

**ALCOHOLIC BEVERAGE AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: John L. Valentine**

Ron Allen

**This act modifies the Alcoholic Beverage Control 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 the General Fund to the Driver License Division of the Department of Public Safety. Subject to future budget constraints, as an ongoing appropriation, this act appropriates for fiscal year 2003-04, \$1,893,000 from the Liquor Control Fund to the Department of Alcoholic Beverage Control and \$811,000 from the General Fund to the Liquor Law**

**Enforcement Unit of the Department of Public Safety. This act contains a coordination clause that includes, subject to future budget constraints, an ongoing appropriation of \$700,000 for fiscal year 2003-04 from the Liquor Control Fund.**

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

AMENDS:

- 32A-1-102**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 32A-1-104**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 32A-1-105**, as last amended by Chapter 161, Laws of Utah 2002
- 32A-1-107**, as last amended by Chapter 282, Laws of Utah 2002
- 32A-1-109**, as last amended by Chapter 20, Laws of Utah 1993
- 32A-1-111**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 32A-1-113**, as last amended by Chapter 1, Laws of Utah 2000
- 32A-1-116**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 32A-1-119**, as last amended by Chapter 79, Laws of Utah 1996
- 32A-1-122**, as last amended by Chapter 24, Laws of Utah 1995
- 32A-1-123**, as enacted by Chapter 132, Laws of Utah 1991
- 32A-1-401**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session
- 32A-2-101**, as last amended by Chapter 132, Laws of Utah 1991
- 32A-2-103**, as last amended by Chapter 282, Laws of Utah 2002
- 32A-3-101**, as last amended by Chapter 354, Laws of Utah 2001
- 32A-3-102**, as last amended by Chapter 1, Laws of Utah 2000
- 32A-3-103**, as last amended by Chapter 132, Laws of Utah 1991
- 32A-3-106**, as last amended by Chapter 282, Laws of Utah 2002
- 32A-3-108**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 32A-4-101**, as last amended by Chapter 87, Laws of Utah 2002
- 32A-4-102**, as last amended by Chapters 1 and 197, Laws of Utah 2000
- 32A-4-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 32A-4-105**, as last amended by Chapter 132, Laws of Utah 1991

**32A-4-106**, as last amended by Chapter 282, Laws of Utah 2002  
**32A-4-201**, as last amended by Chapter 19, Laws of Utah 1993  
**32A-4-202**, as last amended by Chapters 1 and 197, Laws of Utah 2000  
**32A-4-203**, as enacted by Chapter 23, Laws of Utah 1990  
**32A-4-206**, as last amended by Chapter 282, Laws of Utah 2002  
**32A-5-101**, as last amended by Chapter 132, Laws of Utah 1991  
**32A-5-102**, as last amended by Chapters 1 and 197, Laws of Utah 2000  
**32A-5-103**, as last amended by Chapter 30, Laws of Utah 1992  
**32A-5-104**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-5-107**, as last amended by Chapter 282, Laws of Utah 2002  
**32A-6-102**, as last amended by Chapter 132, Laws of Utah 1991  
**32A-6-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-6-105**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-6-201**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-6-202**, as last amended by Chapter 282, Laws of Utah 2002  
**32A-6-301**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-6-401**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-6-501**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-7-101**, as last amended by Chapter 88, Laws of Utah 1994  
**32A-7-102**, as last amended by Chapter 1, Laws of Utah 2000  
**32A-7-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-7-104**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-7-106**, as last amended by Chapter 127, Laws of Utah 1998  
**32A-8-101**, as last amended by Chapters 77 and 88, Laws of Utah 1994  
**32A-8-102**, as last amended by Chapter 1, Laws of Utah 2000  
**32A-8-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-8-106**, as last amended by Chapter 1, Laws of Utah 2000  
**32A-8-501**, as enacted by Chapter 20, Laws of Utah 1993

**32A-8-502**, as last amended by Chapter 1, Laws of Utah 2000  
**32A-8-503**, as enacted by Chapter 20, Laws of Utah 1993  
**32A-8-505**, as last amended by Chapter 1, Laws of Utah 2000  
**32A-9-102**, as last amended by Chapter 1, Laws of Utah 2000  
**32A-9-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-9-106**, as last amended by Chapter 1, Laws of Utah 2000  
**32A-10-101**, as last amended by Chapter 132, Laws of Utah 1991  
**32A-10-102**, as last amended by Chapters 77 and 88, Laws of Utah 1994  
**32A-10-201**, as last amended by Chapter 87, Laws of Utah 2002  
**32A-10-202**, as last amended by Chapters 1 and 197, Laws of Utah 2000  
**32A-10-203**, as enacted by Chapter 23, Laws of Utah 1990  
**32A-10-205**, as enacted by Chapter 23, Laws of Utah 1990  
**32A-10-206**, as last amended by Chapter 282, Laws of Utah 2002  
**32A-11-101**, as last amended by Chapters 77 and 88, Laws of Utah 1994  
**32A-11-102**, as last amended by Chapter 1, Laws of Utah 2000  
**32A-11-103**, as last amended by Chapter 88, Laws of Utah 1994  
**32A-11-106**, as last amended by Chapter 1, Laws of Utah 2000  
**32A-11a-106**, as enacted by Chapter 328, Laws of Utah 1998  
**32A-12-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-12-105**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-12-201**, as last amended by Chapter 20, Laws of Utah 1993  
**32A-12-203**, as last amended by Chapter 20, Laws of Utah 1995  
**32A-12-204**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-12-207**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-12-209**, as last amended by Chapter 365, Laws of Utah 1997  
**32A-12-210**, as renumbered and amended by Chapter 23, Laws of Utah 1990  
**32A-12-212**, as last amended by Chapter 132, Laws of Utah 1991  
**32A-12-213**, as last amended by Chapter 141, Laws of Utah 1998

- 32A-12-215**, as last amended by Chapter 241, Laws of Utah 1991
- 32A-12-216**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 32A-12-218**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 32A-12-301**, as last amended by Chapter 241, Laws of Utah 1991
- 32A-12-305**, as last amended by Chapter 1, Laws of Utah 2000
- 32A-12-306**, as last amended by Chapter 1, Laws of Utah 2000
- 32A-12-307**, as last amended by Chapter 1, Laws of Utah 2000
- 32A-12-308**, as last amended by Chapter 1, Laws of Utah 2000
- 32A-12-401**, as last amended by Chapter 132, Laws of Utah 1991
- 32A-12-501**, as last amended by Chapter 141, Laws of Utah 1998
- 32A-12-504**, as last amended by Chapter 170, Laws of Utah 1996
- 32A-12-505**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 32A-12-601**, as enacted by Chapter 20, Laws of Utah 1993
- 32A-12-602**, as enacted by Chapter 20, Laws of Utah 1993
- 32A-12-603**, as last amended by Chapter 141, Laws of Utah 1998
- 32A-12-604**, as last amended by Chapter 88, Laws of Utah 1994
- 32A-12-605**, as last amended by Chapter 88, Laws of Utah 1994
- 32A-12-606**, as enacted by Chapter 20, Laws of Utah 1993

**ENACTS:**

- 32A-4-301**, Utah Code Annotated 1953
- 32A-4-302**, Utah Code Annotated 1953
- 32A-4-303**, Utah Code Annotated 1953
- 32A-4-304**, Utah Code Annotated 1953
- 32A-4-305**, Utah Code Annotated 1953
- 32A-4-306**, Utah Code Annotated 1953
- 32A-4-307**, Utah Code Annotated 1953
- 32A-4-401**, Utah Code Annotated 1953
- 32A-4-402**, Utah Code Annotated 1953

**32A-4-403**, Utah Code Annotated 1953  
**32A-4-404**, Utah Code Annotated 1953  
**32A-4-405**, Utah Code Annotated 1953  
**32A-4-406**, Utah Code Annotated 1953  
**32A-4-407**, Utah Code Annotated 1953  
**32A-6-502**, Utah Code Annotated 1953  
**32A-6-503**, Utah Code Annotated 1953  
**32A-6-603**, Utah Code Annotated 1953  
**32A-10-301**, Utah Code Annotated 1953  
**32A-10-302**, Utah Code Annotated 1953  
**32A-10-303**, Utah Code Annotated 1953  
**32A-10-304**, Utah Code Annotated 1953  
**32A-10-305**, Utah Code Annotated 1953  
**32A-10-306**, Utah Code Annotated 1953  
**32A-12-222**, Utah Code Annotated 1953  
**32A-15a-101**, Utah Code Annotated 1953  
**32A-15a-102**, Utah Code Annotated 1953  
**32A-15a-103**, Utah Code Annotated 1953  
**32A-15a-201**, Utah Code Annotated 1953  
**32A-15a-202**, Utah Code Annotated 1953  
**32A-15a-203**, Utah Code Annotated 1953  
**63-55b-132**, Utah Code Annotated 1953

**REPEALS:**

**32A-1-501**, as enacted by Chapter 20, Laws of Utah 1993  
**32A-1-502**, as enacted by Chapter 20, Laws of Utah 1993  
**32A-1-503**, as enacted by Chapter 20, Laws of Utah 1993  
**32A-1-504**, as last amended by Chapter 1, Laws of Utah 2000  
**32A-4-107**, as renumbered and amended by Chapter 23, Laws of Utah 1990

**32A-4-207**, as enacted by Chapter 23, Laws of Utah 1990

**32A-5-105**, as last amended by Chapters 132 and 241, Laws of Utah 1991

**32A-5-108**, as renumbered and amended by Chapter 23, Laws of Utah 1990

**32A-12-309**, as last amended by Chapter 241, Laws of Utah 1991

**32A-12-503**, as renumbered and amended by Chapter 23, Laws of Utah 1990

**63-55-232**, as last amended by Chapter 175, Laws of Utah 1998

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

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

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

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

~~[(2) Each violation or offense committed before July 1, 1985, shall be governed by the law, statutory and nonstatutory, existing when the violation of the title was committed. A defense or limitation on punishment under this title shall be available to any defendant tried or retried after July 1, 1985. If any of the elements of the offense occurred before July 1, 1985, the offense is considered committed before July 1, 1985.]~~

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

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

Section 2. Section **32A-1-104** is amended to read:

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

The policies of the state are:

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

(2) Alcoholic beverage control shall be operated as a public business using sound

management principles and practices. The business shall be governed by a commission and operated by a department. The business shall function with the intent of servicing the public demand for alcoholic beverages.

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

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

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

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

Section 3. Section **32A-1-105** is amended to read:

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

As used in this title:

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

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

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

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

(4) "Banquet" means an event:



(a) for which there is a contract:

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

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

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

(i) hotel;

(ii) resort facility;

(iii) sports center; or

(iv) convention center; and

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

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

(a) at which alcoholic beverages are:

(i) stored; or

(ii) dispensed; or

(b) from which alcoholic beverages are served.

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

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

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

(b) Beer may or may not contain hops or other vegetable products.

(c) Beer includes ~~[products]~~ a product that:

(i) contains alcohol in the percentages described in Subsection (6)(a); and

(ii) is referred to as:

(A) malt liquor~~[-];~~

(B) malted beverages~~[-];~~ or

(C) malt coolers.

~~[(5)]~~ (7) (a) "Beer retailer" means any business establishment that is:

(i) engaged, primarily or incidentally, in the retail sale ~~[or distribution]~~ of beer to public patrons, whether for consumption on or off the establishment's premises~~;~~; and ~~[that is]~~

(ii) licensed to sell beer by:

(A) the commission~~[-by]~~;

(B) a local authority~~[-]~~; or

(C) both the commission and a local authority.

(b) (i) "On-premise beer retailer" means any beer retailer engaged, primarily or incidentally, in the sale ~~[or distribution]~~ of beer to public patrons for consumption on the beer retailer's premises.

(ii) "On-premise beer retailer" includes ~~[taverns]~~ a tavern.

~~[(c) (i) "Tavern" means any business establishment engaged primarily in the retail sale or distribution of beer to public patrons for consumption on the establishment's premises, and that is licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.]~~

~~[(ii) "Tavern" includes a beer bar, parlor, lounge, cabaret, and night club where the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in the establishment.]~~

~~[(6)]~~ (8) "Billboard" means any public display used to advertise including:

(a) a light device~~[-]~~;

(b) a painting~~[-]~~;

(c) a drawing~~[-]~~;

(d) a poster~~[-]~~;

(e) a sign~~[-]~~;

(f) a signboard~~[-]~~; or

(g) a scoreboard~~[-or other similar public display used to advertise, but does not include:]~~.

~~[(a) displays on beer delivery vehicles if the displays do not overtly promote the consumption of alcoholic beverages;]~~

~~[(b) displays in taverns and private clubs, if the displays are not visible to persons off-premises;]~~

~~[(c) point-of-sale displays, other than light devices, in retail establishments that sell beer for off-premise consumption, if the displays are not visible to persons off-premises;]~~

~~[(d) private business signs on the premises of any business engaged primarily in the distribution of beer;]~~

~~[(e) newspapers, magazines, circulars, programs, or other similar printed materials, if the materials are not directed primarily to minors;]~~

~~[(f) menu boards in retail establishments that sell beer for on-premise consumption if the menu boards also contain food items;]~~

~~[(g) handles on alcoholic beverage dispensing equipment that identify brands of products being dispensed; and]~~

~~[(h) displays at the site of a temporary special event for which a single event liquor permit has been obtained from the commission or a temporary special event beer permit has been obtained from a local authority to inform attendees of the location where alcoholic beverages are being dispensed.]~~

~~[(7)] (9) "Brewer" means any person engaged in manufacturing beer[, malt liquor, or malted beverages].~~

(10) "Cash bar" means the service of alcoholic beverages:

(a) at:

(i) a banquet; or

(ii) a temporary event for which a permit is issued under this title; and

(b) if an attendee at the banquet or special event is charged for the alcoholic beverage.

~~[(8)] (11) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose, under a single contract, and at a fixed charge in accordance with the bus company's tariff, for the purpose of giving the group of persons the exclusive use of the bus and a driver to travel together to a specified destination or destinations.~~

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

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

(b) in which religious services are held;

(c) with which clergy is associated; and

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

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

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

(a) a social club;

(b) a recreational association;

(c) a fraternal association;

(d) an athletic association; or

(e) a kindred association.

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

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

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

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

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

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

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

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

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

- (i) contains more than 4% alcohol by volume; and
- (ii) is obtained by fermentation, infusion, or decoction of any malted grain.

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

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

(a) without charge; and

(b) at a:

(i) banquet; or

(ii) privately hosted event.

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

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

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

(a) law; or

(b) court order.

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

(a) an alcoholic beverage;

(b) a controlled substance;

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

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

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

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

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

(b) that is provided by a company to an individual or individuals at a fixed charge in accordance with the company's tariff for the purpose of giving the individual or individuals the exclusive use of the limousine and a driver to travel to a specified destination or destinations.

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

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

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

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

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

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

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

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

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

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

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

~~[(31)]~~ (36) "Package agent" means any person permitted by the commission to operate a

package agency pursuant to a contractual agreement with the department to sell liquor from premises that the package agent shall provide and maintain.

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

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

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

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

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

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

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

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

(a) an identification card;

(b) an identification that:

(i) is substantially similar to an identification card;

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

(iii) includes date of birth; and

- (iv) has a picture affixed;
- (c) a valid driver license certificate that:
  - (i) includes date of birth;
  - (ii) has a picture affixed; and
  - (iii) is issued:
    - (A) under Title 53, Chapter 3, Uniform Driver License Act; or
    - (B) in accordance with the laws of the state in which it is issued;
- (d) a military identification card that:
  - (i) includes date of birth; and
  - (ii) has a picture affixed; or
- (e) a valid passport.

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

- (i) public education;
- (ii) transacting public business; or
- (iii) regularly conducting government activities.

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

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

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

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

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

- (a) where a variety of foods is prepared and complete meals are served to the general public;
- (b) located on a premises having adequate culinary fixtures for food preparation and



dining accommodations; and

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

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

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

(a) hotel; or

(b) resort facility.

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

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

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

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

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

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

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

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

(i) a department [samples] sample; and

(ii) an industry representative [samples; and] sample.

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

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

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

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

and characteristics of the product.

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

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

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

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

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

(b) "School" does not include:

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

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

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

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

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

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

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

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

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

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

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

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

(ii) operated by state employees.

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

(i) licensee~~[-]~~;

(ii) permittee~~[-]~~; or ~~[to]~~

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

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

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

(i) engaged primarily in the retail sale of beer to public patrons for consumption on the establishment's premises; and

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

(b) "Tavern" includes the following if the revenue from the sale of beer exceeds the revenue of the sale of food, although food need not be sold in the establishment:

(i) a beer bar;

(ii) a parlor;

(iii) a lounge;

(iv) a cabaret; or

(v) a nightclub.

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

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

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

(b) is in a container;

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

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

or

(iii) that contains:

(A) sediment~~[;]~~; or

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

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

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

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

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

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

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

Section 4. Section **32A-1-107** is amended to read:

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

(1) The commission shall:

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

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

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

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

(ii) controlling liquor merchandise inventory including:

- (A) listing and delisting products;
- (B) the procedures for testing new products;
- (C) purchasing policy;
- (D) turnover requirements for regularly coded products to be continued; and
- (E) the disposition of discontinued, distressed, or unsaleable merchandise; and
- (iii) determining the location of state stores, package agencies, and outlets; [~~and~~]  
[~~(iv) department trade shows;~~]
- (d) decide within the limits and under the conditions imposed by this title, the number and location of state stores, package agencies, and outlets established in the state;
- (e) issue, grant, deny, suspend, [~~or~~] revoke, or not review the following permits, licenses, and package agencies for the purchase, sale, storage, service, manufacture, distribution, and consumption of alcoholic products:
  - (i) package agencies;
  - (ii) restaurant licenses;
  - (iii) airport lounge licenses;
  - (iv) limited restaurant licenses;
  - (v) beginning on July 1, 2003 and ending June 30, 2005, on-premise banquet licenses;
  - [~~(iv)~~] (vi) private club licenses;
  - [~~(v)~~] (vii) on-premise beer retailer licenses;
  - (viii) temporary special event beer permits;
  - [~~(vi)~~] (ix) special use permits;
  - [~~(vii)~~] (x) single event permits;
  - [~~(viii)~~] (xi) manufacturing licenses;
  - [~~(ix)~~] (xii) liquor warehousing licenses; and
  - [~~(x)~~] (xiii) beer wholesaling licenses;
- (f) fix prices at which liquors are sold that are the same at all state stores, package agencies, and outlets;
- (g) issue and distribute price lists showing the price to be paid by purchasers for each

class, variety, or brand of liquor kept for sale by the department;

(h) require the director to follow sound management principles and require periodic reporting from the director to ensure that these principles are being followed and that policies established by the commission are being observed;

(i) receive, consider, and act in a timely manner upon all reports, recommendations, and matters submitted by the director to the commission, and do all things necessary to support the department in properly performing its duties and responsibilities;

(j) obtain temporarily and for special purposes the services of experts and persons engaged in the practice of a profession or who possess any needed skills, talents, or abilities if considered expedient and if approved by the governor;

(k) prescribe the duties of departmental officials authorized to issue permits and licenses [~~and to conduct trade shows~~] under this title;

(l) prescribe, consistent with this title, the fees payable for permits, licenses, and package agencies issued under this title, or for anything done or permitted to be done under this title;

(m) prescribe the conduct, management, and equipment of any premises upon which alcoholic beverages may be sold, consumed, served, or stored;

(n) make rules governing the credit terms of beer sales to retailers within the state; and

(o) require that each state store, package agency, licensee, and permittee, where required in this title, display in a prominent place a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

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

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

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

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

Section 5. Section **32A-1-109** is amended to read:

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

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

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

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

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

(4) establish and secure adherence to a system of reports, controls, and performance in all matters relating to personnel, security, department property management, and operation of department offices, warehouses, state stores, package agencies, and licensees;

(5) within the policies, directives, rules, and procedures approved by the commission and provisions of law, buy, import, keep for sale, sell and control the sale, storage, service, transportation, and delivery of alcoholic products;

(6) prepare for commission approval:

(a) recommendations regarding the location, establishment, relocation, and closure of state stores and package agencies;

- (b) recommendations regarding the issuance, suspension, nonrenewal, and revocation of licenses and permits;
- (c) annual budgets, proposed legislation, and reports as required by law and sound business principles;
- (d) plans for reorganizing divisions of the department and their functions;
- (e) manuals containing all commission and department policies, directives, rules, and procedures;
- (f) an inventory control system;
- (g) any other reports and recommendations as may be requested by the commission;
- (h) rules governing the credit terms of beer sales to beer retailer licensees;
- (i) rules governing the calibration, maintenance, and regulation of calibrated metered dispensing systems;
- (j) rules governing the posting of a list of types and brand names of liquor being served through calibrated metered dispensing systems;
- (k) price lists issued and distributed showing the price to be paid for each class, variety, or brand of liquor kept for sale at state stores, package agencies, and outlets;
- (l) directives prescribing the books of account kept by the department and by state stores, package agencies, and outlets;
- (m) an official state label and the manner in which the label shall be affixed to every package of liquor sold under this title; and
- (n) a policy prescribing the manner of giving and serving notices required by this title or rules made under this title; [~~and~~]
- ~~[(o) rules governing department trade shows;]~~
- (7) make available through the department to any person, upon request, a copy of any policy or directive promulgated by the director;
- (8) adopt internal departmental policies, directives, rules, and procedures relating to department personnel matters and the day-to-day operation of the department that are consistent with those of the commission;



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

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

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

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

Section 6. Section **32A-1-111** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Upon receiving an application the department shall determine whether the applicant is:

(i) of good moral character; and ~~[is]~~

(ii) qualified for the position sought.

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

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

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

(a) a package agent;

(b) a licensee;

(c) an employee of a package agent; or

(d) an employee of a licensee.

~~[(5) Minors]~~ (6) A minor may not be employed by the department to:

(a) work in:

(i) any state liquor store; or

(ii) departmental warehouse[;]; or [to]

(b) engage in any activity involving the handling of alcoholic beverages.

Section 7. Section **32A-1-113** is amended to read:

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

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

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

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

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

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

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

(3) All expenditures necessary for the administration of this title, including the payment of all salaries, premiums, if any, on bonds of the commissioners, the director, and the department staff in all cases where bonds are required, and all other expenditures incurred in establishing, operating, and maintaining state stores and package agencies and in the administration of this title, shall be paid by warrants drawn on the state treasurer paid out of the Liquor Control Fund.

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

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

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

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

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

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

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

(i) licensee; or

(ii) permittee.

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

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

(7) The accounts of the department shall be audited annually by the state auditor or by any other person, firm, or corporation the state auditor appoints. The audit report shall be made

to the state auditor, and copies submitted to members of the Legislature not later than January 1 following the close of the fiscal year for which the report is made.

Section 8. Section **32A-1-116** is amended to read:

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

(1) [~~Beginning July 1, 1991, the~~] The department may not purchase or stock alcoholic beverages in containers smaller than 200 ml. except as otherwise allowed by the commission.

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

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

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

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

Section 9. Section **32A-1-119** is amended to read:

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

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

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

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

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

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

matter.

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

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

(3) ~~When~~ (a) The department may initiate a proceeding described in Subsection (3)(b) when the department ~~has on file~~ receives:

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

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

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

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

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

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

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

(4) (a) ~~An~~ Unless waived by the respondent, an adjudicative proceeding shall be held:

(i) if required by law~~, and in all cases~~;

(ii) before revoking or suspending any permit or license ~~or permit~~ issued under this

title[, ~~unless waived by the respondent~~]; or

(iii) before imposing a fine against:

(A) a permittee;

(B) a licensee; or

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

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

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

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

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

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

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

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

(iii) A person is not excused from obeying a subpoena without just cause. Any district court within the judicial district in which a person alleged to be guilty of willful contempt of

court or refusal to obey a subpoena is found or resides, upon application by the party issuing the subpoena, may issue an order requiring the person to appear before the issuing party, and to produce documentary evidence if so ordered, or to give evidence regarding the matter in question. Failure to obey an order of the court may be punished by the court as contempt.

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

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

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

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

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

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

(ii) impose a fine against:

(A) the permittee;

(B) the licensee; or

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

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

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

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



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

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

(A) during the suspension;

(B) by the permittee or licensee; and

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

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

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

(B) include the dates of the suspension period.

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

~~[(f)]~~ (f) If the permit or license is revoked, the commission may order the revocation of any compliance bond posted by the permittee or licensee.

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) the manufacturer, supplier, or importer:

(I) directly committed the violation~~[-]~~; or

(II) solicited, requested, commanded, encouraged, or intentionally aided another to engage in the violation.

Section 10. Section **32A-1-122** is amended to read:

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

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

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

(3) ~~[All wine sold in Utah by]~~ If a wine manufacturer producing less than 20,000 gallons

of wine in any calendar year, as verified by the department pursuant to federal or other verifiable production reports, first applies to the department for a reduced markup, all wine sold in Utah by the wine manufacturer shall be marked up in an amount not less than 30% above the cost to the department~~[, excluding federal excise taxes, but only if the wine manufacturer first applies to the department for the 30% markup].~~

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

Section 11. Section **32A-1-123** is amended to read:

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

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

(2) The commission:

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

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

Section 12. Section **32A-1-401** is amended to read:

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

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

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

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

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

(2) A city, town, or county in which an establishment conducts its business may ~~[revoke,]~~

suspend, [~~withhold~~] revoke, or not renew the business license of the establishment if any person described in Subsection (1) fails to complete the seminar required in Section 62A-15-401.

Section 13. Section **32A-2-101** is amended to read:

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

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

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

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

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

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

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

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

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

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

~~[(i) The commission finds after full investigation that the premises are located within a city of the third class or a town, and compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the establishment of a state store. In that event, the commission may, after giving full consideration to all of the attending circumstances, following a public hearing in the city or town, and where~~

~~practical in the neighborhood concerned, authorize a variance from the distance requirements to relieve the difficulties or hardships if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this title:]~~

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

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

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

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

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

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

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

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

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

boundary of the public or private school, church, public library, public playground, school playground, or park.

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

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

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

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

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

Section 14. Section **32A-2-103** is amended to read:

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

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

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

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

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

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

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

(a) minor;

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

(c) known habitual drunkard; or

(d) known interdicted person.

(6) Sale or delivery of liquor may not be made on or from the premises of any state store, nor may any state store be kept open for the sale of liquor:

(a) on Sunday;

(b) on any state or federal legal holiday;

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

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

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

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

Section 15. Section **32A-3-101** is amended to read:

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

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

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

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

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

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

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

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

(ii) A seasonal package agency ~~may not be operated~~ shall be for a period ~~longer than nine~~ of six consecutive months ~~subject to the restrictions stated in Subsections (2)(c)(i) through~~

(iii)].

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

(A) begin on May 1; and

(B) end on October 31.

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

(A) begin on November 1; and

(B) end on April 30.

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

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

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

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

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

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

(B) all locations under the agency are:

(I) within the same hotel facility; and

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

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

(3) (a) As measured by the method in Subsection (4), the premises of a package agency



may not be established within 600 feet of any~~[-]~~ public or private school, church, public library, public playground, or park.

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

~~[(ii) church;]~~

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

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

~~[(v) park.]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) a nursery school;
- (ii) an infant day care center; and
- (iii) a trade and technical school.

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

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

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

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

- (a) physical facilities;
- (b) conditions of operation;

- (c) hours of operation;
- (d) inventory levels;
- (e) payment schedules;
- (f) methods of payment;
- (g) premises security; and
- (h) any other matters considered appropriate by the commission.

Section 16. Section **32A-3-102** is amended to read:

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

(1) A person seeking to operate a package agency as a package agent under this chapter shall file a written application with the department in a form prescribed by the department.

(2) The application shall be accompanied by:

- (a) a nonrefundable application fee of \$100;
- (b) written consent of the local authority;
- (c) evidence of proximity to any public or private school, church, public library, public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of Subsections 32A-3-101(3)[;] and (4)[, and (5)], the application shall be processed in accordance with those subsections;

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

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

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

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

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

corporation, or limited liability company; and

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

Section 17. Section **32A-3-103** is amended to read:

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

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

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

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

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

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

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

(i) a partner[-];

(ii) a managing agent[-];

(iii) a manager;

(iv) an officer[-];

(v) a director[-or];

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

company.

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

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

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

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

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

(i) the package agent; or

(ii) another natural person that package agent designates.

