

Senator John L. Valentine proposes the following substitute bill:

ALCOHOLIC BEVERAGE AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

Ron Allen

This act modifies the Alcoholic Beverage Title including technical changes. The act modifies definitions. The act modifies provisions related to the administration of the title by the Alcoholic Beverage Control Commission and the Department of Alcoholic Beverage Control. The act modifies provisions related to state stores. The act modifies provisions related to package agencies. The act modifies provisions related to restaurant liquor licenses and airport lounge liquor licenses. The act enacts provisions providing for limited restaurant licenses. The act enacts provisions providing for on-premise banquet licenses. The act modifies provisions related to private club licenses including the creation of classes of private club licenses. The act modifies provisions related to special use permits. The act amends provisions related to single event permits. The act modifies provisions related to manufacturing licenses, local industry representative licenses, and warehousing licenses. The act modifies provisions related to beer retail and wholesale licenses and enacts provisions providing for temporary special event beer permits. The act modifies provisions related to criminal offenses including restrictions on sales, purchase, possession, and consumption of alcoholic beverages or products; restrictions on operations; restrictions on advertising; restrictions on transportation and distribution of alcoholic beverages or products; and restrictions on trade practices. This act repeals provisions in the Sunset Act related to wine mark-ups. The act enacts the Nuisance Licensees Act. This act appropriates for fiscal year 2002-03 only, \$325,900 from the Liquor Control Fund to the Department of Alcoholic Beverage Control and \$62,000 from



26 the General Fund to the Driver License Division of the Department of Public Safety.
 27 Subject to future budget constraints, as an ongoing appropriation, this act appropriates
 28 for fiscal year 2003-04, \$ ~~[\$1,396,900]~~ \$1,596,900 § from the Liquor Control Fund to the
 28a Department of
 29 Alcoholic Beverage Control and § ~~[\$143,000]~~ \$311,000 § from the General Fund to the Liquor Law
 30 Enforcement Unit of the Department of Public Safety.

30a § THIS ACT CONTAINS A COORDINATION CLAUSE THAT INCLUDES, SUBJECT TO FUTURE BUDGET
 30b CONSTRAINTS, AN ONGOING APPROPRIATION OF \$1,000,000 FOR FISCAL YEAR 2003-04 FROM THE
 30c LIQUOR CONTROL FUND. §

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

32 AMENDS:

- 33 32A-1-102, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 34 32A-1-104, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 35 32A-1-105, as last amended by Chapter 161, Laws of Utah 2002
- 36 32A-1-107, as last amended by Chapter 282, Laws of Utah 2002
- 37 32A-1-109, as last amended by Chapter 20, Laws of Utah 1993
- 38 32A-1-111, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 39 32A-1-113, as last amended by Chapter 1, Laws of Utah 2000
- 40 32A-1-116, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 41 32A-1-119, as last amended by Chapter 79, Laws of Utah 1996
- 42 32A-1-122, as last amended by Chapter 24, Laws of Utah 1995
- 43 32A-1-123, as enacted by Chapter 132, Laws of Utah 1991
- 44 32A-1-401, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session
- 45 32A-2-101, as last amended by Chapter 132, Laws of Utah 1991
- 46 32A-2-103, as last amended by Chapter 282, Laws of Utah 2002
- 47 32A-3-101, as last amended by Chapter 354, Laws of Utah 2001
- 48 32A-3-102, as last amended by Chapter 1, Laws of Utah 2000
- 49 32A-3-103, as last amended by Chapter 132, Laws of Utah 1991
- 50 32A-3-106, as last amended by Chapter 282, Laws of Utah 2002
- 51 32A-3-108, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 52 32A-4-101, as last amended by Chapter 87, Laws of Utah 2002
- 53 32A-4-102, as last amended by Chapters 1 and 197, Laws of Utah 2000
- 54 32A-4-103, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 55 32A-4-105, as last amended by Chapter 132, Laws of Utah 1991
- 56 32A-4-106, as last amended by Chapter 282, Laws of Utah 2002

- 57 **32A-4-201**, as last amended by Chapter 19, Laws of Utah 1993
58 **32A-4-202**, as last amended by Chapters 1 and 197, Laws of Utah 2000
59 **32A-4-203**, as enacted by Chapter 23, Laws of Utah 1990
60 **32A-4-206**, as last amended by Chapter 282, Laws of Utah 2002
61 **32A-5-101**, as last amended by Chapter 132, Laws of Utah 1991
62 **32A-5-102**, as last amended by Chapters 1 and 197, Laws of Utah 2000
63 **32A-5-103**, as last amended by Chapter 30, Laws of Utah 1992
64 **32A-5-104**, as renumbered and amended by Chapter 23, Laws of Utah 1990
65 **32A-5-107**, as last amended by Chapter 282, Laws of Utah 2002
66 **32A-6-102**, as last amended by Chapter 132, Laws of Utah 1991
67 **32A-6-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
68 **32A-6-105**, as renumbered and amended by Chapter 23, Laws of Utah 1990
69 **32A-6-201**, as renumbered and amended by Chapter 23, Laws of Utah 1990
70 **32A-6-202**, as last amended by Chapter 282, Laws of Utah 2002
71 **32A-6-301**, as renumbered and amended by Chapter 23, Laws of Utah 1990
72 **32A-6-401**, as renumbered and amended by Chapter 23, Laws of Utah 1990
73 **32A-6-501**, as renumbered and amended by Chapter 23, Laws of Utah 1990
74 **32A-7-101**, as last amended by Chapter 88, Laws of Utah 1994
75 **32A-7-102**, as last amended by Chapter 1, Laws of Utah 2000
76 **32A-7-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
77 **32A-7-104**, as renumbered and amended by Chapter 23, Laws of Utah 1990
78 **32A-7-106**, as last amended by Chapter 127, Laws of Utah 1998
79 **32A-8-101**, as last amended by Chapters 77 and 88, Laws of Utah 1994
80 **32A-8-102**, as last amended by Chapter 1, Laws of Utah 2000
81 **32A-8-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
82 **32A-8-106**, as last amended by Chapter 1, Laws of Utah 2000
83 **32A-8-501**, as enacted by Chapter 20, Laws of Utah 1993
84 **32A-8-502**, as last amended by Chapter 1, Laws of Utah 2000
85 **32A-8-503**, as enacted by Chapter 20, Laws of Utah 1993
86 **32A-8-505**, as last amended by Chapter 1, Laws of Utah 2000
87 **32A-9-102**, as last amended by Chapter 1, Laws of Utah 2000

- 88 **32A-9-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
89 **32A-9-106**, as last amended by Chapter 1, Laws of Utah 2000
90 **32A-10-101**, as last amended by Chapter 132, Laws of Utah 1991
91 **32A-10-102**, as last amended by Chapters 77 and 88, Laws of Utah 1994
92 **32A-10-201**, as last amended by Chapter 87, Laws of Utah 2002
93 **32A-10-202**, as last amended by Chapters 1 and 197, Laws of Utah 2000
94 **32A-10-203**, as enacted by Chapter 23, Laws of Utah 1990
95 **32A-10-205**, as enacted by Chapter 23, Laws of Utah 1990
96 **32A-10-206**, as last amended by Chapter 282, Laws of Utah 2002
97 **32A-11-101**, as last amended by Chapters 77 and 88, Laws of Utah 1994
98 **32A-11-102**, as last amended by Chapter 1, Laws of Utah 2000
99 **32A-11-103**, as last amended by Chapter 88, Laws of Utah 1994
100 **32A-11-106**, as last amended by Chapter 1, Laws of Utah 2000
101 **32A-11a-106**, as enacted by Chapter 328, Laws of Utah 1998
102 **32A-12-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
103 **32A-12-105**, as renumbered and amended by Chapter 23, Laws of Utah 1990
104 **32A-12-201**, as last amended by Chapter 20, Laws of Utah 1993
105 **32A-12-203**, as last amended by Chapter 20, Laws of Utah 1995
106 **32A-12-204**, as renumbered and amended by Chapter 23, Laws of Utah 1990
107 **32A-12-207**, as renumbered and amended by Chapter 23, Laws of Utah 1990
108 **32A-12-209**, as last amended by Chapter 365, Laws of Utah 1997
109 **32A-12-210**, as renumbered and amended by Chapter 23, Laws of Utah 1990
110 **32A-12-212**, as last amended by Chapter 132, Laws of Utah 1991
111 **32A-12-213**, as last amended by Chapter 141, Laws of Utah 1998
112 **32A-12-215**, as last amended by Chapter 241, Laws of Utah 1991
113 **32A-12-216**, as renumbered and amended by Chapter 23, Laws of Utah 1990
114 **32A-12-218**, as renumbered and amended by Chapter 23, Laws of Utah 1990
115 **32A-12-301**, as last amended by Chapter 241, Laws of Utah 1991
116 **32A-12-305**, as last amended by Chapter 1, Laws of Utah 2000
117 **32A-12-306**, as last amended by Chapter 1, Laws of Utah 2000
118 **32A-12-307**, as last amended by Chapter 1, Laws of Utah 2000

- 119 **32A-12-308**, as last amended by Chapter 1, Laws of Utah 2000
- 120 **32A-12-401**, as last amended by Chapter 132, Laws of Utah 1991
- 121 **32A-12-501**, as last amended by Chapter 141, Laws of Utah 1998
- 122 **32A-12-504**, as last amended by Chapter 170, Laws of Utah 1996
- 123 **32A-12-505**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 124 **32A-12-601**, as enacted by Chapter 20, Laws of Utah 1993
- 125 **32A-12-602**, as enacted by Chapter 20, Laws of Utah 1993
- 126 **32A-12-603**, as last amended by Chapter 141, Laws of Utah 1998
- 127 **32A-12-604**, as last amended by Chapter 88, Laws of Utah 1994
- 128 **32A-12-605**, as last amended by Chapter 88, Laws of Utah 1994
- 129 **32A-12-606**, as enacted by Chapter 20, Laws of Utah 1993

130 ENACTS:

- 131 **32A-4-301**, Utah Code Annotated 1953
- 132 **32A-4-302**, Utah Code Annotated 1953
- 133 **32A-4-303**, Utah Code Annotated 1953
- 134 **32A-4-304**, Utah Code Annotated 1953
- 135 **32A-4-305**, Utah Code Annotated 1953
- 136 **32A-4-306**, Utah Code Annotated 1953
- 137 **32A-4-307**, Utah Code Annotated 1953
- 138 **32A-4-401**, Utah Code Annotated 1953
- 139 **32A-4-402**, Utah Code Annotated 1953
- 140 **32A-4-403**, Utah Code Annotated 1953
- 141 **32A-4-404**, Utah Code Annotated 1953
- 142 **32A-4-405**, Utah Code Annotated 1953
- 143 **32A-4-406**, Utah Code Annotated 1953
- 144 **32A-4-407**, Utah Code Annotated 1953
- 145 **32A-6-502**, Utah Code Annotated 1953
- 146 **32A-6-503**, Utah Code Annotated 1953
- 147 **32A-6-603**, Utah Code Annotated 1953
- 148 **32A-10-301**, Utah Code Annotated 1953
- 149 **32A-10-302**, Utah Code Annotated 1953

- 150 **32A-10-303**, Utah Code Annotated 1953
- 151 **32A-10-304**, Utah Code Annotated 1953
- 152 **32A-10-305**, Utah Code Annotated 1953
- 153 **32A-10-306**, Utah Code Annotated 1953
- 154 **32A-12-222**, Utah Code Annotated 1953
- 155 **32A-15a-101**, Utah Code Annotated 1953
- 156 **32A-15a-102**, Utah Code Annotated 1953
- 157 **32A-15a-103**, Utah Code Annotated 1953
- 158 **32A-15a-201**, Utah Code Annotated 1953
- 159 **32A-15a-202**, Utah Code Annotated 1953
- 160 **32A-15a-203**, Utah Code Annotated 1953
- 161 **63-55b-132**, Utah Code Annotated 1953

162 REPEALS:

- 163 **32A-1-501**, as enacted by Chapter 20, Laws of Utah 1993
- 164 **32A-1-502**, as enacted by Chapter 20, Laws of Utah 1993
- 165 **32A-1-503**, as enacted by Chapter 20, Laws of Utah 1993
- 166 **32A-1-504**, as last amended by Chapter 1, Laws of Utah 2000
- 167 **32A-4-107**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 168 **32A-4-207**, as enacted by Chapter 23, Laws of Utah 1990
- 169 **32A-5-105**, as last amended by Chapters 132 and 241, Laws of Utah 1991
- 170 **32A-5-108**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 171 **32A-12-309**, as last amended by Chapter 241, Laws of Utah 1991
- 172 **32A-12-503**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 173 **63-55-232**, as last amended by Chapter 175, Laws of Utah 1998

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

175 Section 131. Section **32A-1-102** is amended to read:

176 **32A-1-102. Application of title.**

177 ~~[(1) Each license or permit issued by the former liquor control commission before July~~
178 ~~1, 1985, shall continue in effect until either revoked by the commission for a violation of this~~
179 ~~title, or voluntarily relinquished by the licensee or permittee.]~~

180 ~~[(2) Each violation or offense committed before July 1, 1985, shall be governed by the~~

181 ~~law, statutory and nonstatutory, existing when the violation of the title was committed. A~~
182 ~~defense or limitation on punishment under this title shall be available to any defendant tried or~~
183 ~~retried after July 1, 1985. If any of the elements of the offense occurred before July 1, 1985,~~
184 ~~the offense is considered committed before July 1, 1985.]~~

185 ~~[(3) The provisions of this]~~ (1) This title ~~[govern]~~ governs alcoholic beverage control
186 in this state except where local authorities are expressly granted regulatory control by this title.

187 (2) Nothing in this title precludes local authorities from regulating the sale, storage,
188 service, or consumption of alcoholic beverages if ~~[such]~~ that regulation does not conflict with
189 the provisions of this title.

190 Section 132. Section **32A-1-104** is amended to read:

191 **32A-1-104. Policy.**

192 The policies of the state are:

193 (1) The administration of this title shall be nonpartisan and free of partisan political
194 influence.

195 (2) Alcoholic beverage control shall be operated as a public business using sound
196 management principles and practices. The business shall be governed by a commission and
197 operated by a department. The business shall function with the intent of servicing the public
198 demand for alcoholic beverages.

199 (3) The commission and department may not promote or encourage the sale or
200 consumption of alcoholic beverages.

201 (4) The commission shall conduct, license, and regulate the sale of alcoholic beverages
202 in a manner and at prices that:

203 (a) reasonably satisfy the public demand and protect the public interest, including the
204 rights of citizens who do not wish to be involved with alcoholic products[-]; and

205 (b) will promote the reduction of the harmful effects of over consumption of alcoholic
206 beverages by adults and consumption of alcoholic beverages by minors.

207 Section 133. Section **32A-1-105** is amended to read:

208 **32A-1-105. Definitions.**

209 As used in this title:

210 (1) "Airport lounge" means a place of business licensed to sell alcoholic beverages, at
211 retail, for consumption on its premises located at an international airport with a United States

212 Customs office on its premises.

213 (2) "Alcoholic beverages" means "beer" and "liquor" as the terms are defined in this
214 section.

215 (3) (a) "Alcoholic products" means all products that contain at least 63/100 of 1% of
216 alcohol by volume or at least 1/2 of 1% by weight, and are obtained by fermentation, infusion,
217 decoction, brewing, distillation, or any other process that uses any liquid or combinations of
218 liquids, whether drinkable or not, to create alcohol in an amount greater than the amount
219 prescribed in this Subsection (3)(a).

220 (b) "Alcoholic products" does not include common extracts, vinegars, ciders, essences,
221 tinctures, food preparations, or over-the-counter drugs and medicines that otherwise come
222 within this definition.

223 (4) "Banquet" means an event:

224 (a) for which there is a contract:

225 (i) between any person and a person listed in Subsection (4)(b); and

226 (ii) under which a person listed in Subsection (4)(b) is required to provide alcoholic
227 beverages at the event;

228 (b) held at one or more designated locations approved by the commission in or on the
229 premises of a:

230 (i) hotel;

231 (ii) resort facility;

232 (iii) sports center; or

233 (iv) convention center; and

234 (c) at which food and alcoholic beverages may be sold and served.

235 (5) "Bar" means a counter or similar structure:

236 (a) at which alcoholic beverages are:

237 (i) stored; or

238 (ii) dispensed; or

239 (b) from which alcoholic beverages are served.

240 [~~4~~] (6) (a) "Beer" means [all products that contain] any product that contains:

241 (i) 63/100 of 1% of alcohol by volume or 1/2 of 1% of alcohol by weight, but not more
242 than 4% of alcohol by volume or 3.2% by weight[;]; and [are]

- 243 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.
- 244 (b) Beer may or may not contain hops or other vegetable products.
- 245 (c) Beer includes ~~[products]~~ a product that:
- 246 (i) contains alcohol in the percentages described in Subsection (6)(a); and
- 247 (ii) is referred to as:
- 248 (A) malt liquor[;];
- 249 (B) malted beverages[;]; or
- 250 (C) malt coolers.
- 251 ~~[(5)]~~ (7) (a) "Beer retailer" means any business establishment that is:
- 252 (i) engaged, primarily or incidentally, in the retail sale ~~[or distribution]~~ of beer to
- 253 public patrons, whether for consumption on or off the establishment's premises[;]; and ~~[that is]~~
- 254 (ii) licensed to sell beer by:
- 255 (A) the commission~~[, by]~~;
- 256 (B) a local authority[;]; or
- 257 (C) both the commission and a local authority.
- 258 (b) (i) "On-premise beer retailer" means any beer retailer engaged, primarily or
- 259 incidentally, in the sale ~~[or distribution]~~ of beer to public patrons for consumption on the beer
- 260 retailer's premises.
- 261 (ii) "On-premise beer retailer" includes ~~[taverns]~~ a tavern.
- 262 ~~[(c) (i) "Tavern" means any business establishment engaged primarily in the retail sale~~
- 263 ~~or distribution of beer to public patrons for consumption on the establishment's premises, and~~
- 264 ~~that is licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.]~~
- 265 ~~[(ii) "Tavern" includes a beer bar, parlor, lounge, cabaret, and night club where the~~
- 266 ~~revenue from the sale of beer exceeds the revenue of the sale of food, although food need not~~
- 267 ~~be sold in the establishment.]~~
- 268 ~~[(6)]~~ (8) "Billboard" means any public display used to advertise including:
- 269 (a) a light device[;];
- 270 (b) a painting[;];
- 271 (c) a drawing[;];
- 272 (d) a poster[;];
- 273 (e) a sign[;];

274 (f) a signboard[;]; or
275 (g) a scoreboard[, or other similar public display used to advertise, but does not
276 include:].
277 [(a) displays on beer delivery vehicles if the displays do not overtly promote the
278 consumption of alcoholic beverages;]
279 [(b) displays in taverns and private clubs, if the displays are not visible to persons
280 off-premises;]
281 [(c) point-of-sale displays, other than light devices, in retail establishments that sell
282 beer for off-premise consumption, if the displays are not visible to persons off-premises;]
283 [(d) private business signs on the premises of any business engaged primarily in the
284 distribution of beer;]
285 [(e) newspapers, magazines, circulars, programs, or other similar printed materials, if
286 the materials are not directed primarily to minors;]
287 [(f) menu boards in retail establishments that sell beer for on-premise consumption if
288 the menu boards also contain food items;]
289 [(g) handles on alcoholic beverage dispensing equipment that identify brands of
290 products being dispensed; and]
291 [(h) displays at the site of a temporary special event for which a single event liquor
292 permit has been obtained from the commission or a temporary special event beer permit has
293 been obtained from a local authority to inform attendees of the location where alcoholic
294 beverages are being dispensed.]
295 [(7)] (9) "Brewer" means any person engaged in manufacturing beer[, malt liquor, or
296 malted beverages].
297 (10) "Cash bar" means the service of alcoholic beverages:
298 (a) at:
299 (i) a banquet; or
300 (ii) a temporary event for which a permit is issued under this title; and
301 (b) if an attendee at the banquet or special event is charged for the alcoholic beverage.
302 [(8)] (11) "Chartered bus" means a passenger bus, coach, or other motor vehicle
303 provided by a bus company to a group of persons pursuant to a common purpose, under a
304 single contract, and at a fixed charge in accordance with the bus company's tariff, for the

305 purpose of giving the group of persons the exclusive use of the bus and a driver to travel
306 together to a specified destination or destinations.

307 ~~[(9)]~~ (12) "Church" means a building:

308 (a) set apart [~~primarily~~] for the purpose of worship;

309 (b) in which religious services are held;

310 (c) with which clergy is associated; and

311 ~~[(d) the main body of which is kept for that use and not put to any other use
312 inconsistent with its primary purpose; and]~~

313 ~~[(e)]~~ (d) which is tax exempt under the laws of this state.

314 ~~[(10)]~~ (13) "Club" and "private club" means [~~any nonprofit corporation operating as a
315 social club, recreational, fraternal, or athletic association, or kindred association]~~ any of the
316 following organized primarily for the benefit of its [~~stockholders or]~~ members[~~:-~~];

317 (a) a social club;

318 (b) a recreational association;

319 (c) a fraternal association;

320 (d) an athletic association; or

321 (e) a kindred association.

322 ~~[(11)]~~ (14) "Commission" means the Alcoholic Beverage Control Commission.

323 ~~[(12) "Cork-finished wine" means a container of wine stopped by a cork and finished
324 by foil, lead, or other substance by the manufacturer.]~~

325 (15) "Convention center" is as defined by rule by the commission.

326 ~~[(13)]~~ (16) "Department" means the Department of Alcoholic Beverage Control.

327 ~~[(14)]~~ (17) "Distressed merchandise" means any alcoholic beverage in the possession
328 of the department that is saleable, but for some reason is unappealing to the public.

329 ~~[(15)]~~ (18) "General food store" means any business establishment primarily engaged
330 in selling food and grocery supplies to public patrons for off-premise consumption.

331 ~~[(16) "Governing body" means the board of not fewer than five shareholders or voting
332 members of a private club who have been elected and authorized to control or conduct the
333 business and affairs of that club.]~~

334 ~~[(17)]~~ (19) "Guest" means a person accompanied by an active member or visitor of a
335 club who enjoys only those privileges derived from the host for the duration of the visit to the

336 club.

337 [~~(18)~~] (20) (a) "Heavy beer" means ~~[all products that contain]~~ any product that:

338 (i) contains more than 4% alcohol by volume; and

339 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.

340 (b) "Heavy beer" is considered "liquor" for the purposes of this title.

341 (21) "Hosted bar" means the service of alcoholic beverages:

342 (a) without charge; and

343 (b) at a:

344 (i) banquet; or

345 (ii) privately hosted event.

346 (22) "Hotel" is as defined by rule by the commission.

347 [~~(19)~~] (23) "Identification card" means the identification card issued under Title 53,
348 Chapter 3, Part 8, Identification Card Act.

349 [~~(20)~~] (24) "Interdicted person" means a person to whom the sale, gift, or provision of
350 an alcoholic beverage is prohibited by:

351 (a) law; or

352 (b) court order.

353 (25) "Intoxicated" means that to a degree that is unlawful under Section 76-9-701 a
354 person is under the influence of:

355 (a) an alcoholic beverage;

356 (b) a controlled substance;

357 (c) a substance having the property of releasing toxic vapors; or

358 (d) a combination of Subsections (25)(a) through (c).

359 [~~(21)~~] (26) "Licensee" means any person issued a license by the commission to sell,
360 manufacture, store, or allow consumption of alcoholic beverages on premises owned or
361 controlled by the person.

362 [~~(22)~~] (27) "Limousine" means any motor vehicle licensed by the state or a local
363 authority, other than a bus or taxicab:

364 (a) in which the driver and passengers are separated by a partition, glass, or other
365 barrier; and

366 (b) that is provided by a company to an individual or individuals at a fixed charge in

367 accordance with the company's tariff for the purpose of giving the individual or individuals the
368 exclusive use of the limousine and a driver to travel to a specified destination or destinations.

369 ~~[(23)]~~ (28) (a) "Liquor" means alcohol, or any alcoholic, ~~[spiritous]~~ spirituous, vinous,
370 fermented, malt, or other liquid, or combination of liquids, a part of which is ~~[spiritous]~~
371 spirituous, vinous, or fermented, and all other drinks, or drinkable liquids that contain more
372 than 1/2 of 1% of alcohol by volume and is suitable to use for beverage purposes.

373 (b) "Liquor" does not include any beverage defined as a beer, malt liquor, or malted
374 beverage that has an alcohol content of less than 4% alcohol by volume.

375 ~~[(24)]~~ (29) "Local authority" means:

376 (a) the ~~[county legislative]~~ governing body of the county if the premises are located in
377 an unincorporated area of a county; or

378 (b) the governing body of the city or town if the premises are located in an incorporated
379 city or a town.

380 ~~[(25)]~~ (30) "Manufacture" means to distill, brew, rectify, mix, compound, process,
381 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
382 others.

383 ~~[(26)]~~ (31) "Member" means a person who, after paying regular dues, has full
384 privileges of a club under this title.

385 ~~[(27)]~~ (32) "Minor" means any person under the age of 21 years.

386 ~~[(28)]~~ (33) "Outlet" means a location other than a state store or package agency where
387 alcoholic beverages are sold pursuant to a license issued by the commission.

388 ~~[(29)]~~ (34) "Package" means any container, bottle, vessel, or other receptacle
389 containing liquor.

390 ~~[(30)]~~ (35) "Package agency" means a retail liquor location operated under a
391 contractual agreement with the department, by a person other than the state, who is authorized
392 by the commission to sell package liquor for consumption off the premises of the agency.

393 ~~[(31)]~~ (36) "Package agent" means any person permitted by the commission to operate
394 a package agency pursuant to a contractual agreement with the department to sell liquor from
395 premises that the package agent shall provide and maintain.

396 ~~[(32)]~~ (37) "Permittee" means any person issued a permit by the commission to
397 perform acts or exercise privileges as specifically granted in the permit.

398 [~~33~~] (38) "Person" means any individual, partnership, firm, corporation, limited
399 liability company, association, business trust, or other form of business enterprise, including a
400 receiver or trustee, and the plural as well as the singular number, unless the intent to give a
401 more limited meaning is disclosed by the context.

402 [~~34~~] (39) "Policy" means a statement of principles established by the commission to
403 guide the administration of this title and the management of the affairs of the department.

404 [~~35~~] (40) "Premises" means any building, enclosure, room, or equipment used in
405 connection with the sale, storage, service, manufacture, distribution, or consumption of
406 alcoholic products, unless otherwise defined in this title or in the rules adopted by the
407 commission.

408 [~~36~~] (41) "Prescription" means a writing in legal form, signed by a physician or
409 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

410 [~~37~~] (42) (a) "Privately hosted event" or "private social function" means a specific
411 social, business, or recreational event for which an entire room, area, or hall has been leased or
412 rented, in advance by an identified group, and the event or function is limited in attendance to
413 people who have been specifically designated and their guests.

414 (b) "Privately hosted event" and "private social function" does not include events or
415 functions to which the general public is invited, whether for an admission fee or not.

416 [~~38~~] (43) "Proof of age" means:

417 (a) an identification card;

418 (b) an identification that:

419 (i) is substantially similar to an identification card;

420 (ii) is issued in accordance with the laws of a state other than Utah in which the
421 identification is issued;

422 (iii) includes date of birth; and

423 (iv) has a picture affixed;

424 (c) a valid driver license certificate that:

425 (i) includes date of birth;

426 (ii) has a picture affixed; and

427 (iii) is issued:

428 (A) under Title 53, Chapter 3, Uniform Driver License Act; or

429 (B) in accordance with the laws of the state in which it is issued;

430 (d) a military identification card that:

431 (i) includes date of birth; and

432 (ii) has a picture affixed; or

433 (e) a valid passport.

434 [~~(39)~~] (44) (a) "Public building" means any building or permanent structure owned or
435 leased by the state, a county, or local government entity that is used for:

436 (i) public education;

437 (ii) transacting public business; or

438 (iii) regularly conducting government activities.

439 (b) "Public building" does not mean or refer to any building owned by the state or a
440 county or local government entity when the building is used by anyone, in whole or in part, for
441 proprietary functions.

442 [~~(40)~~] (45) "Representative" means an individual who is compensated by salary,
443 commission, or any other means for representing and selling the alcoholic beverage products of
444 a manufacturer, supplier, or importer of liquor, wine, or heavy beer.

445 [~~(41)~~] (46) "Residence" means the person's principal place of abode within Utah.

446 (47) "Resort facility" is as defined by rule by the commission.

447 [~~(42)~~] (48) "Restaurant" means any business establishment:

448 (a) where a variety of foods is prepared and complete meals are served to the general
449 public;

450 (b) located on a premises having adequate culinary fixtures for food preparation and
451 dining accommodations; and

452 (c) that is engaged primarily in serving meals to the general public.

453 [~~(43)~~] (49) "Retailer" means any person engaged in the sale or distribution of alcoholic
454 beverages to the consumer.

455 (50) "Room service" includes service of alcoholic beverages to a guest room of a:

456 (a) hotel; or

457 (b) resort facility.

458 [~~(44)~~] (51) (a) (i) "Rule" means a general statement adopted by the commission;

459 (A) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

460 and

461 (B) (I) to guide the activities of those regulated or employed by the department[~~;~~];

462 (II) to implement or interpret this title[~~;~~]; or

463 (III) to describe the organization, procedure, or practice requirements of the department
464 in order to carry out the intent of the law and ensure its uniform application. [~~This definition]~~

465 (ii) "Rule" includes any amendment or repeal of a prior rule.

466 (b) "Rule" does not include a rule concerning only the internal management of the
467 department that does not affect private rights or procedures available to the public, including
468 intradepartmental memoranda.

469 [~~(45)~~ (52) (a) "Sample" includes:

470 (i) a department [~~samples~~] sample; and

471 (ii) an industry representative [~~samples, and~~] sample.

472 [~~(iii) department trade show samples.~~]

473 (b) "Department sample" means liquor, wine, and heavy beer that has been placed in
474 the possession of the department for testing, analysis, and sampling.

475 [~~(c) "Department trade show sample" means liquor, wine, and heavy beer that has been~~
476 ~~placed in the possession of the department for use in a trade show conducted by the~~
477 ~~department.~~]

478 [~~(d)~~ (c) "Industry representative sample" means liquor, wine, and heavy beer that has
479 been placed in the possession of the department for testing, analysis, and sampling by local
480 industry representatives on the premises of the department to educate themselves of the quality
481 and characteristics of the product.

482 [~~(e) "Retail licensee wine tasting" means cork-finished wine checked out under the~~
483 ~~procedures provided in Section 32A-12-603:~~]

484 [(i) ~~to a local industry representative holding a license described in Section~~
485 ~~32A-8-501;~~]

486 [(ii) ~~to conduct the tasting of cork-finished wines to a retail licensee licensed to sell~~
487 ~~wine at retail for consumption on its premises; and]~~

488 [(iii) ~~for the purpose of disseminating information and educating the retail licensees~~
489 ~~described in Subsection (45)(e)(ii) as to the quality and characteristics of the cork-finished~~
490 ~~wines.~~]

491 ~~[(46)]~~ (53) (a) "School" means any building used primarily for the general education of
492 minors.

493 (b) "School" does not include:

494 (i) a nursery ~~[schools,]~~ school;

495 (ii) an infant day care ~~[centers,]~~ center; or

496 (iii) a trade or technical ~~[schools]~~ school.

497 ~~[(47)]~~ (54) "Sell," "sale," and "to sell" means any transaction, exchange, or barter
498 whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred,
499 solicited, ordered, delivered for value, or by any means or under any pretext is promised or
500 obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or
501 employee, unless otherwise defined in this title or the rules made by the commission.

502 ~~[(48)]~~ (55) "Small brewer" means a brewer who manufactures less than 60,000 barrels
503 of beer and heavy beer per year.

504 (56) (a) "Spirituous liquor" means liquor that is distilled.

505 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27
506 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.

507 (57) "Sports center" is as defined by rule by the commission.

508 ~~[(49)]~~ (58) (a) "State label" means the official label designated by the commission
509 affixed to all liquor containers sold in the state.

510 (b) "State label" includes the department identification mark and inventory control
511 number.

512 ~~[(50)]~~ (59) (a) "State store" means a facility for the sale of package liquor:

513 (i) located on premises owned or leased by the state; and

514 (ii) operated by state employees.

515 (b) "State store" does not apply to any:

516 (i) licensee[;];

517 (ii) permittee[;]; or [to]

518 (iii) package ~~[agencies]~~ agency.

519 ~~[(51)]~~ (60) "Supplier" means any person selling alcoholic beverages to the department.

520 (61) (a) "Tavern" means any business establishment that is:

521 (i) engaged primarily in the retail sale of beer to public patrons for consumption on the

522 establishment's premises; and

523 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.

524 (b) "Tavern" includes the following if the revenue from the sale of beer exceeds the

525 revenue of the sale of food, although food need not be sold in the establishment:

526 (i) a beer bar;

527 (ii) a parlor;

528 (iii) a lounge;

529 (iv) a cabaret; or

530 (v) a nightclub.

531 [~~52~~] (62) "Temporary domicile" means the principal place of abode within Utah of a
532 person who does not have a present intention to continue residency within Utah permanently or
533 indefinitely.

534 [~~53~~] (63) "Unsaleable liquor merchandise" means merchandise that:

535 (a) is unsaleable because [it] the merchandise is unlabeled, leaky, damaged, difficult to
536 open, or partly filled[; or];

537 (b) is in a container;

538 (i) having faded labels or defective caps or corks[; or];

539 (ii) in which the contents are cloudy, spoiled, or chemically determined to be impure[;];

540 or

541 (iii) that contains;

542 (A) sediment[;]; or

543 (B) any foreign substance[;]; or

544 (c) is otherwise considered by the department as unfit for sale.

545 [~~54~~] (64) "Visitor" means [~~a person holding~~] an individual that in accordance with
546 Section 32A-5-107 holds limited privileges in a private club by virtue of a visitor card
547 [purchased from the club and authorized by a sponsoring member of the club].

548 [~~55~~] (65) "Warehouser" means any person, other than a licensed manufacturer,
549 engaged in the importation for sale, storage, or distribution of liquor regardless of amount.

550 [~~56~~] (66) "Wholesaler" means any person engaged in the importation for sale, or in
551 the sale of beer in wholesale or jobbing quantities to retailers, other than a small brewer selling
552 beer manufactured by that brewer.

553 [~~(57)~~] (67) (a) "Wine" means any alcoholic beverage obtained by the fermentation of
554 the natural sugar content of fruits, plants, honey, or milk, or any other like substance, whether
555 or not other ingredients are added.

556 (b) "Wine" is considered "liquor" for purposes of this title, except as otherwise
557 provided in this title.

558 Section 134. Section **32A-1-107** is amended to read:

559 **32A-1-107. Powers and duties of the commission.**

560 (1) The commission shall:

561 (a) act as a general policymaking body on the subject of alcoholic product control;

562 (b) adopt and issue policies, directives, rules, and procedures;

563 (c) set policy by written rules that establish criteria and procedures for:

564 (i) granting, denying, suspending, or revoking permits, licenses, and package agencies;

565 (ii) controlling liquor merchandise inventory including:

566 (A) listing and delisting products;

567 (B) the procedures for testing new products;

568 (C) purchasing policy;

569 (D) turnover requirements for regularly coded products to be continued; and

570 (E) the disposition of discontinued, distressed, or unsaleable merchandise; and

571 (iii) determining the location of state stores, package agencies, and outlets; [~~and~~]

572 [~~(iv) department trade shows;~~]

573 (d) decide within the limits and under the conditions imposed by this title, the number
574 and location of state stores, package agencies, and outlets established in the state;

575 (e) issue, grant, deny, suspend, [~~or~~] revoke, or not review the following permits,
576 licenses, and package agencies for the purchase, sale, storage, service, manufacture,
577 distribution, and consumption of alcoholic products:

578 (i) package agencies;

579 (ii) restaurant licenses;

580 (iii) airport lounge licenses;

581 (iv) limited restaurant licenses;

582 (v) beginning on July 1, 2003 and ending June 30, 2005, on-premise banquet licenses;

583 [~~(iv)~~] (vi) private club licenses;

584 [~~(v)~~] (vii) on-premise beer retailer licenses;
585 (viii) temporary special event beer permits;
586 [~~(vi)~~] (ix) special use permits;
587 [~~(vii)~~] (x) single event permits;
588 [~~(viii)~~] (xi) manufacturing licenses;
589 [~~(ix)~~] (xii) liquor warehousing licenses; and
590 [~~(x)~~] (xiii) beer wholesaling licenses;
591 (f) fix prices at which liquors are sold that are the same at all state stores, package
592 agencies, and outlets;
593 (g) issue and distribute price lists showing the price to be paid by purchasers for each
594 class, variety, or brand of liquor kept for sale by the department;
595 (h) require the director to follow sound management principles and require periodic
596 reporting from the director to ensure that these principles are being followed and that policies
597 established by the commission are being observed;
598 (i) receive, consider, and act in a timely manner upon all reports, recommendations,
599 and matters submitted by the director to the commission, and do all things necessary to support
600 the department in properly performing its duties and responsibilities;
601 (j) obtain temporarily and for special purposes the services of experts and persons
602 engaged in the practice of a profession or who possess any needed skills, talents, or abilities if
603 considered expedient and if approved by the governor;
604 (k) prescribe the duties of departmental officials authorized to issue permits and
605 licenses [~~and to conduct trade shows~~] under this title;
606 (l) prescribe, consistent with this title, the fees payable for permits, licenses, and
607 package agencies issued under this title, or for anything done or permitted to be done under this
608 title;
609 (m) prescribe the conduct, management, and equipment of any premises upon which
610 alcoholic beverages may be sold, consumed, served, or stored;
611 (n) make rules governing the credit terms of beer sales to retailers within the state; and
612 (o) require that each state store, package agency, licensee, and permittee, where
613 required in this title, display in a prominent place a sign in large letters stating: "Warning:
614 Driving under the influence of alcohol or drugs is a serious crime that is prosecuted

615 aggressively in Utah."

616 (2) The power of the commission to establish state stores, to create package agencies
617 and grant authority to operate package agencies, and to grant or deny licenses and permits is
618 plenary, except as otherwise provided by this title, and is not subject to review.

619 (3) The commission may appoint qualified hearing officers to conduct any suspension
620 or revocation hearings required by law.

621 (4) (a) In any case where the commission is given the power to suspend any license or
622 permit, it may impose a fine in addition to or in lieu of suspension. Fines imposed may not
623 exceed \$25,000 in the aggregate for any single Notice of Agency Action.

624 (b) The commission shall promulgate, by rule, a schedule setting forth a range of fines
625 for each violation.

626 Section 135. Section **32A-1-109** is amended to read:

627 **32A-1-109. Powers and duties of the director.**

628 Subject to the powers and responsibilities vested in the commission by this title the
629 director shall:

630 (1) prepare and propose to the commission general policies, directives, rules, and
631 procedures governing the administrative activities of the department and may submit other
632 recommendations to the commission as the director considers in the interest of its or the
633 department's business;

634 (2) within the general policies, directives, rules, and procedures of the commission,
635 provide day-to-day direction, coordination, and delegation of responsibilities in the
636 administrative activities of the department's business and promulgate internal department
637 policies, directives, rules, and procedures relating to department personnel matters, and the
638 day-to-day operation of the department;

639 (3) appoint or employ personnel as considered necessary in the administration of this
640 title and prescribe the conditions of their employment, define their respective duties and
641 powers, fix their remuneration in accordance with Title 67, Chapter 19, Utah State Personnel
642 Management Act, and designate those employees required to give bonds and specify the bond
643 amounts;

644 (4) establish and secure adherence to a system of reports, controls, and performance in
645 all matters relating to personnel, security, department property management, and operation of

646 department offices, warehouses, state stores, package agencies, and licensees;
647 (5) within the policies, directives, rules, and procedures approved by the commission
648 and provisions of law, buy, import, keep for sale, sell and control the sale, storage, service,
649 transportation, and delivery of alcoholic products;
650 (6) prepare for commission approval:
651 (a) recommendations regarding the location, establishment, relocation, and closure of
652 state stores and package agencies;
653 (b) recommendations regarding the issuance, suspension, nonrenewal, and revocation
654 of licenses and permits;
655 (c) annual budgets, proposed legislation, and reports as required by law and sound
656 business principles;
657 (d) plans for reorganizing divisions of the department and their functions;
658 (e) manuals containing all commission and department policies, directives, rules, and
659 procedures;
660 (f) an inventory control system;
661 (g) any other reports and recommendations as may be requested by the commission;
662 (h) rules governing the credit terms of beer sales to beer retailer licensees;
663 (i) rules governing the calibration, maintenance, and regulation of calibrated metered
664 dispensing systems;
665 (j) rules governing the posting of a list of types and brand names of liquor being served
666 through calibrated metered dispensing systems;
667 (k) price lists issued and distributed showing the price to be paid for each class, variety,
668 or brand of liquor kept for sale at state stores, package agencies, and outlets;
669 (l) directives prescribing the books of account kept by the department and by state
670 stores, package agencies, and outlets;
671 (m) an official state label and the manner in which the label shall be affixed to every
672 package of liquor sold under this title; and
673 (n) a policy prescribing the manner of giving and serving notices required by this title
674 or rules made under this title; ~~and~~
675 ~~[(o) rules governing department trade shows;]~~
676 (7) make available through the department to any person, upon request, a copy of any

677 policy or directive promulgated by the director;

678 (8) adopt internal departmental policies, directives, rules, and procedures relating to
679 department personnel matters and the day-to-day operation of the department that are
680 consistent with those of the commission;

681 (9) keep a current copy of the manuals containing the rules and policies of the
682 department and commission available for public inspection; ~~[and]~~

683 (10) (a) after consultation with the governor, determine whether alcoholic products
684 should not be sold, offered for sale, or otherwise furnished in an area of the state during a
685 period of emergency that is proclaimed by the governor to exist in that area; and

686 (b) issue any necessary public announcements and directives with respect to the
687 determination described in Subsection (10)(a); and

688 ~~[(10)]~~ (11) perform other duties required by the commission and by law.

689 Section 136. Section **32A-1-111** is amended to read:

690 **32A-1-111. Department employees -- Requirements.**

691 (1) (a) The commission may prescribe by policy, directive, or rule the qualifications of
692 persons employed by the department, subject to this title.

693 (b) A person may not obtain employment with the department ~~[who]~~ if that person has
694 been convicted of:

695 ~~[(a) convicted of]~~ (i) a felony under any federal or state law;

696 ~~[(b) convicted of]~~ (ii) any violation of any federal or state law or local ordinance
697 concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of
698 alcoholic beverages; ~~[or]~~

699 ~~[(c) convicted of]~~ (iii) any crime involving moral turpitude~~[-];~~ or

700 (iv) on two or more occasions within the five years before the day on which the
701 employee is hired by the department, driving under the influence of alcohol, any drug, or the
702 combined influence of alcohol and any drug.

703 (2) ~~[If any employee of the department is convicted of any offense as provided in~~
704 ~~Subsection (1), the]~~ The director may terminate ~~[the]~~ an employee or take other disciplinary
705 action consistent with Title 67, Chapter 19, ~~[the]~~ Utah State Personnel Management Act~~[-]~~ if
706 after the day on which the employee is hired by the department, the employee of the
707 department:

708 (a) is found to have been convicted of any offense described in Subsection (1)(b)
709 before being hired by the department; or

710 (b) on or after the day on which the employee is hired:

711 (i) is convicted of an offense described in Subsection (1)(b)(i), (ii), or (iii); or

712 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
713 combined influence of alcohol and any drug; and

714 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
715 influence of alcohol and any drug within five years before the day on which the person is
716 convicted of the offense described in Subsection (2)(b)(ii)(A).

717 (3) The director may immediately suspend an employee of the department for the
718 period during which the criminal matter is being adjudicated if the employee:

719 (a) is arrested on a charge for an offense described in Subsection (1)(b)(i), (ii), or (iii);
720 or

721 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
722 any drug, or the combined influence of alcohol and any drug; and

723 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
724 influence of alcohol and any drug within five years before the day on which the person is
725 arrested on a charge described in Subsection (3)(b)(i).

726 ~~[(3)]~~ (4) (a) A person who seeks employment with the department shall file with the
727 department an application under oath or affirmation in a form prescribed by the commission.

728 (b) The commission may not require information designating the color, race, or creed
729 of ~~the~~ an applicant.

730 (c) Upon receiving an application the department shall determine whether the applicant
731 is;

732 (i) of good moral character; and ~~is~~

733 (ii) qualified for the position sought.

734 (d) The selection of applicants for employment or advancement with the department
735 shall be in accordance with Title 67, Chapter 19, ~~the~~ Utah State Personnel Management Act.

736 ~~[(4) A package agent or licensee or any employee of a package agent or a licensee is]~~

737 (5) The following are not considered an employee of the department[-]:

738 (a) a package agent;

- 739 (b) a licensee;
740 (c) an employee of a package agent; or
741 (d) an employee of a licensee.
742 ~~[(5) Minors]~~ (6) A minor may not be employed by the department to:
743 (a) work in:
744 (i) any state liquor store; or
745 (ii) departmental warehouse[;]; or [to]
746 (b) engage in any activity involving the handling of alcoholic beverages.

747 Section 137. Section **32A-1-113** is amended to read:

748 **32A-1-113. Department expenditures and revenues -- Liquor Control Fund --**
749 **Exempt from Division of Finance -- Annual audits.**

750 (1) (a) All money received by the department in the administration of this title, except
751 as otherwise provided, together with all property acquired, administered, possessed, or received
752 by the department, is the property of the state. Money received in the administration of this
753 title shall be paid to the department and transferred into the state treasury to the credit of the
754 Liquor Control Fund.

755 (b) All expenses, debts, and liabilities incurred by the department in connection with
756 the administration of this title shall be paid from the Liquor Control Fund.

757 (c) The fiscal officers of the department shall transfer annually from the Liquor Control
758 Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor
759 since the preceding transfer of funds. The transfer shall be made within 90 days of the end of
760 the department's fiscal year on June 30.

761 (2) (a) Deposits made by the department shall be made to banks designated as state
762 depositories and reported to the state treasurer at the end of each day.

763 (b) Any member of the commission and any employee of the department is not
764 personally liable for any loss caused by the default or failure of depositories.

765 (c) All funds deposited in any bank or trust company are entitled to the same priority of
766 payment as other public funds of the state.

767 (3) All expenditures necessary for the administration of this title, including the
768 payment of all salaries, premiums, if any, on bonds of the commissioners, the director, and the
769 department staff in all cases where bonds are required, and all other expenditures incurred in

770 establishing, operating, and maintaining state stores and package agencies and in the
771 administration of this title, shall be paid by warrants drawn on the state treasurer paid out of the
772 Liquor Control Fund.

773 (4) If the cash balance of the Liquor Control Fund is not adequate to cover the warrants
774 drawn against it by the state treasurer, the cash resources of the General Fund may be utilized
775 to the extent necessary. However, at no time may the fund equity of the Liquor Control Fund
776 fall below zero.

777 (5) (a) When any check issued in payment of any fees or costs authorized or required
778 by this title is returned to the department as dishonored[-];

779 (i) the department may assess a service charge in an amount set by commission rule
780 against the person on whose behalf the check was tendered[-]; and

781 (ii) if the check that is returned to the department is from a licensee, permittee, or
782 package agent, it is grounds for:

783 (A) the suspension or revocation of the license or permit; or

784 (B) the suspension or termination of the operation of the package agency.

785 (b) The revocation of a license or permit under this Subsection (5) is grounds for the
786 forfeiture of the bond of the:

787 (i) licensee; or

788 (ii) permittee.

789 (c) The termination of the operation of a package agency under this Subsection (5) is
790 grounds for the forfeiture of the bond of the package agency.

791 (6) The laws that govern the Division of Finance and prescribe the general powers and
792 duties of the Division of Finance are not applicable to the Department of Alcoholic Beverage
793 Control in the purchase and sale of alcoholic products.

794 (7) The accounts of the department shall be audited annually by the state auditor or by
795 any other person, firm, or corporation the state auditor appoints. The audit report shall be made
796 to the state auditor, and copies submitted to members of the Legislature not later than January 1
797 following the close of the fiscal year for which the report is made.

798 Section 138. Section **32A-1-116** is amended to read:

799 **32A-1-116. Purchase of liquor.**

800 (1) [~~Beginning July 1, 1991, the~~] The department may not purchase or stock alcoholic

801 beverages in containers smaller than 200 ml. except as otherwise allowed by the commission.

802 (2) (a) Each order for the purchase of liquor or any cancellation of an order;

803 (i) shall be executed in writing by the department; and

804 (ii) is not valid or binding unless ~~[so]~~ executed in writing.

805 (b) A ~~[duplicate]~~ copy of each order or cancellation shall be kept on file by the
806 department for at least three years.

807 Section 139. Section **32A-1-119** is amended to read:

808 **32A-1-119. Adjudicative proceedings -- Procedure.**

809 (1) (a) The commission, director, and department may conduct adjudicative
810 proceedings to inquire into any matter necessary and proper for the administration of this title
811 and rules adopted under this title.

812 (b) The commission, director, and department shall comply with the procedures and
813 requirements of Title 63, Chapter 46b, Administrative Procedures Act, in their adjudicative
814 proceedings.

815 (c) Except where otherwise provided by law, all adjudicative proceedings shall be
816 conducted in accordance with Title 52, Chapter 4, Open and Public Meetings.

817 (d) All adjudicative proceedings concerning departmental personnel shall be conducted
818 in accordance with Title 67, Chapter 19, Utah State Personnel Management Act. All hearings
819 that are informational, fact gathering, and nonadversarial in nature shall be conducted in
820 accordance with rules, policies, and procedures promulgated by the commission, director, or
821 department.

822 (2) (a) Disciplinary proceedings shall be conducted under the authority of the
823 commission, which is responsible for rendering a final decision and order on any disciplinary
824 matter.

825 (b) (i) Nothing in this section precludes the commission from appointing necessary
826 officers, including hearing examiners, from within or without the department, to administer the
827 disciplinary hearing process.

828 (ii) Officers and examiners appointed by the commission may conduct hearings on
829 behalf of the commission and submit findings of fact, conclusions of law, and
830 recommendations to the commission.

831 (3) ~~[When]~~ (a) The department may initiate a proceeding described in Subsection

832 (3)(b) when the department [has on file] receives:

833 (i) a report from any government agency, peace officer, examiner, or investigator
834 alleging that a permittee or licensee or any [of its officers or employees] officer, employee, or
835 agent of a permittee or licensee has violated this title or the rules of the commission[, the];

836 (ii) a final adjudication of criminal liability against a permittee or licensee or any
837 officer, employee, or agent of a permittee or licensee based on an alleged violation of this title;
838 or

839 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage
840 Liability, against a permittee or licensee or any officer, employee, or agent of a permittee or
841 licensee based on an alleged violation of this title.

842 (b) The department may initiate disciplinary proceedings if the department receives an
843 item listed in Subsection (3)(a) to determine:

844 [~~(a)~~] (i) whether [or not] the permittee or licensee [is guilty of the violation] or any
845 officer, employee, or agent of the permittee or licensee violated this title or rules of the
846 commission; and

847 [~~(b)~~] (ii) if a violation is found [guilty], the [penalty] appropriate sanction to be
848 imposed.

849 (c) For purposes of this Subsection (3), "final adjudication" means an adjudication for
850 which a final unappealable judgment or order has been issued.

851 (4) (a) [~~Am~~] Unless waived by the respondent, an adjudicative proceeding shall be held;

852 (i) if required by law[, and in all cases];

853 (ii) before revoking or suspending any permit or license [or permit] issued under this
854 title[, unless waived by the respondent]; or

855 (iii) before imposing a fine against:

856 (A) a permittee;

857 (B) a licensee; or

858 (C) any officer, employee, or agent of a permittee or licensee.

859 (b) Inexcusable failure of a respondent to appear at a scheduled evidentiary hearing
860 after receiving proper notice is an admission of the charged violation.

861 (c) The validity of any hearing is not affected by the failure of any person to attend or
862 remain in attendance.

863 (d) All evidentiary hearings shall be presided over by the commission or an appointed
864 hearing examiner.

865 (e) A hearing may be closed only after the commission or hearing examiner makes a
866 written finding that the public interest in an open hearing is clearly outweighed by factors
867 enumerated in the closure order.

868 (f) The commission or its hearing examiner may administer oaths or affirmations, take
869 evidence, take depositions within or without this state, require by subpoena from any place
870 within this state the testimony of any person at a hearing, and the production of any books,
871 records, papers, contracts, agreements, documents, or other evidence considered relevant to the
872 inquiry.

873 (i) Persons subpoenaed shall testify and produce any books, papers, documents, or
874 tangible things as required in the subpoena.

875 (ii) Any witness subpoenaed or called to testify or produce evidence who claims a
876 privilege against self-incrimination may not be compelled to testify, but the commission or the
877 hearing examiner shall file a written report with the county attorney or district attorney in the
878 jurisdiction where the privilege was claimed or where the witness resides setting forth the
879 circumstance of the claimed privilege.

880 (iii) A person is not excused from obeying a subpoena without just cause. Any district
881 court within the judicial district in which a person alleged to be guilty of willful contempt of
882 court or refusal to obey a subpoena is found or resides, upon application by the party issuing
883 the subpoena, may issue an order requiring the person to appear before the issuing party, and to
884 produce documentary evidence if so ordered, or to give evidence regarding the matter in
885 question. Failure to obey an order of the court may be punished by the court as contempt.

886 (g) In all cases heard by a hearing examiner, the hearing examiner shall prepare a
887 report to the commission. The report may not recommend a penalty more severe than that
888 initially sought by the department in the notice of violation. A copy of the report shall be
889 served upon the respective parties, and the respondent shall be given reasonable opportunity to
890 file any written objections to the report before final commission action.

891 (h) In all cases heard by the commission, it shall issue its final decision and order.

892 (5) (a) The commission shall render a decision and issue a written order on any
893 disciplinary action, and serve a copy on all parties.

894 (b) Any order of the commission is considered final on the date [it] the order becomes
895 effective.

896 (c) If the commission is satisfied that a permittee [~~or~~], licensee, or any officer,
897 employee, or agent of a permittee or licensee has committed a violation of this title[-] or the
898 commission's rules, [it] in accordance with Title 63, Chapter 46b, Administrative Procedures
899 Act, the commission may [take emergency action suspending or revoking]:

900 (i) suspend or revoke the permit or the license [~~according to the procedures and~~
901 ~~requirements of Title 63, Chapter 46b, Administrative Procedures Act, and];~~

902 (ii) impose a fine against:

903 (A) the permittee;

904 (B) the licensee; or

905 (C) any officer, employee, or agent of a permittee or licensee;

906 (iii) assess the administrative costs of any hearing to the permittee or the licensee[-]; or

907 (iv) any combination of Subsections (5)(c)(i) through (iii).

908 (d) (i) A fine imposed in accordance with this Subsection (5) may not exceed \$25,000
909 in the aggregate for any single notice of agency action.

910 (ii) The commission shall, by rule, establish a schedule of fines specifying the range of
911 fines for each violation of this title or commission rules.

912 (e) (i) If a permit or license is suspended under this Subsection (5), a sign provided by
913 the department shall be prominently posted:

914 (A) during the suspension;

915 (B) by the permittee or licensee; and

916 (C) at the entrance of the premises of the permittee or licensee.

917 (ii) The sign required by this Subsection (5)(e) shall:

918 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the
919 alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be
920 sold, served, furnished, or consumed on these premises during the period of suspension."; and

921 (B) include the dates of the suspension period.

922 (iii) A permittee or licensee may not remove, alter, obscure, or destroy a sign required
923 to be posted under this Subsection (5)(e) during the suspension period.

924 [~~(f)~~] (f) If the permit or license is revoked, the commission may order the revocation of

925 any compliance bond posted by the permittee or licensee.

926 ~~[(e)]~~ (g) Any permittee or licensee whose permit or license is revoked may not reapply
927 for a permit or license under this title for three years from the date the permit or license was
928 revoked.

929 ~~[(f)]~~ (h) All costs assessed by the commission shall be transferred into the General
930 Fund in accordance with Section 32A-1-113.

931 (6) (a) ~~[The commission]~~ In addition to any action taken against a permittee or licensee
932 under this section, the department may [also] initiate disciplinary [actions] action against
933 [employees] an officer, employee, or [agents] agent of [licensees] a permittee or licensee.

934 (b) If any officer, employee, or agent is found to have violated this title, the
935 commission may prohibit the officer, employee, or agent from serving, selling, distributing,
936 manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of
937 employment with any permittee or licensee [licensed] under this title for a period determined
938 by the commission.

939 ~~[(7) If any manufacturer, supplier, or importer of liquor, wine, or heavy beer or their~~
940 ~~employee, agent, or representative violates any provision of this title;]~~

941 (7) (a) The department may initiate a disciplinary action for an alleged violation of this
942 title or the rules of the commission against:

943 (i) a manufacturer, supplier, or importer of alcoholic beverages; or

944 (ii) an officer, employee, agent, or representative of a person listed in Subsection
945 (7)(a)(i).

946 (b) (i) If the commission makes the finding described in Subsection (7)(b)(ii), the
947 commission may, in addition to other penalties prescribed by this title, order:

948 (A) the removal of the manufacturer's, supplier's, or importer's products from the
949 department's sales list; and

950 (B) a suspension of the department's purchase of [those] the products described in
951 Subsection (7)(b)(i)(A) for a period determined by the commission [if].

952 (ii) The commission may take the action described in Subsection (7)(b)(i) if:

953 (A) any manufacturer, supplier, or importer of liquor, wine, or heavy beer or its
954 employee, agent, or representative violates any provision of this title; and

955 (B) the manufacturer, supplier, or importer;

956 (I) directly committed the violation~~[-];~~ or
957 (II) solicited, requested, commanded, encouraged, or intentionally aided another to
958 engage in the violation.

959 Section 140. Section **32A-1-122** is amended to read:

960 **32A-1-122. Liquor prices.**

961 (1) Except as provided in Subsections (2) and (3), all liquor sold within the state shall
962 be marked up in an amount not less than ~~[61%]~~ ~~h~~ ~~[64%]~~ **64.5%** ~~h~~ above the cost to the department~~[-~~
963 ~~excluding federal excise taxes]~~.

964 (2) All liquor sold to military installations in Utah shall be marked up in an amount not
965 less than 15% above the cost to the department~~[-excluding federal excise taxes]~~.

966 (3) ~~[All wine sold in Utah by]~~ If a wine manufacturer producing less than 20,000
967 gallons of wine in any calendar year, as verified by the department pursuant to federal or other
968 verifiable production reports, first applies to the department for a reduced markup, all wine
969 sold in Utah by the wine manufacturer shall be marked up in an amount not less than 30%
970 above the cost to the department~~[-excluding federal excise taxes, but only if the wine~~
971 ~~manufacturer first applies to the department for the 30% markup]~~.

972 (4) Nothing in this section prohibits the department from selling discontinued lines at a
973 discount.

974 Section 141. Section **32A-1-123** is amended to read:

975 **32A-1-123. Licensee compliance with other laws.**

976 (1) Each applicant for a license and each licensee shall comply with all applicable
977 federal and state laws pertaining to payment of taxes and contributions to unemployment and
978 insurance funds to which it may be subject. ~~[Failure to do so may result in the suspension or~~
979 ~~revocation of the licensee's license.]~~

980 (2) The commission:

981 (a) may not issue a license to an applicant that violates this section; and

982 (b) may suspend, revoke, or not renew the license of any licensee who fails to comply
983 with this section.

984 Section 142. Section **32A-1-401** is amended to read:

985 **32A-1-401. Alcohol training and education -- Revocation or suspension of**
986 **licenses.**

987 (1) The commission may [~~revoke,~~] suspend, [~~withhold~~] revoke, or not renew the
988 license of any [~~new or renewing~~] licensee if any of the following persons, as defined in Section
989 62A-15-401, fail to complete the seminar required in Section 62A-15-401:

990 (a) a person who manages operations at the premises of the licensee;

991 (b) a person who supervises the serving of alcoholic beverages to a customer for
992 consumption on the premises of the licensee; or

993 (c) a person who serves alcoholic beverages to a customer for consumption on the
994 premises of the licensee.

995 (2) A city, town, or county in which an establishment conducts its business may
996 [~~revoke,~~] suspend, [~~withhold~~] revoke, or not renew the business license of the establishment if
997 any person described in Subsection (1) fails to complete the seminar required in Section
998 62A-15-401.

999 Section 143. Section **32A-2-101** is amended to read:

1000 **32A-2-101. Commission's power to establish state stores -- Limitations.**

1001 (1) (a) The commission may establish state stores in numbers and at places, owned or
1002 leased by the department, it considers proper for the sale of liquor, by employees of the state, in
1003 accordance with this title and the rules made under this title.

1004 (b) Employees of state stores are considered employees of the department and shall
1005 meet all qualification requirements for employment outlined in Section 32A-1-111.

1006 (2) (a) The total number of state stores may not at any time aggregate more than that
1007 number determined by dividing the population of the state by 48,000. [~~Population~~]

1008 (b) For purposes of this Subsection (2), population shall be determined by:

1009 (i) the most recent United States decennial or special census; or [~~by~~]

1010 (ii) any other population determination made by the United States or state
1011 governments.

1012 (3) (a) A state store may not be established within 600 feet of any public or private
1013 school, church, public library, public playground, or park as measured by the method in
1014 Subsection (4).

1015 (b) A state store may not be established within 200 feet of any public or private school,
1016 church, public library, public playground, or park measured in a straight line from the nearest
1017 entrance of the proposed state store to the nearest property boundary of the public or private

1018 school, church, public library, public playground, or park.

