

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.

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