(b) Each designee shall be:

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

(ii) responsible for the operation of the agency.

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

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

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

(f) The package agent shall:

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

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

(g) Failure to comply with the requirements of this Subsection (5) may result in the



immediate termination of the package agency agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 18. Section **32A-3-106** is amended to read:

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

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

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

(c) If the package agent violates the conditions, terms, or covenants contained in the agreement, or violates any provisions of this title, the department may take whatever action

against the agent that is allowed by the package agency agreement.

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

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

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

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

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

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

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

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

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

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

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

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

(a) minor;

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

(c) known habitual drunkard; or

(d) known interdicted person.

(10) Sale or delivery of liquor may not be made on or from the premises of any package agency nor may any package agency be kept open for the sale of liquor:

(a) on Sunday;

(b) on any state or federal legal holiday;

(c) on any day on which any regular general election, regular primary election, or statewide special election is held until after the polls are closed;

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

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

(11) The package agency certificate issued by the commission shall be permanently posted in a conspicuous place in the package agency.

(12) Each package agent shall display in a prominent place in the package agency a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(13) (a) A package agency may not close or cease operation for a period longer than 72 hours, unless ~~written notice is given to~~:

(i) the package agency notifies the department in writing at least seven days before the closing~~[-]~~; and

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

(b) ~~[It]~~ Notwithstanding Subsection (13)(a), in the case of emergency closure, immediate notice of closure shall be made to the department by telephone.

(c) (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period an additional 30 days upon written request of the package agency and upon a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

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

- (i) the dates of closure or cessation of operation[;];
- (ii) the reason for the closure or cessation of operation[;]; and
- (iii) the date on which the agency will reopen or resume operation.

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

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

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

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

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

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

(b) A package agency has no monetary value for the purpose of any type of disposition.

Section 19. Section **32A-3-108** is amended to read:

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

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

Section 20. Section **32A-4-101** is amended to read:

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

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

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

(3) (a) (i) Subject to this Subsection (3), the total number of restaurant liquor licenses may not at any time aggregate more than that number determined as follows:

(A) until October 31, 2003, by dividing the population of the state by 4,500; and

(B) on or after November 1, 2003, by dividing the population of the state by 5,000.

(ii) If the total number of restaurant liquor licenses in effect on October 31, 2003, equals or exceeds the limitation of Subsection (3)(a)(i):

(A) a license that is in effect on October 31, 2003:

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

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

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

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

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

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

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

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

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

(A) begin on May 1; and

(B) end on October 31.

~~[(ii)] (iv) [Licenses] A restaurant liquor license issued for operation during a winter time [periods are] period is known as a "Seasonal B" restaurant [licenses] liquor license. The period of operation for a "Seasonal B" restaurant liquor license [may begin as early as September 1 and may continue until May 31.] shall:~~

(A) begin on November 1; and

(B) end on April 30.

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

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

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

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

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

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

to the nearest property boundary of the public or private school, church, public library, public playground, or park.

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

~~[(i) The commission finds after full investigation that the premises are located within a city of the third class, a town, or the unincorporated area of a county, and compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the granting of a restaurant liquor license. In that event, the commission may, after giving full consideration to all of the attending circumstances, following a public hearing in the city or town, and where practical in the neighborhood concerned, authorize a variance from the distance requirements to relieve the difficulties or hardships if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this title.]~~

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

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

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

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

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

(C) a public hearing has been held in the city, town, or county, and where practical in the

neighborhood concerned; and

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

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

(A) the premises previously received a variance reducing the proximity requirements of Subsection (4)(a) or (b); or

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

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

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

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

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

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

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

Section 21. Section **32A-4-102** is amended to read:

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

(1) A person seeking a restaurant liquor license under this [~~chapter~~] part shall file a



written application with the department, in a form prescribed by the department. It shall be accompanied by:

- (a) a nonrefundable [~~\$300~~] \$250 application fee;
- (b) an initial license fee of [~~\$300~~] \$1,750, which is refundable if a license is not granted;
- (c) written consent of the local authority;
- (d) a copy of the applicant's current business license;
- (e) evidence of proximity to any public or private school, church, public library, public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of Subsections 32A-4-101(4)[;] and (5)[~~and (6)~~], the application shall be processed in accordance with those subsections;
- (f) a bond as specified by Section 32A-4-105;
- (g) a floor plan of the restaurant, including consumption areas and the area where the applicant proposes to keep, store, and sell liquor;
- (h) evidence that the restaurant is carrying public liability insurance in an amount and form satisfactory to the department;
- (i) evidence that the restaurant is carrying dramshop insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;
- (j) a signed consent form stating that the restaurant will permit any authorized representative of the commission, department, or any law enforcement officer unrestricted right to enter the restaurant;
- (k) in the case of [~~a corporate~~] an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the restaurant application are authorized to so act on [~~the corporation's~~] behalf of the partnership, corporation, or limited liability company; and
  - (1) any other information the commission or department may require.
  - (2) (a) All restaurant liquor licenses expire on October 31 of each year.
  - (b) Persons desiring to renew their restaurant liquor license shall [~~submit a renewal fee of \$300 and a completed renewal application to the department~~] by no later than September 30[;]

submit:

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

(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>

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

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

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

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

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

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

or

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

(c) for a limited liability company:

(i) managers; or

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

Section 22. Section **32A-4-103** is amended to read:

**32A-4-103. Qualifications.**

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

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

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

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

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

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

(i) a partner[-];

(ii) a managing agent[-];

(iii) a manager;

(iv) an officer[-];

(v) a director[-or];

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

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

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

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

~~[(b) In the case of a partnership or corporation that has been granted a restaurant liquor license, if any partner, managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation is convicted of any offense designated~~

~~in Subsection (1), the commission may take emergency action by immediately revoking the license according to the procedures and requirements of Title 63, Chapter 46b.]~~

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

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

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

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

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

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

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

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

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

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

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

years.

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

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

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

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

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

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

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

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

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

(i) a partner or managing agent of a partnership~~[, or]~~ that had any type of license, agency,

or permit issued under this title revoked within the last three years;

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

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

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

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

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

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

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

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

Section 23. Section **32A-4-105** is amended to read:

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

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

(2) The bond shall be in a form approved by the attorney general, conditioned upon the licensee's faithful compliance with this title and the rules of the commission.

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

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

- (i) during the period the license is in effect~~[-];~~ or
- (ii) while revocation proceedings are pending against the licensee.
- (c) A bond filed by a licensee may be forfeited if the license is finally revoked.

Section 24. Section **32A-4-106** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(b) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used;

(i) as a flavoring on desserts; and

(ii) in the preparation of flaming food dishes, drinks, and desserts;

(c) each restaurant patron may have no more than 2.75 ounces of spirituous liquor at a time; and

(d) each restaurant patron may have no more than one spirituous liquor drink at a time before the patron.

~~[(c) wine]~~ (3) (a) (i) Wine may be sold and served by the glass [in quantities not exceeding] or in an individual portion not to exceed five ounces per glass[; and] or individual portion.

(ii) An individual portion of wine may be served to a patron in more than one glass as long as the total amount of wine does not exceed five ounces.

(iii) An individual portion of wine is considered to be one alcoholic beverage under Subsection (7)(e).

(b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed by the commission to tables of four or more persons.

(ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by the commission to tables of less than four persons.

(c) A wine service may be performed and a service charge assessed by the restaurant as authorized by commission rule for wine purchased at the restaurant.

~~[(d) heavy]~~ (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices fixed by the commission.

(b) A service charge may be assessed by the restaurant as authorized by commission rule for heavy beer purchased at the restaurant.

~~[(3)(a) Restaurants]~~ (5) (a) A restaurant licensed to sell liquor may sell beer in any size container not exceeding two liters, and on draft for on-premise consumption without obtaining a separate on-premise beer retailer license from the commission.



(b) ~~[Restaurants]~~ A restaurant licensed under this chapter that ~~[sell]~~ sells beer pursuant to Subsection ~~[(3)]~~ (5)(a) shall comply with all appropriate operational restrictions under Chapter 10, Beer Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are inconsistent with or less restrictive than the operational restrictions under this ~~[chapter]~~ part.

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

- (i) state liquor license; and
- (ii) alcoholic beverage license issued by the local authority.

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

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

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

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

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

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

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

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

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

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

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

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

~~[(8)]~~ (9) (a) Liquor may not be sold ~~[or]~~, offered for sale, served, or otherwise furnished at a restaurant during the following days or hours:

(i) until after the polls are closed on the day of any:

(A) regular general election~~[-]~~;

(B) regular primary election~~[-]~~; or

(C) statewide special election ~~[until after the polls are closed]~~;

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

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

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

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

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

~~[(9)]~~ (10) Alcoholic beverages may not be sold except in connection with an order for food prepared, sold, and served at the restaurant.

~~[(10)]~~ (11) Alcoholic beverages may not be sold, ~~[delivered,]~~ served, or otherwise furnished to any:

(a) minor;

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

(c) known habitual drunkard; or

(d) known interdicted person.

~~[(11)]~~ (12) (a) (i) Liquor may be sold only at prices fixed by the commission.

(ii) Liquor may not be sold at discount prices on any date or at any time.

(b) An alcoholic beverage may not be sold ~~[except at prices fixed by the commission]~~ at less than the cost of the alcoholic beverage to the licensee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(17)] (14) (a) A person may not bring onto the premises of a restaurant liquor licensee~~

any alcoholic beverage for on-premise consumption, except a person may bring, subject to the discretion of the licensee, ~~[cork-finished]~~ bottled wine onto the premises of any restaurant liquor licensee ~~[and consume wine pursuant to Subsection (16)]~~ for on-premise consumption.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) is used primarily for drinking purposes; and

(ii) contains any alcoholic beverage.

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

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

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

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

(a) consume an alcoholic beverage; or

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

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

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

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

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) quarterly expenditures made separately for:

- (A) malt or brewed beverages;
- (B) set-ups;
- (C) liquor;
- (D) food; and
- (E) all other items required by the department; and

(ii) sales made separately for:

- (A) malt or brewed beverages;
- (B) set-ups;
- (C) food; and
- (D) all other items required by the department.

(b) The record required by Subsection ~~[(27)]~~ (24)(a) shall be kept:

- (i) in a form approved by the department; and
- (ii) current for each three-month period.
- (c) Each expenditure shall be supported by:
  - (i) delivery tickets;
  - (ii) invoices;
  - (iii) receipted bills;
  - (iv) canceled checks;
  - (v) petty cash vouchers; or
  - (vi) other sustaining data or memoranda.

~~[(28)(a) Each]~~ (d) In addition to a ledger or record required under Subsection (24)(a), a restaurant liquor licensee shall maintain accounting and other records and documents as the department may require.

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

~~[(29)]~~ (25) (a) A restaurant liquor licensee may not close or cease operation for a period longer than 240 hours, unless:

- (i) the restaurant liquor ~~[license]~~ licensee notifies the department in writing at least seven days before the closing; and
- (ii) the closure or cessation of operation is first approved by the department.
- (b) Notwithstanding Subsection ~~[(29)]~~ (25)(a), in the case of emergency closure, immediate notice of closure shall be made to the department by telephone.

(c) The department may authorize a closure or cessation of operation for a period not to exceed 60 days. The department may extend the initial period an additional 30 days upon written



request of the restaurant licensee and upon a showing of good cause. A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) Any notice shall include:

- (i) the dates of closure or cessation of operation;
- (ii) the reason for the closure or cessation of operation; and
- (iii) the date on which the licensee will reopen or resume operation.

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

- (i) the license; and
- (ii) the unused portion of the license fee for the remainder of the license year effective immediately.

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

- (i) the license; and
- (ii) the unused portion of the license fee for the remainder of the license year.

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

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

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

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

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

~~[(33)]~~ (29) Each server of alcoholic beverages in a licensee's establishment shall keep a written beverage tab for each table or group that orders or consumes alcoholic beverages on the

premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or consumed.

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

Section 25. Section **32A-4-201** is amended to read:

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

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

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

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

Section 26. Section **32A-4-202** is amended to read:

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

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

- (a) a nonrefundable ~~[\$1,000]~~ \$250 application fee;
- (b) an initial license fee of ~~[\$1,000]~~ \$7,000, which is refundable if a license is not granted;
- (c) written consent of the local and airport authority;
- (d) a copy of the applicant's current business license;
- (e) a bond as specified by Section 32A-4-205;
- (f) a floor plan of the airport lounge, including consumption areas and the area where the applicant proposes to keep, store, and sell liquor;
- (g) a copy of the sign proposed to be used by the licensee on its premises to inform the public that alcoholic beverages are sold and consumed there;

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

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

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

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

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

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

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

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

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

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

or

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

(c) for a limited liability company:

(i) managers; or

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

Section 27. Section **32A-4-203** is amended to read:

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

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

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

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

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

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

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

(i) a partner[~~;~~];

(ii) a managing agent[~~;~~];

(iii) a manager;

(iv) an officer[~~;~~];

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

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

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

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

described in Subsection (1)(a).

(2) ~~[(a) If any employee or proprietor of an airport lounge liquor licensee is convicted of any offense designated in Subsection (1), the] The~~ commission may ~~[take emergency action by] immediately [revoking the] suspend or revoke an airport lounge license [according to the procedures and requirements of Title 63, Chapter 46b.]~~ if after the day on which the airport lounge license is granted, a person described in Subsection (1)(a), (b), or (c):

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

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

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

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

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

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

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

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

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,

any drug, or the combined influence of alcohol and any drug; and

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

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

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

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

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

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

(b) A corporation or partnership applicant may not be granted an airport lounge liquor license if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

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

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

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

(c) A person acting in an individual capacity may not be granted an airport lounge liquor license if that person was:

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

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

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

(5) (a) A minor may not be granted an airport lounge liquor license.

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

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

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

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

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

Section 28. Section **32A-4-206** is amended to read:

**32A-4-206. Operational restrictions.**

Each person granted an airport lounge liquor license and the employees and management personnel of the airport lounge shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary

action taken against individual employees or management personnel.

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

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

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

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

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

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

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

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

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

(b) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used:

(i) as a flavoring on desserts; and

(ii) in the preparation of flaming food dishes, drinks, and desserts; and

(c) each airport lounge patron may have no more than 2.75 ounces of spirituous liquor at a time before the patron.

~~[(b) wine]~~ (3) (a) (i) Wine may be sold and served by the glass [in quantities not exceeding] or an individual portion not to exceed five ounces per glass[; and] or individual



portion.

(ii) An individual portion may be served to a patron in more than one glass as long as the total amount of wine does not exceed five ounces.

(iii) An individual portion of wine is considered to be one alcoholic beverage under Subsection (7)(c).

(b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed by the commission to tables of four or more persons.

(ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by the commission to tables of less than four persons.

(c) A wine service may be performed and a service charge assessed by the airport lounge as authorized by commission rule for wine purchased at the airport lounge.

~~[(c) heavy]~~ (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices fixed by the commission.

(b) A service charge may be assessed by the airport lounge as authorized by commission rule for heavy beer purchased at the airport lounge.

~~[(3) (a) Airport lounges]~~ (5) (a) An airport lounge licensed to sell liquor may sell beer in any size container not exceeding two liters, and on draft for on-premise consumption without obtaining a separate on-premise beer retailer license from the commission.

~~(b) [Airport lounges that sell]~~ An airport lounge that sells beer pursuant to Subsection [(3)] (5)(a) shall comply with all appropriate operational restrictions under Chapter 10, Beer Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are inconsistent with or less restrictive than the operational restrictions under this [chapter that apply to airport lounges] part.

(c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer Licenses, [as set forth in] required by Subsection [(3)] (5)(b) may result in a suspension or revocation of the airport lounge's:

(i) state liquor license; and [its]

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

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

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

~~[(b)]~~ (7) (a) A patron ~~[or guest]~~ may only make purchases in the airport lounge from and be served by a [server] person employed, designated, and trained by the licensee to sell, dispense, and serve alcoholic beverages.

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

(b) Notwithstanding Subsection (7)(a), a patron who has purchased bottled wine from an employee of the airport lounge may serve wine from the bottle to themselves or others at the patron's table.

(c) Each airport lounge patron may have no more than two alcoholic beverages of any kind at a time before the patron.

~~[(6)]~~ (8) The liquor storage area shall remain locked at all times other than those hours and days when liquor sales and service are authorized by law.

~~[(7)]~~ (9) Alcoholic beverages may not be sold ~~[or]~~, offered for sale, served, or otherwise furnished at an airport lounge ~~[during the following days or hours: (a) on the day of any regular general election, regular primary election, or statewide special election until after the polls are closed; and (b)]~~ on any ~~[other]~~ day after 12 midnight and before 8 a.m.

~~[(8)]~~ (10) Alcoholic beverages may not be sold, ~~[delivered;]~~ served, or otherwise furnished to any:

- (a) minor;
- (b) person actually, apparently, or obviously ~~[drunk]~~ intoxicated;
- (c) known habitual drunkard; or
- (d) known interdicted person.

(11) (a) (i) Liquor may be sold only at prices fixed by the commission.

(ii) Liquor may not be sold at discount prices on any date or at any time.

~~[(9) Liquor]~~ (b) Alcoholic beverages may not be sold [except at prices fixed by the commission. Mixed drinks and wine may not be sold at discount prices on any day or at any time.] at less than the cost of the alcoholic beverage to the licensee.

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

~~[(11) No more than one ounce of primary liquor may be served to a patron or guest at a time, except:]~~

~~[(a) wine as provided in Subsection (2)(b); and]~~

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

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

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

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

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

(g) An airport lounge licensee may not engage in a public promotion involving or offering free alcoholic beverages to the general public.

(12) Alcoholic beverages may not be purchased by the licensee, or any employee or agent of the licensee, for patrons ~~[or guests]~~ of the airport lounge.

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

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

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

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

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

(14) ~~[Alcoholic beverages purchased from the airport lounge may not be removed from the airport lounge premises]~~ An airport lounge licensee and its employees may not permit a patron to remove any alcoholic beverages from the airport lounge premises.

(15) (a) ~~[Minors]~~ A minor may not be employed by an airport lounge licensee to sell or dispense alcoholic beverages.

(b) Notwithstanding Subsection (15)(a), a minor may be employed to enter the sale at a cash register or other sales recording device.

(16) An employee of [a] an airport lounge licensee, while on duty, may not:

(a) consume an alcoholic beverage; or

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

(17) Any charge or fee made in connection with the sale, service, or consumption of liquor may be stated in a food or alcoholic beverage menu including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

~~[(17)]~~ (18) Each airport lounge liquor licensee shall display in a prominent place in the airport lounge:

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

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

(c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or

drugs is a serious crime that is prosecuted aggressively in Utah."

~~[(18)]~~ (19) (a) Each airport lounge liquor licensee shall maintain an expense ledger or record showing in detail:

(i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all other items required by the department; and

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

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

~~[(19) Each]~~ (c) In addition to a ledger or record required by Subsection (19)(a), each airport lounge liquor licensee shall maintain accounting and other records and documents as the department may require.

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

(20) ~~[There shall be no transfer of an]~~ An airport lounge liquor license may not be transferred from one location to another, without prior written approval of the commission.

(21) (a) ~~[A person, having been granted an]~~ An airport lounge liquor ~~[license;]~~ licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any other person, whether for monetary gain or not.

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

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

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

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

Section 29. Section **32A-4-301** is enacted to read:

**Part 3. Limited Restaurant Licenses**

**32A-4-301. Definitions.**

For purposes of this part, wine includes all alcoholic beverages defined as wine under 27 U.S.C. 211 and 27 C.F.R. Section 4.10 including the following alcoholic beverages made in the manner of wine containing not less than 7% and not more than 24% of alcohol by volume:

- (1) sparkling and carbonated wine;
- (2) wine made from condensed grape must;
- (3) wine made from other agricultural products than the juice of sound, ripe grapes;
- (4) imitation wine;
- (5) compounds sold as wine;
- (6) vermouth;
- (7) cider;
- (8) perry; and
- (9) sake.

Section 30. Section **32A-4-302** is enacted to read:

**32A-4-302. Commission's power to grant licenses -- Limitations.**

(1) A restaurant wanting to sell and allow the consumption of only wine, heavy beer, and beer on its premises, but not spirituous liquor, must obtain a limited restaurant license from the commission as provided in this part before selling or allowing the consumption of wine, heavy

beer, or beer on its premises.

(2) (a) Subject to the other provisions of this section, the commission may issue limited restaurant licenses for the purpose of establishing limited restaurant outlets at places and in numbers the commission considers proper for the storage, sale, and consumption of wine, heavy beer, and beer on premises operated as public restaurants.

(b) The total number of limited restaurant licenses issued under this part may not at any time aggregate more than that number determined by dividing the population of the state by 13,000.

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

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

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

(3) (a) (i) The commission may issue seasonal limited restaurant licenses established in areas the commission considers necessary.

(ii) A seasonal limited restaurant license shall be for a period of six consecutive months.

(b) (i) A limited restaurant license issued for operation during a summer time period is known as a "Seasonal A" limited restaurant license. The period of operation for a "Seasonal A" limited restaurant license shall:

(A) begin on May 1; and

(B) end on October 31.

(ii) A limited restaurant license issued for operation during a winter time period is known as a "Seasonal B" limited restaurant license. The period of operation for a "Seasonal B" limited restaurant license shall:

(A) begin on November 1; and

(B) end on April 30.

(iii) In determining the number of limited restaurant licenses that the commission may issue under this section:

(A) a seasonal limited restaurant license is counted as 1/2 of one limited restaurant license; and

(B) each "Seasonal A" limited restaurant license shall be paired with a "Seasonal B" limited restaurant license.

(c) If the location, design, and construction of a hotel may require more than one limited restaurant sales location within the hotel to serve the public convenience, the commission may authorize the sale of wine, heavy beer, and beer at as many as three limited restaurant locations within the hotel under one license if:

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

(ii) all locations under the license are:

(A) within the same hotel facility; and

(B) on premises that are:

(I) managed or operated by the licensee; and

(II) owned or leased by the licensee.

(d) Facilities other than hotels shall have a separate limited restaurant license for each restaurant where wine, heavy beer, and beer are sold.

(4) (a) The premises of a limited restaurant license may not be established within 600 feet of any public or private school, church, public library, public playground, or park, as measured by the method in Subsection (5).

(b) The premises of a limited restaurant license may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.

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

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

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

(B) alternative locations for establishing a limited restaurant license in the community



are limited;

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

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

(ii) with respect to the premises of any limited restaurant license issued by the commission that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsections (4)(a) and (b) in considering whether to grant a limited restaurant license to the new owner of the premises if:

(A) the premises previously received a variance reducing the proximity requirements of Subsection (4)(a) or (b); or

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

(5) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

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

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

(i) a nursery school;

(ii) an infant day care center; and

(iii) a trade and technical school.

Section 31. Section **32A-4-303** is enacted to read:

**32A-4-303. Application and renewal requirements.**

(1) A person seeking a limited restaurant license under this part shall file a written application with the department, in a form prescribed by the department. The application shall be accompanied by:

(a) a nonrefundable \$250 application fee;

(b) an initial license fee of \$500, which is refundable if a license is not granted;

(c) written consent of the local authority;

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

(e) evidence of proximity to any public or private school, church, public library, public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of Subsections 32A-4-302(4) and (5), the application shall be processed in accordance with those subsections;

(f) a bond as specified by Section 32A-4-306;

(g) a floor plan of the restaurant, including:

(i) consumption areas; and

(ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and beer;

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

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

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

(k) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the restaurant application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and

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

(2) A holder of a restaurant liquor license or a private club license on May 5, 2003, may not be required to pay the application or initial license fees for a limited restaurant license under this chapter if the licensee:

(a) surrenders the restaurant liquor license or private club license before being granted a limited restaurant license; and

(b) applies for a limited restaurant license in calendar year 2003:

(i) for the same premises for which the restaurant liquor license or private club license was granted; and

(ii) before the expiration of the restaurant liquor license or private club license.

(3) (a) All limited restaurant licenses expire on October 31 of each year.

(b) Persons desiring to renew their limited restaurant license shall submit:

(i) a renewal fee of \$300; and

(ii) a renewal application to the department no later than September 30.

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

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

(4) To ensure compliance with Subsection 32A-4-307(27), the commission may suspend or revoke a limited restaurant license if the limited restaurant licensee does not immediately notify the department of any change in:

(a) ownership of the restaurant;

(b) for a corporate owner, the:

(i) corporate officer or directors; or

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

(c) for a limited liability company:

(i) managers; or

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

Section 32. Section **32A-4-304** is enacted to read:

**32A-4-304. Qualifications.**

(1) (a) The commission may not grant a limited restaurant license to any person who has been convicted of:

- (i) a felony under any federal or state law;
- (ii) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
- (iii) any crime involving moral turpitude; or
- (iv) on two or more occasions within the five years before the day on which the license is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

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

- (i) a partner;
- (ii) a managing agent;
- (iii) a manager;
- (iv) an officer;
- (v) a director;
- (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or
- (vii) a member who owns at least 20% of the applicant limited liability company.

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

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

- (a) is found to have been convicted of any offense described in Subsection (1)(a) prior to

the license being granted; or

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

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

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

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

(3) The director may take emergency action by immediately suspending the operation of the limited restaurant license according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):

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

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

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

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

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

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

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

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

(b) An applicant that is a partnership, corporation, or limited liability company may not be granted a limited restaurant license if any of the following had any type of license, agency, or permit issued under this title revoked while acting in their individual capacity within the last three years:

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

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

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

(c) A person acting in an individual capacity may not be granted a limited restaurant license if that person was:

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

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

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

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

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

- (i) a partner or managing agent of the applicant partnership;
- (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or
- (iii) a manager or member who owns at least 20% of the applicant limited liability company.

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

Section 33. Section **32A-4-305** is enacted to read:

**32A-4-305. Commission and department duties before granting licenses.**

(1) (a) Before a limited restaurant license may be granted by the commission, the department shall conduct an investigation and may hold public hearings for the purpose of gathering information and making recommendations to the commission as to whether or not a license should be granted.

(b) The department shall forward the information and recommendations described in Subsection (1)(a) to the commission to aid in the commission's determination.

(2) Before issuing any limited restaurant license, the commission shall:

(a) determine that the applicant has complied with all basic qualifications and requirements for making application for a license as provided by Sections 32A-4-302 and 32A-4-303;

(b) determine that the application is complete;

(c) consider the locality within which the proposed limited restaurant outlet is located, including:

(i) physical characteristics such as:

(A) the condition of the premises;

(B) square footage; and

(C) parking availability; and

(ii) operational factors such as:

(A) tourist traffic;

(B) proximity to and density of other state stores, package agencies, and outlets;

(C) demographics;

(D) population to be served; and

(E) the extent of and proximity to any school, church, public library, public playground,

or park;

(d) consider the applicant's ability to manage and operate a limited restaurant license,

including:

(i) management experience;

(ii) past retail liquor experience; and

(iii) the type of management scheme employed by the restaurant;

(e) consider the nature or type of restaurant operation, including:

(i) the type of menu items offered and emphasized;

(ii) whether the restaurant emphasizes service to an adult clientele or to minors;

(iii) the hours of operation;

(iv) the seating capacity of the facility; and

(v) the gross sales of food items; and

(f) consider any other factors or circumstances the commission considers necessary.

Section 34. Section **32A-4-306** is enacted to read:

**32A-4-306. Bond.**

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

(2) The bond shall be in a form approved by the attorney general, conditioned upon the licensee's faithful compliance with this title and the rules of the commission.

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

(b) No part of any cash or corporate bond so posted may be withdrawn during the period



the license is in effect, or while revocation proceedings are pending against the licensee.

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

Section 35. Section **32A-4-307** is enacted to read:

**32A-4-307. Operational restrictions.**

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

(1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee except from state stores or package agencies.

(b) Wine and heavy beer purchased in accordance with Subsection (1)(a) may be transported by the licensee from the place of purchase to the licensed premises.

(c) Payment for wine and heavy beer shall be made in accordance with rules established by the commission.

(2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of spirituous liquor on the premises of the restaurant.

(b) Spirituous liquor may not be on the premises of the restaurant except for use:

(i) as a flavoring on desserts; and

(ii) in the preparation of flaming food dishes, drinks, and desserts.

(3) (a) (i) Wine may be sold and served by the glass or an individual portion not to exceed five ounces per glass or individual portion.