1019 (c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the
1020 following exceptions applies:

1021 ~~[(i) The commission finds after full investigation that the premises are located within a~~
1022 ~~city of the third class or a town, and compliance with the distance requirements would result in~~
1023 ~~peculiar and exceptional practical difficulties or exceptional and undue hardships in the~~
1024 ~~establishment of a state store. In that event, the commission may, after giving full~~
1025 ~~consideration to all of the attending circumstances, following a public hearing in the city or~~
1026 ~~town, and where practical in the neighborhood concerned, authorize a variance from the~~
1027 ~~distance requirements to relieve the difficulties or hardships if the variance may be granted~~
1028 ~~without substantial detriment to the public good and without substantially impairing the intent~~
1029 ~~and purpose of this title.]~~

1030 (i) with respect to the establishment of a state store within a city of the third class, a
1031 town, or the unincorporated area of a county, the commission may authorize a variance that
1032 reduces the proximity requirements of Subsection (3)(a) or (b) if:

1033 (A) alternative locations for establishing a state store in the community are limited;

1034 (B) a public hearing has been held in the city, town, or county, and where practical in
1035 the neighborhood concerned; and

1036 (C) after giving full consideration to all of the attending circumstances and the policies
1037 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
1038 state store would not be detrimental to the public health, peace, safety, and welfare of the
1039 community; or

1040 (ii) ~~[With]~~ with respect to the establishment of a state store in any location, the
1041 commission may~~[-after giving full consideration to all of the attending circumstances;~~
1042 ~~following a public hearing in the county, and where practical in the neighborhood concerned;~~
1043 ~~reduce the proximity requirements]~~ authorize a variance to reduce the proximity requirements
1044 of Subsection (3)(a) or (b) in relation to a church;

1045 (A) if the local governing body of the church in question gives its written [approval.]
1046 consent to the variance;

1047 (B) following a public hearing in the county, and where practical in the neighborhood
1048 concerned; and

1049 (C) after giving full consideration to all of the attending circumstances and the policies
1050 stated in Subsections 32A-1-104(3) and (4).

1051 (4) With respect to any public or private school, church, public library, public
1052 playground, or park, the 600 foot limitation is measured from the nearest entrance of the state
1053 store by following the shortest route of [~~either~~] ordinary pedestrian [~~traffic or, where~~
1054 ~~applicable, vehicular travel along public thoroughfares, whichever is the closer,~~] travel to the
1055 property boundary of the public or private school, church, public library, public playground,
1056 school playground, or park.

1057 (5) (a) Nothing in this section prevents the commission from considering the proximity
1058 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
1059 decision on a proposed location.

1060 (b) For purposes of this Subsection (5), "educational facility" includes:

1061 (i) a nursery [~~schools,~~] school;

1062 (ii) an infant day care [~~centers,~~] center; and

1063 (iii) a trade and technical [~~schools~~] school.

1064 Section 144. Section **32A-2-103** is amended to read:

1065 **32A-2-103. Operational restrictions.**

1066 (1) Liquor may not be sold from a state store except in a sealed package. The package
1067 may not be opened on the premises of any state store.

1068 (2) (a) An officer, agent, clerk, or employee of a state store may not consume or allow
1069 to be consumed by any person any alcoholic beverage on the premises of a state store.

1070 (b) Violation of this Subsection (2) is a class B misdemeanor.

1071 (3) All liquor sold shall be in packages that are properly marked and labeled in
1072 accordance with the rules adopted under this title.

1073 (4) Liquor may not be sold except at prices fixed by the commission.

1074 (5) Liquor may not be sold, delivered, or furnished to any:

1075 (a) minor;

1076 (b) person actually, apparently, or obviously [~~drunk~~] intoxicated;

1077 (c) known habitual drunkard; or

1078 (d) known interdicted person.

1079 (6) Sale or delivery of liquor may not be made on or from the premises of any state

1080 store, nor may any state store be kept open for the sale of liquor:

1081 (a) on Sunday;

1082 (b) on any state or federal legal holiday;

1083 (c) on any day on which any regular general election, regular primary election, or
1084 statewide special election is held;

1085 (d) on any day on which any municipal, special district, or school election is held, but
1086 only within the boundaries of the municipality, special district, or school district holding the
1087 election and only if the municipality, special district, or school district in which the election is
1088 being held notifies the department at least 30 days prior to the date of the election; or

1089 (e) except on days and during hours as the commission may direct by rule or order.

1090 (7) Each state store shall display in a prominent place in the store a sign in large letters
1091 stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is
1092 prosecuted aggressively in Utah."

1093 Section 145. Section **32A-3-101** is amended to read:

1094 **32A-3-101. Commission's power to establish package agencies -- Limitations.**

1095 (1) (a) The commission may, when considered necessary, create package agencies by
1096 entering into contractual relationships with persons to sell liquor in sealed packages from
1097 premises other than those owned or leased by the state.

1098 (b) The commission shall authorize a person to operate a package agency by issuing a
1099 certificate from the commission that designates the person in charge of the agency as a
1100 "package agent" as defined under Section 32A-1-105.

1101 (2) (a) Subject to this Subsection (2), the total number of package agencies may not at
1102 any time aggregate more than that number determined by dividing the population of the state
1103 by 18,000.

1104 (b) For purposes of Subsection (2)(a), population shall be determined by:

1105 (i) the most recent United States decennial or special census; or

1106 (ii) any other population determination made by the United States or state
1107 governments.

1108 (c) (i) The commission may establish seasonal package agencies established in areas
1109 [~~and for periods it~~] the commission considers necessary.

1110 (ii) A seasonal package agency [~~may not be operated~~] shall be for a period [~~longer than~~]

1111 ~~nine~~ of six consecutive months [~~subject to the restrictions stated in Subsections (2)(c)(i)~~
1112 ~~through (iii)~~].

1113 ~~[(i)] (iii)~~ A package agency established for operation during a summer time period is
1114 known as a "Seasonal A" package agency. The period of operation for a "Seasonal A" agency
1115 [~~may begin as early as February 1 and may continue until October 31.~~] shall:

1116 (A) begin on May 1; and

1117 (B) end on October 31.

1118 ~~[(ii)] (iv)~~ A package agency established for operation during a winter time period is
1119 known as a "Seasonal B" package agency. The period of operation for a "Seasonal B" agency
1120 [~~may begin as early as September 1 and may continue until May 31.~~] shall:

1121 (A) begin on November 1; and

1122 (B) end on April 30.

1123 ~~[(iii)] (v)~~ In determining the number of package agencies that the commission may
1124 establish under this section:

1125 (A) a seasonal package agency is counted as [~~one-half~~] 1/2 of one package agency; and

1126 (B) each "Seasonal A" agency shall be paired with a "Seasonal B" agency[~~; and~~].

1127 [~~(C) the total number of months that each combined pair may be established for~~
1128 ~~operation may not exceed 12 months for each calendar year.~~]

1129 (d) (i) If the location, design, and construction of a hotel may require more than one
1130 package agency sales location to serve the public convenience, the commission may authorize a
1131 single package agent to sell liquor at as many as three locations within the hotel under one
1132 package agency if:

1133 (A) the hotel has a minimum of 150 guest rooms; and

1134 (B) all locations under the agency are:

1135 (I) within the same hotel facility; and

1136 (II) on premises that are managed or operated and owned or leased by the package
1137 agent.

1138 (ii) Facilities other than hotels may not have more than one sales location under a
1139 single package agency.

1140 (3) (a) As measured by the method in Subsection (4), the premises of a package agency
1141 may not be established within 600 feet of any[~~:~~] public or private school, church, public library,

1142 public playground, or park.

1143 [~~(i) public or private school;~~]

1144 [~~(ii) church;~~]

1145 [~~(iii) public library;~~]

1146 [~~(iv) public playground; or~~]

1147 [~~(v) park.~~]

1148 (b) [~~A~~] The premises of a package agency may not be established within 200 feet of
1149 any public or private school, church, public library, public playground, or park, measured in a
1150 straight line from the nearest entrance of the proposed package agency to the nearest property
1151 boundary of the public or private school, church, public library, public playground, or park.

1152 (c) The restrictions contained in Subsections (3)(a) and (b) govern unless [~~Subsection~~
1153 ~~(3)(c)(i) or (ii)~~] one of the following exemptions applies[-]:

1154 [~~(i) If the commission finds after full investigation that the premises are located within a~~
1155 ~~city of the third class or a town, and compliance with the distance requirements would result in~~
1156 ~~peculiar and exceptional practical difficulties or exceptional and undue hardships in the~~
1157 ~~establishment of a package agency, the commission may authorize a variance from the distance~~
1158 ~~requirement to relieve the difficulties or hardships:]~~

1159 [~~(A) after giving full consideration to all of the attending circumstances;~~]

1160 [~~(B) following a public hearing in:]~~

1161 [~~(F) the city or town concerned; and]~~

1162 [~~(H) where practical, in the neighborhood concerned; and]~~

1163 [~~(C) if the variance may be granted without:]~~

1164 [~~(F) substantial detriment to the public good; and]~~

1165 [~~(H) substantially impairing the intent and purpose of this title:]~~

1166 [~~(ii) With respect to the establishment of a package agency in any location, the~~
1167 ~~commission may reduce the proximity requirements in relation to a church:]~~

1168 [~~(A) after giving full consideration to all of the attending circumstances;~~]

1169 [~~(B) following a public hearing in:]~~

1170 [~~(F) the county concerned; and]~~

1171 [~~(H) where practical, in the neighborhood concerned; and]~~

1172 [~~(C) if the local governing body of the church in question gives its written approval:]~~

1173 (i) with respect to the establishment of a package agency within a city of the third class,
1174 a town, or the unincorporated area of a county, the commission may authorize a variance to
1175 reduce the proximity requirements of Subsection (3)(a) or (b) if:

1176 (A) the local governing authority has granted its written consent to the variance;

1177 (B) alternative locations for establishing a package agency in the community are
1178 limited;

1179 (C) a public hearing has been held in the city, town, or county, and where practical in
1180 the neighborhood concerned; and

1181 (D) after giving full consideration to all of the attending circumstances and the policies
1182 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
1183 package agency would not be detrimental to the public health, peace, safety, and welfare of the
1184 community;

1185 (ii) with respect to the establishment of a package agency in any location, the
1186 commission may authorize a variance to reduce the proximity requirements of Subsection
1187 (3)(a) or (b) in relation to a church:

1188 (A) if the local governing body of the church in question gives its written consent to
1189 the variance;

1190 (B) following a public hearing in the city, town, or county and where practical in the
1191 neighborhood concerned; and

1192 (C) after giving full consideration to all of the attending circumstances and the policies
1193 stated in Subsections 32A-1-104(3) and (4); or

1194 (iii) with respect to the premises of a package agency issued by the commission that
1195 undergoes a change of ownership, the commission may waive or vary the proximity
1196 requirements of Subsection (3)(a) or (b) in considering whether to grant a package agency to
1197 the new owner of the premises if:

1198 (A) the premises previously received a variance reducing the proximity requirements of
1199 Subsection (3)(a) or (b); or

1200 (B) a variance from proximity or distance requirements was otherwise allowed under
1201 this title.

1202 (4) With respect to any public or private school, church, public library, public
1203 playground, or park, the 600 foot limitation is measured from the nearest entrance of the

1204 package agency by following the shortest route of [~~either~~] ordinary pedestrian [~~traffic, or where~~
1205 ~~applicable, vehicular travel along public thoroughfares, whichever is the closer,~~] travel to the
1206 property boundary of the public or private school, church, public library, public playground,
1207 school playground, or park.

1208 (5) (a) Nothing in this section prevents the commission from considering the proximity
1209 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
1210 decision on a proposed location.

1211 (b) For purposes of Subsection (5)(a), "educational facility" includes:

1212 (i) a nursery school;

1213 (ii) an infant day care center; and

1214 (iii) a trade and technical school.

1215 (6) (a) The package agent, under the direction of the department, shall be responsible
1216 for implementing and enforcing this title and the rules adopted under this title to the extent they
1217 relate to the conduct of the agency and its sale of liquor.

1218 (b) A package agent may not be, or construed to be, a state employee nor be otherwise
1219 entitled to any benefits of employment from the state.

1220 (c) A package agent, when selling liquor from a package agency, is considered an agent
1221 of the state only to the extent specifically expressed in the package agency agreement.

1222 (7) The commission may prescribe by policy, directive, or rule, consistent with this
1223 title, general operational requirements of all package agencies relating to:

1224 (a) physical facilities;

1225 (b) conditions of operation;

1226 (c) hours of operation;

1227 (d) inventory levels;

1228 (e) payment schedules;

1229 (f) methods of payment;

1230 (g) premises security; and

1231 (h) any other matters considered appropriate by the commission.

1232 Section 146. Section **32A-3-102** is amended to read:

1233 **32A-3-102. Application requirements.**

1234 (1) A person seeking to operate a package agency as a package agent under this chapter

1235 shall file a written application with the department in a form prescribed by the department.

1236 (2) The application shall be accompanied by:

1237 (a) a nonrefundable application fee of \$100;

1238 (b) written consent of the local authority;

1239 (c) evidence of proximity to any public or private school, church, public library, public
1240 playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of
1241 Subsections 32A-3-101(3)[;] and (4)[, and (5)], the application shall be processed in
1242 accordance with those subsections;

1243 (d) a bond as specified by Section 32A-3-105;

1244 (e) a floor plan of the premises, including a description and highlighting of that part of
1245 the premises in which the applicant proposes that the package agency be established;

1246 (f) evidence that the package agency is carrying public liability insurance in an amount
1247 and form satisfactory to the department;

1248 (g) a signed consent form stating that the package agent will permit any authorized
1249 representative of the commission, department, or any law enforcement officer to have
1250 unrestricted right to enter the package agency;

1251 (h) in the case of [~~a corporate~~] an applicant that is a partnership, corporation, or limited
1252 liability company, proper verification evidencing that the person or persons signing the package
1253 agency application are authorized to so act on [~~the corporation's~~] behalf of the partnership,
1254 corporation, or limited liability company; and

1255 (i) any other information as the commission or department may direct.

1256 Section 147. Section **32A-3-103** is amended to read:

1257 **32A-3-103. Qualifications.**

1258 (1) (a) The commission may not grant a package agency to any person who has been
1259 convicted of:

1260 (i) a felony under any federal or state law;

1261 (ii) any violation of any federal or state law or local ordinance concerning the sale,
1262 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

1263 [~~or~~]

1264 (iii) any crime involving moral turpitude[;]; or

1265 (iv) on two or more occasions within the five years before the day on which the

1266 package agency is granted, driving under the influence of alcohol, any drug, or the combined
1267 influence of alcohol and any drug.

1268 (b) In the case of a partnership [~~or~~], corporation, or limited liability company, the
1269 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
1270 offense described in Subsection (1)(a):

1271 (i) a partner[-];

1272 (ii) a managing agent[-];

1273 (iii) a manager;

1274 (iv) an officer[-];

1275 (v) a director[-~~or~~];

1276 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
1277 [an] the applicant corporation [has been convicted of any offense as provided in Subsection
1278 (a)]; or

1279 (vii) a member who owns at least 20% of the applicant limited liability company.

1280 [(2) (a) If any employee or proprietor of a package agency is convicted of any offense
1281 designated in Subsection (1)(a), the]

1282 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
1283 supervisory or managerial capacity for a package agency has been convicted of any offense
1284 described in Subsection (1)(a).

1285 (2) The commission may[-, pursuant to a package agency agreement,] immediately
1286 suspend or revoke the package agency[-] and terminate the package agency agreement
1287 if after the day on which the package agency is granted a person described in Subsection (1)(a),
1288 (b), or (c):

1289 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
1290 to the package agency being granted; or

1291 (b) on or after the day on which the package agency is granted:

1292 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

1293 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
1294 combined influence of alcohol and any drug; and

1295 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
1296 influence of alcohol and any drug within five years before the day on which the person is

1297 convicted of the offense described in Subsection (2)(b)(ii)(A).

1298 ~~[(b) In the case of a partnership or corporation that operates a package agency, if any~~
1299 ~~partner, managing agent, officer, director, or stockholder who holds at least 20% of the total~~
1300 ~~issued and outstanding stock of a corporation is convicted of any offense designated in~~
1301 ~~Subsection (1)(a), the commission may, pursuant to a package agency agreement, immediately~~
1302 ~~revoke the package agency.]~~

1303 (3) ~~[Upon the arrest of any package agent on any charge set forth in Subsection (1)(a),~~
1304 ~~the] The director may take emergency action by immediately suspending the operation of the~~
1305 ~~package agency for the period during which the criminal matter is being adjudicated[-] if a~~
1306 ~~person described in Subsection (1)(a), (b), or (c):~~

1307 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
1308 or

1309 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
1310 any drug, or the combined influence of alcohol and any drug; and

1311 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
1312 influence of alcohol and any drug within five years before the day on which the person is
1313 arrested on a charge described in Subsection (3)(b)(i).

1314 (4) (a) (i) The commission may not grant a package agency to any person who has had
1315 any type of license, agency, or permit issued under this title revoked within the last three years.

1316 (ii) The commission may not grant a package agency to any ~~[corporation or~~
1317 ~~partnership]~~ applicant that is a partnership, corporation, or limited liability company if any
1318 partner, managing agent, manager, officer, director, ~~[or]~~ stockholder who holds at least 20% of
1319 the total issued and outstanding stock of the applicant corporation, or member who owns at
1320 least 20% of the applicant limited liability company is or was:

1321 (A) a partner or managing agent of any partnership[-, or is or was] that had any type of
1322 license, agency, or permit issued under this title revoked within the last three years;

1323 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
1324 of the total issued and outstanding stock of any corporation that had any type of license,
1325 agency, or permit issued under this title revoked within the last three years; or

1326 (C) a manager or member who owns or owned at least 20% of any limited liability
1327 company that had ~~[a liquor]~~ any type of license, agency, or permit issued under this title

1328 revoked within the last three years.

1329 (b) ~~[A corporation or partnership]~~ An applicant that is a partnership, corporation, or
1330 limited liability company may not be granted a package agency if any of the following had any
1331 type of license, agency, or permit issued under this title revoked while acting in that person's
1332 individual capacity within the last three years:

1333 (i) any partner or managing agent of the applicant partnership ~~[or]~~;

1334 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
1335 total issued and outstanding stock of the [corporate] applicant ~~[had a liquor license, agency, or~~
1336 ~~permit revoked while acting in their individual capacity within the last three years.]~~
1337 corporation; or

1338 (iii) any manager or member who owns at least 20% of the applicant limited liability
1339 company.

1340 (c) A person acting in an individual capacity may not be granted a package agency if
1341 that person was:

1342 (i) a partner or managing agent of a partnership ~~[, or]~~ that had any type of license,
1343 agency, or permit issued under this title revoked within the last three years:

1344 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
1345 total issued and outstanding stock of a corporation that had any type of license, agency, or
1346 permit issued under this title revoked within the last three years; or

1347 (iii) a manager or member who owned at least 20% of the limited liability company
1348 that had ~~[a liquor]~~ any type of license, agency, or permit issued under this title revoked within
1349 the last three years.

1350 (5) (a) Each package agency shall be operated by a natural person, who is either:

1351 (i) the package agent; or

1352 (ii) another natural person that package agent designates.

1353 (b) Each designee shall be:

1354 (i) an employee of the package agent; and ~~[shall be]~~

1355 (ii) responsible for the operation of the agency.

1356 (c) The conduct of the designee shall be attributable to the package agent.

1357 (d) The package agent shall provide the name of the person operating the package
1358 agency to the department for ~~[its]~~ the department's approval.

1359 (e) The name and title of any designee shall be stated on the application for the
1360 package agency.

1361 (f) The package agent shall:

1362 (i) inform the department of any proposed change in the person designated to operate
1363 the agency~~[-]; and [shall]~~

1364 (ii) receive prior approval from the department before implementing the change as
1365 described in this Subsection (5)(f).

1366 (g) Failure to comply with the requirements of this Subsection (5) may result in the
1367 immediate termination of the package agency agreement.

1368 [~~(6) (a) A person having a license to sell draft beer may not be allowed to operate a~~
1369 ~~package agency from the same location in which the draft beer is sold.]~~

1370 [~~(b) The commission may not establish a package agency in:]~~

1371 [~~(i) any restaurant;~~]

1372 [~~(ii) any eating place; or]~~

1373 [~~(iii) any other location that is situated or arranged so as to make the agency part of the~~
1374 ~~restaurant or eating place.]~~

1375 [~~(7)] (6) (a) A minor may not be:~~

1376 (i) granted a package agency; or [be]

1377 (ii) employed by a package agent to handle liquor.

1378 (b) The commission may not grant a package agency to an applicant that is a
1379 partnership, corporation, or limited liability company if any of the following is a minor:

1380 (i) a partner or managing agent of the applicant partnership;

1381 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
1382 total issued and outstanding stock of the applicant corporation; or

1383 (iii) a manager or member who owns at least 20% of the applicant limited liability
1384 company.

1385 [~~(8)] (7) If any package agent no longer possesses the qualifications required by this~~
1386 ~~title for obtaining a package agency, the commission may terminate the package agency~~
1387 ~~contract.~~

1388 Section 148. Section **32A-3-106** is amended to read:

1389 **32A-3-106. Operational restrictions.**

1390 (1) (a) A package agency may not be operated until a package agency agreement has
1391 been entered into by the package agent and the department.

1392 (b) The agreement shall state the conditions of operation by which the package agent
1393 and the department are bound.

1394 (c) If the package agent violates the conditions, terms, or covenants contained in the
1395 agreement, or violates any provisions of this title, the department may take whatever action
1396 against the agent that is allowed by the package agency agreement.

1397 (d) Actions against the package agent are governed solely by the agreement and may
1398 include suspension or revocation of the agency.

1399 [~~(2) The department shall provide all liquor sold by package agencies.~~]

1400 (2) (a) A package agency may not purchase liquor from any person except from the
1401 department.

1402 (b) At the discretion of the department, liquor may be provided by the department to a
1403 package agency for sale on consignment.

1404 (3) The department may pay or otherwise remunerate a package agent on any basis
1405 [~~other than~~] including sales or volume of business done by the agency.

1406 (4) Liquor may not be sold from any package agency except in a sealed package. The
1407 package may not be opened on the premises of a package agency.

1408 (5) All liquor sold shall be in packages that are properly marked and labeled in
1409 accordance with the rules adopted under this title.

1410 (6) A package agency may not display liquor or price lists in windows or showcases
1411 visible to passersby.

1412 (7) (a) An officer, agent, clerk, or employee of a package agency may not consume or
1413 allow to be consumed by any person any alcoholic beverage on the premises of a package
1414 agency.

1415 (b) Violation of this Subsection (7) is a class B misdemeanor.

1416 (8) Liquor may not be sold except at prices fixed by the commission.

1417 (9) Liquor may not be sold, delivered, or furnished to any:

1418 (a) minor;

1419 (b) person actually, apparently, or obviously [~~drunk~~] intoxicated;

1420 (c) known habitual drunkard; or

- 1421 (d) known interdicted person.
- 1422 (10) Sale or delivery of liquor may not be made on or from the premises of any
1423 package agency nor may any package agency be kept open for the sale of liquor:
- 1424 (a) on Sunday;
- 1425 (b) on any state or federal legal holiday;
- 1426 (c) on any day on which any regular general election, regular primary election, or
1427 statewide special election is held until after the polls are closed;
- 1428 (d) on any day on which any municipal, special district, or school election is held until
1429 after the polls are closed, but only within the boundaries of the municipality, special district, or
1430 school district holding the election and only if the municipality, special district, or school
1431 district in which the election is being held notifies the department at least 30 days prior to the
1432 date of the election; or
- 1433 (e) except on days and during hours as the commission may direct by rule or order.
- 1434 (11) The package agency certificate issued by the commission shall be permanently
1435 posted in a conspicuous place in the package agency.
- 1436 (12) Each package agent shall display in a prominent place in the package agency a
1437 sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a
1438 serious crime that is prosecuted aggressively in Utah."
- 1439 (13) (a) A package agency may not close or cease operation for a period longer than 72
1440 hours, unless ~~written notice is given to~~:
- 1441 (i) the package agency notifies the department in writing at least seven days before the
1442 closing~~[-]~~; and
- 1443 (ii) the closure or cessation of operation is first approved by the department.
- 1444 (b) ~~[H]~~ Notwithstanding Subsection (13)(a), in the case of emergency closure,
1445 immediate notice of closure shall be made to the department by telephone.
- 1446 (c) (i) The department may authorize a closure or cessation of operation for a period
1447 not to exceed 60 days.
- 1448 (ii) The department may extend the initial period an additional 30 days upon written
1449 request of the package agency and upon a showing of good cause.
- 1450 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1451 commission approval.

1452 (d) ~~[Each]~~ The notice required by Subsection (13)(a) shall include:

1453 (i) the dates of closure or cessation of operation;

1454 (ii) the reason for the closure or cessation of operation; and

1455 (iii) the date on which the agency will reopen or resume operation.

1456 (e) Failure of the agency to provide notice and to obtain department authorization prior
1457 to closure or cessation of operation shall result in an automatic termination of the package
1458 agency contract effective immediately.

1459 (f) Failure of the agency to reopen or resume operation by the approved date shall
1460 result in an automatic termination of the package agency contract effective on that date.

1461 ~~[(14) (a) All liquor shall be stored and sold from the location designated in the package
1462 agent's application as approved by the commission.]~~

1463 (14) Liquor may not be stored or sold in any place other than as designated in the
1464 package agent's application, unless the package agent first applies for and receives approval
1465 from the department for a change of location within the package agency premises.

1466 ~~[(b)]~~ (15) A package agency may not transfer its operations from one location to
1467 another without prior written approval of the commission.

1468 ~~[(15)]~~ (16) (a) A person, having been granted a package agency, may not sell, transfer,
1469 assign, exchange, barter, give, or attempt in any way to dispose of the package agency to any
1470 other person, whether for monetary gain or not.

1471 (b) A package agency has no monetary value for the purpose of any type of disposition.
1472 Section 149. Section **32A-3-108** is amended to read:

1473 **32A-3-108. Return of inventory.**

1474 Any liquor previously ~~[purchased]~~ received from the department on consignment that
1475 remains unsold ~~[and in saleable condition]~~ at the time the package agent's package agency
1476 agreement terminates for any reason, shall be immediately returned to the department ~~[for a
1477 refund of the current value of the liquor]~~ or the liquor is subject to immediate seizure by the
1478 department.

1479 Section 150. Section **32A-4-101** is amended to read:

1480 **32A-4-101. Commission's power to grant licenses -- Limitations.**

1481 (1) Before ~~[any]~~ a restaurant may sell or allow the consumption of liquor on its
1482 premises, it shall first obtain a license from the commission as provided in this part.

1483 (2) The commission may issue restaurant liquor licenses for the purpose of establishing
 1484 restaurant liquor outlets at places and in numbers it considers proper for the storage, sale, and
 1485 consumption of liquor on premises operated as public restaurants.

1486 (3) (a) (i) Subject to this Subsection (3), the total number of restaurant liquor licenses
 1487 may not at any time aggregate more than that number determined **§ AS FOLLOWS: (A) UNTIL**
 1487a **OCTOBER 31, 2003, §** by dividing the population of
 1488 the state by **§ [f] 4,500 [f] ; AND (B) ON OR AFTER NOVEMBER 1, 2003, BY DIVIDING THE**
 1488a **POPULATION OF THE STATE BY § 5,000.**

1489 (ii) If the total number of restaurant liquor licenses in effect on § [May 5, 2003] OCTOBER
 1489a **31, 2003 § , equals or**
 1490 **exceeds the limitation of Subsection (3)(a)(i):**

1491 (A) a license that is in effect on § [May 5, 2003] OCTOBER 31, 2003 § :

1492 (I) is not invalidated by Subsection (3)(a)(i); and

1493 (II) may be renewed in accordance with this chapter; and

1494 (B) the commission may not grant a new restaurant liquor license until such time as the
 1495 total number of restaurant liquor licenses granted under this chapter is less than the limitation
 1496 of Subsection (3)(a)(i).

1497 (b) [Population] For purposes of this Subsection (3), population shall be determined
 1498 by:

1499 (i) the most recent United States decennial or special census; or [by]

1500 (ii) any other population determination made by the United States or state
 1501 governments.

1502 ~~[(a)]~~ (c) (i) The commission may issue seasonal restaurant liquor licenses established
 1503 in areas [and for periods it] the commission considers necessary.

1504 (ii) A seasonal restaurant liquor license [may not be operated] shall be for a period
 1505 [longer than nine] of six consecutive months [subject to the following restrictions].

1506 ~~[(i)]~~ (iii) ~~[Licenses]~~ A restaurant liquor license issued for operation during a summer
 1507 time [periods are] period is known as a "Seasonal A" restaurant [licenses] liquor license. The
 1508 period of operation for a "Seasonal A" restaurant liquor license [may begin as early as February
 1509 1 and may continue until October 31.] shall:

1510 (A) begin on May 1; and

1511 (B) end on October 31.

1512 ~~[(i)]~~ (iv) ~~[Licenses]~~ A restaurant liquor license issued for operation during a winter
 1513 time [periods are] period is known as a "Seasonal B" restaurant [licenses] liquor license. The

1514 period of operation for a "Seasonal B" restaurant liquor license [~~may begin as early as~~
1515 ~~September 1 and may continue until May 31.~~] shall:

1516 (A) begin on November 1; and

1517 (B) end on April 30.

1518 ~~[(iii)]~~ (v) In determining the number of restaurant liquor licenses that the commission
1519 may issue under this section~~[-~~:

1520 (A) a seasonal [~~licenses are~~] license is counted as 1/2 of one restaurant liquor license[-
1521 Each]; and

1522 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license [~~and the total~~
1523 number of months that each combined pair may be issued for operation may not exceed 12
1524 months for each calendar year].

1525 ~~[(b)]~~ (d) If the location, design, and construction of a hotel may require more than one
1526 restaurant liquor sales location within the hotel to serve the public convenience, the
1527 commission may authorize the sale of liquor at as many as three restaurant locations within the
1528 hotel under one license if the hotel has a minimum of 150 guest rooms and if all locations
1529 under the license are within the same hotel facility and on premises that are managed or
1530 operated and owned or leased by the licensee. Facilities other than hotels shall have a separate
1531 restaurant liquor license for each restaurant where liquor is sold.

1532 ~~(4) (a) [Restaurant liquor licensee]~~ The premises of a restaurant liquor license may not
1533 be established within 600 feet of any public or private school, church, public library, public
1534 playground, or park, as measured by the method in Subsection (5).

1535 ~~(b) [Restaurant liquor licensee]~~ The premises of a restaurant liquor license may not be
1536 established within 200 feet of any public or private school, church, public library, public
1537 playground, or park, measured in a straight line from the nearest entrance of the proposed
1538 outlet to the nearest property boundary of the public or private school, church, public library,
1539 public playground, or park.

1540 (c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the
1541 following exemptions applies:

1542 ~~[(i) The commission finds after full investigation that the premises are located within a~~
1543 ~~city of the third class, a town, or the unincorporated area of a county, and compliance with the~~
1544 ~~distance requirements would result in peculiar and exceptional practical difficulties or~~

1545 ~~exceptional and undue hardships in the granting of a restaurant liquor license. In that event, the~~
1546 ~~commission may, after giving full consideration to all of the attending circumstances,~~
1547 ~~following a public hearing in the city or town, and where practical in the neighborhood~~
1548 ~~concerned, authorize a variance from the distance requirements to relieve the difficulties or~~
1549 ~~hardships if the variance may be granted without substantial detriment to the public good and~~
1550 ~~without substantially impairing the intent and purpose of this title.]~~

1551 ~~[(ii) With respect to the establishment of a restaurant licensee in any location, the~~
1552 ~~commission may, after giving full consideration to all of the attending circumstances,~~
1553 ~~following a public hearing in the county, and where practical in the neighborhood concerned,~~
1554 ~~reduce the proximity requirements in relation to a church if the local governing body of the~~
1555 ~~church in question gives its written approval.]~~

1556 ~~[(iii) Any on-premises beer retailer licensee existing on March 1, 1990, need not~~
1557 ~~comply with the restrictions contained in Subsections (4)(a) and (b) if it applies for a restaurant~~
1558 ~~liquor license before January 1, 1991.]~~

1559 (i) with respect to the establishment of a restaurant liquor license in any location, the
1560 commission may authorize a variance to reduce the proximity requirements of Subsection
1561 (4)(a) or (b) if:

1562 (A) the local governing authority has granted its written consent to the variance;

1563 (B) alternative locations for establishing a restaurant liquor license in the community
1564 are limited;

1565 (C) a public hearing has been held in the city, town, or county, and where practical in
1566 the neighborhood concerned; and

1567 (D) after giving full consideration to all of the attending circumstances and the policies
1568 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
1569 license would not be detrimental to the public health, peace, safety, and welfare of the
1570 community; or

1571 (ii) with respect to the premises of a restaurant liquor license issued by the commission
1572 that undergoes a change of ownership, the commission may waive or vary the proximity
1573 requirements of Subsection (4)(a) or (b) in considering whether to grant a restaurant liquor
1574 license to the new owner of the premises if:

1575 (A) the premises previously received a variance reducing the proximity requirements of

1576 Subsection (4)(a) or (b); or

1577 (B) a variance from proximity or distance requirements was otherwise allowed under
1578 this title.

1579 (5) With respect to any public or private school, church, public library, public
1580 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
1581 by following the shortest route of [~~either~~] ordinary pedestrian [~~traffic, or where applicable,~~
1582 ~~vehicular travel along public thoroughfares, whichever is the closer,~~] travel to the property
1583 boundary of the public or private school, church, public library, public playground, school
1584 playground, or park.

1585 (6) (a) Nothing in this section prevents the commission from considering the proximity
1586 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
1587 decision on a proposed location.

1588 (b) For purposes of this Subsection (6), "educational facility" includes:

1589 (i) a nursery [~~schools,~~] school;

1590 (ii) an infant day care [~~centers,~~] center; and

1591 (iii) a trade and technical [~~schools~~] school.

1592 Section 151. Section **32A-4-102** is amended to read:

1593 **32A-4-102. Application and renewal requirements.**

1594 (1) A person seeking a restaurant liquor license under this [~~chapter~~] part shall file a
1595 written application with the department, in a form prescribed by the department. It shall be
1596 accompanied by:

1597 (a) a nonrefundable [~~\$300~~] \$250 application fee;

1598 (b) an initial license fee of [~~\$300~~] \$1,750, which is refundable if a license is not
1599 granted;

1600 (c) written consent of the local authority;

1601 (d) a copy of the applicant's current business license;

1602 (e) evidence of proximity to any public or private school, church, public library, public
1603 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of

1604 Subsections 32A-4-101(4)[~~;~~] and (5)[~~, and (6)~~], the application shall be processed in
1605 accordance with those subsections;

1606 (f) a bond as specified by Section 32A-4-105;

1607 (g) a floor plan of the restaurant, including consumption areas and the area where the
1608 applicant proposes to keep, store, and sell liquor;

1609 (h) evidence that the restaurant is carrying public liability insurance in an amount and
1610 form satisfactory to the department;

1611 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
1612 \$500,000 per occurrence and \$1,000,000 in the aggregate;

1613 (j) a signed consent form stating that the restaurant will permit any authorized
1614 representative of the commission, department, or any law enforcement officer unrestricted right
1615 to enter the restaurant;

1616 (k) in the case of [~~a corporate~~] an applicant that is a partnership, corporation, or limited
1617 liability company, proper verification evidencing that the person or persons signing the
1618 restaurant application are authorized to so act on [~~the corporation's~~] behalf of the partnership,
1619 corporation, or limited liability company; and

1620 (l) any other information the commission or department may require.

1621 (2) (a) All restaurant liquor licenses expire on October 31 of each year.

1622 (b) Persons desiring to renew their restaurant liquor license shall [~~submit a renewal fee~~
1623 ~~of \$300 and a completed renewal application to the department~~] by no later than September
1624 30[-:] submit:

1625 (i) a completed renewal application to the department; and

1626 (ii) a renewal fee in the following amount:

<u>Gross Cost of Liquor in Previous License Year for the Licensee</u>	<u>Renewal Fee</u>
<u>under \$5,000</u>	<u>\$750</u>
<u>equals or exceeds \$5,000 but less than \$10,000</u>	<u>\$900</u>
<u>equals or exceeds \$10,000 but less than \$25,000</u>	<u>\$1,250</u>
<u>equals or exceeds \$25,000</u>	<u>\$1,500.</u>

1632 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1633 the license effective on the date the existing license expires.

1634 (d) Renewal applications shall be in a form as prescribed by the department.

1635 (3) [~~H~~] To ensure compliance with Subsection 32A-4-106(28), the commission may
1636 suspend or revoke any restaurant liquor license if the restaurant liquor licensee does not
1637 immediately notify the department of any change in;

- 1638 (a) ownership of the restaurant~~[, or in the case of];~~
1639 (b) for a [Utah] corporate owner, ~~[of any change in] the;~~
1640 (i) corporate officers or directors~~[, the commission may suspend or revoke that~~
1641 ~~license.]; or~~
1642 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
1643 ~~corporation; or~~
1644 (c) for a limited liability company:
1645 (i) managers; or
1646 (ii) members owning at least 20% of the limited liability company.
1647 Section 152. Section **32A-4-103** is amended to read:
1648 **32A-4-103. Qualifications.**
1649 (1) (a) The commission may not grant a restaurant liquor license to ~~[a restaurant whose~~
1650 ~~proprietor]~~ any person who has been convicted of:
1651 (i) a felony under any federal or state law;
1652 (ii) any violation of any federal or state law or local ordinance concerning the sale,
1653 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
1654 ~~[or]~~
1655 (iii) any crime involving moral turpitude~~[;]; or~~
1656 (iv) on two or more occasions within the five years before the day on which the license
1657 is granted, driving under the influence of alcohol, any drug, or the combined influence of
1658 alcohol and any drug.
1659 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the
1660 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
1661 offense described in Subsection (1)(a):
1662 (i) a partner~~[;];~~
1663 (ii) a managing agent~~[;];~~
1664 (iii) a manager;
1665 (iv) an officer~~[;];~~
1666 (v) a director~~[, or];~~
1667 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
1668 ~~[an] the~~ applicant corporation ~~[has been convicted of any offense as provided in this~~

1669 subsection]; or

1670 (vii) a member who owns at least 20% of the applicant limited liability company.

1671 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
1672 supervisory or managerial capacity for a restaurant has been convicted of any offense described
1673 in Subsection (1)(a).

1674 [~~(2) (a) If any employee or proprietor of a restaurant liquor licensee is convicted of any~~
1675 ~~offense designated in Subsection (1), the commission may take emergency action by~~
1676 ~~immediately revoking the license according to the procedures and requirements of Title 63,~~
1677 ~~Chapter 46b.]~~

1678 [~~(b) In the case of a partnership or corporation that has been granted a restaurant liquor~~
1679 ~~license, if any partner, managing agent, officer, director, or stockholder who holds at least 20%~~
1680 ~~of the total issued and outstanding stock of a corporation is convicted of any offense designated~~
1681 ~~in Subsection (1), the commission may take emergency action by immediately revoking the~~
1682 ~~license according to the procedures and requirements of Title 63, Chapter 46b.]~~

1683 (2) The commission may immediately suspend or revoke a restaurant liquor license if
1684 after the day on which the restaurant liquor license is granted, a person described in Subsection
1685 (1)(a), (b), or (c):

1686 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
1687 to the license being granted; or

1688 (b) on or after the day on which the license is granted:

1689 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

1690 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
1691 combined influence of alcohol and any drug; and

1692 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
1693 influence of alcohol and any drug within five years before the day on which the person is
1694 convicted of the offense described in Subsection (2)(b)(ii)(A).

1695 (3) [~~Upon the arrest of any restaurant liquor licensee on any charge set forth in~~
1696 ~~Subsection (1), the] The director may take emergency action by immediately suspending the
1697 operation of [~~the licensee]~~ a restaurant liquor license according to the procedures and
1698 requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during
1699 which the criminal matter is being adjudicated[~~:-~~] if a person described in Subsection (1)(a), (b),~~

1700 or (c):

1701 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii):

1702 or

1703 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
1704 any drug, or the combined influence of alcohol and any drug; and

1705 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
1706 influence of alcohol and any drug within five years before the day on which the person is
1707 arrested on a charge described in Subsection (3)(b)(i).

1708 (4) (a) (i) The commission may not grant a restaurant liquor license to any person who
1709 has had any type of license, agency, or permit issued under this title revoked within the last
1710 three years.

1711 (ii) The commission may not grant a restaurant liquor license to ~~[any corporation or~~
1712 ~~partnership]~~ an applicant that is a partnership, corporation, or limited liability company if any
1713 partner, managing agent, manager, officer, director, ~~[or]~~ stockholder who holds at least 20% of
1714 the total issued and outstanding stock of the applicant corporation, or member who owns at
1715 least 20% of the applicant limited liability company is or was:

1716 (A) a partner or managing agent of any partnership~~[, or is or was]~~ that had any type of
1717 license, agency, or permit issued under this title revoked within the last three years;

1718 (B) a managing agent, officer, director, or [a] stockholder who holds or held at least
1719 20% of the total issued and outstanding stock of any corporation that had any type of license,
1720 agency, or permit issued under this title revoked within the last three years; or

1721 (C) a manager or member who owns or owned at least 20% of any limited liability
1722 company that had ~~[a liquor]~~ any type of license, agency, or permit issued under this title
1723 revoked within the last three years.

1724 (b) ~~[A corporation or partnership]~~ An applicant that is a partnership, corporation, or
1725 limited liability company may not be granted a restaurant liquor license if any of the following
1726 had any type of license, agency, or permit issued under this title revoked while acting in that
1727 person's individual capacity within the last three years:

1728 (i) a partner or managing agent of the applicant partnership [or];

1729 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
1730 total issued and outstanding stock of the ~~[corporate applicant had a liquor license, agency, or~~

1731 ~~permit revoked while acting in their individual capacity within the last three years.] applicant~~
1732 ~~corporation; or~~

1733 (iii) a manager or member who owns at least 20% of the applicant limited liability
1734 company.

1735 (c) A person acting in an individual capacity may not be granted a restaurant liquor
1736 license if that person was;

1737 (i) a partner or managing agent of a partnership~~[-or]~~ that had any type of license,
1738 agency, or permit issued under this title revoked within the last three years;

1739 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
1740 total issued and outstanding stock of a corporation that had any type of license, agency, or
1741 permit issued under this title revoked within the last three years; or

1742 (iii) a manager or member of a limited liability company who owned at least 20% of
1743 the limited liability company that had ~~a liquor~~ any type of license, agency, or permit issued
1744 under this title revoked within the last three years.

1745 (5) (a) A minor may not be granted a restaurant liquor license.

1746 (b) The commission may not grant a restaurant liquor license to an applicant that is a
1747 partnership, corporation, or limited liability company if any of the following is a minor:

1748 (i) a partner or managing agent of the applicant partnership;

1749 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
1750 total issued and outstanding stock of the applicant corporation; or

1751 (iii) a manager or member who owns at least 20% of the applicant limited liability
1752 company.

1753 (6) If any person to whom a license has been issued under this part no longer possesses
1754 the qualifications required by this title for obtaining that license, the commission may suspend
1755 or revoke that license.

1756 Section 153. Section **32A-4-105** is amended to read:

1757 **32A-4-105. Bond.**

1758 (1) Each restaurant liquor licensee shall post a cash or corporate surety bond in the
1759 penal sum of [~~\$5,000~~] \$10,000 payable to the department, which the licensee has procured and
1760 must maintain for so long as the licensee continues to operate as a restaurant liquor licensee.

1761 (2) The bond shall be in a form approved by the attorney general, conditioned upon the

1762 licensee's faithful compliance with this title and the rules of the commission.

1763 (3) (a) If the [~~\$5,000~~] \$10,000 surety bond is canceled due to the licensee's negligence,
1764 a \$300 reinstatement fee may be assessed.

1765 (b) No part of any cash or corporate bond so posted may be withdrawn;

1766 (i) during the period the license is in effect[.]; or

1767 (ii) while revocation proceedings are pending against the licensee.

1768 (c) A bond filed by a licensee may be forfeited if the license is finally revoked.

1769 Section 154. Section **32A-4-106** is amended to read:

1770 **32A-4-106. Operational restrictions.**

1771 Each person granted a restaurant liquor license and the employees and management

1772 personnel of the restaurant shall comply with the following conditions and requirements.

1773 Failure to comply may result in a suspension or revocation of the license or other disciplinary
1774 action taken against individual employees or management personnel.

1775 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from state
1776 stores or package agencies.

1777 (b) Liquor purchased may be transported by the restaurant liquor licensee from the
1778 place of purchase to the licensed premises.

1779 (c) Payment for liquor shall be made in accordance with rules established by the
1780 commission.

1781 (2) A restaurant liquor licensee may [~~not~~] sell or provide [~~any~~] a primary spirituous
1782 liquor [~~except in one ounce quantities~~] only in a quantity not to exceed one ounce per beverage
1783 dispensed through a calibrated metered dispensing system approved by the department in
1784 accordance with commission rules adopted under this title, except that:

1785 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1786 system if used as a secondary flavoring ingredient in a beverage subject to the following
1787 restrictions:

1788 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1789 a primary spirituous liquor;

1790 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

1791 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored
1792 on the floor plan provided to the department; and

- 1793 (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";
1794 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1795 system if used:
1796 (i) as a flavoring on desserts; and
1797 (ii) in the preparation of flaming food dishes, drinks, and desserts;
1798 (c) each restaurant patron may have no more than 2.75 ounces of spirituous liquor at a
1799 time; and
1800 (d) each restaurant patron may have no more than one spirituous liquor drink at a time
1801 before the patron.
1802 [~~(c) wine~~] (3) (a) (i) Wine may be sold and served by the glass [in quantities not
1803 exceeding] or in an individual portion not to exceed five ounces per glass[; and] or individual
1804 portion.
1805 (ii) An individual portion of wine may be served to a patron in more than one glass as
1806 long as the total amount of wine does not exceed five ounces.
1807 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1808 Subsection (7)(e).
1809 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
1810 fixed by the commission to tables of four or more persons.
1811 (ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by
1812 the commission to tables of less than four persons.
1813 (c) A wine service may be performed and a service charge assessed by the restaurant as
1814 authorized by commission rule for wine purchased at the restaurant.
1815 [~~(d) heavy~~] (4) (a) Heavy beer may be served in original containers not exceeding one
1816 liter at prices fixed by the commission.
1817 (b) A service charge may be assessed by the restaurant as authorized by commission
1818 rule for heavy beer purchased at the restaurant.
1819 [~~(3)(a) Restaurants~~] (5) (a) A restaurant licensed to sell liquor may sell beer in any
1820 size container not exceeding two liters, and on draft for on-premise consumption without
1821 obtaining a separate on-premise beer retailer license from the commission.
1822 (b) [~~Restaurants~~] A restaurant licensed under this chapter that [sell] sells beer pursuant
1823 to Subsection [(3)] (5)(a) shall comply with all appropriate operational restrictions under

1824 Chapter 10, Beer Retailer Licenses, that apply to on-premise beer retailers except when those
1825 restrictions are inconsistent with or less restrictive than the operational restrictions under this
1826 ~~[chapter]~~ part.

1827 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1828 Licenses, required by Subsection ~~[(3)]~~ (5)(b) may result in a suspension or revocation of the
1829 restaurant's:

1830 (i) state liquor license; and

1831 (ii) alcoholic beverage license issued by the local authority.

1832 ~~[(4) Wine may be served in accordance with commission rule in containers not~~
1833 ~~exceeding 750 ml.]~~

1834 ~~[(5)(a) Liquor]~~ (6) Alcoholic beverages may not be stored, served, or sold in any place
1835 other than as designated in the licensee's application, unless the licensee first applies for and
1836 receives approval from the department for a change of location within the restaurant.

1837 ~~[(b)]~~ (7) (a) (i) A patron may only make alcoholic beverage purchases in the restaurant
1838 from ~~[a server]~~ and be served by a person employed, designated, and trained by the licensee to
1839 sell and serve alcoholic beverages.

1840 (ii) Notwithstanding Subsection (7)(a)(i), a patron who has purchased bottled wine
1841 from an employee of the restaurant or has carried bottled wine onto the premises of the
1842 restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to themselves
1843 or others at the patron's table.

1844 (b) Alcoholic beverages shall be delivered by a server to the patron.

1845 (c) Any alcoholic beverage may only be consumed at the patron's table or counter.

1846 ~~[(d) Liquor may not be stored where it is visible to patrons of the restaurant.]~~

1847 ~~[(6)(a) Alcoholic beverages may not be dispensed directly to a patron from the storage~~
1848 ~~area.]~~

1849 ~~[(b) Alcoholic beverages shall be delivered by a server to the patron.]~~

1850 (d) Alcoholic beverages may not be served to or consumed by a patron at a bar.

1851 (e) Each restaurant patron may have no more than two alcoholic beverages of any kind
1852 at a time before the patron, subject to the limitation in Subsection (2)(a).

1853 ~~[(7)]~~ (8) The liquor storage area shall remain locked at all times other than those hours
1854 and days when liquor sales are authorized by law.

1855 ~~[(8)]~~ (9) (a) Liquor may not be sold ~~[or]~~, offered for sale, served, or otherwise
1856 furnished at a restaurant during the following days or hours:
1857 (i) until after the polls are closed on the day of any:
1858 (A) regular general election[-];
1859 (B) regular primary election[-]; or
1860 (C) statewide special election [~~until after the polls are closed~~];
1861 (ii) on the day of any municipal, special district, or school election, but only:
1862 (A) within the boundaries of the municipality, special district, or school district; and
1863 (B) if closure is required by local ordinance; and
1864 (iii) on any other day after 12 midnight and before 12 noon.
1865 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1866 Licenses, for on-premise beer licensees.
1867 ~~[(9)]~~ (10) Alcoholic beverages may not be sold except in connection with an order for
1868 food prepared, sold, and served at the restaurant.
1869 ~~[(10)]~~ (11) Alcoholic beverages may not be sold, ~~[delivered,]~~ served, or otherwise
1870 furnished to any:
1871 (a) minor;
1872 (b) person actually, apparently, or obviously ~~[drunk]~~ intoxicated;
1873 (c) known habitual drunkard; or
1874 (d) known interdicted person.
1875 ~~[(11)]~~ (12) (a) (i) Liquor may be sold only at prices fixed by the commission.
1876 (ii) Liquor may not be sold at discount prices on any date or at any time.
1877 (b) An alcoholic beverage may not be sold ~~[except at prices fixed by the commission]~~
1878 at less than the cost of the alcoholic beverage to the licensee.
1879 ~~[(b) Mixed drinks and wine may not be sold at discount prices on any date or at any~~
1880 ~~time.]~~
1881 ~~[(12) Each restaurant patron may have only one alcoholic beverage at a time before the~~
1882 ~~patron on the patron's table.]~~
1883 ~~[(13) No more than one ounce of primary liquor may be served to a patron at a time,~~
1884 ~~except:]~~
1885 ~~[(a) wine as provided in Subsection (2)(c); and]~~

1886 ~~[(b) heavy beer as provided in Subsection (2)(d).]~~

1887 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1888 over consumption or intoxication.

1889 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1890 hours of the restaurant's business day such as a "happy hour."

1891 (e) The sale or service of more than one alcoholic beverage for the price of a single
1892 alcoholic beverage is prohibited.

1893 (f) The sale or service of an indefinite or unlimited number of alcoholic beverages
1894 during any set period for a fixed price is prohibited.

1895 (g) A restaurant licensee may not engage in a public promotion involving or offering
1896 free alcoholic beverages to the general public.

1897 ~~[(14)] (13)~~ Alcoholic beverages may not be purchased by the licensee, or any employee
1898 or agent of the licensee, for patrons of the restaurant.

1899 ~~[(15) Alcoholic beverages purchased in a restaurant may not be served or consumed at~~
1900 ~~any location where they are stored or dispensed.]~~

1901 ~~[(16) (a) A wine service may be performed and a service charge assessed by the~~
1902 ~~restaurant as authorized by commission rule for wine purchased at the restaurant or carried in~~
1903 ~~by a patron.]~~

1904 ~~[(b) If wine is carried in by a patron, the patron shall deliver the wine to a server or~~
1905 ~~other representative of the licensee upon entering the licensee premises.]~~

1906 ~~[(17)] (14)~~ (a) A person may not bring onto the premises of a restaurant liquor licensee
1907 any alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1908 discretion of the licensee, ~~[cork-finished]~~ bottled wine onto the premises of any restaurant
1909 liquor licensee ~~[and consume wine pursuant to Subsection (16)]~~ for on-premise consumption.

1910 (b) ~~[A]~~ Except bottled wine under Subsection (14)(a), a restaurant~~[, whether licensed~~
1911 ~~under this title or unlicensed,]~~ liquor licensee or its officers, managers, employees, or agents
1912 may not allow:

1913 (i) a person to bring onto the restaurant premises any alcoholic beverage for on-premise
1914 consumption; or

1915 (ii) consumption of any such alcoholic beverage on its premises~~[, except cork-finished~~
1916 ~~wine under Subsection (17)(a)].~~

1917 ~~[(c) If a restaurant licensee, or any of its officers, managers, employees, or agents~~
1918 ~~violates this Subsection (17):]~~

1919 ~~[(i) the commission may immediately suspend or revoke the restaurant's liquor license~~
1920 ~~and the restaurant licensee is subject to possible criminal prosecution under Chapter 12,~~
1921 ~~Criminal Offenses; and]~~

1922 ~~[(ii) the local authority may immediately suspend or revoke the restaurant's:]~~

1923 ~~[(A) local liquor license;]~~

1924 ~~[(B) local consent under Subsection 32A-4-102(1); or]~~

1925 ~~[(C) local business license.]~~

1926 ~~[(18) Alcoholic beverages purchased from the restaurant may not be removed from the~~
1927 ~~restaurant premises.]~~

1928 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1929 or other representative of the licensee upon entering the restaurant.

1930 (d) A wine service may be performed and a service charge assessed by the restaurant as
1931 authorized by commission rule for wine carried in by a patron.

1932 (15) (a) Except as provided in Subsection (15)(b), a restaurant licensee and its
1933 employees may not permit a restaurant patron to carry from the restaurant premises an open
1934 container that:

1935 (i) is used primarily for drinking purposes; and

1936 (ii) contains any alcoholic beverage.

1937 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the
1938 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought
1939 onto the premises of the restaurant in accordance with Subsection (14), provided the bottle has
1940 been recorked or recapped before removal.

1941 ~~[(19)] (16) (a) [Minors] A minor may not be employed by a restaurant licensee to sell~~
1942 ~~or dispense alcoholic beverages.~~

1943 (b) Notwithstanding Subsection ~~[(19)] (16)~~(a), a minor may be employed to enter the
1944 sale at a cash register or other sales recording device.

1945 ~~[(20)] (17)~~ An employee of a restaurant liquor licensee, while on duty, may not:

1946 (a) consume an alcoholic beverage; or

1947 (b) be ~~[under the influence of alcoholic beverages]~~ intoxicated.

1948 ~~[(21) (a) Advertising or other reference to the sale of liquor and wine is not allowed on~~
1949 ~~a food menu except that a statement of availability of a liquor and wine menu on request, the~~
1950 ~~content and form of which is approved by the department, may be attached to or carried on a~~
1951 ~~food menu. The context of both food and liquor and wine menus may not in any manner~~
1952 ~~attempt to promote or increase the sale of alcoholic beverages.]~~

1953 ~~[(b) A server, employee, or agent of a licensee may not draw attention to the~~
1954 ~~availability of alcoholic beverages for sale, unless a patron or guest first inquires about it.]~~

1955 ~~[(c)]~~ (18) Any ~~[set-up charge, service charge, chilling fee, or any other]~~ charge or fee
1956 made in connection with the sale, service, or consumption of liquor may be stated in food or
1957 alcoholic beverage menus[:] including:

1958 (a) a set-up charge;

1959 (b) a service charge; or

1960 (c) a chilling fee.

1961 ~~[(22)]~~ (19) Each restaurant liquor licensee shall display in a prominent place in the
1962 restaurant:

1963 (a) the liquor license that is issued by the department;

1964 (b) a list of the types and brand names of liquor being served through its calibrated
1965 metered dispensing system; and

1966 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1967 drugs is a serious crime that is prosecuted aggressively in Utah."

1968 ~~[(23)]~~ (20) The following acts or conduct in a restaurant licensed under this chapter are
1969 considered contrary to the public welfare and morals, and are prohibited upon the premises:

1970 (a) employing or using any person in the sale or service of alcoholic beverages while
1971 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
1972 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
1973 buttocks, vulva, or genitals;

1974 (b) employing or using the services of any person to mingle with the patrons while the
1975 person is unclothed or in attire, costume, or clothing described in Subsection ~~[(23)]~~ (20)(a);

1976 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
1977 buttocks, anus, or genitals of any other person;

1978 (d) permitting any employee or person to wear or use any device or covering, exposed

1979 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

1980 (e) permitting any person to use artificial devices or inanimate objects to depict any of
1981 the prohibited activities described in this Subsection [~~(23)~~] (20);

1982 (f) permitting any person to remain in or upon the premises who exposes to public
1983 view any portion of that person's genitals or anus; or

1984 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
1985 depicting:

1986 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
1987 copulation, flagellation, or any sexual acts prohibited by Utah law;

1988 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
1989 genitals;

1990 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
1991 drawings are used to portray, any of the prohibited activities described in this Subsection [~~(23)~~]
1992 (20); or

1993 (iv) scenes wherein a person displays the vulva or the anus or the genitals.

1994 [~~(24)~~] (21) Nothing in Subsection [~~(23)~~] (20) precludes a local authority from being
1995 more restrictive of acts or conduct of the type prohibited in Subsection [~~(23)~~] (20).

1996 [~~(25)~~] (22) (a) Although live entertainment is permitted on the premises of a restaurant
1997 liquor licensee, a licensee may not allow any person to perform or simulate sexual acts
1998 prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral
1999 copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or
2000 genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform
2001 only upon a stage or at a designated area approved by the commission.

2002 (b) Nothing in Subsection [~~(25)~~] (22)(a) precludes a local authority from being more
2003 restrictive of acts or conduct of the type prohibited in Subsection [~~(25)~~] (22)(a).

2004 [~~(26)~~] (23) A restaurant liquor licensee may not engage in or permit any form of
2005 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2006 Part 11, Gambling, on the premises of the restaurant liquor licensee.

2007 [~~(27)~~] (24) (a) Each restaurant liquor licensee shall maintain an expense ledger or
2008 record showing in detail:

2009 (i) quarterly expenditures made separately for:

- 2010 (A) malt or brewed beverages;
- 2011 (B) set-ups;
- 2012 (C) liquor;
- 2013 (D) food; and
- 2014 (E) all other items required by the department; and
- 2015 (ii) sales made separately for:
 - 2016 (A) malt or brewed beverages;
 - 2017 (B) set-ups;
 - 2018 (C) food; and
 - 2019 (D) all other items required by the department.
- 2020 (b) The record required by Subsection [~~(27)~~] (24)(a) shall be kept:
 - 2021 (i) in a form approved by the department; and
 - 2022 (ii) current for each three-month period.
- 2023 (c) Each expenditure shall be supported by:
 - 2024 (i) delivery tickets;
 - 2025 (ii) invoices;
 - 2026 (iii) receipted bills;
 - 2027 (iv) canceled checks;
 - 2028 (v) petty cash vouchers; or
 - 2029 (vi) other sustaining data or memoranda.
- 2030 [~~(28)(a) Each~~] (d) In addition to a ledger or record required under Subsection (24)(a),
- 2031 a restaurant liquor licensee shall maintain accounting and other records and documents as the
- 2032 department may require.
- 2033 [~~(b)~~] (e) Any restaurant or person acting for the restaurant, who knowingly forges,
- 2034 falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of
- 2035 account or other documents of the restaurant required to be made, maintained, or preserved by
- 2036 this title or the rules of the commission for the purpose of deceiving the commission or the
- 2037 department, or any of their officials or employees, is subject to the [immediate] suspension or
- 2038 revocation of the restaurant's liquor license and possible criminal prosecution under Chapter
- 2039 12, Criminal Offenses.
- 2040 [~~(29)~~] (25) (a) A restaurant liquor licensee may not close or cease operation for a

2041 period longer than 240 hours, unless:

2042 (i) the restaurant liquor [~~license~~] licensee notifies the department in writing at least
2043 seven days before the closing; and

2044 (ii) the closure or cessation of operation is first approved by the department.

2045 (b) Notwithstanding Subsection [~~(29)~~] (25)(a), in the case of emergency closure,
2046 immediate notice of closure shall be made to the department by telephone.

2047 (c) The department may authorize a closure or cessation of operation for a period not to
2048 exceed 60 days. The department may extend the initial period an additional 30 days upon
2049 written request of the restaurant licensee and upon a showing of good cause. A closure or
2050 cessation of operation may not exceed a total of 90 days without commission approval.

2051 (d) Any notice shall include:

2052 (i) the dates of closure or cessation of operation;

2053 (ii) the reason for the closure or cessation of operation; and

2054 (iii) the date on which the licensee will reopen or resume operation.

2055 (e) Failure of the licensee to provide notice and to obtain department authorization
2056 prior to closure or cessation of operation shall result in an automatic forfeiture of:

2057 (i) the license; and

2058 (ii) the unused portion of the license fee for the remainder of the license year effective
2059 immediately.

2060 (f) Failure of the licensee to reopen or resume operation by the approved date shall
2061 result in an automatic forfeiture of:

2062 (i) the license; and

2063 (ii) the unused portion of the license fee for the remainder of the license year.

2064 [~~(30)~~] (26) Each restaurant liquor licensee shall maintain at least 70% of its total
2065 restaurant business from the sale of food, which does not include mix for alcoholic beverages
2066 or service charges.

2067 [~~(31)~~] ~~A person may not transfer a~~

2068 (27) A restaurant liquor license may not be transferred from one location to another,
2069 without prior written approval of the commission.

2070 [~~(32)~~] (28) (a) A person, having been granted a restaurant liquor license may not sell,
2071 transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any

2072 other person whether for monetary gain or not.

2073 (b) A restaurant liquor license has no monetary value for the purpose of any type of
2074 disposition.

2075 [~~33~~] (29) Each server of alcoholic beverages in a licensee's establishment shall keep a
2076 written beverage tab for each table or group that orders or consumes alcoholic beverages on the
2077 premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or
2078 consumed.

2079 [~~34~~] (30) A person's willingness to serve alcoholic beverages may not be made a
2080 condition of employment as a server with a restaurant that has a restaurant liquor license.

