

1 **AMENDMENTS TO ALCOHOLIC BEVERAGE**

2 **CONTROL ACT**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Beverly Ann Evans**

6 AN ACT RELATING TO ALCOHOLIC BEVERAGES; ADDRESSING OPERATIONAL
7 RESTRICTIONS ON WINERY LICENSEES; ADDRESSING CHANGES IMPOSED BY
8 COMMISSIONS; AND MAKING TECHNICAL CORRECTIONS.

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

10 AMENDS:

11 **32A-8-201**, as last amended by Chapter 277, Laws of Utah 1991

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

13 Section 1. Section **32A-8-201** is amended to read:

14 **32A-8-201. Authority and operational restrictions.**

15 (1) A winery license authorizes the licensee to:

16 (a) import, manufacture, store, transport, or export wines;

17 (b) sell wines at wholesale to the department and to out-of-state customers;

18 (c) purchase liquor for fortifying wine, if the department is notified of the purchase and
19 date of delivery; and

20 (d) warehouse on its premises liquor that has been manufactured or purchased for
21 manufacturing purposes.

22 (2) All wine, brandy, wine spirits, or other liquor imported under authority of a winery
23 license shall conform to the standards of identity and quality established in the Federal Alcohol
24 Administration regulations.

25 (3) If considered necessary, the commission or department may:

26 (a) require certain alterations to the plant, equipment, or premises;

27 (b) require the alteration or removal of any unsuitable wine-making equipment or material;

28 (c) require a licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and
29 working conditions of any plant, premises, and wine-making equipment;

30 (d) demand that any marc, pomace, or fruit considered unfit for wine making, or producing
31 or likely to produce an unsanitary condition, be destroyed, denatured, or removed from the
32 premises;

33 (e) require a licensee to distill or cause to be distilled or disposed of under the department's
34 supervision, any unsound, poor quality finished wine, or unfinished wine that will not be
35 satisfactory when finished; or

36 (f) demand that all books, records, or data pertaining to the grapes and other materials and
37 ingredients used in the manufacture of wine, are available to the commission or department upon
38 request.

39 (4) A winery licensee may not permit any wine to be consumed on its premises, except
40 under the [following] circumstances[:] described in Subsections (4)(a) through (c).

41 (a) A winery licensee may allow its employees to consume on the premises wine as the
42 wine maker may furnish to them without charge.

43 (b) A winery licensee may allow any person who can lawfully buy wine for wholesale or
44 retail distribution to consume bona fide samples of its product on the winery premises.

45 (c) A winery licensee may operate [~~on its manufacturing premises~~] a retail facility allowing
46 consumption[:] of samples on premises[:] of wine;

47 (i) as long as food is also available[. ~~Any such retail facility located on the premises of~~
48 a winery licensee shall be operated or supervised by the winery licensee.]; and

49 (ii) the retail facility is located on its manufacturing premise.

50 (5) The federal definitions, standards of identity, and quality and labeling requirements for
51 wine, in the Federal Alcoholic Administration regulations, and amendments made to that
52 document, are adopted to the extent they are not contrary to or inconsistent with the laws of this
53 state.

54 (6) (a) A retail facility described in Subsection (4)(c):

55 (i) shall be operated or supervised by the winery licensee; and

56 (ii) except as provided in Subsections (6)(b) through (d), licensed and operated as a
57 package agency.

58 (b) In addition to wine manufactured by the winery licensee, the retail facility may offer

59 for sale wine manufactured by a winery licensee located in the state other than the winery licensee
60 that operates or supervises the retail facility.

61 (c) Sale or delivery of wine may not be made on or from the premises of the retail facility
62 nor may the retail facility be kept open for the sale of wine:

63 (i) before 10:00 a.m. or after 10:00 p.m.;

64 (ii) on a day on which there is held:

65 (A) a regular general election;

66 (B) a regular primary election; or

67 (C) a statewide election;

68 (iii) on a day on which there is held a municipal, special district, or school election if:

69 (A) the retail facility is within the boundaries of the municipality, special district, or school
70 district; and

71 (B) the municipality, special district, or school district notifies the department of the
72 election at least 30 days prior to the date of the election; or

73 (iv) on a day or during hours as the commission specifies by rule or order.

74 (d) (i) The department may charge the winery licensee an application fee under Subsection
75 32A-3-102(2) for licensing a retail facility as a package agency.

76 (ii) For any contract executed on or after May 3, 1999, the department may not require a
77 retail facility described in Subsection (4)(c) to remit to the department any amount based on the
78 sale or delivery of wine on or from a retail facility.

Legislative Review Note
as of 2-15-99 12:17 PM

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

Office of Legislative Research and General Counsel