(ii) An individual portion may be served to a patron in more than one glass as long as the total amount of wine does not exceed five ounces.

(iii) An individual portion of wine is considered to be one alcoholic beverage under Subsection (7)(c).

(b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed by the commission to tables of four or more persons.

(ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by

the commission to tables of less than four persons.

(c) A wine service may be performed and a service charge assessed by the limited restaurant as authorized by commission rule for wine purchased at the limited restaurant.

(4) (a) Heavy beer may be served in original containers not exceeding one liter at prices fixed by the commission.

(b) A service charge may be assessed by the limited restaurant as authorized by commission rule for heavy beer purchased at the restaurant.

(5) (a) A limited restaurant licensee may sell beer in any size container not exceeding two liters, and on draft for on-premise consumption without obtaining a separate on-premise beer retailer license from the commission.

(b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a) shall comply with all appropriate operational restrictions under Chapter 10, Beer Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are inconsistent with or less restrictive than the operational restrictions under this part.

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

(i) limited restaurant license; and

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

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

(7) (a) A patron may only make alcoholic beverage purchases in the limited restaurant from and be served by a person employed, designated, and trained by the licensee to sell and serve alcoholic beverages.

(b) Notwithstanding Subsection (7)(a), a patron who has purchased bottled wine from an employee of the restaurant or has carried bottled wine onto the premises of the restaurant pursuant to Subsection (13) may thereafter serve wine from the bottle to themselves or others at

the patron's table.

(c) Each restaurant patron may have no more than two alcoholic beverages of any kind at a time before the patron.

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

(9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise furnished at a limited restaurant during the following days or hours:

(i) until after the polls are closed on the day of any:

(A) regular general election;

(B) regular primary election; or

(C) statewide special election;

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

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

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

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

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

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

(11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to any:

(a) minor;

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

(c) known habitual drunkard; or

(d) known interdicted person.

(12) (a) (i) Wine and heavy beer may be sold only at prices fixed by the commission.

(ii) Wine and heavy beer may not be sold at discount prices on any date or at any time.

(b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverages to the licensee.

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

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

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

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

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

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

(14) (a) A person may not bring onto the premises of a limited restaurant licensee any alcoholic beverage for on-premise consumption, except a person may bring, subject to the discretion of the licensee, bottled wine onto the premises of any limited restaurant licensee for on-premise consumption.

(b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or its officers, managers, employees, or agents may not allow:

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

(ii) consumption of any alcoholic beverage described in Subsection (14)(b)(i) on its premises.

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

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

(15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and its employees may not permit a restaurant patron to carry from the restaurant premises an open

container that:

(i) is used primarily for drinking purposes; and

(ii) contains any alcoholic beverage.

(b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed contents of a bottle of wine if before removal the bottle has been recorked or recapped.

(16) (a) A minor may not be employed by a limited restaurant licensee to sell or dispense alcoholic beverages.

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

(17) An employee of a limited restaurant licensee, while on duty, may not:

(a) consume an alcoholic beverage; or

(b) be intoxicated.

(18) A charge or fee made in connection with the sale, service, or consumption of wine or heavy beer may be stated in food or alcoholic beverage menus including:

(a) a service charge; or

(b) a chilling fee.

(19) Each limited restaurant licensee shall display in a prominent place in the restaurant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(21) Nothing in Subsection (20) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (20).

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

(b) Nothing in Subsection (22)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (22)(a).

(23) A limited restaurant licensee may not engage in or permit any form of gambling, or

have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the premises of the restaurant.

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

(i) quarterly expenditures made separately for:

(A) wine;

(B) heavy beer;

(C) beer;

(D) food; and

(E) all other items required by the department; and

(ii) sales made separately for:

(A) wine;

(B) heavy beer;

(C) beer;

(D) food; and

(E) all other items required by the department.

(b) The record required by Subsection (24)(a) shall be kept:

(i) in a form approved by the department; and

(ii) current for each three-month period.

(c) Each expenditure shall be supported by:

(i) delivery tickets;

(ii) invoices;

(iii) receipted bills;

(iv) canceled checks;

(v) petty cash vouchers; or

(vi) other sustaining data or memoranda.

(d) In addition to the ledger or record maintained under Subsections (24)(a) through (c), a limited restaurant licensee shall maintain accounting and other records and documents as the

department may require.

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

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

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

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

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

(c) (i) Subject to Subsection (25)(c)(iii), the department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period an additional 30 days upon:

(A) written request of the limited restaurant licensee; and

(B) a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) Any notice required by Subsection (25)(a) shall include:

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

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

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

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

(i) the license; and



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

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

(i) the license; and

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

(26) Each limited restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include service charges.

(27) A limited restaurant license may not be transferred from one location to another, without prior written approval of the commission.

(28) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any other person whether for monetary gain or not.

(b) A limited restaurant license has no monetary value for the purpose of any type of disposition.

(29) (a) Each server of wine, heavy beer, and beer in a limited restaurant licensee's establishment shall keep a written beverage tab for each table or group that orders or consumes alcoholic beverages on the premises.

(b) The beverage tab required by Subsection (29)(a) shall list the type and amount of alcoholic beverages ordered or consumed.

(30) A limited restaurant licensee may not make a person's willingness to serve alcoholic beverages a condition of employment as a server with the restaurant.

Section 36. Section **32A-4-401** is enacted to read:

**Part 4. On-Premise Banquet License**

**32A-4-401. Commission's power to grant licenses -- Limitations.**

(1) (a) Beginning May 5, 2003, and ending June 30, 2005, the commission may issue an on-premise banquet license to any of the following persons for the purpose of allowing the storage, sale, service, and consumption of alcoholic beverages in connection with that person's

banquet and room service activities:

- (i) hotel;
- (ii) resort facility;
- (iii) sports center; or
- (iv) convention center.

(b) This chapter is not intended to prohibit liquor on the premises of a person listed in Subsection (1) to the extent otherwise permitted by this title.

(2) (a) Subject to this section, the total number of on-premise banquet licenses may not at any time aggregate more than that number determined by dividing the population of the state by 30,000.

(b) For purposes of this Subsection (2), the population of the state shall be determined by:

- (i) the most recent United States decennial or special census; or
- (ii) any other population determination made by the United States or state governments.

(3) Pursuant to a contract between the host of a banquet and an on-premise banquet licensee:

(a) the host of a contracted banquet may request an on-premise banquet licensee to provide alcoholic beverages served at a banquet; and

(b) an on-premise banquet licensee may provide the alcoholic beverages served at a banquet.

(4) At a banquet, an on-premise banquet licensee may provide:

- (a) a hosted bar; or
- (b) a cash bar.

(5) Nothing in this section shall prohibit a qualified on-premise banquet license applicant from applying for a package agency.

(6) (a) The premises of an on-premise banquet license may not be established within 600 feet of any public or private school, church, public library, public playground, or park, as measured by the method in Subsection (7).

(b) The premises of an on-premise banquet license may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(c) The restrictions contained in Subsections (6)(a) and (b) govern unless one of the following exemptions applies:

(i) with respect to the establishment of an on-premise banquet license within any location, the commission may authorize a variance to reduce the proximity requirements of Subsection (6)(a) or (b) if:

(A) the local governing authority has granted its written consent to the variance;

(B) alternative locations for establishing an on-premise banquet license in the community are limited;

(C) a public hearing has been held in the city, town, or county, and where practical in the neighborhood concerned; and

(D) after giving full consideration to all of the attending circumstances and the policies stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the license would not be detrimental to the public health, peace, safety, and welfare of the community; or

(ii) with respect to the premises of any on-premise banquet license issued by the commission that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsections (6)(a) and (b) in considering whether to grant an on-premise banquet license to the new owner of the premises if:

(A) the premises previously received a variance reducing the proximity requirements of Subsection (6)(a) or (b); or

(B) a variance from proximity or distance requirements was otherwise allowed under this title.

(7) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet by

following the shortest route of ordinary pedestrian travel to the property boundary of the public or private school, church, public library, public playground, school playground, or park.

(8) (a) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location.

(b) For purposes of this Subsection (8), "educational facility" includes:

(i) a nursery school;

(ii) an infant day care center; and

(iii) a trade and technical school.

Section 37. Section **32A-4-402** is enacted to read:

**32A-4-402. Application and renewal requirements.**

(1) A person seeking an on-premise banquet license under this part shall file a written application with the department, in a form prescribed by the department. The application shall be accompanied by:

(a) a nonrefundable \$250 application fee;

(b) an initial license fee of \$500, which is refundable if a license is not granted;

(c) written consent of the local authority;

(d) a copy of the applicant's current business license;

(e) evidence of proximity to any public or private school, church, public library, public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of Subsections 32A-4-401(7) and (8), the application shall be processed in accordance with those subsections;

(f) a bond as specified by Section 32A-4-405;

(g) a description or floor plan and boundary map of the premises, where appropriate, of the on-premise banquet license applicant's location, designating:

(i) the location at which the on-premise banquet license applicant proposes that alcoholic beverages be stored; and

(ii) the designated locations on the premises of the applicant from which the on-premise

banquet license applicant proposes that alcoholic beverages be sold or served, and consumed;

(h) evidence that the on-premise banquet license applicant is carrying public liability insurance in an amount and form satisfactory to the department;

(i) evidence that the on-premise banquet license applicant is carrying dramshop insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

(j) a signed consent form stating that the on-premise banquet license applicant will permit any authorized representative of the commission, department, or any law enforcement officer unrestricted right to enter the restaurant;

(k) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the on-premise banquet license application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and

(1) any other information the commission or department may require.

(2) Additional locations in or on the premises of an on-premise banquet license applicant's business from which the on-premise banquet license applicant may propose that alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's original application may be approved by the department upon proper application, in accordance with guidelines approved by the commission.

(3) (a) All on-premise banquet licenses expire on October 31 of each year.

(b) Persons desiring to renew their on-premise banquet license shall submit a renewal fee of \$500 and a completed renewal application to the department no later than September 30.

(c) Failure to meet the renewal requirements shall result in an automatic forfeiture of the license effective on the date the existing license expires.

(d) Renewal applications shall be in a form as prescribed by the department.

(4) To ensure compliance with Subsection 32A-4-406(26), the commission may suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to immediately notify the department of any change in:

(a) ownership of the licensee;

(b) for a corporate owner, the:

(i) corporate officers or directors; or

(ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(c) for a limited liability company:

(i) managers; or

(ii) members owning at least 20% of the limited liability company.

Section 38. Section **32A-4-403** is enacted to read:

**32A-4-403. Qualifications.**

(1) (a) The commission may not grant an on-premise banquet license to any person who has been convicted of:

(i) a felony under any federal or state law;

(ii) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

(iii) any crime involving moral turpitude; or

(iv) on two or more occasions within the five years before the day on which the license is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of any offense described in Subsection (1)(a):

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(vii) a member who owns at least 20% of the applicant limited liability company.

(c) The proscription under Subsection (1)(a) applies if any person employed to act in a supervisory or managerial capacity for the on-premise banquet licensee has been convicted of any offense described in Subsection (1)(a).

(2) The commission may immediately suspend or revoke an on-premise banquet license if after the day on which the on-premise banquet license is granted, a person described in Subsection (1)(a), (b), or (c):

(a) is found to have been convicted of any offense described in Subsection (1)(a) prior to the license being granted; or

(b) on or after the day on which the license is granted:

(i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) The director may take emergency action by immediately suspending the operation of an on-premise banquet license according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not grant an on-premise banquet license to any person who has had any type of license, agency, or permit issued under this title revoked within the last

three years.

(ii) The commission may not grant an on-premise banquet license to an applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of an applicant corporation, or member who owns at least 20% of an applicant limited liability company is or was:

(A) a partner or managing agent of any partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(b) An applicant that is a partnership, corporation, or limited liability company may not be granted an on-premise banquet license if any of the following had any type of license, agency, or permit issued under this title revoked while acting in their individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted an on-premise banquet license if that person was:

(i) a partner or managing agent of a partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total



issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of the limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(5) (a) A minor may not be granted an on-premise banquet license.

(b) The commission may not grant an on-premise banquet license to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

(6) If any person to whom a license has been issued under this part no longer possesses the qualifications required by this title for obtaining that license, the commission may suspend or revoke that license.

Section 39. Section **32A-4-404** is enacted to read:

**32A-4-404. Commission and department duties before granting licenses.**

(1) (a) Before an on-premise banquet license may be granted by the commission, the department shall conduct an investigation, and may hold public hearings for the purpose of gathering information and making recommendations to the commission as to whether or not an on-premise banquet license should be granted.

(b) The department shall forward the information and recommendations described in Subsection (1)(a) to the commission to aid in the commission's determination.

(2) Before issuing an on-premise banquet license, the commission shall:

(a) determine that the applicant has complied with all basic qualifications and requirements for making application for a license as provided by Sections 32A-4-402 and 32A-4-403;

(b) determine that the application is complete;

(c) consider, where appropriate, the locations the on-premise banquet license applicant proposes to designate for use under an on-premise banquet license, including:

(i) the physical characteristics of the locations such as:

(A) the condition of the premises;

(B) square footage; and

(C) parking availability; and

(ii) operational factors such as:

(A) tourist traffic;

(B) demographics; and

(C) population to be served;

(d) consider the applicant's ability to manage and operate an on-premise banquet license, including:

(i) past management experience;

(ii) past alcohol license experience; and

(iii) the type of management scheme to be employed by the on-premise banquet license applicant;

(e) consider the nature or type of the on-premise banquet license applicant's business operation; and

(f) consider any other factors or circumstances the commission considers necessary.

Section 40. Section **32A-4-405** is enacted to read:

**32A-4-405. Bond.**

(1) Each on-premise banquet licensee shall post a cash or corporate surety bond in the penal sum of \$10,000 payable to the department, which the licensee has procured and must maintain for so long as the licensee continues to operate as an on-premise banquet licensee.

(2) The bond shall be in a form approved by the attorney general, conditioned upon the licensee's faithful compliance with this title and the rules of the commission.

(3) (a) If the \$10,000 surety bond is canceled due to the licensee's negligence, a \$300

reinstatement fee may be assessed.

(b) No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee.

(c) A bond filed by an on-premise banquet licensee may be forfeited if the license is finally revoked.

Section 41. Section **32A-4-406** is enacted to read:

**32A-4-406. Operational restrictions.**

Each person granted an on-premise banquet license and the employees and management personnel of the on-premise banquet licensee shall comply with this title, the rules of the commission, and the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) A person involved in the sale or service of alcoholic beverages under the on-premise banquet license shall:

(a) be under the supervision and direction of the on-premise banquet licensee; and

(b) complete the seminar provided for in Section 62A-15-401.

(2) (a) Liquor may not be purchased by the on-premise banquet licensee except from state stores or package agencies.

(b) Liquor purchased in accordance with Subsection (2)(a) may be transported by the on-premise banquet licensee from the place of purchase to the licensed premises.

(c) Payment for liquor shall be made in accordance with rules established by the commission.

(3) Alcoholic beverages may be sold or provided at a banquet, or in connection with room service, subject to the following restrictions:

(a) An on-premise banquet licensee may sell or provide any primary spirituous liquor only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title, except that:

(i) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following restrictions:

(A) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary spirituous liquor;

(B) the secondary ingredient may not be the only spirituous liquor in the beverage;

(C) the on-premise banquet licensee shall designate a location where flavorings are stored on the floor plan provided to the department; and

(D) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

(ii) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used:

(A) as a flavoring on desserts; and

(B) in the preparation of flaming food dishes, drinks, and desserts;

(iii) each attendee may have no more than 2.75 ounces of spirituous liquor at a time before the attendee; and

(iv) each attendee may have no more than one spirituous liquor drink at a time before the attendee.

(b) (i) (A) Wine may be sold and served by the glass or an individual portion not to exceed five ounces per glass or individual portion.

(B) An individual portion may be served to an attendee in more than one glass as long as the total amount of wine does not exceed five ounces.

(C) An individual portion of wine is considered to be one alcoholic beverage under Subsection (5)(c).

(ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed by the commission.

(iii) A wine service may be performed and a service charge assessed by the on-premise banquet licensee as authorized by commission rule for wine purchased on the banquet premises.

(c) (i) Heavy beer may be served in original containers not exceeding one liter at prices

fixed by the commission.

(ii) A service charge may be assessed by the on-premise banquet licensee as authorized by commission rule for heavy beer purchased on the banquet premises.

(d) Beer may be sold and served in any size container not exceeding two liters, and on draft for on-premise consumption.

(4) Alcoholic beverages may not be stored, served, or sold in any place other than as designated in the on-premise banquet licensee's application, except that additional locations in or on the premises of an on-premise banquet licensee may be approved in accordance with guidelines approved by the commission as provided in Subsection 32A-4-402(2).

(5) (a) An attendee may only make alcoholic beverage purchases from and be served by a person employed, designated, and trained by the on-premise banquet licensee to sell and serve alcoholic beverages.

(b) Notwithstanding Subsection (5)(a), an attendee who has purchased bottled wine from an employee of the on-premise banquet licensee may thereafter serve wine from the bottle to themselves or others at the attendee's table.

(c) Each attendee may have no more than two alcoholic beverages of any kind at a time before the attendee.

(6) The alcoholic beverage storage area shall remain locked at all times other than those hours and days when alcoholic beverage sales are authorized by law.

(7) (a) Except as provided in Subsection (7)(b), alcoholic beverages may be offered for sale, sold, served, or otherwise furnished from 10 a.m. to 1 a.m. seven days a week:

(i) at a banquet; or

(ii) in connection with room service.

(b) Notwithstanding Subsection (7)(a), a sale or service of alcoholic beverages may not occur at a banquet or in connection with room service until after the polls are closed on the day of:

(i) a regular general election;

(ii) a regular primary election; or

(iii) a statewide special election.

(8) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

(a) minor;

(b) person actually, apparently, or obviously intoxicated;

(c) known habitual drunkard; or

(d) known interdicted person.

(9) (a) (i) Liquor may be sold only at prices fixed by the commission.

(ii) Liquor may not be sold at discount prices on any date or at any time.

(b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage to the licensee.

(c) An alcoholic beverage may not be sold at a special or reduced price that encourages over consumption or intoxication.

(d) An alcoholic beverage may not be sold at a special or reduced price for only certain hours of the on-premise banquet licensee's business day such as a "happy hour."

(e) The sale or service of more than one alcoholic beverage for the price of a single alcoholic beverage is prohibited.

(f) An on-premise banquet licensee may not engage in a public promotion involving or offering free alcoholic beverages to the general public.

(10) Alcoholic beverages may not be purchased by the on-premise banquet licensee, or any employee or agent of the licensee, for an attendee.

(11) An attendee of a banquet may not bring any alcoholic beverage into or onto, or remove any alcoholic beverage from the premises of a banquet.

(12) (a) Except as otherwise provided in this title, the sale and service of alcoholic beverages by an on-premise banquet licensee at a banquet shall be made only for consumption at the location of the banquet.

(b) The host of a banquet, an attendee, or any other person other than the on-premise banquet licensee or its employees, may not remove any alcoholic beverage from the premises of the banquet.

(13) An on-premise banquet licensee employee shall remain at the banquet at all times when alcoholic beverages are being sold, served, or consumed at the banquet.

(14) (a) An on-premise banquet licensee may not leave any unsold alcoholic beverages at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, the on-premise banquet licensee or its employees, shall:

(i) destroy any opened and unused alcoholic beverages that are not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic beverage that is saleable; and

(B) unopened containers of alcoholic beverages.

(15) Except as provided in Subsection (14), any open or sealed container of alcoholic beverages not sold or consumed at a banquet:

(a) shall be stored by the on-premise banquet licensee in the licensee's approved locked storage area; and

(b) may be used at more than one banquet.

(16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense, or otherwise furnish alcoholic beverages in connection with the licensee's banquet and room service activities.

(17) An employee of an on-premise banquet licensee, while on duty, may not:

(a) consume an alcoholic beverage; or

(b) be intoxicated.

(18) An on-premise banquet licensee shall prominently display at each banquet at which alcoholic beverages are sold or served:

(a) a copy of the licensee's on-premise banquet license; and

(b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(19) The following acts or conduct are considered contrary to the public welfare and

morals, and are prohibited at and during the hours of a banquet:

(a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;

(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (19)(a);

(c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;

(d) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Subsection (19);

(f) permitting any person to remain in or upon the premises who exposes to public view any portion of that person's genitals or anus; or

(g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:

(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts prohibited by Utah law;

(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;

(iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this Subsection (19); or

(iv) scenes wherein a person displays the vulva, anus, or the genitals.

(20) Nothing in Subsection (19) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (19).

(21) (a) Although live entertainment is permitted at a banquet, an on-premise banquet licensee may not allow any person to perform or simulate sexual acts prohibited by Utah law,



including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.

(b) Nothing in Subsection (21)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (21)(a).

(22) An on-premise banquet licensee may not engage in or permit any form of gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the premises of the:

- (a) hotel;
- (b) resort facility;
- (c) sports center; or
- (d) convention center.

(23) (a) An on-premise banquet licensee shall maintain accounting and such other records and documents as the commission or department may require.

(b) An on-premise banquet licensee or person acting for the on-premise banquet licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the on-premise banquet licensee required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission or department, or any of their officials or employees, is subject to the suspension or revocation of the on-premise banquet license and possible criminal prosecution under Chapter 12, Criminal Offenses.

(24) An on-premise banquet licensee shall maintain at least 50% of its total annual banquet gross receipts from the sale of food, not including:

- (a) mix for alcoholic beverages; and
- (b) charges in connection with the service of alcoholic beverages.

(25) A person may not transfer an on-premise banquet license from one business location to another without prior written approval of the commission.

(26) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange, barter,

give, or attempt in any way to dispose of the license to any other person, whether for monetary gain or not.

(b) An on-premise banquet license has no monetary value for the purpose of any type of disposition.

(27) (a) Room service of alcoholic beverages to a guest room of a hotel or resort facility shall be provided in person by an on-premise banquet licensee employee only to an adult guest in the guest room.

(b) Alcoholic beverages may not be left outside a guest room for retrieval by a guest.

(c) An on-premise banquet licensee may only provide alcoholic beverages for room service in sealed containers.

Section 42. Section **32A-4-407** is enacted to read:

**32A-4-407. Report on pilot program.**

On or before the November 2004 interim committee meeting of the designated interim committee, the commission shall prepare and present a report and recommendation concerning the on-premise banquet license pilot program to the legislative interim committee designated by the Legislative Management Committee.

Section 43. Section **32A-5-101** is amended to read:

**32A-5-101. Commission's power to license private clubs -- Limitations.**

(1) Before ~~[any]~~ a private club may sell or allow the consumption of ~~[liquor]~~ alcoholic beverages on its premises, ~~[it]~~ the private club shall first obtain a license from the commission as provided in this chapter.

(2) The commission may ~~[issue]~~ grant private club ~~[liquor]~~ licenses to social clubs, recreational, athletic, or kindred associations ~~[incorporated under the Utah Nonprofit Corporation and Cooperative Association Act, which]~~ that desire to maintain premises upon which alcoholic beverages may be stored, sold, served, and consumed. ~~[All such licenses shall be issued in the name of an officer or director of the club or association.]~~

(3) At the time the commission grants a private club license the commission shall designate whether the private club license qualifies as a class A, B, C, or D license as defined in

Subsections (3)(a) through (d).

(a) A "class A licensee" is a private club licensee that:

(i) meets the requirements of this chapter;

(ii) owns, maintains, or operates a substantial recreational facility in conjunction with a club house such as:

(A) a golf course; or

(B) a tennis facility;

(iii) has at least 50% of the total membership having:

(A) full voting rights; and

(B) an equal share of the equity of the club; and

(iv) if there is more than one class of membership, has at least one class of membership that entitles each member in that class to:

(A) full voting rights; and

(B) an equal share of the equity of the club.

(b) A "class B licensee" is a private club licensee that:

(i) meets the requirements of this chapter;

(ii) has no capital stock;

(iii) exists solely for:

(A) the benefit of its members and their beneficiaries; and

(B) any lawful social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on through voluntary activity of its members in their local lodges;

(iv) has a representative form of government; and

(v) has a lodge system in which:

(A) there is a supreme governing body;

(B) subordinate to the supreme governing body are local lodges, however designated, into which individuals are admitted as members in accordance with the laws of the fraternal;

(C) the local lodges are required by the laws of the fraternal to hold regular meetings at

least monthly; and

(D) the local lodges regularly engage in programs involving member participation to implement the purposes of Subsection (3)(b)(iii).

(c) A "class C licensee" is a private club licensee that:

(i) meets the requirements of this chapter;

(ii) is a dining club, as determined by the commission in accordance with Subsection (4)(b); and

(iii) maintains at least 50% of its total private club business from the sale of food, not including:

(A) mix for alcoholic beverages; or

(B) service charges.

(d) A "class D licensee" is a private club licensee that:

(i) meets the requirements of this chapter; and

(ii) (A) does not meet the requirements of a class A, B, or C license; or

(B) seeks to qualify as a class D licensee.

(4) (a) (i) Notwithstanding Subsection (3), for a private club license in effect on May 5, 2003, the commission shall designate whether that license qualifies as a class A, B, C, or D license as defined in Subsection (3) at the time the license is renewed.

(ii) Until the class of license is designated under Subsection (4)(a)(i), the private club licensee holding a license described in Subsection (4)(a)(i) shall operate under the restrictions of the part applicable to the class of license for which the private club licensee qualifies.

(b) In determining whether an applicant is a dining club under Subsection (3)(c), the commission:

(i) shall determine whether the applicant maintains at least 50% of its total private club business from the sale of food, not including:

(A) mix for alcoholic beverages;

(B) service charges; or

(C) membership and visitor card fees; and

(ii) may consider:

(A) the square footage and seating capacity of the applicant;

(B) what portion of the square footage and seating capacity will be used for a dining area in comparison to the portion that will be used as a bar area;

(C) whether full meals including appetizers, main courses, and desserts are served;

(D) whether the applicant will maintain adequate on-premise culinary facilities to prepare full meals, except an applicant that is located on the premise of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;

(E) whether the entertainment provided at the club is suitable for minors; and

(F) the club management's ability to manage and operate a dining club including:

(I) management experience;

(II) past dining club or restaurant management experience; and

(III) the type of management scheme employed by the private club.

~~[(3)]~~ (5) (a) A ~~[nonprofit corporation, association, or]~~ private club or any officer, director, managing agent, or employee of a ~~[nonprofit corporation, association, or]~~ private club may not store, sell, serve, or permit consumption of ~~[liquor]~~ alcoholic beverages upon ~~[its]~~ the premises of the club, under a permit issued by local authority or otherwise, unless a private club ~~[liquor]~~ license has been first issued by the commission.

(b) Violation of this Subsection (5) is a class ~~[A]~~ B misdemeanor.

~~[(4)]~~ (6) (a) Subject to this Subsection (6), the commission may issue private club ~~[liquor]~~ licenses at places and in numbers as it considers necessary.

(b) The total number of private club ~~[liquor]~~ licenses may not at any time aggregate more than that number determined by dividing the population of the state by 7,000.

(c) ~~[Population]~~ For purposes of this Subsection (6), population shall be determined by:

(i) the most recent United States decennial or special census; or ~~[by]~~

(ii) any other population determination made by the United States or state governments.

~~[(a)]~~ (d) (i) The commission may issue seasonal private club ~~[liquor]~~ licenses to be established in areas ~~[and for periods as it]~~ the commission considers necessary.

(ii) A seasonal private club [~~liquor~~] license [~~may not be operated~~] shall be for a period [~~longer than nine~~] of six consecutive months [~~subject to the following restrictions~~].

(i) (iii) [~~Licenses~~] A private club license issued for operation during a summer time [~~periods are~~] period is known as a "Seasonal A" private club [~~licenses~~] license. The period of operation for a "Seasonal A" club license [~~may begin as early as February 1 and may continue until October 31~~] shall:

(A) begin on May 1; and

(B) end on October 31.

(ii) (iv) [~~Licenses~~] A private club license issued for operation during a winter time [~~periods are~~] period is known as a "Seasonal B" private club [~~licenses~~] license. The period of operation for a "Seasonal B" club license [~~may begin as early as September 1 and may continue until May 31~~] shall:

(A) begin on November 1; and

(B) end on April 30.