2081 Section 155. Section **32A-4-201** is amended to read:

2082 **32A-4-201. Commission's power to grant licenses -- Limitations.**

2083 (1) Before [~~any~~] an airport lounge may sell or allow the consumption of liquor on its
2084 premises, it shall first obtain a license from the commission as provided in this part.

2085 (2) The commission may issue airport lounge liquor licenses for the purpose of
2086 establishing airport liquor outlets at international airports for the storage, sale, and consumption
2087 of liquor on premises operated as public airport lounges.

2088 (3) The total number of airport lounge liquor licenses may not exceed one lounge per
2089 terminal plus one lounge per concourse located beyond the security point at that international
2090 airport.

2091 Section 156. Section **32A-4-202** is amended to read:

2092 **32A-4-202. Application and renewal requirements.**

2093 (1) A person seeking an airport lounge liquor license under this part shall file a written
2094 application with the department, in a form prescribed by the department, accompanied by:

2095 (a) a nonrefundable [~~\$1,000~~] \$250 application fee;

2096 (b) an initial license fee of [~~\$1,000~~] \$7,000, which is refundable if a license is not
2097 granted;

2098 (c) written consent of the local and airport authority;

2099 (d) a copy of the applicant's current business license;

2100 (e) a bond as specified by Section 32A-4-205;

2101 (f) a floor plan of the airport lounge, including consumption areas and the area where
2102 the applicant proposes to keep, store, and sell liquor;

2103 (g) a copy of the sign proposed to be used by the licensee on its premises to inform the
2104 public that alcoholic beverages are sold and consumed there;

2105 (h) evidence that the airport lounge is carrying public liability insurance in an amount
2106 and form satisfactory to the department;

2107 (i) evidence that the airport lounge is carrying dramshop insurance coverage of at least
2108 \$500,000 per occurrence and \$1,000,000 in the aggregate;

2109 (j) a signed consent form stating that the airport lounge will permit any authorized
2110 representative of the commission, department, or any law enforcement officer unrestricted right
2111 to enter the airport lounge;

2112 (k) in the case of [~~a corporate~~] an applicant that is a partnership, corporation, or limited
2113 liability company, proper verification evidencing that the person or persons signing the airport
2114 lounge application are authorized to so act on [~~the corporation's~~] behalf of the partnership,
2115 corporation, or limited liability company; and

2116 (l) any other information the commission or department may require.

2117 (2) All airport lounge liquor licenses expire on October 31 of each year. Persons
2118 desiring to renew their airport lounge liquor license shall submit a renewal fee of [~~\$1,000~~]
2119 \$5,000 and a completed renewal application to the department no later than September 30.
2120 Failure to meet the renewal requirements shall result in an automatic forfeiture of the license,
2121 effective on the date the existing license expires. Renewal applications shall be in a form as
2122 prescribed by the department.

2123 (3) [~~If any~~] To ensure compliance with Subsection 32A-4-206(21), the commissioner
2124 may revoke an airport lounge liquor license if the airport liquor licensee does not immediately
2125 notify the department of any change in:

2126 (a) ownership of the licensee[~~, or in the case of~~];

2127 (b) for a [Utah] corporate owner [~~of any change in~~], the:

2128 (i) corporate officers or directors[~~, the commission may suspend or revoke that~~
2129 license.]; or

2130 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2131 corporation; or

2132 (c) for a limited liability company:

2133 (i) managers; or

2134 (ii) members owning at least 20% of the limited liability company.

2135 Section 157. Section **32A-4-203** is amended to read:

2136 **32A-4-203. Qualifications.**

2137 (1) (a) The commission may not grant an airport lounge liquor license to ~~[an airport~~
2138 ~~lounge whose proprietor]~~ any person who has been convicted of:

2139 (i) a felony under any federal or state law;

2140 (ii) any violation of any federal or state law or local ordinance concerning the sale,
2141 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
2142 ~~[or]~~

2143 (iii) any crime involving moral turpitude~~[-];~~ or

2144 (iv) on two or more occasions within the five years before the day on which the license
2145 is granted, driving under the influence of alcohol, any drug, or the combined influence of
2146 alcohol and any drug.

2147 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the
2148 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
2149 offense described in Subsection (1)(a):

2150 (i) a partner[-];

2151 (ii) a managing agent[-];

2152 (iii) a manager;

2153 (iv) an officer[-];

2154 (v) a director[-or];

2155 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
2156 [an] the applicant corporation [has been convicted of any offense as provided in this
2157 subsection.]; or

2158 (vii) a member who owns at least 20% of the limited liability company.

2159 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
2160 supervisory or managerial capacity for an airport lounge has been convicted of any offense
2161 described in Subsection (1)(a).

2162 (2) ~~[(a) If any employee or proprietor of an airport lounge liquor licensee is convicted~~
2163 ~~of any offense designated in Subsection (1), the] The commission may [take emergency action~~
2164 ~~by] immediately [revoking the] suspend or revoke an airport lounge license [according to the~~

2165 ~~procedures and requirements of Title 63, Chapter 46b.]~~ if after the day on which the airport
2166 lounge license is granted, a person described in Subsection (1)(a), (b), or (c):

2167 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
2168 to the license being granted; or

2169 (b) on or after the day on which the license is granted:

2170 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

2171 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
2172 combined influence of alcohol and any drug; and

2173 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
2174 influence of alcohol and any drug within five years before the day on which the person is
2175 convicted of the offense described in Subsection (2)(b)(ii)(A).

2176 ~~[(b) In the case of a partnership or corporation that has been granted an airport lounge~~
2177 ~~liquor license, if any partner, managing agent, officer, director, or stockholder who holds at~~
2178 ~~least 20% of the total issued and outstanding stock of a corporation is convicted of any offense~~
2179 ~~designated in Subsection (1), the commission may take emergency action by immediately~~
2180 ~~revoking the license according to the procedures and requirements of Title 63, Chapter 46b.]~~

2181 (3) ~~[Upon the arrest of any airport lounge liquor licensee on any charge set forth in~~
2182 ~~Subsection (1), the] The~~ director may take emergency action by immediately suspending the
2183 operation of ~~[the licensee]~~ an airport lounge liquor license according to the procedures and
2184 requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during
2185 which the criminal matter is being adjudicated~~[-]~~ if a person described in Subsection (1)(a), (b),
2186 or (c):

2187 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

2188 or

2189 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
2190 any drug, or the combined influence of alcohol and any drug; and

2191 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
2192 influence of alcohol and any drug within five years before the day on which the person is
2193 arrested on a charge described in Subsection (3)(b)(i).

2194 (4) (a) (i) The commission may not grant an airport lounge liquor license to any person
2195 who has had any type of license, agency, or permit issued under this title revoked within the

2196 last three years.

2197 (ii) The commission may not grant an airport lounge liquor license to any [~~corporation~~
2198 ~~or partnership~~] applicant that is a partnership, corporation, or limited liability company if any
2199 partner, managing agent, manager, officer, director, [~~or~~] stockholder who holds at least 20% of
2200 the total issued and outstanding stock of the applicant corporation, or member who owns at
2201 least 20% of the applicant limited liability company is or was:

2202 (A) a partner or managing agent of any partnership[~~, or is or was~~] that had any type of
2203 license, agency, or permit issued under this title revoked within the last three years;

2204 (B) a managing agent, officer, director, or a stockholder who holds or held at least 20%
2205 of the total issued and outstanding stock of any corporation that had any type of license,
2206 agency, or permit issued under this title revoked within the last three years; or

2207 (C) a manager or member who owns or owned at least 20% of the limited liability
2208 company that had [~~a liquor~~] any type of license, agency, or permit issued under this title
2209 revoked within the last three years.

2210 (b) A corporation or partnership applicant may not be granted an airport lounge liquor
2211 license if any of the following had any type of license, agency, or permit issued under this title
2212 revoked while acting in that person's individual capacity within the last three years:

2213 (i) any partner or managing agent of the applicant partnership [or];

2214 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
2215 total issued and outstanding stock of the [~~corporate~~] applicant [~~had a liquor license, agency, or~~
2216 ~~permit revoked while acting in their individual capacity within the last three years.~~]
2217 corporation; or

2218 (iii) any manager or member who owns at least 20% of the applicant limited liability
2219 company.

2220 (c) A person acting in an individual capacity may not be granted an airport lounge
2221 liquor license if that person was:

2222 (i) a partner or managing agent of a partnership[~~, or~~] that had any type of license,
2223 agency, or permit issued under this title revoked within the last three years;

2224 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
2225 total issued and outstanding stock of a corporation that had any type of license, agency, or
2226 permit issued under this title revoked within the last three years; or

2227 (iii) a manager or member who owns at least 20% of a limited liability company that
2228 had [a liquor] any type of license, agency, or permit issued under this title revoked within the
2229 last three years.

2230 (5) (a) A minor may not be granted an airport lounge liquor license.

2231 (b) The commission may not grant a airport lounge liquor license to an applicant that is
2232 a partnership, corporation, or limited liability company if any of the following is a minor:

2233 (i) a partner or managing agent of the applicant partnership;

2234 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
2235 total issued and outstanding stock of the applicant corporation; or

2236 (iii) a manager or member who owns at least 20% of the applicant limited liability
2237 company.

2238 (6) If any person to whom a license has been issued under this part no longer possesses
2239 the qualifications required by this title for obtaining that license, the commission may suspend
2240 or revoke that license.

2241 Section 158. Section **32A-4-206** is amended to read:

2242 **32A-4-206. Operational restrictions.**

2243 Each person granted an airport lounge liquor license and the employees and
2244 management personnel of the airport lounge shall comply with the following conditions and
2245 requirements. Failure to comply may result in a suspension or revocation of the license or
2246 other disciplinary action taken against individual employees or management personnel.

2247 (1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from
2248 state stores or package agencies.

2249 (b) Liquor purchased may be transported by the licensee from the place of purchase to
2250 the licensed premises.

2251 (c) Payment for liquor shall be made in accordance with the rules established by the
2252 commission.

2253 (2) An airport lounge liquor licensee may ~~[not]~~ sell or provide ~~[any]~~ a primary
2254 spirituous liquor [except in one ounce quantities] only in a quantity not to exceed one ounce
2255 per beverage dispensed through a calibrated metered dispensing system approved by the
2256 department in accordance with commission rules adopted under this title, except that:

2257 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing

2258 system if used as a secondary flavoring ingredient in a beverage subject to the following
2259 restrictions:

2260 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
2261 a spirituous primary liquor;

2262 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

2263 (iii) the airport lounge liquor licensee shall designate a location where flavorings are
2264 stored on the floor plan provided to the department; and

2265 (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

2266 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
2267 system if used:

2268 (i) as a flavoring on desserts; and

2269 (ii) in the preparation of flaming food dishes, drinks, and desserts; and

2270 (c) each airport lounge patron may have no more than 2.75 ounces of spirituous liquor
2271 at a time before the patron.

2272 [~~(b) wine~~] (3) (a) (i) Wine may be sold and served by the glass [in quantities not
2273 exceeding] or an individual portion not to exceed five ounces per glass[; and] or individual
2274 portion.

2275 (ii) An individual portion may be served to a patron in more than one glass as long as
2276 the total amount of wine does not exceed five ounces.

2277 (iii) An individual portion of wine is considered to be one alcoholic beverage under
2278 Subsection (7)(c).

2279 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
2280 fixed by the commission to tables of four or more persons.

2281 (ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by
2282 the commission to tables of less than four persons.

2283 (c) A wine service may be performed and a service charge assessed by the airport
2284 lounge as authorized by commission rule for wine purchased at the airport lounge.

2285 [~~(c) heavy~~] (4) (a) Heavy beer may be served in original containers not exceeding one
2286 liter at prices fixed by the commission.

2287 (b) A service charge may be assessed by the airport lounge as authorized by
2288 commission rule for heavy beer purchased at the airport lounge.

2289 ~~[(3) (a) Airport lounges]~~ (5) (a) An airport lounge licensed to sell liquor may sell beer
2290 in any size container not exceeding two liters, and on draft for on-premise consumption
2291 without obtaining a separate on-premise beer retailer license from the commission.

2292 (b) ~~[Airport lounges that sell]~~ An airport lounge that sells beer pursuant to Subsection
2293 ~~[(3)] (5)(a)~~ shall comply with all appropriate operational restrictions under Chapter 10, Beer
2294 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are
2295 inconsistent with or less restrictive than the operational restrictions under this ~~[chapter that~~
2296 ~~apply to airport lounges]~~ part.

2297 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2298 Licenses, ~~[as set forth in]~~ required by Subsection ~~[(3)] (5)(b)~~ may result in a suspension or
2299 revocation of the airport lounge's:

2300 (i) state liquor license; and ~~[its]~~

2301 (ii) alcoholic beverage license issued by the local authority.

2302 ~~[(4) Wine may be served in accordance with commission rule in containers not~~
2303 ~~exceeding 750 ml.]~~

2304 ~~[(5) (a) Liquor]~~ (6) Alcoholic beverages may not be stored, served, or sold in any place
2305 other than as designated in the licensee's application, unless the licensee first applies for and
2306 receives approval from the department for a change of location within the airport lounge.

2307 ~~[(b)] (7) (a)~~ A patron ~~[or guest]~~ may only make purchases in the airport lounge from
2308 and be served by a [server] person employed, designated, and trained by the licensee to sell,
2309 dispense, and serve alcoholic beverages.

2310 ~~[(c) Alcoholic beverages may not be stored where they are visible to persons outside~~
2311 ~~the airport lounge.]~~

2312 (b) Notwithstanding Subsection (7)(a), a patron who has purchased bottled wine from
2313 an employee of the airport lounge may serve wine from the bottle to themselves or others at the
2314 patron's table.

2315 (c) Each airport lounge patron may have no more than two alcoholic beverages of any
2316 kind at a time before the patron.

2317 ~~[(6)] (8)~~ The liquor storage area shall remain locked at all times other than those hours
2318 and days when liquor sales and service are authorized by law.

2319 ~~[(7)] (9)~~ Alcoholic beverages may not be sold ~~[or]~~, offered for sale, served, or

2320 otherwise furnished at an airport lounge [~~during the following days or hours: (a) on the day of~~
2321 ~~any regular general election, regular primary election, or statewide special election until after~~
2322 ~~the polls are closed; and (b)] on any [other] day after 12 midnight and before 8 a.m.~~

2323 [~~(8)~~] (10) Alcoholic beverages may not be sold, [delivered,] served, or otherwise
2324 furnished to any:

2325 (a) minor;

2326 (b) person actually, apparently, or obviously [~~drunk~~] intoxicated;

2327 (c) known habitual drunkard; or

2328 (d) known interdicted person.

2329 (11) (a) (i) Liquor may be sold only at prices fixed by the commission.

2330 (ii) Liquor may not be sold at discount prices on any date or at any time.

2331 [~~(9) Liquor~~] (b) Alcoholic beverages may not be sold [except at prices fixed by the
2332 commission. Mixed drinks and wine may not be sold at discount prices on any day or at any
2333 time:] at less than the cost of the alcoholic beverage to the licensee.

2334 [~~(10) An airport lounge patron or guest may have only one alcoholic beverage at a time~~
2335 ~~before him.]~~

2336 [~~(11) No more than one ounce of primary liquor may be served to a patron or guest at a~~
2337 ~~time, except:]~~

2338 [~~(a) wine as provided in Subsection (2)(b); and]~~

2339 [~~(b) heavy beer as provided in Subsection (2)(c).]~~

2340 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
2341 over consumption or intoxication.

2342 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
2343 hours of the airport lounge's business day such as a "happy hour."

2344 (e) The sale or service of more than one alcoholic beverage for the price of a single
2345 alcoholic beverage is prohibited.

2346 (f) The sale or service of an indefinite or unlimited number of alcoholic beverages
2347 during any set period for a fixed price is prohibited.

2348 (g) An airport lounge licensee may not engage in a public promotion involving or
2349 offering free alcoholic beverages to the general public.

2350 (12) Alcoholic beverages may not be purchased by the licensee, or any employee or

2351 agent of the licensee, for patrons [~~or guests~~] of the airport lounge.

2352 (13) (a) [~~Beginning January 1, 1991, a~~] A person may not bring onto the premises of an
2353 airport lounge licensee any alcoholic beverage for on-premise consumption.

2354 (b) [~~Beginning January 1, 1991, an~~] An airport lounge or its officers, managers,
2355 employees, or agents may not allow a person to bring onto the airport lounge premises any
2356 alcoholic beverage for on-premise consumption or allow consumption of any such alcoholic
2357 beverage on its premises.

2358 [~~(c) Beginning January 1, 1991, if any airport lounge liquor licensee or any of its~~
2359 ~~officers, managers, employees, or agents violates Subsection (13):]~~

2360 [~~(i) the commission may immediately suspend or revoke the airport lounge's liquor~~
2361 ~~license and the airport lounge liquor licensee is subject to criminal prosecution under Chapter~~
2362 ~~12, Criminal Offenses; and]~~

2363 [~~(ii) the local authority may immediately suspend or revoke the airport lounge's local~~
2364 ~~liquor license, local consent under Subsection 32A-4-202(1), or local business license.]~~

2365 (14) [~~Alcoholic beverages purchased from the airport lounge may not be removed from~~
2366 ~~the airport lounge premises]~~ An airport lounge licensee and its employees may not permit a
2367 patron to remove any alcoholic beverages from the airport lounge premises.

2368 (15) (a) [~~Minors~~] A minor may not be employed by an airport lounge licensee to sell or
2369 dispense alcoholic beverages.

2370 (b) Notwithstanding Subsection (15)(a), a minor may be employed to enter the sale at a
2371 cash register or other sales recording device.

2372 (16) An employee of [~~a~~] an airport lounge licensee, while on duty, may not:

2373 (a) consume an alcoholic beverage; or

2374 (b) be [~~under the influence of alcoholic beverages~~] intoxicated.

2375 (17) Any charge or fee made in connection with the sale, service, or consumption of
2376 liquor may be stated in a food or alcoholic beverage menu including:

2377 (a) a set-up charge;

2378 (b) a service charge; or

2379 (c) a chilling fee.

2380 [~~(17)~~] (18) Each airport lounge liquor licensee shall display in a prominent place in the
2381 airport lounge:

- 2382 (a) the liquor license that is issued by the department;
- 2383 (b) a list of the types and brand names of liquor being served through its calibrated
2384 metered dispensing system; and
- 2385 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2386 drugs is a serious crime that is prosecuted aggressively in Utah."
- 2387 ~~[(18)]~~ (19) (a) Each airport lounge liquor licensee shall maintain an expense ledger or
2388 record showing in detail:
- 2389 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all
2390 other items required by the department; and
- 2391 (ii) sales made separately for malt or brewed beverages, food, and all other items
2392 required by the department.
- 2393 (b) This record shall be kept in a form approved by the department and shall be kept
2394 current for each three-month period. Each expenditure shall be supported by delivery tickets,
2395 invoices, receipted bills, canceled checks, petty cash vouchers, or other sustaining data or
2396 memoranda.
- 2397 ~~[(19) Each]~~ (c) In addition to a ledger or record required by Subsection (19)(a), each
2398 airport lounge liquor licensee shall maintain accounting and other records and documents as the
2399 department may require.
- 2400 (d) Any airport lounge or person acting for the airport lounge, who knowingly forges,
2401 falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of
2402 account or other documents of the airport lounge required to be made, maintained, or preserved
2403 by this title or the rules of the commission for the purpose of deceiving the commission or the
2404 department, or any of their officials or employees, is subject to the immediate suspension or
2405 revocation of the airport lounge's liquor license and possible criminal prosecution under
2406 Chapter 12, Criminal Offenses.
- 2407 (20) ~~[There shall be no transfer of an]~~ An airport lounge liquor license may not be
2408 transferred from one location to another, without prior written approval of the commission.
- 2409 (21) (a) ~~[A person, having been granted an]~~ An airport lounge liquor ~~[license]~~ licensee,
2410 may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the
2411 license to any other person, whether for monetary gain or not.
- 2412 (b) An airport lounge liquor license has no monetary value for the purpose of any type

2413 of disposition.

2414 (22) Each server of alcoholic beverages in a licensee's establishment shall keep a
2415 written beverage tab for each table or group that orders or consumes alcoholic beverages on the
2416 premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or
2417 consumed.

2418 (23) An airport lounge liquor licensee's premises may not be leased for private
2419 functions.

2420 (24) An airport lounge liquor licensee may not engage in or permit any form of
2421 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2422 Part 11, Gambling, on the premises of the airport lounge liquor licensee.

2423 Section 159. Section **32A-4-301** is enacted to read:

2424 **Part 3. Limited Restaurant Licenses**

2425 **32A-4-301. Definitions.**

2426 For purposes of this part, wine includes all alcoholic beverages defined as wine under
2427 27 U.S.C. 211 and 27 C.F.R. Section 4.10 including the following alcoholic beverages made
2428 in the manner of wine containing not less than 7% and not more than 24% of alcohol by
2429 volume:

2430 (1) sparkling and carbonated wine;

2431 (2) wine made from condensed grape must;

2432 (3) wine made from other agricultural products than the juice of sound, ripe grapes;

2433 (4) imitation wine;

2434 (5) compounds sold as wine;

2435 (6) vermouth;

2436 (7) cider;

2437 (8) perry; and

2438 (9) sake.

2439 Section 160. Section **32A-4-302** is enacted to read:

2440 **32A-4-302. Commission's power to grant licenses -- Limitations.**

2441 (1) A restaurant wanting to sell and allow the consumption of only wine, heavy beer,
2442 and beer on its premises, but not spirituous liquor, must obtain a limited restaurant license from
2443 the commission as provided in this part before selling or allowing the consumption of wine,

2444 heavy beer, or beer on its premises.

2445 (2) (a) Subject to the other provisions of this section, the commission may issue limited
2446 restaurant licenses for the purpose of establishing limited restaurant outlets at places and in
2447 numbers the commission considers proper for the storage, sale, and consumption of wine,
2448 heavy beer, and beer on premises operated as public restaurants.

2449 (b) The total number of limited restaurant licenses issued under this part may not at any
2450 time aggregate more than that number determined by dividing the population of the state by
2451 13,000.

2452 (c) For purposes of this Subsection (2), population shall be determined by:

2453 (i) the most recent United States decennial or special census; or

2454 (ii) any other population determination made by the United States or state
2455 governments.

2456 (3) (a) (i) The commission may issue seasonal limited restaurant licenses established in
2457 areas the commission considers necessary.

2458 (ii) A seasonal limited restaurant license shall be for a period of six consecutive
2459 months.

2460 (b) (i) A limited restaurant license issued for operation during a summer time period is
2461 known as a "Seasonal A" limited restaurant license. The period of operation for a "Seasonal A"
2462 limited restaurant license shall:

2463 (A) begin on May 1; and

2464 (B) end on October 31.

2465 (ii) A limited restaurant license issued for operation during a winter time period is
2466 known as a "Seasonal B" limited restaurant license. The period of operation for a "Seasonal B"
2467 limited restaurant license shall:

2468 (A) begin on November 1; and

2469 (B) end on April 30.

2470 (iii) In determining the number of limited restaurant licenses that the commission may
2471 issue under this section:

2472 (A) a seasonal limited restaurant license is counted as 1/2 of one limited restaurant
2473 license; and

2474 (B) each "Seasonal A" limited restaurant license shall be paired with a "Seasonal B"

2475 limited restaurant license.

2476 (c) If the location, design, and construction of a hotel may require more than one
2477 limited restaurant sales location within the hotel to serve the public convenience, the
2478 commission may authorize the sale of wine, heavy beer, and beer at as many as three limited
2479 restaurant locations within the hotel under one license if:

2480 (i) the hotel has a minimum of 150 guest rooms; and

2481 (ii) all locations under the license are:

2482 (A) within the same hotel facility; and

2483 (B) on premises that are:

2484 (I) managed or operated by the licensee; and

2485 (II) owned or leased by the licensee.

2486 (d) Facilities other than hotels shall have a separate limited restaurant license for each
2487 restaurant where wine, heavy beer, and beer are sold.

2488 (4) (a) The premises of a limited restaurant license may not be established within 600
2489 feet of any public or private school, church, public library, public playground, or park, as
2490 measured by the method in Subsection (5).

2491 (b) The premises of a limited restaurant license may not be established within 200 feet
2492 of any public or private school, church, public library, public playground, or park, measured in
2493 a straight line from the nearest entrance of the proposed outlet to the nearest property boundary
2494 of the public or private school, church, public library, public playground, or park.

2495 (c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the
2496 following exemptions applies:

2497 (i) with respect to the establishment of a limited restaurant license in any location, the
2498 commission may authorize a variance to reduce the proximity requirements of Subsection
2499 (4)(a) or (b) if:

2500 (A) the local governing authority has granted its written consent to the variance;

2501 (B) alternative locations for establishing a limited restaurant license in the community
2502 are limited;

2503 (C) a public hearing has been held in the city, town, or county, and where practical in
2504 the neighborhood concerned; and

2505 (D) after giving full consideration to all of the attending circumstances and the policies

2506 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
2507 license would not be detrimental to the public health, peace, safety, and welfare of the
2508 community; or

2509 (ii) with respect to the premises of any limited restaurant license issued by the
2510 commission that undergoes a change of ownership, the commission may waive or vary the
2511 proximity requirements of Subsections (4)(a) and (b) in considering whether to grant a limited
2512 restaurant license to the new owner of the premises if:

2513 (A) the premises previously received a variance reducing the proximity requirements of
2514 Subsection (4)(a) or (b); or

2515 (B) a variance from proximity or distance requirement was otherwise allowed under
2516 this title.

2517 (5) With respect to any public or private school, church, public library, public
2518 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
2519 by following the shortest route of ordinary pedestrian travel to the property boundary of the
2520 public or private school, church, public library, public playground, school playground, or park.

2521 (6) (a) Nothing in this section prevents the commission from considering the proximity
2522 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
2523 decision on a proposed location.

2524 (b) For purposes of this Subsection (6), "educational facility" includes:

2525 (i) a nursery school;

2526 (ii) an infant day care center; and

2527 (iii) a trade and technical school.

2528 Section 161. Section **32A-4-303** is enacted to read:

2529 **32A-4-303. Application and renewal requirements.**

2530 (1) A person seeking a limited restaurant license under this part shall file a written
2531 application with the department, in a form prescribed by the department. The application shall
2532 be accompanied by:

2533 (a) a nonrefundable \$250 application fee;

2534 (b) an initial license fee of \$500, which is refundable if a license is not granted;

2535 (c) written consent of the local authority;

2536 (d) a copy of the applicant's current business license;

2537 (e) evidence of proximity to any public or private school, church, public library, public
2538 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
2539 Subsections 32A-4-302(4) and (5), the application shall be processed in accordance with those
2540 subsections;

2541 (f) a bond as specified by Section 32A-4-306;

2542 (g) a floor plan of the restaurant, including:

2543 (i) consumption areas; and

2544 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and
2545 beer;

2546 (h) evidence that the restaurant is carrying public liability insurance in an amount and
2547 form satisfactory to the department;

2548 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
2549 \$500,000 per occurrence and \$1,000,000 in the aggregate;

2550 (j) a signed consent form stating that the restaurant will permit any authorized
2551 representative of the commission, department, or any law enforcement officer unrestricted right
2552 to enter the restaurant;

2553 (k) in the case of an applicant that is a partnership, corporation, or limited liability
2554 company, proper verification evidencing that the person or persons signing the restaurant
2555 application are authorized to so act on behalf of the partnership, corporation, or limited liability
2556 company; and

2557 (l) any other information the commission or department may require.

2558 (2) A holder of a restaurant liquor license or a private club license on May 5, 2003,
2559 may not be required to pay the application or initial license fees for a limited restaurant license
2560 under this chapter if the licensee:

2561 (a) surrenders the restaurant liquor license or private club license before being granted
2562 a limited restaurant license; and

2563 (b) applies for a limited restaurant license in calendar year 2003:

2564 (i) for the same premises for which the restaurant liquor license or private club license
2565 was granted; and

2566 (ii) before the expiration of the restaurant liquor license or private club license.

2567 (3) (a) All limited restaurant licenses expire on October 31 of each year.

2568 (b) Persons desiring to renew their limited restaurant license shall submit:
2569 (i) a renewal fee of \$300; and
2570 (ii) renewal application to the department no later than September 30.
2571 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
2572 the license effective on the date the existing license expires.

2573 (d) Renewal applications shall be in a form as prescribed by the department.
2574 (4) To ensure compliance with Subsection 32A-4-307(27), the commission may
2575 suspend or revoke a limited restaurant license if the limited restaurant licensee does not
2576 immediately notify the department of any change in:

2577 (a) ownership of the restaurant;
2578 (b) for a corporate owner, the:
2579 (i) corporate officer or directors; or
2580 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2581 corporation; or

2582 (c) for a limited liability company:
2583 (i) managers; or
2584 (ii) members owning at least 20% of the limited liability company.

2585 Section 162. Section **32A-4-304** is enacted to read:

2586 **32A-4-304. Qualifications.**

2587 (1) (a) The commission may not grant a limited restaurant license to any person who
2588 has been convicted of:

2589 (i) a felony under any federal or state law;
2590 (ii) any violation of any federal or state law or local ordinance concerning the sale,
2591 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
2592 (iii) any crime involving moral turpitude; or
2593 (iv) on two or more occasions within the five years before the day on which the license
2594 is granted, driving under the influence of alcohol, any drug, or the combined influence of
2595 alcohol and any drug.

2596 (b) In the case of a partnership, corporation, or limited liability company, the
2597 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
2598 offense described in Subsection (1)(a):

2599 (i) a partner;
2600 (ii) a managing agent;
2601 (iii) a manager;
2602 (iv) an officer;
2603 (v) a director;
2604 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
2605 the applicant corporation; or
2606 (vii) a member who owns at least 20% of the applicant limited liability company.
2607 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
2608 supervisory or managerial capacity for the limited restaurant has been convicted of any offense
2609 described in Subsection (1)(a).
2610 (2) The commission may immediately suspend or revoke a limited restaurant license if
2611 after the day on which the limited restaurant license is granted, a person described in
2612 Subsection (1)(a), (b), or (c):
2613 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
2614 to the license being granted; or
2615 (b) on or after the day on which the license is granted:
2616 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
2617 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
2618 combined influence of alcohol and any drug; and
2619 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
2620 influence of alcohol and any drug within five years before the day on which the person is
2621 convicted of the offense described in Subsection (2)(b)(ii)(A).
2622 (3) The director may take emergency action by immediately suspending the operation
2623 of the limited restaurant license according to the procedures and requirements of Title 63,
2624 Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is
2625 being adjudicated if a person described in Subsection (1)(a), (b), or (c):
2626 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii) or (iii);
2627 or
2628 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
2629 any drug, or the combined influence of alcohol and any drug; and

2630 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
2631 influence of alcohol and any drug within five years before the day on which the person is
2632 arrested on a charge described in Subsection (3)(b)(i).

2633 (4) (a) (i) The commission may not grant a limited restaurant license to any person who
2634 has had any type of license, agency, or permit issued under this title revoked within the last
2635 three years.

2636 (ii) The commission may not grant a limited restaurant license to an applicant that is a
2637 partnership, corporation, or limited liability company if any partner, managing agent, manager,
2638 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
2639 of an applicant corporation, or member who owns at least 20% of an applicant limited liability
2640 company is or was:

2641 (A) a partner or managing agent of any partnership that had any type of license, agency,
2642 or permit issued under this title revoked within the last three years;

2643 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
2644 of the total issued and outstanding stock of any corporation that had any type of license,
2645 agency, or permit issued under this title revoked within the last three years; or

2646 (C) a manager or member of any limited liability company who owns or owned at least
2647 20% of a limited liability company that had any type of license, agency, or permit issued under
2648 this title revoked within the last three years.

2649 (b) An applicant that is a partnership, corporation, or limited liability company may not
2650 be granted a limited restaurant license if any of the following had any type of license, agency,
2651 or permit issued under this title revoked while acting in their individual capacity within the last
2652 three years:

2653 (i) any partner or managing agent of the applicant partnership;

2654 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
2655 total issued and outstanding stock of the applicant corporation; or

2656 (iii) any manager or member who owns at least 20% of the applicant limited liability
2657 company.

2658 (c) A person acting in an individual capacity may not be granted a limited restaurant
2659 license if that person was:

2660 (i) a partner or managing agent of a partnership that had any type of license, agency, or

2661 permit issued under this title revoked within the last three years;

2662 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
2663 total issued and outstanding stock of a corporation that had any type of license, agency, or
2664 permit issued under this title revoked within the last three years; or

2665 (iii) a manager or member of a limited liability company who owned at least 20% of
2666 the limited liability company that had any type of license, agency, or permit issued under this
2667 title revoked within the last three years.

2668 (5) (a) A minor may not be granted a limited restaurant license.

2669 (b) The commission may not grant a limited restaurant license to an applicant that is a
2670 partnership, corporation, or limited liability company if any of the following is a minor:

2671 (i) a partner or managing agent of the applicant partnership;

2672 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
2673 total issued and outstanding stock of the applicant corporation; or

2674 (iii) a manager or member who owns at least 20% of the applicant limited liability
2675 company.

2676 (6) If any person to whom a license has been issued under this part no longer possesses
2677 the qualifications required by this title for obtaining that license, the commission may suspend
2678 or revoke that license.

2679 Section 163. Section **32A-4-305** is enacted to read:

2680 **32A-4-305. Commission and department duties before granting licenses.**

2681 (1) (a) Before a limited restaurant license may be granted by the commission, the
2682 department shall conduct an investigation and may hold public hearings for the purpose of
2683 gathering information and making recommendations to the commission as to whether or not a
2684 license should be granted.

2685 (b) The department shall forward the information and recommendations described in
2686 Subsection (1)(a) to the commission to aid in the commission's determination.

2687 (2) Before issuing any limited restaurant license, the commission shall:

2688 (a) determine that the applicant has complied with all basic qualifications and
2689 requirements for making application for a license as provided by Sections 32A-4-302 and
2690 32A-4-303;

2691 (b) determine that the application is complete;

2692 (c) consider the locality within which the proposed limited restaurant outlet is located,
2693 including:

2694 (i) physical characteristics such as:

2695 (A) the condition of the premises;

2696 (B) square footage; and

2697 (C) parking availability; and

2698 (ii) operational factors such as:

2699 (A) tourist traffic;

2700 (B) proximity to and density of other state stores, package agencies, and outlets;

2701 (C) demographics;

2702 (D) population to be served; and

2703 (E) the extent of and proximity to any school, church, public library, public
2704 playground, or park;

2705 (d) consider the applicant's ability to manage and operate a limited restaurant license,
2706 including:

2707 (i) management experience;

2708 (ii) past retail liquor experience; and

2709 (iii) the type of management scheme employed by the restaurant;

2710 (e) consider the nature or type of restaurant operation, including:

2711 (i) the type of menu items offered and emphasized;

2712 (ii) whether the restaurant emphasizes service to an adult clientele or to minors;

2713 (iii) the hours of operation;

2714 (iv) the seating capacity of the facility; and

2715 (v) the gross sales of food items; and

2716 (f) consider any other factors or circumstances the commission considers necessary.

2717 Section 164. Section **32A-4-306** is enacted to read:

2718 **32A-4-306. Bond.**

2719 (1) Each limited restaurant licensee shall post a cash or corporate surety bond in the
2720 penal sum of \$5,000 payable to the department, which the licensee has procured and must
2721 maintain for so long as the licensee continues to operate as a limited restaurant licensee.

2722 (2) The bond shall be in a form approved by the attorney general, conditioned upon the

2723 licensee's faithful compliance with this title and the rules of the commission.

2724 (3) (a) If the \$5,000 surety bond is canceled due to the licensee's negligence, a \$300
2725 reinstatement fee may be assessed.

2726 (b) No part of any cash or corporate bond so posted may be withdrawn during the
2727 period the license is in effect, or while revocation proceedings are pending against the licensee.

2728 (c) A bond filed by a licensee may be forfeited if the license is finally revoked.

2729 Section 165. Section **32A-4-307** is enacted to read:

2730 **32A-4-307. Operational restrictions.**

2731 Each person granted a limited restaurant license and the employees and management
2732 personnel of the restaurant shall comply with the following conditions and requirements.

2733 Failure to comply may result in a suspension or revocation of the license or other disciplinary
2734 action taken against individual employees or management personnel.

2735 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee
2736 except from state stores or package agencies.

2737 (b) Wine and heavy beer purchased in accordance with Subsection (1)(a) may be
2738 transported by the licensee from the place of purchase to the licensed premises.

2739 (c) Payment for wine and heavy beer shall be made in accordance with rules
2740 established by the commission.

2741 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of
2742 spirituous liquor on the premises of the restaurant.

2743 (b) Spirituous liquor may not be on the premises of the restaurant except for use:

2744 (i) as a flavoring on desserts; and

2745 (ii) in the preparation of flaming food dishes, drinks, and desserts.

2746 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
2747 exceed five ounces per glass or individual portion.

2748 (ii) An individual portion may be served to a patron in more than one glass as long as
2749 the total amount of wine does not exceed five ounces.

2750 (iii) An individual portion of wine is considered to be one alcoholic beverage under
2751 Subsection (7)(c).

2752 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
2753 fixed by the commission to tables of four or more persons.

2754 (ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by
2755 the commission to tables of less than four persons.

2756 (c) A wine service may be performed and a service charge assessed by the limited
2757 restaurant as authorized by commission rule for wine purchased at the limited restaurant.

2758 (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices
2759 fixed by the commission.

2760 (b) A service charge may be assessed by the limited restaurant as authorized by
2761 commission rule for heavy beer purchased at the restaurant.

2762 (5) (a) A limited restaurant licensee may sell beer in any size container not exceeding
2763 two liters, and on draft for on-premise consumption without obtaining a separate on-premise
2764 beer retailer license from the commission.

2765 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a) shall
2766 comply with all appropriate operational restrictions under Chapter 10, Beer Retailer Licenses,
2767 that apply to on-premise beer retailers except when those restrictions are inconsistent with or
2768 less restrictive than the operational restrictions under this part.

2769 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2770 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
2771 restaurant's:

2772 (i) limited restaurant license; and

2773 (ii) alcoholic beverage license issued by the local authority.

2774 (6) Wine, heavy beer, and beer may not be stored, served, or sold in any place other
2775 than as designated in the licensee's application, unless the licensee first applies for and receives
2776 approval from the department for a change of location within the restaurant.

2777 (7) (a) A patron may only make alcoholic beverage purchases in the limited restaurant
2778 from and be served by a person employed, designated, and trained by the licensee to sell and
2779 serve alcoholic beverages.

2780 (b) Notwithstanding Subsection (7)(a), a patron who has purchased bottled wine from
2781 an employee of the restaurant or has carried bottled wine onto the premises of the restaurant
2782 pursuant to Subsection (13) may thereafter serve wine from the bottle to themselves or others at
2783 the patron's table.

2784 (c) Each restaurant patron may have no more than two alcoholic beverages of any kind

2785 at a time before the patron.

2786 (8) The alcoholic beverage storage area shall remain locked at all times other than
2787 those hours and days when alcoholic beverage sales are authorized by law.

2788 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
2789 furnished at a limited restaurant during the following days or hours:

2790 (i) until after the polls are closed on the day of any:

2791 (A) regular general election;

2792 (B) regular primary election; or

2793 (C) statewide special election;

2794 (ii) on the day of any municipal, special district, or school election, but only:

2795 (A) within the boundaries of the municipality, special district, or school district; and

2796 (B) if closure is required by local ordinance; and

2797 (iii) on any other day after 12 midnight and before 12 noon.

2798 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2799 Licenses, for on-premise beer licensees.

2800 (10) Alcoholic beverages may not be sold except in connection with an order of food
2801 prepared, sold, and served at the restaurant.

2802 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to any:

2803 (a) minor;

2804 (b) person actually, apparently, or obviously intoxicated;

2805 (c) known habitual drunkard; or

2806 (d) known interdicted person.

2807 (12) (a) (i) Wine and heavy beer may be sold only at prices fixed by the commission.

2808 (ii) Wine and heavy beer may not be sold at discount prices on any date or at any time.

2809 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverages
2810 to the licensee.

2811 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
2812 over-consumption or intoxication.

2813 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
2814 hours of the limited restaurant's business day such as a "happy hour."

2815 (e) The sale or service of more than one alcoholic beverage for the price of a single

2816 alcoholic beverage is prohibited.

2817 (f) The sale or service of an indefinite or unlimited number of alcoholic beverages
2818 during any set period for a fixed price is prohibited.

2819 (g) A limited restaurant licensee may not engage in a public promotion involving or
2820 offering free alcoholic beverages to the general public.

2821 (13) Alcoholic beverages may not be purchased by the licensee, or any employee or
2822 agent of the licensee, for a patron of the restaurant.

2823 (14) (a) A person may not bring onto the premises of a limited restaurant licensee any
2824 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
2825 discretion of the licensee, bottled wine onto the premises of any limited restaurant licensee for
2826 on-premise consumption.

2827 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or its
2828 officers, managers, employees, or agents may not allow:

2829 (i) a person to bring onto the restaurant premises any alcoholic beverage for on-premise
2830 consumption; or

2831 (ii) consumption of any alcoholic beverage described in Subsection (14)(b)(i) on its
2832 premises.

2833 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
2834 or other representative of the licensee upon entering the restaurant.

2835 (d) A wine service may be performed and a service charge assessed by the restaurant as
2836 authorized by commission rule for wine carried in by a patron.

2837 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and its
2838 employees may not permit a restaurant patron to carry from the restaurant premises an open
2839 container that:

2840 (i) is used primarily for drinking purposes; and

2841 (ii) contains any alcoholic beverage.

2842 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
2843 contents of a bottle of wine if before removal the bottle has been recorked or recapped.

2844 (16) (a) A minor may not be employed by a limited restaurant licensee to sell or
2845 dispense alcoholic beverages.

2846 (b) Notwithstanding Subsection (16)(a), a minor may be employed to enter the sale at a

2847 cash register or other sales recording device.

2848 (17) An employee of a limited restaurant licensee, while on duty, may not:

2849 (a) consume an alcoholic beverage; or

2850 (b) be intoxicated.

2851 (18) A charge or fee made in connection with the sale, service, or consumption of wine
2852 or heavy beer may be stated in food or alcoholic beverage menus including:

2853 (a) a service charge; or

2854 (b) a chilling fee.

2855 (19) Each limited restaurant licensee shall display in a prominent place in the
2856 restaurant:

2857 (a) the license that is issued by the department; and

2858 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2859 drugs is a serious crime that is prosecuted aggressively in Utah."

2860 (20) The following acts or conduct in a restaurant licensed under this part are
2861 considered contrary to the public welfare and morals, and are prohibited upon the premises:

2862 (a) employing or using any person in the sale or service of alcoholic beverages while
2863 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
2864 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
2865 buttocks, vulva, or genitals;

2866 (b) employing or using the services of any person to mingle with the patrons while the
2867 person is unclothed or in attire, costume, or clothing described in Subsection (20)(a);

2868 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
2869 buttocks, anus, or genitals of any other person;

2870 (d) permitting any employee or person to wear or use any device or covering, exposed
2871 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

2872 (e) permitting any person to use artificial devices or inanimate objects to depict any of
2873 the prohibited activities described in this Subsection (20);

2874 (f) permitting any person to remain in or upon the premises who exposes to public
2875 view any portion of that person's genitals or anus; or

2876 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
2877 depicting:

2878 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
2879 copulation, flagellation, or any sexual acts prohibited by Utah law;

2880 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
2881 genitals;

2882 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
2883 drawings are used to portray, any of the prohibited activities described in this Subsection (20);
2884 or

2885 (iv) scenes wherein a person displays the vulva, anus, or the genitals.

2886 (21) Nothing in Subsection (20) precludes a local authority from being more restrictive
2887 of acts or conduct of the type prohibited in Subsection (20).

2888 (22) (a) Although live entertainment is permitted on the premises of a limited
2889 restaurant licensee, a licensee may not allow any person to perform or simulate sexual acts
2890 prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral
2891 copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or
2892 genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform
2893 only upon a stage or at a designated area approved by the commission.

2894 (b) Nothing in Subsection (22)(a) precludes a local authority from being more
2895 restrictive of acts or conduct of the type prohibited in Subsection (22)(a).

2896 (23) A limited restaurant licensee may not engage in or permit any form of gambling,
2897 or have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11,
2898 Gambling, on the premises of the restaurant.

2899 (24) (a) Each limited restaurant licensee shall maintain an expense ledger or record
2900 showing in detail:

2901 (i) quarterly expenditures made separately for:

2902 (A) wine;

2903 (B) heavy beer;

2904 (C) beer;

2905 (D) food; and

2906 (E) all other items required by the department; and

2907 (ii) sales made separately for:

2908 (A) wine;

- 2909 (B) heavy beer;
2910 (C) beer;
2911 (D) food; and
2912 (E) all other items required by the department.
2913 (b) The record required by Subsection (24)(a) shall be kept:
2914 (i) in a form approved by the department; and
2915 (ii) current for each three-month period.
2916 (c) Each expenditure shall be supported by:
2917 (i) delivery tickets;
2918 (ii) invoices;
2919 (iii) receipted bills;
2920 (iv) canceled checks;
2921 (v) petty cash vouchers; or
2922 (vi) other sustaining data or memoranda.
2923 (d) In addition to the ledger or record maintained under Subsections (24)(a) through
2924 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
2925 the department may require.
2926 (e) Any restaurant or person acting for the restaurant, who knowingly forges, falsifies,
2927 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or
2928 other documents of the restaurant required to be made, maintained, or preserved by this title or
2929 the rules of the commission for the purpose of deceiving the commission or department, or any
2930 of their officials or employees, is subject to the suspension or revocation of the limited
2931 restaurant's license and possible criminal prosecution under Chapter 12, Criminal Offenses.
2932 (25) (a) A limited restaurant licensee may not close or cease operation for a period
2933 longer than 240 hours, unless:
2934 (i) the limited restaurant licensee notifies the department in writing at least seven days
2935 before the closing; and
2936 (ii) the closure or cessation of operation is first approved by the department.
2937 (b) Notwithstanding Subsection (25)(a), in the case of emergency closure, immediate
2938 notice of closure shall be made to the department by telephone.
2939 (c) (i) Subject to Subsection (25)(c)(iii), the department may authorize a closure or

2940 cessation of operation for a period not to exceed 60 days.
2941 (ii) The department may extend the initial period an additional 30 days upon:
2942 (A) written request of the limited restaurant licensee; and
2943 (B) a showing of good cause.
2944 (iii) A closure or cessation of operation may not exceed a total of 90 days without
2945 commission approval.
2946 (d) Any notice required by Subsection (25)(a) shall include:
2947 (i) the dates of closure or cessation of operation;
2948 (ii) the reason for the closure or cessation of operation; and
2949 (iii) the date on which the licensee will reopen or resume operation.
2950 (e) Failure of the licensee to provide notice and to obtain department authorization
2951 before closure or cessation of operation shall result in an automatic forfeiture of:
2952 (i) the license; and
2953 (ii) the unused portion of the license fee for the remainder of the license year effective
2954 immediately.
2955 (f) Failure of the licensee to reopen or resume operation by the approved date shall
2956 result in an automatic forfeiture of:
2957 (i) the license; and
2958 (ii) the unused portion of the license fee for the remainder of the license year.
2959 (26) Each limited restaurant licensee shall maintain at least 70% of its total restaurant
2960 business from the sale of food, which does not include service charges.
2961 (27) A limited restaurant license may not be transferred from one location to another,
2962 without prior written approval of the commission.
2963 (28) (a) A limited restaurant license may not sell, transfer, assign, exchange, barter,
2964 give, or attempt in any way to dispose of the license to any other person whether for monetary
2965 gain or not.
2966 (b) A limited restaurant license has no monetary value for the purpose of any type of
2967 disposition.
2968 (29) (a) Each server of wine, heavy beer, and beer in a limited restaurant licensee's
2969 establishment shall keep a written beverage tab for each table or group that orders or consumes
2970 alcoholic beverages on the premises.

2971 (b) The beverage tab required by Subsection (29)(a) shall list the type and amount of
2972 alcoholic beverages ordered or consumed.

2973 (30) A limited restaurant licensee may not make a person's willingness to serve
2974 alcoholic beverages a condition of employment as a server with the restaurant.

2975 Section 166. Section **32A-4-401** is enacted to read:

2976 **Part 4. On-Premise Banquet License**

2977 **32A-4-401. Commission's power to grant licenses -- Limitations.**

2978 (1) (a) Beginning May 5, 2003, and ending June 30, 2005, the commission may issue
2979 an on-premise banquet license to any of the following persons for the purpose of allowing the
2980 storage, sale, service, and consumption of alcoholic beverages in connection with that person's
2981 banquet and room service activities:

2982 (i) hotel;

2983 (ii) resort facility;

2984 (iii) sports center; or

2985 (iv) convention center.

2986 (b) This chapter is not intended to prohibit liquor on the premises of a person listed in
2987 Subsection (1) to the extent otherwise permitted by this title.

2988 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not
2989 at any time aggregate more than that number determined by dividing the population of the state
2990 by 30,000.

2991 (b) For purposes of this Subsection (2), the population of the state shall be determined
2992 by:

2993 (i) the most recent United States decennial or special census; or

2994 (ii) any other population determination made by the United States or state
2995 governments.

2996 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet
2997 licensee:

2998 (a) the host of a contracted banquet may request an on-premise banquet licensee to
2999 provide alcoholic beverages served at a banquet; and

3000 (b) an on-premise banquet licensee may provide the alcoholic beverages served at a
3001 banquet.

3002 (4) At a banquet, an on-premise banquet licensee may provide:

3003 (a) a hosted bar; or

3004 (b) a cash bar.

3005 (5) Nothing in this section shall prohibit a qualified on-premise banquet license
3006 applicant from applying for a package agency.

3007 (6) (a) The premises of an on-premise banquet license may not be established within
3008 600 feet of any public or private school, church, public library, public playground, or park, as
3009 measured by the method in Subsection (7).

3010 (b) The premises of an on-premise banquet license may not be established within 200
3011 feet of any public or private school, church, public library, public playground, or park,
3012 measured in a straight line from the nearest entrance of the proposed outlet to the nearest
3013 property boundary of the public or private school, church, public library, public playground, or
3014 park.

3015 (c) The restrictions contained in Subsections (6)(a) and (b) govern unless one of the
3016 following exemptions applies:

3017 (i) with respect to the establishment of an on-premise banquet license within any
3018 location, the commission may authorize a variance to reduce the proximity requirements of
3019 Subsection (6)(a) or (b) if:

3020 (A) the local governing authority has granted its written consent to the variance;

3021 (B) alternative locations for establishing an on-premise banquet license in the
3022 community are limited;

3023 (C) a public hearing has been held in the city, town, or county, and where practical in
3024 the neighborhood concerned; and

3025 (D) after giving full consideration to all of the attending circumstances and the policies
3026 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
3027 license would not be detrimental to the public health, peace, safety, and welfare of the
3028 community; or

3029 (ii) with respect to the premises of any on-premise banquet license issued by the
3030 commission that undergoes a change of ownership, the commission may waive or vary the
3031 proximity requirements of Subsections (6)(a) and (b) in considering whether to grant an
3032 on-premise banquet license to the new owner of the premises if:

3033 (A) the premises previously received a variance reducing the proximity requirements of
3034 Subsection (6)(a) or (b); or

3035 (B) a variance from proximity or distance requirements was otherwise allowed under
3036 this title.

3037 (7) With respect to any public or private school, church, public library, public
3038 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
3039 by following the shortest route of ordinary pedestrian travel to the property boundary of the
3040 public or private school, church, public library, public playground, school playground, or park.

3041 (8) (a) Nothing in this section prevents the commission from considering the proximity
3042 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
3043 decision on a proposed location.

3044 (b) For purposes of this Subsection (8), "educational facility" includes:

3045 (i) a nursery school;

3046 (ii) an infant day care center; and

3047 (iii) a trade and technical school.

3048 Section 167. Section **32A-4-402** is enacted to read:

3049 **32A-4-402. Application and renewal requirements.**

3050 (1) A person seeking an on-premise banquet license under this part shall file a written
3051 application with the department, in a form prescribed by the department. The application shall
3052 be accompanied by:

3053 (a) a nonrefundable \$250 application fee;

3054 (b) an initial license fee of \$500, which is refundable if a license is not granted;

3055 (c) written consent of the local authority;

3056 (d) a copy of the applicant's current business license;

3057 (e) evidence of proximity to any public or private school, church, public library, public
3058 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
3059 Subsections 32A-4-401(7) and (8), the application shall be processed in accordance with those
3060 subsections;

3061 (f) a bond as specified by Section 32A-4-405;

3062 (g) a description or floor plan and boundary map of the premises, where appropriate, of
3063 the on-premise banquet license applicant's location, designating:

3064 (i) the location at which the on-premise banquet license applicant proposes that
3065 alcoholic beverages be stored; and

3066 (ii) the designated locations on the premises of the applicant from which the
3067 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and
3068 consumed;

3069 (h) evidence that the on-premise banquet license applicant is carrying public liability
3070 insurance in an amount and form satisfactory to the department;

3071 (i) evidence that the on-premise banquet license applicant is carrying dramshop
3072 insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

3073 (j) a signed consent form stating that the on-premise banquet license applicant will
3074 permit any authorized representative of the commission, department, or any law enforcement
3075 officer unrestricted right to enter the restaurant;

3076 (k) in the case of an applicant that is a partnership, corporation, or limited liability
3077 company, proper verification evidencing that the person or persons signing the on-premise
3078 banquet license application are authorized to so act on behalf of the partnership, corporation, or
3079 limited liability company; and

3080 (l) any other information the commission or department may require.

3081 (2) Additional locations in or on the premises of an on-premise banquet license
3082 applicant's business from which the on-premise banquet license applicant may propose that
3083 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's
3084 original application may be approved by the department upon proper application, in accordance
3085 with guidelines approved by the commission.

3086 (3) (a) All on-premise banquet licenses expire on October 31 of each year.

3087 (b) Persons desiring to renew their on-premise banquet license shall submit a renewal
3088 fee of \$500 and a completed renewal application to the department no later than September 30.

3089 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
3090 the license effective on the date the existing license expires.

3091 (d) Renewal applications shall be in a form as prescribed by the department.

3092 (4) To ensure compliance with Subsection 32A-4-406(26), the commission may
3093 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to
3094 immediately notify the department of any change in:

- 3095 (a) ownership of the licensee;
3096 (b) for a corporate owner, the:
3097 (i) corporate officers or directors; or
3098 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
3099 corporation; or
3100 (c) for a limited liability company:
3101 (i) managers; or
3102 (ii) members owning at least 20% of the limited liability company.
- 3103 Section 168. Section **32A-4-403** is enacted to read:
3104 **32A-4-403. Qualifications.**
- 3105 (1) (a) The commission may not grant an on-premise banquet license to any person
3106 who has been convicted of:
3107 (i) a felony under any federal or state law;
3108 (ii) any violation of any federal or state law or local ordinance concerning the sale,
3109 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
3110 (iii) any crime involving moral turpitude; or
3111 (iv) on two or more occasions within the five years before the day on which the license
3112 is granted, driving under the influence of alcohol, any drug, or the combined influence of
3113 alcohol and any drug.
- 3114 (b) In the case of a partnership, corporation, or limited liability company, the
3115 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
3116 offense described in Subsection (1)(a):
3117 (i) a partner;
3118 (ii) a managing agent;
3119 (iii) a manager;
3120 (iv) an officer;
3121 (v) a director;
3122 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
3123 the applicant corporation; or
3124 (vii) a member who owns at least 20% of the applicant limited liability company.
- 3125 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a

3126 supervisory or managerial capacity for the on-premise banquet licensee has been convicted of
3127 any offense described in Subsection (1)(a).

3128 (2) The commission may immediately suspend or revoke an on-premise banquet
3129 license if after the day on which the on-premise banquet license is granted, a person described
3130 in Subsection (1)(a), (b), or (c):

3131 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
3132 to the license being granted; or

3133 (b) on or after the day on which the license is granted:

3134 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

3135 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
3136 combined influence of alcohol and any drug; and

3137 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
3138 influence of alcohol and any drug within five years before the day on which the person is
3139 convicted of the offense described in Subsection (2)(b)(ii)(A).

3140 (3) The director may take emergency action by immediately suspending the operation
3141 of an on-premise banquet license according to the procedures and requirements of Title 63,
3142 Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is
3143 being adjudicated if a person described in Subsection (1)(a), (b), or (c):

3144 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
3145 or

3146 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
3147 any drug, or the combined influence of alcohol and any drug; and

3148 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
3149 influence of alcohol and any drug within five years before the day on which the person is
3150 arrested on a charge described in Subsection (3)(b)(i).

3151 (4) (a) (i) The commission may not grant an on-premise banquet license to any person
3152 who has had any type of license, agency, or permit issued under this title revoked within the
3153 last three years.

3154 (ii) The commission may not grant an on-premise banquet license to an applicant that
3155 is a partnership, corporation, or limited liability company if any partner, managing agent,
3156 manager, officer, director, stockholder who holds at least 20% of the total issued and

3157 outstanding stock of an applicant corporation, or member who owns at least 20% of an
3158 applicant limited liability company is or was:

3159 (A) a partner or managing agent of any partnership that had any type of license, agency,
3160 or permit issued under this title revoked within the last three years;

3161 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
3162 of the total issued and outstanding stock of any corporation that had any type of license,
3163 agency, or permit issued under this title revoked within the last three years; or

3164 (C) a manager or member who owns or owned at least 20% of any limited liability
3165 company that had any type of license, agency, or permit issued under this title revoked within
3166 the last three years.

3167 (b) An applicant that is a partnership, corporation, or limited liability company may not
3168 be granted an on-premise banquet license if any of the following had any type of license,
3169 agency, or permit issued under this title revoked while acting in their individual capacity within
3170 the last three years:

3171 (i) any partner or managing agent of the applicant partnership;

3172 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
3173 total issued and outstanding stock of the applicant corporation; or

3174 (iii) any manager or member who owns at least 20% of the applicant limited liability
3175 company.

3176 (c) A person acting in an individual capacity may not be granted an on-premise banquet
3177 license if that person was:

3178 (i) a partner or managing agent of a partnership that had any type of license, agency, or
3179 permit issued under this title revoked within the last three years;

3180 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
3181 total issued and outstanding stock of a corporation that had any type of license, agency, or
3182 permit issued under this title revoked within the last three years; or

3183 (iii) a manager or member who owned at least 20% of the limited liability company
3184 that had any type of license, agency, or permit issued under this title revoked within the last
3185 three years.

3186 (5) (a) A minor may not be granted an on-premise banquet license.

3187 (b) The commission may not grant an on-premise banquet license to an applicant that is

3188 a partnership, corporation, or limited liability company if any of the following is a minor:

3189 (i) a partner or managing agent of the applicant partnership;

3190 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the

3191 total issued and outstanding stock of the applicant corporation; or

3192 (iii) a manager or member who owns at least 20% of the applicant limited liability
3193 company.

3194 (6) If any person to whom a license has been issued under this part no longer possesses
3195 the qualifications required by this title for obtaining that license, the commission may suspend
3196 or revoke that license.

3197 Section 169. Section **32A-4-404** is enacted to read:

3198 **32A-4-404. Commission and department duties before granting licenses.**

3199 (1) (a) Before an on-premise banquet license may be granted by the commission, the
3200 department shall conduct an investigation, and may hold public hearings for the purpose of
3201 gathering information and making recommendations to the commission as to whether or not an
3202 on-premise banquet license should be granted.

3203 (b) The department shall forward the information and recommendations described in
3204 Subsection (1)(a) to the commission to aid in the commission's determination.

3205 (2) Before issuing an on-premise banquet license, the commission shall:

3206 (a) determine that the applicant has complied with all basic qualifications and
3207 requirements for making application for a license as provided by Sections 32A-4-402 and
3208 32A-4-403;

3209 (b) determine that the application is complete;

3210 (c) consider, where appropriate, the locations the on-premise banquet license applicant
3211 proposes to designate for use under an on-premise banquet license, including:

3212 (i) the physical characteristics of the locations such as:

3213 (A) the condition of the premises;

3214 (B) square footage; and

3215 (C) parking availability; and

3216 (ii) operational factors such as:

3217 (A) tourist traffic;

3218 (B) demographics; and

- 3219 (C) population to be served;
3220 (d) consider the applicant's ability to manage and operate an on-premise banquet
3221 license, including:
3222 (i) past management experience;
3223 (ii) past alcohol license experience; and
3224 (iii) the type of management scheme to be employed by the on-premise banquet license
3225 applicant;
3226 (e) consider the nature or type of the on-premise banquet license applicant's business
3227 operation; and
3228 (f) consider any other factors or circumstances the commission considers necessary.
3229 Section 170. Section **32A-4-405** is enacted to read:
3230 **32A-4-405. Bond.**
3231 (1) Each on-premise banquet licensee shall post a cash or corporate surety bond in the
3232 penal sum of \$10,000 payable to the department, which the licensee has procured and must
3233 maintain for so long as the licensee continues to operate as an on-premise banquet licensee.
3234 (2) The bond shall be in a form approved by the attorney general, conditioned upon the
3235 licensee's faithful compliance with this title and the rules of the commission.
3236 (3) (a) If the \$10,000 surety bond is canceled due to the licensee's negligence, a \$300
3237 reinstatement fee may be assessed.
3238 (b) No part of any cash or corporate bond so posted may be withdrawn during the
3239 period the license is in effect, or while revocation proceedings are pending against the licensee.
3240 (c) A bond filed by an on-premise banquet licensee may be forfeited if the license is
3241 finally revoked.
3242 Section 171. Section **32A-4-406** is enacted to read:
3243 **32A-4-406. Operational restrictions.**
3244 Each person granted an on-premise banquet license and the employees and management
3245 personnel of the on-premise banquet licensee shall comply with this title, the rules of the
3246 commission, and the following conditions and requirements. Failure to comply may result in a
3247 suspension or revocation of the license or other disciplinary action taken against individual
3248 employees or management personnel.
3249 (1) A person involved in the sale or service of alcoholic beverages under the

3250 on-premise banquet license shall:

3251 (a) be under the supervision and direction of the on-premise banquet licensee; and

3252 (b) complete the seminar provided for in Section 62A-15-401.

