates the person in charge of the  
19 agency as a "package agent" as defined under Section 32A-1-105.

20           (2) (a) Subject to this [~~subsection~~] Subsection (2), the total number of package agencies  
21 may not at any time aggregate more than that number determined by dividing the population of the  
22 state by 18,000. [~~Population~~]

23           (b) For purposes of Subsection (2)(a), population shall be determined by:

24           (i) the most recent United States decennial or special census; or [~~by~~]

25           (ii) any other population determination made by the United States or state governments.

26           [~~(a)~~] (c) The commission may establish seasonal package agencies established in areas and  
27 for periods it considers necessary. A seasonal package agency may not be operated for a period

28 longer than nine consecutive months subject to the ~~[following]~~ restrictions~~[-]~~ stated in Subsections  
29 (2)(c)(i) through (iii).

30 (i) Package agencies established for operation during summer time periods are known as  
31 "Seasonal A" package agencies. The period of operation for a "Seasonal A" agency may begin as  
32 early as February 1 and may continue until October 31.

33 (ii) Package agencies established for operation during winter time periods are known as  
34 "Seasonal B" package agencies. The period of operation for a "Seasonal B" agency may begin as  
35 early as September 1 and may continue until May 31.

36 (iii) In determining the number of package agencies that the commission may establish  
37 under this section~~[-]~~:

38 (A) seasonal package agencies are counted as one half of one package agency~~[- Each]~~;

39 (B) each "Seasonal A" agency shall be paired with a "Seasonal B" agency; and

40 (C) the total number of months that each combined pair may be established for operation  
41 may not exceed 12 months for each calendar year.

42 ~~[(b)]~~ (d) (i) If the location, design, and construction of a hotel may require more than one  
43 package agency sales location to serve the public convenience, the commission may authorize a  
44 single package agent to sell liquor at as many as three locations within the hotel under one package  
45 agency if:

46 (A) the hotel has a minimum of 150 guest rooms; and [if]

47 (B) all locations under the agency are:

48 (I) within the same hotel facility; and

49 (II) on premises that are managed or operated and owned or leased by the package agent.

50 (ii) Facilities other than hotels may not have more than one sales location under a single  
51 package agency.

52 (3) (a) A package agency may not be established within 600 feet of any public or private  
53 school, church, public library, public playground, or park, as measured by the method in  
54 Subsection (4).

55 (b) A package agency may not be established within 200 feet of any public or private  
56 school, church, public library, public playground, or park, measured in a straight line from the  
57 nearest entrance of the proposed package agency to the nearest property boundary of the public or  
58 private school, church, public library, public playground, or park.

59 (c) The restrictions contained in Subsections (3)(a) and (b) govern unless ~~[one of the~~  
60 ~~following exemptions]~~ Subsection (3)(c)(i) or (ii) applies[:].

61 (i) ~~[The]~~ If the commission finds after full investigation that the premises are located  
62 within a city of the third class or a town, and compliance with the distance requirements would  
63 result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the  
64 establishment of a package agency~~[- In that event]~~, the commission may[:]; authorize a variance  
65 from the distance requirement to relieve the difficulties or hardships:

66 (A) after giving full consideration to all of the attending circumstances[:];

67 (B) following a public hearing in:

68 (I) the city or town[:]; concerned; and

69 (II) where practical, in the neighborhood concerned~~[- authorize a variance from the~~  
70 ~~distance requirements to relieve the difficulties or hardships]~~; and

71 (C) if the variance may be granted without:

72 (I) substantial detriment to the public good; and ~~[without]~~

73 (II) substantially impairing the intent and purpose of this title.

74 (ii) With respect to the establishment of a package agency in any location, the commission  
75 may[:]; reduce the proximity requirements in relation to a church:

76 (A) after giving full consideration to all of the attending circumstances[:];

77 (B) following a public hearing in:

78 (I) the county[:]; concerned; and

79 (II) where practical in the neighborhood concerned~~[- reduce the proximity requirements~~  
80 ~~in relation to a church]~~; and

81 (C) if the local governing body of the church in question gives its written approval.

82 (4) With respect to any public or private school, church, public library, public playground,  
83 or park, the 600 foot limitation is measured:

84 (a) from the nearest entrance of the package agency by following the shortest route of  
85 ~~[either]~~ the closer of:

86 (i) ordinary pedestrian traffic[:]; or

87 (ii) where applicable, vehicular travel along public thoroughfares~~[- whichever is the~~  
88 ~~closer]~~; and

89 (b) to the property boundary of the;

- 90 (i) public or private school[;];
- 91 (ii) church[;];
- 92 (iii) public library[;];
- 93 (iv) public playground[;];
- 94 (v) school playground[;]; or
- 95 (vi) park.

96 (5) (a) Nothing in this section prevents the commission from considering the proximity  
 97 of any educational, religious, and recreational facility, or any other relevant factor in reaching a  
 98 decision on a proposed location.

99 (b) For purposes of ~~this~~ Subsection (5)(a), "educational facility" includes:

- 100 (i) nursery ~~[schools;]~~ school;
- 101 (ii) infant day care ~~[centers;]~~ center; and
- 102 (iii) a trade and technical ~~[schools]~~ school.

103 (6) (a) The package agent, under the direction of the department, shall be responsible for  
 104 implementing and enforcing this title and the rules adopted under this title to the extent they relate  
 105 to the conduct of the agency and its sale of liquor.

106 (b) A package agent may not be, or construed to be, a state employee nor be otherwise  
 107 entitled to any benefits of employment from the state ~~[of Utah]~~.

108 (c) A package agent, when selling liquor from a package agency, is considered an agent  
 109 of the state ~~[of Utah]~~ only to the extent specifically expressed in the package agency agreement.

110 (7) ~~[The]~~ (a) Except as provided in Subsection (7)(b), the commission may prescribe by  
 111 policy, directive, or rule, consistent with this title, general operational requirements of all package  
 112 agencies relating to ~~[the]~~:

- 113 (i) physical facilities[;];
- 114 (ii) conditions of operation[;];
- 115 (iii) hours of operation[;];
- 116 (iv) inventory levels[;];
- 117 (v) payment schedules[;];
- 118 (vi) methods of payment[;];
- 119 (vii) premises security[;]; and
- 120 (viii) any other matters considered appropriate by the commission.

121            (b) In any payment schedule prescribed by the department under Subsection (7)(a), to the  
122 extent permitted by its budget, the department shall provide for an annual cost-of-living adjustment  
123 for a package agency. h THAT UNDER THE CONTRACT WITH THE DEPARTMENT:  
123a            (i) OPERATES SOLELY FOR THE PURPOSE OF SELLING LIQUOR; AND  
123b            (ii) DOES NOT OPERATE IN CONJUNCTION WITH ANOTHER BUSINESS. h .

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**Legislative Review Note**  
**as of 2-15-99 12:50 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**