(iii) (v) In determining the number of private club [~~liquor~~] licenses that the commission may issue under this section[~~;~~]:

(A) a seasonal [~~licenses are~~] private club license is counted as [~~one half~~] 1/2 of one private club [~~liquor~~] license[~~;~~ ~~Each~~]; and

(B) each "Seasonal A" license shall be paired with a "Seasonal B" license [~~and the total number of months that each combined pair may be issued for operation may not exceed 12 months for each calendar year~~].

(b) (e) If the location, design, and construction of a hotel may require more than one private club location within the hotel to serve the public convenience, the commission may authorize as many as three private club locations within the hotel under one license if the hotel has a minimum of 150 guest rooms and if all locations under the license are within the same hotel facility and on premises which are managed or operated and owned or leased by the licensee. Facilities other than hotels may not have more than one private club location under a single private club [~~liquor~~] license.

~~[(5)] (7) (a) [A] The premises of a private club [licensee's premises] license~~ may not be established within 600 feet of any public or private school, church, public library, public playground, or park, as measured by the method in Subsection ~~[(6)] (8)~~.

(b) [A] The premises of a private club [licensee premises] license may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.

(c) The restrictions contained in Subsections (7)(a) and (b) govern unless one of the following exemptions applies:

~~[(i) The commission finds after full investigation that the premises are located within a city of the third class or a town, and compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the granting of a private club license. In that event, the commission may, after giving full consideration to all of the attending circumstances, following a public hearing in the city or town, and where practical in the neighborhood concerned, authorize a variance from the distance requirements to relieve the difficulties or hardships if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this title.]~~

(i) with respect to the establishment of a private club license within a city of the third class, a town, or the unincorporated area of a county, the commission may authorize a variance to reduce the proximity requirements of Subsection (7)(a) or (b) if:

(A) the local governing authority has granted its written consent to the variance;

(B) alternative locations for establishing a private club license in the community are limited;

(C) a public hearing has been held in the city, town, or county, and where practical in the neighborhood concerned; and

(D) after giving full consideration to all of the attending circumstances and the policies stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the

license would not be detrimental to the public health, peace, safety, and welfare of the community;

(ii) with respect to the establishment of a private club [~~licensee~~] license in any location, the commission may [~~after giving full consideration to all of the attending circumstances, following a public hearing in the county, and where practical in the neighborhood concerned, reduce the proximity~~] authorize a variance to reduce the proximity requirements of Subsection (7)(a) or (b) in relation to a church:

(A) if the local governing body of the church in question gives its written [approval.] consent to the variance;

(B) following a public hearing in the city, town, or county and where practical in the neighborhood concerned; and

(C) after giving full consideration to all of the attending circumstances and the policies stated in Subsections 32A-1-104(3) and (4); or

[~~(iii) Any on-premises beer retailer licensee existing on March 1, 1990, need not comply with the restrictions contained in Subsections (a) and (b) if it applies for a private club liquor license before January 1, 1991.~~]

(iii) with respect to the premises of a private club license issued by the commission that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsection (7)(a) or (b) in considering whether to grant a private club license to the new owner of the premises if:

(A) the premises previously received a variance reducing the proximity requirements of Subsection (7)(a) or (b); or

(B) a variance from proximity or distance requirements was otherwise allowed under this title.

[~~(6)~~] (8) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet by following the shortest route of [~~either~~] ordinary pedestrian [~~traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer,~~] travel to the property boundary of the



public or private school, church, public library, public playground, or park.

~~[(7)]~~ (9) (a) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on whether to issue a private club ~~[liquor]~~ license.

(b) For purposes of this Subsection (9), "educational facility" includes:

- (i) a nursery ~~[schools,]~~ school;
- (ii) infant day care ~~[centers,]~~ center; and
- (iii) a trade and technical ~~[schools]~~ school.

(10) If requested by a private club licensee, the commission may approve a change in the class of private club license in accordance with rules made by the commission.

Section 44. Section **32A-5-102** is amended to read:

**32A-5-102. Application and renewal requirements.**

(1) A ~~[person]~~ club seeking a class A, B, C, or D private club ~~[liquor]~~ license under this chapter shall file a written application with the department~~[, in the name of an officer or director of a corporation,]~~ in a form prescribed by the department. ~~[It]~~ The application shall be accompanied by:

- (a) a nonrefundable ~~[\$1,000]~~ \$250 application fee;
- (b) an initial license fee of ~~[\$750]~~ \$2,500, which is refundable if a license is not granted;
- (c) written consent of the local authority;
- (d) a copy of the applicant's current business license;

~~[(e) evidence that the applicant is a corporation or association organized under the Utah Nonprofit Corporation and Cooperative Association Act, and is in good standing;]~~

~~[(f)]~~ (e) evidence of proximity to any public or private school, church, public library, public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of Subsections 32A-5-101~~[(5), (6), and]~~ (7) and (8), the application shall be processed in accordance with those subsections;

~~[(g)]~~ (f) evidence that the applicant operates a club where a variety of food is prepared and served in connection with dining accommodations;

~~[(h)]~~ (g) a bond as specified by Section 32A-5-106;

~~[(i)]~~ (h) a floor plan of the club premises, including consumption areas and the area where the applicant proposes to keep and store liquor;

~~[(j)]~~ (i) evidence that the club is carrying public liability insurance in an amount and form satisfactory to the department;

~~[(k)]~~ (j) evidence that the club is carrying dramshop insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

~~[(l)]~~ (k) a copy of the club's ~~[articles,]~~ bylaws~~;~~ or house rules, and any amendments to those documents, which shall be kept on file with the department at all times;

~~[(m)]~~ (l) a signed consent form stating that the club and its management will permit any authorized representative of the commission, department, or any law enforcement officer unrestricted right to enter the club premises;

~~[(n) a signed consent form authorizing the department to obtain Internal Revenue Service tax information on the club;]~~

~~[(o) a signed consent form authorizing the department to obtain state and county real and personal property tax information on the club;]~~

~~[(p) profit and loss statements for the previous fiscal year and pro forma statements for one year if the applicant has not previously operated; and]~~

(m) (i) a statement as to whether the private club is seeking to qualify as a class A, B, C, or D private club licensee; and

(ii) evidence that the private club meets the requirements for the classification for which it is applying;

(n) in the case of a partnership, corporation, or limited liability company applicant, proper verification evidencing that the person or persons signing the private club application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and

~~[(q)]~~ (o) any other information~~[- documents, and evidence]~~ the commission or department may require ~~[by rule or policy to allow complete evaluation of the application].~~

~~[(2) (a) Each application shall be signed and verified by oath or affirmation by an~~

~~executive officer or any person specifically authorized by the corporation or association to sign the application, to which shall be attached written evidence of said authority.]~~

~~[(b) The applicant may attach to the application a verified copy of a letter of exemption from federal tax, issued by the United States Treasury Department, Internal Revenue Service, which the commission may consider as evidence of the applicant's nonprofit status. The commission may also consider the fact that the licensee has lost its tax exemption from federal tax as evidence that the licensee has ceased to operate as a nonprofit corporation.]~~

~~[(3)] (2) (a) The commission may refuse to issue a license if [it] the commission determines that any provisions of the club's [~~articles;~~] bylaws[;] or house rules, or amendments to [~~any of~~] those documents are not reasonable and consistent with the declared nature and purpose of the applicant and the purposes of this chapter.~~

(b) Club bylaws or house rules shall include provisions respecting the following:

(i) standards of eligibility for members;

(ii) limitation of members, consistent with the nature and purpose of the [~~corporation or association~~] private club;

(iii) the period for which dues are paid, and the date upon which the period expires;

(iv) provisions for dropping members for the nonpayment of dues or other cause; and

(v) provisions for guests or visitors, if any, and for the issuance and use of visitor cards.

~~[(4)] (3) (a) All private club [~~liquor~~] licenses expire on June 30 of each year.~~

~~(b) Persons desiring to renew their private club [~~liquor~~] license shall submit [~~a renewal fee of \$750 and a completed renewal application to the department~~] by no later than May 31[;]:~~

~~(i) a completed renewal application to the department; and~~

~~(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 \$10,000</u>	<u>\$1,000</u>
<u>equals or exceeds \$10,000 but less than \$25,000</u>	<u>\$1,250</u>
<u>equals or exceeds \$25,000 but less than \$75,000</u>	<u>\$1,750</u>
<u>equals or exceeds \$75,000</u>	<u>\$2,250.</u>

(c) Failure to meet the renewal requirements shall result in an automatic forfeiture of the license effective on the date the existing license expires.

(d) Renewal applications shall be in a form as prescribed by the department.

Section 45. Section **32A-5-103** is amended to read:

**32A-5-103. Qualifications.**

~~[(1) Any club or association seeking a private club liquor license shall meet the following qualifications:]~~

~~[(a) Each member shall own one share of stock and no member or other person shall own or control, directly or indirectly, more than one share.]~~

~~[(b) At least 35% of the total number of outstanding shares shall be of a class that entitles each holder of that class to full voting rights and, upon liquidation, to an equal share of the equity of the corporation.]~~

~~[(c) If there is more than one class of outstanding stock, the total number of outstanding shares of the classes entitled to vote and share in the equity shall be at least 35% of the total number of outstanding stock of all classes.]~~

~~[(d) The voting stock of the club shall be subject to assessment for obligations of the club.]~~

~~[(e) The club shall be managed and operated by a governing board, which consists of at least five individuals, each of whom is a shareholder or voting member of the club and is elected by the holders of shares or members entitled to vote.]~~

~~[(f) The club shall post proper notice of all elections in a conspicuous place within the club premises not less than ten working days prior to the election.]~~

~~[(2) (a) In lieu of the requirements of Subsections (1)(a), (b), and (c), a corporation having no authorized, issued, or outstanding stock shall have at least 75% of all members as voting members with one vote each.]~~

~~[(b) Upon dissolution or sale of the corporation, either:]~~

~~[(i) each voting member shares equally in the equity; or]~~

~~[(ii) the assets revert to a national nonprofit organization that originally chartered the~~

~~Utah corporation whose bylaws require that the assets be distributed, after payment of debts, either immediately or after a period of time not exceeding ten years during which period the assets are held in trust, to a charitable organization or fund, or a nonprofit corporation qualified under this chapter.]~~

~~[(c) The voting members of any club qualifying under this subsection shall be subject to assessment for obligations of the club to the extent of unpaid membership fees, unless the membership has been previously terminated.]~~

~~[(3)] (1) (a) The commission may not grant a private club [liquor] license to [a club whose proprietor, officer, director, or managing agent] any person who has been convicted of:~~

~~[(a) convicted of] (i) a felony under any federal or state law;~~

~~[(b) convicted of] (ii) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; [or]~~

~~[(c) convicted of] (iii) any crime involving moral turpitude[-]; or~~

~~[(4) If any employee, proprietor, officer, director, or managing agent of a private club licensee is convicted of any offense designated in Subsection (3), the commission may take emergency action by immediately revoking the license according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act.]~~

~~[(5) Upon the arrest of any proprietor, officer, director, or managing agent of a private club liquor licensee on any charge set forth in Subsection (3), the director may take emergency action by immediately suspending the operation of the licensee for the period during which the criminal matter is being adjudicated.]~~

~~[(6) (a) (i) The commission may not grant a private club liquor license to any corporate applicant who had any type of license, agency, or permit issued under this title revoked within the last three years.]~~

~~[(ii) This proscription also applies if any managing agent, officer, or director of the applicant is or was a partner or managing agent of any partnership, or is or was a managing agent, officer, director, or a stockholder who holds or held at least 20% of the total issued and~~

~~outstanding stock of any corporation that had a liquor license, agency, or permit revoked within the last three years.]~~

~~[(b) The corporate applicant may not be granted a license if any managing agent, officer, or director of the applicant had a liquor license, agency, or permit revoked while acting in his individual capacity within the last three years.]~~

(iv) on two or more occasions within the five years before the day on which the license is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of any offense described in Subsection (1)(a):

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(vii) a member who owns at least 20% of the applicant limited liability company.

(c) The proscription under Subsection (1)(a) applies if any person employed to act in a supervisory or managerial capacity for a private club has been convicted of any offense described in Subsection (1)(a).

(2) The commission may immediately suspend or revoke a private club license if after the day on which the private club license is granted, a person described in Subsection (1)(a), (b), or (c):

(a) is found to have been convicted of any offense described in Subsection (1)(a) prior to the license being granted; or

(b) on or after the day on which the license is granted:

(i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) The director may take emergency action by immediately suspending the operation of a private club license according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):

(a) is arrested on a charge for any offense described in Subsection (1)(a)(i), (ii), or (iii);

or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not grant a private club license to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant a private club license to any applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of an applicant corporation, or member who owns at least 20% of an applicant limited liability company is or was:

(A) a partner or managing agent of any partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or a stockholder who holds or held at least 20%

of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(b) An applicant that is a partnership, corporation, or limited liability company may not be granted a private club license if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) any manager or member who owned at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted a private club license if that person was:

(i) a partner or managing agent of a partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) a manager or member of a limited liability company who owned at least 20% of the limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(5) (a) A minor may not be granted a private club license.

(b) The commission may not grant a private club license to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;



(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

~~[(7)]~~ (6) If any person or entity to whom a license has been issued under this chapter no longer possesses the qualifications required by this title for obtaining that license, the commission may suspend or revoke that license.

Section 46. Section **32A-5-104** is amended to read:

**32A-5-104. Commission and department duties before granting licenses.**

(1) (a) Before a private club [~~liquor~~] license may be granted by the commission, the department shall conduct an investigation and may hold public hearings for the purpose of gathering information and making recommendations to the commission as to whether or not a license should be granted.

(b) The department shall forward the information [~~shall be forwarded~~] and recommendations described in Subsection (1)(a) to the commission to aid in [~~its~~] the commission's determination.

(2) Before issuing any private club [~~liquor~~] license, the commission shall:

(a) determine that the applicant has complied with all basic qualifications and requirements for making application for a license as provided by Sections 32A-5-102 and 32A-5-103, and that the application is complete;

(b) determine whether the applicant qualifies as a class A, B, C, or D private club licensee;

~~[(b)]~~ (c) consider the locality within which the proposed private club [~~liquor~~] outlet is located including [~~, but not limited to~~]:

(i) physical characteristics such as:

(A) condition of the premises[;];

(B) square footage[;]; and

(C) parking availability; and

(ii) operational factors such as:

(A) tourist traffic[;];

(B) proximity to and density of other state stores, package agencies, and licensed outlets[;];

(C) demographics[;];

(D) population to be served[;]; and

(E) the extent of and proximity to any school, church, public library, public playground, or park;

~~(c)~~ (d) consider the ~~[applicant's]~~ club management's ability to manage and operate a private club ~~[liquor]~~ license, including ~~[but not limited to,]~~ management experience, past retail liquor experience, and the type of management scheme employed by the private club;

~~(d)~~ (e) consider the nature or type of private club operation of the proposed liquor licensee, including ~~[but not limited to,]~~ the type of menu items offered and emphasized, the hours of operation, the seating capacity of the facility, and the gross sales of food items; and

~~(e)~~ (f) consider any other factor or circumstance ~~[it]~~ the commission considers necessary.

Section 47. Section **32A-5-107** is amended to read:

**32A-5-107. Operational restrictions.**

Each ~~[corporation or association]~~ club granted a private club ~~[liquor]~~ license and ~~[its]~~ the employees, ~~[officers, managing agent]~~ management personnel, and members of the club shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) Each private club shall ~~[hold]~~ have a governing body that:

(a) consists of three or more members of the club; and

(b) holds regular meetings to:

(i) review membership applications; and

(ii) conduct any other business as required by ~~[its articles or]~~ the bylaws ~~[and conduct its~~

~~business through regularly elected officers. Within ten days following the election of any officer, the department shall be notified in writing of the officer's name, address, and office to which the officer has been elected, and the term of that office.]~~ or house rules of the private club.

(2) (a) Each private club may admit [~~members~~] an individual as a member only on written application signed by the applicant, following investigation and approval of the governing body.

(b) Admissions shall be recorded in the official minutes of a regular meeting of the governing body and the application, whether approved or disapproved, shall be filed as a part of the official records of the licensee.

(c) An applicant may not be accorded the privileges of a member until a quorum of the governing body has formally voted upon and approved the applicant as a member.

(d) An applicant may not be admitted to membership [~~until~~] sooner than seven days after the application is submitted.

(e) The spouse of a member of any class of private club is entitled to all the rights and privileges of the member:

(i) to the extent permitted by the bylaws or house rules of the private club; and

(ii) except to the extent restricted by this title.

(f) The minor child of a member of a class A private club is entitled to all the rights and privileges of the member:

(i) to the extent permitted by the bylaws or house rules of the private club; and

(ii) except to the extent restricted by this title.

(3) (a) Each private club shall maintain a current and complete membership record showing:

(i) the date of application of each proposed member[~~, the~~];

(ii) each member's address[~~;~~];

(iii) the date [~~of admission following application, and~~] the governing body approved a member's admission;

(iv) the date initiation fees and dues were assessed and paid[~~. The record shall also~~

show]; and

(v) the serial number of the membership card issued to each member.

(b) A current record shall also be kept indicating when members [were] are dropped or resigned.

(4) Each private club shall establish in the club bylaws or house rules initial fees and monthly dues, as established by commission rules, which are collected from all members.

~~[(5) Each private club may allow guests or visitors to use the premises only when previously authorized by a member. A member is responsible for all services extended to guests and visitors. If]~~

(5) (a) Each private club may, in its discretion, allow an individual to be admitted to or use the club premises as a guest only under the following conditions:

(i) each guest must be previously authorized by one of the following who agrees to host the guest into the club:

(A) an active member of the club; or

(B) a holder of a current visitor card;

(ii) each guest must be known by the guest's host based on a preexisting bonafide business or personal relationship with the host prior to the guest's admittance to the club;

(iii) each guest must be accompanied by the guest's host for the duration of the guest's visit to the club;

(iv) each guest's host must remain on the club premises for the duration of the guest's visit to the club;

(v) each guest's host is responsible for the cost of all services extended to the guest;

(vi) each guest enjoys only those privileges derived from the guest's host for the duration of the guest's visit to the club;

(vii) an employee of the club, while on duty, may not act as a host for a guest;

(viii) an employee of the club, while on duty, may not attempt to locate a member or current visitor card holder to serve as a host for a guest with whom the member or visitor card holder has no acquaintance based on a preexisting bonafide business or personal relationship

prior to the guest's arrival at the club; and

(ix) a club and its employees may not enter into an agreement or arrangement with a club member or holder of a current visitor card to indiscriminately host members of the general public into the club as guests.

(b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

(i) the licensee is a class B private club; and

(ii) the guest [or visitor] is a member of the same fraternal organization as the private club [liquor] licensee[; no previous authorization is required].

(6) Each private club [shall limit the issuance of visitor cards for a period not to exceed two weeks and assess and collect a fee from each visitor of not less than \$5 for each two-week period the visitor card is issued. One dollar of every visitor card fee shall be remitted quarterly to the department for the administration of this title. A current record of the issuance of each card shall be maintained and shall contain the name of the member sponsoring the visitor.] may, in its discretion, issue visitor cards to allow individuals to enter and use the club premises on a temporary basis under the following conditions:

(a) each visitor card shall be issued for a period not to exceed three weeks;

(b) a fee of not less than \$4 shall be assessed for each visitor card issued;

(c) a visitor card shall not be issued to a minor;

(d) a holder of a visitor card may not host more than seven guests at one time;

(e) each visitor card issued shall include:

(i) the visitor's full name and signature;

(ii) the date the card was issued;

(iii) the date the card expires;

(iv) the club's name; and

(v) the serial number of the card; and

(f) (i) the club shall maintain a current record of the issuance of each visitor card on the club premises; and

(ii) the record described in Subsection (6)(f)(i) shall:

(A) be available for inspection by the department; and

(B) include:

(I) the name of the person to whom the card was issued;

(II) the date the card was issued;

(III) the date the card expires; and

(IV) the serial number of the card.

(7) A private club may not sell alcoholic beverages to or allow any person to be admitted to or use the club premises other than:

(a) a member[~~-, guest, or~~];

(b) a visitor who holds a valid visitor card issued under Subsection (6)[~~-~~]; or

(c) a guest of:

(i) a member; or

(ii) a holder of a current visitor card.

(8) (a) A [person who is under 21 years of age] minor may not be:

(i) a member, officer, director, or trustee of a private club[~~-~~];

(ii) issued a visitor card;

(iii) admitted into, use, or be on the premises of a class D private club except to the extent authorized under Subsections (8)(b) through (g);

(iv) admitted into, use, or be on the premises of any lounge or bar area of any private club except to the extent authorized under Subsection (8)(c)(ii); or

(v) admitted into, use, or be on the premises of any private club that:

(A) provides sexually oriented adult entertainment as defined by commission rule or by local ordinance; or

(B) operates as a sexually oriented business as defined by commission rule or by local ordinance.

(b) At the discretion of a class D private club, a minor may be admitted into, use, or be on the premises of a class D private club under the following circumstances:

(i) during periods when no alcoholic beverages are sold, served, otherwise furnished, or

consumed on the premises, but in no event later than 1 p.m.:

(ii) when accompanied at all times by a member or holder of a current visitor card who is the minor's parent, legal guardian, or spouse; and

(iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food service provider.

(c) A minor may be employed by a class D private club on the premises of the club if:

(i) the parent or legal guardian of the minor owns or operates the class D private club; or

(ii) the minor performs maintenance and cleaning services during the hours when the club is not open for business.

(d) (i) A minor who is at least 18 years of age may be admitted into, use, or be on the premises of a dance or concert hall if:

(A) the dance or concert hall is located:

(I) on the premises of a class D private club; or

(II) on the property that immediately adjoins the premises of and is operated by a class D private club; and

(B) the commission has issued the class D private club a permit to operate a minor dance or concert hall based on the criteria described in Subsection (8)(d)(ii).

(ii) The commission may issue a minor dance or concert hall permit if:

(A) the club's lounge, bar, and alcoholic beverage consumption area is:

(I) not accessible to minors;

(II) clearly defined;

(III) separated from the dance or concert hall area by walls, multiple floor levels, or other substantial physical barriers;

(B) any bar or dispensing area is not visible to minors;

(C) no consumption of alcoholic beverages may occur in:

(I) the dance or concert hall area; or

(II) any area of the club accessible to a minor;

(D) the club maintains sufficient security personnel to prevent the passing of beverages

from the club's lounge, bar, or alcoholic beverage consumption areas to:

(I) the dance or concert hall area; or

(II) any area of the club accessible to a minor;

(E) there are separate entrances, exits, and restroom facilities from the club's lounge, bar, and alcoholic beverage consumption areas than for:

(I) the dance or concert hall area; or

(II) any area accessible to a minor; and

(F) the club complies with any other restrictions imposed by the commission by rule.

(e) A minor under 18 years of age who is accompanied at all times by a parent or legal guardian who is a member or holder of a current visitor card may be admitted into, use, or be on the premises of a concert hall described in Subsection (8)(d)(i) if:

(i) all requirements of Subsection (8)(d) are met; and

(ii) all signage, product, and dispensing equipment containing recognition of alcoholic beverages is not visible to the minor.

(f) A minor under 18 years of age but who is 14 years of age or older who is not accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of a concert hall described in Subsection (8)(d)(i) if:

(i) all requirements of Subsections (8)(d) and (e)(ii) are met; and

(ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the class D private club.

(g) The commission may suspend or revoke a minor dance or concert permit issued to a class D private club and suspend or revoke the license of the class D private club if:

(i) the club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);

(ii) the club sells, serves, or otherwise furnishes alcoholic beverages to a minor;

(iii) the licensee or a supervisory or managerial level employee of the private club is convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities that occurred on:

(A) the licensed premises; or



(B) the dance or concert hall that is located on property that immediately adjoins the premises of and is operated by the class D private club;

(iv) there are three or more convictions of patrons of the private club under Title 58, Chapter 37, Utah Controlled Substances Act, based on activities that occurred on:

(A) the licensed premises; or

(B) the dance or concert hall that is located on property that immediately adjoins the premises of and is operated by the class D private club;

(v) there is more than one conviction made on the basis of lewd acts or lewd entertainment prohibited by this title that occurred on:

(A) the licensed premises; or

(B) the dance or concert hall that is located on property that immediately adjoins the premises of and is operated by the class D private club; or

(vi) the commission finds acts or conduct contrary to the public welfare and morals involving lewd acts or lewd entertainment prohibited by this title that occurred on:

(A) the licensed premises; or

(B) the dance or concert hall that is located on property that immediately adjoins the premises of and is operated by the class D private club.

(h) Nothing in this Subsection (8) shall prohibit a class D private club from selling, serving, or otherwise furnishing alcoholic beverages in a dance or concert area located on the club premises on days and times when the club does not allow minors into those areas.

(i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being more restrictive of a minor's admittance to, use of, or presence on the premises of any private club.

(9) An employee of a club, while on duty, may not:

(a) consume an alcoholic beverage[; be under the influence of alcoholic beverages; sponsor a person for visitor privileges, or];

(b) be intoxicated; or

(c) act as a host for a guest.

~~[(10) A visitor to a club may not host more than five guests at one time.]~~

~~[(11)]~~ (10) (a) Each private club shall maintain an expense ledger or record showing in detail all expenditures separated by payments for malt or brewed beverages, liquor, food, detailed payroll, entertainment, rent, utilities, supplies, and all other expenditures. ~~[This]~~

(b) The record required by this Subsection (10) shall be kept in a form approved by the department and balanced each month.

(c) Each expenditure shall be supported by delivery tickets, invoices, receipted bills, canceled checks, petty cash vouchers, or other sustaining data or memoranda.

(d) All invoices and receipted bills for the current calendar or fiscal year documenting purchases made by ~~[officers of]~~ the club ~~[for the benefit of the club]~~ shall also be maintained.

~~[(12) Each private club shall maintain a bank account that shows all income and expenditures as a control on the income and disbursements records. This account shall be balanced each month under the direction of the treasurer or other officer of the licensee.]~~

~~[(13)]~~ (11) Each private club shall maintain a minute book that is posted currently by the ~~[secretary]~~ club. This record shall contain the minutes of all regular and special meetings of the governing body ~~[and all committee meetings held to conduct club business]~~. Membership lists shall also be maintained.

~~[(14)]~~ (12) (a) Each private club shall maintain current copies of the club's ~~[articles of incorporation,]~~ current bylaws~~;~~ and current house rules.

(b) Changes in the bylaws or house rules are not effective unless submitted to the department within ten days after adoption, and become effective 15 days after received by the department unless rejected by the department before the expiration of the 15-day period.

~~[(15)]~~ (13) Each private club shall maintain accounting and other records and documents as the department may require.

~~[(16)]~~ (14) Any club or person acting for the club, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the club required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission or the department, or any of their officials or employees, is subject to the ~~[immediate]~~ suspension or revocation of the club's

license and possible criminal prosecution under Chapter 12, Criminal Offenses.

~~[(17)]~~ (15) Each private club shall maintain and keep all the records required by this section and all other books, records, receipts, and disbursements maintained or utilized by the licensee, as the department requires, for a minimum period of three years. All records, books, receipts, and disbursements are subject to inspection by authorized representatives of the commission and the department. The club shall allow the department, through its auditors or examiners, to audit all records of the club at times the department considers advisable. The department shall audit the records of the licensee at least once annually.

~~[(18) Each private club shall make available to the department, upon request, verified copies of any returns filed with the United States Treasury Department, Internal Revenue Service, under the federal Internal Revenue Code. Failure to provide any returns and supporting documents upon reasonable request by the department or, alternatively, to provide evidence of an extension granted by the Internal Revenue Service, constitutes sufficient grounds for the commission to suspend or revoke a license. Any return or copy of a return so filed with the department is confidential and may not be used in any manner not directly connected with the enforcement of this title, nor may it be disclosed to any person or any department or agency of government, whether federal, state, or local.]~~

~~[(19)]~~ (16) Each private club shall own or lease premises suitable for ~~[its]~~ the club's activities ~~[in its own name. A copy of the lease shall be filed with the department].~~

~~[(20) Each private club shall operate the club under the supervision of a manager or house committee, appointed by the governing body of the club.]~~

~~[(21)]~~ (17) (a) A private club may not maintain facilities in any manner that barricades or conceals the club operation.

(b) Any member of the commission, authorized department personnel, or any peace officer shall, upon presentation of credentials, be admitted immediately to the club and permitted without hindrance or delay to inspect completely the entire club premises and all books and records of the licensee, at any time during which the same are open for the transaction of business to its members.