3253 (2) (a) Liquor may not be purchased by the on-premise banquet licensee except from
3254 state stores or package agencies.

3255 (b) Liquor purchased in accordance with Subsection (2)(a) may be transported by the
3256 on-premise banquet licensee from the place of purchase to the licensed premises.

3257 (c) Payment for liquor shall be made in accordance with rules established by the
3258 commission.

3259 (3) Alcoholic beverages may be sold or provided at a banquet, or in connection with
3260 room service, subject to the following restrictions:

3261 (a) An on-premise banquet licensee may sell or provide any primary spirituous liquor
3262 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
3263 dispensing system approved by the department in accordance with commission rules adopted
3264 under this title, except that:

3265 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing
3266 system if used as a secondary flavoring ingredient in a beverage subject to the following
3267 restrictions:

3268 (A) the secondary ingredient may be dispensed only in conjunction with the purchase
3269 of a primary spirituous liquor;

3270 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;

3271 (C) the on-premise banquet licensee shall designate a location where flavorings are
3272 stored on the floor plan provided to the department; and

3273 (D) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

3274 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing
3275 system if used:

3276 (A) as a flavoring on desserts; and

3277 (B) in the preparation of flaming food dishes, drinks, and desserts;

3278 (iii) each attendee may have no more than 2.75 ounces of spirituous liquor at a time
3279 before the attendee; and

3280 (iv) each attendee may have no more than one spirituous liquor drink at a time before

3281 the attendee.

3282 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to
3283 exceed five ounces per glass or individual portion.

3284 (B) An individual portion may be served to an attendee in more than one glass as long
3285 as the total amount of wine does not exceed five ounces.

3286 (C) An individual portion of wine is considered to be one alcoholic beverage under
3287 Subsection (5)(c).

3288 (ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed
3289 by the commission.

3290 (iii) A wine service may be performed and a service charge assessed by the on-premise
3291 banquet licensee as authorized by commission rule for wine purchased on the banquet
3292 premises.

3293 (c) (i) Heavy beer may be served in original containers not exceeding one liter at prices
3294 fixed by the commission.

3295 (ii) A service charge may be assessed by the on-premise banquet licensee as authorized
3296 by commission rule for heavy beer purchased on the banquet premises.

3297 (d) Beer may be sold and served in any size container not exceeding two liters, and on
3298 draft for on-premise consumption.

3299 (4) Alcoholic beverages may not be stored, served, or sold in any place other than as
3300 designated in the on-premise banquet licensee's application, except that additional locations in
3301 or on the premises of an on-premise banquet licensee may be approved in accordance with
3302 guidelines approved by the commission as provided in Subsection 32A-4-402(2).

3303 (5) (a) An attendee may only make alcoholic beverage purchases from and be served by
3304 a person employed, designated, and trained by the on-premise banquet licensee to sell and
3305 serve alcoholic beverages.

3306 (b) Notwithstanding Subsection (5)(a), an attendee who has purchased bottled wine
3307 from an employee of the on-premise banquet licensee may thereafter serve wine from the bottle
3308 to themselves or others at the attendee's table.

3309 (c) Each attendee may have no more than two alcoholic beverages of any kind at a time
3310 before the attendee.

3311 (6) The alcoholic beverage storage area shall remain locked at all times other than

3312 those hours and days when alcoholic beverage sales are authorized by law.

3313 (7) (a) Except as provided in Subsection (7)(b), alcoholic beverages may be offered for
3314 sale, sold, served, or otherwise furnished from 10 a.m. to 1 a.m. seven days a week:

3315 (i) at a banquet; or

3316 (ii) in connection with room service.

3317 (b) Notwithstanding Subsection (7)(a), a sale or service of alcoholic beverages may not
3318 occur at a banquet or in connection with room service until after the polls are closed on the day
3319 of:

3320 (i) a regular general election;

3321 (ii) a regular primary election; or

3322 (iii) a statewide special election.

3323 (8) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

3324 (a) minor;

3325 (b) person actually, apparently, or obviously intoxicated;

3326 (c) known habitual drunkard; or

3327 (d) known interdicted person.

3328 (9) (a) (i) Liquor may be sold only at prices fixed by the commission.

3329 (ii) Liquor may not be sold at discount prices on any date or at any time.

3330 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
3331 to the licensee.

3332 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
3333 over-consumption or intoxication.

3334 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
3335 hours of the on-premise banquet licensee's business day such as a "happy hour."

3336 (e) The sale or service of more than one alcoholic beverage for the price of a single
3337 alcoholic beverage is prohibited.

3338 (f) An on-premise banquet licensee may not engage in a public promotion involving or
3339 offering free alcoholic beverages to the general public.

3340 (10) Alcoholic beverages may not be purchased by the on-premise banquet licensee, or
3341 any employee or agent of the licensee, for an attendee.

3342 (11) An attendee of a banquet may not bring any alcoholic beverage into or onto, or

3343 remove any alcoholic beverage from the premises of a banquet.

3344 (12) (a) Except as otherwise provided in this title, the sale and service of alcoholic
3345 beverages by an on-premise banquet licensee at a banquet shall be made only for consumption
3346 at the location of the banquet.

3347 (b) The host of a banquet, an attendee, or any other person other than the on-premise
3348 banquet licensee or its employees, may not remove any alcoholic beverage from the premises
3349 of the banquet.

3350 (13) An on-premise banquet licensee employee shall remain at the banquet at all times
3351 when alcoholic beverages are being sold, served, or consumed at the banquet.

3352 (14) (a) An on-premise banquet licensee may not leave any unsold alcoholic beverages
3353 at the banquet following the conclusion of the banquet.

3354 (b) At the conclusion of a banquet, the on-premise banquet licensee or its employees,
3355 shall:

3356 (i) destroy any opened and unused alcoholic beverages that are not saleable, under
3357 conditions established by the department; and

3358 (ii) return to the on-premise banquet licensee's approved locked storage area any:

3359 (A) opened and unused alcoholic beverage that is saleable; and

3360 (B) unopened containers of alcoholic beverages.

3361 (15) Except as provided in Subsection (14), any open or sealed container of alcoholic
3362 beverages not sold or consumed at a banquet:

3363 (a) shall be stored by the on-premise banquet licensee in the licensee's approved locked
3364 storage area; and

3365 (b) may be used at more than one banquet.

3366 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense,
3367 or otherwise furnish alcoholic beverages in connection with the licensee's banquet and room
3368 service activities.

3369 (17) An employee of an on-premise banquet licensee, while on duty, may not:

3370 (a) consume an alcoholic beverage; or

3371 (b) be intoxicated.

3372 (18) An on-premise banquet licensee shall prominently display at each banquet at
3373 which alcoholic beverages are sold or served:

3374 (a) a copy of the licensee's on-premise banquet license; and
3375 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
3376 drugs is a serious crime that is prosecuted aggressively in Utah."

3377 (19) The following acts or conduct are considered contrary to the public welfare and
3378 morals, and are prohibited at and during the hours of a banquet:

3379 (a) employing or using any person in the sale or service of alcoholic beverages while
3380 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
3381 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
3382 buttocks, vulva, or genitals;

3383 (b) employing or using the services of any person to mingle with the patrons while the
3384 person is unclothed or in attire, costume, or clothing described in Subsection (19)(a);

3385 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
3386 buttocks, anus, or genitals of any other person;

3387 (d) permitting any employee or person to wear or use any device or covering, exposed
3388 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

3389 (e) permitting any person to use artificial devices or inanimate objects to depict any of
3390 the prohibited activities described in this Subsection (19);

3391 (f) permitting any person to remain in or upon the premises who exposes to public
3392 view any portion of that person's genitals or anus; or

3393 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
3394 depicting:

3395 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
3396 copulation, flagellation, or any sexual acts prohibited by Utah law;

3397 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
3398 genitals;

3399 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
3400 drawings are used to portray, any of the prohibited activities described in this Subsection (19);

3401 or

3402 (iv) scenes wherein a person displays the vulva, anus, or the genitals.

3403 (20) Nothing in Subsection (19) precludes a local authority from being more restrictive
3404 of acts or conduct of the type prohibited in Subsection (19).

3405 (21) (a) Although live entertainment is permitted at a banquet, an on-premise banquet
3406 licensee may not allow any person to perform or simulate sexual acts prohibited by Utah law,
3407 including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the
3408 touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of
3409 the pubic hair, anus, vulva, or genitals.

3410 (b) Nothing in Subsection (21)(a) precludes a local authority from being more
3411 restrictive of acts or conduct of the type prohibited in Subsection (21)(a).

3412 (22) An on-premise banquet licensee may not engage in or permit any form of
3413 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
3414 Part 11, Gambling, on the premises of the:

3415 (a) hotel;

3416 (b) resort facility;

3417 (c) sports center; or

3418 (d) convention center.

3419 (23) (a) An on-premise banquet licensee shall maintain accounting and such other
3420 records and documents as the commission or department may require.

3421 (b) An on-premise banquet licensee or person acting for the on-premise banquet
3422 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the
3423 entries in any of the books of account or other documents of the on-premise banquet licensee
3424 required to be made, maintained, or preserved by this title or the rules of the commission for
3425 the purpose of deceiving the commission or department, or any of their officials or employees,
3426 is subject to the suspension or revocation of the on-premise banquet license and possible
3427 criminal prosecution under Chapter 12, Criminal Offenses.

3428 (24) An on-premise banquet licensee shall maintain at least 50% of its total annual
3429 banquet gross receipts from the sale of food, not including:

3430 (a) mix for alcoholic beverages; and

3431 (b) charges in connection with the service of alcoholic beverages.

3432 (25) A person may not transfer an on-premise banquet license from one business
3433 location to another without prior written approval of the commission.

3434 (26) (a) An on-premise banquet license may not sell, transfer, assign, exchange, barter,
3435 give, or attempt in any way to dispose of the license to any other person, whether for monetary

3436 gain or not.

3437 (b) An on-premise banquet license has no monetary value for the purpose of any type
3438 of disposition.

3439 (27) (a) Room service of alcoholic beverages to a guest room of a hotel or resort
3440 facility shall be provided in person by an on-premise banquet licensee employee only to an
3441 adult guest in the guest room.

3442 (b) Alcoholic beverages may not be left outside a guest room for retrieval by a guest.

3443 (c) An on-premise banquet licensee may only provide alcoholic beverages for room
3444 service in sealed containers.

3445 Section 172. Section **32A-4-407** is enacted to read:

3446 **32A-4-407. Report on pilot program.**

3447 On or before the November 2004 interim committee meeting of the designated interim
3448 committee, the commission shall prepare and present a report and recommendation concerning
3449 the on-premise banquet license pilot program to the legislative interim committee designated
3450 by the Legislative Management Committee.

3451 Section 173. Section **32A-5-101** is amended to read:

3452 **32A-5-101. Commission's power to license private clubs -- Limitations.**

3453 (1) Before [~~any~~] a private club may sell or allow the consumption of [~~liquor~~] alcoholic
3454 beverages on its premises, [it] the private club shall first obtain a license from the commission
3455 as provided in this chapter.

3456 (2) The commission may [~~issue~~] grant private club [~~liquor~~] licenses to social clubs,
3457 recreational, athletic, or kindred associations [~~incorporated under the Utah Nonprofit~~
3458 ~~Corporation and Cooperative Association Act, which] that~~ that desire to maintain premises upon
3459 which alcoholic beverages may be stored, sold, served, and consumed. [~~All such licenses shall~~
3460 ~~be issued in the name of an officer or director of the club or association.]~~

3461 (3) At the time the commission grants a private club license the commission shall
3462 designate whether the private club license qualifies as a class A, B, C, or D license as defined
3463 in Subsections (3)(a) through (d).

3464 (a) A "class A licensee" is a private club licensee that:

3465 (i) meets the requirements of this chapter;

3466 (ii) owns, maintains, or operates a substantial recreational facility in conjunction with a

3467 club house such as:
3468 (A) a golf course; or
3469 (B) a tennis facility;
3470 (iii) has at least 50% of the total membership having:
3471 (A) full voting rights; and
3472 (B) an equal share of the equity of the club; and
3473 (iv) if there is more than one class of membership, has at least one class of membership
3474 that entitles each member in that class to:
3475 (A) full voting rights; and
3476 (B) an equal share of the equity of the club.
3477 (b) A "class B licensee" is a private club licensee that:
3478 (i) meets the requirements of this chapter;
3479 (ii) has no capital stock;
3480 (iii) exists solely for:
3481 (A) the benefit of its members and their beneficiaries; and
3482 (B) any lawful social, intellectual, educational, charitable, benevolent, moral, fraternal,
3483 patriotic, or religious purpose for the benefit of its members or the public, carried on through
3484 voluntary activity of its members in their local lodges;
3485 (iv) has a representative form of government; and
3486 (v) has a lodge system in which:
3487 (A) there is a supreme governing body;
3488 (B) subordinate to the supreme governing body are local lodges, however designated,
3489 into which individuals are admitted as members in accordance with the laws of the fraternal;
3490 (C) the local lodges are required by the laws of the fraternal to hold regular meetings at
3491 least monthly; and
3492 (D) the local lodges regularly engage in programs involving member participation to
3493 implement the purposes of Subsection (3)(b)(iii).
3494 (c) A "class C licensee" is a private club licensee that:
3495 (i) meets the requirements of this chapter;
3496 (ii) is a dining club, as determined by the commission in accordance with Subsection
3497 (4)(b); and

3498 (iii) maintains at least 50% of its total private club business from the sale of food, not
3499 including:

3500 (A) mix for alcoholic beverages; or

3501 (B) service charges.

3502 (d) A "class D licensee" is a private club licensee that:

3503 (i) meets the requirements of this chapter; and

3504 (ii) (A) does not meet the requirements of a class A, B, or C license; or

3505 (B) seeks to qualify as a class D licensee.

3506 (4) (a) (i) Notwithstanding Subsection (3), for a private club license in effect on May 5,
3507 2003, the commission shall designate whether that license qualifies as a class A, B, C, or D
3508 license as defined in Subsection (3) at the time the license is renewed.

3509 (ii) Until the class of license is designated under Subsection (4)(a)(i), the private club
3510 licensee holding a license described in Subsection (4)(a)(i) shall operate under the restrictions
3511 of the part applicable to the class of license for which the private club licensee qualifies.

3512 (b) In determining whether an applicant is a dining club under Subsection (3)(c), the
3513 commission:

3514 (i) shall determine whether the applicant maintains at least 50% of its total private club
3515 business from the sale of food, not including:

3516 (A) mix for alcoholic beverages;

3517 (B) service charges; or

3518 (C) membership and visitor card fees; and

3519 (ii) may consider:

3520 (A) the square footage and seating capacity of the applicant;

3521 (B) what portion of the square footage and seating capacity will be used for a dining
3522 area in comparison to the portion that will be used as a bar area;

3523 (C) whether full meals including appetizers, main courses, and desserts are served;

3524 (D) whether the applicant will maintain adequate on-premise culinary facilities to
3525 prepare full meals, except an applicant that is located on the premise of a hotel or resort facility
3526 may use the culinary facilities of the hotel or resort facility;

3527 (E) whether the entertainment provided at the club is suitable for minors; and

3528 (F) the club management's ability to manage and operate a dining club including:

3529 (I) management experience;

3530 (II) past dining club or restaurant management experience; and

3531 (III) the type of management scheme employed by the private club.

3532 [~~(3)~~] (5) (a) A [nonprofit corporation, association, or] private club or any officer,
3533 director, managing agent, or employee of a [nonprofit corporation, association, or] private club
3534 may not store, sell, serve, or permit consumption of [liquor] alcoholic beverages upon [its] the
3535 premises of the club, under a permit issued by local authority or otherwise, unless a private
3536 club [liquor] license has been first issued by the commission.

3537 (b) Violation of this Subsection (5) is a class [A] B misdemeanor.

3538 [~~(4)~~] (6) (a) Subject to this Subsection (6), the commission may issue private club
3539 [liquor] licenses at places and in numbers as it considers necessary.

3540 (b) The total number of private club [liquor] licenses may not at any time aggregate
3541 more than that number determined by dividing the population of the state by 7,000.

3542 (c) [Population] For purposes of this Subsection (6), population shall be determined
3543 by:

3544 (i) the most recent United States decennial or special census; or [by]

3545 (ii) any other population determination made by the United States or state
3546 governments.

3547 [~~(a)~~] (d) (i) The commission may issue seasonal private club [liquor] licenses to be
3548 established in areas [and for periods as it] the commission considers necessary.

3549 (ii) A seasonal private club [liquor] license [may not be operated] shall be for a period
3550 [longer than nine] of six consecutive months [subject to the following restrictions]:

3551 [~~(i)~~] (iii) [Licenses] A private club license issued for operation during a summer time
3552 [periods are] period is known as a "Seasonal A" private club [licenses] license. The period of
3553 operation for a "Seasonal A" club license [may begin as early as February 1 and may continue
3554 until October 31.] shall:

3555 (A) begin on May 1; and

3556 (B) end on October 31.

3557 [~~(i)~~] (iv) [Licenses] A private club license issued for operation during a winter time
3558 [periods are] period is known as a "Seasonal B" private club [licenses] license. The period of
3559 operation for a "Seasonal B" club license [may begin as early as September 1 and may continue

3560 ~~until May 31.] shall:~~

3561 (A) begin on November 1; and

3562 (B) end on April 30.

3563 ~~[(iii)]~~ (v) In determining the number of private club ~~[liquor]~~ licenses that the
3564 commission may issue under this section~~[-];~~:

3565 (A) a seasonal ~~[licenses are]~~ private club license is counted as ~~[one-half]~~ 1/2 of one
3566 private club ~~[liquor]~~ license~~[- Each]; and~~

3567 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license ~~[and the total~~
3568 number of months that each combined pair may be issued for operation may not exceed 12
3569 months for each calendar year].

3570 ~~[(b)]~~ (e) If the location, design, and construction of a hotel may require more than one
3571 private club location within the hotel to serve the public convenience, the commission may
3572 authorize as many as three private club locations within the hotel under one license if the hotel
3573 has a minimum of 150 guest rooms and if all locations under the license are within the same
3574 hotel facility and on premises which are managed or operated and owned or leased by the
3575 licensee. Facilities other than hotels may not have more than one private club location under a
3576 single private club ~~[liquor]~~ license.

3577 ~~[(5)]~~ (7) (a) ~~[A]~~ The premises of a private club ~~[licensee's premises]~~ license may not be
3578 established within 600 feet of any public or private school, church, public library, public
3579 playground, or park, as measured by the method in Subsection ~~[(6)]~~ (8).

3580 (b) ~~[A]~~ The premises of a private club ~~[licensee premises]~~ license may not be
3581 established within 200 feet of any public or private school, church, public library, public
3582 playground, or park, measured in a straight line from the nearest entrance of the proposed
3583 outlet to the nearest property boundary of the public or private school, church, public library,
3584 public playground, or park.

3585 (c) The restrictions contained in Subsections (7)(a) and (b) govern unless one of the
3586 following exemptions applies:

3587 ~~[(i)]~~ The commission finds after full investigation that the premises are located within a
3588 city of the third class or a town, and compliance with the distance requirements would result in
3589 peculiar and exceptional practical difficulties or exceptional and undue hardships in the
3590 granting of a private club license. In that event, the commission may, after giving full

3591 consideration to all of the attending circumstances, following a public hearing in the city or
3592 town, and where practical in the neighborhood concerned, authorize a variance from the
3593 distance requirements to relieve the difficulties or hardships if the variance may be granted
3594 without substantial detriment to the public good and without substantially impairing the intent
3595 and purpose of this title.]

3596 (i) with respect to the establishment of a private club license within a city of the third
3597 class, a town, or the unincorporated area of a county, the commission may authorize a variance
3598 to reduce the proximity requirements of Subsection (7)(a) or (b) if:

3599 (A) the local governing authority has granted its written consent to the variance;

3600 (B) alternative locations for establishing a private club license in the community are
3601 limited;

3602 (C) a public hearing has been held in the city, town, or county, and where practical in
3603 the neighborhood concerned; and

3604 (D) after giving full consideration to all of the attending circumstances and the policies
3605 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
3606 license would not be detrimental to the public health, peace, safety, and welfare of the
3607 community;

3608 (ii) with respect to the establishment of a private club [~~licensee~~] license in any location,
3609 the commission may[, after giving full consideration to all of the attending circumstances,
3610 following a public hearing in the county, and where practical in the neighborhood concerned,
3611 ~~reduce the proximity~~] authorize a variance to reduce the proximity requirements of Subsection
3612 (7)(a) or (b) in relation to a church;

3613 (A) if the local governing body of the church in question gives its written [approval.]
3614 consent to the variance;

3615 (B) following a public hearing in the city, town, or county and where practical in the
3616 neighborhood concerned; and

3617 (C) after giving full consideration to all of the attending circumstances and the policies
3618 stated in Subsections 32A-1-104(3) and (4); or

3619 [~~(iii) Any on-premises beer retailer licensee existing on March 1, 1990, need not~~
3620 ~~comply with the restrictions contained in Subsections (a) and (b) if it applies for a private club~~
3621 ~~liquor license before January 1, 1991.]~~

3622 (iii) with respect to the premises of a private club license issued by the commission that
3623 undergoes a change of ownership, the commission may waive or vary the proximity
3624 requirements of Subsection (7)(a) or (b) in considering whether to grant a private club license
3625 to the new owner of the premises if:

3626 (A) the premises previously received a variance reducing the proximity requirements of
3627 Subsection (7)(a) or (b); or

3628 (B) a variance from proximity or distance requirements was otherwise allowed under
3629 this title.

3630 ~~[(6)]~~ (8) With respect to any public or private school, church, public library, public
3631 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
3632 by following the shortest route of ~~[either]~~ ordinary pedestrian ~~[traffic, or where applicable,~~
3633 ~~vehicular travel along public thoroughfares, whichever is the closer,]~~ travel to the property
3634 boundary of the public or private school, church, public library, public playground, or park.

3635 ~~[(7)]~~ (9) (a) Nothing in this section prevents the commission from considering the
3636 proximity of any educational, religious, and recreational facility, or any other relevant factor in
3637 reaching a decision on whether to issue a private club ~~[liquor]~~ license.

3638 (b) For purposes of this Subsection (9), "educational facility" includes:

3639 (i) a nursery ~~[schools,]~~ school;

3640 (ii) infant day care ~~[centers,]~~ center; and

3641 (iii) a trade and technical ~~[schools]~~ school.

3642 (10) If requested by a private club licensee, the commission may approve a change in
3643 the class of private club license in accordance with rules made by the commission.

3644 Section 174. Section **32A-5-102** is amended to read:

3645 **32A-5-102. Application and renewal requirements.**

3646 (1) A ~~[person]~~ club seeking a class A, B, C, or D private club ~~[liquor]~~ license under
3647 this chapter shall file a written application with the department~~[-, in the name of an officer or~~
3648 ~~director of a corporation,]~~ in a form prescribed by the department. ~~[It]~~ The application shall be
3649 accompanied by:

3650 (a) a nonrefundable ~~[\$1,000]~~ \$250 application fee;

3651 (b) an initial license fee of ~~[\$750]~~ \$2,500, which is refundable if a license is not
3652 granted;

- 3653 (c) written consent of the local authority;
- 3654 (d) a copy of the applicant's current business license;
- 3655 ~~[(e) evidence that the applicant is a corporation or association organized under the Utah~~
- 3656 ~~Nonprofit Corporation and Cooperative Association Act, and is in good standing;]~~
- 3657 ~~[(f)]~~ (e) evidence of proximity to any public or private school, church, public library,
- 3658 public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of
- 3659 Subsections 32A-5-101~~[(5), (6), and]~~ (7) and (8), the application shall be processed in
- 3660 accordance with those subsections;
- 3661 ~~[(g)]~~ (f) evidence that the applicant operates a club where a variety of food is prepared
- 3662 and served in connection with dining accommodations;
- 3663 ~~[(h)]~~ (g) a bond as specified by Section 32A-5-106;
- 3664 ~~[(i)]~~ (h) a floor plan of the club premises, including consumption areas and the area
- 3665 where the applicant proposes to keep and store liquor;
- 3666 ~~[(j)]~~ (i) evidence that the club is carrying public liability insurance in an amount and
- 3667 form satisfactory to the department;
- 3668 ~~[(k)]~~ (j) evidence that the club is carrying dramshop insurance coverage of at least
- 3669 \$500,000 per occurrence and \$1,000,000 in the aggregate;
- 3670 ~~[(l)]~~ (k) a copy of the club's ~~[articles,]~~ bylaws~~;~~ or house rules, and any amendments to
- 3671 those documents, which shall be kept on file with the department at all times;
- 3672 ~~[(m)]~~ (l) a signed consent form stating that the club and its management will permit
- 3673 any authorized representative of the commission, department, or any law enforcement officer
- 3674 unrestricted right to enter the club premises;
- 3675 ~~[(n) a signed consent form authorizing the department to obtain Internal Revenue~~
- 3676 ~~Service tax information on the club;]~~
- 3677 ~~[(o) a signed consent form authorizing the department to obtain state and county real~~
- 3678 ~~and personal property tax information on the club;]~~
- 3679 ~~[(p) profit and loss statements for the previous fiscal year and pro forma statements for~~
- 3680 ~~one year if the applicant has not previously operated; and]~~
- 3681 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,
- 3682 C, or D private club licensee; and
- 3683 (ii) evidence that the private club meets the requirements for the classification for

3684 which it is applying:

3685 (n) in the case of a partnership, corporation, or limited liability company applicant,
3686 proper verification evidencing that the person or persons signing the private club application
3687 are authorized to so act on behalf of the partnership, corporation, or limited liability company;
3688 and

3689 ~~[(q)]~~ (o) any other information~~[-, documents, and evidence]~~ the commission or
3690 department may require [by rule or policy to allow complete evaluation of the application].

3691 ~~[(2)(a) Each application shall be signed and verified by oath or affirmation by an~~
3692 ~~executive officer or any person specifically authorized by the corporation or association to sign~~
3693 ~~the application, to which shall be attached written evidence of said authority.]~~

3694 ~~[(b) The applicant may attach to the application a verified copy of a letter of exemption~~
3695 ~~from federal tax, issued by the United States Treasury Department, Internal Revenue Service,~~
3696 ~~which the commission may consider as evidence of the applicant's nonprofit status. The~~
3697 ~~commission may also consider the fact that the licensee has lost its tax exemption from federal~~
3698 ~~tax as evidence that the licensee has ceased to operate as a nonprofit corporation.]~~

3699 ~~[(3)]~~ (2) (a) The commission may refuse to issue a license if ~~[it]~~ the commission
3700 determines that any provisions of the club's [articles,] bylaws[;] or house rules, or amendments
3701 to [any of] those documents are not reasonable and consistent with the declared nature and
3702 purpose of the applicant and the purposes of this chapter.

3703 (b) Club bylaws or house rules shall include provisions respecting the following:

3704 (i) standards of eligibility for members;

3705 (ii) limitation of members, consistent with the nature and purpose of the ~~[corporation~~
3706 ~~or association]~~ private club;

3707 (iii) the period for which dues are paid, and the date upon which the period expires;

3708 (iv) provisions for dropping members for the nonpayment of dues or other cause; and

3709 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor

3710 cards.

3711 ~~[(4)]~~ (3) (a) All private club ~~[liquor]~~ licenses expire on June 30 of each year.

3712 (b) Persons desiring to renew their private club ~~[liquor]~~ license shall submit ~~[a renewal~~
3713 ~~fee of \$750 and a completed renewal application to the department]~~ by no later than May 31~~[-];~~

3714 (i) a completed renewal application to the department; and

3715 (ii) a renewal fee in the following amount:

3716	<u>Gross Cost of Liquor in Previous License Year for the Licensee</u>	<u>Renewal Fee</u>
3717	<u>under \$10,000</u>	<u>\$1,000</u>
3718	<u>equals or exceeds \$10,000 but less than \$25,000</u>	<u>\$1,250</u>
3719	<u>equals or exceeds \$25,000 but less than \$75,000</u>	<u>\$1,750</u>
3720	<u>equals or exceeds \$75,000</u>	<u>\$2,250.</u>

3721 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
3722 the license effective on the date the existing license expires.

3723 (d) Renewal applications shall be in a form as prescribed by the department.

3724 Section 175. Section **32A-5-103** is amended to read:

3725 **32A-5-103. Qualifications.**

3726 [~~(1) Any club or association seeking a private club liquor license shall meet the~~
3727 ~~following qualifications:]~~

3728 [~~(a) Each member shall own one share of stock and no member or other person shall~~
3729 ~~own or control, directly or indirectly, more than one share.]~~

3730 [~~(b) At least 35% of the total number of outstanding shares shall be of a class that~~
3731 ~~entitles each holder of that class to full voting rights and, upon liquidation, to an equal share of~~
3732 ~~the equity of the corporation.]~~

3733 [~~(c) If there is more than one class of outstanding stock, the total number of~~
3734 ~~outstanding shares of the classes entitled to vote and share in the equity shall be at least 35% of~~
3735 ~~the total number of outstanding stock of all classes.]~~

3736 [~~(d) The voting stock of the club shall be subject to assessment for obligations of the~~
3737 ~~club.]~~

3738 [~~(e) The club shall be managed and operated by a governing board, which consists of at~~
3739 ~~least five individuals, each of whom is a shareholder or voting member of the club and is~~
3740 ~~elected by the holders of shares or members entitled to vote.]~~

3741 [~~(f) The club shall post proper notice of all elections in a conspicuous place within the~~
3742 ~~club premises not less than ten working days prior to the election.]~~

3743 [~~(2) (a) In lieu of the requirements of Subsections (1)(a), (b), and (c), a corporation~~
3744 ~~having no authorized, issued, or outstanding stock shall have at least 75% of all members as~~
3745 ~~voting members with one vote each.]~~

3746 ~~[(b) Upon dissolution or sale of the corporation, either:]~~
3747 ~~[(i) each voting member shares equally in the equity; or]~~
3748 ~~[(ii) the assets revert to a national nonprofit organization that originally chartered the~~
3749 ~~Utah corporation whose bylaws require that the assets be distributed, after payment of debts,~~
3750 ~~either immediately or after a period of time not exceeding ten years during which period the~~
3751 ~~assets are held in trust, to a charitable organization or fund, or a nonprofit corporation qualified~~
3752 ~~under this chapter.]~~

3753 ~~[(c) The voting members of any club qualifying under this subsection shall be subject~~
3754 ~~to assessment for obligations of the club to the extent of unpaid membership fees, unless the~~
3755 ~~membership has been previously terminated.]~~

3756 ~~[(3)] (1)(a) The commission may not grant a private club [liquor] license to [a club~~
3757 ~~whose proprietor, officer, director, or managing agent] any person who has been convicted of:~~

3758 ~~[(a) convicted of] (i) a felony under any federal or state law;~~

3759 ~~[(b) convicted of] (ii) any violation of any federal or state law or local ordinance~~
3760 ~~concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of~~
3761 ~~alcoholic beverages; [or]~~

3762 ~~[(c) convicted of] (iii) any crime involving moral turpitude[-]; or~~

3763 ~~[(4) If any employee, proprietor, officer, director, or managing agent of a private club~~
3764 ~~licensee is convicted of any offense designated in Subsection (3), the commission may take~~
3765 ~~emergency action by immediately revoking the license according to the procedures and~~
3766 ~~requirements of Title 63, Chapter 46b, Administrative Procedures Act.]~~

3767 ~~[(5) Upon the arrest of any proprietor, officer, director, or managing agent of a private~~
3768 ~~club liquor licensee on any charge set forth in Subsection (3), the director may take emergency~~
3769 ~~action by immediately suspending the operation of the licensee for the period during which the~~
3770 ~~criminal matter is being adjudicated.]~~

3771 ~~[(6) (a) (i) The commission may not grant a private club liquor license to any corporate~~
3772 ~~applicant who had any type of license, agency, or permit issued under this title revoked within~~
3773 ~~the last three years.]~~

3774 ~~[(ii) This proscription also applies if any managing agent, officer, or director of the~~
3775 ~~applicant is or was a partner or managing agent of any partnership, or is or was a managing~~
3776 ~~agent, officer, director, or a stockholder who holds or held at least 20% of the total issued and~~

3777 ~~outstanding stock of any corporation that had a liquor license, agency, or permit revoked within~~
3778 ~~the last three years.]~~

3779 ~~[(b) The corporate applicant may not be granted a license if any managing agent,~~
3780 ~~officer, or director of the applicant had a liquor license, agency, or permit revoked while acting~~
3781 ~~in his individual capacity within the last three years.]~~

3782 (iv) on two or more occasions within the five years before the day on which the license
3783 is granted, driving under the influence of alcohol, any drug, or the combined influence of
3784 alcohol and any drug.

3785 (b) In the case of a partnership, corporation, or limited liability company, the
3786 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
3787 offense described in Subsection (1)(a):

3788 (i) a partner;

3789 (ii) a managing agent;

3790 (iii) a manager;

3791 (iv) an officer;

3792 (v) a director;

3793 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
3794 the applicant corporation; or

3795 (vii) a member who owns at least 20% of the applicant limited liability company.

3796 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
3797 supervisory or managerial capacity for a private club has been convicted of any offense
3798 described in Subsections (1)(a).

3799 (2) The commission may immediately suspend or revoke a private club license if after
3800 the day on which the private club license is granted, a person described in Subsection (1)(a),
3801 (b), or (c):

3802 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
3803 to the license being granted; or

3804 (b) on or after the day on which the license is granted:

3805 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

3806 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
3807 combined influence of alcohol and any drug; and

3808 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
3809 influence of alcohol and any drug within five years before the day on which the person is
3810 convicted of the offense described in Subsection (2)(b)(ii)(A).

3811 (3) The director may take emergency action by immediately suspending the operation
3812 of a private club license according to the procedures and requirements of Title 63, Chapter 46b,
3813 Administrative Procedures Act, for the period during which the criminal matter is being
3814 adjudicated if a person described in Subsection (1)(a), (b), or (c):

3815 (a) is arrested on a charge for any offense described in Subsection (1)(a)(i), (ii), or (iii);
3816 or

3817 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
3818 any drug, or the combined influence of alcohol and any drug; and

3819 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
3820 influence of alcohol and any drug within five years before the day on which the person is
3821 arrested on a charge described in Subsection (3)(b)(i).

3822 (4) (a) (i) The commission may not grant a private club license to any person who has
3823 had any type of license, agency, or permit issued under this title revoked within the last three
3824 years.

3825 (ii) The commission may not grant a private club license to any applicant that is a
3826 partnership, corporation, or limited liability company if any partner, managing agent, manager,
3827 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
3828 of an applicant corporation, or member who owns at least 20% of an applicant limited liability
3829 company is or was:

3830 (A) a partner or managing agent of any partnership that had any type of license, agency,
3831 or permit issued under this title revoked within the last three years;

3832 (B) a managing agent, officer, director, or a stockholder who holds or held at least 20%
3833 of the total issued and outstanding stock of any corporation that had any type of license,
3834 agency, or permit issued under this title revoked within the last three years; or

3835 (C) a manager or member who owns or owned at least 20% of any limited liability
3836 company that had any type of license, agency, or permit issued under this title revoked within
3837 the last three years.

3838 (b) An applicant that is a partnership, corporation, or limited liability company may not

3839 be granted a private club license if any of the following had any type of license, agency, or
3840 permit issued under this title revoked while acting in that person's individual capacity within
3841 the last three years:

3842 (i) any partner or managing agent of the applicant partnership;

3843 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
3844 total issued and outstanding stock of the applicant corporation; or

3845 (iii) any manager or member who owned at least 20% of the applicant limited liability
3846 company.

3847 (c) A person acting in an individual capacity may not be granted a private club license
3848 if that person was:

3849 (i) a partner or managing agent of a partnership that had any type of license, agency, or
3850 permit issued under this title revoked within the last three years;

3851 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
3852 total issued and outstanding stock of a corporation that had any type of license, agency, or
3853 permit issued under this title revoked within the last three years; or

3854 (iii) a manager or member of a limited liability company who owned at least 20% of
3855 the limited liability company that had any type of license, agency, or permit issued under this
3856 title revoked within the last three years.

3857 (5) (a) A minor may not be granted a private club license.

3858 (b) The commission may not grant a private club license to an applicant that is a
3859 partnership, corporation, or limited liability company if any of the following is a minor:

3860 (i) a partner or managing agent of the applicant partnership;

3861 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
3862 total issued and outstanding stock of the applicant corporation; or

3863 (iii) a manager or member who owns at least 20% of the applicant limited liability
3864 company.

3865 [(7)] (6) If any person or entity to whom a license has been issued under this chapter no
3866 longer possesses the qualifications required by this title for obtaining that license, the
3867 commission may suspend or revoke that license.

3868 Section 176. Section **32A-5-104** is amended to read:

3869 **32A-5-104. Commission and department duties before granting licenses.**

3870 (1) (a) Before a private club [~~liquor~~] license may be granted by the commission, the
3871 department shall conduct an investigation and may hold public hearings for the purpose of
3872 gathering information and making recommendations to the commission as to whether or not a
3873 license should be granted.

3874 (b) The department shall forward the information [~~shall be forwarded~~] and
3875 recommendations described in Subsection (1)(a) to the commission to aid in [~~its~~] the
3876 commission's determination.

3877 (2) Before issuing any private club [~~liquor~~] license, the commission shall:

3878 (a) determine that the applicant has complied with all basic qualifications and
3879 requirements for making application for a license as provided by Sections 32A-5-102 and
3880 32A-5-103, and that the application is complete;

3881 (b) determine whether the applicant qualifies as a class A, B, C, or D private club
3882 licensee;

3883 [~~(b)~~] (c) consider the locality within which the proposed private club [~~liquor~~] outlet is
3884 located including [~~, but not limited to~~]:

3885 (i) physical characteristics such as:

3886 (A) condition of the premises[;];

3887 (B) square footage[;]; and

3888 (C) parking availability; and

3889 (ii) operational factors such as:

3890 (A) tourist traffic[;];

3891 (B) proximity to and density of other state stores, package agencies, and licensed
3892 outlets[;];

3893 (C) demographics[;];

3894 (D) population to be served[;]; and

3895 (E) the extent of and proximity to any school, church, public library, public
3896 playground, or park;

3897 [~~(c)~~] (d) consider the [~~applicant's~~] club management's ability to manage and operate a
3898 private club [~~liquor~~] license, including [~~but not limited to,~~] management experience, past retail
3899 liquor experience, and the type of management scheme employed by the private club;

3900 [~~(d)~~] (e) consider the nature or type of private club operation of the proposed liquor

3901 licensee, including [~~but not limited to,~~] the type of menu items offered and emphasized, the
3902 hours of operation, the seating capacity of the facility, and the gross sales of food items; and
3903 [~~(e)~~] (f) consider any other factor or circumstance [~~it~~] the commission considers
3904 necessary.

3905 Section 177. Section **32A-5-107** is amended to read:

3906 **32A-5-107. Operational restrictions.**

3907 Each [~~corporation or association~~] club granted a private club [~~liquor~~] license and [~~its~~]
3908 the employees, [~~officers, managing agent~~] management personnel, and members of the club
3909 shall comply with the following conditions and requirements. Failure to comply may result in
3910 a suspension or revocation of the license or other disciplinary action taken against individual
3911 employees or management personnel.

3912 (1) Each private club shall [~~hold~~] have a governing body that:

3913 (a) consists of three or more members of the club; and

3914 (b) holds regular meetings to:

3915 (i) review membership applications; and

3916 (ii) conduct any other business as required by [~~its articles or~~] the bylaws [~~and conduct~~
3917 ~~its business through regularly elected officers. Within ten days following the election of any~~
3918 ~~officer, the department shall be notified in writing of the officer's name, address, and office to~~
3919 ~~which the officer has been elected, and the term of that office.~~] or house rules of the private
3920 club.

3921 (2) (a) Each private club may admit [~~members~~] an individual as a member only on
3922 written application signed by the applicant, following investigation and approval of the
3923 governing body.

3924 (b) Admissions shall be recorded in the official minutes of a regular meeting of the
3925 governing body and the application, whether approved or disapproved, shall be filed as a part
3926 of the official records of the licensee.

3927 (c) An applicant may not be accorded the privileges of a member until a quorum of the
3928 governing body has formally voted upon and approved the applicant as a member.

3929 (d) An applicant may not be admitted to membership [~~until~~] sooner than seven days
3930 after the application is submitted.

3931 (e) The spouse of a member of any class of private club is entitled to all the rights and

3932 privileges of the member:

3933 (i) to the extent permitted by the bylaws or house rules of the private club; and

3934 (ii) except to the extent restricted by this title.

3935 (f) The minor child of a member of a class A private club is entitled to all the rights

3936 and privileges of the member:

3937 (i) to the extent permitted by the bylaws or house rules of the private club; and

3938 (ii) except to the extent restricted by this title.

3939 (3) (a) Each private club shall maintain a current and complete membership record

3940 showing:

3941 (i) the date of application of each proposed member[,-the];

3942 (ii) each member's address[-];

3943 (iii) the date [of admission following application, and] the governing body approved a
3944 member's admission;

3945 (iv) the date initiation fees and dues were assessed and paid[- The record shall also
3946 show]; and

3947 (v) the serial number of the membership card issued to each member.

3948 (b) A current record shall also be kept indicating when members [were] are dropped or
3949 resigned.

3950 (4) Each private club shall establish in the club bylaws or house rules initial fees and
3951 monthly dues, as established by commission rules, which are collected from all members.

3952 [~~5) Each private club may allow guests or visitors to use the premises only when~~
3953 ~~previously authorized by a member. A member is responsible for all services extended to~~
3954 ~~guests and visitors. If]~~

3955 (5) (a) Each private club may, in its discretion, allow an individual to be admitted to or
3956 use the club premises as a guest only under the following conditions:

3957 (i) each guest must be previously authorized by one of the following who agrees to host
3958 the guest into the club:

3959 (A) an active member of the club; or

3960 (B) a holder of a current visitor card;

3961 (ii) each guest must be known by the guest's host based on a preexisting bonafide
3962 business or personal relationship with the host prior to the guest's admittance to the club;

3963 (iii) each guest must be accompanied by the guest's host for the duration of the guest's
3964 visit to the club;

3965 (iv) each guest's host must remain on the club premises for the duration of the guest's
3966 visit to the club;

3967 (v) each guest's host is responsible for the cost of all services extended to the guest;

3968 (vi) each guest enjoys only those privileges derived from the guest's host for the
3969 duration of the guest's visit to the club;

3970 (vii) an employee of the club, while on duty, may not act as a host for a guest;

3971 (viii) an employee of the club, while on duty, may not attempt to locate a member or
3972 current visitor card holder to serve as a host for a guest with whom the member or visitor card
3973 holder has no acquaintance based on a preexisting bonafide business or personal relationship
3974 prior to the guest's arrival at the club; and

3975 (ix) a club and its employees may not enter into an agreement or arrangement with a
3976 club member or holder of a current visitor card to indiscriminately host members of the general
3977 public into the club as guests.

3978 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

3979 (i) the licensee is a class B private club; and

3980 (ii) the guest [or visitor] is a member of the same fraternal organization as the private
3981 club [liquor] licensee[, no previous authorization is required].

3982 ~~(6) Each private club [shall limit the issuance of visitor cards for a period not to exceed~~
3983 ~~two weeks and assess and collect a fee from each visitor of not less than \$5 for each two-week~~
3984 ~~period the visitor card is issued. One dollar of every visitor card fee shall be remitted quarterly~~
3985 ~~to the department for the administration of this title. A current record of the issuance of each~~
3986 ~~card shall be maintained and shall contain the name of the member sponsoring the visitor.]~~
3987 may, in its discretion, issue visitor cards to allow individuals to enter and use the club premises
3988 on a temporary basis under the following conditions:

3989 (a) each visitor card shall be issued for a period not to exceed three weeks;

3990 (b) a fee of not less than \$4 shall be assessed for each visitor card issued;

3991 (c) a visitor card shall not be issued to a minor;

3992 (d) a holder of a visitor card may not host more than seven guests at one time;

3993 (e) each visitor card issued shall include:

- 3994 (i) the visitor's full name and signature;
 3995 (ii) the date the card was issued;
 3996 (iii) the date the card expires;
 3997 (iv) the club's name; and
 3998 (v) the serial number of the card; and
 3999 (f) (i) the club shall maintain a current record of the issuance of each visitor card on the
 4000 club premises; and
 4001 (ii) the record described in Subsection (6)(f)(i) shall:
 4002 (A) be available for inspection by the department; and
 4003 (B) include:
 4004 (I) the name of the person to whom the card was issued;
 4005 (II) the date the card was issued;
 4006 (III) the date the card expires; and
 4007 (IV) the serial number of the card.
 4008 (7) A private club may not sell alcoholic beverages to or allow any person to be
 4009 admitted to or use the club premises other than:
 4010 (a) a member[, guest, or];
 4011 (b) a visitor who holds a valid visitor card issued under Subsection (6)[-]; or
 4012 (c) a guest of:
 4013 (i) a member; or
 4014 (ii) a holder of a current visitor card.
 4015 (8) (a) A [person who is under 21 years of age] minor may not be:
 4016 (i) a member, officer, director, or trustee of a private club[-];
 4017 (ii) issued a visitor card;
 4018 (iii) admitted into, use, or be on the premises of a class D private club except to the
 4019 extent authorized under Subsections (8)(b) through (g);
 4020 (iv) admitted into, use, or be on the premises of any lounge or bar area of any private
 4021 club except to the extent authorized under Subsection ~~§ (8)(c)~~ (8)(c)(ii) § ; or
 4022 (v) admitted into, use, or be on the premises of any private club that:
 4023 (A) provides sexually oriented adult entertainment as defined by commission rule or by
 4024 local ordinance; or

4025 (B) operates as a sexually oriented business as defined by commission rule or by local
4026 ordinance.

4027 (b) At the discretion of a class D private club, a minor may be admitted into, use, or be
4028 on the premises of a class D private club under the following circumstances:

4029 (i) during periods when no alcoholic beverages are sold, served, otherwise furnished,
4030 or consumed on the premises, but in no event later than 1 p.m.;

4031 (ii) when accompanied at all times by a member or holder of a current visitor card who
4032 is the minor's parent, legal guardian, or spouse; and

4033 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food
4034 service provider.

4035 (c) A minor may be employed by a class D private club on the premises of the club if:

4036 (i) the parent or legal guardian of the minor owns or operates the class D private club;

4037 or

4038 (ii) the minor performs maintenance and cleaning services during the hours when the
4039 club is not open for business.

4040 (d) (i) A minor who is at least 18 years of age may be admitted into, use, or be on the
4041 premises of a dance or concert hall if:

4042 (A) the dance or concert hall is located:

4043 (I) on the premises of a class D private club; or

4044 (II) on the property that immediately adjoins the premises of and is operated by a class
4045 D private club; and

4046 (B) the commission has issued the class D private club a permit to operate a minor
4047 dance or concert hall based on the criteria described in Subsection (8)(d)(ii).

4048 (ii) The commission may issue a minor dance or concert hall permit if:

4049 (A) the club's lounge, bar, and alcoholic beverage consumption area is:

4050 (I) not accessible to minors;

4051 (II) clearly defined;

4052 (II) separated from the dance or concert hall area by walls, multiple floor levels, or
4053 other substantial physical barriers;

4054 (B) any bar or dispensing area is not visible to minors;

4055 (C) no consumption of alcoholic beverages may occur in:

- 4056 (I) the dance or concert hall area; or
4057 (II) any area of the club accessible to a minor;
4058 (D) the club maintains sufficient security personnel to prevent the passing of beverages
4059 from the club's lounge, bar, or alcoholic beverage consumption areas to:
4060 (I) the dance or concert hall area; or
4061 (II) any area of the club accessible to a minor;
4062 (E) there are separate entrances, exits, and restroom facilities from the club's lounge,
4063 bar, and alcoholic beverage consumption areas than for:
4064 (I) the dance or concert hall area; or
4065 (II) any area accessible to a minor; and
4066 (F) the club complies with any other restrictions imposed by the commission by rule.
4067 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
4068 guardian who is a member or holder of a current visitor card may be admitted into, use, or be
4069 on the premises of a concert hall described in Subsection (8)(d)(i) if:
4070 (i) all requirements of Subsection (8)(d) are met; and
4071 (ii) all signage, product, and dispensing equipment containing recognition of alcoholic
4072 beverages is not visible to the minor.
4073 (f) A minor under 18 years of age but who is 14 years of age or older who is not
4074 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
4075 a concert hall described in Subsection (8)(d)(i) if:
4076 (i) all requirements of Subsections (8)(d) and (8)(e)(ii) are met; and
4077 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the
4078 class D club.
4079 (g) The commission may suspend or revoke a minor dance or concert permit issued to
4080 a class D private club and suspend or revoke the license of the class D club if:
4081 (i) the club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);
4082 (ii) the club sells, serves, or otherwise furnishes alcoholic beverages to a minor;
4083 (iii) the licensee or a supervisory or managerial level employee of the private club is
4084 convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities
4085 that occurred on:
4086 (A) the licensed premises; or

4087 (B) the dance or concert hall that is located on property that immediately adjoins the
4088 premises of and is operated by the class D private club;

4089 (iv) there are three or more convictions of patrons of the private club under Title 58,
4090 Chapter 37, Utah Controlled Substances Act, based on activities that occurred on:

4091 (A) the licensed premises; or

4092 (B) the dance or concert hall that is located on property that immediately adjoins the
4093 premises of and is operated by the class D private club;

4094 (v) there is more than one conviction made on the basis of lewd acts or lewd
4095 entertainment prohibited by this title that occurred on:

4096 (A) the licensed premises; or

4097 (B) the dance or concert hall that is located on property that immediately adjoins the
4098 premises of and is operated by the class D private club; or

4099 (vi) the commission finds acts or conduct contrary to the public welfare and morals
4100 involving lewd acts or lewd entertainment prohibited by this title that occurred on:

4101 (A) the licensed premises; or

4102 (B) the dance or concert hall that is located on property that immediately adjoins the
4103 premises of and is operated by the class D private club.

4104 (h) Nothing in this Subsection (8) shall prohibit a class D private club from selling,
4105 selling, or otherwise furnishing alcoholic beverages in a dance or concert area located on the
4106 club premises on days and times when the club does not allow minors into those areas.

4107 (i) Nothing in Subsection (8)(a) through (g) precludes a local authority from being
4108 more restrictive of a minor's admittance to, use of, or presence on the premises of any private
4109 club.

4110 (9) An employee of a club, while on duty, may not:

4111 (a) consume an alcoholic beverage[; be under the influence of alcoholic beverages,
4112 sponsor a person for visitor privileges, or];

4113 (b) be intoxicated; or

4114 (c) act as a host for a guest.

4115 ~~[(10) A visitor to a club may not host more than five guests at one time.]~~

4116 ~~[(10)]~~ (10) (a) Each private club shall maintain an expense ledger or record showing in
4117 detail all expenditures separated by payments for malt or brewed beverages, liquor, food,

4118 detailed payroll, entertainment, rent, utilities, supplies, and all other expenditures. ~~[This]~~

4119 (b) The record required by this Subsection (10) shall be kept in a form approved by the
4120 department and balanced each month.

4121 (c) Each expenditure shall be supported by delivery tickets, invoices, receipted bills,
4122 canceled checks, petty cash vouchers, or other sustaining data or memoranda.

4123 (d) All invoices and receipted bills for the current calendar or fiscal year documenting
4124 purchases made by ~~[officers of]~~ the club ~~[for the benefit of the club]~~ shall also be maintained.

4125 ~~[(12) Each private club shall maintain a bank account that shows all income and~~
4126 ~~expenditures as a control on the income and disbursements records. This account shall be~~
4127 ~~balanced each month under the direction of the treasurer or other officer of the licensee.]~~

4128 ~~[(13)]~~ (11) Each private club shall maintain a minute book that is posted currently by
4129 the ~~[secretary]~~ club. This record shall contain the minutes of all regular and special meetings
4130 of the governing body ~~[and all committee meetings held to conduct club business].~~

4131 Membership lists shall also be maintained.

4132 ~~[(14)]~~ (12) (a) Each private club shall maintain current copies of the club's ~~[articles of~~
4133 ~~incorporation,]~~ current bylaws~~;~~ and current house rules.

4134 (b) Changes in the bylaws or house rules are not effective unless submitted to the
4135 department within ten days after adoption, and become effective 15 days after received by the
4136 department unless rejected by the department before the expiration of the 15-day period.

4137 ~~[(15)]~~ (13) Each private club shall maintain accounting and other records and
4138 documents as the department may require.

4139 ~~[(16)]~~ (14) Any club or person acting for the club, who knowingly forges, falsifies,
4140 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or
4141 other documents of the club required to be made, maintained, or preserved by this title or the
4142 rules of the commission for the purpose of deceiving the commission or the department, or any
4143 of their officials or employees, is subject to the ~~[immediate]~~ suspension or revocation of the
4144 club's license and possible criminal prosecution under Chapter 12, Criminal Offenses.

4145 ~~[(17)]~~ (15) Each private club shall maintain and keep all the records required by this
4146 section and all other books, records, receipts, and disbursements maintained or utilized by the
4147 licensee, as the department requires, for a minimum period of three years. All records, books,
4148 receipts, and disbursements are subject to inspection by authorized representatives of the

4149 commission and the department. The club shall allow the department, through its auditors or
4150 examiners, to audit all records of the club at times the department considers advisable. The
4151 department shall audit the records of the licensee at least once annually.

4152 ~~[(18) Each private club shall make available to the department, upon request, verified~~
4153 ~~copies of any returns filed with the United States Treasury Department, Internal Revenue~~
4154 ~~Service, under the federal Internal Revenue Code. Failure to provide any returns and~~
4155 ~~supporting documents upon reasonable request by the department or, alternatively, to provide~~
4156 ~~evidence of an extension granted by the Internal Revenue Service, constitutes sufficient~~
4157 ~~grounds for the commission to suspend or revoke a license. Any return or copy of a return so~~
4158 ~~filed with the department is confidential and may not be used in any manner not directly~~
4159 ~~connected with the enforcement of this title, nor may it be disclosed to any person or any~~
4160 ~~department or agency of government, whether federal, state, or local.]~~

4161 ~~[(19)]~~ (16) Each private club shall own or lease premises suitable for [its] the club's
4162 activities [in its own name. A copy of the lease shall be filed with the department].

4163 ~~[(20) Each private club shall operate the club under the supervision of a manager or~~
4164 ~~house committee, appointed by the governing body of the club.]~~

4165 ~~[(21)]~~ (17) (a) A private club may not maintain facilities in any manner that barricades
4166 or conceals the club operation.

4167 (b) Any member of the commission, authorized department personnel, or any peace
4168 officer shall, upon presentation of credentials, be admitted immediately to the club and
4169 permitted without hindrance or delay to inspect completely the entire club premises and all
4170 books and records of the licensee, at any time during which the same are open for the
4171 transaction of business to its members.

4172 ~~[(22) A private club may not pay any person or entity any fee, salary, rent, or other~~
4173 ~~payment of any kind in excess of the fair market value for the service rendered, goods~~
4174 ~~furnished, or facilities or equipment rented. It is the intention of this subsection to insure that~~
4175 ~~no officer, managing agent, employee, or other person derives a principal economic benefit~~
4176 ~~from the operation of a club.]~~

4177 ~~[(23) A private club may not engage in any public solicitation or public advertising~~
4178 ~~calculated to increase its membership.]~~

4179 ~~[(24) Each private club shall comply with the following operational restrictions:]~~

4180 ~~[(a) The liquor storage and sales area shall remain locked at all times when it is not~~
4181 ~~open for business.]~~

4182 (18) Any public advertising related to a private club by the following shall clearly
4183 identify a club as being "a private club for members":

4184 (a) the private club;

4185 (b) the employees or agents of the private club; or

4186 (c) any person under a contract or agreement with the club.

4187 (19) A private club must have food available at all times when alcoholic beverages are
4188 sold, served, or consumed on the premises.

4189 ~~[(b)]~~ (20) (a) Liquor may not be purchased by a private club [liquor] licensee except
4190 from state stores or package agencies.

4191 (b) Liquor so purchased may be transported by the licensee from the place of purchase
4192 to the licensed premises.

4193 (c) Payment for liquor shall be made in accordance with rules established by the
4194 commission.

4195 ~~[(c) Beginning July 1, 1991, a]~~ (21) A private club [liquor] licensee may [not] sell or
4196 provide any primary spirituous liquor [except in one ounce quantities] only in a quantity not to
4197 exceed one ounce per beverage dispensed through a calibrated metered dispensing system
4198 approved by the department in accordance with commission rules adopted under this title,
4199 except that:

4200 ~~[(i)]~~ (a) spirituous liquor need not be dispensed through a calibrated metered
4201 dispensing system if used as a secondary flavoring ingredient in a beverage subject to the
4202 following restrictions:

4203 ~~[(A) the beverage shall contain liquor from a lawfully purchased container;]~~

4204 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
4205 a primary spirituous liquor;

4206 ~~[(B)]~~ (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

4207 ~~[(C)]~~ (iii) the private club licensee shall designate a location where flavorings are
4208 stored on the floor plan provided to the department; and

4209 ~~[(D)]~~ (iv) all flavoring containers shall be plainly and conspicuously labeled
4210 "flavorings";

4211 ~~[(iv)]~~ (b) spirituous liquor need not be dispensed through a calibrated metered
4212 dispensing system if used:
4213 (i) as a flavoring on desserts; and
4214 (ii) in the preparation of flaming food dishes, drinks, and desserts; and
4215 (c) each club patron may have no more than 2.75 ounces of spirituous liquor at a time
4216 before the patron.

4217 ~~[(iii) wine]~~ (22) (a) (i) Wine may be sold and served by the glass [in quantities not
4218 exceeding] or an individual portion not to exceed five ounces per glass[; and] or individual
4219 portion.

4220 (ii) An individual portion may be served to a patron in more than one glass as long as
4221 the total amount of wine does not exceed five ounces.

4222 (iii) An individual portion of wine is considered to be one alcoholic beverage under
4223 Subsection (26)(c).

4224 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
4225 fixed by the commission to tables of four or more persons.

4226 (ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by
4227 the commission to tables of less than four persons.

4228 (c) A wine service may be performed and a service charge assessed by the private club
4229 as authorized by commission rule for wine purchased at the private club.

4230 ~~[(iv) heavy]~~ (23) (a) Heavy beer may be served in [standard] original containers not
4231 exceeding one liter at prices fixed by the commission.

4232 (b) A service charge may be assessed by the private club for heavy beer purchased at
4233 the private club.

4234 ~~[(d)(i) Private clubs]~~ (24) (a) A private club licensed to sell liquor may sell beer in
4235 any size container not exceeding two liters, and on draft for on-premise consumption without
4236 obtaining a separate on-premise beer retailer license from the commission.

4237 ~~[(ii) Private clubs]~~ (b) (i) A private club licensed under this chapter that [sell] sells
4238 beer pursuant to Subsection [(24)(d)(i)] (24)(a) shall comply with all appropriate operational
4239 restrictions under Chapter 10, Beer Retailer Licenses, that apply to on-premise beer retailers
4240 except when those restrictions are inconsistent with or less restrictive than the operational
4241 restrictions under this chapter.

4242 ~~[(iii)]~~ (ii) Failure to comply with the operational restrictions under Chapter 10, Beer
4243 Retailer Licenses, ~~[as set forth in Subsection (24)(d)(ii)]~~ required by Subsection (24)(b)(i) may
4244 result in a suspension or revocation of the private club's:

4245 (A) state liquor license; and ~~[its]~~

4246 (B) alcoholic beverage license issued by the local authority.

4247 ~~[(e) Wine may be served in accordance with commission rule in containers not
4248 exceeding 750 ml.]~~

4249 ~~[(f) A private club may not charge for the service or supply of glasses, ice, or mixers
4250 unless the charges are fixed in the house rules of the club and a copy of the rules is kept on the
4251 club premises and available at all times for examination by the members, guests, and visitors to
4252 the club.]~~

4253 ~~[(g) Minors may not be employed by any club to sell, dispense, or handle any alcoholic
4254 beverage.]~~

4255 ~~[(h) An officer, director, managing agent, employee, and any other person employed by
4256 or acting for or in behalf of any licensee, may not sell, deliver, or furnish, or cause or permit to
4257 be sold, delivered, or furnished any liquor to any:]~~

4258 (25) Alcoholic beverages may not be stored, served, or sold in any place other than as
4259 designated in the licensee's application, unless the licensee first applies for and receives
4260 approval from the department for a change of location within the private club.

4261 (26) (a) A patron may only make alcoholic beverage purchases in the private club from
4262 and be served by a person employed, designated, and trained by the licensee to sell, dispense,
4263 and serve alcoholic beverages.

4264 (b) Notwithstanding Subsection (26)(a), a patron who has purchased bottled wine from
4265 an employee of the private club or has carried bottled wine onto the premises of the private
4266 club pursuant to Subsection (32) may thereafter serve wine from the bottle to themselves or
4267 others at the patron's table.

4268 (c) Each club patron may have no more than two alcoholic beverages of any kind at a
4269 time before the patron.

4270 (27) The liquor storage area shall remain locked at all times other than those hours and
4271 days when liquor sales and service are authorized by law.

4272 (28) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a

4273 private club during the following days or hours:

4274 (i) until after the polls are closed on the day of any:

4275 (A) regular general election;

4276 (B) regular primary election; or

4277 (C) statewide special election;

4278 (ii) on the day of any municipal, special district, or school election, but only if closure

4279 is required by local ordinance; and

4280 (iii) on any other day after 1 a.m. and before 10 a.m.

4281 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer

4282 Licenses, for on-premise beer licenses.

4283 (c) (i) Notwithstanding Subsections (28)(a) and (b), a private club shall remain open

4284 for one hour after the private club ceases the sale and service of alcoholic beverages during

4285 which time a patron of the club may finish consuming:

4286 (A) any single drink containing spirituous liquor;

4287 (B) a single serving of wine not exceeding five ounces;

4288 (C) a single serving of heavy beer; or

4289 (D) a single serving of beer not exceeding 25 ounces.

4290 (ii) A club is not required to remain open:

4291 (A) after all patrons have vacated the premises; or

4292 (B) during an emergency.