~~[(22) A private club may not pay any person or entity any fee, salary, rent, or other payment of any kind in excess of the fair market value for the service rendered, goods furnished, or facilities or equipment rented. It is the intention of this subsection to insure that no officer, managing agent, employee, or other person derives a principal economic benefit from the operation of a club.]~~

~~[(23) A private club may not engage in any public solicitation or public advertising calculated to increase its membership.]~~

~~[(24) Each private club shall comply with the following operational restrictions:]~~

~~[(a) The liquor storage and sales area shall remain locked at all times when it is not open for business:]~~

(18) Any public advertising related to a private club by the following shall clearly identify a club as being "a private club for members":

(a) the private club;

(b) the employees or agents of the private club; or

(c) any person under a contract or agreement with the club.

(19) A private club must have food available at all times when alcoholic beverages are sold, served, or consumed on the premises.

~~[(b)]~~ (20) (a) Liquor may not be purchased by a private club [~~liquor~~] licensee except from state stores or package agencies.

(b) Liquor so purchased may be transported by the licensee from the place of purchase to the licensed premises.

(c) Payment for liquor shall be made in accordance with rules established by the commission.

~~[(c) Beginning July 1, 1991, a]~~ (21) A private club [~~liquor~~] licensee may [~~not~~] sell or provide any primary spirituous liquor [~~except in one ounce quantities~~] only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title, except that:

~~[(i)]~~ (a) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following restrictions:

~~[(A) the beverage shall contain liquor from a lawfully purchased container;]~~

(i) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary spirituous liquor;

~~[(B)]~~ (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

~~[(C)]~~ (iii) the private club licensee shall designate a location where flavorings are stored on the floor plan provided to the department; and

~~[(D)]~~ (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

~~[(ii)]~~ (b) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used:

(i) as a flavoring on desserts; and

(ii) in the preparation of flaming food dishes, drinks, and desserts; and

(c) each club patron may have no more than 2.75 ounces of spirituous liquor at a time before the patron.

~~[(iii) wine]~~ (22) (a) (i) Wine may be sold and served by the glass [in quantities not exceeding] or an individual portion not to exceed five ounces per glass[; and] or individual portion.

(ii) An individual portion may be served to a patron in more than one glass as long as the total amount of wine does not exceed five ounces.

(iii) An individual portion of wine is considered to be one alcoholic beverage under Subsection (26)(c).

(b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed by the commission to tables of four or more persons.

(ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by the commission to tables of less than four persons.

(c) A wine service may be performed and a service charge assessed by the private club as

authorized by commission rule for wine purchased at the private club.

~~[(iv) heavy]~~ (23) (a) Heavy beer may be served in ~~[standard]~~ original containers not exceeding one liter at prices fixed by the commission.

(b) A service charge may be assessed by the private club for heavy beer purchased at the private club.

~~[(d) (i) Private clubs]~~ (24) (a) A private club licensed to sell liquor may sell beer in any size container not exceeding two liters, and on draft for on-premise consumption without obtaining a separate on-premise beer retailer license from the commission.

~~[(ii) Private clubs]~~ (b) (i) A private club licensed under this chapter that ~~[sell]~~ sells beer pursuant to Subsection ~~[(24)(d)(i)]~~ (24)(a) shall comply with all appropriate operational restrictions under Chapter 10, Beer Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are inconsistent with or less restrictive than the operational restrictions under this chapter.

~~[(iii) (i)]~~ (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer Licenses, ~~[as set forth in Subsection (24)(d)(ii)]~~ required by Subsection (24)(b)(i) may result in a suspension or revocation of the private club's:

(A) state liquor license; and [its]

(B) alcoholic beverage license issued by the local authority.

~~[(e) Wine may be served in accordance with commission rule in containers not exceeding 750 ml.]~~

~~[(f) A private club may not charge for the service or supply of glasses, ice, or mixers unless the charges are fixed in the house rules of the club and a copy of the rules is kept on the club premises and available at all times for examination by the members, guests, and visitors to the club.]~~

~~[(g) Minors may not be employed by any club to sell, dispense, or handle any alcoholic beverage.]~~

~~[(h) An officer, director, managing agent, employee, and any other person employed by or acting for or in behalf of any licensee, may not sell, deliver, or furnish, or cause or permit to be~~

~~sold, delivered, or furnished any liquor to any:]~~

(25) Alcoholic beverages may not be stored, served, or sold in any place other than as designated in the licensee's application, unless the licensee first applies for and receives approval from the department for a change of location within the private club.

(26) (a) A patron may only make alcoholic beverage purchases in the private club from and be served by a person employed, designated, and trained by the licensee to sell, dispense, and serve alcoholic beverages.

(b) Notwithstanding Subsection (26)(a), a patron who has purchased bottled wine from an employee of the private club or has carried bottled wine onto the premises of the private club pursuant to Subsection (32) may thereafter serve wine from the bottle to themselves or others at the patron's table.

(c) Each club patron may have no more than two alcoholic beverages of any kind at a time before the patron.

(27) The liquor storage area shall remain locked at all times other than those hours and days when liquor sales and service are authorized by law.

(28) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a private club during the following days or hours:

(i) until after the polls are closed on the day of any:

(A) regular general election;

(B) regular primary election; or

(C) statewide special election;

(ii) on the day of any municipal, special district, or school election, but only if closure is required by local ordinance; and

(iii) on any other day after 1 a.m. and before 10 a.m.

(b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer Licenses, for on-premise beer licenses.

(c) (i) Notwithstanding Subsections (28)(a) and (b), a private club shall remain open for one hour after the private club ceases the sale and service of alcoholic beverages during which

time a patron of the club may finish consuming:

- (A) any single drink containing spirituous liquor;
- (B) a single serving of wine not exceeding five ounces;
- (C) a single serving of heavy beer; or
- (D) a single serving of beer not exceeding 25 ounces.

(ii) A club is not required to remain open:

- (A) after all patrons have vacated the premises; or
- (B) during an emergency.

(29) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

- [(i)] (a) minor;
- [(ii)] (b) person actually, apparently, or obviously ~~[drunk]~~ intoxicated;
- [(iii)] (c) known habitual drunkard; or
- [(iv)] (d) known interdicted person.

[(i) (i) Liquor may not be sold or offered for sale at any private club during the following days or hours:]

[(A) on the day of any regular general election, regular primary election, or statewide special election until after the polls are closed;]

[(B) on the day of any municipal, special district, or school election, but only within the boundaries of the municipality, special district, or school district, and only if closure is required by local ordinance; and]

[(C) on Sunday and any state or federal legal holiday after 12 midnight and before 12 noon.]

[(ii) The hours of beer sales are those specified in Chapter 10, Beer Retailer Licenses, for on-premise beer licensees.]

[(j) On all other days the liquor storage and sales area in the club shall be closed from 1 a.m. until 10 a.m.]

[(k) Liquor may not be sold except at prices fixed by the commission. Mixed drinks and wine may not be sold at discount prices on any date or at any time.]



~~[(t) Beginning July 1, 1991, no more than one ounce of primary liquor may be served to a member, guest, or visitor at a time, except:]~~

~~[(i) wine as provided in Subsection (24)(c)(iii); and]~~

~~[(ii) heavy beer as provided in Subsection (24)(c)(iv).]~~

~~[(m) (i) Beginning January 1, 1991, a]~~

(30) (a) (i) Liquor may be sold only at prices fixed by the commission.

(ii) Liquor may not be sold at discount prices on any date or at any time.

(b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage to the licensee.

(c) An alcoholic beverage may not be sold at a special or reduced price that encourages over consumption or intoxication.

(d) The price of a single serving of a primary spirituous liquor shall be the same whether served as a single drink or in conjunction with another alcoholic beverage.

(e) An alcoholic beverage may not be sold at a special or reduced price for only certain hours of the private club's business day such as a "happy hour."

(f) The sale or service of more than one alcoholic beverage for the price of a single alcoholic beverage is prohibited.

(g) The sale or service of an indefinite or unlimited number of alcoholic beverages during any set period for a fixed price is prohibited.

(h) A private club licensee may not engage in a promotion involving or offering free alcoholic beverages to patrons of the club.

(31) Alcoholic beverages may not be purchased by the licensee, or any employee or agent of the licensee, for a patron of the private club.

(32) (a) A person may not bring onto the premises of a private club [~~liquor~~] licensee any alcoholic beverage for on-premise consumption, except a person may bring, subject to the discretion of the licensee, [~~cork-finished~~] bottled wine onto the premises of any private club [~~liquor~~] licensee [~~and consume wine pursuant to Subsection (24)(n)] for on-premise consumption.~~

~~[(ii) Beginning January 1, 1991, a]~~

(b) Except bottled wine under Subsection (32)(a), a private club or its officers, managers, employees, or agents may not allow:

(i) a person to bring onto the private club premises any alcoholic beverage for [on-premise] consumption[~~, except cork-finished wine under Subsection (24)(m)(i).~~] on the private club premises; or

(ii) consumption of alcoholic beverages described in Subsection (32)(b)(i) on the premises of the private club.

~~[(iii) Beginning January 1, 1991, if any private club licensee or any of its officers, managers, employees, or agents violates this Subsection (24):]~~

~~[(A) the commission may immediately suspend or revoke the private club's liquor license and the private club licensee is subject to criminal prosecution under Chapter 12, Criminal Offenses; and]~~

~~[(B) the local authority may immediately suspend or revoke the private club's local liquor license, local consent under Subsection 32A-5-102(1), or local business license.]~~

(c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server or other representative of the licensee upon entering the private club.

~~[(n)]~~ (d) A wine service may be performed and a service charge assessed by the private club as authorized by commission rule for wine [purchased at the private club or] carried in by a [member, guest, or visitor. If wine is carried in by a member, guest, or visitor, the member, guest, or visitor shall deliver the wine to a server or other representative of the licensee upon entering the licensee premises] patron.

~~[(o) A member, guest, or visitor to a]~~

(33) (a) Except as provided in Subsection (33)(b), a private club and its employees may not permit a patron of the club to carry from [a] the club premises an open container that:

(i) is used primarily for drinking purposes [containing]; and

(ii) contains any alcoholic beverage.

(b) A patron may remove the unconsumed contents of a bottle of wine if before removal

the bottle has been recorked or recapped.

(34) (a) Except as provided in Subsection (34)(b), a minor may not be employed by any class A, B, or C private club to sell, dispense, or handle any alcoholic beverage.

(b) Notwithstanding Subsection (34)(a), a minor may be employed by a class A or C private club to enter the sale at a cash register or other sales recording device.

(c) Except to the extent authorized in Subsection 32A-5-107(8)(c), a minor may not be employed by or be on the premises of any class D private club.

(d) A minor may not be employed to work in any lounge or bar area of any class A, B, or C private club.

(35) An employee of a private club, while on duty, may not:

(a) consume an alcoholic beverage; or

(b) be intoxicated.

(36) (a) A private club may not charge for the service or supply of glasses, ice, or mixers unless:

(i) the charges are fixed in the house rules of the club; and

(ii) a copy of the house rules is kept on the club premises and available at all times for examination by patrons of the club.

(b) A charge or fee made in connection with the sale, service, or consumption of liquor may be stated in food or alcoholic beverage menus including:

(i) a set-up charge;

(ii) service charge; or

(iii) chilling fee.

~~(p)~~ (37) Each private club [liquor] licensee shall display in a prominent place in the private club:

~~(i)~~ (a) the private club [liquor] license that is issued by the department;

~~(ii)~~ (b) a list of the types and brand names of liquor being served through its calibrated metered dispensing system; and

~~(iii)~~ (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol

or drugs is a serious crime that is prosecuted aggressively in Utah."

~~[(q)]~~ (38) The following acts or conduct in a private club licensed under this chapter are considered contrary to the public welfare and morals, and are prohibited upon the premises:

~~[(i)]~~ (a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;

~~[(ii)]~~ (b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection ~~[(24)(q)(i)]~~ (38)(a);

~~[(iii)]~~ (c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;

~~[(iv)]~~ (d) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

~~[(v)]~~ (e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Subsection ~~[(24)]~~ (38);

~~[(vi)]~~ (f) permitting any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus; or

~~[(vii)]~~ (g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:

~~[(A)]~~ (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts prohibited by Utah law;

~~[(B)]~~ (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;

~~[(C)]~~ (iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this Subsection ~~[(24)]~~ (38); or

~~[(D)]~~ (iv) scenes wherein a person displays the vulva or the anus or the genitals.

~~[(r)]~~ (39) Nothing in Subsection ~~[(24)(q)]~~ (38) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection ~~[(24)(q)]~~ (38).

~~[(s)(i)]~~ (40)(a) Although live entertainment is permitted on the premises of a club liquor licensee, a licensee may not allow any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.

~~[(ii)]~~ (b) Nothing in Subsection ~~[(24)(s)(i)]~~ (40)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection ~~[(24)(s)(i)]~~ (40)(a).

~~[(25)]~~ (41) A private club may not engage in or permit any form of gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling, on the premises of the private club.

~~[(26)]~~ (42)(a) A private club may not close or cease operation for a period longer than 240 hours, unless ~~[written notice is given to the department]:~~

(i) the private club licensee notifies the department in writing at least seven days before the closing~~[-];~~ and

(ii) the closure or cessation of operation is first approved by the department.

(b) ~~[(h)]~~ Notwithstanding Subsection (42)(a), in the case of emergency closure, immediate notice of closure shall be made to the department by telephone.

(c) The department may authorize a closure or cessation of operation for a period not to exceed 60 days. The department may extend the initial period an additional 30 days upon written request of the private club and upon a showing of good cause. A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) ~~[(Any)]~~ The notice required by Subsection (42)(a) shall include:

(i) the dates of closure or cessation of operation~~[-];~~

(ii) the reason for the closure or cessation of operation~~[-];~~ and

(iii) the date on which the licensee will reopen or resume operation.

(e) Failure of the licensee to provide notice and to obtain department authorization prior to closure or cessation of operation shall result in an automatic forfeiture of:

(i) the license; and ~~[the forfeiture of]~~

(ii) the unused portion of the license fee for the remainder of the license year effective immediately.

(f) Failure of the licensee to reopen or resume operation by the approved date shall result in an automatic forfeiture of:

(i) the license; and ~~[the forfeiture of]~~

(ii) the unused portion of the club's license fee for the remainder of the license year.

~~[(27) Each private club shall conduct its affairs so that it is not operated for a pecuniary profit.]~~

~~[(28)]~~ (43) A private club ~~[may not transfer a private club liquor]~~ license may not be transferred from one location to another, without prior written approval of the commission.

~~[(29)]~~ (44) (a) A ~~[person, having been granted a]~~ private club ~~[liquor license]~~ licensee, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any other person, whether for monetary gain or not.

(b) A private club ~~[liquor]~~ license has no monetary value for the purpose of any type of disposition.

Section 48. Section **32A-6-102** is amended to read:

**32A-6-102. Application and renewal requirements.**

(1) A person seeking a special use permit of any kind under this chapter shall file a written application with the department in a form prescribed by the department. ~~[It]~~ The application shall be accompanied by:

(a) a nonrefundable application fee ~~[where]~~ if required by any section of this chapter;

(b) an initial permit fee if required by any section of this chapter, which is refundable if a permit is not granted;

~~[(b)]~~ (c) ~~[unless otherwise provided in this chapter,]~~ a one-time special use permit fee ~~[of \$50]~~ if required by any section of this chapter, which is refundable if a permit is not granted;

~~[(e)]~~ (d) a statement of the purpose for which the applicant has applied for the special permit;

~~[(d)]~~ (e) written consent of the local authority;

~~[(e)]~~ (f) a bond, where required by any section of this chapter;

~~[(f)]~~ (g) where required by any section of this chapter, a floor plan of the immediate area within the premises in which the applicant proposes that alcoholic products are stored, used, mixed, sold, or consumed;

~~[(g)]~~ (h) a signed consent form stating that the permittee will permit any authorized representative of the commission, department, or any other law enforcement officer unrestricted right to enter the permittee's premises;

~~[(h)]~~ (i) in the case of ~~[a corporate]~~ an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the special use permit application are authorized to so act on the ~~[corporation's]~~ behalf of the partnership, corporation, or limited liability company;

~~[(i)]~~ (j) a description of the types of alcoholic product the applicant intends to use under authority of the special use permit; and

~~[(j)]~~ (k) any other information the commission or department may require by rule or policy to allow complete evaluation of the application.

(2) (a) All special use permits expire on December 31 of each year unless otherwise provided on the permit.

(b) Persons desiring to renew a renewable special use permit shall submit a completed renewal application to the department no later than November 30.

(c) Failure to meet the renewal requirements shall result in an automatic forfeiture of the license, effective on the date the existing permit expires.

(d) Renewal applications shall be in a form prescribed by the department.

(3) To ensure compliance with Subsection 32A-6-105(8), the commission may suspend or revoke a special use permit if any special use permittee does not immediately notify the department of any change in:

- (a) ownership of the permittee's business;
- (b) for a corporate owner, the:
  - (i) corporate officers or directors; or
  - (ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or
- (c) for a limited liability company:
  - (i) managers; or
  - (ii) members owning at least 20% of the limited liability company.

Section 49. Section **32A-6-103** is amended to read:

**32A-6-103. Qualifications.**

- (1) Special use permits may be granted only to the following persons or organizations:
  - (a) ~~[sacramental]~~ a religious wine use permit may be granted to a church or religious organization;
  - (b) an industrial or manufacturing use permit may be granted to a person or organization engaged in an industrial or manufacturing pursuit;
  - (c) a scientific or educational use permit may be granted to a person or organization engaged in a scientific or educational pursuit;
  - (d) a health care facility use permit may be granted to a hospital or health care facility; and
  - (e) a public service permit may be granted to an operator of an airline, railroad, or other public conveyance.
- (2) (a) The commission may not issue a special use permit to any person who has been convicted of:
  - (i) ~~[convicted of]~~ a felony under any federal or state law;
  - (ii) ~~[convicted of]~~ any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic products; ~~[or]~~
  - (iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-];~~ or



(iv) on two or more occasions within the five years before the day on which the special use permit is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the proscription under Subsection (2)(a) applies if any of the following has been convicted of any offense described in Subsection (2)(a):

(i) a partner[-];

(ii) a managing agent[-];

(iii) a manager;

(iv) an officer[-];

(v) a director[-or];

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of an applicant corporation [has been convicted of any offense as provided in this Subsection (2)]; or

(vii) a member who owns at least 20% of an applicant limited liability company.

(c) The proscription under Subsection (2)(a) applies if any person employed to act in a supervisory or managerial capacity for a special use permittee has been convicted of any offense described in Subsection (2)(a).

(3) ~~[(a) If any employee or proprietor of a permittee is convicted of any offense designated in Subsection (2), the] The commission may [take emergency action by] immediately [revoking the] suspend or revoke a special use permit [according to the procedures and requirements of Title 63, Chapter 46b.] if after the day on which the special use permit is granted, a person described in Subsection (2)(a), (b), or (c):~~

~~[(b) In the case of a partnership or corporation that has been granted a special use permit, if any partner, managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation is convicted of any offense designated in Subsection (2), the commission may take emergency action by immediately revoking the permit according to the procedures and requirements of Title 63, Chapter 46b.]~~

~~[(4) Upon the arrest of any permittee on any charge set forth in Subsection (2), the]~~

(a) is found to have been convicted of any offense described in Subsection (2)(a) prior to the permit being granted; or

(b) on or after the day on which the permit is granted:

(i) is convicted of an offense described in Subsection (2)(a)(i), (ii), or (iii); or

(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (3)(b)(ii)(A).

(4) The director may take emergency action by immediately suspending the operation of [the permittee] a special use permit according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated[-] if a person described in Subsection (2)(a), (b), or (c):

(a) is arrested on a charge described in Subsection (2)(a)(i), (ii), or (iii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (4)(b)(i).

(5) (a) (i) The commission may not grant a special use permit to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant a special use permit to any applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation, or member who owns at least 20% of the applicant limited liability company is or was:

(A) a partner or managing agent of any partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(b) An applicant that is a partnership, corporation, or limited liability company may not be granted a special use permit if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted a special use permit if that person was:

(i) a partner or managing agent of a partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of a limited liability company that had any type of license, agency, or permit revoked within the last three years.

~~[(5)]~~ (6) (a) A minor may not be:

(i) granted a special use permit; or [be]

(ii) employed by a permittee to handle alcoholic beverages.

(b) The commission may not grant a special use permit to an applicant that is a

partnership, corporation, or limited liability company if any of the following is a minor:

- (i) a partner or managing agent of the applicant partnership;
- (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or
- (iii) a manager or member who owns at least 20% of the applicant limited liability company.

~~[(6)]~~ (7) If any person to whom a permit has been issued under this chapter no longer possesses the qualifications required by this title for obtaining that permit, the commission may suspend or revoke that permit.

Section 50. Section **32A-6-105** is amended to read:

**32A-6-105. Operational restrictions.**

Each person granted a special use permit and the employees and management personnel of the permittee shall abide by the following conditions and requirements. Failure to comply may result in a revocation of the permit, or other disciplinary action taken against individual employees or management personnel. Suspension or revocation of a permit may be done by the commission with or without cause.

(1) Where authorized by the permit, a permittee may purchase and receive non-consumable alcoholic products directly from a manufacturer for industrial, educational, scientific, manufacturing, or health care facility use purposes.

(2) Except as otherwise provided, liquor may not be purchased by any permittee except from state stores or package agencies. Liquor so purchased may be transported by the permittee from the place of purchase to the permittee's premises. All liquor shall be purchased at prices set by the commission.

(3) Alcoholic products may not be stored, used, manufactured, blended, sold, or consumed in any place other than as designated in the permittee's application.

(4) A permittee may not purchase, store, sell, use, consume, or manufacture any alcoholic products for any purpose other than that authorized by the special use permit.

(5) ~~[Liquor]~~ Except as otherwise provided, alcoholic products may not be sold,

[delivered,] served, or otherwise furnished to any:

- (a) minor;
- (b) person actually, apparently, or obviously [~~drunk~~] intoxicated;
- (c) known habitual drunkard; or
- (d) known interdicted person.

(6) Each permittee shall keep records and accounts, as required by commission rule, of all alcoholic products purchased, manufactured, used, and sold.

~~[(7) A permittee authorized to sell or serve liquor may not engage in any public solicitation or public advertising calculated to increase liquor consumption.]~~

~~[(8) (7) [There shall be no transfer of a] A special use permit may not be transferred~~ from one location to another, without prior written approval of the commission.

~~[(9) (8) [A person, having been granted a] A special use [permit,] permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to any other person whether for monetary gain or not.~~

Section 51. Section **32A-6-201** is amended to read:

**32A-6-201. Application and renewal requirements.**

(1) Each application for a public service permit shall, in addition to the requirements of Section 32A-6-102, include:

- (a) a nonrefundable [~~\$100~~] \$50 application fee;
- (b) a \$200 initial permit fee;

~~[(b)] (c)~~ the total of regularly numbered flights, trains, buses, boats, or other types of conveyance for which the applicant plans to use the special use permit;

~~[(e)] (d)~~ written consent of the local authority;

~~[(d)] (e)~~ a cash or corporate surety bond in the penal sum of \$1,000 payable to the department, which the permittee has procured and must maintain for so long as the permittee continues to operate as a special use permittee;

~~[(e)] (f)~~ a floor plan of any room or facility in which the applicant plans to establish a hospitality room where the sale or service of alcoholic beverages is made to persons then in

transit, using the host company's airline, railroad, or other public conveyance; and

~~[(f)]~~ (g) evidence of proximity of a proposed hospitality room to the arrival and departure area used by persons traveling on the host company's airline, railroad, bus, or other public conveyance.

(2) Each public service permittee shall remit to the department an annual public service permit fee of ~~[\$15]~~ \$30 for each regularly numbered passenger airplane flight, passenger train, or any other regularly scheduled public conveyance upon which alcoholic beverages are sold or served.

(3) (a) The bond required under Subsection (1) shall be in a form approved by the attorney general, conditioned upon the permittee's faithful compliance with this title and the rules of the commission.

(b) If the surety bond is canceled due to the permittee's negligence a \$300 reinstatement fee may be assessed.

(c) No part of any cash bond so posted may be withdrawn during the period the permit is in effect.

(d) A bond filed by a permittee may be forfeited if the permit is finally revoked.

Section 52. Section **32A-6-202** is amended to read:

**32A-6-202. Operational restrictions.**

In addition to the restrictions, conditions, and requirements of Section 32A-6-105, each public service permit is subject to the following operating restrictions:

(1) (a) A public service permittee whose public conveyances operate on an interstate basis may purchase alcoholic beverages outside of the state and bring it into the state and sell and serve it to passengers traveling on the permittee's public conveyance for consumption while en route on the conveyance.

(b) A public service permittee whose public conveyances operate solely within the state shall purchase to sell and serve to passengers traveling on the permittee's public conveyance for consumption while en route on the conveyance:

(i) liquor from state stores or package agencies; and

(ii) beer from a local beer wholesaler.

(2) A public service permittee may establish a hospitality room in which alcoholic beverages may be stored, sold, served, and consumed, if:

(a) the room is located within a depot, terminal, or similar facility adjacent to and servicing the permittee's airline, railroad, bus, boat, or other public conveyance;

(b) the room is completely enclosed and the interior is not visible to the public;

(c) the sale or service of alcoholic beverages is made only to persons then in transit using the host company's airline, railroad, bus line, or other public conveyance, and holding a valid boarding pass or similar travel document issued by the host company; and

(d) (i) all liquor is purchased from:

(A) a state store; or

(B) a package agency[-]; and

(ii) beer is purchased from a local licensed beer wholesaler.

(3) Each public service permittee operating a hospitality room shall display in a prominent place in the hospitality room, a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(4) The operation of all hospitality rooms shall be done in accordance with this chapter and rules adopted by the commission.

Section 53. Section **32A-6-301** is amended to read:

**32A-6-301. Application requirements.**

(1) Each application for an industrial or manufacturing use permit shall, in addition to the requirements of Section 32A-6-102, include:

(a) a nonrefundable [~~\$100~~] \$50 application fee;

(b) a \$200 one-time special use permit fee;

~~[(b)]~~ (c) a cash or corporate surety bond in the penal sum of \$1,000 payable to the department, which the permittee has procured and must maintain for so long as the permittee continues to operate as a special use permittee;

~~[(c)]~~ (d) written consent of the local authority; and

~~[(d)]~~ (e) a floor plan of the immediate area within the premises in which the applicant proposes that alcoholic products be stored, used, mixed, sold, or consumed.

(2) (a) The bond required under Subsection (1) shall be:

(i) in a form approved by the attorney general~~[-]~~; and

(ii) conditioned upon the permittee's faithful compliance with this title and the rules of the commission.

(b) If the surety bond is cancelled due to the permittee's negligence, a \$300 reinstatement fee may be assessed.

(c) No part of any cash or corporate bond so posted may be withdrawn during the period the permit is in effect.

(d) A bond filed by a permittee may be forfeited if the permit is finally revoked.

(3) Any person desiring a special use permit to produce gasohol or any alcoholic product shall provide evidence to the department that an approved Notice of Registration of Distilled Spirits Plant and the appropriate permit from the Federal Bureau of Alcohol, Tobacco and Firearms has been obtained by the person.

Section 54. Section **32A-6-401** is amended to read:

**32A-6-401. Application requirements.**

Each application for a scientific or educational use permit shall, in addition to the requirements of Section 32A-6-102, include a [~~nonrefundable \$25 application fee~~] \$100 one-time special use permit fee.

Section 55. Section **32A-6-501** is amended to read:

**32A-6-501. Operational restrictions.**

In addition to the restrictions, conditions, and requirements of Section 32A-6-105, each [~~sacramental~~] religious wine use permittee is subject to the following operational restrictions:

(1) A [~~sacramental~~] religious wine use permittee may purchase wine from state stores as the department may designate at the department's cost plus freight charges.

(2) A [~~sacramental~~] religious wine use permittee may not use wine purchased under the permit for other than religious purposes.



Section 56. Section **32A-6-502** is enacted to read:

**32A-6-502. Church or religious organization exemption.**

(1) A church or religious organization that provides or allows to be provided any alcoholic product to any person as part of the church's or religious organization's religious services:

(a) does not violate this title by providing or allowing the provision of an alcoholic product as part of the religious service; and

(b) is not required to hold a special use permit or license to provide or allow the provision of an alcoholic product for the religious services.

(2) This exemption does not exempt a church or religious organization from complying with this title with respect to alcoholic beverages purchased by the church or religious organization for purposes other than the purpose stated in Subsection (1).

Section 57. Section **32A-6-503** is enacted to read:

**32A-6-503. Application requirements.**

Each application for a religious wine use permit shall, in addition to the requirements of Section 32A-6-102, include a \$100 one-time special use permit fee.

Section 58. Section **32A-6-603** is enacted to read:

**32A-6-603. Application requirements.**

Each application for a health care facility use permit shall, in addition to the requirements of Section 32A-6-102, include a \$100 one-time special use permit fee.

Section 59. Section **32A-7-101** is amended to read:

**32A-7-101. Commission's power to grant permits -- Limitations.**

(1) The commission may issue a single event permit to a bona fide partnership, corporation, limited liability company, church, political organization, or incorporated association, or to a recognized subordinate lodge, chapter, or other local unit thereof that is conducting a convention, civic, or community enterprise.

(2) ~~(a)~~ The single event permit ~~shall~~ may authorize~~[-]~~:

(a) for a period not to exceed ~~[72]~~ 120 consecutive hours, the storage, sale, service, and

consumption of liquor at an event at which the storage, sale, service, or consumption of liquor is otherwise prohibited by this title[-]; and

~~[(b) Authorization for the storage, sale, service, and consumption of beer at the event shall be obtained from local authority and is not governed by this chapter or Chapter 10 except where otherwise provided.]~~

(b) the storage, sale, service, and consumption of beer at the same event for the period that the storage, sale, service, or consumption of liquor is authorized under Subsection (2)(a) for the permit.

(3) The commission may not issue more than ~~[two]~~ four single event permits in any one calendar year to the same ~~[association]~~ partnership, corporation, limited liability company, church, ~~[or]~~ political organization, or incorporated association or recognized subordinate lodge, chapter, or other local unit thereof.

(4) (a) The 600 foot and 200 foot proximity limitations to educational, religious, and recreational facilities that are applicable to state stores, package agencies, and licensees, do not apply to single event permits.

(b) Nothing in this section, however, prevents the commission from considering the proximity of any educational, religious, or recreational facility, or any other relevant factor in deciding whether to grant a single event permit.

Section 60. Section **32A-7-102** is amended to read:

**32A-7-102. Application requirements.**

(1) A qualified applicant for a single event permit shall file a written application with the department in a form as the department shall prescribe.

(2) The application shall be accompanied by:

(a) a single event permit fee of \$100, which is refundable if a permit is not granted and shall be returned to the applicant with the application;

(b) written consent of the local authority;

(c) a bond as specified by Section 32A-7-105;

(d) the times, dates, location, estimated attendance, nature, and purpose of the event;

- (e) a description or floor plan designating:
  - (i) the area in which the applicant proposes that ~~[liquor]~~ alcoholic beverages be stored;
  - (ii) the site from which the applicant proposes that ~~[liquor]~~ alcoholic beverages be sold or served; and
  - (iii) the area in which the applicant proposes that ~~[liquor]~~ alcoholic beverages be allowed to be consumed;
- (f) a statement of the purpose of the ~~[association]~~ partnership, corporation, limited liability company, church, [or] political organization, or incorporated association, or [its local] recognized subordinate lodge, chapter, or other local unit;
- (g) a signed consent form stating that authorized representatives of the commission, department, or any law enforcement officers will have unrestricted right to enter the premises during the event;
- (h) proper verification evidencing that the person signing the application is authorized to act on behalf of the ~~[association]~~ partnership, corporation, limited liability company, church, [or] political organization, or incorporated association, or recognized subordinate lodge, chapter, or local unit thereof; and
  - (i) any other information as the commission or department may direct.

Section 61. Section **32A-7-103** is amended to read:

**32A-7-103. Qualifications.**

(1) ~~[In order to] To~~ qualify for a single event permit, the applicant~~[-(a) may not be the holder of or be affiliated with the holder of any other type of retail liquor package agency or license issued under this title; and (b)]~~ shall have been in existence as a bona fide organization for at least one year prior to the date of application.

(2) (a) The commission may not grant a single event permit to any person who has been convicted of:

- (i) ~~[convicted of]~~ a felony under any federal or state law;
- (ii) ~~[convicted of]~~ any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic

beverages; ~~[or]~~

(iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-]; or~~

(iv) on two or more occasions within the last five years before the day on which the permit is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the proscription under Subsection (2)(a) applies if any of the following has been convicted of any offense described in Subsection (2)(a):

(i) a partner[-];

(ii) a managing agent[-];

(iii) a manager;

(iv) an officer[-];

(v) a director[-or];

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of an applicant corporation [has been convicted of any offense as provided in this Subsection.]; or

(vii) a member who owns at least 20% of an applicant limited liability company.

(c) The proscription under Subsection (2)(a) applies if any person employed to act in a supervisory or managerial capacity for the single event permittee has been convicted of any offense described in Subsection (2)(a).

~~[(3) Upon the arrest of any single event permittee on any charge set forth in Subsection (2), the]~~

(3) The commission may immediately suspend or revoke a single event permit if after the day on which the permit is granted, a person described in Subsection (2)(a), (b), or (c):

(a) is found to have been convicted of any offense described in Subsection (2)(a) prior to the permit being granted; or

(b) on or after the day on which the permit is granted:

(i) is convicted of an offense described in Subsection (2)(a)(i), (ii), or (iii); or

(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined

influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (3)(b)(ii)(A).

(4) The director may take emergency action by immediately revoking the permit according to the procedures and requirements of Title 63, Chapter 46b[-], Administrative Procedures Act, if a person described in Subsection (2)(a), (b), or (c):

(a) is arrested on a charge for an offense described in Subsection (2)(a)(i), (ii), or (iii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (4)(b)(i).

~~[(4)]~~ (5) (a) (i) The commission may not grant a single event permit to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant a single event permit to any ~~[corporation or partnership]~~ applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, ~~[or]~~ stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation, or member who owns at least 20% of the applicant limited liability company is or was:

(A) a partner or managing agent of any partnership~~[-, or is or was]~~ that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or [a] stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation ~~[which]~~ that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability company that had a liquor license, agency, or permit revoked within the last three years.

(b) ~~[A corporation or partnership]~~ An applicant that is a partnership, corporation, or limited liability company may not be granted a permit if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership ~~[or]~~;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the ~~[corporate]~~ applicant ~~[had a liquor license, agency, or permit revoked while acting in their individual capacity within the last three years.]~~ corporation;  
or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

~~[(5)]~~ (6) (a) A minor may not be:

(i) granted a single event permit; or ~~[be]~~

(ii) employed by a single event permittee to handle alcoholic beverages.

(b) The commission may not grant a single event permit to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

~~[(6)]~~ (7) If a person to whom a permit has been issued under this chapter no longer possesses the qualifications required by this title for obtaining that permit, the commission may suspend or revoke that permit.

Section 62. Section **32A-7-104** is amended to read:

**32A-7-104. Commission and department duties before granting permits.**

(1) Before any single event permit may be granted by the commission, the department shall conduct an investigation, gather information, and make recommendations to the

commission as to whether or not a permit should be granted. The information shall be forwarded to the commission to aid in its determination.

(2) Before issuing any single event permit, the commission shall:

(a) determine that the applicant has complied with all basic qualifications and requirements as provided by Sections 32A-7-102 and 32A-7-103~~[-and]~~;

(b) determine that the application is complete;

~~[(b)]~~ (c) consider the purpose of the organization or its local lodge, chapter, or other local unit;

~~[(c)]~~ (d) consider the times, dates, location, and purpose of the event; [and]

(e) to minimize the risk of minors being sold or furnished alcohol or adults being overserved alcohol at the event, assess the adequacy of control measures for:

(i) a large-scale public event where the estimated attendance is in excess of 1,000 people;

or

(ii) for an outdoor public event; and

~~[(d)]~~ (f) consider any other factors or circumstances [it] the commission considers necessary.

(3) (a) The commission shall determine the maximum amount that may be charged by a permittee for an alcoholic beverage, including any set-up fee or other charge.

(b) The maximum amount that may be charged shall be set forth in the permit.

(4) Upon commission approval of any application and upon issuance of a single event permit, the department shall send copies of the approved application and the permit to state and local law enforcement authorities before the scheduled event.

Section 63. Section **32A-7-106** is amended to read:

**32A-7-106. Operational restrictions.**

(1) (a) Any organization granted a single event permit and any person involved in the storage, sale, or service of ~~[liquor]~~ alcoholic beverages at the event for which the permit is issued, shall abide by:

(i) this title~~[-]~~;

- (ii) the rules of the commission~~[-];~~ and
- (iii) the special conditions and requirements provided in this section.

(b) Failure to ~~do so~~ comply with Subsection (1)(a):

(i) may result in:

(A) an immediate revocation of the permit~~[-];~~

(B) forfeiture of the surety bond~~[-]; and~~

(C) immediate seizure of all ~~liquor~~ alcoholic beverages present at the event~~[-]; and~~

(ii) disqualifies the organization from applying for a single event permit under this chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special Event Beer Permits, for a period of three years from the date of revocation of the permit.

(c) Any ~~liquor~~ alcoholic beverages seized under this Subsection (1) shall be returned to the organization after the event if forfeiture proceedings are not instituted under Section 32A-13-103.

(2) Special conditions and requirements for single event permittees include~~[-but are not limited to;]~~ the following:

(a) (i) All persons involved in the storage, sale, or service of ~~liquor~~ alcoholic beverages at the event do so under the supervision and direction of the permittee.

(ii) All persons involved in the sale or service of alcoholic beverages at the event may not, while on duty:

(A) consume an alcoholic beverage; or

(B) be intoxicated.

(b) (i) All liquor stored, sold, served, and consumed at the event shall be purchased by the permittee from a state store or package agency~~[-and is].~~

(ii) All beer purchased by the permittee shall be purchased from:

(A) a licensed beer wholesaler; or

(B) a licensed beer retailer.

(iii) All alcoholic beverages are considered under the control of the permittee during the event.



~~(iv)~~ Attendees of the event may not bring any [~~liquor other than that furnished by the permittee~~] alcoholic beverages onto the premises of the event.

(c) A permittee may not charge more than the maximum amount set forth in the permit for any alcoholic beverage.

(d) Each permittee shall post in a prominent place in the area in which [~~liquor is~~] alcoholic beverages are being sold, served, and consumed, a copy of the permit, together with a list of the operational restrictions and requirements of single event permittees set forth in this section.

(e) [~~Liquor~~] Alcoholic beverages purchased for the event may not be stored, sold, served, or consumed in any [~~place~~] location other than that described in the application and designated on the permit unless the permittee first applies for and receives approval from the commission for a change of location.

~~[(f) Liquor purchased for the event may not be sold or served in any place other than the site described in the application and designated on the permit.]~~

~~[(g) Liquor purchased for the event may not be consumed in any area other than that described in the application and designated on the permit.]~~

~~[(h) (f) (i) A single event permittee may [not] sell or provide [any] a primary spirituous liquor [except in one ounce quantities,] only in a quantity not to exceed one ounce per beverage except that[:(A)] additional spirituous liquor may be used in a beverage if:~~

~~(A) used as a secondary flavoring ingredient[~~, but only~~];~~

~~(B) used in conjunction with the primary spirituous liquor [~~and only if~~];~~

~~(C) the secondary ingredient is not the only spirituous liquor in the beverage; and~~

~~[(B) wine may be served by the glass in quantities not exceeding five ounces per glass; and]~~

~~[(C) heavy beer may be served in original containers not exceeding one liter.]~~

~~(D) each attendee may have no more than 2.75 ounces of spirituous liquor at a time before the attendee.~~

(ii) [~~Liquor otherwise~~] Spirituous liquor need not be dispensed through a calibrated

metered dispensing system.

~~[(i) Hours of sale, service, and consumption shall be in accordance with any local ordinance restrictions.]~~

(g) (i) (A) Wine may be sold and served by the glass or an individual portion that does not exceed five ounces per glass or individual portion.

(B) An individual portion may be served to an attendee in more than one glass as long as the total amount of wine does not exceed five ounces.

(C) An individual portion of wine is considered to be one alcoholic beverage under Subsection (2)(p).

(ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed by the commission.

(iii) A wine service may be performed and a service charge assessed by the single event permittee as authorized by commission rule for wine purchased at the event.

(h) (i) Heavy beer may be served in original containers not exceeding one liter at prices fixed by the commission.

(ii) A service charge may be assessed by the single event permittee as authorized by commission rule for heavy beer purchased at the event.

(i) Beer may be sold in any size container not exceeding two liters and on draft.

(j) (i) Alcoholic beverages may not be sold, served, or consumed between the hours of 1 a.m. and 10 a.m.

(ii) This Subsection (2)(j) does not preclude a local authority from being more restrictive with respect to the hours of sale, service, or consumption of alcoholic beverages at a temporary single event.

~~[(j) Liquor]~~ (k) Alcoholic beverages may not be sold, served, or otherwise furnished until after the polls are closed on the day of any:

(i) regular general election[-];

(ii) regular primary election[-]; or

(iii) statewide special election [until after the polls are closed].

~~[(k)]~~ (l) ~~[Liquor]~~ Alcoholic beverages may not be sold, served, ~~[delivered,]~~ or otherwise furnished to any:

- (i) minor;
- (ii) person actually, apparently, or obviously ~~[drunk]~~ intoxicated;
- (iii) known habitual drunkard; or
- (iv) known interdicted person.

(m) (i) (A) Liquor may be sold only at prices fixed by the commission.

(B) Liquor may not be sold at discount prices on any date or at any time.

(ii) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage to the permittee.

(iii) An alcoholic beverage may not be sold at a price that encourages over consumption or intoxication.

(iv) An alcoholic beverage may not be sold at a special or reduced price for only certain hours of the day of the permitted event.

(v) The sale or service of more than one alcoholic beverage for the price of a single alcoholic beverage is prohibited.

(vi) The permittee may not engage in a public promotion involving or offering free alcoholic beverages to the general public.

(n) A single event permittee and its employees may not permit an attendee to carry from the premises an open container that:

- (i) is used primarily for drinking purposes; and
- (ii) contains any alcoholic beverage.

~~[(h)]~~ (o) ~~[Minors]~~ A minor may not sell, serve, dispense, or handle any alcoholic beverage at the event.

~~[(m) Public advertising of the event may not include reference to the availability of any alcoholic beverage at the event. However, the permittee may use signs or similar displays at the site of the event to inform attendees of the locations where alcoholic beverages are being dispensed.]~~

(p) Each attendee may have no more than one alcoholic beverage of any kind at a time before the patron.

(3) The following acts or conduct at an event for which a permit is issued under this chapter are considered contrary to the public welfare and morals, and are prohibited upon the premises:

(a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;

(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);

(c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;

(d) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Subsection (3);

(f) permitting any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus;

(g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:

(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts prohibited by Utah law;

(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;

(iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this Subsection (3); or

(iv) scenes wherein a person displays the vulva or the anus or the genitals.

(4) Nothing in Subsection (3) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (3).

(5) (a) Although live entertainment is permitted at the event for which a permit has been issued under this chapter, a permittee may not allow any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.

(b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (5)(a).

(6) The permittee shall maintain an expense and revenue ledger or record showing:

(a) expenditures made for liquor and beer, set-ups, and other ingredients and components of alcoholic beverages; and

(b) the revenue from sale of alcoholic beverages.

(7) [~~Single~~] A single event [~~permits are~~] permit may not [~~transferable~~] be transferred.

(8) A single event permittee may not engage in or allow any form of gambling, or have any video gaming device as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the premises serviced by the single event permittee.

Section 64. Section **32A-8-101** is amended to read:

**32A-8-101. Commission's power to grant licenses -- Limitations.**

(1) The commission may issue alcoholic beverage manufacturing licenses to manufacturers whose businesses are located in this state for the manufacture, storage, and sale of alcoholic beverages for each type of license provided by this chapter.

(2) The type of manufacturing licenses issued under this chapter are known as:

(a) winery licenses[;];

(b) distillery licenses[;]; and

(c) brewery licenses.

(3) (a) A person may not manufacture any alcoholic beverage unless an alcoholic

beverage manufacturing license has been issued by the commission.

(b) A separate license is required for each place of manufacture, storage, and sale of alcoholic beverages.

(c) Violation of this Subsection (3) is a class B misdemeanor.

(4) Brewers located outside the state are not required to be licensed under this chapter. However, they must obtain a certificate of approval from the department before selling or delivering beer to licensed beer wholesalers in this state, or if a small brewer, to licensed beer wholesalers or retailers in this state.

(a) A brewer seeking a certificate of approval shall file a written application with the department, in a form prescribed by the department. ~~[(t)]~~ The application shall be accompanied by:

(i) a nonrefundable ~~[\$100]~~ \$50 application fee;

(ii) an initial certificate of approval fee of ~~[\$50]~~ \$250 that is refundable if a certificate is not granted;

(iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and Firearms to brew beer and heavy beer products; and

(iv) any other information or documents the department may require.

(b) Each application shall be signed and verified by oath or affirmation by a partner if a partnership, or by an executive officer, manager, or person specifically authorized by a corporation or limited liability company to sign the application to which shall be attached written evidence of this authority.

(c) (i) All certificates of approval expire on December 31 of each year.

(ii) Brewers desiring to renew their certificates shall submit a renewal fee of ~~[\$50]~~ \$200, and a completed renewal application to the department no later than November 30 of the year the certificate expires.

(iii) Failure to meet the renewal requirements shall result in an automatic forfeiture of the certificate effective on the date the existing certificate expires.

(iv) Renewal applications shall be in a form prescribed by the department.

(5) The commission may prescribe by policy, directive, or rule, consistent with this title, the general operational requirements of licensees relating to:

- (a) physical facilities;
- (b) conditions of sale, storage, or manufacture of alcoholic beverages;
- (c) storage and sales quantity limitations; and
- (d) other matters considered appropriate by the commission.

Section 65. Section **32A-8-102** is amended to read:

**32A-8-102. Application and renewal requirements.**

(1) Each person seeking an alcoholic beverage manufacturing license of any kind under this chapter shall file a written application with the department, in a form prescribed by the department. ~~[It]~~ The application shall be accompanied by:

- (a) a nonrefundable application fee of ~~[\$100]~~ \$250;
- (b) an initial license fee of ~~[\$1,000]~~ \$3,250 unless otherwise provided in this chapter, which is refundable if a license is not granted;
- (c) a statement of the purpose for which the applicant has applied for the alcoholic beverage manufacturing license;
- (d) written consent of the local authority;
- (e) a bond as specified by Section 32A-8-105;
- (f) evidence that the applicant is carrying public liability insurance in an amount and form satisfactory to the department;
- (g) evidence that the applicant is authorized by the United States to manufacture alcoholic beverages;
- (h) a signed consent form stating that the licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the premises; ~~[and]~~
  - (i) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and

~~[(1)]~~ (j) any other documents and evidence the department may require by rule or policy to allow complete evaluation of the application.

~~[(2)]~~ Each application shall be signed and verified by oath or affirmation by an executive officer or any person specifically authorized by the corporation or association to sign the application, to which shall be attached written evidence of said authority.]

~~[(3)]~~ (2) (a) All alcoholic beverage manufacturing licenses expire on December 31 of each year.

(b) Persons desiring to renew their license shall submit ~~[a renewal fee of \$1,000 and a completed renewal application to the department]~~ by no later than November 30 of the year the license expires[-]:

(i) a completed renewal application to the department; and

(ii) a renewal fee in the following amount:

(A) \$2,500, except for an alcoholic beverage manufacturing license described in Subsection (2)(b)(ii)(B); or

(B) \$1,200 for a winery license if the winery licensee produced less than 20,000 gallons of wine in the calendar year preceding the year in which the licensee seeks renewal.

(c) Failure to meet the renewal requirements results in an automatic forfeiture of the license effective on the date the existing license expires. Renewal applications shall be in a form prescribed by the department.

~~[(4) If any]~~ (3) To ensure compliance with Subsection 32A-8-106(1)(f), the commission may suspend or revoke an alcoholic beverage manufacturing license if the manufacturing licensee does not immediately notify the department of any change in:

(a) ownership of the licensee[-, or in the case of]:

(b) for a [Utah] corporate owner [of any change in], the:

(i) corporate officers or directors[-, the commission may suspend or revoke that license:-];

or

(ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or



(c) for a limited liability company:

(i) managers; or

(ii) members owning at least 20% of the limited liability company.

Section 66. Section **32A-8-103** is amended to read:

**32A-8-103. Qualifications.**

(1) (a) The commission may not grant an alcoholic beverage manufacturing license to any person who has been convicted of:

(i) ~~[convicted of]~~ a felony under any federal or state law;

(ii) ~~[convicted of]~~ any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; ~~[or]~~

(iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-]; or~~

(iv) on two or more occasions within the five years before the day on which the license is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the proscription under Subsection (1)(a) applies if any of the following has been convicted of any offense described in Subsection (1)(a):

(i) a partner[-];

(ii) a managing agent[-];

(iii) a manager;

(iv) an officer[-];

(v) a director[-; or];

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of [an] the applicant corporation [has been convicted of any offense as provided in this Subsection.]; or

(vii) a member who owns at least 20% of the applicant limited liability company.

(c) The proscription under Subsection (1)(a) applies if any person employed to act in a

supervisory or managerial capacity for the manufacturer has been convicted of any offense described in Subsection (1)(a).

(2) [~~(a) If any employee or proprietor of an alcoholic beverage manufacturing licensee is convicted of any offense designated in Subsection (1), the~~] The commission may [~~take emergency action by~~] immediately [~~revoking the~~] suspend or revoke an alcoholic beverage manufacturing license [according to the procedures and requirements of Title 63, Chapter 46b.] if after the day on which the alcoholic beverage manufacturing license is granted, a person described in Subsection (1)(a), (b), or (c):

~~[(b) In the case of a partnership or corporation that has been granted an alcoholic beverage manufacturing license, if any partner, managing agent, officer, director, or stockholder, who holds at least 20% of the total issued and outstanding stock of a corporation is convicted of any offense provided in Subsection (1), the commission may take emergency action by immediately revoking the license according to the procedures and requirements of Title 63, Chapter 46b.]~~

~~[(3) Upon the arrest of any alcoholic beverage manufacturing licensee on any charge set forth in Subsection (1), the]~~

(a) is found to have been convicted of any offense described in Subsection (1)(a) prior to the license being granted; or

(b) on or after the day on which the license is granted:

(i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) The director may take emergency action by immediately suspending the operation of the licensee according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is being

adjudicated[-] if a person described in Subsection (1)(a), (b), or (c):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not grant a manufacturing license to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant a manufacturing license to any applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation, or member who owns at least 20% of the applicant limited liability company is or was:

(A) a partner or managing agent of any partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of the limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(b) An applicant that is a partnership, corporation, or limited liability company may not be granted a manufacturing license if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted a manufacturing license if that person was:

(i) a partner or managing agent of a partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of a limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

~~[(4)]~~ (5) (a) A minor may not be:

(i) granted an alcoholic beverage manufacturing license; or [be]

(ii) employed by a manufacturing licensee to handle [liquor] alcoholic beverages.

(b) The commission may not grant an alcoholic beverage manufacturing license to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

~~[(5)]~~ (6) The commission may not grant an alcoholic beverage manufacturing license to any person who has not met any applicable federal requirements for the operation of wineries, distilleries, or breweries.

~~[(6)]~~ (7) If any person to whom a license has been issued under this chapter no longer possesses the qualifications required by this title for obtaining that license, the commission may suspend or revoke that license.

Section 67. Section **32A-8-106** is amended to read:

**32A-8-106. Operational restrictions.**

(1) Each person granted an alcoholic beverage manufacturing license and the employees and management of the licensee shall abide by the following conditions and requirements, and any special conditions and restrictions otherwise provided in this chapter. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel:

(a) A licensee may not sell any liquor within the state except to the department and to military installations.

(b) Each license issued under this chapter shall be conspicuously displayed on the licensed premises.

(c) A licensee may not advertise its product in violation of this title or any other federal or state law, except that nothing in this title prohibits the advertising or solicitation of orders for industrial alcohol from holders of special permits.

(d) Each alcoholic beverage manufacturing licensee shall maintain accounting and other records and documents as the department may require. Any manufacturing licensee or person acting for the manufacturing licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the licensee required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission, or the department, or any of their officials or employees, is subject to the immediate suspension or revocation of the manufacturing license and criminal prosecution under Chapter 12, Criminal Offenses.

(e) ~~[There shall be no transfer of an]~~ An alcoholic beverage manufacturing license may not be transferred from one location to another, without prior written approval of the commission.

(f) (i) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any other person or entity, whether for monetary gain or not.

(ii) A manufacturing license has no monetary value for the purpose of any type of disposition.

~~(f)~~ (g) Each licensee shall from time to time, on request of the department, furnish for analytical purposes samples of the alcoholic products that it has for sale or that it has in the course of manufacture for sale in this state.

(2) Nothing in this chapter prevents any manufacturer of, or dealer in, patent or proprietary medicines containing alcohol from selling the medicines in the original and unbroken package if the medicine contains sufficient medication to prevent its use as an alcoholic beverage. Each manufacturer or dealer who keeps patent or proprietary medicines for sale shall, upon request by the department, provide a sufficient sample of the medicine to enable the department to have the medicine analyzed.

(3) (a) Nothing in this chapter prevents any person from manufacturing vinegar or preserved nonintoxicating cider for use or sale, or the manufacture or sale for lawful purposes of any food preparation, or any United States Pharmacopoeia or national formulary preparation in conformity with the Utah pharmacy laws, if the preparation conforms to standards established by the state departments of agriculture and health, and contains no more alcohol than is absolutely necessary to preserve or extract the medicinal, flavoring, or perfumed properties of the treated substances.

(b) Nothing in this chapter prevents the manufacture or sale of wood or denatured alcohol under rules established by the department and in compliance with the formulas and rules established by the United States.

Section 68. Section **32A-8-501** is amended to read:

**32A-8-501. Commission's power to grant licenses.**

(1) The commission may issue local industry representative licenses to individual residents of Utah, Utah partnerships, ~~and~~ Utah corporations, and Utah limited liability

companies who are employed by a manufacturer, supplier, or importer, whether compensated by salary, commission, or any other means, to represent liquor, wine, or heavy beer products with the department, package agencies, licensees, and permittees under this title.

(2) (a) Before any Utah resident, Utah partnership, [~~or~~] Utah corporation, or Utah limited liability company may represent a liquor, wine, or heavy beer product of a manufacturer, supplier, or importer, the resident, partnership, or corporation shall first obtain a local industry representative license from the commission as provided in this part.

(b) A violation of this Subsection (2) is a class B misdemeanor.

(3) Individual employees or agents of [~~partnership or of corporate~~] a local industry representative licensees are not required to be separately licensed.

(4) A local industry representative may represent more than one manufacturer, supplier, or importer at a time.

(5) (a) A manufacturer, supplier, or importer is not required to use a local industry representative to represent its products with the department, package agencies, licensees, or permittees. [~~However, any~~]

(b) Any employee or agent of the manufacturer, supplier, or importer who is not a local industry representative while in the state [~~must~~] shall first register with the department, on forms provided by the department, before representing alcoholic beverage products with the department, package agencies, licensees, and permittees of the department.

(c) A manufacturer, supplier, or importer described in Subsection (5)(b) and their employees and agents are subject to the same operational restrictions of this part and Chapter 12, Criminal Offenses.