4293 (29) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

4294 [(†)] (a) minor;

4295 [(††)] (b) person actually, apparently, or obviously [~~drunk~~] intoxicated;

4296 [(†††)] (c) known habitual drunkard; or

4297 [(††††)] (d) known interdicted person.

4298 [(i)-(i) Liquor may not be sold or offered for sale at any private club during the

4299 following days or hours:]

4300 [(A) on the day of any regular general election, regular primary election, or statewide

4301 special election until after the polls are closed;]

4302 [(B) on the day of any municipal, special district, or school election, but only within

4303 the boundaries of the municipality, special district, or school district, and only if closure is

4304 required by local ordinance; and]

4305 [~~(C) on Sunday and any state or federal legal holiday after 12 midnight and before 12~~
4306 ~~noon.~~]

4307 [~~(ii) The hours of beer sales are those specified in Chapter 10, Beer Retailer Licenses,~~
4308 ~~for on-premise beer licensees.~~]

4309 [~~(j) On all other days the liquor storage and sales area in the club shall be closed from 1~~
4310 ~~a.m. until 10 a.m.~~]

4311 [~~(k) Liquor may not be sold except at prices fixed by the commission. Mixed drinks~~
4312 ~~and wine may not be sold at discount prices on any date or at any time.~~]

4313 [~~(l) Beginning July 1, 1991, no more than one ounce of primary liquor may be served~~
4314 ~~to a member, guest, or visitor at a time, except:~~]

4315 [~~(i) wine as provided in Subsection (24)(c)(iii), and]~~

4316 [~~(ii) heavy beer as provided in Subsection (24)(c)(iv).~~]

4317 [~~(m) (i) Beginning January 1, 1991, a]~~

4318 (30) (a) (i) Liquor may be sold only at prices fixed by the commission.

4319 (ii) Liquor may not be sold at discount prices on any date or at any time.

4320 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
4321 to the licensee.

4322 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
4323 over consumption or intoxication.

4324 (d) The price of a single serving of a primary spirituous liquor shall be the same
4325 whether served as a single drink or in conjunction with another alcoholic beverage.

4326 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
4327 hours of the private club's business day such as a "happy hour."

4328 (f) The sale or service of more than one alcoholic beverage for the price of a single
4329 alcoholic beverage is prohibited.

4330 (g) The sale or service of an indefinite or unlimited number of alcoholic beverages
4331 during any set period for a fixed price is prohibited.

4332 (h) A private club licensee may not engage in a promotion involving or offering free
4333 alcoholic beverages to patrons of the club.

4334 (31) Alcoholic beverages may not be purchased by the licensee, or any employee or

4335 agent of the licensee, for a patron of the private club.

4336 (32) (a) A person may not bring onto the premises of a private club [liquor] licensee
4337 any alcoholic beverage for on-premise consumption, except a person may bring, subject to the
4338 discretion of the licensee, [cork-finished] bottled wine onto the premises of any private club
4339 [liquor] licensee [and consume wine pursuant to Subsection (24)(n)] for on-premise
4340 consumption.

4341 ~~[(ii) Beginning January 1, 1991, a]~~

4342 (b) Except bottled wine under Subsection (32)(a), a private club or its officers,
4343 managers, employees, or agents may not allow:

4344 (i) a person to bring onto the private club premises any alcoholic beverage for
4345 [on-premise] consumption[; except cork-finished wine under Subsection (24)(m)(i):] on the
4346 private club premises; or

4347 (ii) consumption of alcoholic beverages described in Subsection (32)(b)(i) on the
4348 premises of the private club.

4349 ~~[(iii) Beginning January 1, 1991, if any private club licensee or any of its officers,~~
4350 ~~managers, employees, or agents violates this Subsection (24):]~~

4351 ~~[(A) the commission may immediately suspend or revoke the private club's liquor~~
4352 ~~license and the private club licensee is subject to criminal prosecution under Chapter 12,~~
4353 ~~Criminal Offenses; and]~~

4354 ~~[(B) the local authority may immediately suspend or revoke the private club's local~~
4355 ~~liquor license, local consent under Subsection 32A-5-102(1), or local business license.]~~

4356 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
4357 or other representative of the licensee upon entering the private club.

4358 ~~[(n)]~~ (d) A wine service may be performed and a service charge assessed by the private
4359 club as authorized by commission rule for wine [purchased at the private club or] carried in by
4360 a [member, guest, or visitor. If wine is carried in by a member, guest, or visitor, the member,
4361 guest, or visitor shall deliver the wine to a server or other representative of the licensee upon
4362 entering the licensee premises] patron.

4363 ~~[(o) A member, guest, or visitor to a]~~

4364 (33) (a) Except as provided in Subsection (33)(b), a private club and its employees may
4365 not permit a patron of the club to carry from [a] the club premises an open container that:

4366 (i) is used primarily for drinking purposes [~~containing~~]; and

4367 (ii) contains any alcoholic beverage.

4368 (b) A patron may remove the unconsumed contents of a bottle of wine if before

4369 removal the bottle has been recorked or recapped.

4370 (34) (a) Except as provided in Subsection (34)(b), a minor may not be employed by any
4371 class A, B, or C private club to sell, dispense, or handle any alcoholic beverage.

4372 (b) Notwithstanding Subsection (34)(a), a minor may be employed by a class A or C
4373 private club to enter the sale at a cash register or other sales recording device.

4374 (c) Except to the extent authorized in Subsection 32A-5-107(8)(c), a minor may not be
4375 employed by or be on the premises of any class D private club.

4376 (d) A minor may not be employed to work in any lounge or bar area of any class A, B,
4377 or C private club.

4378 (35) An employee of a private club, while on duty, may not:

4379 (a) consume an alcoholic beverage; or

4380 (b) be intoxicated.

4381 (36) (a) A private club may not charge for the service or supply of glasses, ice, or
4382 mixers unless:

4383 (i) the charges are fixed in the house rules of the club; and

4384 (ii) a copy of the house rules is kept on the club premises and available at all times for
4385 examination by patrons of the club.

4386 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
4387 may be stated in food or alcoholic beverage menus including:

4388 (i) a set-up charge;

4389 (ii) service charge; or

4390 (iii) chilling fee.

4391 ~~(p)~~ (37) Each private club [~~liquor~~] licensee shall display in a prominent place in the
4392 private club:

4393 ~~(i)~~ (a) the private club [~~liquor~~] license that is issued by the department;

4394 ~~(ii)~~ (b) a list of the types and brand names of liquor being served through its
4395 calibrated metered dispensing system; and

4396 ~~(iii)~~ (c) a sign in large letters stating: "Warning: Driving under the influence of

4397 alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

4398 ~~[(q)]~~ (38) The following acts or conduct in a private club licensed under this chapter
4399 are considered contrary to the public welfare and morals, and are prohibited upon the premises:

4400 ~~[(i)]~~ (a) employing or using any person in the sale or service of alcoholic beverages
4401 while the person is unclothed or in attire, costume, or clothing that exposes to view any portion
4402 of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of
4403 the buttocks, vulva, or genitals;

4404 ~~[(ii)]~~ (b) employing or using the services of any person to mingle with the patrons
4405 while the person is unclothed or in attire, costume, or clothing described in Subsection
4406 ~~[(24)(q)(i)]~~ (38)(a);

4407 ~~[(iii)]~~ (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
4408 buttocks, anus, or genitals of any other person;

4409 ~~[(iv)]~~ (d) permitting any employee or person to wear or use any device or covering,
4410 exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

4411 ~~[(v)]~~ (e) permitting any person to use artificial devices or inanimate objects to depict
4412 any of the prohibited activities described in this Subsection ~~[(24)]~~ (38);

4413 ~~[(vi)]~~ (f) permitting any person to remain in or upon the premises who exposes to
4414 public view any portion of his or her genitals or anus; or

4415 ~~[(vii)]~~ (g) showing films, still pictures, electronic reproductions, or other visual
4416 reproductions depicting:

4417 ~~[(A)]~~ (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality,
4418 oral copulation, flagellation, or any sexual acts prohibited by Utah law;

4419 ~~[(B)]~~ (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus,
4420 or genitals;

4421 ~~[(C)]~~ (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
4422 drawings are used to portray, any of the prohibited activities described in this Subsection ~~[(24)]~~
4423 (38); or

4424 ~~[(D)]~~ (iv) scenes wherein a person displays the vulva or the anus or the genitals.

4425 ~~[(r)]~~ (39) Nothing in Subsection ~~[(24)(q)]~~ (38) precludes a local authority from being
4426 more restrictive of acts or conduct of the type prohibited in Subsection ~~[(24)(q)]~~ (38).

4427 ~~[(s)]~~ (i) (40)(a) Although live entertainment is permitted on the premises of a club

4428 liquor licensee, a licensee may not allow any person to perform or simulate sexual acts
4429 prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral
4430 copulation, flagellation, or the touching, caressing, or fondling of the breast, buttocks, anus, or
4431 genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform
4432 only upon a stage or at a designated area approved by the commission.

4433 ~~[(ii)]~~ (b) Nothing in Subsection ~~[(24)(s)(i)]~~ (40)(a) precludes a local authority from
4434 being more restrictive of acts or conduct of the type prohibited in Subsection ~~[(24)(s)(i)]~~
4435 (40)(a).

4436 ~~[(25)]~~ (41) A private club may not engage in or permit any form of gambling, or have
4437 any video gaming device, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling,
4438 on the premises of the private club.

4439 ~~[(26)]~~ (42) (a) A private club may not close or cease operation for a period longer than
4440 240 hours, unless ~~[written notice is given to the department]:~~

4441 (i) the private club licensee notifies the department in writing at least seven days before
4442 the closing~~[:];~~ and

4443 (ii) the closure or cessation of operation is first approved by the department.

4444 (b) ~~[In]~~ Notwithstanding Subsection (42)(a), in the case of emergency closure,
4445 immediate notice of closure shall be made to the department by telephone.

4446 (c) The department may authorize a closure or cessation of operation for a period not to
4447 exceed 60 days. The department may extend the initial period an additional 30 days upon
4448 written request of the private club and upon a showing of good cause. A closure or cessation of
4449 operation may not exceed a total of 90 days without commission approval.

4450 (d) ~~[Any]~~ The notice required by Subsection (42)(a) shall include:

4451 (i) the dates of closure or cessation of operation[:];

4452 (ii) the reason for the closure or cessation of operation[:]; and

4453 (iii) the date on which the licensee will reopen or resume operation.

4454 (e) Failure of the licensee to provide notice and to obtain department authorization
4455 prior to closure or cessation of operation shall result in an automatic forfeiture of:

4456 (i) the license; and ~~[the forfeiture of]~~

4457 (ii) the unused portion of the license fee for the remainder of the license year effective
4458 immediately.

4459 (f) Failure of the licensee to reopen or resume operation by the approved date shall
4460 result in an automatic forfeiture of:

4461 (i) the license; and [~~the forfeiture of~~]

4462 (ii) the unused portion of the club's license fee for the remainder of the license year.

4463 [~~(27) Each private club shall conduct its affairs so that it is not operated for a pecuniary~~
4464 ~~profit.~~]

4465 [~~(28)~~ (43) A private club [~~may not transfer a private club liquor~~] license may not be
4466 transferred from one location to another, without prior written approval of the commission.

4467 [~~(29)~~ (44) (a) A [~~person, having been granted a~~] private club [~~liquor license~~] licensee,
4468 may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the
4469 license to any other person, whether for monetary gain or not.

4470 (b) A private club [~~liquor~~] license has no monetary value for the purpose of any type of
4471 disposition.

4472 Section 48. Section **32A-6-102** is amended to read:

4473 **32A-6-102. Application and renewal requirements.**

4474 (1) A person seeking a special use permit of any kind under this chapter shall file a
4475 written application with the department in a form prescribed by the department. [~~It~~] The
4476 application shall be accompanied by:

4477 (a) a nonrefundable application fee [~~where~~] if required by any section of this chapter;

4478 (b) an initial permit fee if required by any section of this chapter, which is refundable if
4479 a permit is not granted;

4480 [~~(b)~~ (c) [~~unless otherwise provided in this chapter,~~] a one-time special use permit fee
4481 [~~of \$50~~] if required by any section of this chapter, which is refundable if a permit is not
4482 granted;

4483 [~~(c)~~ (d) a statement of the purpose for which the applicant has applied for the special
4484 permit;

4485 [~~(d)~~ (e) written consent of the local authority;

4486 [~~(e)~~ (f) a bond, where required by any section of this chapter;

4487 [~~(f)~~ (g) where required by any section of this chapter, a floor plan of the immediate
4488 area within the premises in which the applicant proposes that alcoholic products are stored,
4489 used, mixed, sold, or consumed;

4490 ~~[(g)]~~ (h) a signed consent form stating that the permittee will permit any authorized
4491 representative of the commission, department, or any other law enforcement officer
4492 unrestricted right to enter the permittee's premises;

4493 ~~[(h)]~~ (i) in the case of ~~[a corporate]~~ an applicant that is a partnership, corporation, or
4494 limited liability company, proper verification evidencing that the person or persons signing the
4495 special use permit application are authorized to so act on the ~~[corporation's]~~ behalf of the
4496 partnership, corporation, or limited liability company;

4497 ~~[(i)]~~ (j) a description of the types of alcoholic product the applicant intends to use
4498 under authority of the special use permit; and

4499 ~~[(j)]~~ (k) any other information the commission or department may require by rule or
4500 policy to allow complete evaluation of the application.

4501 (2) (a) All special use permits expire on December 31 of each year unless otherwise
4502 provided on the permit.

4503 (b) Persons desiring to renew a renewable special use permit shall submit a completed
4504 renewal application to the department no later than November 30.

4505 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
4506 the license, effective on the date the existing permit expires.

4507 (d) Renewal applications shall be in a form prescribed by the department.

4508 (3) To ensure compliance with Subsection 32A-6-105(8), the commission may suspend
4509 or revoke a special use permit if any special use permittee does not immediately notify the
4510 department of any change in:

4511 (a) ownership of the permittee's business;

4512 (b) for a corporate owner, the:

4513 (i) corporate officers or directors; or

4514 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
4515 corporation; or

4516 (c) for a limited liability company:

4517 (i) managers; or

4518 (ii) members owning at least 20% of the limited liability company.

4519 Section 49. Section **32A-6-103** is amended to read:

4520 **32A-6-103. Qualifications.**

4521 (1) Special use permits may be granted only to the following persons or organizations:

4522 (a) ~~[sacramental]~~ a religious wine use permit may be granted to a church or religious
4523 organization;

4524 (b) an industrial or manufacturing use permit may be granted to a person or
4525 organization engaged in an industrial or manufacturing pursuit;

4526 (c) a scientific or educational use permit may be granted to a person or organization
4527 engaged in a scientific or educational pursuit;

4528 (d) a health care facility use permit may be granted to a hospital or health care facility;
4529 and

4530 (e) a public service permit may be granted to an operator of an airline, railroad, or other
4531 public conveyance.

4532 (2) (a) The commission may not issue a special use permit to any person who has been
4533 convicted of:

4534 (i) ~~[convicted of]~~ a felony under any federal or state law;

4535 (ii) ~~[convicted of]~~ any violation of any federal or state law or local ordinance
4536 concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of
4537 alcoholic products; ~~[or]~~

4538 (iii) ~~[convicted of]~~ any crime involving moral turpitude[-]; ~~or~~

4539 (iv) on two or more occasions within the five years before the day on which the special
4540 use permit is granted, driving under the influence of alcohol, any drug, or the combined
4541 influence of alcohol and any drug.

4542 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the
4543 proscription under Subsection (2)(a) applies if any of the following has been convicted of any
4544 offense described in Subsection (2)(a):

4545 (i) a partner[-];

4546 (ii) a managing agent[-];

4547 (iii) a manager;

4548 (iv) an officer[-];

4549 (v) a director[-or];

4550 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
4551 an applicant corporation [has been convicted of any offense as provided in this Subsection

4552 ~~(2)~~; or

4553 (vii) a member who owns at least 20% of an applicant limited liability company.

4554 (c) The proscription under Subsection (2)(a) applies if any person employed to act in a
4555 supervisory or managerial capacity for a special use permittee has been convicted of any
4556 offense described in Subsection (2)(a).

4557 ~~(3) [(a) If any employee or proprietor of a permittee is convicted of any offense~~
4558 ~~designated in Subsection (2), the] The commission may [take emergency action by]~~
4559 ~~immediately [revoking the] suspend or revoke a special use permit [according to the procedures~~
4560 ~~and requirements of Title 63, Chapter 46b.] if after the day on which the special use permit is~~
4561 ~~granted, a person described in Subsection (2)(a), (b), or (c):~~

4562 ~~[(b) In the case of a partnership or corporation that has been granted a special use~~
4563 ~~permit, if any partner, managing agent, officer, director, or stockholder who holds at least 20%~~
4564 ~~of the total issued and outstanding stock of a corporation is convicted of any offense designated~~
4565 ~~in Subsection (2), the commission may take emergency action by immediately revoking the~~
4566 ~~permit according to the procedures and requirements of Title 63, Chapter 46b.]~~

4567 ~~[(4) Upon the arrest of any permittee on any charge set forth in Subsection (2), the]~~

4568 (a) is found to have been convicted of any offense described in Subsection (2)(a) prior
4569 to the permit being granted; or

4570 (b) on or after the day on which the permit is granted:

4571 (i) is convicted of an offense described in Subsection (2)(a)(i), (ii), or (iii); or

4572 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
4573 combined influence of alcohol and any drug; and

4574 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
4575 influence of alcohol and any drug within five years before the day on which the person is
4576 convicted of the offense described in Subsection (3)(b)(ii)(A).

4577 (4) The director may take emergency action by immediately suspending the operation
4578 of [the permittee] a special use permit according to the procedures and requirements of Title
4579 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal
4580 matter is being adjudicated[-] if a person described in Subsection (2)(a), (b), or (c):

4581 (a) is arrested on a charge described in Subsection (2)(a)(i), (ii), or (iii); or

4582 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,

4583 any drug, or the combined influence of alcohol and any drug; and

4584 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
4585 influence of alcohol and any drug within five years before the day on which the person is
4586 arrested on a charge described in Subsection (4)(b)(i).

4587 (5) (a) (i) The commission may not grant a special use permit to any person who has
4588 had any type of license, agency, or permit issued under this title revoked within the last three
4589 years.

4590 (ii) The commission may not grant a special use permit to any applicant that is a
4591 partnership, corporation, or limited liability company if any partner, managing agent, manager,
4592 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
4593 of the applicant corporation, or member who owns at least 20% of the applicant limited
4594 liability company is or was:

4595 (A) a partner or managing agent of any partnership that had any type of license, agency,
4596 or permit issued under this title revoked within the last three years;

4597 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
4598 of the total issued and outstanding stock of any corporation that had any type of license,
4599 agency, or permit issued under this title revoked within the last three years; or

4600 (C) a manager or member who owns or owned at least 20% of any limited liability
4601 company that had any type of license, agency, or permit issued under this title revoked within
4602 the last three years.

4603 (b) An applicant that is a partnership, corporation, or limited liability company may not
4604 be granted a special use permit if any of the following had any type of license, agency, or
4605 permit issued under this title revoked while acting in that person's individual capacity within
4606 the last three years:

4607 (i) any partner or managing agent of the applicant partnership;

4608 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
4609 total issued and outstanding stock of the applicant corporation; or

4610 (iii) any manager or member who owns at least 20% of the applicant limited liability
4611 company.

4612 (c) A person acting in an individual capacity may not be granted a special use permit if
4613 that person was:

4614 (i) a partner or managing agent of a partnership that had any type of license, agency, or
4615 permit issued under this title revoked within the last three years;

4616 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
4617 total issued and outstanding stock of a corporation that had any type of license, agency, or
4618 permit issued under this title revoked within the last three years; or

4619 (iii) a manager or member who owned at least 20% of a limited liability that had any
4620 type of license, agency, or permit revoked within the last three years.

4621 [~~5~~] (6) (a) A minor may not be:

4622 (i) granted a special use permit; or [be]

4623 (ii) employed by a permittee to handle alcoholic beverages.

4624 (b) The commission may not grant a special use permit to an applicant that is a
4625 partnership, corporation, or limited liability company if any of the following is a minor:

4626 (i) a partner or managing agent of the applicant partnership;

4627 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
4628 total issued and outstanding stock of the applicant corporation; or

4629 (iii) a manager or member who owns at least 20% of the applicant limited liability
4630 company.

4631 [~~6~~] (7) If any person to whom a permit has been issued under this chapter no longer
4632 possesses the qualifications required by this title for obtaining that permit, the commission may
4633 suspend or revoke that permit.

4634 Section 50. Section **32A-6-105** is amended to read:

4635 **32A-6-105. Operational restrictions.**

4636 Each person granted a special use permit and the employees and management personnel
4637 of the permittee shall abide by the following conditions and requirements. Failure to comply
4638 may result in a revocation of the permit, or other disciplinary action taken against individual
4639 employees or management personnel. Suspension or revocation of a permit may be done by
4640 the commission with or without cause.

4641 (1) Where authorized by the permit, a permittee may purchase and receive
4642 non-consumable alcoholic products directly from a manufacturer for industrial, educational,
4643 scientific, manufacturing, or health care facility use purposes.

4644 (2) Except as otherwise provided, liquor may not be purchased by any permittee except

4645 from state stores or package agencies. Liquor so purchased may be transported by the
4646 permittee from the place of purchase to the permittee's premises. All liquor shall be purchased
4647 at prices set by the commission.

4648 (3) Alcoholic products may not be stored, used, manufactured, blended, sold, or
4649 consumed in any place other than as designated in the permittee's application.

4650 (4) A permittee may not purchase, store, sell, use, consume, or manufacture any
4651 alcoholic products for any purpose other than that authorized by the special use permit.

4652 (5) ~~[Liquor]~~ Except as otherwise provided, alcoholic products may not be sold,
4653 ~~[delivered,]~~ served, or otherwise furnished to any:

4654 (a) minor;

4655 (b) person actually, apparently, or obviously ~~[drunk]~~ intoxicated;

4656 (c) known habitual drunkard; or

4657 (d) known interdicted person.

4658 (6) Each permittee shall keep records and accounts, as required by commission rule, of
4659 all alcoholic products purchased, manufactured, used, and sold.

4660 ~~[(7) A permittee authorized to sell or serve liquor may not engage in any public
4661 solicitation or public advertising calculated to increase liquor consumption.]~~

4662 ~~[(8)]~~ (7) ~~[There shall be no transfer of a]~~ A special use permit may not be transferred
4663 from one location to another, without prior written approval of the commission.

4664 ~~[(9)]~~ (8) ~~[A person, having been granted a]~~ A special use ~~[permit,]~~ permittee may not
4665 sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to
4666 any other person whether for monetary gain or not.

4667 Section 51. Section **32A-6-201** is amended to read:

4668 **32A-6-201. Application and renewal requirements.**

4669 (1) Each application for a public service permit shall, in addition to the requirements of
4670 Section 32A-6-102, include:

4671 (a) a nonrefundable ~~[\$100]~~ \$50 application fee;

4672 (b) a \$200 initial permit fee;

4673 ~~[(b)]~~ (c) the total of regularly numbered flights, trains, buses, boats, or other types of
4674 conveyance for which the applicant plans to use the special use permit;

4675 ~~[(c)]~~ (d) written consent of the local authority;

4676 [~~(d)~~] (e) a cash or corporate surety bond in the penal sum of \$1,000 payable to the
4677 department, which the permittee has procured and must maintain for so long as the permittee
4678 continues to operate as a special use permittee;

4679 [~~(e)~~] (f) a floor plan of any room or facility in which the applicant plans to establish a
4680 hospitality room where the sale or service of alcoholic beverages is made to persons then in
4681 transit, using the host company's airline, railroad, or other public conveyance; and

4682 [~~(f)~~] (g) evidence of proximity of a proposed hospitality room to the arrival and
4683 departure area used by persons traveling on the host company's airline, railroad, bus, or other
4684 public conveyance.

4685 (2) Each public service permittee shall remit to the department an annual public service
4686 permit fee of [~~\$15~~] \$30 for each regularly numbered passenger airplane flight, passenger train,
4687 or any other regularly scheduled public conveyance upon which alcoholic beverages are sold
4688 or served.

4689 (3) (a) The bond required under Subsection (1) shall be in a form approved by the
4690 attorney general, conditioned upon the permittee's faithful compliance with this title and the
4691 rules of the commission.

4692 (b) If the surety bond is canceled due to the permittee's negligence a \$300 reinstatement
4693 fee may be assessed.

4694 (c) No part of any cash bond so posted may be withdrawn during the period the permit
4695 is in effect.

4696 (d) A bond filed by a permittee may be forfeited if the permit is finally revoked.

4697 Section 52. Section **32A-6-202** is amended to read:

4698 **32A-6-202. Operational restrictions.**

4699 In addition to the restrictions, conditions, and requirements of Section 32A-6-105, each
4700 public service permit is subject to the following operating restrictions:

4701 (1) (a) A public service permittee whose public conveyances operate on an interstate
4702 basis may purchase alcoholic beverages outside of the state and bring it into the state and sell
4703 and serve it to passengers traveling on the permittee's public conveyance for consumption
4704 while en route on the conveyance.

4705 (b) A public service permittee whose public conveyances operate solely within the
4706 state shall purchase to sell and serve to passengers traveling on the permittee's public

4707 conveyance for consumption while en route on the conveyance:

4708 (i) liquor from state stores or package agencies; and

4709 (ii) beer from a local beer wholesaler.

4710 (2) A public service permittee may establish a hospitality room in which alcoholic
4711 beverages may be stored, sold, served, and consumed, if:

4712 (a) the room is located within a depot, terminal, or similar facility adjacent to and
4713 servicing the permittee's airline, railroad, bus, boat, or other public conveyance;

4714 (b) the room is completely enclosed and the interior is not visible to the public;

4715 (c) the sale or service of alcoholic beverages is made only to persons then in transit
4716 using the host company's airline, railroad, bus line, or other public conveyance, and holding a
4717 valid boarding pass or similar travel document issued by the host company; and

4718 (d) (i) all liquor is purchased from:

4719 (A) a state store; or

4720 (B) a package agency[-]; and

4721 (ii) beer is purchased from a local licensed beer wholesaler.

4722 (3) Each public service permittee operating a hospitality room shall display in a
4723 prominent place in the hospitality room, a sign in large letters stating: "Warning: Driving under
4724 the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

4725 (4) The operation of all hospitality rooms shall be done in accordance with this chapter
4726 and rules adopted by the commission.

4727 Section 53. Section **32A-6-301** is amended to read:

4728 **32A-6-301. Application requirements.**

4729 (1) Each application for an industrial or manufacturing use permit shall, in addition to
4730 the requirements of Section 32A-6-102, include:

4731 (a) a nonrefundable [~~\$100~~] \$50 application fee;

4732 (b) a \$200 one-time special use permit fee;

4733 [~~(b)~~] (c) a cash or corporate surety bond in the penal sum of \$1,000 payable to the
4734 department, which the permittee has procured and must maintain for so long as the permittee
4735 continues to operate as a special use permittee;

4736 [~~(c)~~] (d) written consent of the local authority; and

4737 [~~(d)~~] (e) a floor plan of the immediate area within the premises in which the applicant

4738 proposes that alcoholic products be stored, used, mixed, sold, or consumed.

4739 (2) (a) The bond required under Subsection (1) shall be:

4740 (i) in a form approved by the attorney general~~[-]; and~~

4741 (ii) conditioned upon the permittee's faithful compliance with this title and the rules of
4742 the commission.

4743 (b) If the surety bond is cancelled due to the permittee's negligence, a \$300
4744 reinstatement fee may be assessed.

4745 (c) No part of any cash or corporate bond so posted may be withdrawn during the
4746 period the permit is in effect.

4747 (d) A bond filed by a permittee may be forfeited if the permit is finally revoked.

4748 (3) Any person desiring a special use permit to produce gasohol or any alcoholic
4749 product shall provide evidence to the department that an approved Notice of Registration of
4750 Distilled Spirits Plant and the appropriate permit from the Federal Bureau of Alcohol, Tobacco
4751 and Firearms has been obtained by the person.

4752 Section 54. Section **32A-6-401** is amended to read:

4753 **32A-6-401. Application requirements.**

4754 Each application for a scientific or educational use permit shall, in addition to the
4755 requirements of Section 32A-6-102, include a [~~nonrefundable \$25 application fee~~] \$100
4756 one-time special use permit fee.

4757 Section 55. Section **32A-6-501** is amended to read:

4758 **32A-6-501. Operational restrictions.**

4759 In addition to the restrictions, conditions, and requirements of Section 32A-6-105, each
4760 [~~sacramental~~] religious wine use permittee is subject to the following operational restrictions:

4761 (1) A [~~sacramental~~] religious wine use permittee may purchase wine from state stores
4762 as the department may designate at the department's cost plus freight charges.

4763 (2) A [~~sacramental~~] religious wine use permittee may not use wine purchased under the
4764 permit for other than religious purposes.

4765 Section 56. Section **32A-6-502** is enacted to read:

4766 **32A-6-502. Church or religious organization exemption.**

4767 (1) A church or religious organization that provides or allows to be provided any
4768 alcoholic product to any person as part of the church's or religious organization's religious

4769 services:

4770 (a) does not violate this title by providing or allowing the provision of an alcoholic
4771 product as part of the religious service; and

4772 (b) is not required to hold a special use permit or license to provide or allow the
4773 provision of an alcoholic product for the religious services.

4774 (2) This exemption does not exempt a church or religious organization from complying
4775 with this title with respect to alcoholic beverages purchased by the church or religious
4776 organization for purposes other than the purpose stated in Subsection (1).

4777 Section 57. Section **32A-6-503** is enacted to read:

4778 **32A-6-503. Application requirements.**

4779 Each application for a religious wine use permit shall, in addition to the requirements of
4780 Section 32A-6-102, include a \$100 one-time special use permit fee.

4781 Section 58. Section **32A-6-603** is enacted to read:

4782 **32A-6-603. Application requirements.**

4783 Each application for a health care facility use permit shall, in addition to the
4784 requirements of Section 32A-6-102, include a \$100 one-time special use permit fee.

4785 Section 59. Section **32A-7-101** is amended to read:

4786 **32A-7-101. Commission's power to grant permits -- Limitations.**

4787 (1) The commission may issue a single event permit to a bona fide partnership,
4788 corporation, limited liability company, church, political organization, or incorporated
4789 association, or to a recognized subordinate lodge, chapter, or other local unit thereof that is
4790 conducting a convention, civic, or community enterprise.

4791 (2) ~~[(a)]~~ The single event permit ~~[shall]~~ may authorize~~[-];~~:

4792 (a) for a period not to exceed [72] 120 consecutive hours, the storage, sale, service, and
4793 consumption of liquor at an event at which the storage, sale, service, or consumption of liquor
4794 is otherwise prohibited by this title[-]; and

4795 ~~[(b) Authorization for the storage, sale, service, and consumption of beer at the event~~
4796 ~~shall be obtained from local authority and is not governed by this chapter or Chapter 10 except~~
4797 ~~where otherwise provided.]~~

4798 (b) the storage, sale, service, and consumption of beer at the same event for the period
4799 that the storage, sale, service, or consumption of liquor is authorized under Subsection (2)(a)

4800 for the permit.

4801 (3) The commission may not issue more than [~~two~~] four single event permits in any
4802 one calendar year to the same [~~association~~] partnership, corporation, limited liability company,
4803 church, [~~or~~] political organization, or incorporated association or recognized subordinate lodge,
4804 chapter, or other local unit thereof.

4805 (4) (a) The 600 foot and 200 foot proximity limitations to educational, religious, and
4806 recreational facilities that are applicable to state stores, package agencies, and licensees, do not
4807 apply to single event permits.

4808 (b) Nothing in this section, however, prevents the commission from considering the
4809 proximity of any educational, religious, or recreational facility, or any other relevant factor in
4810 deciding whether to grant a single event permit.

4811 Section 60. Section **32A-7-102** is amended to read:

4812 **32A-7-102. Application requirements.**

4813 (1) A qualified applicant for a single event permit shall file a written application with
4814 the department in a form as the department shall prescribe.

4815 (2) The application shall be accompanied by:

4816 (a) a single event permit fee of \$100, which is refundable if a permit is not granted and
4817 shall be returned to the applicant with the application;

4818 (b) written consent of the local authority;

4819 (c) a bond as specified by Section 32A-7-105;

4820 (d) the times, dates, location, estimated attendance, nature, and purpose of the event;

4821 (e) a description or floor plan designating:

4822 (i) the area in which the applicant proposes that [~~liquor~~] alcoholic beverages be stored;

4823 (ii) the site from which the applicant proposes that [~~liquor~~] alcoholic beverages be sold
4824 or served; and

4825 (iii) the area in which the applicant proposes that [~~liquor~~] alcoholic beverages be
4826 allowed to be consumed;

4827 (f) a statement of the purpose of the [~~association~~] partnership, corporation, limited
4828 liability company, church, [~~or~~] political organization, or incorporated association, or [~~its local~~]
4829 recognized subordinate lodge, chapter, or other local unit;

4830 (g) a signed consent form stating that authorized representatives of the commission,

4831 department, or any law enforcement officers will have unrestricted right to enter the premises
4832 during the event;

4833 (h) proper verification evidencing that the person signing the application is authorized
4834 to act on behalf of the ~~[association]~~ partnership, corporation, limited liability company, church,
4835 [or] political organization, or incorporated association, or recognized subordinate lodge,
4836 chapter, or local unit thereof; and

4837 (i) any other information as the commission or department may direct.

4838 Section 61. Section **32A-7-103** is amended to read:

4839 **32A-7-103. Qualifications.**

4840 (1) ~~[In order to] To~~ qualify for a single event permit, the applicant~~[-(a) may not be the~~
4841 ~~holder of or be affiliated with the holder of any other type of retail liquor package agency or~~
4842 ~~license issued under this title; and (b)]~~ shall have been in existence as a bona fide organization
4843 for at least one year prior to the date of application.

4844 (2) (a) The commission may not grant a single event permit to any person who has
4845 been convicted of:

4846 (i) ~~[convicted of]~~ a felony under any federal or state law;

4847 (ii) ~~[convicted of]~~ any violation of any federal or state law or local ordinance
4848 concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of
4849 alcoholic beverages; ~~[or]~~

4850 (iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-]; or~~

4851 (iv) on two or more occasions within the last five years before the day on which the
4852 permit is granted, driving under the influence of alcohol, any drug, or the combined influence
4853 of alcohol and any drug.

4854 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the
4855 proscription under Subsection (2)(a) applies if any of the following has been convicted of any
4856 offense described in Subsection (2)(a):

4857 (i) a partner[-];

4858 (ii) a managing agent[-];

4859 (iii) a manager;

4860 (iv) an officer[-];

4861 (v) a director[-or];

4862 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
4863 an applicant corporation [has been convicted of any offense as provided in this Subsection.]; or

4864 (vii) a member who owns at least 20% of an applicant limited liability company.

4865 (c) The proscription under Subsection (2)(a) applies if any person employed to act in a
4866 supervisory or managerial capacity for the single event permittee has been convicted of any
4867 offense described in Subsection (2)(a).

4868 ~~[(3) Upon the arrest of any single event permittee on any charge set forth in Subsection~~
4869 ~~(2), the]~~

4870 (3) The commission may immediately suspend or revoke a single event permit if after
4871 the day on which the permit is granted, a person described in Subsection (2)(a), (b), or (c):

4872 (a) is found to have been convicted of any offense described in Subsection (2)(a) prior
4873 to the permit being granted; or

4874 (b) on or after the day on which the permit is granted:

4875 (i) is convicted of an offense described in Subsection (2)(a)(i), (ii), or (iii); or

4876 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
4877 combined influence of alcohol and any drug; and

4878 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
4879 influence of alcohol and any drug within five years before the day on which the person is
4880 convicted of the offense described in Subsection (3)(b)(ii)(A).

4881 (4) The director may take emergency action by immediately revoking the permit
4882 according to the procedures and requirements of Title 63, Chapter 46b[-], Administrative
4883 Procedures Act, if a person described in Subsection (2)(a), (b), or (c):

4884 (a) is arrested on a charge for an offense described in Subsection (2)(a)(i), (ii), or (iii);
4885 or

4886 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
4887 any drug, or the combined influence of alcohol and any drug; and

4888 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
4889 influence of alcohol and any drug within five years before the day on which the person is
4890 arrested on a charge described in Subsection (4)(b)(i).

4891 ~~[(4)]~~ (5) (a) (i) The commission may not grant a single event permit to any person who
4892 has had any type of license, agency, or permit issued under this title revoked within the last

4893 three years.

4894 (ii) The commission may not grant a single event permit to any [~~corporation or~~
4895 ~~partnership~~] applicant that is a partnership, corporation, or limited liability company if any
4896 partner, managing agent, manager, officer, director, [~~or~~] stockholder who holds at least 20% of
4897 the total issued and outstanding stock of the applicant corporation, or member who owns at
4898 least 20% of the applicant limited liability company is or was:

4899 (A) a partner or managing agent of any partnership[~~, or is or was~~] that had any type of
4900 license, agency, or permit issued under this title revoked within the last three years;

4901 (B) a managing agent, officer, director, or [a] stockholder who holds or held at least
4902 20% of the total issued and outstanding stock of any corporation [~~which~~] that had any type of
4903 license, agency, or permit issued under this title revoked within the last three years; or

4904 (C) a manager or member who owns or owned at least 20% of any limited liability
4905 company that had a liquor license, agency, or permit revoked within the last three years.

4906 (b) [~~A corporation or partnership~~] An applicant that is a partnership, corporation, or
4907 limited liability company may not be granted a permit if any of the following had any type of
4908 license, agency, or permit issued under this title revoked while acting in that person's individual
4909 capacity within the last three years:

4910 (i) any partner or managing agent of the applicant partnership [~~or~~];

4911 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
4912 total issued and outstanding stock of the [~~corporate~~] applicant [~~had a liquor license, agency, or~~
4913 ~~permit revoked while acting in their individual capacity within the last three years.~~]
4914 corporation; or

4915 (iii) any manager or member who owns at least 20% of the applicant limited liability
4916 company.

4917 [~~(5)~~] (6) (a) A minor may not be:

4918 (i) granted a single event permit; or [~~be~~]

4919 (ii) employed by a single event permittee to handle alcoholic beverages.

4920 (b) The commission may not grant a single event permit to an applicant that is a
4921 partnership, corporation, or limited liability company if any of the following is a minor:

4922 (i) a partner or managing agent of the applicant partnership;

4923 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the

4924 total issued and outstanding stock of the applicant corporation; or

4925 (iii) a manager or member who owns at least 20% of the applicant limited liability
4926 company.

4927 [~~(6)~~] (7) If a person to whom a permit has been issued under this chapter no longer
4928 possesses the qualifications required by this title for obtaining that permit, the commission may
4929 suspend or revoke that permit.

4930 Section 62. Section **32A-7-104** is amended to read:

4931 **32A-7-104. Commission and department duties before granting permits.**

4932 (1) Before any single event permit may be granted by the commission, the department
4933 shall conduct an investigation, gather information, and make recommendations to the
4934 commission as to whether or not a permit should be granted. The information shall be
4935 forwarded to the commission to aid in its determination.

4936 (2) Before issuing any single event permit, the commission shall:

4937 (a) determine that the applicant has complied with all basic qualifications and
4938 requirements as provided by Sections 32A-7-102 and 32A-7-103[~~, and~~];

4939 (b) determine that the application is complete;

4940 [~~(b)~~] (c) consider the purpose of the organization or its local lodge, chapter, or other
4941 local unit;

4942 [~~(c)~~] (d) consider the times, dates, location, and purpose of the event; [~~and~~]

4943 (e) to minimize the risk of minors being sold or furnished alcohol or adults being
4944 overserved alcohol at the event, assess the adequacy of control measures for:

4945 (i) a large-scale public event where the estimated attendance is in excess of 1,000
4946 people; or

4947 (ii) for an outdoor public event; and

4948 [~~(d)~~] (f) consider any other factors or circumstances [~~it~~] the commission considers
4949 necessary.

4950 (3) (a) The commission shall determine the maximum amount that may be charged by
4951 a permittee for an alcoholic beverage, including any set-up fee or other charge.

4952 (b) The maximum amount that may be charged shall be set forth in the permit.

4953 (4) Upon commission approval of any application and upon issuance of a single event
4954 permit, the department shall send copies of the approved application and the permit to state and

4955 local law enforcement authorities before the scheduled event.

4956 Section 63. Section **32A-7-106** is amended to read:

4957 **32A-7-106. Operational restrictions.**

4958 (1) (a) Any organization granted a single event permit and any person involved in the
4959 storage, sale, or service of [~~liquor~~] alcoholic beverages at the event for which the permit is
4960 issued, shall abide by:

4961 (i) this title[;];

4962 (ii) the rules of the commission[;]; and

4963 (iii) the special conditions and requirements provided in this section.

4964 (b) Failure to [~~do so~~] comply with Subsection (1)(a):

4965 (i) may result in:

4966 (A) an immediate revocation of the permit[;];

4967 (B) forfeiture of the surety bond[;]; and

4968 (C) immediate seizure of all [~~liquor~~] alcoholic beverages present at the event[;]; and

4969 (ii) disqualifies the organization from applying for a single event permit under this
4970 chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special
4971 Event Beer Permits, for a period of three years from the date of revocation of the permit.

4972 (c) Any [~~liquor~~] alcoholic beverages seized under this Subsection (1) shall be returned
4973 to the organization after the event if forfeiture proceedings are not instituted under Section
4974 32A-13-103.

4975 (2) Special conditions and requirements for single event permittees include[~~, but are~~
4976 ~~not limited to;~~] the following:

4977 (a) (i) All persons involved in the storage, sale, or service of [~~liquor~~] alcoholic
4978 beverages at the event do so under the supervision and direction of the permittee.

4979 (ii) All persons involved in the sale or service of alcoholic beverages at the event may
4980 not, while on duty:

4981 (A) consume an alcoholic beverage; or

4982 (B) be intoxicated.

4983 (b) (i) All liquor stored, sold, served, and consumed at the event shall be purchased by
4984 the permittee from a state store or package agency[~~, and is~~].

4985 (ii) All beer purchased by the permittee shall be purchased from:

4986 (A) a licensed beer wholesaler; or

4987 (B) a licensed beer retailer.

4988 (iii) All alcoholic beverages are considered under the control of the permittee during
4989 the event.

4990 (iv) Attendees of the event may not bring any [~~liquor other than that furnished by the~~
4991 ~~permittee~~] alcoholic beverages onto the premises of the event.

4992 (c) A permittee may not charge more than the maximum amount set forth in the permit
4993 for any alcoholic beverage.

4994 (d) Each permittee shall post in a prominent place in the area in which [~~liquor is~~]
4995 alcoholic beverages are being sold, served, and consumed, a copy of the permit, together with a
4996 list of the operational restrictions and requirements of single event permittees set forth in this
4997 section.

4998 (e) [~~Liquor~~] Alcoholic beverages purchased for the event may not be stored, sold,
4999 served, or consumed in any [~~place~~] location other than that described in the application and
5000 designated on the permit unless the permittee first applies for and receives approval from the
5001 commission for a change of location.

5002 [~~(f) Liquor purchased for the event may not be sold or served in any place other than~~
5003 ~~the site described in the application and designated on the permit.]~~

5004 [~~(g) Liquor purchased for the event may not be consumed in any area other than that~~
5005 ~~described in the application and designated on the permit.]~~

5006 [~~(h)~~] (f) (i) A single event permittee may [~~not~~] sell or provide [~~any~~] a primary
5007 spirituous liquor [~~except in one ounce quantities,;~~] only in a quantity not to exceed one ounce
5008 per beverage except that[~~:(A)~~] additional spirituous liquor may be used in a beverage if:

5009 (A) used as a secondary flavoring ingredient[~~;~~ ~~but only~~];

5010 (B) used in conjunction with the primary spirituous liquor [~~and only if~~];

5011 (C) the secondary ingredient is not the only spirituous liquor in the beverage; and

5012 [~~(B) wine may be served by the glass in quantities not exceeding five ounces per glass;~~
5013 ~~and~~]

5014 [~~(C) heavy beer may be served in original containers not exceeding one liter.]~~

5015 (D) each attendee may have no more than 2.75 ounces of spirituous liquor at a time
5016 before the attendee.

5017 (ii) [~~Liquor otherwise~~] Spirituos liquor need not be dispensed through a calibrated
5018 metered dispensing system.

5019 [~~(i) Hours of sale, service, and consumption shall be in accordance with any local~~
5020 ~~ordinance restrictions.~~]

5021 (g) (i) (A) Wine may be sold and served by the glass or an individual portion that does
5022 not exceed five ounces per glass or individual portion.

5023 (B) An individual portion may be served to an attendee in more than one glass as long
5024 as the total amount of wine does not exceed five ounces.

5025 (C) An individual portion of wine is considered to be one alcoholic beverage under
5026 Subsection (2)(p).

5027 (ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed
5028 by the commission.

5029 (iii) A wine service may be performed and a service charge assessed by the single event
5030 permittee as authorized by commission rule for wine purchased at the event.

5031 (h) (i) Heavy beer may be served in original containers not exceeding one liter at prices
5032 fixed by the commission.

5033 (ii) A service charge may be assessed by the single event permittee as authorized by
5034 commission rule for heavy beer purchased at the event.

5035 (i) Beer may be sold in any size container not exceeding two liters and on draft.

5036 (j) (i) Alcoholic beverages may not be sold, served, or consumed between the hours of
5037 1 a.m. and 10 a.m.

5038 (ii) This Subsection (2)(j) does not preclude a local authority from being more
5039 restrictive with respect to the hours of sale, service, or consumption of alcoholic beverages at a
5040 temporary single event.

5041 [~~(j) Liquor~~] (k) Alcoholic beverages may not be sold, served, or otherwise furnished
5042 until after the polls are closed on the day of any:

5043 (i) regular general election[;];

5044 (ii) regular primary election[;]; or

5045 (iii) statewide special election [~~until after the polls are closed~~].

5046 [~~(k)~~] (l) [~~Liquor~~] Alcoholic beverages may not be sold, served, [~~delivered,~~] or
5047 otherwise furnished to any:

- 5048 (i) minor;
- 5049 (ii) person actually, apparently, or obviously [~~drunk~~] intoxicated;
- 5050 (iii) known habitual drunkard; or
- 5051 (iv) known interdicted person.
- 5052 (m) (i) (A) Liquor may be sold only at prices fixed by the commission.
- 5053 (B) Liquor may not be sold at discount prices on any date or at any time.
- 5054 (ii) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
- 5055 to the permittee.
- 5056 (iii) An alcoholic beverage may not be sold at a price that encourages over
- 5057 consumption or intoxication.
- 5058 (iv) An alcoholic beverage may not be sold at a special or reduced price for only
- 5059 certain hours of the day of the permitted event.
- 5060 (v) The sale or service of more than one alcoholic beverage for the price of a single
- 5061 alcoholic beverage is prohibited.
- 5062 (vi) The permittee may not engage in a public promotion involving or offering free
- 5063 alcoholic beverages to the general public.
- 5064 (n) A single event permittee and its employees may not permit an attendee to carry
- 5065 from the premises an open container that:
- 5066 (i) is used primarily for drinking purposes; and
- 5067 (ii) contains any alcoholic beverage.
- 5068 ~~[(H)]~~ (o) [Minors] A minor may not sell, serve, dispense, or handle any alcoholic
- 5069 beverage at the event.
- 5070 ~~[(m) Public advertising of the event may not include reference to the availability of any~~
- 5071 ~~alcoholic beverage at the event. However, the permittee may use signs or similar displays at~~
- 5072 ~~the site of the event to inform attendees of the locations where alcoholic beverages are being~~
- 5073 ~~dispensed.]~~
- 5074 (p) Each attendee may have no more than one alcoholic beverage of any kind at a time
- 5075 before the patron.
- 5076 (3) The following acts or conduct at an event for which a permit is issued under this
- 5077 chapter are considered contrary to the public welfare and morals, and are prohibited upon the
- 5078 premises:

5079 (a) employing or using any person in the sale or service of alcoholic beverages while
5080 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
5081 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
5082 buttocks, vulva, or genitals;

5083 (b) employing or using the services of any person to mingle with the patrons while the
5084 person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);

5085 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
5086 buttocks, anus, or genitals of any other person;

5087 (d) permitting any employee or person to wear or use any device or covering, exposed
5088 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

5089 (e) permitting any person to use artificial devices or inanimate objects to depict any of
5090 the prohibited activities described in this Subsection (3);

5091 (f) permitting any person to remain in or upon the premises who exposes to public
5092 view any portion of his or her genitals or anus;

5093 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
5094 depicting:

5095 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
5096 copulation, flagellation, or any sexual acts prohibited by Utah law;

5097 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
5098 genitals;

5099 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
5100 drawings are used to portray, any of the prohibited activities described in this Subsection (3); or

5101 (iv) scenes wherein a person displays the vulva or the anus or the genitals.

5102 (4) Nothing in Subsection (3) precludes a local authority from being more restrictive of
5103 acts or conduct of the type prohibited in Subsection (3).

5104 (5) (a) Although live entertainment is permitted at the event for which a permit has
5105 been issued under this chapter, a permittee may not allow any person to perform or simulate
5106 sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy,
5107 bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast,
5108 buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.
5109 Entertainers shall perform only upon a stage or at a designated area approved by the

5110 commission.

5111 (b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive
5112 of acts or conduct of the type prohibited in Subsection (5)(a).

5113 (6) The permittee shall maintain an expense and revenue ledger or record showing:

5114 (a) expenditures made for liquor and beer, set-ups, and other ingredients and
5115 components of alcoholic beverages; and

5116 (b) the revenue from sale of alcoholic beverages.

5117 (7) [~~Single~~] A single event [~~permits are~~] permit may not [~~transferable~~] be transferred.

5118 (8) A single event permittee may not engage in or allow any form of gambling, or have
5119 any video gaming device as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling,
5120 on the premises serviced by the single event permittee.

5121 Section 64. Section **32A-8-101** is amended to read:

5122 **32A-8-101. Commission's power to grant licenses -- Limitations.**

5123 (1) The commission may issue alcoholic beverage manufacturing licenses to
5124 manufacturers whose businesses are located in this state for the manufacture, storage, and sale
5125 of alcoholic beverages for each type of license provided by this chapter.

5126 (2) The type of manufacturing licenses issued under this chapter are known as:

5127 (a) winery licenses[;];

5128 (b) distillery licenses[;]; and

5129 (c) brewery licenses.

5130 (3) (a) A person may not manufacture any alcoholic beverage unless an alcoholic
5131 beverage manufacturing license has been issued by the commission.

5132 (b) A separate license is required for each place of manufacture, storage, and sale of
5133 alcoholic beverages.

5134 (c) Violation of this Subsection (3) is a class B misdemeanor.

5135 (4) Brewers located outside the state are not required to be licensed under this chapter.
5136 However, they must obtain a certificate of approval from the department before selling or
5137 delivering beer to licensed beer wholesalers in this state, or if a small brewer, to licensed beer
5138 wholesalers or retailers in this state.

5139 (a) A brewer seeking a certificate of approval shall file a written application with the
5140 department, in a form prescribed by the department. [~~It~~] The application shall be accompanied

5141 by:

5142 (i) a nonrefundable [~~\$100~~] \$50 application fee;

5143 (ii) an initial certificate of approval fee of [~~\$50~~] \$250 that is refundable if a certificate
5144 is not granted;

5145 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and
5146 Firearms to brew beer and heavy beer products; and

5147 (iv) any other information or documents the department may require.

5148 (b) Each application shall be signed and verified by oath or affirmation by a partner if a
5149 partnership, or by an executive officer, manager, or person specifically authorized by a
5150 corporation or limited liability company to sign the application to which shall be attached
5151 written evidence of this authority.

5152 (c) (i) All certificates of approval expire on December 31 of each year.

5153 (ii) Brewers desiring to renew their certificates shall submit a renewal fee of [~~\$50~~]
5154 \$200, and a completed renewal application to the department no later than November 30 of the
5155 year the certificate expires.

5156 (iii) Failure to meet the renewal requirements shall result in an automatic forfeiture of
5157 the certificate effective on the date the existing certificate expires.

5158 (iv) Renewal applications shall be in a form prescribed by the department.

5159 (5) The commission may prescribe by policy, directive, or rule, consistent with this
5160 title, the general operational requirements of licensees relating to:

5161 (a) physical facilities;

5162 (b) conditions of sale, storage, or manufacture of alcoholic beverages;

5163 (c) storage and sales quantity limitations; and

5164 (d) other matters considered appropriate by the commission.

5165 Section 65. Section **32A-8-102** is amended to read:

5166 **32A-8-102. Application and renewal requirements.**

5167 (1) Each person seeking an alcoholic beverage manufacturing license of any kind under
5168 this chapter shall file a written application with the department, in a form prescribed by the
5169 department. [~~It~~] The application shall be accompanied by:

5170 (a) a nonrefundable application fee of [~~\$100~~] \$250;

5171 (b) an initial license fee of [~~\$1,000~~] \$3,250 unless otherwise provided in this chapter,

5172 which is refundable if a license is not granted;

5173 (c) a statement of the purpose for which the applicant has applied for the alcoholic
5174 beverage manufacturing license;

5175 (d) written consent of the local authority;

5176 (e) a bond as specified by Section 32A-8-105;

5177 (f) evidence that the applicant is carrying public liability insurance in an amount and
5178 form satisfactory to the department;

5179 (g) evidence that the applicant is authorized by the United States to manufacture
5180 alcoholic beverages;

5181 (h) a signed consent form stating that the licensee will permit any authorized
5182 representative of the commission, department, or any law enforcement officer to have
5183 unrestricted right to enter the premises; ~~and]~~

5184 (i) in the case of an applicant that is a partnership, corporation, or limited liability
5185 company, proper verification evidencing that the person or persons signing the application are
5186 authorized to so act on behalf of the partnership, corporation, or limited liability company; and

5187 ~~[(†)]~~ (j) any other documents and evidence the department may require by rule or policy
5188 to allow complete evaluation of the application.

5189 ~~[(2) Each application shall be signed and verified by oath or affirmation by an~~
5190 ~~executive officer or any person specifically authorized by the corporation or association to sign~~
5191 ~~the application, to which shall be attached written evidence of said authority.]~~

5192 ~~[(3)]~~ (2) (a) All alcoholic beverage manufacturing licenses expire on December 31 of
5193 each year.

5194 (b) Persons desiring to renew their license shall submit ~~§ [a renewal fee of [\$1,000]~~
5195 ~~[\$2,500 and a completed renewal application to the department]~~ **BY** § no later than November 30 of
5196 the year the license expires **§** :

5196a **(i) A COMPLETED RENEWAL APPLICATION TO THE DEPARTMENT; AND**

5196b **(ii) A RENEWAL FEE IN THE FOLLOWING AMOUNT:**

5196c **(A) \$2,500, EXCEPT FOR AN ALCOHOLIC BEVERAGE MANUFACTURING LICENSE**
5196d **DESCRIBED IN SUBSECTION (2)(b)(ii)(B); OR**

5196e **(B) \$1,200 FOR A WINERY LICENSE IF THE WINERY LICENSEE PRODUCED LESS THAN**
5196f **20,000 GALLONS OF WINE IN THE CALENDAR YEAR PRECEDING THE YEAR IN WHICH THE**
5196g **LICENSEE SEEKS RENEWAL** § .

5197 (c) Failure to meet the renewal requirements results in an automatic forfeiture of the
5198 license effective on the date the existing license expires. Renewal applications shall be in a
5199 form prescribed by the department.

5200 ~~[(4) If any]~~ (3) To ensure compliance with Subsection 32A-8-106(1)(f), the
5201 commission may suspend or revoke an alcoholic beverage manufacturing license if the
5202 manufacturing licensee does not immediately notify the department of any change in:

5203 (a) ownership of the licensee~~[-, or in the case of]~~;

5204 (b) for a [Utah] corporate owner [of any change in], the:

5205 (i) corporate officers or directors~~[-, the commission may suspend or revoke that~~

5206 ~~license.]; or~~

5207 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the

5208 corporation; or

5209 (c) for a limited liability company:

5210 (i) managers; or

5211 (ii) members owning at least 20% of the limited liability company.

5212 Section 66. Section **32A-8-103** is amended to read:

5213 **32A-8-103. Qualifications.**

5214 (1) (a) The commission may not grant an alcoholic beverage manufacturing license to

5215 any person who has been convicted of:

5216 (i) ~~[convicted of]~~ a felony under any federal or state law;

5217 (ii) ~~[convicted of]~~ any violation of any federal or state law or local ordinance

5218 concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of

5219 alcoholic beverages; ~~[or]~~

5220 (iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-]; or~~

5221 (iv) on two or more occasions within the five years before the day on which the license

5222 is granted, driving under the influence of alcohol, any drug, or the combined influence of

5223 alcohol and any drug.

5224 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the

5225 proscription under Subsection (1)(a) applies if any of the following has been convicted of any

5226 offense described in Subsection (1)(a):

5227 (i) a partner[-];

5228 (ii) a managing agent[-];

5229 (iii) a manager;

5230 (iv) an officer[-];

5231 (v) a director[-, or];

5232 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of

5233 ~~[an] the applicant corporation [has been convicted of any offense as provided in this~~

5234 Subsection.]; or

5235 (vii) a member who owns at least 20% of the applicant limited liability company.

5236 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
5237 supervisory or managerial capacity for the manufacturer has been convicted of any offense
5238 described in Subsection (1)(a).

5239 ~~(2) [(a) If any employee or proprietor of an alcoholic beverage manufacturing licensee~~
5240 ~~is convicted of any offense designated in Subsection (1), the] The commission may [take~~
5241 ~~emergency action by] immediately [revoking the] suspend or revoke an alcoholic beverage~~
5242 ~~manufacturing license [according to the procedures and requirements of Title 63, Chapter 46b.]~~
5243 if after the day on which the alcoholic beverage manufacturing license is granted, a person
5244 described in Subsection (1)(a), (b), or (c):

5245 ~~[(b) In the case of a partnership or corporation that has been granted an alcoholic~~
5246 ~~beverage manufacturing license, if any partner, managing agent, officer, director, or~~
5247 ~~stockholder, who holds at least 20% of the total issued and outstanding stock of a corporation~~
5248 ~~is convicted of any offense provided in Subsection (1), the commission may take emergency~~
5249 ~~action by immediately revoking the license according to the procedures and requirements of~~
5250 ~~Title 63, Chapter 46b.]~~

5251 ~~[(3) Upon the arrest of any alcoholic beverage manufacturing licensee on any charge~~
5252 ~~set forth in Subsection (1), the]~~

5253 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
5254 to the license being granted; or

5255 (b) on or after the day on which the license is granted:

5256 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

5257 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
5258 combined influence of alcohol and any drug; and

5259 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
5260 influence of alcohol and any drug within five years before the day on which the person is
5261 convicted of the offense described in Subsection (2)(b)(ii)(A).

5262 (3) The director may take emergency action by immediately suspending the operation
5263 of the licensee according to the procedures and requirements of Title 63, Chapter 46b,
5264 Administrative Procedures Act, for the period during which the criminal matter is being

5265 adjudicated[-] if a person described in Subsection (1)(a), (b), or (c):

5266 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

5267 or

5268 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
5269 any drug, or the combined influence of alcohol and any drug; and

5270 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
5271 influence of alcohol and any drug within five years before the day on which the person is
5272 arrested on a charge described in Subsection (3)(b)(i).

5273 (4) (a) (i) The commission may not grant a manufacturing license to any person who
5274 has had any type of license, agency, or permit issued under this title revoked within the last
5275 three years.

5276 (ii) The commission may not grant a manufacturing license to any applicant that is a
5277 partnership, corporation, or limited liability company if any partner, managing agent, manager,
5278 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
5279 of the applicant corporation, or member who owns at least 20% of the applicant limited
5280 liability company is or was:

5281 (A) a partner or managing agent of any partnership that had any type of license, agency,
5282 or permit issued under this title revoked within the last three years;

5283 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
5284 of the total issued and outstanding stock of any corporation that had any type of license,
5285 agency, or permit issued under this title revoked within the last three years; or

5286 (C) a manager or member who owns or owned at least 20% of the limited liability
5287 company that had any type of license, agency, or permit issued under this title revoked within
5288 the last three years.

5289 (b) An applicant that is a partnership, corporation, or limited liability company may not
5290 be granted a manufacturing license if any of the following had any type of license, agency, or
5291 permit issued under this title revoked while acting in that person's individual capacity within
5292 the last three years:

5293 (i) any partner or managing agent of the applicant partnership;

5294 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
5295 total issued and outstanding stock of the applicant corporation; or

5296 (iii) any manager or member who owns at least 20% of the applicant limited liability
5297 company.

5298 (c) A person acting in an individual capacity may not be granted a manufacturing
5299 license if that person was:

5300 (i) a partner or managing agent of a partnership that had any type of license, agency, or
5301 permit issued under this title revoked within the last three years;

5302 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
5303 total issued and outstanding stock of a corporation that had any type of license, agency, or
5304 permit issued under this title revoked within the last three years; or

5305 (iii) a manager or member who owned at least 20% of a limited liability company that
5306 had any type of license, agency, or permit issued under this title revoked within the last three
5307 years.

5308 [~~4~~] (5) (a) A minor may not be:

5309 (i) granted an alcoholic beverage manufacturing license; or [be]

5310 (ii) employed by a manufacturing licensee to handle [liquor] alcoholic beverages.

5311 (b) The commission may not grant an alcoholic beverage manufacturing license to an
5312 applicant that is a partnership, corporation, or limited liability company if any of the following
5313 is a minor:

5314 (i) a partner or managing agent of the applicant partnership;

5315 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
5316 total issued and outstanding stock of the applicant corporation; or

5317 (iii) a manager or member who owns at least 20% of the applicant limited liability
5318 company.

5319 [~~5~~] (6) The commission may not grant an alcoholic beverage manufacturing license to
5320 any person who has not met any applicable federal requirements for the operation of wineries,
5321 distilleries, or breweries.

5322 [~~6~~] (7) If any person to whom a license has been issued under this chapter no longer
5323 possesses the qualifications required by this title for obtaining that license, the commission
5324 may suspend or revoke that license.