Section 69. Section **32A-8-502** is amended to read:

**32A-8-502. Application and renewal requirements.**

(1) An individual resident, partnership, [~~or~~] corporation, or limited liability company seeking a local industry representative license under this chapter shall file a written application with the department, in a form prescribed by the department. [~~It~~] The application shall be accompanied by:

- (a) a nonrefundable [~~\$100~~] \$50 application fee;
  - (b) an initial license fee of [~~\$50~~] \$100, which is refundable if a license is not granted;
  - (c) verification that the applicant is:
    - (i) a resident of Utah[~~, or~~];
    - (ii) a Utah partnership [~~or~~];
    - (iii) a Utah corporation; or
    - (iv) a Utah limited liability company;
  - (d) an affidavit stating the name and address of all manufacturers, suppliers, and importers the applicant will represent;
  - (e) a signed consent form stating that the local industry representative will permit any authorized representative of the commission, department, or any law enforcement officer the right to enter, during normal business hours, the specific premises where the representative conducts business;
  - (f) in the case of [~~a partnership or corporate~~] an applicant ~~that is a partnership, corporation, or limited liability company,~~ proper verification evidencing that the person or persons signing the application are authorized to so act on [~~the partnership's or corporation's~~] behalf of the partnership, corporation, or a limited liability company; and
  - (g) any other information the commission or department may require.
- (2) (a) All local industry representative licenses expire on January 1 of each year.
- (b) Licensees desiring to renew their license shall submit a renewal fee of [~~\$50~~] \$100 and a completed renewal application to the department no later than November 30.
- (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of the license effective on the date the existing license expires.
- (d) Renewal applications shall be in a form as prescribed by the department, but shall require the licensee to file an affidavit stating the name and address of all manufacturers, suppliers, and importers the licensee currently represents.
- (3) A licensed local industry representative may represent more than one manufacturer, supplier, or importer without paying additional license fees.



(4) In order to ensure compliance with Subsection 32A-8-505(8), the commission may suspend or revoke a local representative license if a local industry representative licensee does not immediately notify the department of any change in:

(a) ownership of the business;

(b) for a corporate owner, the:

(i) corporate officers or directors; or

(ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(c) for a limited liability company:

(i) managers; or

(ii) members owning at least 20% of the limited liability company.

Section 70. Section **32A-8-503** is amended to read:

**32A-8-503. Qualifications.**

(1) (a) The commission may not grant a local industry representative license to [~~an individual~~] any person who has been convicted of:

(i) a felony under any federal or state law;

(ii) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, importing, warehousing, adulteration, or transportation of alcoholic beverages; [~~or~~]

(iii) any crime involving moral turpitude[~~;~~]; or

(iv) on two or more occasions within the five years before the day on which the license is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership [~~or~~], corporation, or limited liability company the proscription under Subsection (1)(a) applies if any of the following has been convicted of any offense described in Subsection (1)(a):

(i) a partner[~~;~~];

(ii) a managing agent[~~;~~];

(iii) a manager;

(iv) an officer[-];

(v) a director[-or];

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of [an] the applicant corporation [has been convicted of any offense as provided in Subsection (1)(a)]; or

(vii) a member who owns at least 20% of the applicant limited liability company.

(c) The proscription under Subsection (1)(a) applies if any person employed to act in a supervisory or managerial capacity for the local industry representative has been convicted of any offense described in Subsection (1)(a).

(2) [(a) If any employee of a local industry representative licensee is convicted of any offense designated in Subsection (1)(a), the] The commission may [take emergency action by] immediately [revoking] suspend or revoke the local industry representative license [according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act.] if after the day on which the local industry representative license is granted, a person described in Subsection (1)(a), (b), or (c):

[(b) In the case of a partnership or corporation that has been granted a local industry representative license, if any partner, managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation is convicted of any offense designated in Subsection (1)(a), the commission may take emergency action by immediately revoking the license according to the procedures and requirements of Title 63, Chapter 46b.]

[(3) Upon the arrest of any local industry representative licensee on any charge set forth in Subsection (1)(a), the]

(a) is found to have been convicted of any offense described in Subsection (1)(a) prior to the license being granted; or

(b) on or after the day on which the license is granted:

(i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined

influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) The director may take emergency action by immediately suspending the operation of the [licensee] local industry representative license according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated[-] if a person described in Subsection (1)(a), (b), or (c):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not grant a local industry representative license to any individual who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant a local industry representative license to [~~any partnership or corporation~~] an applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, [or] stockholder who holds at least 20% of the total issued and outstanding stock of [the] an applicant corporation, or member who owns at least 20% of an applicant limited liability company is or was:

(A) a partner or managing agent of any partnership[~~,- or is or was~~] that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or [a] stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability

company that had ~~[a liquor]~~ any type of license, agency, or permit issued under this title revoked within the last three years.

(b) ~~[A partnership or corporation]~~ An applicant that is a partnership, corporation, or limited liability company may not be granted a local industry representative license if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership ~~[or]~~;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the ~~[corporate] applicant [had a liquor license, agency, or permit revoked while acting in their individual capacity within the last three years:]~~ corporation;  
or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted an industry representative license if that person was:

(i) a partner or managing agent of a partnership ~~[, or]~~ that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of a limited liability company that had ~~[a liquor]~~ any type of license, agency, or permit issued under this title revoked within the last three years.

(5) (a) The commission may not grant a local industry representative license to ~~[any person who is under the age of 21 years]~~ a minor.

(b) The commission may not grant a local industry representative license to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

(6) The commission may not grant a local industry representative license to any holder of any retail license issued under this title, to any employee or agent of any retail license issued under this title, or to any individual, partnership, [or] corporation, or limited liability company who holds any interest in any retail license issued under this title except as otherwise provided.

(7) If any individual, partnership, [or] corporation, or limited liability company to whom a local industry representative license has been issued under this part no longer possesses the qualifications required by this title for obtaining that license, the commission may suspend or revoke that license.

Section 71. Section **32A-8-505** is amended to read:

**32A-8-505. Operational restrictions.**

(1) (a) A local industry representative licensee, employee or agent of the licensee, or employee or agent of a manufacturer, supplier, or importer who is conducting business in the state, shall abide by the conditions and requirements set forth in this section.

(b) If any person listed in Subsection (1)(a) knowingly violates or fails to comply with the conditions and requirements set forth in this section, such violation or failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or agents of the licensee, and the commission may order the removal of the manufacturer's, supplier's, or importer's products from the department's sales list and a suspension of the department's purchase of those products for a period determined by the commission if the manufacturer, supplier, or importer directly committed the violation, or solicited, requested, commanded, encouraged, or intentionally aided another to engage in the violation.

(2) A local industry representative licensee, employee or agent of the licensee, or employee or agent of a manufacturer, supplier, or importer who is conducting business in the

state:

(a) may assist the department in ordering, shipping, and delivering merchandise, new product notification, listing and delisting information, price quotations, product sales analysis, shelf management, and educational seminars, and may, for the purpose of acquiring new listings, solicit orders from the department and submit to the department price lists and samples of their products, but only to the extent authorized by Chapter 12, Criminal Offenses;

(b) may not sell any liquor, wine, or heavy beer within the state except to the department and military installations;

(c) may not ship or transport, or cause to be shipped or transported, into this state or from one place to another within this state any liquor, wine, or heavy beer;

(d) may not sell or furnish~~[, except as provided in Section 32A-12-603 for retail licensee wine tasting,]~~ any liquor, wine, or heavy beer to any person within this state other than to the department and military installations;

(e) except as otherwise provided, may not advertise products it represents in violation of this title or any other federal or state law;

(f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and

(g) may only provide samples of their products for tasting and sampling purposes~~[(i)]~~ as provided in Section 32A-12-603~~[(i)]~~ by the department~~[(or)]~~.

~~[(iii) by retail licensees or permittees at a department trade show.]~~

(3) (a) A local industry representative licensee shall maintain on file with the department a current accounts list of the names and addresses of all manufacturers, suppliers, and importers the licensee represents.

(b) The licensee shall notify the department in writing of any changes to the accounts listed within 14 days from the date the licensee either acquired or lost the account of a particular manufacturer, supplier, or importer.

(4) A local industry representative licensee shall maintain accounting and other records and documents as the department may require for at least three years.

(5) Any local industry representative licensee or person acting for the licensee, who

knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the licensee required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission or the department, or any of their officials or employees, is subject to the immediate suspension or revocation of the industry representative's license and possible criminal prosecution under Chapter 12, Criminal Offenses.

(6) A local industry representative licensee may, for the purpose of becoming educated as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee represents, taste and analyze industry representative samples under the following conditions:

(a) The licensee may not receive more than two industry representative samples of a particular type, vintage, and production lot of a particular branded product within a consecutive 120-day period.

(b) (i) Each sample of liquor may not exceed 1 liter.

(ii) Each sample of wine or heavy beer may not exceed 1.5 liters unless that exact product is only commercially packaged in a larger size, not to exceed 5 liters.

(c) Each industry representative sample may only be of a product not presently listed on the department's sales list.

(d) Industry representative samples shall be shipped prepaid by the manufacturer, supplier, or importer by common carrier and not via United States mail directly to the department's central administrative warehouse office. These samples may not be shipped to any other location within the state.

(e) Industry representative samples shall be accompanied by a letter from the manufacturer, supplier, or importer:

(i) clearly identifying the product as an "industry representative sample"; and

(ii) clearly stating:

(A) the FOB case price of the product; and

(B) the name of the local industry representative for who it is intended.

(f) The department shall assess a reasonable handling, labeling, and storage fee for each

industry representative sample received.

(g) The department shall affix to each bottle or container a label clearly identifying the product as an "industry representative sample".

(h) The department shall:

(i) account for and record each industry representative sample received;

(ii) account for the sample's disposition; and

(iii) maintain a record of the sample and its disposition for a two-year period.

(i) Industry representative samples may not leave the premises of the department's central administrative warehouse office.

(j) Licensed industry representatives and their employees and agents may, at regularly scheduled days and times established by the department, taste and analyze industry representative samples on the premises of the department's central administrative warehouse office.

(k) Any unused contents of an opened product remaining after the product has been sampled shall be destroyed by the department under controlled and audited conditions established by the department.

(l) Industry representative samples that are not tasted within 30 days of receipt by the department shall be disposed of at the discretion of the department in one of the following ways:

(i) contents destroyed under controlled and audited conditions established by the department; or

(ii) added to the inventory of the department for sale to the public.

(7) ~~[A] An employee or agent of a local industry representative licensee may [conduct retail licensee wine tasting as provided in Section 32A-12-603.] not be:~~

~~(a) the holder of any retail license issued under this title; or~~

~~(b) an employee or agent of any retail licensee issued under this title.~~

(8) ~~(a)~~ A local representative licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any other person, whether for monetary gain or not.

~~(b)~~ A local industry representative license has no monetary value for the purpose of any



type of disposition.

Section 72. Section **32A-9-102** is amended to read:

**32A-9-102. Application and renewal requirements.**

(1) A person seeking a warehousing license under this chapter shall file a written application with the department, in a form prescribed by the department. ~~[It]~~ The application shall be accompanied by:

- (a) a nonrefundable ~~[\$100]~~ \$250 application fee;
- (b) an initial license fee of ~~[\$250]~~ \$750, which is refundable if a license is not granted;
- (c) written consent of the local authority;
- (d) a copy of the applicant's current business license;
- (e) a bond as specified by Section 32A-9-105;
- (f) evidence that the applicant is carrying public liability insurance in an amount and form satisfactory to the department;
- (g) a floor plan of the applicant's warehouse, including the area in which the applicant proposes that liquor be stored;
- (h) a signed consent form stating that the licensee will permit any authorized representative of the commission, department, or any law enforcement officer unrestricted right to enter the warehouse premises; ~~[and]~~
  - (i) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the warehousing license application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and

~~[(i)]~~ (j) any other documents and evidence the department may require by rule or policy to allow complete evaluation of the application.

~~[(2) Each application shall be signed and verified by oath or affirmation by an executive officer or any person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of said authority.]~~

~~[(3)]~~ (2) (a) All warehousing licenses expire on December 31 of each year.

(b) Persons desiring to renew their license shall submit a renewal fee of [~~\$250~~] \$1,000 and a completed renewal application to the department no later than November 30 of the year the license expires.

(c) Failure to meet the renewal requirements results in an automatic forfeiture of the license effective on the date the existing license expires.

(d) Renewal applications shall be in a form prescribed by the department.

~~[(4) If any]~~ (3) To ensure compliance with Subsection 32A-9-106(9), the commission may suspend or revoke a warehousing license if a warehousing licensee does not immediately notify the department of any change in:

(a) ownership of the licensee~~[, or in the case of]~~;

(b) for a [Utah] corporate owner ~~[of any change in]~~, the:

(i) corporate officers or directors~~[, the commission may suspend or revoke that license:]~~;

or

(ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(c) for a limited liability company:

(i) managers; or

(ii) members owning at least 20% of the limited liability company.

Section 73. Section **32A-9-103** is amended to read:

**32A-9-103. Qualifications.**

(1) (a) The commission may not grant a warehousing license to any person who has been convicted of:

(i) ~~[convicted of]~~ a felony under any federal or state law;

(ii) ~~[convicted of]~~ any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

~~[or]~~

(iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-]~~; or

(iv) on two or more occasions within the five years before the day on which the license is

granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership [~~or~~], corporation, or limited liability company the proscription under Subsection (1)(a) applies if any of the following has been convicted of any offense described in Subsection (1)(a):

(i) a partner[;];

(ii) a managing agent[;];

(iii) a manager;

(iv) an officer[;];

(v) a director[; ~~or~~];

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of [an] the applicant corporation [has been convicted of any offense as provided in this Subsection.]; or

(vii) a member who owns at least 20% of the applicant limited liability company.

(c) The proscription under Subsection (1)(a) applies if any person employed to act in a supervisory or managerial capacity for the warehouse has been convicted of any offense described in Subsection (1)(a).

(2) [~~If any employee or proprietor of a warehousing licensee is convicted of any offense provided in Subsection (1), the] The commission may [~~take emergency action by~~] immediately [~~revoking the~~] suspend or revoke a warehousing license [according to the procedures and requirements of Title 63, Chapter 46b.] if after the day on which the warehousing license is granted, a person described in Subsection (1)(a), (b), or (c):~~

~~[(3) Upon the arrest of any warehousing licensee on any charge set forth in Subsection (1), the]~~

(a) is found to have been convicted of any offense described in Subsection (1)(a) prior to the license being granted; or

(b) on or after the day on which the license is granted:

(i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) The director may take emergency action by immediately suspending the operation of the [licensee] warehousing license according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated[-] if a person described in Subsection (1)(a), (b), or (c):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not grant a warehousing license to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant a warehousing license to an applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of an applicant corporation, or member who owns at least 20% of an applicant limited liability company is or was:

(A) a partner or managing agent of any partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(b) An applicant that is a partnership, corporation, or limited liability company may not be granted a warehousing license if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted a warehousing license if that person was:

(i) a partner or managing agent of a partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) any manager or member who owned at least 20% of a limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

~~[(4)]~~ (5) (a) A minor may not be:

(i) granted a [~~liquor~~] warehousing license; or [be]

(ii) employed by a warehouse to handle liquor.

(b) The commission may not grant a warehousing license to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

[~~(5)~~] (6) A person, through any officer, director, representative, agent, or employee, or otherwise, either directly or indirectly, may not hold at the same time both a warehousing license and any other kind of license, agency, or permit issued under Title 32A, Chapter 3, 4, 5, 6, or 7, or Chapter 10, Part 2.

[~~(6)~~] (7) If any person to whom a license has been issued under this chapter no longer possesses the qualifications required by this title for obtaining that license, the commission may suspend or revoke that license.

Section 74. Section **32A-9-106** is amended to read:

**32A-9-106. Operational restrictions.**

Each person granted a warehousing license and the employees and management of the licensee shall abide by the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license, or other disciplinary action taken against individual employees or management personnel:

(1) All liquor warehoused in this state and sold to out-of-state consignees, shall be transported out of the state only by a motor carrier regulated under Title 72, Chapter 9, Motor Carrier Safety Act.

(2) All liquor warehoused in this state and sold to the department shall be transported by motor carriers approved by the department.

(3) All liquor transported to or from the licensee's premises shall be carried in sealed conveyances that are made available for inspection by the department while en route within the state.

(4) A licensee may not ship, convey, distribute, or remove liquor from any warehouse in less than full case lots.

(5) A licensee may not ship, convey, distribute, or remove any liquor from a warehouse

to any consignee outside the state that is not licensed as a liquor wholesaler or retailer by the state in which the consignee is domiciled.

(6) A licensee may not receive, warehouse, ship, distribute, or convey any liquor that the commission has not authorized the licensee to handle through its warehouse.

(7) Each licensee shall maintain accounting and other records and documents as the department may require. Any licensee or person acting for the licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the licensee required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission or the department, or any of their officials or employees, is subject to the immediate suspension or revocation of the license and possible criminal prosecution under Chapter 12, Criminal Offenses.

(8) ~~[There shall be no transfer of a]~~ A liquor warehousing license may not be transferred from one location to another, without prior written approval of the commission.

(9) (a) A liquor warehousing licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any other person, whether for monetary gain or not.

(b) A liquor warehousing license has no monetary value for the purpose of any type of disposition.

Section 75. Section **32A-10-101** is amended to read:

**32A-10-101. State and local licensing -- Limitations.**

(1) Any local authority may:

- (a) tax or prohibit any retail sale of beer;
- (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise consumption;
- (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise consumption at temporary special events that do not last longer than 30 days;

(d) issue, suspend, and revoke licenses to general food stores and other establishments to sell beer at retail for off-premise consumption; ~~and]~~

(e) establish proximity restrictions for establishing premises where beer is sold at retail

for off-premise consumption in relation to any public or private school, church, public library, public playground, or park; and

~~[(e)]~~ (f) otherwise regulate the retail sale of beer for off-premise consumption.

(2) The commission shall issue licenses to sell beer at retail for on-premise consumption as provided in Part 2, On-Premise Beer Retailer Licenses.

(3) Each licensee issued a license for on-premise consumption, by the commission under Subsection (2) or by the local authority under Subsection (1), is subject to the operational restrictions provided in Section 32A-10-206, except as otherwise provided.

(4) Suspension or revocation of ~~[the licensee]~~ an on-premise beer retailer license issued by the commission under Subsection (2) or ~~[the]~~ an on-premise beer retailer license issued by a local authority under Subsection (1) prohibits the establishment whose license is suspended or revoked from continuing to operate under the other state or local license it may have.

~~[(5) Licenses may not be granted by any local authority to sell beer in the proximity of any church or school. The local authority granting the license may determine in each case what constitutes proximity.]~~

(5) The commission shall issue temporary permits to sell beer at retail for on-premise consumption at temporary special events that do not last longer than 30 days as provided in Part 3, Temporary Special Event Beer Permits.

(6) Each permittee issued a temporary permit by the commission under Subsection (5) or by the local authority under Subsection (1), is subject to the operational restrictions provided in Section 32A-10-306, except as otherwise provided.

(7) Suspension or revocation of a temporary permit issued by the commission under Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose permit is suspended or revoked from continuing to operate under the other state or local permit the permittee may have.

Section 76. Section **32A-10-102** is amended to read:

**32A-10-102. General restrictions.**

(1) (a) (i) A beer retailer licensed under this part or Part 2, On-Premise Beer Retailer



Licenses, may not purchase, acquire, possess for the purpose of resale, or sell any beer except that which has been lawfully purchased from a wholesaler licensed under this title or from a small brewer that manufactured the beer.

(ii) Violation of Subsection (1)(a) is a class A misdemeanor.

(b) (i) All purchases made of beer by any beer retailer from a licensed wholesaler shall be from that wholesaler who is authorized by the commission to sell beer in the geographical area in which the beer retailer is located, unless an alternate wholesaler is authorized by the ~~[commission]~~ department to sell to the beer retailer as provided in Section 32A-11-106.

(ii) Violation of Subsection (1)(b) is a class B misdemeanor.

(2) (a) Beer may not be sold, provided, or possessed for off-premise consumption in containers larger than two liters.

(b) ~~[On-premise]~~ For a special event that does not last longer than 30 days:

(i) an on-premise beer retailer [licenses] license issued by the commission [are] as provided in this part is not required for [temporary] the sale of beer at the special [events that do not last longer than 30 days] event; and

(ii) a temporary beer permit must be obtained from the commission as provided in Part 3, Temporary Special Event Beer Permits.

(3) (a) A minor may not be granted a beer retailer license.

(b) The commission may not grant a beer retailer license to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

(4) A minor may not sell beer on the premises of a beer retailer for off-premise consumption except under the supervision of a person 21 years of age or older who is on the premises.

(5) (a) If malt beverage coolers or malt liquor is sold by a beer retailer for off-premise consumption, the beer retailer shall display a sign at the location on the premises where malt beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please read the label."

(b) A violation of this Subsection (5) is an infraction.

Section 77. Section 32A-10-201 is amended to read:

**32A-10-201. Commission's power to grant licenses -- Limitations.**

(1) [~~Beginning January 1, 1991, before~~] Before any establishment may sell beer at retail for on-premise consumption, it shall first obtain:

(a) an on-premise beer retailer license from the commission as provided in this part; and

(b) a license issued by the local authority, as provided in Section 32A-10-101, to sell beer at retail for on-premise consumption or other written consent of the local authority to sell beer at retail for on-premise consumption.

(2) (a) The commission may issue on-premise beer retailer licenses for the purpose of establishing on-premise beer retailer outlets at places and in numbers as it considers proper for the storage, sale, and consumption of beer on premises operated as on-premise beer retailer outlets.

(b) (i) Notwithstanding Subsection (2)(a), the total number of on-premise beer retailer licenses that are taverns may not at any time aggregate more than that number determined by dividing the population of the state by 22,500.

(ii) If the total number of on-premise beer retailer licenses in effect on May 5, 2003, that are taverns equals or exceeds the limitation of Subsection (2)(b)(i):

(A) a license for a tavern that is in effect on May 5, 2003:

(I) is not invalidated by Subsection (2)(b)(i); and

(II) may be renewed in accordance with this chapter; and

(B) the commission may not grant a new on-premise beer retailer license to a tavern until such time as the total number of licenses granted to a tavern under this chapter is less than the limitation of Subsection (2)(b)(i).

(iii) For purposes of this Subsection (2), the population of the state shall be determined by:

(A) the most recent United States decennial special census; or

(B) any other population determination made by the United States or state governments.

(c) (i) The commission may issue seasonal licenses for taverns established in areas the commission considers necessary.

(ii) A seasonal license for taverns shall be for a period of six consecutive months.

(iii) An on-premise beer retailer license for a tavern issued for operation during a summer time period is known as a "Seasonal A" on-premise beer retailer license for a tavern.

The period of operation for a "Seasonal A" on-premise beer retailer license for a tavern shall:

(A) begin on May 1; and

(B) end on October 31.

(iv) An on-premise beer retailer license for a tavern issued for operation during a winter time period is known as a "Seasonal B" on-premise beer retailer license for a tavern. The period of operation for a "Seasonal B" on-premise beer retailer license for a tavern shall:

(A) begin on November 1; and

(B) end on April 30.

(v) In determining the number of tavern licenses that the commission may issue under this section:

(A) a seasonal on-premise beer retailer license for a tavern is counted as 1/2 of one on-premise beer retailer license for a tavern; and

(B) each "Seasonal A" on-premise beer retailer license for a tavern shall be paired with a "Seasonal B" on-premise beer retailer license for a tavern.

(3) (a) [~~Beginning January 1, 1991,~~] The premises of an on-premise beer retailer [licensee premises] license may not be established within 600 feet of any public or private school, church, public library, public playground, or park, as measured by the method in Subsection [~~(5)~~] (4).

(b) [~~Beginning January 1, 1991,~~] The premises of an on-premise beer retailer [licensee

~~premises] license may not be established within 200 feet of any public or private school, church, public library, public playground, or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, or park.~~

~~[(4)] (c) The restrictions of [Subsection] Subsections (3)(a) and (b) govern unless one of the following exemptions applies:~~

~~[(a) The commission finds after full investigation that the premises are located within a city of the third class, a town, or the unincorporated area of a county, and compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships in the granting of an on-premise beer retailer license. In that event, the commission may, after giving full consideration to all of the attending circumstances, following a public hearing in the city or town, and where practical in the neighborhood concerned, authorize a variance from the distance requirements to relieve the difficulties or hardships if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this title.]~~

(i) with respect to the establishment of an on-premise beer retailer license that operates as a tavern within a city of the third class, a town, or the unincorporated area of a county, the commission may authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) if:

(A) the local governing authority has granted its written consent to the variance;

(B) alternative locations for establishing an on-premise beer retailer tavern license in the community are limited;

(C) a public hearing has been held in the city, town, or county, and where practical in the neighborhood concerned; and

(D) after giving full consideration to all of the attending circumstances and the policies stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the license would not be detrimental to the public health, peace, safety, and welfare of the community;

~~[(b)]~~ (ii) with respect to the establishment of an on-premise beer retailer ~~[licensee]~~ license that operates as a tavern in any location, the commission may~~[, after giving full consideration to all of the attending circumstances, following a public hearing in the county, and where practical in the neighborhood concerned, reduce the proximity]~~ authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) in relation to a church:

(A) if the local governing body of the church in question gives its written ~~[approval.]~~ consent to the variance;

(B) following a public hearing in the city, town, or county and where practical in the neighborhood concerned; and

(C) after giving full consideration to all of the attending circumstances and the policies stated in Subsections 32A-1-104(3) and (4);

(iii) with respect to the establishment of an on-premise beer retailer license that does not operate as a tavern in any location, the commission may authorize a variance that reduces the proximity requirements of Subsection (3)(a) or (b) if:

(A) the local governing authority has granted its written consent to the variance;

(B) alternative locations for establishing an on-premise beer retailer license that does not operate as a tavern in the community are limited;

(C) a public hearing has been held in the city, town, or county, and where practical in the neighborhood concerned; and

(D) after giving full consideration to all of the attending circumstances and the policies stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing a license would not be detrimental to the public health, peace, safety, and welfare of the community;

~~[(c)]~~ (iv) with respect to any on-premise beer retailer license issued by the commission before July 1, 1991, to an establishment that undergoes a change in ownership after that date, the commission may waive or vary the proximity ~~[restrictions of]~~ requirements of this Subsection (3) in considering whether to grant an on-premise retailer beer license to the new owner[-]; and

(v) with respect to the premises of an on-premise beer retailer license issued by the

commission that undergoes a change of ownership, the commission may waive or vary the proximity requirements of Subsection (3)(a) or (b) in considering whether to grant an on-premise beer retailer license to the new owner of the premises if:

(A) the premises previously received a variance from the proximity requirements of Subsection (3)(a) or (b); or

(B) a variance from proximity or distance requirements was otherwise allowed under this title.

~~[(5)]~~ (4) With respect to any public or private school, church, public library, public playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet by following the shortest route of ~~[either] ordinary pedestrian [traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer;]~~ travel to the property boundary of the public or private school, church, public library, public playground, school playground or park.

~~[(6)]~~ (5) (a) Nothing in this section prevents the commission from considering the proximity of any educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location.

(b) For purposes of this Subsection ~~[(6)]~~ (5), "educational facility" includes:

(i) a nursery ~~[schools;]~~ school;

(ii) an infant day care ~~[centers;]~~ center; and

(iii) a trade and technical ~~[schools]~~ school.

Section 78. Section **32A-10-202** is amended to read:

**32A-10-202. Application and renewal requirements.**

(1) A person seeking an on-premise beer retailer license under this chapter shall file a written application with the department, in a form prescribed by the department. ~~[It]~~ The application shall be accompanied by:

(a) a nonrefundable ~~[\$300]~~ \$250 application fee;

(b) an initial license fee ~~[of \$100, which]~~ that is refundable if a license is not granted~~[:]~~

in the following amount:

(i) if the on-premise beer retailer licensee does not operate as a tavern, the initial license

fee is \$150; or

(ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is \$1,250;

(c) written consent of the local authority or a license to sell beer at retail for on-premise consumption granted by the local authority under Section 32A-10-101;

(d) a copy of the applicant's current business license;

(e) [~~for applications made on or after July 1, 1991,~~] evidence of proximity to any public or private school, church, public library, public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of Subsections 32A-10-201(3)[~~;~~] and (4), [~~and (5);~~] the application shall be processed in accordance with those subsections;

(f) a bond as specified by Section 32A-10-205;

(g) a floor plan of the premises, including consumption areas and the area where the applicant proposes to keep, store, and sell beer;

(h) evidence that the on-premise beer retailer licensee is carrying public liability insurance in an amount and form satisfactory to the department;

(i) for those licensees that sell more than \$5,000 of beer annually, evidence that the on-premise beer retailer licensee is carrying dramshop insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

(j) a signed consent form stating that the on-premise beer retailer licensee will permit any authorized representative of the commission, department, or any peace officer unrestricted right to enter the licensee premises;

(k) in the case of [~~a corporate~~] an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the on-premise beer retailer licensee application are authorized to so act on the [~~corporation's~~] behalf of the partnership, corporation, or limited liability company; and

(l) any other information the department may require.