5325 Section 67. Section **32A-8-106** is amended to read:

5326 **32A-8-106. Operational restrictions.**

5327 (1) Each person granted an alcoholic beverage manufacturing license and the
5328 employees and management of the licensee shall abide by the following conditions and
5329 requirements, and any special conditions and restrictions otherwise provided in this chapter.
5330 Failure to comply may result in a suspension or revocation of the license or other disciplinary
5331 action taken against individual employees or management personnel:

5332 (a) A licensee may not sell any liquor within the state except to the department and to
5333 military installations.

5334 (b) Each license issued under this chapter shall be conspicuously displayed on the
5335 licensed premises.

5336 (c) A licensee may not advertise its product in violation of this title or any other federal
5337 or state law, except that nothing in this title prohibits the advertising or solicitation of orders
5338 for industrial alcohol from holders of special permits.

5339 (d) Each alcoholic beverage manufacturing licensee shall maintain accounting and
5340 other records and documents as the department may require. Any manufacturing licensee or
5341 person acting for the manufacturing licensee, who knowingly forges, falsifies, alters, cancels,
5342 destroys, conceals, or removes the entries in any of the books of account or other documents of
5343 the licensee required to be made, maintained, or preserved by this title or the rules of the
5344 commission for the purpose of deceiving the commission, or the department, or any of their
5345 officials or employees, is subject to the immediate suspension or revocation of the
5346 manufacturing license and criminal prosecution under Chapter 12, Criminal Offenses.

5347 (e) ~~[There shall be no transfer of an]~~ An alcoholic beverage manufacturing license may
5348 not be transferred from one location to another, without prior written approval of the
5349 commission.

5350 (f) (i) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give, or
5351 attempt in any way to dispose of the license to any other person or entity, whether for monetary
5352 gain or not.

5353 (ii) A manufacturing license has no monetary value for the purpose of any type of
5354 disposition.

5355 ~~(f)~~ (g) Each licensee shall from time to time, on request of the department, furnish for
5356 analytical purposes samples of the alcoholic products that it has for sale or that it has in the
5357 course of manufacture for sale in this state.

5358 (2) Nothing in this chapter prevents any manufacturer of, or dealer in, patent or
5359 proprietary medicines containing alcohol from selling the medicines in the original and
5360 unbroken package if the medicine contains sufficient medication to prevent its use as an
5361 alcoholic beverage. Each manufacturer or dealer who keeps patent or proprietary medicines for
5362 sale shall, upon request by the department, provide a sufficient sample of the medicine to
5363 enable the department to have the medicine analyzed.

5364 (3) (a) Nothing in this chapter prevents any person from manufacturing vinegar or
5365 preserved nonintoxicating cider for use or sale, or the manufacture or sale for lawful purposes
5366 of any food preparation, or any United States Pharmacopoeia or national formulary preparation
5367 in conformity with the Utah pharmacy laws, if the preparation conforms to standards
5368 established by the state departments of agriculture and health, and contains no more alcohol
5369 than is absolutely necessary to preserve or extract the medicinal, flavoring, or perfumed
5370 properties of the treated substances.

5371 (b) Nothing in this chapter prevents the manufacture or sale of wood or denatured
5372 alcohol under rules established by the department and in compliance with the formulas and
5373 rules established by the United States.

5374 Section 68. Section **32A-8-501** is amended to read:

5375 **32A-8-501. Commission's power to grant licenses.**

5376 (1) The commission may issue local industry representative licenses to individual
5377 residents of Utah, Utah partnerships, ~~and~~ Utah corporations, and Utah limited liability
5378 companies who are employed by a manufacturer, supplier, or importer, whether compensated
5379 by salary, commission, or any other means, to represent liquor, wine, or heavy beer products
5380 with the department, package agencies, licensees, and permittees under this title.

5381 (2) (a) Before any Utah resident, Utah partnership, ~~or~~ Utah corporation, or Utah
5382 limited liability company may represent a liquor, wine, or heavy beer product of a
5383 manufacturer, supplier, or importer, the resident, partnership, or corporation shall first obtain a
5384 local industry representative license from the commission as provided in this part.

5385 (b) A violation of this Subsection (2) is a class B misdemeanor.

5386 (3) Individual employees or agents of ~~partnership or of corporate~~ a local industry
5387 representative licensees are not required to be separately licensed.

5388 (4) A local industry representative may represent more than one manufacturer,

5389 supplier, or importer at a time.

5390 (5) (a) A manufacturer, supplier, or importer is not required to use a local industry
5391 representative to represent its products with the department, package agencies, licensees, or
5392 permittees. [~~However, any~~]

5393 (b) Any employee or agent of the manufacturer, supplier, or importer who is not a local
5394 industry representative while in the state [~~must~~] shall first register with the department, on
5395 forms provided by the department, before representing alcoholic beverage products with the
5396 department, package agencies, licensees, and permittees of the department.

5397 (c) A manufacturer, supplier, or importer described in Subsection (5)(b) and their
5398 employees and agents are subject to the same operational restrictions of this part and Chapter
5399 12, Criminal Offenses.

5400 Section 69. Section **32A-8-502** is amended to read:

5401 **32A-8-502. Application and renewal requirements.**

5402 (1) An individual resident, partnership, [~~or~~] corporation, or limited liability company
5403 seeking a local industry representative license under this chapter shall file a written application
5404 with the department, in a form prescribed by the department. [~~It~~] The application shall be
5405 accompanied by:

5406 (a) a nonrefundable [~~\$100~~] \$50 application fee;

5407 (b) an initial license fee of [~~\$50~~] \$100, which is refundable if a license is not granted;

5408 (c) verification that the applicant is:

5409 (i) a resident of Utah[~~, or~~];

5410 (ii) a Utah partnership [~~or~~];

5411 (iii) a Utah corporation; or

5412 (iv) a Utah limited liability company;

5413 (d) an affidavit stating the name and address of all manufacturers, suppliers, and
5414 importers the applicant will represent;

5415 (e) a signed consent form stating that the local industry representative will permit any
5416 authorized representative of the commission, department, or any law enforcement officer the
5417 right to enter, during normal business hours, the specific premises where the representative
5418 conducts business;

5419 (f) in the case of [~~a partnership or corporate~~] an applicant that is a partnership,

5420 corporation, or limited liability company, proper verification evidencing that the person or
5421 persons signing the application are authorized to so act on [~~the partnership's or corporation's~~]
5422 behalf of the partnership, corporation, or a limited liability company; and

5423 (g) any other information the commission or department may require.

5424 (2) (a) All local industry representative licenses expire on January 1 of each year.

5425 (b) Licensees desiring to renew their license shall submit a renewal fee of [~~\$50~~] \$100
5426 and a completed renewal application to the department no later than November 30.

5427 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
5428 the license effective on the date the existing license expires.

5429 (d) Renewal applications shall be in a form as prescribed by the department, but shall
5430 require the licensee to file an affidavit stating the name and address of all manufacturers,
5431 suppliers, and importers the licensee currently represents.

5432 (3) A licensed local industry representative may represent more than one manufacturer,
5433 supplier, or importer without paying additional license fees.

5434 (4) In order to ensure compliance with Subsection 32A-8-505(8), the commission may
5435 suspend or revoke a local representative license if a local industry representative licensee does
5436 not immediately notify the department of any change in:

5437 (a) ownership of the business;

5438 (b) for a corporate owner, the:

5439 (i) corporate officers or directors; or

5440 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
5441 corporation; or

5442 (c) for a limited liability company:

5443 (i) managers; or

5444 (ii) members owning at least 20% of the limited liability company.

5445 Section 70. Section **32A-8-503** is amended to read:

5446 **32A-8-503. Qualifications.**

5447 (1) (a) The commission may not grant a local industry representative license to [~~an~~
5448 ~~individual~~] any person who has been convicted of:

5449 (i) a felony under any federal or state law;

5450 (ii) any violation of any federal or state law or local ordinance concerning the sale,

5451 manufacture, distribution, importing, warehousing, adulteration, or transportation of alcoholic
5452 beverages; ~~[or]~~

5453 (iii) any crime involving moral turpitude~~[-];~~ or

5454 (iv) on two or more occasions within the five years before the day on which the license
5455 is granted, driving under the influence of alcohol, any drug, or the combined influence of
5456 alcohol and any drug.

5457 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the
5458 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
5459 offense described in Subsection (1)(a):

5460 (i) a partner[-];

5461 (ii) a managing agent[-];

5462 (iii) a manager;

5463 (iv) an officer[-];

5464 (v) a director[-or];

5465 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
5466 [an] the applicant corporation [has been convicted of any offense as provided in Subsection
5467 (1)(a)-]; or

5468 (vii) a member who owns at least 20% of the applicant limited liability company.

5469 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
5470 supervisory or managerial capacity for the local industry representative has been convicted of
5471 any offense described in Subsection (1)(a).

5472 (2) ~~[(a) If any employee of a local industry representative licensee is convicted of any~~
5473 ~~offense designated in Subsection (1)(a), the] The commission may [take emergency action by]~~
5474 ~~immediately [revoking] suspend or revoke the local industry representative license [according~~
5475 ~~to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act.] if~~
5476 ~~after the day on which the local industry representative license is granted, a person described in~~
5477 ~~Subsection (1)(a), (b), or (c):~~

5478 ~~[(b) In the case of a partnership or corporation that has been granted a local industry~~
5479 ~~representative license, if any partner, managing agent, officer, director, or stockholder who~~
5480 ~~holds at least 20% of the total issued and outstanding stock of a corporation is convicted of any~~
5481 ~~offense designated in Subsection (1)(a), the commission may take emergency action by~~

5482 immediately revoking the license according to the procedures and requirements of Title 63,
5483 Chapter 46b.]

5484 [~~(3) Upon the arrest of any local industry representative licensee on any charge set~~
5485 ~~forth in Subsection (1)(a), the]~~

5486 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
5487 to the license being granted; or

5488 (b) on or after the day on which the license is granted:

5489 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

5490 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
5491 combined influence of alcohol and any drug; and

5492 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
5493 influence of alcohol and any drug within five years before the day on which the person is
5494 convicted of the offense described in Subsection (2)(b)(ii)(A).

5495 (3) The director may take emergency action by immediately suspending the operation
5496 of the [licensee] local industry representative license according to the procedures and
5497 requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during
5498 which the criminal matter is being adjudicated[-] if a person described in Subsection (1)(a), (b),
5499 or (c):

5500 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

5501 or

5502 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
5503 any drug, or the combined influence of alcohol and any drug; and

5504 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
5505 influence of alcohol and any drug within five years before the day on which the person is
5506 arrested on a charge described in Subsection (3)(b)(i).

5507 (4) (a) (i) The commission may not grant a local industry representative license to any
5508 individual who has had any type of license, agency, or permit issued under this title revoked
5509 within the last three years.

5510 (ii) The commission may not grant a local industry representative license to [~~any~~
5511 ~~partnership or corporation]~~ an applicant that is a partnership, corporation, or limited liability
5512 company if any partner, managing agent, manager, officer, director, [~~or~~] stockholder who holds

5513 at least 20% of the total issued and outstanding stock of ~~the~~ an applicant corporation, or
5514 member who owns at least 20% of an applicant limited liability company is or was:

5515 (A) a partner or managing agent of any partnership~~[-, or is or was]~~ that had any type of
5516 license, agency, or permit issued under this title revoked within the last three years;

5517 (B) a managing agent, officer, director, or [a] stockholder who holds or held at least
5518 20% of the total issued and outstanding stock of any corporation that had any type of license,
5519 agency, or permit issued under this title revoked within the last three years; or

5520 (C) a manager or member who owns or owned at least 20% of any limited liability
5521 company that had ~~a liquor~~ any type of license, agency, or permit issued under this title
5522 revoked within the last three years.

5523 (b) ~~[A partnership or corporation]~~ An applicant that is a partnership, corporation, or
5524 limited liability company may not be granted a local industry representative license if any of
5525 the following had any type of license, agency, or permit issued under this title revoked while
5526 acting in that person's individual capacity within the last three years:

5527 (i) any partner or managing agent of the applicant partnership ~~[or];~~

5528 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
5529 total issued and outstanding stock of the ~~[corporate]~~ applicant ~~[had a liquor license, agency, or~~
5530 permit revoked while acting in their individual capacity within the last three years.]
5531 corporation; or

5532 (iii) any manager or member who owns at least 20% of the applicant limited liability
5533 company.

5534 (c) A person acting in an individual capacity may not be granted an industry
5535 representative license if that person was:

5536 (i) a partner or managing agent of a partnership~~[-, or]~~ that had any type of license,
5537 agency, or permit issued under this title revoked within the last three years;

5538 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
5539 total issued and outstanding stock of a corporation that had any type of license, agency, or
5540 permit issued under this title revoked within the last three years; or

5541 (iii) a manager or member who owned at least 20% of a limited liability company that
5542 had ~~a liquor~~ any type of license, agency, or permit issued under this title revoked within the
5543 last three years.

5544 (5) (a) The commission may not grant a local industry representative license to [~~any~~
5545 ~~person who is under the age of 21 years]~~ a minor.

5546 (b) The commission may not grant a local industry representative license to an
5547 applicant that is a partnership, corporation, or limited liability company if any of the following
5548 is a minor:

5549 (i) a partner or managing agent of the applicant partnership;

5550 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
5551 total issued and outstanding stock of the applicant corporation; or

5552 (iii) a manager or member who owns at least 20% of the applicant limited liability
5553 company.

5554 (6) The commission may not grant a local industry representative license to any holder
5555 of any retail license issued under this title, to any employee or agent of any retail license issued
5556 under this title, or to any individual, partnership, [~~or~~] corporation, or limited liability company
5557 who holds any interest in any retail license issued under this title except as otherwise provided.

5558 (7) If any individual, partnership, [~~or~~] corporation, or limited liability company to
5559 whom a local industry representative license has been issued under this part no longer
5560 possesses the qualifications required by this title for obtaining that license, the commission
5561 may suspend or revoke that license.

5562 Section 71. Section **32A-8-505** is amended to read:

5563 **32A-8-505. Operational restrictions.**

5564 (1) (a) A local industry representative licensee, employee or agent of the licensee, or
5565 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
5566 state, shall abide by the conditions and requirements set forth in this section.

5567 (b) If any person listed in Subsection (1)(a) knowingly violates or fails to comply with
5568 the conditions and requirements set forth in this section, such violation or failure to comply
5569 may result in a suspension or revocation of the license or other disciplinary action taken against
5570 individual employees or agents of the licensee, and the commission may order the removal of
5571 the manufacturer's, supplier's, or importer's products from the department's sales list and a
5572 suspension of the department's purchase of those products for a period determined by the
5573 commission if the manufacturer, supplier, or importer directly committed the violation, or
5574 solicited, requested, commanded, encouraged, or intentionally aided another to engage in the

5575 violation.

5576 (2) A local industry representative licensee, employee or agent of the licensee, or
5577 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
5578 state:

5579 (a) may assist the department in ordering, shipping, and delivering merchandise, new
5580 product notification, listing and delisting information, price quotations, product sales analysis,
5581 shelf management, and educational seminars, and may, for the purpose of acquiring new
5582 listings, solicit orders from the department and submit to the department price lists and samples
5583 of their products, but only to the extent authorized by Chapter 12, Criminal Offenses;

5584 (b) may not sell any liquor, wine, or heavy beer within the state except to the
5585 department and military installations;

5586 (c) may not ship or transport, or cause to be shipped or transported, into this state or
5587 from one place to another within this state any liquor, wine, or heavy beer;

5588 (d) may not sell or furnish~~[, except as provided in Section 32A-12-603 for retail~~
5589 ~~licensee wine tasting,]~~ any liquor, wine, or heavy beer to any person within this state other than
5590 to the department and military installations;

5591 (e) except as otherwise provided, may not advertise products it represents in violation
5592 of this title or any other federal or state law;

5593 (f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and

5594 (g) may only provide samples of their products for tasting and sampling purposes~~[-(i)]~~
5595 as provided in Section 32A-12-603~~[-(ii)]~~ by the department~~[-or]~~.

5596 ~~[(iii) by retail licensees or permittees at a department trade show.]~~

5597 (3) (a) A local industry representative licensee shall maintain on file with the
5598 department a current accounts list of the names and addresses of all manufacturers, suppliers,
5599 and importers the licensee represents.

5600 (b) The licensee shall notify the department in writing of any changes to the accounts
5601 listed within 14 days from the date the licensee either acquired or lost the account of a
5602 particular manufacturer, supplier, or importer.

5603 (4) A local industry representative licensee shall maintain accounting and other records
5604 and documents as the department may require for at least three years.

5605 (5) Any local industry representative licensee or person acting for the licensee, who

5606 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of
5607 the books of account or other documents of the licensee required to be made, maintained, or
5608 preserved by this title or the rules of the commission for the purpose of deceiving the
5609 commission or the department, or any of their officials or employees, is subject to the
5610 immediate suspension or revocation of the industry representative's license and possible
5611 criminal prosecution under Chapter 12, Criminal Offenses.

5612 (6) A local industry representative licensee may, for the purpose of becoming educated
5613 as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee
5614 represents, taste and analyze industry representative samples under the following conditions:

5615 (a) The licensee may not receive more than two industry representative samples of a
5616 particular type, vintage, and production lot of a particular branded product within a consecutive
5617 120-day period.

5618 (b) (i) Each sample of liquor may not exceed 1 liter.

5619 (ii) Each sample of wine or heavy beer may not exceed 1.5 liters unless that exact
5620 product is only commercially packaged in a larger size, not to exceed 5 liters.

5621 (c) Each industry representative sample may only be of a product not presently listed
5622 on the department's sales list.

5623 (d) Industry representative samples shall be shipped prepaid by the manufacturer,
5624 supplier, or importer by common carrier and not via United States mail directly to the
5625 department's central administrative warehouse office. These samples may not be shipped to
5626 any other location within the state.

5627 (e) Industry representative samples shall be accompanied by a letter from the
5628 manufacturer, supplier, or importer:

5629 (i) clearly identifying the product as an "industry representative sample"; and

5630 (ii) clearly stating:

5631 (A) the FOB case price of the product; and

5632 (B) the name of the local industry representative for who it is intended.

5633 (f) The department shall assess a reasonable handling, labeling, and storage fee for
5634 each industry representative sample received.

5635 (g) The department shall affix to each bottle or container a label clearly identifying the
5636 product as an "industry representative sample".

- 5637 (h) The department shall:
- 5638 (i) account for and record each industry representative sample received;
- 5639 (ii) account for the sample's disposition; and
- 5640 (iii) maintain a record of the sample and its disposition for a two-year period.
- 5641 (i) Industry representative samples may not leave the premises of the department's
- 5642 central administrative warehouse office.
- 5643 (j) Licensed industry representatives and their employees and agents may, at regularly
- 5644 scheduled days and times established by the department, taste and analyze industry
- 5645 representative samples on the premises of the department's central administrative warehouse
- 5646 office.
- 5647 (k) Any unused contents of an opened product remaining after the product has been
- 5648 sampled shall be destroyed by the department under controlled and audited conditions
- 5649 established by the department.
- 5650 (l) Industry representative samples that are not tasted within 30 days of receipt by the
- 5651 department shall be disposed of at the discretion of the department in one of the following
- 5652 ways:
- 5653 (i) contents destroyed under controlled and audited conditions established by the
- 5654 department; or
- 5655 (ii) added to the inventory of the department for sale to the public.
- 5656 (7) ~~[A] An employee or agent of a local industry representative licensee may [conduct~~
- 5657 ~~retail licensee wine tasting as provided in Section 32A-12-603;]~~ not be:
- 5658 (a) the holder of any retail license issued under this title; or
- 5659 (b) an employee or agent of any retail licensee issued under this title.
- 5660 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
- 5661 give, or attempt in any way to dispose of the license to any other person, whether for monetary
- 5662 gain or not.
- 5663 (b) A local industry representative license has no monetary value for the purpose of any
- 5664 type of disposition.
- 5665 Section 72. Section **32A-9-102** is amended to read:
- 5666 **32A-9-102. Application and renewal requirements.**
- 5667 (1) A person seeking a warehousing license under this chapter shall file a written

5668 application with the department, in a form prescribed by the department. ~~[It]~~ The application
5669 shall be accompanied by:

- 5670 (a) a nonrefundable ~~[\$100]~~ \$250 application fee;
5671 (b) an initial license fee of ~~[\$250]~~ \$750, which is refundable if a license is not granted;
5672 (c) written consent of the local authority;
5673 (d) a copy of the applicant's current business license;
5674 (e) a bond as specified by Section 32A-9-105;
5675 (f) evidence that the applicant is carrying public liability insurance in an amount and
5676 form satisfactory to the department;

5677 (g) a floor plan of the applicant's warehouse, including the area in which the applicant
5678 proposes that liquor be stored;

5679 (h) a signed consent form stating that the licensee will permit any authorized
5680 representative of the commission, department, or any law enforcement officer unrestricted right
5681 to enter the warehouse premises; ~~[and]~~

5682 (i) in the case of an applicant that is a partnership, corporation, or limited liability
5683 company, proper verification evidencing that the person or persons signing the warehousing
5684 license application are authorized to so act on behalf of the partnership, corporation, or limited
5685 liability company; and

5686 ~~[(i)]~~ (j) any other documents and evidence the department may require by rule or policy
5687 to allow complete evaluation of the application.

5688 ~~[(2) Each application shall be signed and verified by oath or affirmation by an~~
5689 ~~executive officer or any person specifically authorized by the corporation to sign the~~
5690 ~~application, to which shall be attached written evidence of said authority.]~~

5691 ~~[(3)]~~ (2) (a) All warehousing licenses expire on December 31 of each year.

5692 (b) Persons desiring to renew their license shall submit a renewal fee of ~~[\$250]~~ \$1,000
5693 and a completed renewal application to the department no later than November 30 of the year
5694 the license expires.

5695 (c) Failure to meet the renewal requirements results in an automatic forfeiture of the
5696 license effective on the date the existing license expires.

5697 (d) Renewal applications shall be in a form prescribed by the department.

5698 ~~[(4) If any]~~ (3) To ensure compliance with Subsection 32A-9-106(9), the commission

5699 may suspend or revoke a warehousing license if a warehousing licensee does not immediately
5700 notify the department of any change in:

5701 (a) ownership of the licensee~~[, or in the case of];~~

5702 (b) for a [Utah] corporate owner ~~[of any change in]~~, the:

5703 (i) corporate officers or directors~~[-, the commission may suspend or revoke that~~
5704 ~~license-]; or~~

5705 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
5706 corporation; or

5707 (c) for a limited liability company:

5708 (i) managers; or

5709 (ii) members owning at least 20% of the limited liability company.

5710 Section 73. Section **32A-9-103** is amended to read:

5711 **32A-9-103. Qualifications.**

5712 (1) (a) The commission may not grant a warehousing license to any person who has
5713 been convicted of:

5714 (i) ~~[convicted of]~~ a felony under any federal or state law;

5715 (ii) ~~[convicted of]~~ any federal or state law or local ordinance concerning the sale,
5716 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
5717 ~~[or]~~

5718 (iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-]; or~~

5719 (iv) on two or more occasions within the five years before the day on which the license
5720 is granted, driving under the influence of alcohol, any drug, or the combined influence of
5721 alcohol and any drug.

5722 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the
5723 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
5724 offense described in Subsection (1)(a):

5725 (i) a partner~~[-];~~

5726 (ii) a managing agent~~[-];~~

5727 (iii) a manager;

5728 (iv) an officer~~[-];~~

5729 (v) a director~~[-or];~~

5730 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
5731 [an] the applicant corporation [has been convicted of any offense as provided in this
5732 Subsection.]; or

5733 (vii) a member who owns at least 20% of the applicant limited liability company.

5734 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
5735 supervisory or managerial capacity for the warehouse has been convicted of any offense
5736 described in Subsection (1)(a).

5737 (2) [If any employee or proprietor of a warehousing licensee is convicted of any
5738 offense provided in Subsection (1), the] The commission may [take emergency action by]
5739 immediately [revoking the] suspend or revoke a warehousing license [according to the
5740 procedures and requirements of Title 63, Chapter 46b.] if after the day on which the
5741 warehousing license is granted, a person described in Subsection (1)(a), (b), or (c):

5742 [~~(3) Upon the arrest of any warehousing licensee on any charge set forth in Subsection~~
5743 ~~(1), the]~~

5744 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
5745 to the license being granted; or

5746 (b) on or after the day on which the license is granted:

5747 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

5748 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
5749 combined influence of alcohol and any drug; and

5750 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
5751 influence of alcohol and any drug within five years before the day on which the person is
5752 convicted of the offense described in Subsection (2)(b)(ii)(A).

5753 (3) The director may take emergency action by immediately suspending the operation
5754 of the [licensee] warehousing license according to the procedures and requirements of Title 63,
5755 Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is
5756 being adjudicated[-] if a person described in Subsection (1)(a), (b), or (c):

5757 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

5758 or

5759 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
5760 any drug, or the combined influence of alcohol and any drug; and

5761 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
5762 influence of alcohol and any drug within five years before the day on which the person is
5763 arrested on a charge described in Subsection (3)(b)(i).

5764 (4) (a) (i) The commission may not grant a warehousing license to any person who has
5765 had any type of license, agency, or permit issued under this title revoked within the last three
5766 years.

5767 (ii) The commission may not grant a warehousing license to an applicant that is a
5768 partnership, corporation, or limited liability company if any partner, managing agent, manager,
5769 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
5770 of an applicant corporation, or member who owns at least 20% of an applicant limited liability
5771 company is or was:

5772 (A) a partner or managing agent of any partnership that had any type of license, agency,
5773 or permit issued under this title revoked within the last three years;

5774 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
5775 of the total issued and outstanding stock of any corporation that had any type of license,
5776 agency, or permit issued under this title revoked within the last three years; or

5777 (C) a manager or member who owns or owned at least 20% of any limited liability
5778 company that had any type of license, agency, or permit issued under this title revoked within
5779 the last three years.

5780 (b) An applicant that is a partnership, corporation, or limited liability company may not
5781 be granted a warehousing license if any of the following had any type of license, agency, or
5782 permit issued under this title revoked while acting in that person's individual capacity within
5783 the last three years:

5784 (i) any partner or managing agent of the applicant partnership;

5785 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
5786 total issued and outstanding stock of the applicant corporation; or

5787 (iii) any manager or member who owns at least 20% of the applicant limited liability
5788 company.

5789 (c) A person acting in an individual capacity may not be granted a warehousing license
5790 if that person was:

5791 (i) a partner or managing agent of a partnership that had any type of license, agency, or

5792 permit issued under this title revoked within the last three years:

5793 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
5794 total issued and outstanding stock of a corporation that had any type of license, agency, or
5795 permit issued under this title revoked within the last three years; or

5796 (iii) any manager or member who owned at least 20% of a limited liability company
5797 that had any type of license, agency, or permit issued under this title revoked within the last
5798 three years.

5799 [~~(4)~~] (5) (a) A minor may not be:

5800 (i) granted a [~~liquor~~] warehousing license; or [~~be~~]

5801 (ii) employed by a warehouse to handle liquor.

5802 (b) The commission may not grant a warehousing license to an applicant that is a
5803 partnership, corporation, or limited liability company if any of the following is a minor:

5804 (i) a partner or managing agent of the applicant partnership;

5805 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
5806 total issued and outstanding stock of the applicant corporation; or

5807 (iii) a manager or member who owns at least 20% of the applicant limited liability
5808 company.

5809 [~~(5)~~] (6) A person, through any officer, director, representative, agent, or employee, or
5810 otherwise, either directly or indirectly, may not hold at the same time both a warehousing
5811 license and any other kind of license, agency, or permit issued under Title 32A, Chapter 3, 4, 5,
5812 6, or 7, or Chapter 10, Part 2.

5813 [~~(6)~~] (7) If any person to whom a license has been issued under this chapter no longer
5814 possesses the qualifications required by this title for obtaining that license, the commission
5815 may suspend or revoke that license.

5816 Section 74. Section **32A-9-106** is amended to read:

5817 **32A-9-106. Operational restrictions.**

5818 Each person granted a warehousing license and the employees and management of the
5819 licensee shall abide by the following conditions and requirements. Failure to comply may
5820 result in a suspension or revocation of the license, or other disciplinary action taken against
5821 individual employees or management personnel:

5822 (1) All liquor warehoused in this state and sold to out-of-state consignees, shall be

5823 transported out of the state only by a motor carrier regulated under Title 72, Chapter 9, Motor
5824 Carrier Safety Act.

5825 (2) All liquor warehoused in this state and sold to the department shall be transported
5826 by motor carriers approved by the department.

5827 (3) All liquor transported to or from the licensee's premises shall be carried in sealed
5828 conveyances that are made available for inspection by the department while en route within the
5829 state.

5830 (4) A licensee may not ship, convey, distribute, or remove liquor from any warehouse
5831 in less than full case lots.

5832 (5) A licensee may not ship, convey, distribute, or remove any liquor from a warehouse
5833 to any consignee outside the state that is not licensed as a liquor wholesaler or retailer by the
5834 state in which the consignee is domiciled.

5835 (6) A licensee may not receive, warehouse, ship, distribute, or convey any liquor that
5836 the commission has not authorized the licensee to handle through its warehouse.

5837 (7) Each licensee shall maintain accounting and other records and documents as the
5838 department may require. Any licensee or person acting for the licensee, who knowingly forges,
5839 falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of
5840 account or other documents of the licensee required to be made, maintained, or preserved by
5841 this title or the rules of the commission for the purpose of deceiving the commission or the
5842 department, or any of their officials or employees, is subject to the immediate suspension or
5843 revocation of the license and possible criminal prosecution under Chapter 12, Criminal
5844 Offenses.

5845 (8) [~~There shall be no transfer of a~~] A liquor warehousing license may not be
5846 transferred from one location to another, without prior written approval of the commission.

5847 (9) (a) A liquor warehousing licensee may not sell, transfer, assign, exchange, barter,
5848 give, or attempt in any way to dispose of the license to any other person, whether for monetary
5849 gain or not.

5850 (b) A liquor warehousing license has no monetary value for the purpose of any type of
5851 disposition.

5852 Section 75. Section **32A-10-101** is amended to read:

5853 **32A-10-101. State and local licensing -- Limitations.**

- 5854 (1) Any local authority may:
- 5855 (a) tax or prohibit any retail sale of beer;
- 5856 (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise
- 5857 consumption;
- 5858 (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise
- 5859 consumption at temporary special events that do not last longer than 30 days;
- 5860 (d) issue, suspend, and revoke licenses to general food stores and other establishments
- 5861 to sell beer at retail for off-premise consumption; ~~[and]~~
- 5862 (e) establish proximity restrictions for establishing premises where beer is sold at retail
- 5863 for off-premise consumption in relation to any public or private school, church, public library,
- 5864 public playground, or park; and
- 5865 ~~[(e)]~~ (f) otherwise regulate the retail sale of beer for off-premise consumption.
- 5866 (2) The commission shall issue licenses to sell beer at retail for on-premise
- 5867 consumption as provided in Part 2, On-Premise Beer Retailer Licenses.
- 5868 (3) Each licensee issued a license for on-premise consumption, by the commission
- 5869 under Subsection (2) or by the local authority under Subsection (1), is subject to the operational
- 5870 restrictions provided in Section 32A-10-206, except as otherwise provided.
- 5871 (4) Suspension or revocation of ~~[the licensee]~~ an on-premise beer retailer license issued
- 5872 by the commission under Subsection (2) or ~~[the]~~ an on-premise beer retailer license issued by a
- 5873 local authority under Subsection (1) prohibits the establishment whose license is suspended or
- 5874 revoked from continuing to operate under the other state or local license it may have.
- 5875 ~~[(5) Licenses may not be granted by any local authority to sell beer in the proximity of~~
- 5876 ~~any church or school. The local authority granting the license may determine in each case what~~
- 5877 ~~constitutes proximity.]~~
- 5878 (5) The commission shall issue temporary permits to sell beer at retail for on-premise
- 5879 consumption at temporary special events that do not last longer than 30 days as provided in
- 5880 Part 3, Temporary Special Event Beer Permits.
- 5881 (6) Each permittee issued a temporary permit by the commission under Subsection (5)
- 5882 or by the local authority under Subsection (1), is subject to the operational restrictions provided
- 5883 in Section 32A-10-306, except as otherwise provided.
- 5884 (7) Suspension or revocation of a temporary permit issued by the commission under

5885 Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose
5886 permit is suspended or revoked from continuing to operate under the other state or local permit
5887 the permittee may have.

5888 Section 76. Section **32A-10-102** is amended to read:

5889 **32A-10-102. General restrictions.**

5890 (1) (a) (i) A beer retailer licensed under this part or Part 2, On-Premise Beer Retailer
5891 Licenses, may not purchase, acquire, possess for the purpose of resale, or sell any beer except
5892 that which has been lawfully purchased from a wholesaler licensed under this title or from a
5893 small brewer that manufactured the beer.

5894 (ii) Violation of Subsection (1)(a) is a class A misdemeanor.

5895 (b) (i) All purchases made of beer by any beer retailer from a licensed wholesaler shall
5896 be from that wholesaler who is authorized by the commission to sell beer in the geographical
5897 area in which the beer retailer is located, unless an alternate wholesaler is authorized by the
5898 [~~commission~~] department to sell to the beer retailer as provided in Section 32A-11-106.

5899 (ii) Violation of Subsection (1)(b) is a class B misdemeanor.

5900 (2) (a) Beer may not be sold, provided, or possessed for off-premise consumption in
5901 containers larger than two liters.

5902 (b) [~~On-premise~~] For a special event that does not last longer than 30 days:

5903 (i) an on-premise beer retailer [~~licenses~~] license issued by the commission [~~are~~] as
5904 provided in this part is not required for [~~temporary~~] the sale of beer at the special [~~events that~~
5905 do not last longer than 30 days] event; and

5906 (ii) a temporary beer permit must be obtained from the commission as provided in Part
5907 3, Temporary Special Event Beer Permits.

5908 (3) (a) A minor may not be granted a beer retailer license.

5909 (b) The commission may not grant a beer retailer license to an applicant that is a
5910 partnership, corporation, or limited liability company if any of the following is a minor:

5911 (i) a partner or managing agent of the applicant partnership;

5912 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
5913 total issued and outstanding stock of the applicant corporation; or

5914 (iii) a manager or member who owns at least 20% of the applicant limited liability
5915 company.

5916 (4) A minor may not sell beer on the premises of a beer retailer for off-premise
5917 consumption except under the supervision of a person 21 years of age or older who is on the
5918 premises.

5919 (5) (a) If malt beverage coolers or malt liquor is sold by a beer retailer for off-premise
5920 consumption, the beer retailer shall display a sign at the location on the premises where malt
5921 beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please read the
5922 label."

5923 (b) A violation of this Subsection (5) is an infraction.

5924 Section 77. Section **32A-10-201** is amended to read:

5925 **32A-10-201. Commission's power to grant licenses -- Limitations.**

5926 (1) [~~Beginning January 1, 1991, before~~] Before any establishment may sell beer at
5927 retail for on-premise consumption, it shall first obtain:

5928 (a) an on-premise beer retailer license from the commission as provided in this part;
5929 and

5930 (b) a license issued by the local authority, as provided in Section 32A-10-101, to sell
5931 beer at retail for on-premise consumption or other written consent of the local authority to sell
5932 beer at retail for on-premise consumption.

5933 (2) (a) The commission may issue on-premise beer retailer licenses for the purpose of
5934 establishing on-premise beer retailer outlets at places and in numbers as it considers proper for
5935 the storage, sale, and consumption of beer on premises operated as on-premise beer retailer
5936 outlets.

5937 (b) (i) Notwithstanding Subsection (2)(a), the total number of on-premise beer retailer
5938 licenses that are taverns may not at any time aggregate more than that number determined by
5939 dividing the population of the state by 22,500.

5940 (ii) If the total number of on-premise beer retailer licenses in effect on May 5, 2003,
5941 that are taverns equals or exceeds the limitation of Subsection (2)(b)(i):

5942 (A) a license for a tavern that is in effect on May 5, 2003;

5943 (I) is not invalidated by Subsection (2)(b)(i); and

5944 (II) may be renewed in accordance with this chapter; and

5945 (B) the commission may not grant a new on-premise beer retailer license to a tavern

5946 until such time as the total number of licenses granted to a tavern under this chapter is less than

5947 the limitation of Subsection (2)(b)(i).

5948 (iii) For purposes of this Subsection (2), the population of the state shall be determined
5949 by:

5950 (A) the most recent United States decennial special census; or

5951 (B) any other population determination made by the United States or state
5952 governments.

5953 (c) (i) The commission may issue seasonal licenses for taverns established in areas the
5954 commission considers necessary.

5955 (ii) A seasonal license for taverns shall be for a period of six consecutive months.

5956 (iii) An on-premise beer retailer license for a tavern issued for operation during a
5957 summer time period is known as a "Seasonal A" on-premise beer retailer license for a tavern.

5958 The period of operation for a "Seasonal A" on-premise beer retailer license for a tavern shall:

5959 (A) begin on May 1; and

5960 (B) end on October 31.

5961 (iv) An on-premise beer retailer license for a tavern issued for operation during a
5962 winter time period is known as a "Seasonal B" on-premise beer retailer license for a tavern.

5963 The period of operation for a "Seasonal B" on-premise beer retailer license for a tavern shall:

5964 (A) begin on November 1; and

5965 (B) end on April 30.

5966 (v) In determining the number of tavern licenses that the commission may issue under
5967 this section:

5968 (A) a seasonal on-premise beer retailer license for a tavern is counted as 1/2 of one
5969 on-premise beer retailer license for a tavern; and

5970 (B) each "Seasonal A" on-premise beer retailer license for a tavern shall be paired with
5971 a "Seasonal B" on-premise beer retailer license for a tavern.

5972 (3) (a) [~~Beginning January 1, 1991,~~] The premises of an on-premise beer retailer
5973 [~~licensee premises~~] license may not be established within 600 feet of any public or private
5974 school, church, public library, public playground, or park, as measured by the method in
5975 Subsection [~~(5)~~] (4).

5976 (b) [~~Beginning January 1, 1991,~~] The premises of an on-premise beer retailer [~~licensee~~
5977 premises] license may not be established within 200 feet of any public or private school,

5978 church, public library, public playground, or park, measured in a straight line from the nearest
5979 entrance of the proposed outlet to the nearest property boundary of the public or private school,
5980 church, public library, public playground, or park.

5981 ~~[(4)]~~ (c) The restrictions of ~~[Subsection]~~ Subsections (3)(a) and (b) govern unless one
5982 of the following exemptions applies:

5983 ~~[(a) The commission finds after full investigation that the premises are located within a~~
5984 ~~city of the third class, a town, or the unincorporated area of a county, and compliance with the~~
5985 ~~distance requirements would result in peculiar and exceptional practical difficulties or~~
5986 ~~exceptional and undue hardships in the granting of an on-premise beer retailer license. In that~~
5987 ~~event, the commission may, after giving full consideration to all of the attending~~
5988 ~~circumstances, following a public hearing in the city or town, and where practical in the~~
5989 ~~neighborhood concerned, authorize a variance from the distance requirements to relieve the~~
5990 ~~difficulties or hardships if the variance may be granted without substantial detriment to the~~
5991 ~~public good and without substantially impairing the intent and purpose of this title.]~~

5992 (i) with respect to the establishment of an on-premise beer retailer license that operates
5993 as a tavern within a city of the third class, a town, or the unincorporated area of a county, the
5994 commission may authorize a variance to reduce the proximity requirements of Subsection
5995 (3)(a) or (b) if:

5996 (A) the local governing authority has granted its written consent to the variance;

5997 (B) alternative locations for establishing an on-premise beer retailer tavern license in
5998 the community are limited;

5999 (C) a public hearing has been held in the city, town, or county, and where practical in
6000 the neighborhood concerned; and

6001 (D) after giving full consideration to all of the attending circumstances and the policies
6002 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
6003 license would not be detrimental to the public health, peace, safety, and welfare of the
6004 community;

6005 ~~[(b)]~~ (ii) with respect to the establishment of an on-premise beer retailer [licensee]
6006 license that operates as a tavern in any location, the commission may~~[, after giving full~~
6007 ~~consideration to all of the attending circumstances, following a public hearing in the county,~~
6008 ~~and where practical in the neighborhood concerned, reduce the proximity]~~ authorize a variance

6009 to reduce the proximity requirements of Subsection (3)(a) or (b) in relation to a church:

6010 (A) if the local governing body of the church in question gives its written [approval.]
6011 consent to the variance;

6012 (B) following a public hearing in the city, town, or county and where practical in the
6013 neighborhood concerned; and

6014 (C) after giving full consideration to all of the attending circumstances and the policies
6015 stated in Subsections 32A-1-104(3) and (4);

6016 (iii) with respect to the establishment of an on-premise beer retailer license that does
6017 not operate as a tavern in any location, the commission may authorize a variance that reduces
6018 the proximity requirements of Subsection (3)(a) or (b) if:

6019 (A) the local governing authority has granted its written consent to the variance;

6020 (B) alternative locations for establishing an on-premise beer retailer license that does
6021 not operate as a tavern in the community are limited;

6022 (C) a public hearing has been held in the city, town, or county, and where practical in
6023 the neighborhood concerned; and

6024 (D) after giving full consideration to all of the attending circumstances and the policies
6025 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing a
6026 license would not be detrimental to the public health, peace, safety, and welfare of the
6027 community;

6028 [~~(e)~~] (iv) with respect to any on-premise beer retailer license issued by the commission
6029 before July 1, 1991, to an establishment that undergoes a change in ownership after that date,
6030 the commission may waive or vary the proximity [~~restrictions of~~] requirements of this
6031 Subsection (3) in considering whether to grant an on-premise retailer beer license to the new
6032 owner[-]; and

6033 (v) with respect to the premises of an on-premise beer retailer license issued by the
6034 commission that undergoes a change of ownership, the commission may waive or vary the
6035 proximity requirements of Subsection (3)(a) or (b) in considering whether to grant an
6036 on-premise beer retailer license to the new owner of the premises if:

6037 (A) the premises previously received a variance from the proximity requirements of
6038 Subsection (3)(a) or (b); or

6039 (B) a variance from proximity or distance requirements was otherwise allowed under

6040 this title.

6041 ~~[(5)]~~ (4) With respect to any public or private school, church, public library, public
6042 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
6043 by following the shortest route of ~~[either]~~ ordinary pedestrian ~~[traffic, or where applicable,~~
6044 ~~vehicular travel along public thoroughfares, whichever is the closer,]~~ travel to the property
6045 boundary of the public or private school, church, public library, public playground, school
6046 playground or park.

6047 ~~[(6)]~~ (5) (a) Nothing in this section prevents the commission from considering the
6048 proximity of any educational, religious, and recreational facility, or any other relevant factor in
6049 reaching a decision on a proposed location.

6050 (b) For purposes of this Subsection ~~[(6)]~~ (5), "educational facility" includes:

6051 (i) a nursery ~~[schools,]~~ school;

6052 (ii) an infant day care ~~[centers,]~~ center; and

6053 (iii) trade and technical ~~[schools]~~ school.

6054 Section 78. Section **32A-10-202** is amended to read:

6055 **32A-10-202. Application and renewal requirements.**

6056 (1) A person seeking an on-premise beer retailer license under this chapter shall file a
6057 written application with the department, in a form prescribed by the department. ~~[It]~~ The
6058 application shall be accompanied by:

6059 (a) a nonrefundable ~~[\$300]~~ \$250 application fee;

6060 (b) an initial license fee ~~[of \$100, which]~~ that is refundable if a license is not granted[;]
6061 in the following amount:

6062 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial
6063 license fee is \$150; or

6064 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is
6065 \$1,250;

6066 (c) written consent of the local authority or a license to sell beer at retail for on-premise
6067 consumption granted by the local authority under Section 32A-10-101;

6068 (d) a copy of the applicant's current business license;

6069 (e) ~~[for applications made on or after July 1, 1991,]~~ evidence of proximity to any public
6070 or private school, church, public library, public playground, or park, and if the proximity is

6071 within the 600 foot or 200 foot limitation of Subsections 32A-10-201(3)[;] and (4), [~~and~~(5);]
6072 the application shall be processed in accordance with those subsections;

6073 (f) a bond as specified by Section 32A-10-205;

6074 (g) a floor plan of the premises, including consumption areas and the area where the
6075 applicant proposes to keep, store, and sell beer;

6076 (h) evidence that the on-premise beer retailer licensee is carrying public liability
6077 insurance in an amount and form satisfactory to the department;

6078 (i) for those licensees that sell more than \$5,000 of beer annually, evidence that the
6079 on-premise beer retailer licensee is carrying dramshop insurance coverage of at least \$500,000
6080 per occurrence and \$1,000,000 in the aggregate;

6081 (j) a signed consent form stating that the on-premise beer retailer licensee will permit
6082 any authorized representative of the commission, department, or any peace officer unrestricted
6083 right to enter the licensee premises;

6084 (k) in the case of [~~a corporate~~] an applicant that is a partnership, corporation, or limited
6085 liability company, proper verification evidencing that the person or persons signing the
6086 on-premise beer retailer licensee application are authorized to so act on the [~~corporation's~~]
6087 behalf of the partnership, corporation, or limited liability company; and

6088 (l) any other information the department may require.

6089 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each
6090 year[~~, except that all on-premise beer retailer licenses obtained before the last day of February~~
6091 ~~1991 expire on the last day of February 1992].~~

6092 (b) Persons desiring to renew their on-premise beer retailer license shall submit [~~a~~
6093 ~~renewal fee of \$100 and a completed renewal application to the department]~~ by no later than
6094 January 31[-]:

6095 (i) a completed renewal application to the department; and

6096 (ii) a renewal fee in the following amount:

6097 (A) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee
6098 is \$200; or

6099 (B) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
6100 \$1,000.

6101 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of

6102 the license, effective on the date the existing license expires.

6103 (d) Renewal applications shall be in a form as prescribed by the department.

6104 (3) ~~[H]~~ To ensure compliance with Subsection 32A-10-206(18), the commission may
6105 suspend or revoke a beer retailer license if any beer retailer licensee does not immediately
6106 notify the department of any change in:

6107 (a) ownership of the beer retailer~~[, or in the case of]~~;

6108 (b) for a [Utah] corporate owner ~~[of any change in]~~, the:

6109 (i) corporate officers or directors~~[, the commission may suspend or revoke that~~
6110 license.]; and

6111 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
6112 corporation; or

6113 (c) for a limited liability company:

6114 (i) managers; or

6115 (ii) members owning at least 20% of the limited liability company.

6116 (4) If the applicant is a county, municipality, or other political subdivision, it need not
6117 meet the requirements of Subsections (1)(a), (b), (c), (d), and (f).

6118 (5) Only one state on-premise beer retailer license is required for each building or
6119 resort facility owned or leased by the same applicant. Separate licenses are not required for
6120 each retail beer dispensing outlet located in the same building or on the same resort premises
6121 owned or operated by the same applicant.

6122 Section 79. Section **32A-10-203** is amended to read:

6123 **32A-10-203. Qualifications.**

6124 (1) (a) The commission may not grant an on-premise beer retailer license to ~~[an outlet~~
6125 ~~whose proprietor]~~ any person who has been convicted of:

6126 (i) a felony under any federal or state law;

6127 (ii) any violation of any federal or state law or local ordinance concerning the sale,
6128 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
6129 ~~[or]~~

6130 (iii) of any crime involving moral turpitude~~[-]~~; or

6131 (iv) on two or more occasions within the five years before the day on which the license
6132 is granted, driving under the influence of alcohol, any drug, or the combined influence of

6133 alcohol and any drug.

6134 (b) In the case of a partnership [~~or~~], corporation, or limited liability company the
6135 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
6136 offense described in Subsection (1)(a):

6137 (i) a partner[;];

6138 (ii) a managing agent[;];

6139 (iii) a manager;

6140 (iv) an officer[;];

6141 (v) a director[~~, or~~];

6142 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
6143 [an] the applicant corporation [has been convicted of any offense as provided in this
6144 subsection.]; or

6145 (vii) a manager or member who owns at least 20% of the applicant limited liability
6146 company.

6147 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
6148 supervisory or managerial capacity for the on-premise beer retailer has been convicted of any
6149 offense described in Subsection (1)(a).

6150 (2) [~~(a) If any employee or proprietor of an on-premise beer retailer licensee is~~
6151 ~~convicted of any offense designated in Subsection (1), the] The commission may [take
6152 emergency action by] immediately [revoking the] suspend or revoke an on-premise beer retailer
6153 license [according to the procedures and requirements of Title 63, Chapter 46b.] if after the day
6154 on which the on-premise beer retailer license is granted, a person described in Subsection
6155 (1)(a), (b), or (c):~~

6156 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
6157 to the license being granted; or

6158 (b) on or after the day on which the license is granted:

6159 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

6160 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
6161 combined influence of alcohol and any drug; and

6162 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
6163 influence of alcohol and any drug within five years before the day on which the person is

6164 convicted of the offense described in Subsection (2)(b)(ii)(A).

6165 ~~[(b) In the case of a partnership or corporation that has been granted an on-premise~~
6166 ~~beer retailer license, if any partner, managing agent, officer, director, or stockholder who holds~~
6167 ~~at least 20% of the total issued and outstanding stock of a corporation is convicted of any~~
6168 ~~offense designated in Subsection (1), the commission may take emergency action by~~
6169 ~~immediately revoking the license according to the procedures and requirements of Title 63,~~
6170 ~~Chapter 46b.]~~

6171 (3) ~~[Upon the arrest of any on-premise beer retailer licensee on any charge set forth in~~
6172 ~~Subsection (1), the] The director may take emergency action by immediately suspending the~~
6173 ~~operation of [the licensee] an on-premise beer retailer license according to the procedures and~~
6174 ~~requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during~~
6175 ~~which the criminal matter is being adjudicated[-] if a person described in Subsection (1)(a), (b),~~
6176 ~~or (c):~~

6177 ~~(a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);~~
6178 ~~or~~

6179 ~~(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,~~
6180 ~~any drug, or the combined influence of alcohol and any drug; and~~

6181 ~~(ii) was convicted of driving under the influence of alcohol, any drug, or the combined~~
6182 ~~influence of alcohol and any drug within five years before the day on which the person is~~
6183 ~~arrested on a charge described in Subsection (3)(b)(i).~~

6184 (4) (a) (i) The commission may not grant an on-premise beer retailer license to any
6185 person who has had any type of license, agency, or permit issued under this title revoked within
6186 the last three years.

6187 (ii) The commission may not grant an on-premise beer retailer license to any
6188 ~~[corporation or partnership] applicant that is a partnership, corporation, or limited liability~~
6189 ~~company if any partner, managing agent, manager, officer, director, ~~[or]~~ stockholder who holds~~
6190 ~~at least 20% of the total issued and outstanding stock of the applicant corporation, or member~~
6191 ~~who owns at least 20% of the applicant limited liability company is or was:~~

6192 ~~(A) a partner or managing agent of any partnership~~[-or is or was]~~ that had any type of~~
6193 ~~license, agency, or permit issued under this title revoked within the last three years;~~

6194 ~~(B) a managing agent, officer, director, or ~~[a]~~ stockholder who holds or held at least~~

6195 20% of the total issued and outstanding stock of any corporation that had any type of license,
6196 agency, or permit issued under this title revoked within the last three years; or

6197 (C) a manager or member who owns or owned at least 20% of any limited liability
6198 company that had [~~a liquor~~] any type of license, agency, or permit issued under this title
6199 revoked within the last three years.

6200 (b) [~~A corporation or partnership~~] An applicant that is a partnership, corporation, or
6201 limited liability company may not be granted an on-premise beer retailer license if any of the
6202 following had any type of license, agency, or permit issued under this title revoked while acting
6203 in that person's individual capacity within the last three years:

6204 (i) any partner or managing agent of the applicant partnership [~~or~~];

6205 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
6206 total issued and outstanding stock of the [~~corporate~~] applicant [~~had a liquor license, agency, or~~
6207 permit revoked while acting in their individual capacity within the last three years.]
6208 corporation; or

6209 (iii) any manager or member company who owns at least 20% of the applicant limited
6210 liability company.

6211 (c) A person acting in an individual capacity may not be granted an on-premise beer
6212 retailer license if that person was:

6213 (i) a partner or managing agent of a partnership[~~, or~~] that had any type of license,
6214 agency, or permit issued under this title revoked within the last three years;

6215 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
6216 total issued and outstanding stock of a corporation that had any type of license, agency, or
6217 permit issued under this title revoked within the last three years; or

6218 (iii) a manager or member of any limited liability company who owned at least 20% of
6219 a limited liability company that had [~~a liquor~~] any type of license, agency, or permit issued
6220 under this title revoked within the last three years.

6221 (5) (a) A minor may not be granted an on-premise beer retailer license.

6222 (b) The commission may not grant a on-premise beer retailer license to an applicant
6223 that is a partnership, corporation, or limited liability company if any of the following is a
6224 minor:

6225 (i) a partner or managing agent of the applicant partnership;

6226 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
6227 total issued and outstanding stock of the applicant corporation; or

6228 (iii) a manager or member who owns at least 20% of the applicant limited liability
6229 company.

6230 (6) If any person to whom a license has been issued under this part no longer possesses
6231 the qualifications required by this title for obtaining that license, the commission may suspend
6232 or revoke that license.

6233 Section 80. Section **32A-10-205** is amended to read:

6234 **32A-10-205. Bond.**

6235 (1) Each on-premise beer retailer licensee shall post a cash or corporate surety bond in
6236 the penal sum of [~~\$1,000~~] \$2,000 payable to the department, which the licensee has procured
6237 and must maintain for so long as the licensee continues to operate as an on-premise beer
6238 retailer licensee.

6239 (2) The bond shall be in a form approved by the attorney general, conditioned upon the
6240 licensee's faithful compliance with this title and the rules of the commission.

6241 (3) (a) If the [~~\$1,000~~] \$2,000 surety bond is canceled due to the licensee's negligence, a
6242 \$300 reinstatement fee may be assessed.

6243 (b) No part of any cash or corporate bond so posted may be withdrawn during the
6244 period the license is in effect, or while revocation proceedings are pending against the licensee.

6245 (c) A bond filed by a licensee may be forfeited if the license is finally revoked.

6246 Section 81. Section **32A-10-206** is amended to read:

6247 **32A-10-206. Operational restrictions.**

6248 Each person granted an on-premise beer retailer license and the employees and
6249 management personnel of the on-premise beer retailer licensee shall comply with the following
6250 conditions and requirements. Failure to comply may result in a suspension or revocation of the
6251 license or other disciplinary action taken against individual employees or management
6252 personnel.

6253 (1) On-premise beer retailer licensees may sell beer in open containers, in any size not
6254 exceeding two liters, and on draft.

6255 (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer
6256 licensee.

6257 (3) A patron ~~[or guest]~~ of the on-premise beer retailer may only make purchases ~~[in the~~
6258 ~~on-premise beer retailer licensee]~~ from [a server] and be served by a person employed,
6259 designated, and trained by the licensee to sell and serve beer.

6260 (4) (a) Beer may not be sold ~~[or]~~, offered for sale, served, or otherwise furnished at any
6261 on-premise beer retailer [licensee] establishment after 1 a.m. and before 10 a.m.

6262 (b) Beer may not be sold, ~~[delivered,]~~ served, or otherwise furnished to any:

6263 (i) minor;

6264 (ii) person actually, apparently, or obviously ~~[drunk]~~ intoxicated;

6265 (iii) known habitual drunkard; or

6266 (iv) known interdicted person.

6267 (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall
6268 remain open for one hour after the tavern ceases the sale and service of alcoholic beverages
6269 during which time a patron of the tavern may finish consuming a single serving of beer not
6270 exceeding 25 ounces.

6271 (ii) A tavern is not required to remain open:

6272 (A) after all patrons have vacated the premises; or

6273 (B) during an emergency.

6274 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.

6275 (b) Beer may not be sold at a special or reduced price that encourages over
6276 consumption or intoxication.

6277 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer
6278 retailer's business day such as a "happy hour."

6279 (d) The sale or service of more than one alcoholic beverage for the price of a single
6280 alcoholic beverage is prohibited.

6281 (e) The sale or service of an indefinite or unlimited number of alcoholic beverages
6282 during any set period for a fixed price is prohibited.

6283 (f) An on-premise beer licensee may not engage in a public promotion involving or
6284 offering free alcoholic beverages to the general public.

6285 ~~[(5)]~~ (6) Beer sold in sealed containers by the on-premise beer retailer licensee may be
6286 removed from the on-premise beer retailer premises.

6287 ~~[(6)]~~ (7) (a) ~~[Beginning January 1, 1991, a]~~ A person may not bring onto the premises

6288 of an on-premise beer retailer licensee any alcoholic beverage for on-premise consumption.

6289 (b) ~~[Beginning January 1, 1991, an]~~ An on-premise beer retailer licensee or its officers,
6290 managers, employees, or agents may not allow a person to bring onto the on-premise beer
6291 retailer licensee premises any alcoholic beverage for on-premise consumption or allow
6292 consumption of any such alcoholic beverage on its premises.

6293 ~~[(c) Beginning January 1, 1991, if any on-premise beer retailer licensee or any of its
6294 officers, managers, employees, or agents violates this Subsection (6):]~~

6295 ~~[(i) the commission may immediately suspend or revoke the on-premise beer retailer
6296 license and the on-premise beer retailer licensee is subject to possible criminal prosecution
6297 under Chapter 12, Criminal Offenses, and]~~

6298 ~~[(ii) the local authority may immediately suspend or revoke the business license of the
6299 on-premise beer retailer licensee.]~~

6300 (8) An on-premise beer retailer licensee and its employees may not permit a patron to
6301 carry from the premises an open container that:

6302 (a) is used primarily for drinking purposes; and

6303 (b) contains any alcoholic beverage.

6304 ~~[(7) Minors]~~ (9) (a) Except as provided in Subsection (9)(b), a minor may not be:

6305 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell
6306 [or], dispense, or otherwise furnish beer[- Minors may not be employed by or be]; or

6307 (ii) on the premises of any tavern.

6308 (b) Notwithstanding Subsection (9)(a), a minor may be employed to enter the sale at a
6309 cash register or other sales recording device on the premises of an on-premise beer retailer that
6310 is not a tavern.

6311 ~~[(8)]~~ (10) An employee of a licensee, while on duty, may not:

6312 (a) consume an alcoholic beverage; or

6313 (b) be [under the influence of alcoholic beverages] intoxicated.

6314 ~~[(9)]~~ (11) Each on-premise beer retailer licensee shall display in a prominent place in
6315 the on-premise beer retailer licensee:

6316 (a) the on-premise beer retailer license that is issued by the department; and

6317 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
6318 drugs is a serious crime that is prosecuted aggressively in Utah."

6319 ~~[(10)]~~ (12) The following acts or conduct in an on-premise beer retailer outlet licensed
6320 under this part are considered contrary to the public welfare and morals, and are prohibited
6321 upon the premises:

6322 (a) employing or using any person in the sale or service of alcoholic beverages while
6323 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
6324 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
6325 buttocks, vulva, or genitals;

6326 (b) employing or using the services of any person to mingle with the patrons while the
6327 person is unclothed or in attire, costume, or clothing as described in Subsection ~~[(10)]~~ (12)(a);

6328 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
6329 buttocks, anus, or genitals of any other person;

6330 (d) permitting any employee or person to wear or use any device or covering, exposed
6331 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

6332 (e) permitting any person to use artificial devices or inanimate objects to depict any of
6333 the prohibited activities described in this section;

6334 (f) permitting any person to remain in or upon the premises who exposes to public
6335 view any portion of his or her genitals or anus; or

6336 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
6337 depicting:

6338 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
6339 copulation, flagellation, or any sexual acts that are prohibited by Utah law;

6340 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
6341 genitals;

6342 (iii) scenes wherein artificial devices or inanimate objects are employed to depict, or
6343 drawings are employed to portray, any of the prohibited activities described in this section; or

6344 (iv) scenes wherein a person displays the vulva or the anus or the genitals.

6345 ~~[(11)]~~ (13) Nothing in Subsection ~~[(10)]~~ (12) precludes a local authority from being
6346 more restrictive of acts or conduct of the type prohibited in Subsection ~~[(10)]~~ (12).

6347 ~~[(12) An on-premise beer retailer licensee may not engage in or permit any form of
6348 gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
6349 Part 11, Gambling, on the premises of the on-premise beer retailer licensee.]~~

6381 **32A-10-301. Commission's power to grant temporary special event beer permits --**
6382 **Limitations.**

6383 (1) Beginning May 5, 2003, before any person may sell beer at retail for on-premise
6384 consumption at a temporary special event that does not last longer than 30 days, the person
6385 shall first obtain:

6386 (a) a temporary special event beer permit from the commission as provided in this part;
6387 and

6388 (b) (i) a temporary special event beer permit issued by the local authority as provided
6389 in Section 32A-10-101; or

6390 (ii) other written consent of the local authority to sell beer at retail for on-premise
6391 consumption at a temporary special event.

6392 (2) The commission may issue a temporary special event beer permit for the purpose of
6393 allowing the sale of beer for on-premise consumption at a temporary special event that does not
6394 last longer than 30 days.

6395 (3) (a) The temporary special event beer permit shall authorize, for a period not to
6396 exceed 30 days, the storage, sale, service, and consumption of beer at the temporary special
6397 event.

6398 (b) The sale of beer under a series of permits issued to the same person may not exceed
6399 a total of 90 days in any one calendar year.

6400 (c) A temporary special event beer permit may not be issued or obtained for the
6401 purpose of avoiding or attempting to avoid the requirement of state licensing under Part 2,
6402 On-Premise Beer Retailer License.

6403 (4) (a) The 600 foot and 200 foot proximity limitations to educational, religious, and
6404 recreational facilities that are applicable to state stores, package agencies, and licensees, do not
6405 apply to a temporary special event beer permit.

6406 (b) Notwithstanding Subsection (4)(a), nothing in this section prevents the commission
6407 from considering the proximity of any educational, religious, or recreational facility, or any
6408 other relevant factor in deciding whether to grant a temporary special event beer permit.

6409 Section 83. Section **32A-10-302** is enacted to read:

6410 **32A-10-302. Application requirements.**

6411 (1) (a) A person seeking a temporary special event beer permit shall file a written

- 6412 application with the department in a form prescribed by the department.
- 6413 (b) The application required by this section shall be accompanied by:
- 6414 (i) a permit fee of \$75, which:
- 6415 (A) is refundable if a permit is not granted; and
- 6416 (B) shall be returned to the applicant with the application if the permit is not granted;
- 6417 (ii) (A) written consent of the local authority; or
- 6418 (B) a temporary permit granted by local authority under Section 32A-10-101;
- 6419 (iii) a bond as specified by Section 32A-10-305;
- 6420 (iv) the times, dates, location, estimated attendance, nature, and purpose of the
- 6421 temporary special event;
- 6422 (v) a description or floor plan designating:
- 6423 (A) the area in which the applicant proposes that beer be stored;
- 6424 (B) the site from which the applicant proposes that beer be sold or served; and
- 6425 (C) the area in which the applicant proposes that beer be allowed to be consumed;
- 6426 (vi) a statement of the purpose of the temporary special event;
- 6427 (vii) a signed consent form stating that authorized representatives of the commission,
- 6428 department, or any law enforcement officers will have unrestricted right to enter the premises
- 6429 during the temporary special event;
- 6430 (viii) in the case of an applicant that is a partnership, corporation, or limited liability
- 6431 company, proper verification evidencing that the person or persons signing the application are
- 6432 authorized to so act on behalf of the partnership, corporation, or limited liability company; and
- 6433 (ix) any other information the commission or department may require.
- 6434 (2) If the applicant is a county, municipality, or other political subdivision, it need not
- 6435 meet the requirements of Subsection (1)(b)(i), (ii), or (iii).
- 6436 Section 84. Section **32A-10-303** is enacted to read:
- 6437 **32A-10-303. Qualifications.**
- 6438 (1) (a) The commission may not grant a temporary special event beer permit to any
- 6439 person who has been convicted of:
- 6440 (i) a felony under any federal or state law;
- 6441 (ii) any violation of any federal or state law or local ordinance concerning the sale,
- 6442 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

- 6443 (iii) any crime involving moral turpitude; or
6444 (iv) on two or more occasions within the five years before the day on which the permit
6445 is granted, driving under the influence of alcohol, any drug, or the combined influence of
6446 alcohol and any drug.
- 6447 (b) In the case of a partnership, corporation, or limited liability company, the
6448 proscription under Subsection (1)(a) applies if any of the following has been convicted of an
6449 offense described in Subsection (1)(a):
- 6450 (i) a partner;
6451 (ii) a managing agent;
6452 (iii) a manager;
6453 (iv) an officer;
6454 (v) a director;
6455 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
6456 the applicant corporation; or
6457 (vii) a member who owns at least 20% of the applicant limited liability company.
- 6458 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
6459 supervisory or managerial capacity for the temporary special event beer permittee has been
6460 convicted of any offense as provided in Subsection (1)(a).
- 6461 (2) The commission may immediately suspend or revoke a temporary special event
6462 permit if after the day on which the permit is granted, a person described in Subsection (1)(a),
6463 (b), or (c):
- 6464 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
6465 to the permit being granted; or
- 6466 (b) on or after the day on which the permit is granted:
- 6467 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
6468 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
6469 combined influence of alcohol and any drug; and
- 6470 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
6471 influence of alcohol and any drug within five years before the day on which the person is
6472 convicted of the offense described in Subsection (2)(b)(ii)(A).
- 6473 (3) The director may take emergency action by immediately revoking the temporary

6474 special event permit according to the procedures and requirements of Title 63, Chapter 46b,
6475 Administrative Procedures Act, if a person described in Subsection (1)(a), (b), or (c):

6476 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

6477 or

6478 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
6479 any drug, or the combined influence of alcohol and any drug; and

6480 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
6481 influence of alcohol and any drug within five years before the day on which the person is
6482 arrested on a charge described in Subsection (3)(b)(i).

6483 (4) (a) (i) The commission may not grant a temporary special event beer permit to any
6484 person who has had any type of license, agency, or permit issued under this title revoked within
6485 the last three years.

6486 (ii) The commission may not grant a temporary special event permit to an applicant
6487 that is a partnership, corporation, or limited liability company if any partner, managing agent,
6488 manager, officer, director, stockholder who holds at least 20% of the total issued and
6489 outstanding stock of an applicant corporation, or member who owns at least 20% of an
6490 applicant limited liability company is or was:

6491 (A) a partner or managing agent of any partnership that had any type of license, agency,
6492 or permit issued under this title revoked within the last three years;

6493 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
6494 of the total issued and outstanding stock of any corporation that had any type of license,
6495 agency, or permit issued under this title revoked within the last three years; or

6496 (C) a manager or member who owns or owned at least 20% of any limited liability
6497 company that had any type of license, agency, or permit issued under this title revoked within
6498 the last three years.

6499 (b) An applicant that is a partnership, corporation, or limited liability company may not
6500 be granted a temporary special event permit if any of the following had any type of license,
6501 agency, or permit issued under this title revoked while acting in their individual capacity within
6502 the last three years:

6503 (i) any partner or managing agent of the applicant partnership;

6504 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the

6505 total issued and outstanding stock of the applicant corporation; or
6506 (iii) any manager or member who owns at least 20% of the applicant limited liability
6507 company.
6508 (c) A person acting in an individual capacity may not be granted a temporary special
6509 event permit if that person was:
6510 (i) a partner or managing agent of a partnership that had any type of license, agency, or
6511 permit issued under this title revoked within the last three years;
6512 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
6513 total issued and outstanding stock of a corporation that had any type of license, agency, or
6514 permit issued under this title revoked within the last three years; or
6515 (iii) a manager or member who owned at least 20% of the limited liability company
6516 that had any type of license, agency, or permit issued under this title revoked within the last
6517 three years.
6518 (5) (a) A minor may not be:
6519 (i) granted a temporary special event permit; or
6520 (ii) employed by a temporary special event permittee to handle alcoholic beverages.
6521 (b) The commission may not grant a temporary special event permit to an applicant
6522 that is a partnership, corporation, or limited liability company if any of the following is a
6523 minor:
6524 (i) a partner or managing agent of the applicant partnership;
6525 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
6526 total issued and outstanding stock of the applicant corporation; or
6527 (iii) a manager or member who owns at least 20% of the applicant limited liability
6528 company.
6529 (6) If any person to whom a permit has been issued under this part no longer possesses
6530 the qualifications required by this title for obtaining that permit, the commission may suspend
6531 or revoke that permit.
6532 Section 85. Section **32A-10-304** is enacted to read:
6533 **32A-10-304. Commission and department duties before granting permits.**
6534 (1) (a) Before any temporary special event beer permit may be granted by the
6535 commission, the department shall conduct an investigation, gather information, and make

6536 recommendations to the commission as to whether or not a permit should be granted.
6537 (b) The department shall forward the information and recommendations described in
6538 Subsection (1)(a) to the commission to aid in the commission's determination.
6539 (2) Before issuing any temporary special event beer permit, the commission shall:
6540 (a) determine that the applicant has complied with all basic qualifications and
6541 requirements as provided by Sections 32A-10-302 and 32A-10-303;
6542 (b) determine that the application is complete;
6543 (c) consider the times, dates, location, estimated attendance, and purpose of the
6544 temporary special event;
6545 (d) to minimize the risk of minors being sold or furnished alcohol or adults being
6546 overserved alcohol at the temporary special event, assess the adequacy of control measures for:
6547 (i) a large-scale public event where the estimated attendance is in excess of 1,000
6548 people; or
6549 (ii) an outdoor public event; and
6550 (e) consider any other factors or circumstances the commission considers necessary.
6551 (3) Upon commission approval of any application and upon issuance of a temporary
6552 special event beer permit, the department shall send copies of the approved application and the
6553 permit to state and local law enforcement authorities before the scheduled event.

6554 Section 86. Section **32A-10-305** is enacted to read:

6555 **32A-10-305. Bond.**

6556 (1) Any applicant for a temporary special event beer permit shall post a cash or
6557 corporate surety bond in the penal sum of \$500 payable to the department, which the applicant
6558 has procured and must maintain for so long as the permit is in effect.

6559 (2) The bond shall be in a form approved by the attorney general, conditioned upon the
6560 permittee's faithful compliance with this title and the rules of the commission.

6561 (3) (a) No part of any cash or corporate bond so posted may be withdrawn during the
6562 period the permit is in effect.

6563 (b) A bond filed by the permittee may be forfeited if the permit is revoked.

6564 Section 87. Section **32A-10-306** is enacted to read:

6565 **32A-10-306. Operational restrictions.**

6566 (1) (a) Any person granted a temporary special event beer permit and any person

6567 involved in the storage, sale, or service of beer at the event for which a temporary special event
6568 the permit is issued, shall abide by this title, the rules of the commission, and the special
6569 conditions and requirements provided in this section.

6570 (b) Failure to comply as provided in Subsection (1)(a):

6571 (i) may result in:

6572 (A) an immediate revocation of the permit;

6573 (B) forfeiture of the surety bond; and

6574 (C) immediate seizure of all beer present at the event; and

6575 (ii) disqualifies the organization from applying for a temporary special event beer
6576 permit under this part or a single event permit under Chapter 7, Single Event Permits, for a
6577 period of three years from the date of revocation of the temporary special event permit.

6578 (c) Any beer seized under this Subsection (1) shall be returned to the organization after
6579 the event if forfeiture proceedings are not instituted under Section 32A-13-103.

6580 (2) Special conditions and requirements for temporary special event beer permittees
6581 include the following:

6582 (a) (i) All persons involved in the storage, sale, or service of beer at the temporary
6583 special event do so under the supervision and direction of the permittee.

6584 (ii) All persons involved in the sale or service of beer at the temporary special event
6585 may not, while on duty:

6586 (A) consume an alcoholic beverage; or

6587 (B) be intoxicated.

6588 (b) (i) All beer stored, sold, served, and consumed at the temporary special event shall
6589 be purchased by the permittee from a licensed beer wholesaler or retailer.

6590 (ii) All beer is considered under the control of the permittee during the temporary
6591 special event.

6592 (iii) An attendee of the temporary special event may not bring any alcoholic beverages
6593 onto the premises of the temporary special event.

6594 (c) Each permittee shall post in a prominent place in the area in which beer is being
6595 sold, served, and consumed:

6596 (i) a copy of the permit; and

6597 (ii) a list of the operational restrictions and requirements of temporary special event

6598 beer permittees set forth in this section.

6599 (d) Beer purchased for a temporary special event may not be stored, sold, served, or
6600 consumed in any location other than that described in the application and designated on the
6601 temporary special event permit unless the permittee first applies for and receives approval from
6602 the commission for a change of location.

6603 (e) Beer may be sold in any size container not exceeding two liters and on draft.

6604 (f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed
6605 between the hours of 1 a.m. and 10 a.m.

6606 (ii) This Subsection (2)(f) does not preclude a local authority from being more
6607 restrictive with respect to the hours of sale, service, or consumption of beer at a temporary
6608 special event.

6609 (g) Beer may not be sold, served, or otherwise furnished to any:

6610 (i) minor;

6611 (ii) person actually, apparently, or obviously intoxicated;

6612 (iii) known habitual drunkard; or

6613 (iv) known interdicted person.

6614 (h) (i) Beer may not be sold at less than the cost of the beer to the permittee.

6615 (ii) Beer may not be sold at a price that encourages over consumption or intoxication.

6616 (iii) Beer may not be sold at a special or reduced price for only certain hours of the day
6617 of the permitted event.

6618 (iv) The sale or service of more than one beer beverage for the price of a single beer
6619 beverage is prohibited.

6620 (v) The permittee may not engage in a public promotion involving or offering free beer
6621 to the general public.

6622 (i) The permittee and its employees may not permit an attendee to carry from the
6623 premises an open container that:

6624 (i) is used for drinking purposes; and

6625 (ii) contains any alcoholic beverage.

6626 (j) A minor may not sell, serve, dispense, or handle any beer at a temporary special
6627 event.

6628 (3) The following acts or conduct at an event for which a permit is issued under this

6629 part are considered contrary to the public welfare and morals, and are prohibited upon the
6630 premises:

6631 (a) employing or using any person in the sale or service of alcoholic beverages while
6632 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
6633 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
6634 buttocks, vulva, or genitals;

6635 (b) employing or using the services of any person to mingle with the patrons while the
6636 person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);

6637 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
6638 buttocks, anus, or genitals of any other person;

6639 (d) permitting any employee or person to wear or use any device or covering, exposed
6640 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

6641 (e) permitting any person to use artificial devices or inanimate objects to depict any of
6642 the prohibited activities described in this Subsection (3);

6643 (f) permitting any person to remain in or upon the premises who exposes to public
6644 view any portion of his or her genitals or anus; or

6645 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
6646 depicting:

6647 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
6648 copulation, flagellation, or any sexual acts prohibited by Utah law;

6649 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
6650 genitals;

6651 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
6652 drawings are used to portray, any of the prohibited activities described in this Subsection (3); or

6653 (iv) scenes wherein a person displays the vulva, anus, or the genitals.

6654 (4) Nothing in Subsection (3) precludes a local authority from being more restrictive of
6655 acts or conduct of the type prohibited in Subsection (3).

6656 (5) (a) Although live entertainment is permitted at the event for which a permit has
6657 been issued under this chapter, a permittee may not allow any person to perform or simulate
6658 sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy,
6659 bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast,

6660 buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.
6661 Entertainers shall perform only upon a stage or at a designated area approved by the
6662 commission.

6663 (b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive
6664 of acts or conduct of the type prohibited in Subsection (5)(a).

6665 (6) The permittee shall maintain an expense and revenue ledger or record showing:

6666 (a) expenditures made for beer; and

6667 (b) the revenue from sale of beer.

6668 (7) A temporary special event beer permit may not be transferred.

6669 (8) A temporary special event beer permittee may not engage in or allow any form of
6670 gambling, or have any video gaming device as defined and proscribed by Title 76, Chapter 10,
6671 Part 11, Gambling, on the premises serviced by the permittee.

6672 Section 88. Section **32A-11-101** is amended to read:

6673 **32A-11-101. Commission's power to issue licenses.**

6674 (1) (a) The commission may issue beer wholesaling licenses for the import, purchase,
6675 storage, sale, and distribution of beer.

6676 (b) The license entitles the licensee to:

6677 (i) purchase and import beer into the state;

6678 (ii) store beer in approved warehouses; and

6679 (iii) sell and distribute beer directly to:

6680 (A) licensed beer retailers; and

6681 (B) holders of temporary retail beer permits [~~or licenses~~] issued [~~by any local authority~~]
6682 by the commission for temporary special events [~~that do not last longer than 30 days~~] pursuant
6683 to Chapter 10, Part 3, Temporary Special Event Beer Permits.

6684 (2) (a) A person may not import, purchase, store, sell, or distribute beer to retailers or
6685 act in any way as a beer wholesaler unless the person has been issued a beer wholesaler's
6686 license by the commission.

6687 (b) Nothing in this section precludes a small brewer from selling beer it has
6688 manufactured directly to a licensed beer retailer.

6689 (c) Violation of this subsection is a class A misdemeanor.

6690 (3) The commission may prescribe by policy, directive, or rule, consistent with this

6691 title, the general operational requirements of wholesaling licensees relating to physical
6692 facilities, conditions of purchase, storage, sale, importation, distribution, or transportation of
6693 beer within the state.

6694 Section 89. Section **32A-11-102** is amended to read:

6695 **32A-11-102. Application and renewal requirements.**

6696 (1) A person seeking a beer wholesaling license under this chapter shall file a written
6697 application with the department, in a form prescribed by the department. ~~[It]~~ The application
6698 shall be accompanied by:

6699 (a) a nonrefundable ~~[\$100]~~ \$250 application fee;

6700 (b) an initial license fee of ~~[\$300]~~ \$2,000, which is refundable if a license is not
6701 granted;

6702 (c) written consent of the local authority;

6703 (d) a copy of the applicant's current business license;

6704 (e) a bond as specified in Section 32A-11-105;

6705 (f) evidence that the applicant is carrying public liability insurance in an amount and
6706 form satisfactory to the department;

6707 (g) a signed consent form stating that the licensee will permit any authorized
6708 representative of the commission, department, or any peace officer unrestricted right to enter
6709 the licensed premises;

6710 (h) a statement of the brands of beer the applicant is authorized to sell and distribute;

6711 (i) a statement of all geographical areas in which the applicant is authorized to sell and
6712 distribute beer; ~~[and]~~

6713 (j) in the case of an applicant that is a partnership, corporation, or limited liability
6714 company, proper verification evidencing that the person or persons signing the beer
6715 wholesaling license application are authorized to so act on behalf of the partnership,
6716 corporation, or limited liability company; and

6717 ~~[(j)]~~ (k) any other documents and evidence as the department may direct.

6718 ~~[(2) Each application shall be signed and verified by oath or affirmation by an~~
6719 ~~executive officer or any person specifically authorized by the corporation to sign the~~
6720 ~~application, to which shall be attached written evidence of said authority.]~~

6721 ~~[(3)]~~ (2) (a) (i) All beer wholesaling licenses expire on December 31 of each year.

6722 (ii) Persons desiring to renew their beer wholesaling license shall submit [~~a renewal fee~~
6723 ~~of \$300 and a completed renewal application to the department]~~ by no later than November 30
6724 of the year the license expires[-];

6725 (A) a completed renewal application to the department; and

6726 (B) a renewal fee in the following amount:

6727 <u>Case Sales in Previous License Year for the Licensee</u>	<u>Renewal Fee</u>
6728 <u>under 500,000 cases</u>	<u>\$1,000</u>
6729 <u>equals or exceeds 500,000 cases but less than 1,000,000 cases</u>	<u>\$2,000</u>
6730 <u>equals or exceeds 1,000,000 cases</u>	<u>\$3,000.</u>

6731 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
6732 license effective on the date the existing license expires.

6733 (iv) Renewal applications shall be in a form prescribed by the department.

6734 (b) The annual renewal fee prescribed in this Subsection [~~(3)~~] (2) is independent of any
6735 like license fee which may be assessed by the local authority of the city or county in which the
6736 wholesaler's warehouse is located. Any local fees may not exceed \$300. Payment of local fees
6737 shall be made directly to the local authority assessing them.

6738 [~~(4) If any~~] (3) To ensure compliance with Subsection 32A-11-106(1)(g), the
6739 commission may suspend or revoke a beer wholesaling license if a beer wholesaling licensee
6740 does not immediately notify the department of any change in:

6741 (a) ownership of the licensee[~~, or in the case of~~];

6742 (b) for a [Utah] corporate owner [~~of any change in~~], the:

6743 (i) corporate officers or directors[~~, the commission may suspend or revoke that~~
6744 license.]; or

6745 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
6746 corporation; or

6747 (c) for a limited liability company:

6748 (i) managers; or

6749 (ii) members owning at least 20% of the limited liability company.

6750 Section 90. Section **32A-11-103** is amended to read:

6751 **32A-11-103. Qualifications.**

6752 (1) (a) The commission may not issue a beer wholesaling license to any person who

6753 has been convicted of:

6754 (i) ~~[convicted of]~~ a felony under any federal or state law;

6755 (ii) ~~[convicted of]~~ any violation of any federal or state law or local ordinance
6756 concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of
6757 alcoholic products; ~~[or]~~

6758 (iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-]; or~~

6759 (iv) on two or more occasions within the five years before the day on which the license
6760 is granted, driving under the influence of alcohol, any drug, or the combined influence of
6761 alcohol and any drug.

6762 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company, the
6763 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
6764 offense described in Subsection (1)(a):

6765 (i) a partner[-];

6766 (ii) a managing agent[-];

6767 (iii) a manager;

6768 (iv) an officer[-];

6769 (v) a director[-~~or~~];

6770 (vi) a stockholder[-] who holds at least 20% of the total issued and outstanding stock of
6771 [an] the applicant corporation [has been convicted of any offense as provided in this
6772 subsection-]; or

6773 (vii) a member who owns at least 20% of the applicant limited liability company.

6774 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
6775 supervisory or managerial capacity for the wholesaler has been convicted of any offense as
6776 provided in Subsection (1)(a).

6777 (2) ~~[(a) If any employee or proprietor of a licensee is convicted of any offense provided~~
6778 ~~in Subsection (1), the] The commission may ~~[take emergency action by]~~ immediately ~~[revoking~~
6779 ~~the permit according to the procedures and requirements of Title 63, Chapter 46b;~~~~

6780 ~~Administrative Procedures Act.] suspend or revoke a beer wholesaling license if after the day~~
6781 ~~on which the beer wholesaling license is granted, a person described in Subsection (1)(a), (b),~~
6782 ~~or (c):~~

6783 ~~[(b) In the case of a partnership or corporation that has been granted a beer wholesaling~~

6784 license, if any partner, managing agent, officer, director, or stockholder who holds at least 20%
6785 of the total issued and outstanding stock of a corporation is convicted of any offense provided
6786 in Subsection (1), the commission may take emergency action by immediately revoking the
6787 license according to the procedures and requirements of Title 63, Chapter 46b, Administrative
6788 Procedures Act.]

6789 ~~[(3) Upon the arrest of any licensee on any charge set forth in Subsection (1), the]~~

6790 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
6791 to the license being granted; or

6792 (b) on or after the day on which the license is granted:

6793 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

6794 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
6795 combined influence of alcohol and any drug; and

6796 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
6797 influence of alcohol and any drug within five years before the day on which the person is
6798 convicted of the offense described in Subsection (2)(b)(ii)(A).

6799 (3) The director may take emergency action by immediately suspending the operation
6800 of [the licensee] a beer wholesaling license according to the procedures and requirements of
6801 Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal
6802 matter is being adjudicated[-] if a person described in Subsection (1)(a), (b), or (c):

6803 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

6804 or

6805 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
6806 any drug, or the combined influence of alcohol and any drug; and

6807 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
6808 influence of alcohol and any drug within five years before the day on which the person is
6809 arrested on a charge described in Subsection (3)(b)(i).

6810 (4) (a) (i) The commission may not grant a beer wholesaling license to any person who
6811 has had any type of license, agency, or permit issued under this title revoked within the last
6812 three years.

6813 (ii) The commission may not grant a beer wholesaling license to an applicant that is a
6814 partnership, corporation, or limited liability company if any partner, managing agent, manager,

6815 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
6816 of the applicant corporation, or member who owns at least 20% of the applicant limited
6817 liability company is or was:

6818 (A) a partner or managing agent of any partnership that had any type of license, agency,
6819 or permit issued under this title revoked within the last three years;

6820 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
6821 of the total issued and outstanding stock of any corporation that had any type of license,
6822 agency, or permit issued under this title revoked within the last three years; or

6823 (C) a manager or member who owns or owned at least 20% of any limited liability
6824 company that had any type of license, agency, or permit issued under this title revoked within
6825 the last three years.

6826 (b) An applicant that is a partnership, corporation, or limited liability company may not
6827 be granted a beer wholesaling license if any of the following had any type of license, agency, or
6828 permit issued under this title revoked while acting in that person's individual capacity within
6829 the last three years:

6830 (i) a partner or managing agent of the applicant partnership;

6831 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
6832 total issued and outstanding stock of the applicant corporation; or

6833 (iii) any manager or member who owns at least 20% of the applicant limited liability
6834 company.

6835 (c) A person acting in an individual capacity may not be granted a beer wholesaling
6836 license if that person was:

6837 (i) a partner or managing agent of a partnership that had any type of license, agency, or
6838 permit issued under this title revoked within the last three years;

6839 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
6840 total issued and outstanding stock of a corporation that had any type of license, agency, or
6841 permit issued under this title revoked within the last three years; or

6842 (iii) a manager or member who owned at least 20% of the limited liability company
6843 that had any type of license, agency, or permit issued under this title revoked within the last
6844 three years.

6845 [~~(4)~~] (5) (a) A minor may not be;

- 6846 (i) granted a beer wholesaling license; or [be]
6847 (ii) employed by a licensee to handle beer.
- 6848 (b) The commission may not grant a beer wholesaling license to an applicant that is a
6849 partnership, corporation, or limited liability company if any of the following is a minor:
- 6850 (i) a partner or managing agent of the applicant partnership;
6851 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
6852 total issued and outstanding stock of the applicant corporation; or
- 6853 (iii) a manager or member who owns at least 20% of the applicant limited liability
6854 company.
- 6855 [~~5~~] (6) (a) A beer wholesaler may not be issued, directly or indirectly, nor hold,
6856 through any wholly or partially owned subsidiaries or otherwise, a brewery license or a retail
6857 beer license simultaneously with a wholesaling license.
- 6858 (b) A retail beer licensee may not be issued, directly or indirectly, nor hold, through
6859 any wholly or partially owned subsidiaries or otherwise, a wholesaling license.
- 6860 [~~6~~] (7) The commission may not grant a beer wholesaling license to any person who
6861 has not met any applicable federal requirements for beer wholesaling.
- 6862 [~~7~~] (8) If any person to whom a license has been issued under this chapter no longer
6863 possesses the qualifications required by this title for obtaining that license, the commission
6864 may suspend or revoke that license.
- 6865 Section 91. Section **32A-11-106** is amended to read:
- 6866 **32A-11-106. Operational restrictions.**
- 6867 [~~1~~ Any] Each person [~~who is~~] granted a beer wholesaling license, and the employees
6868 and management personnel of the licensee, shall [~~abide by~~] comply with the following
6869 conditions and requirements[?]. Failure to comply may result in a suspension or revocation of
6870 the beer wholesaling license or other disciplinary action taken against individual employees or
6871 management personnel of the licensee.
- 6872 [~~a~~] (1) A licensee may not wholesale any beer manufactured within the state by a
6873 brewer who is not licensed by the commission as a manufacturing licensee.
- 6874 [~~b~~] (2) A licensee may not wholesale any beer manufactured out of state by a brewer
6875 who has not obtained a certificate of approval from the department.
- 6876 [~~c~~] (3) (a) A licensee may not sell or distribute beer to any person within the state

6877 except licensed beer retailers or holders of temporary retail beer permits [~~or licenses~~] issued by
6878 [~~a local authority~~] the commission for temporary special events [~~that do not last longer than 30~~
6879 ~~days~~] pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits.

6880 (b) A violation of this Subsection (3) is a class A misdemeanor.

6881 [~~(4)~~] (4) (a) A licensee may not sell or distribute any beer to any retailer outside of the
6882 geographic area designated on its application, except that if a licensee is temporarily unable to
6883 supply retail dealers within its authorized geographical area, the department may grant
6884 temporary authority to another licensed wholesaler who distributes the same brand in another
6885 area to supply retailers.

6886 (b) A violation of this Subsection (4) is a class B misdemeanor.

6887 [~~(e)~~] (5) (a) Every licensee shall own, lease, or otherwise control and maintain a
6888 warehouse facility located in this state for the receipt, storage, and further distribution of all
6889 beer sold by the licensee to any person within the state.

6890 [~~(f)~~] (b) A licensee may not sell beer to any person in this state, other than the
6891 department, unless the beer has first been physically removed from the vehicle used to
6892 transport the beer from the supplier to the licensee and delivered into the actual possession and
6893 control of the licensee in its warehouse or other facility.

6894 [~~(g)~~] (6) Each beer wholesaling licensee shall maintain accounting and other records
6895 and documents as the department may require. Any licensee or person acting for the licensee,
6896 who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in
6897 any of the books of account or other documents of the licensee required to be made,
6898 maintained, or preserved by this title or the rules of the commission for the purpose of
6899 deceiving the commission or the department, or any of their officials or employees, is subject
6900 to the immediate suspension or revocation of the beer wholesaling license and possible
6901 criminal prosecution under Chapter 12, Criminal Offenses.

6902 [~~(g)~~] (7) A licensee may not sell, transfer, assign [~~or transfer its~~], exchange, barter,
6903 give, or attempt in any way to dispose of the beer wholesaling license to any person, whether
6904 for monetary gain or not, unless [~~the assignment or transfer~~] it is done;

6905 (a) in accordance with the commission rules; and

6906 (b) after written consent has been given by the commission.

6907 [~~(h)~~] (8) A licensee may not sell or distribute any alcoholic beverage that is not clearly

6908 labeled in a manner reasonably calculated to put the public on notice that the beverage is an
6909 alcoholic beverage. The beverage shall bear the label "alcoholic beverage" or a manufacturer's
6910 label which in common usage apprises the general public that the beverage contains alcohol.

6911 ~~[(2) Failure to comply with the provisions of Subsection (1) may result in suspension~~
6912 ~~or revocation of the beer wholesaling license or other disciplinary action taken against~~
6913 ~~individual employees or management personnel of the licensee.]~~

6914 Section 92. Section ~~32A-11a-106~~ is amended to read:

6915 **32A-11a-106. Prohibited conduct of wholesaler.**

6916 (1) A wholesaler may not:

6917 (a) induce, coerce, or attempt to induce or coerce, any retailer to engage in any illegal
6918 act or course of conduct;

6919 (b) impose a requirement that is discriminatory by its terms or in the methods of
6920 enforcement as compared to requirements imposed by the wholesaler on similarly situated
6921 retailers;

6922 (c) prohibit a retailer from selling the product of any other wholesaler;

6923 (d) fix or maintain the price at which a retailer may resell beer;

6924 (e) require any retailer to accept delivery of any beer or any other item that is not
6925 voluntarily ordered by the retailer;

6926 (f) restrict or inhibit, directly or indirectly, the right of a retailer to participate in an
6927 organization representing interests of retailers for any lawful purpose;

6928 (g) require a retailer to participate in or contribute to any local, regional, or national
6929 advertising fund or other promotional activity;

6930 (h) retaliate against a retailer that files a complaint with the department or the
6931 applicable federal agency regarding an alleged violation by the wholesaler of a state or federal
6932 law or administrative rule; and

6933 (i) refuse to deliver beer products carried by the wholesaler to a properly licensed
6934 retailer who resides within the wholesaler's sales territory:

6935 (i) in reasonable quantities; and

6936 (ii) within a reasonable time after receipt of the retailer's order.

6937 (2) Notwithstanding Subsection (1)(i), the wholesaler may refuse to deliver products if
6938 the refusal is due to:

6939 (a) the retailer's failure to pay the wholesaler pursuant to Subsection
6940 32A-12-603~~(17)~~(7);

6941 (b) an unforeseeable event beyond the wholesaler's control;

6942 (c) a work stoppage or delay due to a strike or labor problem;

6943 (d) a bona fide shortage of materials; or

6944 (e) a freight embargo.

6945 Section 93. Section **32A-12-103** is amended to read:

6946 **32A-12-103. Criminal responsibility for conduct of another.**

6947 In addition to Title 76, Chapter 2, Part 2, [~~of the Utah Criminal Code relating to~~
6948 ~~criminal responsibility for the conduct of another~~] Criminal Responsibility for the Conduct of
6949 Another, the following principles apply to violations of this title:

6950 (1) If a violation of this title is committed by any person in the employ of the occupant
6951 of any premises in which the offense is committed, or by any person who is required by the
6952 occupant to be or remain in or upon the premises, or to act in any way for the occupant, the
6953 occupant is prima facie considered a party to the offense committed, and is liable as a principal
6954 offender, notwithstanding the fact that the offense was committed by a person who is not
6955 proved to have committed it under or by the direction of the occupant. Nothing in this section
6956 relieves the person actually committing the offense from liability.

6957 (2) If a violation of this title is committed by a corporation [~~or~~], association,
6958 partnership, or limited liability company, the officer or agent of the corporation or association,
6959 partner, manager, or member of the limited liability company in charge of the premises in
6960 which the offense is committed is prima facie considered a party to the offense committed, and
6961 is personally liable to the penalties prescribed for the offense as a principal offender. Nothing
6962 in this section relieves the corporation [~~or~~], association, partnership, or limited liability
6963 company, or the person who actually committed the offense from liability.

6964 Section 94. Section **32A-12-105** is amended to read:

6965 **32A-12-105. Additional criminal penalties.**

6966 In addition to the penalties provided in Title 76, Chapter 3, [~~the Utah Criminal Code~~]
6967 Penalties:

6968 (1) Upon any defendant's conviction of any offense defined in this title, the court may
6969 also order the defendant to make restitution or pay costs in accordance with Title 77, Chapter

6970 32A, [~~the Utah Code of Criminal Procedure~~] Defense Costs.

6971 (2) (a) Upon a corporation's [~~or~~], association's, partnership's, or limited liability
6972 company's conviction of any offense defined in this title, and a failure of the corporation [~~or~~],
6973 partnership, association, or limited liability company to pay a fine imposed upon it, the
6974 [~~corporate~~] powers, rights, and privileges of the corporation [~~or~~], association, partnership, or
6975 limited liability company, if it is a domestic corporation [~~or~~], association, partnership, or
6976 limited liability company may be suspended or revoked, and if a foreign corporation,
6977 association, partnership, or limited liability company, it forfeits its right to do intrastate
6978 business in this state.

6979 (b) The department shall transmit the name of each corporation [~~or~~], association,
6980 partnership, or limited liability company to the Division of Corporations and Commercial
6981 Code, which shall immediately record the action in a manner that makes the information
6982 available to the public. The suspension, revocation, or forfeiture is effective from the time the
6983 record is made, and the certificate of the Division of Corporations and Commercial Code is
6984 prima facie evidence of the suspension, revocation, or forfeiture. Nothing contained in this
6985 section may be construed as affecting, limiting, or restricting any proceedings that otherwise
6986 may be taken for the imposition of any other punishment or the modes of enforcement or
6987 recovery of fines or penalties.

6988 (3) Upon the conviction of any business entity required to have a business license to
6989 operate its business activities, or upon the conviction of any of its agents, employees, or
6990 officers of any offense defined in this title, with the knowledge, consent, or acquiescence of the
6991 business entity, the department shall forward a copy of the judgment of conviction to the
6992 appropriate governmental entity responsible for issuing and revoking the business licenses.
6993 That governmental entity may institute appropriate proceedings to revoke the business' license,
6994 and upon revocation, a license may not be granted to the business entity for at least one year
6995 from the date of revocation. Upon the conviction for a second or other offense, a license may
6996 not be granted for at least two years from the date of revocation.

6997 (4) Upon conviction of any physician, pharmacist, druggist, dentist, or veterinarian of
6998 any offense defined in this title, the department shall forward a certified copy of the judgment
6999 of conviction to the [~~Department of Commerce~~] Division of Occupational and Professional
7000 Licensing. That department may institute appropriate proceedings to revoke the defendant's

7001 license, and upon revocation, a license may not be granted to the defendant by the department
7002 for at least one year from the date of revocation. Upon the defendant's conviction for a second
7003 or other offense, a license may not be granted for at least two years from the date of revocation.

7004 Section 95. Section **32A-12-201** is amended to read:

7005 **32A-12-201. Unlawful sale or furnishing.**

7006 (1) It is unlawful for any person~~[-licensee, permittee, or their officers, managers,~~
7007 ~~employees, or agents to keep for sale, or to directly or indirectly or upon any pretense or~~
7008 ~~device, sell, offer to sell, or otherwise furnish or supply to another, any alcoholic beverage or~~
7009 ~~product, except as provided by this title or the rules of the commission adopted under this title.~~

7010 (2) ~~Except as otherwise provided, a manufacturer, supplier, or importer of liquor, wine, and~~
7011 ~~heavy beer products, and their employees, agents, and representatives may not sell, offer to sell,~~
7012 ~~solicit or canvass for orders, or otherwise furnish or supply these products to another within~~
7013 ~~this state other than the department and military installations.] in the business of selling liquor,~~
7014 ~~or any manufacturer, supplier, or importer of liquor, or their officers, managers, employees, or~~
7015 ~~agents to sell, ship, transport, or cause to be sold, shipped, or transported any liquor from an~~
7016 ~~out-of-state location directly or indirectly into this state except to the extent authorized by this~~
7017 ~~title to:~~

7018 (a) the department;

7019 (b) a military installation;

7020 (c) a holder of a special use permit to the extent authorized by the commission in the
7021 permit; or

7022 (d) a bonded liquor warehouse licensed by the commission to distribute and transport
7023 liquor to:

7024 (i) the department; or

7025 (ii) an out-of-state wholesaler or retailer.

7026 (2) (a) It is unlawful for any person in the business of selling beer, or any manufacturer,
7027 supplier, or importer of beer, or their officers, managers, employees, or agents to sell, ship,
7028 transport, or cause to be sold, shipped, or transported any beer from an out-of-state location
7029 directly or indirectly into this state except to the extent authorized by this title to:

7030 (i) a licensed beer wholesaler;

7031 (ii) a military installation; or

7032 (iii) a holder of a special use permit to the extent authorized by the commission in the
7033 permit.

7034 (b) Subsection (2)(a) does not preclude a small brewer that holds a certificate of
7035 approval under Subsection 32A-8-101(4) from selling, shipping, or transporting beer directly to
7036 a licensed beer retailer to the extent authorized by Subsection 32A-8-401(5).

7037 (3) (a) It is unlawful for any manufacturer, supplier, or importer of liquor in this state,
7038 or their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold,
7039 shipped, or transported any liquor directly or indirectly to any person in this state except to the
7040 extent authorized by this title to:

7041 (i) the department;

7042 (ii) a military installation;

7043 (iii) a holder of a special use permit to the extent authorized by the commission in the
7044 permit; or

7045 (iv) a bonded liquor warehouse licensed by the commission to distribute and transport
7046 liquor to:

7047 (A) the department; or

7048 (B) an out-of-state wholesaler or retailer.

7049 (b) Subsection (3)(a) does not preclude a winery licensed under this title and located in
7050 this state from selling wine to persons on its winery premises:

7051 (i) to the extent authorized by Subsection 32A-8-201(4)(c); or

7052 (ii) under a package agency established by the commission on the winery premises.

7053 (4) (a) It is unlawful for any manufacturer, supplier, or importer of beer in this state, or
7054 their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold,
7055 shipped, or transported any beer directly or indirectly to any person in this state except to the
7056 extent authorized by this title to:

7057 (i) a licensed beer wholesaler;

7058 (ii) a military installation; or

7059 (iii) a holder of a special use permit to the extent authorized by the commission in the
7060 permit.

7061 (b) Subsection (4)(a) does not preclude:

7062 (i) a small brewer licensed under this title and located in this state from selling.

7063 shipping, and transporting beer directly to a licensed beer retailer in this state to the extent
7064 authorized by Subsection 32A-8-401(5); or

7065 (ii) a brewery licensed under this title from selling beer to persons on its manufacturing
7066 premises under Subsection 32A-8-401(4)(c).

7067 (5) It is unlawful for any person other than a person described in Subsection (1) or (2)
7068 to sell, ship, transport, or cause to be sold, shipped, or transported any alcoholic beverage or
7069 product from an out-of-state location directly or indirectly into this state, except as otherwise
7070 provided by this title.

7071 (6) It is unlawful for any person in this state other than a person described in
7072 Subsection (3) or (4) to sell, ship, transport, or cause to be sold, shipped, or transported any
7073 alcoholic beverage or product directly or indirectly to any other person in this state, except as
7074 otherwise provided by this title.

7075 (7) It is unlawful for any retail licensee or permittee in this state, or their officers,
7076 managers, employees, or agents to keep for sale, or to directly or indirectly, sell, offer to sell, or
7077 otherwise furnish to another, any alcoholic beverage or product, except as otherwise provided
7078 by this title.

7079 (8) (a) A violation of Subsection (1), (2), (3), or (4) is a third degree felony.

7080 (b) A violation of Subsection (5) or (6) is a class B misdemeanor.

7081 (c) A violation of Subsection (7) is a class B misdemeanor, except where otherwise
7082 provided by this title.

7083 Section 96. Section **32A-12-203** is amended to read:

7084 **32A-12-203. Unlawful sale or furnishing to minors.**

7085 (1) A person may not sell, offer to sell, or otherwise furnish [~~or supply~~] any alcoholic
7086 beverage or product to any [~~person under the age of 21 years~~] minor.

7087 (2) (a) Except as otherwise provided in Subsection (4), a person is guilty of a class B
7088 misdemeanor if that person:

7089 (i) sells, offers to sell, or otherwise furnishes any alcoholic beverage or product to any
7090 minor; and

7091 (ii) negligently or recklessly fails to determine whether the recipient of the alcoholic
7092 beverage or product is a minor.

7093 (b) As used in this Subsection (2), "negligently" means with simple negligence.

7094 ~~[(2)]~~ (3) Except as otherwise provided in Subsection ~~[(3)]~~ (4), a person who
7095 ~~[knowingly]~~ sells, offers to sell, or otherwise furnishes ~~[or supplies]~~ any alcoholic beverage or
7096 product to any ~~[person under the age of 21 years]~~ minor knowing that the recipient of the
7097 alcoholic beverage or product is a minor is guilty of a class A misdemeanor.

7098 ~~[(3)]~~ (4) This section does not apply to the furnishing ~~[or supplying]~~ of an alcoholic
7099 beverage or product to a minor in accordance with this title:

7100 (a) for medicinal purposes by:

7101 (i) the parent or guardian of the minor; or ~~[by]~~

7102 (ii) the minor's physician or dentist~~[-, in accordance with this title];~~ or

7103 (b) as part of a church's or religious organization's religious services.

7104 Section 97. Section **32A-12-204** is amended to read:

7105 **32A-12-204. Unlawful sale or furnishing to intoxicated persons.**

7106 (1) A person may not sell, offer to sell, or otherwise furnish ~~[or supply]~~ any alcoholic
7107 beverage or product to:

7108 (a) any person who is actually or apparently ~~[under the influence of intoxicating~~
7109 ~~alcoholic beverages or products or drugs]~~ intoxicated; or ~~[to]~~

7110 (b) a person whom the person furnishing the alcoholic beverage knew or should have
7111 known from the circumstances was ~~[under the influence of intoxicating alcoholic beverages or~~
7112 ~~products or drugs]~~ actually or apparently intoxicated.

7113 (2) (a) A person who negligently or recklessly violates Subsection (1) is guilty of a
7114 class B misdemeanor.

7115 (b) A person who knowingly violates Subsection (1) is guilty of a class A
7116 misdemeanor.

7117 (3) As used in Subsection (2)(a), "negligently" means with simple negligence.

7118 Section 98. Section **32A-12-207** is amended to read:

7119 **32A-12-207. Unlawful sale or furnishing during emergency.**

7120 ~~[(1) A person may not]~~ During a period of emergency proclaimed by the governor to
7121 exist in an area of the state, it is unlawful for a person to sell, offer to sell, or otherwise furnish
7122 ~~[or supply]~~ any alcoholic product in ~~[an]~~ that area ~~[during a period of emergency proclaimed by~~
7123 ~~the governor to exist in the area.~~ (2) ~~This section does not apply if, in the judgment of the~~
7124 ~~governor, the emergency does not require suspension of sale or supply of alcoholic beverages;~~

7125 ~~and the emergency proclamation so provides.] if the director of the department has publicly~~
7126 ~~announced and directed that alcoholic products may not be sold, offered for sale, or otherwise~~
7127 ~~furnished in that area during the period of emergency.~~

7128 Section 99. Section **32A-12-209** is amended to read:

7129 **32A-12-209. Unlawful purchase, possession, or consumption by minors.**

7130 (1) It is unlawful for any [~~person under the age of 21 years~~] minor to purchase, attempt
7131 to purchase, solicit another person to purchase, possess, or consume any alcoholic beverage or
7132 product, unless specifically authorized by this title.

7133 (2) It is unlawful for [~~any person under the age of 21 years to misrepresent his age, or~~
7134 ~~for any other person to misrepresent the age of a minor, for~~] the purpose of purchasing or
7135 otherwise obtaining an alcoholic beverage or product for a minor[-:] for:

7136 (a) any minor to misrepresent the minor's age; or

7137 (b) any other person to misrepresent the age of a minor.

7138 (3) It is unlawful for [~~any person under the age of 21 years~~] a minor to possess or
7139 consume any alcoholic beverage while riding in a limousine or chartered bus.

7140 (4) When a person who is at least 13 years old, but younger than 18 years old, is found
7141 by the court to have violated this section, the provisions regarding suspension of the driver's
7142 license under Section 78-3a-506 apply to the violation.

7143 (5) When the court has issued an order suspending a person's driving privileges for a
7144 violation of this section, the Driver License Division shall suspend the person's license under
7145 the provisions of Section 53-3-219.

7146 (6) When the Department of Public Safety receives the arrest or conviction record of a
7147 person for a driving offense committed while [~~his~~] the person's license is suspended pursuant to
7148 this section, the department shall extend the suspension for an additional like period of time.

7149 [~~(7) A violation of this section is a class B misdemeanor.~~]

7150 Section 100. Section **32A-12-210** is amended to read:

7151 **32A-12-210. Unlawful purchase by intoxicated persons.**

7152 A person may not purchase any alcoholic beverage or product when [~~he~~] the person is
7153 [~~under the influence of intoxicating alcoholic beverages, products, or drugs~~] intoxicated.

7154 Section 101. Section **32A-12-212** is amended to read:

7155 **32A-12-212. Unlawful possession -- Exceptions.**

7156 (1) A person may not have or possess within this state any liquor unless authorized by
7157 this title or the rules of the commission, except that:

7158 (a) a person who clears United States Customs when entering this country may have or
7159 possess for personal consumption and not for sale or resale, a maximum of [~~one liter~~] two liters
7160 of liquor purchased from without the United States; [~~or~~]

7161 (b) a person who moves [~~his~~] the person's residence to this state from outside of this
7162 state may have or possess for personal consumption and not for sale or resale, any liquor
7163 previously purchased outside the state and brought into this state during the move, if:

7164 (i) the person first obtains department approval prior to moving the liquor into the
7165 state;

7166 (ii) the department affixes the official state label to the liquor; and

7167 (iii) the person pays the department a reasonable administrative handling fee as
7168 determined by the commission[~~]; or~~

7169 (c) a person who as a beneficiary inherits as part of an estate liquor that is located
7170 outside the state, may have or possess the liquor and transport or cause the liquor to be
7171 transported into the state if:

7172 (i) the person first obtains department approval prior to moving the liquor into the
7173 state;

7174 (ii) the person provides sufficient documentation to the department to establish the
7175 person's legal right to the liquor as a beneficiary;

7176 (iii) the department affixes the official state label to the liquor; and

7177 (iv) the person pays the department a reasonable administrative handling fee as
7178 determined by the commission.

7179 (2) (a) Approval under Subsection (1)(b) may be obtained by [~~persons who are either~~] a
7180 person who:

7181 (i) is transferring [~~their~~] the person's permanent [~~residences~~] residence to this state; or
7182 [~~who maintain~~]

7183 (ii) maintains separate residences both in and out of this state.

7184 (b) A person may not obtain approval to transfer liquor under [~~that subsection~~]
7185 Subsection (1)(b) more than once.

7186 Section 102. Section **32A-12-213** is amended to read:

7187 **32A-12-213. Unlawful bringing onto premises for consumption.**

7188 ~~[(1) A person may not bring onto the premises of any licensed or unlicensed restaurant,~~
7189 ~~airport lounge, licensed or unlicensed private club, on-premise beer retailer licensee, or any~~
7190 ~~establishment open to the general public any alcoholic beverage for on-premises consumption;~~
7191 ~~except:]~~

7192 (1) Except as provided in Subsection (3), a person may not bring for on-premise
7193 consumption any alcoholic beverage onto the premises of any:

7194 (a) licensed or unlicensed restaurant;

7195 (b) licensed or unlicensed private club;

7196 (c) airport lounge licensee;

7197 (d) on-premise banquet licensee;

7198 (e) on-premise beer retailer licensee;

7199 (f) event where alcoholic beverages are sold or served under a single event permit or
7200 temporary special event beer permit issued under this title; or

7201 (g) any establishment open to the general public.

7202 (2) Except as provided in Subsection (3), a licensed or unlicensed restaurant or private
7203 club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer licensee, or
7204 holder of a single event permit or temporary special event beer permit issued under this title, or
7205 its officers, managers, employees, or agents may not allow a person to bring onto its premises
7206 any alcoholic beverage for on-premise consumption or allow consumption of any such
7207 alcoholic beverage in violation of this section.

7208 (3) (a) [a] A person may bring [~~cork-finished wines~~] bottled wine onto the premises of
7209 any restaurant liquor licensee, limited restaurant licensee, or private club [~~liquor~~] licensee and
7210 consume the wine pursuant to the applicable restrictions contained in Subsection
7211 32A-4-106[~~(17)~~](14), 32A-4-307(13), or 32A-5-107[~~(24)~~](m), as the case may be](32);

7212 (b) a passenger of a limousine may bring onto, have, and consume any alcoholic
7213 beverage on the limousine if:

7214 (i) the travel of the limousine begins and ends at:

7215 (A) the residence of the passenger;

7216 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

7217 (C) the temporary domicile of the passenger; and

7218 (ii) the driver of the limousine is separated from the passengers by partition or other
7219 means approved by the department;

7220 (c) a passenger of a chartered bus may bring onto, have, and consume any alcoholic
7221 beverage on the chartered bus:

7222 (i) (A) but may consume only during travel to a specified destination of the chartered
7223 bus and not during travel back to the place where the travel begins; or

7224 (B) if the travel of the chartered bus begins and ends at:

7225 (I) the residence of the passenger;

7226 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

7227 (III) the temporary domicile of the passenger; and

7228 (ii) the chartered bus has a nondrinking designee other than the driver traveling on the
7229 chartered bus to monitor consumption; and

7230 (d) a person may bring onto any premises, have, and consume any alcoholic beverage
7231 at a privately hosted event that is not open to the general public.

7232 ~~[(2)]~~ (4) Except as provided in Subsection ~~[(1)]~~ (3)(c)(i)(A), the consumption of
7233 alcoholic beverages in limousines and chartered buses is not allowed if the limousine or
7234 chartered bus drops off passengers at locations from which they depart in private vehicles.

7235 ~~[(3) A licensed or unlicensed private club, licensed or unlicensed restaurant, airport
7236 lounge, or on-premise beer retailer licensee, or its officers, managers, employees, or agents may
7237 not allow a person to bring onto its premises any alcoholic beverage for on-premises
7238 consumption or allow consumption of any such alcoholic beverage in violation of this section,
7239 except as authorized in Subsection (1).]~~

7240 ~~[(4) This section does not apply to a retail licensee wine tasting, as defined in Section
7241 32A-1-105, and as provided in Subsection 32A-12-603(20).]~~

7242 Section 103. Section **32A-12-215** is amended to read:

7243 **32A-12-215. Unlawful storage.**

7244 ~~[(1)]~~ It is unlawful for any person to store liquor in any establishment that is authorized
7245 to sell beer for on-premise consumption but is not licensed by the commission to sell liquor.

7246 ~~[(2) A violation of this section is a class B misdemeanor.]~~

7247 Section 104. Section **32A-12-216** is amended to read:

7248 **32A-12-216. Unlawful permitting of intoxication.**

7249 ~~[(1) The offense of intoxication shall be defined and punished in accordance with~~
7250 ~~Section 76-9-701 of the Utah Criminal Code.]~~

7251 ~~[(2)]~~ (1) A person may not permit any other person to become intoxicated~~[, as defined~~
7252 ~~in Section 76-9-701,]~~ or any intoxicated person to consume any alcoholic beverage in:

7253 (a) any premises of which the person is the owner, tenant, or occupant~~[-];~~ or

7254 (b) in any chartered bus or limousine of which the person is the owner or operator.

7255 ~~[(3)]~~ (2) A violation of Subsection ~~[(2)]~~ (1) is ~~[an infraction]~~ a class C misdemeanor.

7256 Section 105. Section **32A-12-218** is amended to read:

7257 **32A-12-218. Unlawful labeling or lack of label.**

7258 (1) ~~[It]~~ Unless otherwise provided by this title or the rules of the commission, it is
7259 unlawful for any person to possess any liquor unless [it]:

7260 (a) the liquor is contained in its original package; and [unless]

7261 (b) the package has affixed to it the official commission label and markings as required
7262 by this title and the rules of the commission~~[- unless otherwise provided by this title or the rules~~
7263 of the commission].

7264 ~~[(2) This section does not apply to any person holding a public service permit that~~
7265 ~~allows service of liquor on railroads, airlines, or other public conveyances.]~~

7266 (2) Unless authorized by the department, it is unlawful for any person to be in
7267 possession of or use an official commission label, marking, or equipment that is used by the
7268 department, a state store, or a package agency to label or mark original liquor bottles or
7269 packages.

7270 (3) A violation of Subsection (2) is a third degree felony.

7271 Section 106. Section **32A-12-222** is enacted to read:

7272 **32A-12-222. Unlawful dispensing.**

7273 (1) For purposes of this section:

7274 (a) "primary spirituous liquor" means the main distilled spirit in a beverage; and

7275 (b) "primary spirituous liquor" does not include any secondary alcoholic product used
7276 as flavorings in conjunction with the primary distilled spirit in the beverage.

7277 (2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous
7278 liquor for consumption on the licensed premises, or any officer, manager, employee, or agent
7279 of the licensee may not:

7280 (a) sell, serve, dispense, or otherwise furnish any primary spirituous liquor to any
 7281 person on the licensed premises except in a quantity that does not exceed one ounce per
 7282 beverage dispensed through a calibrated metered dispensing system approved by the
 7283 department;

7284 (b) sell, serve, dispense, or otherwise furnish more than a total of 1.75 ounces of
 7285 spirituous liquors as secondary flavoring ingredients per beverage;

7286 (c) allow any person on the licensed premises to have more than two alcoholic
 7287 beverages containing spirituous liquor at a time: § OR §

7288 (d) allow any person on the licensed premises to have more than a total of 2.75 ounces
 7289 of spirituous liquor at a time § [;or] .

7290 ~~(e)~~ (3) ANY OF THE FOLLOWING OR AN OFFICER, MANAGER, EMPLOYEE, OR AGENT OF
 7290a THE FOLLOWING MAY NOT § allow any person on the premises of the following to have more than
 7290b one spirituous
 7291 liquor beverage at a time:

7292 § ~~(i)~~ (a) § a restaurant liquor licensee;

7293 § ~~(ii)~~ (b) A § limited restaurant licensee;

7294 § ~~(iii)~~ (c) § an on-premise banquet licensee; or

7295 § ~~(iv)~~ (d) § a single event permittee.

7296 § ~~(3)~~ (4) § A violation of this section is a class C misdemeanor.

7297 Section 107. Section **32A-12-301** is amended to read:

7298 **32A-12-301. Operating without a license or permit.**

7299 ~~[(1)]~~ A person may not operate a restaurant, airport lounge, private club, on-premise
 7300 beer retailer outlet, or similar establishment that allows patrons, customers, members, guests,
 7301 visitors, or other persons to purchase or consume alcoholic beverages on the premises, except
 7302 as provided by this title or the rules of the commission.

7303 ~~[(2) A violation of this section is a class B misdemeanor.]~~

7304 Section 108. Section **32A-12-305** is amended to read:

7305 **32A-12-305. Obstructing an officer making a search or an official proceeding or**
 7306 **investigation.**

7307 (1) A person in or having charge of any premises may not refuse or fail to admit to the
 7308 premises or obstruct the entry of any member of the commission, authorized representative of
 7309 the commission or department, or any law enforcement officer who demands entry when acting
 7310 under this title.

7311 (2) A person in or having charge of any premises may not interfere with any of the
7312 following who is conducting an investigation under this title at the premises:

7313 (a) a member of the commission;

7314 (b) an authorized representative of the commission or department; or

7315 (c) any law enforcement officer.

7316 [~~2~~] (3) A person is guilty of a second degree felony if, believing that an official
7317 proceeding or investigation is pending or about to be instituted under this title, that person:

7318 (a) alters, destroys, conceals, or removes any writing or record with a purpose to impair
7319 its verity or availability in the proceeding or investigation; or

7320 (b) makes, presents, or uses anything that the person knows to be false with a purpose
7321 to deceive any commissioner, department official or employee, law enforcement official, or
7322 other person who may be engaged in a proceeding or investigation under this title.

7323 Section 109. Section **32A-12-306** is amended to read:

7324 **32A-12-306. Conflicting interests.**

7325 (1) A member of the commission, the department director, or [~~an~~] any employee of the
7326 department may not be directly or indirectly interested or engaged in any other business or
7327 undertaking dealing in alcoholic products, whether as owner, part owner, partner, member of
7328 syndicate, shareholder, agent, or employee and whether for the member's own benefit or in a
7329 fiduciary capacity for some other person or entity.

7330 (2) A member of the commission, the department director, or [~~an~~] any employee of the
7331 department may not enter into or participate in any business transaction as a partner, co-owner,
7332 joint venturer, or shareholder with any agent, representative, employee, or officer of any
7333 supplier of alcoholic products to the department.

7334 (3) The following are governed by Title 67, Chapter 16, Utah Public Officers' and
7335 Employees' Ethics Act:

7336 (a) a member of the commission;

7337 (b) the department director; or

7338 (c) any employee of the department.

7339 [~~3~~] (4) This section does not prevent the purchase of alcoholic products by any
7340 commission member, the department director, or any employee of the department as authorized
7341 by this title.

7342 Section 110. Section **32A-12-307** is amended to read:

7343 **32A-12-307. Interfering with suppliers.**

7344 A member of the commission, the department director, or an employee of the
7345 department may not directly or indirectly participate in any manner, by recommendation or
7346 otherwise, in the appointment, employment, or termination of appointment or employment of
7347 any agent, representative, employee, or officer of any manufacturer, supplier, or importer of
7348 liquor, wine, or heavy beer to the department except to determine qualifications for licensing
7349 under Chapter 8, Part 5, Local Industry Representative Licenses, and to enforce compliance
7350 with this title.

7351 Section 111. Section **32A-12-308** is amended to read:

7352 **32A-12-308. Offering or soliciting bribes or gifts.**

7353 (1) A person~~[-, association, or corporation]~~ having sold, selling, or offering any
7354 alcoholic product for sale to the commission or department may not offer, make, tender, or in
7355 any way deliver or transfer any bribe, gift as defined in Section 67-16-5, or share of profits to:

7356 (a) any commissioner~~[-];~~;

7357 (b) the department director~~[-];~~;

7358 (c) any department employee~~[-, officer, or agent,];~~ or

7359 (d) any law enforcement officer responsible for the enforcement of this title.

7360 (2) A commissioner, the department director, any department employee, ~~[officer, or~~
7361 ~~agent,]~~ or any law enforcement officer responsible for the enforcement of this title may not
7362 knowingly solicit, receive, accept, take, or seek, directly or indirectly, any commission,
7363 ~~[remuneration]~~ compensation as defined in Section 67-16-3, gift as defined in Section 67-16-5,
7364 or loan whatsoever from any person, association, or corporation having sold, selling, or
7365 offering any alcoholic product for sale.

7366 (3) A violation of this section is ~~[a third-degree felony]~~ punishable under the provisions
7367 of Section 67-16-12.

7368 ~~[(4) No other provision of law supersedes this section.]~~

7369 Section 112. Section **32A-12-401** is amended to read:

7370 **32A-12-401. Advertising prohibited -- Exceptions.**

7371 (1) The advertising of liquor by the department is prohibited, except:

7372 (a) the department may provide for an appropriate sign in the window or on the front of

7373 a state store or package agency denoting that it is a state authorized liquor outlet;

7374 (b) the department may provide printed price lists to the public; and

7375 (c) the department may authorize the use of price posting and floor stacking of liquor
7376 within state stores.

7377 [~~(2) The advertising or use of any means or media to induce persons to buy liquor is~~
7378 ~~prohibited, except:]~~

7379 [~~(a) a restaurant licensee, an airport lounge licensee, a manufacturing licensee, or a~~
7380 ~~private club licensee may display a sign on the front of, in the window of, and inside its~~
7381 ~~premises stating "Department of Alcoholic Beverage Control Licensee," "DABC Licensee," or~~
7382 ~~"State Liquor Licensee" in a form approved by the department;]~~

7383 [~~(b) a restaurant licensee may use the designation "Department of Alcoholic Beverage~~
7384 ~~Control Licensee," "DABC Licensee," or "State Liquor Licensee" in magazines, newspapers,~~
7385 ~~telephone book advertising pages, and other advertising in a nonbold 10-point type face;]~~

7386 [~~(c) a permittee may use the designation "Department of Alcoholic Beverage Control~~
7387 ~~Permittee," "DABC Permittee," or "State Liquor Permittee" in a form approved by the~~
7388 ~~department when informing the public or its invited guests about the event or service for which~~
7389 ~~the permit was obtained;]~~

7390 [~~(d) a restaurant licensee may advertise liquor availability in menus only to the extent~~
7391 ~~authorized in Chapter 4;]~~

7392 [~~(e) a hotel may advise its guests of liquor availability at its outlets in informational~~
7393 ~~materials; and]~~

7394 [~~(f) as otherwise authorized by this title or the rules of the commission.]~~

7395 [~~(3) (2) (a) The [advertising of] department may not advertise alcoholic beverages on~~
7396 ~~billboards [is prohibited. This prohibition may not be construed to prevent the use of temporary~~
7397 ~~advertising methods to publicly recognize the sponsorship of a single sporting or other event by~~
7398 ~~corporations that manufacture or sell alcoholic beverages, so long as this recognition does not~~
7399 ~~overtly promote the consumption of alcoholic beverages contrary to the purposes of this title,~~
7400 ~~and such advertising methods and the duration of the advertising are approved in advance of~~
7401 ~~the event by the commission].~~

7402 (b) A package agency may not advertise alcoholic beverages on billboards except to the
7403 extent allowed by the commission by rule.

7404 ~~[(4)]~~ (3) (a) The department may not display ~~[of]~~ liquor or price lists in windows or
7405 showcases visible to passersby ~~[is prohibited]~~.

7406 ~~[(5)]~~ The advertising of beer is permitted to the extent authorized by commission rule
7407 and not inconsistent with Subsection (3).]

7408 (b) A package agency may not display liquor or price lists in windows or showcases
7409 visible to passersby except to the extent allowed by the commission by rule.

7410 (4) Except to the extent prohibited by this title, the advertising of alcoholic beverages
7411 is allowed under guidelines established by the commission by rule.

7412 ~~[(6)]~~ (5) The advertising or use of any means or media to offer alcoholic beverages to
7413 the general public without charge is prohibited.

7414 Section 113. Section **32A-12-501** is amended to read:

7415 **32A-12-501. Disposition of liquor items shipped to the department.**

7416 (1) All liquor items received by the department from suppliers~~[, other than as samples~~
7417 ~~or as items not specifically listed on department purchase orders,]~~ shall be handled in
7418 accordance with and subject to Subsection 32A-12-603~~[(3)(j)]~~ (4)(c)(ix), except for:

7419 (a) a sample; or

7420 (b) an item not specifically listed on a department purchase order.

7421 (2) Funds of the department may not be used to pay freight or charges on samples or
7422 any liquor items;

7423 (a) shipped to the department by suppliers; and

7424 (b) not listed on its purchase orders.

7425 Section 114. Section **32A-12-504** is amended to read:

7426 **32A-12-504. Unlawful transportation.**

7427 It is unlawful for any person, including a motor carrier, or any officer, agent, or
7428 employee of a motor carrier, ~~[or any other person,]~~ to order or purchase any alcoholic product
7429 or to cause any alcoholic product to be shipped, carried, or transported into this state, or from
7430 one place to another within this state~~[, when the alcoholic product is intended by any interested~~
7431 ~~person to be received, possessed, sold, or in any manner used, either in the original package or~~
7432 ~~otherwise, in violation of the laws of this state]~~ except as otherwise authorized by this title.

7433 Section 115. Section **32A-12-505** is amended to read:

7434 **32A-12-505. Lawful transportation.**

7435 Nothing contained in Sections 32A-12-503 and 32A-12-504 prohibits any carrier from:
7436 (1) transporting [~~beer~~] alcoholic products in the course of export from the state[~~;~~]; or
7437 [~~from~~]

7438 (2) transporting [~~liquor~~] alcoholic products across any part of this state while in transit
7439 pursuant to a bona fide consignment of the [~~liquor~~] alcoholic products to a person outside of
7440 this state.

7441 Section 116. Section **32A-12-601** is amended to read:

7442 **32A-12-601. Definitions.**

7443 [~~For purposes of~~] As used in this part:

7444 (1) (a) For purposes of Section 32A-12-602, "exclusion" is as defined in 27 C.F.R.
7445 Sections 8.51 through 8.54.

7446 (b) For purposes of Section 32A-12-603, "exclusion" is as defined in 27 C.F.R.
7447 Sections 8.151 through 8.153.

7448 [~~(1)~~] (2) (a) "Industry member" means an alcoholic beverage manufacturer, producer,
7449 supplier, importer, wholesaler, bottler, or warehouse and bottler, or any of its affiliates,
7450 subsidiaries, officers, directors, partners, agents, employees, or representatives.

7451 (b) "Industry member" does not include the commission or the department or any of its
7452 officers or employees.

7453 [~~(2)~~] (3) "Retailer" means the holder of an alcoholic beverage license or permit issued
7454 by the commission or by local authority to allow the holder to engage in the sale of alcoholic
7455 beverages to consumers whether for consumption on or off the premises or any of the holder's,
7456 agents, officers, directors, shareholders, partners, or employees.

7457 Section 117. Section **32A-12-602** is amended to read:

7458 **32A-12-602. Exclusive outlets.**

7459 (1) It is unlawful for any industry member, directly or indirectly or through an affiliate,
7460 to require, by agreement or otherwise, that the department or a retailer purchase any alcoholic
7461 beverage products from the industry member or the department to the exclusion in whole or in
7462 part of any of those products sold or offered for sale by other persons.

7463 (2) (a) Subsection (1) applies only to a transaction between:

7464 (i) one or more industry members; and

7465 (ii) (A) the department; or

7466 (B) one or more retailers.

7467 (b) Subsection (1) does not apply to a transaction between two or more industry
7468 members including between a manufacturer and a wholesaler.

7469 ~~[(2) This prohibition]~~ (3) Subsection (1) includes purchases coerced by industry
7470 members through acts or threats of physical or economic harm, as well as voluntary industry
7471 member-retailer purchase agreements.

7472 (4) (a) Subsection (1) includes any contract or agreement, written or unwritten, that has
7473 the effect of requiring the department or retailer to purchase alcoholic beverages from the
7474 industry member beyond a single sales transaction.

7475 (b) Examples of a contract described in Subsection (4)(a) include:

7476 (i) an advertising contract between an industry member and a retailer with the express
7477 or implied requirement of the purchase of the advertiser's products; or

7478 (ii) a sales contract awarded on a competitive bid basis that has the effect of prohibiting
7479 the department or retailer from purchasing from other industry members by:

7480 (A) requiring that the retailer purchase a product or line of products exclusively from
7481 the industry member for the period of the agreement; or

7482 (B) requiring that the retailer purchase a specific or minimum quantity during the
7483 period of the agreement.

7484 (5) (a) Subsection (1) includes any contract, agreement, or other arrangement between
7485 an industry member and a third party nonretailer that requires the department or a retailer to
7486 purchase the industry member's products to the exclusion in whole or in part of any alcoholic
7487 beverage products sold or offered for sale by other persons.

7488 (b) This Subsection (5) applies whether the contract, agreement, or other arrangement
7489 originates with the industry member or the third party.

7490 (c) Examples of a contract, agreement, or other arrangement described in this
7491 Subsection (5) include:

7492 (i) a contract, agreement, or arrangement:

7493 (A) with a third party such as a ball club or municipal or private corporation that is not
7494 a retailer;

7495 (B) under which the third party leases the concession rights and is able to control the
7496 purchasing decisions of a retailer; and

7497 (C) that requires the retailer to purchase the industry member's products to the
7498 exclusion in whole or in part of any alcoholic beverage products sold or offered for sale by
7499 other persons; or

7500 (ii) a contract, agreement, or arrangement with a third party nonretailer that in return
7501 requires a retailer to purchase the industry member's products to the exclusion in whole or in
7502 part of any alcoholic beverage products sold or offered for sale by other persons in return for
7503 which the third party provides a service or other thing of value such as:

7504 (A) sponsoring radio or television broadcasting;

7505 (B) paying for advertising; or

7506 (C) providing other services or things of value.

7507 Section 118. Section **32A-12-603** is amended to read:

7508 **32A-12-603. Tied house -- Prohibitions.**

7509 (1) (a) It is unlawful for any industry member, directly or indirectly or through an
7510 affiliate, to induce~~[, through any of the following means,]~~ any retailer to purchase any alcoholic
7511 beverages from the industry member or from the department to the exclusion in whole or in
7512 part of any of those products sold or offered for sale by other persons~~[-(i)]~~ by acquiring or
7513 holding any interest in any [retailer's] license with respect to the premises of a retailer, except
7514 where the license is held by a retailer that is completely owned by the industry member~~[-or]~~.

7515 ~~[(ii) by acquiring any interest in real or personal property owned, occupied, or used by~~
7516 ~~any retailer in the conduct of the retailer's business.]~~

7517 ~~[(b) For purposes of Subsection (1)(a)(ii), "interest" does not include complete~~
7518 ~~ownership of a retail business by an industry member but may include acquiring a mortgage on~~
7519 ~~a retailer's real or personal property or paying for display space at a retail establishment.]~~

7520 ~~[(2) It is unlawful for any industry member, directly or indirectly or through an~~
7521 ~~affiliate, to furnish, give, rent, lend, or sell any equipment, fixtures, signs, supplies, money,~~
7522 ~~services, or other thing of value, as defined in federal law 27 C.F.R. Section 6.41 through 6.47,~~
7523 ~~to the department, to any retailer, or to any third party retailer association or display company~~
7524 ~~where the benefits resulting from the thing of value flow to the individual retailers, subject to~~
7525 ~~the following exceptions:]~~

7526 ~~[(a) (i) Product displays such as wine racks, bins, barrels, casks, shelving and the like~~
7527 ~~from which liquor, wine, and heavy beer are displayed may be provided to the department,~~

7528 ~~package agencies, private clubs, airport lounges, public service permittees, and single event~~
7529 ~~permittees to the extent allowed by federal law 27 C.F.R. Section 6.83, but may only be~~
7530 ~~displayed so as not to be visible to persons off the premises.]~~

7531 ~~[(ii) Product displays from which beer is displayed may be provided to package~~
7532 ~~agencies, licensed off-premise beer retailers, taverns, private clubs, airport lounges, public~~
7533 ~~service permittees, and single event permittees to the extent allowed by federal law 27 C.F.R.~~
7534 ~~Section 6.83, but may only be displayed so as not to be visible to persons off the premises.]~~

7535 ~~[(b) (i) Inside signs relating to liquor, wine, and heavy beer products may be provided~~
7536 ~~to private clubs, airport lounges, public service permittees, and single event permittees that~~
7537 ~~bear advertising matter such as posters, placards, designs, and mechanical devices, and~~
7538 ~~point-of-sale advertising matter such as table tents and menu clip-ons if they have no secondary~~
7539 ~~value, are of value to the retailer only as advertising, are displayed in a manner so as not to be~~
7540 ~~visible off the retailer's premises, otherwise comply with the advertising provisions of this title,~~
7541 ~~and the industry member does not directly or indirectly pay or credit the retailer for displaying~~
7542 ~~the sign or pay any expense incidental to its operation.]~~

7543 ~~[(ii) Inside signs as described in Subsection (2)(b)(i) relating to beer products may be~~
7544 ~~provided to off-premise beer retailers licensed by local authority, taverns, private clubs, airport~~
7545 ~~lounges, public service permittees, and single event permittees if they are displayed in a~~
7546 ~~manner so as not to be visible off of the retailer's premises, otherwise comply with the~~
7547 ~~advertising provisions of this title, and the industry member does not directly or indirectly pay~~
7548 ~~or credit the retailer for displaying the sign or pay any expenses incidental to its operation.]~~

7549 ~~[(c) (i) Liquor, wine, and heavy beer retailer advertising specialties such as trays,~~
7550 ~~coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats,~~
7551 ~~thermometers, clocks, and calendars may be provided to licensed private clubs, airport lounges,~~
7552 ~~public service permittees, and single event permittees but only to the extent allowed by federal~~
7553 ~~law 27 C.F.R. Section 6.85 if they bear advertising matter and are primarily valuable to the~~
7554 ~~retailer as point of sale advertising.]~~

7555 ~~[(ii) Beer retailer advertising specialties as described in Subsection (2)(c)(i) may be~~
7556 ~~provided to licensed taverns, private clubs, airport lounges, public service permittees, and~~
7557 ~~single event permittees if sold at a price not less than the cost to the industry member, if the~~
7558 ~~price is collected within 30 days of the sale date, and if they bear advertising matter and are~~

7559 primarily valuable to the retailer as point of sale advertising.]

7560 ~~[(d) (i) Trade literature, recipes, brochures, wine lists, and wine menus relating to~~
7561 ~~liquor, wine, and heavy beer products may be provided to licensed private clubs, restaurants~~
7562 ~~with a state liquor license, airport lounges, special use permittees, and single event permittees.]~~

7563 ~~[(ii) Trade literature, recipes, and brochures relating to beer products may be provided~~
7564 ~~to licensed on-premise beer retailers, off-premise beer retailers licensed by local authority,~~
7565 ~~private clubs, restaurants with a state liquor license, airport lounges, special use permittees, and~~
7566 ~~single event permittees.]~~

7567 ~~[(e) (i) Glassware that bears advertising matter relating to liquor, wine, and heavy beer,~~
7568 ~~and identifying the industry member or the industry member's product may be provided to~~
7569 ~~private clubs, airport lounges, public service permittees, and single event permittees if sold at a~~
7570 ~~price not less than the cost to the industry member and the price is collected within 30 days of~~
7571 ~~the sale date.]~~

7572 ~~[(ii) Glassware that bears advertising matter relating to beer and identifying the~~
7573 ~~industry member or the industry member's product may be provided to licensed on-premise~~
7574 ~~beer retailers, private clubs, airport lounges, public service permittees, and single event~~
7575 ~~permittees if sold at a price not less than the cost to the industry member and the price is~~
7576 ~~collected within 30 days of the sale date.]~~

7577 ~~[(f) Beer and wine tapping accessories such as standards, hoses, washers, couplings,~~
7578 ~~gas gauges, vent tongues, shanks, check valves, and coil cleaning services may be provided to~~
7579 ~~private clubs, restaurants with a state liquor license, airport lounges, public service permittees,~~
7580 ~~and single event permittees. Beer tapping accessories, coil cleaning services, and supplies also~~
7581 ~~may be provided to licensed on-premise beer retailers. All wine tapping accessories referenced~~
7582 ~~in this subsection shall be sold at a price not less than the cost to the industry member and the~~
7583 ~~price shall be collected within 30 days of the sale date. All wine services and supplies~~
7584 ~~referenced in this subsection shall be sold at reasonable market price for the locality and the~~
7585 ~~price shall be collected within 30 days of the sale. All beer tapping accessories referenced in~~
7586 ~~this subsection may be provided without charge.]~~

7587 ~~[(3) (a) Samples of liquor, wine, and heavy beer may be provided:]~~

7588 ~~[(i) under the conditions listed in Subsections (3)(b) through (r):]~~

7589 ~~[(A) to the department; and]~~

7590 ~~[(B) to licensed retailers; and]~~

7591 ~~[(ii) for retail licensee wine tasting of cork-finished wines in accordance with:]~~

7592 ~~[(A) this Subsection (3); and]~~

7593 ~~[(B) Subsection (20);]~~

7594 (b) Interest in any retail license includes any interest acquired by a corporate official,
7595 partner, employee, or other representative of the industry member.

7596 (c) Any interest in a retail license acquired by a separate corporation in which the
7597 industry member or the industry member's officials hold ownership or are otherwise affiliated
7598 is an interest in a retail license.

7599 (d) Less than complete ownership of a retail business by an industry member
7600 constitutes an interest in a retail license within the meaning of Subsection (1)(a).

7601 (2) (a) It is unlawful for any industry member, directly or indirectly or through an
7602 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
7603 or from the department to the exclusion in whole or in part of any of those products sold or
7604 offered for sale by other persons by acquiring any interest in real or personal property owned,
7605 occupied, or used by the retailer in the conduct of the retailer's business.

7606 (b) For purposes of Subsection (2)(a):

7607 (i) "interest" does not include complete ownership of a retail business by an industry
7608 member;

7609 (ii) interest in retail property includes any interest acquired by a corporate official,
7610 partner, employee, or other representative of the industry member;

7611 (iii) any interest in a retail license acquired by a separate corporation in which the
7612 industry member or its officials hold ownership or are otherwise affiliated is an interest in the
7613 retailer's property;

7614 (iv) less than complete ownership of a retail business by an industry member
7615 constitutes an interest in retail property;

7616 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry
7617 member constitutes an interest in the retailer's property; and

7618 (vi) the renting of display space by an industry member at a retail establishment
7619 constitutes an interest in the retailer's property.

7620 (3) (a) It is unlawful for any industry member, directly or indirectly or through an

7621 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
7622 or from the department to the exclusion in whole or in part of any of those products sold or
7623 offered for sale by other persons by furnishing, giving, renting, lending, or selling to the retailer
7624 any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to the
7625 exceptions enumerated in Subsection (4).

7626 (b) (i) For purposes of this Subsection (3), indirect inducement includes:

7627 (A) furnishing things of value to a third party where the benefits resulting from the
7628 things of value flow to individual retailers; and

7629 (B) making payments for advertising to a retailer association or a display company
7630 where the resulting benefits flow to individual retailers.

7631 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

7632 (A) the thing of value was furnished to a retailer by the third party without the
7633 knowledge or intent of the industry member; or

7634 (B) the industry member did not reasonably foresee that the thing of value would have
7635 been furnished to a retailer.

7636 (iii) Anything that may lawfully be furnished, given, rented, lent, or sold by industry
7637 members to retailers under Subsection (4) may be furnished directly by a third party to a
7638 retailer.

7639 (c) (i) A transaction in which equipment is sold to a retailer by an industry member,
7640 except as provided in Subsection (4), is the selling of equipment within the meaning of
7641 Subsection (3)(a) regardless of how the equipment is sold.

7642 (ii) The negotiation by an industry member of a special price to a retailer for equipment
7643 from an equipment company is the furnishing of a thing of value within the meaning of
7644 Subsection (3)(a).

7645 (d) The furnishing of free warehousing by delaying delivery of alcoholic beverages
7646 beyond the time that payment for the product is received, or if a retailer is purchasing on credit,
7647 delaying final delivery of products beyond the close of the period of time for which credit is
7648 lawfully extended, is the furnishing of a service or thing of value within the meaning of
7649 Subsection (3)(a).

7650 (e) Any financial, legal, administrative, or influential assistance given a retailer by an
7651 industry member in the retailer's acquisition of the retailer's license is the furnishing of a

7652 service or thing of value within the meaning of Subsection (3)(a).
7653 (4) (a) Notwithstanding Subsection (3), things of value may be furnished by industry
7654 members to retailers under the conditions and within the limitations prescribed in:
7655 (i) this Subsection (4); and
7656 (ii) the applicable federal laws cited in this Subsection (4).
7657 (b) (i) The following may be furnished by an industry member:
7658 (A) a product display as provided in 27 C.F.R. Sec. 6.83;
7659 (B) point of sale advertising materials and consumer advertising specialties as provided
7660 in 27 C.F.R. Sec. 6.84;
7661 (C) things of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;
7662 (D) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;
7663 (E) combination packaging as provided in 27 C.F.R. Sec. 6.93;
7664 (F) educational seminars as provided in 27 C.F.R. Sec. 6.94;
7665 (G) consumer promotions as provided in 27 C.F.R. Sec. 6.96;
7666 (H) advertising service as provided in 27 C.F.R. Sec. 6.98;
7667 (I) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;
7668 (J) merchandise as provided in 27 C.F.R. Sec. 6.101; and
7669 (K) outside signs as provided in 27 C.F.R. Sec. 6.102.
7670 (ii) The following exceptions provided in federal law are not adopted:
7671 (A) the exception for samples provided in 27 C.F.R. Sec. 6.91;
7672 (B) the exception for consumer tasting or sampling at retail establishments provided in
7673 27 C.F.R. Sec. 6.95; and
7674 (C) the exception for participation in retailer association activities provided in 27
7675 C.F.R. Sec. 6.100.
7676 (iii) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall keep
7677 and maintain a record:
7678 (A) of all items furnished to a retailer;
7679 (B) on premises of the industry member; and
7680 (C) for a three-year period.
7681 (c) Samples of liquor, wine, and heavy beer may be provided to the department under
7682 the conditions listed in this Subsection (4)(c).

7683 ~~[(b) An]~~ (i) With the department's permission, an industry member may submit
7684 department samples to the department for product testing, analysis, and sampling~~[-but only~~
7685 ~~with the department's permission].~~

7686 ~~[(c)]~~ (ii) No more than two department samples of a particular type, vintage, and
7687 production lot of a particular branded product may be submitted to the department for
7688 department testing, analysis, and sampling within a consecutive 120-day period.

7689 ~~[(d)(i)]~~ (iii) (A) Each sample of liquor may not exceed 1 liter.

7690 ~~[(ii)]~~ (B) Each sample of wine and heavy beer may not exceed 1.5 liters unless that
7691 exact product is only commercially packaged in a larger size, not to exceed 5 liters.

7692 ~~[(e)(i)]~~ (iv) (A) Department samples submitted to the department;
7693 (I) shall be shipped prepaid by the industry member by common carrier; and ~~[not via]~~
7694 (II) may not be shipped by United States mail directly to the department's central
7695 administrative warehouse office.

7696 ~~[(ii)]~~ (B) Department samples may not be shipped to any other location within the
7697 state.

7698 ~~[(f)]~~ (v) Department samples submitted to the department shall be accompanied by a
7699 letter from the industry member:

7700 ~~[(i)]~~ (A) clearly identifying the product as a "department sample"; and

7701 ~~[(ii)]~~ (B) clearly stating the FOB case price of the product.

7702 ~~[(g)(i)]~~ (vi) (A) The department may transfer listed items from current stock for use as
7703 comparison control samples or to verify product spoilage as deemed appropriate.

7704 ~~[(ii)]~~ (B) Each sample transferred under Subsection ~~[(3)(g)(i)]~~ (4)(c)(vi)(A) shall be
7705 billed back, debited, to ~~[their]~~ the respective industry members.

7706 ~~[(h)]~~ (vii) The department shall:

7707 ~~[(i)]~~ (A) account for, label, and record all department samples received or transferred;

7708 ~~[(ii)]~~ (B) account for the department sample's disposition; and

7709 ~~[(iii)]~~ (C) maintain a record;

7710 (I) of the samples and their disposition; and

7711 (II) for a two-year period.

7712 ~~[(i)]~~ (viii) The department shall affix to each bottle or container a label clearly
7713 identifying the product as a "department sample".

7714 ~~[(j)]~~ (ix) Each department sample delivered to the department or transferred from the
7715 department's current stock shall be disposed of at the discretion of the department in one of the
7716 following ways:

7717 ~~[(i)]~~ (A) tested and analyzed with the remaining contents destroyed under controlled
7718 and audited conditions established by the department;

7719 ~~[(ii)]~~ (B) entire contents destroyed under controlled and audited conditions established
7720 by the department; or

7721 ~~[(iii)]~~ (C) added to the inventory of the department for sale to the public.

7722 ~~[(k) An industry member, for purposes of educating licensed retailers of the quality and
7723 characteristics of the industry member's liquor, wine, or heavy beer product may utilize
7724 department trade show samples for tasting and analysis purposes only.]~~

7725 ~~[(l) (i) Department trade show samples shall be shipped prepaid by the industry
7726 member by common carrier and not via United States mail directly to the department's central
7727 administrative warehouse office.]~~

7728 ~~[(ii) These samples may not be shipped to any other location within the state.]~~

7729 ~~[(m) Department trade show samples shall be accompanied by a letter from the
7730 industry member:]~~

7731 ~~[(i) clearly identifying the product as a "department trade show sample"; and]~~

7732 ~~[(ii) stating:]~~

7733 ~~[(A) the name, time, and location of the trade show;]~~

7734 ~~[(B) the FOB case price of the product; and]~~

7735 ~~[(C) the name of the industry member who will be representing the product at the trade
7736 show:]~~

7737 ~~[(n) The department shall assess a reasonable handling, labeling, storage, and delivery
7738 fee for each department trade show sample received.]~~

7739 ~~[(o) The department shall affix to each bottle or container a label clearly identifying the
7740 product as a "department trade show sample".]~~

7741 ~~[(p) The department shall:]~~

7742 ~~[(i) account for and record each department trade show sample received;]~~

7743 ~~[(ii) account for the department trade show sample's disposition; and]~~

7744 ~~[(iii) maintain a record of the samples and their disposition for a two-year period.]~~

7745 ~~[(q) The department shall:]~~

7746 ~~[(i) transport department trade show samples to the appropriate trade show designated~~
7747 ~~in the letter described in Subsection (3)(m); and]~~

7748 ~~[(ii) deliver the sample to the industry member designated to represent the product at~~
7749 ~~the trade show.]~~

7750 ~~[(r) Department trade show samples may not be removed from the premises of the~~
7751 ~~trade show.]~~

7752 ~~[(4) The department shall take reasonable measures to ensure that only industry~~
7753 ~~members, licensed retailers, trade show permittees, their employees and agents, and department~~
7754 ~~personnel are in attendance, and to ensure that retailer trade show samples are not removed~~
7755 ~~from the premises except by the department.]~~

7756 ~~[(5) Industry members may charge a fee to trade show attendees for tasting samples of~~
7757 ~~their product at a department trade show.]~~

7758 ~~[(6) At the conclusion of the trade show, the department shall take possession of all~~
7759 ~~department trade show sample bottles and:]~~

7760 ~~[(a) destroy the unused portion of all opened sample bottles under controlled and~~
7761 ~~audited conditions established by the department; and]~~

7762 ~~[(b) either destroy the contents of unopened sample bottles under controlled and~~
7763 ~~audited conditions established by the department or return the bottles to the department and add~~
7764 ~~them to the inventory of the department for sale to the public.]~~

7765 ~~[(7) (x) Persons other than authorized department officials may not be in possession of~~
7766 ~~department [or department trade show] samples except as otherwise provided.~~

7767 ~~[(8)(a) (d) Samples of beer may be provided by a beer industry member to a [licensed~~
7768 ~~on-premise beer retailer, off-premise beer retailer licensed by local authority, private club,~~
7769 ~~restaurant with a liquor license, airport lounge, public service permittee, and single event~~
7770 ~~permittee.] retailer under the conditions listed in this Subsection (4)(d).~~

7771 ~~(i) Samples of beer may be provided by an industry member only to a retailer who has~~
7772 ~~not purchased the brand of beer from that industry member within the last 12 months.~~

7773 ~~[(b) (ii) For each [on-premise beer retailer or liquor licensee or permittee,] retailer, the~~
7774 ~~industry member may give not more than [two] three gallons of any brand of beer, except that~~
7775 ~~if a particular product is not available in a size within the quantity limitation an industry~~

7776 member may furnish the next largest size.

7777 ~~[(c) For each off-premise beer retailer, the industry member may give not more than~~
7778 ~~two liters of any brand of beer.]~~

7779 ~~[(9)]~~ (e) Educational seminars may involve an industry member under the ~~[following]~~
7780 ~~conditions[;] listed in this Subsection (4)(e).~~

7781 ~~[(a)]~~ (i) An industry member may provide or participate in educational seminars:

7782 (A) involving:

7783 (I) the department ~~[and its employees;];~~

7784 (II) retailers[;];

7785 (III) holders of educational or scientific special use permits[; or];

7786 (IV) other industry members; or

7787 (V) employees of the persons listed in Subsections (4)(e)(i)(A)(I) through (IV); and

7788 (B) regarding such topics as:

7789 (I) merchandising and product knowledge[;];

7790 (II) use of equipment; and

7791 (III) tours of alcoholic beverage manufacturing facilities.

7792 (ii) An industry member may not pay a department employee's, retailer's, or permittee's
7793 expenses or compensate them for attending ~~[these seminars and tours]~~ a seminar or tour
7794 described in Subsection (4)(e)(i).

7795 ~~[(b) An]~~ (iii) (A) A liquor, wine, and heavy beer industry member may conduct
7796 tastings of the industry member's products:

7797 (I) for the department, at the department's request[;]; and

7798 (II) for licensed industry representatives, but only at the department's central
7799 administrative warehouse office[; and for licensed retailers authorized to sell the type of
7800 products to be tasted, but only at department trade shows. ~~Tastings may not be offered to the~~
7801 ~~general public].~~

7802 (B) The industry member may only use department[; department trade show;] or
7803 industry representative samples when conducting any tasting of the industry member's
7804 products.

7805 (iv) A beer industry member may conduct tastings of beer products for a licensed beer
7806 retailer either at:

7807 (A) the industry member's premises; or

7808 (B) a retail establishment.

7809 (v) Except to the extent authorized by commission rule, an alcoholic beverage industry
7810 member may not conduct tasting or sampling activities with:

7811 (A) a retailer; or

7812 (B) a member of the general public.

7813 ~~[(10) An]~~ (f) A beer industry member may participate in beer retailer association
7814 activities[, and may:] to the extent authorized by 27 C.F.R. Sec. 6.100.

7815 ~~[(a) display its products at a retailer convention or trade show, except that liquor, wine,~~
7816 ~~and heavy beer products may only be displayed at department trade shows and products shall~~
7817 ~~be processed, labeled, and delivered to the trade show by the department under the terms and~~
7818 ~~conditions of this title;]~~

7819 ~~[(b) rent display booth space if the rental fee is not excessive and is the same as paid by~~
7820 ~~all exhibitors;]~~

7821 ~~[(c) provide its own hospitality that is independent from association sponsored~~
7822 ~~activities;]~~

7823 ~~[(d) purchase tickets to functions and pay registration fees if the payments or fees are~~
7824 ~~not excessive and are the same as paid by all exhibitors; and]~~

7825 ~~[(e) make payments for advertisements in programs or brochures issued by retailer~~
7826 ~~associations at a retailer convention or trade show if the total payments made by an industry~~
7827 ~~member for all such advertisements do not exceed that allowed by federal law per year for any~~
7828 ~~retailer association as provided in 27 C.F.R. Section 6.100.]~~

7829 ~~[(11)(a)]~~ (g) (i) An industry member may contribute to charitable, civic, religious,
7830 fraternal, educational, or community activities. [These contributions]

7831 (ii) A contribution described in Subsection (4)(g)(i) may not be given to influence a
7832 retailer in the selection of the alcoholic beverage products [which] that may be sold at these
7833 activities and events.

7834 ~~[(b) If]~~ (iii) An industry member or retailer violates this section if:

7835 (A) the industry member's contribution described in Subsection [(11)(a)] (4)(g)(i)
7836 influences, directly or indirectly, the retailer in the selection of alcoholic beverage products[;];

7837 and

7838 (B) a competitor's alcoholic beverage products are excluded in whole or in part from
7839 sale at the activity or event[, the industry member and the retailer violate the provisions of this
7840 section].

7841 [~~(12) An industry member, who is also engaged in business as a bona fide vendor of
7842 other merchandise, such as groceries or drugs, may sell that merchandise to a retailer if the
7843 merchandise:~~]

7844 [~~(a) is sold at its fair market value;~~]

7845 [~~(b) is not sold in combination with alcoholic beverages; and~~]

7846 [~~(c) is itemized separately on the industry member's invoices and other records.~~]

7847 [~~(13) Things of value covered in other subsections of this section may be furnished to
7848 retailers only as provided in those subsections.~~]

7849 (h) (i) An industry member may lease or furnish equipment listed in Subsection
7850 (4)(h)(ii) to a retailer if:

7851 (A) the equipment is leased or furnished for a special event;

7852 (B) a reasonable rental or service fee is charged for the equipment; and

7853 (C) the period for which the equipment is leased or furnished does not exceed 30 days.

7854 (ii) This Subsection (4)(h) applies to the following equipment:

7855 (A) a picnic pump;

7856 (B) a cold plate;

7857 (C) a tub;

7858 (D) a keg box;

7859 (E) a refrigerated trailer;

7860 (F) a refrigerated van; or

7861 (G) refrigerated draft system.

7862 [~~(14)(a)~~] (i) (i) A liquor, wine, and heavy beer industry member may assist the
7863 department in:

7864 (A) ordering, shipping, and delivering merchandise[;];

7865 (B) new product notification[;];

7866 (C) listing and delisting information[;];

7867 (D) price quotations[;];

7868 (E) product sales analysis[;];

7869 (F) shelf management[;]; and
7870 (G) educational seminars[;and].

7871 (ii) (A) Subject to Subsection (4)(i)(ii)(B), a liquor, wine, and heavy beer industry
7872 member may, for the purpose of acquiring new listings, solicit orders from the department and
7873 submit to the department samples of their products under Subsection (4)(c) and price lists.
7874 [~~However, an~~]

7875 (B) An industry member may not solicit either in person, by mail, or otherwise, any
7876 state store personnel for the purpose or with the intent of furthering the sale of a particular
7877 brand or brands of alcoholic beverage product as against another brand or brands.

7878 (iii) Any visitations to a state store or package agency by an industry member shall be
7879 confined to the customer areas of the store. Calls on the state warehouse by industry members
7880 are to be confined to the office area only unless otherwise approved.

7881 ~~(iv)~~ (iv) A beer industry member may assist licensed ~~[on-premise beer retailers,~~
7882 ~~off-premise beer retailers licensed by local authority, private clubs, restaurants with liquor~~
7883 ~~licenses, airport lounges, public service permittees, and single event permittees]~~ retailers in:
7884 (A) ordering, shipping, and delivering beer merchandise[;];
7885 (B) new product notification[;];
7886 (C) listing and delisting information[;];
7887 (D) price quotations[;];
7888 (E) product sales analysis[;];
7889 (F) shelf management[;]; and
7890 (G) educational seminars[;and].

7891 (v) A beer industry member may, for the purpose of acquiring new listings[;]:
7892 (A) solicit orders from ~~[them]~~ licensed retailers; and
7893 (B) submit to ~~[them]~~ licensed retailers samples of their beer products under Subsection
7894 (4)(c) and price lists.

7895 ~~[(c) A beer industry member may, at a licensed on-premise beer retailer, off-premise~~
7896 ~~beer retailer licensed by local authority, private club, restaurant with liquor license, airport~~
7897 ~~lounge, public service permittee and single event permittee premises or establishment, stock,~~
7898 ~~rotate, and affix the price to beer products which they sell, provided products purchased from~~
7899 ~~other industry members are not altered or disturbed.]~~

7900 ~~[(15)(a)]~~ (5) It is unlawful for any industry member, directly or indirectly or through
7901 an affiliate, to ~~[pay the department or any retailer licensed under this title by the commission or~~
7902 ~~by local authority]~~ induce any retailer to purchase any alcoholic beverages from the industry
7903 member or from the department to the exclusion in whole or in part of any of those products
7904 sold or offered for sale by other persons by paying or crediting the retailer for any advertising,
7905 display, or distribution service;

7906 (a) as defined [in federal law] in and to the extent restricted by 27 C.F.R. Sections 6.51
7907 through 6.56[-]; and

7908 (b) subject to the exceptions:

7909 (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

7910 (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

7911 ~~[(b) An industry member may not, directly or indirectly, share the cost of an~~
7912 ~~advertisement with a retailer.]~~

7913 ~~[(c) An industry member may give, furnish, loan, rent, or sell copy ready art,~~
7914 ~~newspaper cuts, mats or engraved blocks to licensed beer retailers for use in beer retailer~~
7915 ~~advertisements to the extent such advertisements are authorized by this title.]~~

7916 ~~[(16)]~~ (6) It is unlawful for any industry member, directly or indirectly or through an
7917 affiliate, to ~~[guarantee any loan or the repayment of any financial obligation of a retailer~~
7918 ~~including, but not limited to, personal loans, home mortgages, car loans, operating capital~~
7919 ~~obligations, or utilities]~~ induce any retailer to purchase any alcoholic beverages from the
7920 industry member or from the department to the exclusion in whole or in part of any of those
7921 products sold or offered for sale by other persons by guaranteeing any loan or the repayment of
7922 any financial obligation of the retailer.

7923 ~~[(17)]~~ (7) (a) It is unlawful for any industry member, directly or indirectly or through
7924 an affiliate, to induce ~~[beer purchases]~~ any retailer to purchase any beer from the industry
7925 member to the exclusion in whole or in part of any beer products sold or offered for sale by
7926 other persons by extending to any ~~[beer]~~ retailer credit for a period in excess of 15 days from
7927 the date of delivery to the date of full legal discharge of the retailer through the payment of
7928 cash or its equivalent, from all indebtedness arising from the transaction, so long as that beer
7929 purchased or delivered during the first 15 days of any month is paid for in cash or its equivalent
7930 on or before the 25th day of the same month, and beer purchased or delivered after the 15th day

7931 of any month is paid for in cash or its equivalent on or before the 10th day of the next
7932 succeeding month.

7933 (b) First party in-state checks ~~[which]~~ are considered cash payment if the checks:

7934 (i) are honored on presentment; and [which are]

7935 (ii) received under the terms prescribed in Subsection [(17)] (7)(a) [are considered cash
7936 payments].

7937 (c) An extension of credit for product purchased by an industry member to a retailer
7938 whose account is in arrears does not constitute a violation of Subsection (7)(a) if the retailer
7939 pays in advance or on delivery an amount equal to or greater than the value of each order,
7940 regardless of the manner in which the industry member applies the payment in its records.

7941 ~~[(18)]~~ (8) (a) It is unlawful for any industry member, directly or indirectly or through
7942 an affiliate, to [require] induce any retailer to purchase any alcoholic beverages from the
7943 industry member or from the department to the exclusion in whole or in part of any of those
7944 products sold or offered for sale by other persons by requiring:

7945 (i) the department to take and dispose of a certain quota of any alcoholic products; or
7946 [to require]

7947 (ii) a beer retailer [or wholesaler] to take and dispose of a certain quota of any beer
7948 products.

7949 (b) ~~(i) [A requirement that]~~ It is an unlawful means to induce to require:

7950 (A) the department to purchase one product in order to purchase another; or [that]

7951 (B) a beer retailer [or wholesaler] to purchase one beer product in order to purchase
7952 another [is also prohibited].

7953 (ii) This Subsection (8)(b) includes:

7954 (A) the requirement to take a minimum quantity of a product in standard packaging in
7955 order to obtain the same product in some type of premium package such as:

7956 (I) a distinctive decanter; or

7957 (II) a wooden or tin box; or

7958 (B) combination sales if one or more products may be purchased only in combination
7959 with other products and not individually.

7960 (c) This Subsection ~~[(18)]~~ (8) does not preclude the selling, at a special combination
7961 price, two or more kinds or brands of products so long as the department or beer retailer;

7962 (i) has the option of purchasing either product at the usual price; and
7963 (ii) is not required to purchase any product [~~he or she~~] the department or beer retailer
7964 does not want.

7965 (d) An industry member may package and distribute alcoholic beverages in
7966 combination with other nonalcoholic items or products.

7967 (e) The combination package shall be designed to be delivered intact to the consumer
7968 and the additional cost incurred by the industry member shall be included in the cost to the
7969 department or beer retailer.

7970 [~~(19) It is unlawful for any industry member, directly or indirectly or through an~~
7971 ~~affiliate, to provide financial, legal, administrative, or other assistance to a retailer or~~
7972 ~~wholesaler to obtain a license or permit.]~~

7973 [~~(20) Beginning July 1, 1998, and ending June 30, 2000, the department shall~~
7974 ~~implement and operate a pilot program by which a local industry representative licensee may~~
7975 ~~conduct retail licensee tastings of cork-finished wines under the following conditions:]~~

7976 [~~(a) To conduct retail licensee wine tasting, a local industry representative licensee may~~
7977 ~~check out bottles of cork-finished wine in accordance with this Subsection (20) at the~~
7978 ~~department's club and restaurant store and at any other department store designated by the~~
7979 ~~commission:]~~

7980 [~~(b) A local industry representative licensee:]~~

7981 [~~(i) shall pay:]~~

7982 [~~(A) the prevailing retail purchase price for each bottle of cork-finished wine checked~~
7983 ~~out for the purpose of conducting retail licensee wine tasting; and]~~

7984 [~~(B) any fee charged under Subsection (20)(f);]~~

7985 [~~(ii) may check out bottles of cork-finished wine for the purpose of conducting retail~~
7986 ~~licensee wine tasting:]~~

7987 [~~(A) in a reasonable number as determined by the commission;]~~

7988 [~~(B) during regular business hours; and]~~

7989 [~~(C) on regular store business days, except for the day preceding a recognized state or~~
7990 ~~federal holiday;]~~

7991 [~~(iii) shall show proper identification at the time of check out;]~~

7992 [~~(iv) shall check out each bottle of cork-finished wine to be used for the purpose of~~

7993 conducting retail licensee tasting on a form designated by the department;]
7994 [~~(v) shall return a bottle checked out for use in the retail licensee wine tasting program,~~
7995 ~~whether opened or unopened:]~~
7996 [~~(A) to the department's central administrative warehouse office;]~~
7997 [~~(B) within seven days from the time of check out;]~~
7998 [~~(C) at the same time that any bottle checked out with the bottle is returned and not in a~~
7999 ~~piece-meal manner.]~~
8000 [~~(e) (i) At time of check out, the department's employee shall:]~~
8001 [~~(A) affix a bright-colored label on each bottle checked out, clearly identifying it for~~
8002 ~~exclusive use in the retail licensee wine tasting program, as provided by this Subsection (20);]~~
8003 [~~(B) maintain a record of each bottle of cork-finished wine checked out under this~~
8004 ~~Subsection (20); and]~~
8005 [~~(C) require the local industry representative licensee to sign a statement that the~~
8006 ~~bottles of cork-finished wine will be used only in connection with the retail licensee wine~~
8007 ~~tasting program.]~~
8008 [~~(ii) At time of check in, the department's employee shall make a record of each bottle~~
8009 ~~returned.]~~
8010 [~~(d) A bottle of cork-finished wine checked out in connection with the retail licensee~~
8011 ~~wine tasting program shall come from products listed by the department or special ordered in~~
8012 ~~accordance with department procedures that are:]~~
8013 [~~(i) located on the shelf of a department store identified in Subsection (20)(a); or]~~
8014 [~~(ii) if arrangements are made with the department, located at its central administrative~~
8015 ~~warehouse and transferred to one of the store locations authorized in Subsection (20)(a).]~~
8016 [~~(e) Each bottle of cork-finished wine checked out by a local industry representative~~
8017 ~~licensee and returned to the department shall be disposed of in one of the ways provided in~~
8018 ~~Subsection (3)(j) or Subsection (6), at the department's discretion.]~~
8019 [~~(f) (i) The department may charge a reasonable per bottle administrative fee to defray~~
8020 ~~the department's actual, ordinary, and necessary costs directly incurred in administering the~~
8021 ~~retail licensee wine tasting program.]~~
8022 [~~(ii) All money received by the department under Subsection (20)(f)(i) shall be~~
8023 ~~deposited in the General Fund as a dedicated credit of the department and may be expended by~~

8024 the department only for the purposes described under Subsection (20)(f)(i).]
8025 [~~(g) A retail licensee wine tasting;~~]
8026 [~~(i) shall be conducted at the department's administrative complex in accordance with~~
8027 ~~rules made by the commission concerning the persons who may attend and participate in the~~
8028 ~~tasting;~~]
8029 [~~(ii) may not be conducted in the view of;~~]
8030 [~~(A) minors; or~~]
8031 [~~(B) the general public; and~~]
8032 [~~(iii) shall only be conducted by a local industry representative licensee from the~~
8033 ~~original bottles of cork-finished wine checked out from the department.]~~
8034 [~~(h) The local industry representative licensee may not leave the wine remaining in a~~
8035 ~~bottle with a retail licensee following the conclusion of the tasting.]~~
8036 [~~(i) The commission shall have the authority to promulgate rules to implement the~~
8037 ~~retail licensee wine tasting pilot program.]~~
8038 [~~(j) In addition to any other penalties provided in this title, a licensee violating the~~
8039 ~~provisions of this Subsection (20) may be subject to suspension or revocation of their license as~~
8040 ~~provided in Section 32A-8-505 and any rules made by the commission.]~~
8041 [~~(k) Before November 1, 1999, the commission shall prepare and present a report and~~
8042 ~~recommendation concerning the retail licensee wine tasting pilot program to an appropriate~~
8043 ~~interim committee of the Legislature, as designated by the Legislative Management~~
8044 ~~Committee.]~~
8045 Section 119. Section **32A-12-604** is amended to read:
8046 **32A-12-604. Commercial bribery.**
8047 [~~Federal law~~] This section adopts and makes applicable to all industry members,
8048 including beer industry members, doing business in this state 27 U.S.C. Section 205(c) and 27
8049 C.F.R. Sections 10.1 through [~~10.24~~] 10.54 which [~~makes~~] make it unlawful for any industry
8050 member, directly or indirectly or through an affiliate, to induce a wholesaler or retailer engaged
8051 in the sale of alcoholic beverages[;] to purchase the industry member's products, to the
8052 complete or partial exclusion of alcoholic beverages sold or offered for sale by other persons,
8053 by commercial bribery, or by offering or giving a bonus, premium, compensation, or other
8054 thing of value, to any officer, employee, or representative of the wholesaler or retailer [is

8055 hereby adopted and made applicable to beer industry members doing business in this state].

8056 Section 120. Section **32A-12-605** is amended to read:

8057 **32A-12-605. Consignment sales.**

8058 (1) ~~[Federal law]~~ This section adopts and makes applicable to all industry members,
8059 including beer industry members, doing business in this state 27 U.S.C. Section 205(d) and 27
8060 C.F.R. Sections 11.1 through 11.46, which ~~[makes]~~ make it unlawful for an industry member,
8061 directly or indirectly or through an affiliate to sell, offer for sale, or contract to sell to any
8062 wholesaler or retailer engaged in the sale of alcoholic beverages, or for any wholesaler or
8063 retailer to purchase, offer to purchase, or contract to purchase any of those products on
8064 consignment or under conditional sale or with the privilege of return or on any basis otherwise
8065 than a bona fide sale, or where any part of the transaction involves, directly or indirectly, the
8066 acquisition by that person from the wholesaler or retailer or ~~[his]~~ that person's agreement to
8067 acquire from the wholesaler or retailer other alcoholic beverages, if the sale, purchase, offer, or
8068 contract is made in the course of interstate or foreign commerce, or if the person or wholesaler
8069 or retailer engages in such practice to an extent so as substantially to restrain or prevent
8070 transactions in interstate or foreign commerce in any of those products or if the direct effect of
8071 the sale, purchase, offer, or contract is to prevent, deter, hinder, or restrict other persons from
8072 selling or offering for sale any of those products to the wholesaler or retailer in interstate or
8073 foreign commerce ~~[is hereby adopted and made applicable to beer industry members doing~~
8074 business in this state].

8075 (2) This section does not apply to transactions involving solely the bona fide return of
8076 merchandise for ordinary and usual commercial reasons arising after the merchandise has been
8077 sold.

8078 Section 121. Section **32A-12-606** is amended to read:

8079 **32A-12-606. Unlawful acts involving consumers.**

8080 (1) (a) It is unlawful for any industry member, directly or indirectly or through an
8081 affiliate, to give away any of its alcoholic products to any person except for testing, analysis,
8082 and sampling purposes by the department~~[-]~~ and local industry representative licensees~~[-]~~ and
8083 ~~licensed alcoholic beverage retailers]~~ to the extent authorized by this title. ~~[This]~~

8084 (b) This Subsection (1) does not preclude an industry member from serving its
8085 alcoholic products to others at private social functions hosted by the industry member in the

8086 member's home or elsewhere so long as the product is not served;

8087 (i) as part of a promotion of [~~its~~] the industry member's products; or

8088 (ii) as a subterfuge to provide samples to others for product testing, analysis, or
8089 sampling purposes.

8090 (2) It shall be unlawful for any industry member or retailer, directly or indirectly or
8091 through an affiliate, to engage in any advertisement or promotional scheme that requires the
8092 purchase or sale of an alcoholic beverage, or consumption of an alcoholic beverage in order to
8093 participate in any promotion, program, or other activity.

8094 (3) It shall be unlawful for any industry member or retailer, directly or indirectly or
8095 through an affiliate, to pay, give, or deliver to any person any money or any other thing of
8096 value, including rebates, refunds, or prizes, based upon the purchase, display, use, sale, or
8097 consumption of alcoholic beverages.

8098 (4) It shall be unlawful for any industry member or retailer to sponsor or underwrite
8099 any athletic, theatrical, scholastic, artistic, or scientific event that:

8100 [~~(a)~~] ~~involves the display of drinking scenes;~~

8101 [~~(b)~~] (a) overtly promotes the consumption of alcoholic products;

8102 [~~(c)~~] (b) offers alcoholic products to the general public without charge; or

8103 [~~(d)~~] (c) takes place on the premises of a school, college, university, or other
8104 educational institution.

8105 Section 122. Section **32A-15a-101** is enacted to read:

8106 **CHAPTER 15a. NUISANCE LICENSEE ACT**

8107 **Part 1. General Provisions**

8108 **32A-15a-101. Title.**

8109 This chapter is known as the "Nuisance Licensee Act."

8110 Section 123. Section **32A-15a-102** is enacted to read:

8111 **32A-15a-102. Definitions.**

8112 (1) As used in this chapter:

8113 (a) "Objecting governmental entity" means:

8114 (i) a local government entity;

8115 (ii) a prosecutor's office; or

8116 (iii) a law enforcement agency.

8117 (b) "Nuisance activity" means:
8118 (i) a judicial finding that a licensed establishment is a common public nuisance under
8119 Section 32A-13-106;
8120 (ii) a single felony conviction within the last two years of:
8121 (A) a retail licensee; or
8122 (B) any supervisory or managerial level employee of the licensee;
8123 (iii) a single conviction under Title 58, Chapter 37, Utah Controlled Substances Act:
8124 (A) (I) of a retail licensee; or
8125 (II) an employee of the licensee;
8126 (B) within the last two years; and
8127 (C) made on the basis of activities that occurred on the licensed premises;
8128 (iv) three or more convictions of patrons of a retail licensee under Title 58, Chapter 37,
8129 Utah Controlled Substances Act, if:
8130 (A) the convictions are made on the basis of activities that occurred on the licensed
8131 premises; and
8132 (B) there is evidence that the licensee knew or should have known of the illegal
8133 activity;
8134 (v) a single conviction within the last two years of a retail licensee or any employee of
8135 the licensee that is made on the basis of:
8136 (A) pornographic and harmful materials:
8137 (I) that are in violation of Title 76, Chapter 10, Part 12, Pornographic and Harmful
8138 Materials and Performances; and
8139 (II) if the violation occurs on the licensed premises;
8140 (B) prostitution;
8141 (C) engaging in or permitting gambling, or having any video gaming device, as defined
8142 and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the licensed premises;
8143 (D) a disturbance of the peace that occurs on the licensed premises; or
8144 (E) disorderly conduct that occurs on the licensed premises; or
8145 (vi) three or more adjudicated violations of this title within the last two years by a retail
8146 licensee or by the retail licensee's employees that result in a criminal citation or an
8147 administrative referral to the department relating to:

- 8148 (A) the sale, service, or furnishing of alcohol to a minor;
- 8149 (B) the sale, service, or furnishing of alcohol to a person actually, apparently, or
- 8150 obviously intoxicated;
- 8151 (C) the sale or service of alcohol after lawful sales or service hours; or
- 8152 (D) acts or conduct on the licensed premises contrary to the public welfare and morals
- 8153 involving lewd acts or lewd entertainment prohibited by this title.
- 8154 (2) For purposes of Subsection (1)(b), "retail licensee" means:
- 8155 (a) a person to whom a retail license has been issued by the commission; and
- 8156 (b) in the case of a licensee that is a partnership, corporation, or limited liability
- 8157 company any of the following that is convicted of any offense described in Subsection (1)(b):
- 8158 (i) a partner;
- 8159 (ii) a managing agent;
- 8160 (iii) a manager;
- 8161 (iv) an officer;
- 8162 (v) a director;
- 8163 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a
- 8164 corporate licensee; or
- 8165 (vii) a member who owns at least 20% of a limited liability company licensee.

8166 Section 124. Section **32A-15a-103** is enacted to read:

8167 **32A-15a-103. Rulemaking.**

8168 In accordance with this chapter and Title 63, Chapter 46a, Utah Administrative

8169 Rulemaking Act, the commission may make rules that govern the filing under this chapter of:

- 8170 (1) a formal objection to the renewal of a retail license; and
- 8171 (2) a request for hearing filed by a retail licensee.

8172 Section 125. Section **32A-15a-201** is enacted to read:

8173 **Part 2. Nonrenewal of Nuisance Licenses**

8174 **32A-15a-201. Commission to prohibit nuisance activities by licensees -- License**

8175 **not renewed.**

8176 (1) In accordance with Section 32A-1-103, the commission shall require a retail

8177 licensee as a condition of being licensed under this title to operate in a manner so as not to

8178 endanger the public health, peace, safety, welfare, or morals of the community.

8179 (2) (a) In accordance with Title 63, Chapter 46b, Administrative Procedures Act, and
8180 Sections 32A-15a-202 and 32A-15a-203, the commission may deny the renewal of any retail
8181 license issued under this title if:

8182 (i) a formal objection to the renewal is filed; and

8183 (ii) the commission determines that the retail licensee has engaged in nuisance
8184 activities to such an extent that the nuisance activities have adversely impacted the public
8185 health, peace, safety, welfare, or morals of the neighboring community of the licensed
8186 premises.

8187 (b) In making a determination under this Subsection (2), the commission may consider:

8188 (i) the types of nuisance activities in which a licensee has engaged;

8189 (ii) the frequency or pattern of the nuisance activities; and

8190 (iii) the retail licensee's notice of and failure to abate or correct the nuisance activities.

8191 Section 126. Section **32A-15a-202** is enacted to read:

8192 **32A-15a-202. Formal objections to renewal.**

8193 (1) The department shall notify governmental entities that in accordance with this part
8194 an objecting governmental entity may file with the commission an objection to the renewal of a
8195 retail licensee's alcoholic beverage license in the objecting governmental entity's community.

8196 (2) The department or an objecting governmental entity may file with the commission a
8197 formal objection to any license being renewed by the commission if the formal objection:

8198 (a) is filed on the basis of nuisance activity;

8199 (b) is filed no later than 60 days before the expiration date of the retail licensee's
8200 license; and

8201 (c) states with particularity all relevant facts and circumstances relating to the nuisance
8202 activity that forms the basis for the formal objection.

8203 Section 127. Section **32A-15a-203** is enacted to read:

8204 **32A-15a-203. Hearing on formal objections to renewal.**

8205 (1) Upon receipt of a formal objection that meets the requirements of Section
8206 32A-15a-202, the department shall:

8207 (a) issue a notice of agency action; and

8208 (b) serve on the retail licensee no later than 30 days before the expiration of the retail
8209 licensee's license:

8210 (i) the notice of agency action; and
8211 (ii) a copy of the formal objection.
8212 (2) (a) A retail licensee against whom a notice of agency action is served under
8213 Subsection (1) may request a hearing.
8214 (b) The request for hearing described in Subsection (2)(a) shall be:
8215 (i) in writing; and
8216 (ii) filed with the commission within ten days of the day on which the notice of agency
8217 action is served on the retail license.
8218 (c) If a retail licensee fails to file a request for hearing in accordance with this
8219 Subsection (2), the commission may not renew the license of the retail licensee.
8220 (3) (a) Upon receipt of a request for hearing meeting the requirements of Subsection
8221 (2), the department shall immediately schedule a hearing that shall be:
8222 (i) held no later than ten days before the expiration date of the retail licensee's license;
8223 and
8224 (ii) electronically recorded by the department.
8225 (b) The retail licensee or an objecting governmental entity, at its own expense, may
8226 have a reporter approved by the department prepare a transcript from the department's record of
8227 the hearing.
8228 (c) (i) The department shall present information at the hearing that supports a finding
8229 that nuisance activities occurred.
8230 (ii) The information described in Subsection (3)(c)(i) shall be made a part of the record
8231 of the hearing.
8232 (d) The retail licensee shall:
8233 (i) have the opportunity to challenge or explain whether any of the nuisance activities
8234 that form the basis for the formal objection occurred; and
8235 (ii) be permitted to:
8236 (A) testify;
8237 (B) present evidence; and
8238 (C) comment on the issues at the hearing.
8239 (4) (a) Any hearing held under this chapter shall be conducted under the authority of
8240 the commission.

- 8241 (b) The commission is responsible for rendering a final order on whether a retail
8242 licensee's license shall be renewed.
- 8243 (c) Notwithstanding Subsections (4)(a) and (b), the commission may appoint necessary
8244 hearing examiners to administer the hearing process.
- 8245 (d) The commission or the hearing examiner appointed by the commission shall serve
8246 as the presiding officer at a hearing held under this section.
- 8247 (e) The presiding officer at a hearing held under this section:
- 8248 (i) shall evaluate:
- 8249 (A) the information presented at the hearing in support of the formal objection; and
8250 (B) any explanation and evidence offered by the retail licensee; and
- 8251 (ii) may consider such factors as:
- 8252 (A) the length of time the retail licensee has operated the licensed premises;
8253 (B) the condition of the premises;
8254 (C) whether the retail licensee knew or should have known of the nuisance activities in
8255 question;
- 8256 (D) whether the retail licensee failed to:
- 8257 (I) make a substantial effort to correct the nuisance activities; and
8258 (II) work with law enforcement to curtail the nuisance activity;
- 8259 (E) whether the nuisance activities have been ongoing or temporary;
- 8260 (F) whether the retail licensee or the licensee's employees:
- 8261 (I) initiated contact with the law enforcement agency on the nuisance activities; and
8262 (II) cooperated with the law enforcement agency's investigation; and
- 8263 (G) whether prior efforts to stop the nuisance activities by the community or the retail
8264 licensee have been unsuccessful.
- 8265 (5) An order issued under this section shall:
- 8266 (a) be based on the evidence presented at the hearing; and
- 8267 (b) state whether:
- 8268 (i) the continued operation of the licensed establishment will endanger the public
8269 health, peace, safety, welfare, or morals of the community; and
- 8270 (ii) the license should or should not be renewed.
- 8271 (6) (a) If the presiding officer is a hearing examiner appointed by the commission, the

8272 hearing officer shall issue a signed order in writing that:
8273 (i) complies with Subsection (5);
8274 (ii) recommends to the commission whether the license should or should not be
8275 renewed;
8276 (iii) states the reasons for the hearing officer's decision; and
8277 (iv) notifies the retail licensee and the objecting governmental entity that the hearing
8278 examiner's order will be considered by the commission at the next regularly scheduled meeting
8279 of the commission.
8280 (b) The department shall promptly mail a copy of the hearing examiner's order to:
8281 (i) the retail licensee; and
8282 (ii) any objecting governmental entity.
8283 (c) The commission at its next regularly scheduled meeting after receipt of a hearing
8284 examiner's order, shall decide whether to renew or not renew the license on the basis of:
8285 (i) the record and evidence presented at the hearing; and
8286 (ii) the hearing examiner's recommendation.
8287 (7) (a) As an alternative to ordering in accordance with this section that a retail license
8288 not be renewed, the commission may conditionally renew a retail license by requiring that:
8289 (i) the licensee and the licensed premises be closely monitored during the licensing
8290 year by:
8291 (A) the department;
8292 (B) local government officials; and
8293 (C) law enforcement; and
8294 (ii) the matter be reviewed prior to the next renewal period.
8295 (b) The commission may conditionally renew a retail license contingent on any person
8296 listed in Subsection (7)(b)(ii) divesting all interest in the retail licensed business if:
8297 (i) the retail licensee is a partnership, corporation, or limited liability company; and
8298 (ii) the formal objection filed under this section if filed solely on the basis of a felony
8299 conviction:
8300 (A) of:
8301 (I) a partner;
8302 (II) a managing agent;

8303 (III) a manager;
8304 (IV) an officer;
8305 (V) a director;
8306 (VI) a stockholder who holds at least 20% of the total issued and outstanding stock of a
8307 corporate licensee; or
8308 (VII) a member who owns at least 20% of a limited liability company licensee; and
8309 (B) for illegal activity that occurred off of the licensed premises.
8310 (8) (a) In accordance with this section, the commission shall issue a written order
8311 setting forth the commission's decision and the reason for the commission's decision.
8312 (b) The order described in Subsection (8)(a) is considered final on the date the order
8313 becomes effective.
8314 (c) The department shall serve a copy of the order on the retail licensee.
8315 (9) A licensee whose license has not been renewed by order of the commission may
8316 seek judicial review under the procedures provided in Section 32A-1-120.
8317 (10) A licensee whose license is not renewed may not reapply for a license under this
8318 title for three years from the date the license is not renewed.
8319 Section 128. Section **63-55b-132** is enacted to read:
8320 **63-55b-132. Repeal dates -- Title 32.**
8321 Title 32A, Chapter 4, Part 4, On-Premise Banquet License is repealed July 1, 2005.
8322 Section 129. **Repealer.**
8323 This act repeals:
8324 Section **32A-1-501, Definitions.**
8325 Section **32A-1-502, Purpose.**
8326 Section **32A-1-503, Procedures.**
8327 Section **32A-1-504, Operational restrictions.**
8328 Section **32A-4-107, Return of inventory.**
8329 Section **32A-4-207, Return of inventory.**
8330 Section **32A-5-105, Utah Nonprofit Corporation and Cooperative Association Act**
8331 **applicable -- Exceptions.**
8332 Section **32A-5-108, Return of inventory.**
8333 Section **32A-12-309, Organizing for pecuniary profit.**

8334 Section 32A-12-503, Unlawful importations.

8335 Section 63-55-232, Repeal dates, Title 32A.

8336 Section 130. Appropriations.

8337 (1) For fiscal year 2002-03 only, there is appropriated \$325,900 from the Liquor
 8338 Control Fund to the Department of Alcoholic Beverage Control.

8339 (2) For fiscal year 2002-03 only, there is appropriated \$62,000 from the General Fund
 8340 to the Driver License Division of the Department of Public Safety.

8341 (3) Subject to future budget constraints, as an ongoing appropriation, there is

8342 appropriated \$ [~~\$1,396,900~~] ~~h~~ [~~\$1,596,900~~] \$1,893,000 ~~h~~ \$ for fiscal year 2003-04 from the Liquor
 8342a Control Fund to the

8343 Department of Alcoholic Beverage Control.

8344 (4) Subject to future budget constraints, as an ongoing appropriation, there is

8345 appropriated \$ [~~\$143,000~~] ~~h~~ [~~\$311,000~~] \$811,000 ~~h~~ \$ for fiscal year 2003-04 from the General Fund to the
 8345a Liquor Law

8346 Enforcement Unit of the Department of Public Safety.

8346a § Section 131. Coordination clause.

8346b IT IS THE INTENT OF THE LEGISLATURE THAT IF THIS BILL, AND S.B. 66, ALCOHOLIC
 8346c BEVERAGE ENFORCEMENT AND TREATMENT, BOTH PASS THAT:

8346d (1) IN PREPARING THE UTAH CODE DATABASE FOR PUBLICATION THE OFFICE OF

8346e LEGISLATIVE RESEARCH AND GENERAL COUNSEL MODIFY SUBSECTION 32A-1-115(2)(b) IN S.B. 66

8346f TO READ:

8346g "(B) THE ACCOUNT SHALL BE FUNDED FROM:

8346h (i) AMOUNTS DEPOSITED BY THE STATE TREASURER IN ACCORDANCE WITH SECTION
 8346i 59-15-109;

8346j (ii) ANY APPROPRIATIONS MADE TO THE ACCOUNT BY THE LEGISLATURE; AND

8346k (iii) INTEREST DESCRIBED IN SUBSECTION (2)(c)."; AND

8346l (2) SUBJECT TO FUTURE BUDGET CONSTRAINTS, AS AN ONGOING APPROPRIATION,
 8346m THERE IS APPROPRIATED FOR FISCAL YEAR 2003-04 FROM THE LIQUOR CONTROL FUND

8346n ~~h~~ [~~\$1,000,000~~] \$700,000 ~~h~~ TO THE ALCOHOLIC BEVERAGE ENFORCEMENT AND TREATMENT
 8346n1 RESTRICTED

8346o ACCOUNT CREATED IN THE GENERAL FUND. §