(2) (a) All on-premise beer retailer licenses expire on the last day of February of each year[~~, except that all on-premise beer retailer licenses obtained before the last day of February~~

1991 expire on the last day of February 1992].

(b) Persons desiring to renew their on-premise beer retailer license shall submit [a renewal fee of \$100 and a completed renewal application to the department] by no later than January 31[-];

(i) a completed renewal application to the department; and

(ii) a renewal fee in the following amount:

(A) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee is \$200; or

(B) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is \$1,000.

(c) Failure to meet the renewal requirements shall result in an automatic forfeiture of the license, effective on the date the existing license expires.

(d) Renewal applications shall be in a form as prescribed by the department.

(3) [~~H~~] To ensure compliance with Subsection 32A-10-206(18), the commission may suspend or revoke a beer retailer license if any beer retailer licensee does not immediately notify the department of any change in:

(a) ownership of the beer retailer[-; or in the case of];

(b) for a [Utah] corporate owner [of any change in], the;

(i) corporate officers or directors[-; the commission may suspend or revoke that license-];

and

(ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(c) for a limited liability company:

(i) managers; or

(ii) members owning at least 20% of the limited liability company.

(4) If the applicant is a county, municipality, or other political subdivision, it need not meet the requirements of Subsections (1)(a), (b), (c), (d), and (f).

(5) Only one state on-premise beer retailer license is required for each building or resort facility owned or leased by the same applicant. Separate licenses are not required for each retail



beer dispensing outlet located in the same building or on the same resort premises owned or operated by the same applicant.

Section 79. Section **32A-10-203** is amended to read:

**32A-10-203. Qualifications.**

(1) (a) The commission may not grant an on-premise beer retailer license to [~~an outlet whose proprietor~~] any person who has been convicted of:

(i) a felony under any federal or state law;

(ii) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages; [~~or~~]

(iii) of any crime involving moral turpitude[~~;~~]; or

(iv) on two or more occasions within the five years before the day on which the license is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership [~~or~~], corporation, or limited liability company the proscription under Subsection (1)(a) applies if any of the following has been convicted of any offense described in Subsection (1)(a):

(i) a partner[~~;~~];

(ii) a managing agent[~~;~~];

(iii) a manager;

(iv) an officer[~~;~~];

(v) a director[~~;~~or];

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of [an] the applicant corporation [has been convicted of any offense as provided in this subsection.];  
or

(vii) a manager or member who owns at least 20% of the applicant limited liability company.

(c) The proscription under Subsection (1)(a) applies if any person employed to act in a

supervisory or managerial capacity for the on-premise beer retailer has been convicted of any offense described in Subsection (1)(a).

(2) [~~(a) If any employee or proprietor of an on-premise beer retailer licensee is convicted of any offense designated in Subsection (1), the~~] The commission may [~~take emergency action by~~] immediately [~~revoking the~~] suspend or revoke an on-premise beer retailer license [~~according to the procedures and requirements of Title 63, Chapter 46b.~~] if after the day on which the on-premise beer retailer license is granted, a person described in Subsection (1)(a), (b), or (c):

(a) is found to have been convicted of any offense described in Subsection (1)(a) prior to the license being granted; or

(b) on or after the day on which the license is granted:

(i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

~~[(b) In the case of a partnership or corporation that has been granted an on-premise beer retailer license, if any partner, managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation is convicted of any offense designated in Subsection (1), the commission may take emergency action by immediately revoking the license according to the procedures and requirements of Title 63, Chapter 46b.]~~

(3) [~~Upon the arrest of any on-premise beer retailer licensee on any charge set forth in Subsection (1), the~~] The director may take emergency action by immediately suspending the operation of [~~the licensee~~] an on-premise beer retailer license according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated[~~;~~] if a person described in Subsection (1)(a), (b), or (c):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not grant an on-premise beer retailer license to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant an on-premise beer retailer license to any [~~corporation or partnership~~] applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, [~~or~~] stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation, or member who owns at least 20% of the applicant limited liability company is or was:

(A) a partner or managing agent of any partnership[~~, or is or was~~] that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or [a] stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability company that had [~~a liquor~~] any type of license, agency, or permit issued under this title revoked within the last three years.

(b) [~~A corporation or partnership~~] An applicant that is a partnership, corporation, or limited liability company may not be granted an on-premise beer retailer license if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership [~~or~~];

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the [~~corporate~~] applicant [~~had a liquor license, agency, or~~

~~permit revoked while acting in their individual capacity within the last three years.] corporation;~~  
or

(iii) any manager or member company who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted an on-premise beer retailer license if that person was:

(i) a partner or managing agent of a partnership[-or] that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) a manager or member of any limited liability company who owned at least 20% of a limited liability company that had [a liquor] any type of license, agency, or permit issued under this title revoked within the last three years.

(5) (a) A minor may not be granted an on-premise beer retailer license.

(b) The commission may not grant a on-premise beer retailer license to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

(6) If any person to whom a license has been issued under this part no longer possesses the qualifications required by this title for obtaining that license, the commission may suspend or revoke that license.

Section 80. Section **32A-10-205** is amended to read:

**32A-10-205. Bond.**

(1) Each on-premise beer retailer licensee shall post a cash or corporate surety bond in

the penal sum of [~~\$1,000~~] \$2,000 payable to the department, which the licensee has procured and must maintain for so long as the licensee continues to operate as an on-premise beer retailer licensee.

(2) The bond shall be in a form approved by the attorney general, conditioned upon the licensee's faithful compliance with this title and the rules of the commission.

(3) (a) If the [~~\$1,000~~] \$2,000 surety bond is canceled due to the licensee's negligence, a \$300 reinstatement fee may be assessed.

(b) No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee.

(c) A bond filed by a licensee may be forfeited if the license is finally revoked.

Section 81. Section **32A-10-206** is amended to read:

**32A-10-206. Operational restrictions.**

Each person granted an on-premise beer retailer license and the employees and management personnel of the on-premise beer retailer licensee shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) On-premise beer retailer licensees may sell beer in open containers, in any size not exceeding two liters, and on draft.

(2) Liquor may not be stored or sold on the premises of any on-premise beer retailer licensee.

(3) A patron [~~or guest~~] of the on-premise beer retailer may only make purchases [~~in the on-premise beer retailer licensee~~] from [~~a server~~] and be served by a person employed, designated, and trained by the licensee to sell and serve beer.

(4) (a) Beer may not be sold [~~or~~], offered for sale, served, or otherwise furnished at any on-premise beer retailer [~~licensee~~] establishment after 1 a.m. and before 10 a.m.

(b) Beer may not be sold, [~~delivered,~~] served, or otherwise furnished to any:

(i) minor;

(ii) person actually, apparently, or obviously [~~drunk~~] intoxicated;

- (iii) known habitual drunkard; or
- (iv) known interdicted person.

(c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall remain open for one hour after the tavern ceases the sale and service of alcoholic beverages during which time a patron of the tavern may finish consuming a single serving of beer not exceeding 25 ounces.

(ii) A tavern is not required to remain open:

(A) after all patrons have vacated the premises; or

(B) during an emergency.

(5) (a) Beer may not be sold at less than the cost of the beer to the licensee.

(b) Beer may not be sold at a special or reduced price that encourages over consumption or intoxication.

(c) Beer may not be sold at a special or reduced price for only certain hours of the beer retailer's business day such as a "happy hour."

(d) The sale or service of more than one alcoholic beverage for the price of a single alcoholic beverage is prohibited.

(e) The sale or service of an indefinite or unlimited number of alcoholic beverages during any set period for a fixed price is prohibited.

(f) An on-premise beer licensee may not engage in a public promotion involving or offering free alcoholic beverages to the general public.

~~[(5)]~~ (6) Beer sold in sealed containers by the on-premise beer retailer licensee may be removed from the on-premise beer retailer premises.

~~[(6)]~~ (7) (a) ~~[Beginning January 1, 1991, a]~~ A person may not bring onto the premises of an on-premise beer retailer licensee any alcoholic beverage for on-premise consumption.

(b) ~~[Beginning January 1, 1991, an]~~ An on-premise beer retailer licensee or its officers, managers, employees, or agents may not allow a person to bring onto the on-premise beer retailer licensee premises any alcoholic beverage for on-premise consumption or allow consumption of any such alcoholic beverage on its premises.

~~[(c) Beginning January 1, 1991, if any on-premise beer retailer licensee or any of its officers, managers, employees, or agents violates this Subsection (6):]~~

~~[(i) the commission may immediately suspend or revoke the on-premise beer retailer license and the on-premise beer retailer licensee is subject to possible criminal prosecution under Chapter 12, Criminal Offenses; and]~~

~~[(ii) the local authority may immediately suspend or revoke the business license of the on-premise beer retailer licensee.]~~

(8) An on-premise beer retailer licensee and its employees may not permit a patron to carry from the premises an open container that:

(a) is used primarily for drinking purposes; and

(b) contains any alcoholic beverage.

~~[(7) Minors] (9) (a) Except as provided in Subsection (9)(b), a minor may not be:~~

~~(i) employed by or be on the premises of an on-premise beer retailer licensee to sell ~~[or]~~, dispense, or otherwise furnish beer~~[- Minors may not be employed by or be]; or~~~~

~~(ii) on the premises of any tavern.~~

(b) Notwithstanding Subsection (9)(a), a minor may be employed to enter the sale at a cash register or other sales recording device on the premises of an on-premise beer retailer that is not a tavern.

~~[(8)] (10) An employee of a licensee, while on duty, may not:~~

~~(a) consume an alcoholic beverage; or~~

~~(b) be ~~[under the influence of alcoholic beverages]~~ intoxicated.~~

~~[(9)] (11) Each on-premise beer retailer licensee shall display in a prominent place in the on-premise beer retailer licensee:~~

~~(a) the on-premise beer retailer license that is issued by the department; and~~

~~(b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."~~

~~[(10)] (12) The following acts or conduct in an on-premise beer retailer outlet licensed under this part are considered contrary to the public welfare and morals, and are prohibited upon~~

the premises:

(a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;

(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing as described in Subsection ~~[(10)]~~ (12)(a);

(c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;

(d) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this section;

(f) permitting any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus; or

(g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:

(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts that are prohibited by Utah law;

(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;

(iii) scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described in this section; or

(iv) scenes wherein a person displays the vulva or the anus or the genitals.

~~[(11)]~~ (13) Nothing in Subsection ~~[(10)]~~ (12) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection ~~[(10)]~~ (12).

~~[(12) An on-premise beer retailer licensee may not engage in or permit any form of gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter 10;~~



Part 11, ~~Gambling, on the premises of the on-premise beer retailer licensee.~~]

~~[(13)]~~ (14) (a) Although live entertainment is permitted on the premises of an on-premise beer retailer licensee, a licensee may not permit any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.

(b) Nothing in Subsection ~~[(13)]~~ (14)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection ~~[(13)]~~ (14)(a).

(15) An on-premise beer retailer licensee may not engage in or permit any form of gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling, on the premises of the on-premise beer retailer licensee.

~~[(14)]~~ (16) (a) Each on-premise beer retailer licensee shall maintain accounting and other records and documents as the department may require.

(b) Any on-premise beer retailer licensee or person acting for the on-premise beer retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the on-premise beer retailer licensee required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission or the department, or any of their officials or employees, is subject to the immediate suspension or revocation of the on-premise beer retailer license and possible criminal prosecution under Chapter 12, Criminal Offenses.

~~[(15)]~~ (17) ~~[There shall be no transfer of an]~~ An on-premise beer retailer license may not be transferred from one location to another, without prior written approval of the commission.

~~[(16)]~~ (18) (a) ~~[A person having been granted an]~~ An on-premise beer retailer [license] licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any person, whether for monetary gain or not.

(b) An on-premise beer retailer license has no monetary value for the purpose of any type of disposition.

Section 82. Section **32A-10-301** is enacted to read:

**Part 3. Temporary Special Event Beer Permits**

**32A-10-301. Commission's power to grant temporary special event beer permits --**  
**Limitations.**

(1) Beginning May 5, 2003, before any person may sell beer at retail for on-premise consumption at a temporary special event that does not last longer than 30 days, the person shall first obtain:

(a) a temporary special event beer permit from the commission as provided in this part;  
and

(b) (i) a temporary special event beer permit issued by the local authority as provided in Section 32A-10-101; or

(ii) other written consent of the local authority to sell beer at retail for on-premise consumption at a temporary special event.

(2) The commission may issue a temporary special event beer permit for the purpose of allowing the sale of beer for on-premise consumption at a temporary special event that does not last longer than 30 days.

(3) (a) The temporary special event beer permit shall authorize, for a period not to exceed 30 days, the storage, sale, service, and consumption of beer at the temporary special event.

(b) The sale of beer under a series of permits issued to the same person may not exceed a total of 90 days in any one calendar year.

(c) A temporary special event beer permit may not be issued or obtained for the purpose of avoiding or attempting to avoid the requirement of state licensing under Part 2, On-Premise Beer Retailer License.

(4) (a) The 600 foot and 200 foot proximity limitations to educational, religious, and recreational facilities that are applicable to state stores, package agencies, and licensees, do not apply to a temporary special event beer permit.

(b) Notwithstanding Subsection (4)(a), nothing in this section prevents the commission from considering the proximity of any educational, religious, or recreational facility, or any other

relevant factor in deciding whether to grant a temporary special event beer permit.

Section 83. Section **32A-10-302** is enacted to read:

**32A-10-302. Application requirements.**

(1) (a) A person seeking a temporary special event beer permit shall file a written application with the department in a form prescribed by the department.

(b) The application required by this section shall be accompanied by:

(i) a permit fee of \$75, which:

(A) is refundable if a permit is not granted; and

(B) shall be returned to the applicant with the application if the permit is not granted;

(ii) (A) written consent of the local authority; or

(B) a temporary permit granted by the local authority under Section 32A-10-101;

(iii) a bond as specified by Section 32A-10-305;

(iv) the times, dates, location, estimated attendance, nature, and purpose of the temporary special event;

(v) a description or floor plan designating:

(A) the area in which the applicant proposes that beer be stored;

(B) the site from which the applicant proposes that beer be sold or served; and

(C) the area in which the applicant proposes that beer be allowed to be consumed;

(vi) a statement of the purpose of the temporary special event;

(vii) a signed consent form stating that authorized representatives of the commission, department, or any law enforcement officers will have unrestricted right to enter the premises during the temporary special event;

(viii) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and

(ix) any other information the commission or department may require.

(2) If the applicant is a county, municipality, or other political subdivision, it need not meet the requirements of Subsection (1)(b)(i), (ii), or (iii).

Section 84. Section **32A-10-303** is enacted to read:

**32A-10-303. Qualifications.**

(1) (a) The commission may not grant a temporary special event beer permit to any person who has been convicted of:

(i) a felony under any federal or state law;

(ii) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

(iii) any crime involving moral turpitude; or

(iv) on two or more occasions within the five years before the day on which the permit is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of an offense described in Subsection (1)(a):

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(vii) a member who owns at least 20% of the applicant limited liability company.

(c) The proscription under Subsection (1)(a) applies if any person employed to act in a supervisory or managerial capacity for the temporary special event beer permittee has been convicted of any offense as provided in Subsection (1)(a).

(2) The commission may immediately suspend or revoke a temporary special event permit if after the day on which the permit is granted, a person described in Subsection (1)(a), (b), or (c):

(a) is found to have been convicted of any offense described in Subsection (1)(a) prior to the permit being granted; or

(b) on or after the day on which the permit is granted:

(i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) The director may take emergency action by immediately revoking the temporary special event permit according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, if a person described in Subsection (1)(a), (b), or (c):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not grant a temporary special event beer permit to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant a temporary special event permit to an applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of an applicant corporation, or member who owns at least 20% of an applicant limited liability company is or was:

(A) a partner or managing agent of any partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(b) An applicant that is a partnership, corporation, or limited liability company may not be granted a temporary special event permit if any of the following had any type of license, agency, or permit issued under this title revoked while acting in their individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted a temporary special event permit if that person was:

(i) a partner or managing agent of a partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of the limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(5) (a) A minor may not be:

(i) granted a temporary special event permit; or

(ii) employed by a temporary special event permittee to handle alcoholic beverages.

(b) The commission may not grant a temporary special event permit to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

(6) If any person to whom a permit has been issued under this part no longer possesses the qualifications required by this title for obtaining that permit, the commission may suspend or revoke that permit.

Section 85. Section **32A-10-304** is enacted to read:

**32A-10-304. Commission and department duties before granting permits.**

(1) (a) Before any temporary special event beer permit may be granted by the commission, the department shall conduct an investigation, gather information, and make recommendations to the commission as to whether or not a permit should be granted.

(b) The department shall forward the information and recommendations described in Subsection (1)(a) to the commission to aid in the commission's determination.

(2) Before issuing any temporary special event beer permit, the commission shall:

(a) determine that the applicant has complied with all basic qualifications and requirements as provided by Sections 32A-10-302 and 32A-10-303;

(b) determine that the application is complete;

(c) consider the times, dates, location, estimated attendance, and purpose of the temporary special event;

(d) to minimize the risk of minors being sold or furnished alcohol or adults being overserved alcohol at the temporary special event, assess the adequacy of control measures for:

(i) a large-scale public event where the estimated attendance is in excess of 1,000 people;

or

(ii) an outdoor public event; and

(e) consider any other factors or circumstances the commission considers necessary.

(3) Upon commission approval of any application and upon issuance of a temporary special event beer permit, the department shall send copies of the approved application and the permit to state and local law enforcement authorities before the scheduled event.

Section 86. Section **32A-10-305** is enacted to read:

**32A-10-305. Bond.**

(1) Any applicant for a temporary special event beer permit shall post a cash or corporate surety bond in the penal sum of \$500 payable to the department, which the applicant has procured and must maintain for so long as the permit is in effect.

(2) The bond shall be in a form approved by the attorney general, conditioned upon the permittee's faithful compliance with this title and the rules of the commission.

(3) (a) No part of any cash or corporate bond so posted may be withdrawn during the period the permit is in effect.

(b) A bond filed by the permittee may be forfeited if the permit is revoked.

Section 87. Section **32A-10-306** is enacted to read:

**32A-10-306. Operational restrictions.**

(1) (a) Any person granted a temporary special event beer permit and any person involved in the storage, sale, or service of beer at the event for which a temporary special event the permit is issued, shall abide by this title, the rules of the commission, and the special conditions and requirements provided in this section.

(b) Failure to comply as provided in Subsection (1)(a):

(i) may result in:

(A) an immediate revocation of the permit;

(B) forfeiture of the surety bond; and

(C) immediate seizure of all beer present at the event; and

(ii) disqualifies the organization from applying for a temporary special event beer permit under this part or a single event permit under Chapter 7, Single Event Permits, for a period of three years from the date of revocation of the temporary special event permit.



(c) Any beer seized under this Subsection (1) shall be returned to the organization after the event if forfeiture proceedings are not instituted under Section 32A-13-103.

(2) Special conditions and requirements for temporary special event beer permittees include the following:

(a) (i) All persons involved in the storage, sale, or service of beer at the temporary special event do so under the supervision and direction of the permittee.

(ii) All persons involved in the sale or service of beer at the temporary special event may not, while on duty:

(A) consume an alcoholic beverage; or

(B) be intoxicated.

(b) (i) All beer stored, sold, served, and consumed at the temporary special event shall be purchased by the permittee from a licensed beer wholesaler or retailer.

(ii) All beer is considered under the control of the permittee during the temporary special event.

(iii) An attendee of the temporary special event may not bring any alcoholic beverages onto the premises of the temporary special event.

(c) Each permittee shall post in a prominent place in the area in which beer is being sold, served, and consumed:

(i) a copy of the permit; and

(ii) a list of the operational restrictions and requirements of temporary special event beer permittees set forth in this section.

(d) Beer purchased for a temporary special event may not be stored, sold, served, or consumed in any location other than that described in the application and designated on the temporary special event permit unless the permittee first applies for and receives approval from the commission for a change of location.

(e) Beer may be sold in any size container not exceeding two liters and on draft.

(f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed between the hours of 1 a.m. and 10 a.m.

(ii) This Subsection (2)(f) does not preclude a local authority from being more restrictive with respect to the hours of sale, service, or consumption of beer at a temporary special event.

(g) Beer may not be sold, served, or otherwise furnished to any:

(i) minor;

(ii) person actually, apparently, or obviously intoxicated;

(iii) known habitual drunkard; or

(iv) known interdicted person.

(h) (i) Beer may not be sold at less than the cost of the beer to the permittee.

(ii) Beer may not be sold at a price that encourages over consumption or intoxication.

(iii) Beer may not be sold at a special or reduced price for only certain hours of the day of the permitted event.

(iv) The sale or service of more than one beer beverage for the price of a single beer beverage is prohibited.

(v) The permittee may not engage in a public promotion involving or offering free beer to the general public.

(i) The permittee and its employees may not permit an attendee to carry from the premises an open container that:

(i) is used for drinking purposes; and

(ii) contains any alcoholic beverage.

(j) A minor may not sell, serve, dispense, or handle any beer at a temporary special event.

(3) The following acts or conduct at an event for which a permit is issued under this part are considered contrary to the public welfare and morals, and are prohibited upon the premises:

(a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;

(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);

(c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;

(d) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Subsection (3);

(f) permitting any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus; or

(g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:

(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts prohibited by Utah law;

(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;

(iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this Subsection (3); or

(iv) scenes wherein a person displays the vulva, anus, or the genitals.

(4) Nothing in Subsection (3) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (3).

(5) (a) Although live entertainment is permitted at the event for which a permit has been issued under this chapter, a permittee may not allow any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.

(b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (5)(a).

(6) The permittee shall maintain an expense and revenue ledger or record showing:

(a) expenditures made for beer; and

(b) the revenue from sale of beer.

(7) A temporary special event beer permit may not be transferred.

(8) A temporary special event beer permittee may not engage in or allow any form of gambling, or have any video gaming device as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the premises serviced by the permittee.

Section 88. Section **32A-11-101** is amended to read:

**32A-11-101. Commission's power to issue licenses.**

(1) (a) The commission may issue beer wholesaling licenses for the import, purchase, storage, sale, and distribution of beer.

(b) The license entitles the licensee to:

(i) purchase and import beer into the state;

(ii) store beer in approved warehouses; and

(iii) sell and distribute beer directly to:

(A) licensed beer retailers; and

(B) holders of temporary retail beer permits [~~or licenses~~] issued [~~by any local authority~~] by the commission for temporary special events [~~that do not last longer than 30 days~~] pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits.

(2) (a) A person may not import, purchase, store, sell, or distribute beer to retailers or act in any way as a beer wholesaler unless the person has been issued a beer wholesaler's license by the commission.

(b) Nothing in this section precludes a small brewer from selling beer it has manufactured directly to a licensed beer retailer.

(c) Violation of this subsection is a class A misdemeanor.

(3) The commission may prescribe by policy, directive, or rule, consistent with this title, the general operational requirements of wholesaling licensees relating to physical facilities, conditions of purchase, storage, sale, importation, distribution, or transportation of beer within the state.

Section 89. Section **32A-11-102** is amended to read:

**32A-11-102. Application and renewal requirements.**

(1) A person seeking a beer wholesaling license under this chapter shall file a written application with the department, in a form prescribed by the department. ~~[#]~~ The application shall be accompanied by:

- (a) a nonrefundable ~~[\$100]~~ \$250 application fee;
- (b) an initial license fee of ~~[\$300]~~ \$2,000, which is refundable if a license is not granted;
- (c) written consent of the local authority;
- (d) a copy of the applicant's current business license;
- (e) a bond as specified in Section 32A-11-105;
- (f) evidence that the applicant is carrying public liability insurance in an amount and form satisfactory to the department;
- (g) a signed consent form stating that the licensee will permit any authorized representative of the commission, department, or any peace officer unrestricted right to enter the licensed premises;
- (h) a statement of the brands of beer the applicant is authorized to sell and distribute;
- (i) a statement of all geographical areas in which the applicant is authorized to sell and distribute beer; ~~[and]~~
- (j) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the beer wholesaling license application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and

~~[(j)]~~ (k) any other documents and evidence as the department may direct.

~~[(2) Each application shall be signed and verified by oath or affirmation by an executive officer or any person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of said authority.]~~

~~[(3)]~~ (2) (a) (i) All beer wholesaling licenses expire on December 31 of each year.

(ii) Persons desiring to renew their beer wholesaling license shall submit ~~[a renewal fee~~

of \$300 and a completed renewal application to the department] by no later than November 30 of the year the license expires[-];

(A) a completed renewal application to the department; and

(B) a renewal fee in the following amount:

<u>Case Sales in Previous License Year for the Licensee</u>	<u>Renewal Fee</u>
<u>under 500,000 cases</u>	<u>\$1,000</u>
<u>equals or exceeds 500,000 cases but less than 1,000,000 cases</u>	<u>\$2,000</u>
<u>equals or exceeds 1,000,000 cases</u>	<u>\$3,000.</u>

(iii) Failure to meet the renewal requirements results in an automatic forfeiture of the license effective on the date the existing license expires.

(iv) Renewal applications shall be in a form prescribed by the department.

(b) The annual renewal fee prescribed in this Subsection [~~(3)~~] (2) is independent of any like license fee which may be assessed by the local authority of the city or county in which the wholesaler's warehouse is located. Any local fees may not exceed \$300. Payment of local fees shall be made directly to the local authority assessing them.

~~[(4) If any]~~ (3) To ensure compliance with Subsection 32A-11-106(1)(g), the commission may suspend or revoke a beer wholesaling license if a beer wholesaling licensee does not immediately notify the department of any change in:

(a) ownership of the licensee[, or in the case of];

(b) for a [Utah] corporate owner [of any change in], the:

(i) corporate officers or directors[~~, the commission may suspend or revoke that license.];~~

or

(ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(c) for a limited liability company:

(i) managers; or

(ii) members owning at least 20% of the limited liability company.

Section 90. Section **32A-11-103** is amended to read:

**32A-11-103. Qualifications.**

(1) (a) The commission may not issue a beer wholesaling license to any person who has been convicted of:

(i) ~~convicted of~~ a felony under any federal or state law;

(ii) ~~convicted of~~ any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic products; ~~or~~

(iii) ~~convicted of~~ any crime involving moral turpitude~~[-]; or~~

(iv) on two or more occasions within the five years before the day on which the license is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership ~~or~~, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of any offense described in Subsection (1)(a):

(i) a partner[-];

(ii) a managing agent[-];

(iii) a manager;

(iv) an officer[-];

(v) a director[-or];

(vi) a stockholder[-] who holds at least 20% of the total issued and outstanding stock of [an] the applicant corporation [has been convicted of any offense as provided in this subsection.];  
or

(vii) a member who owns at least 20% of the applicant limited liability company.

(c) The proscription under Subsection (1)(a) applies if any person employed to act in a supervisory or managerial capacity for the wholesaler has been convicted of any offense as provided in Subsection (1)(a).

(2) ~~(a) If any employee or proprietor of a licensee is convicted of any offense provided in Subsection (1), the]~~ The commission may [take emergency action by] immediately [revoking

~~the permit according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act.] suspend or revoke a beer wholesaling license if after the day on which the beer wholesaling license is granted, a person described in Subsection (1)(a), (b), or (c):~~

~~[(b) In the case of a partnership or corporation that has been granted a beer wholesaling license, if any partner, managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation is convicted of any offense provided in Subsection (1), the commission may take emergency action by immediately revoking the license according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act.]~~

~~[(3) Upon the arrest of any licensee on any charge set forth in Subsection (1), the]~~

~~(a) is found to have been convicted of any offense described in Subsection (1)(a) prior to the license being granted; or~~

~~(b) on or after the day on which the license is granted:~~

~~(i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or~~

~~(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and~~

~~(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).~~

~~(3) The director may take emergency action by immediately suspending the operation of [the licensee] a beer wholesaling license according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated[=] if a person described in Subsection (1)(a), (b), or (c):~~

~~(a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii); or~~

~~(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and~~

~~(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested~~



on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not grant a beer wholesaling license to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant a beer wholesaling license to an applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation, or member who owns at least 20% of the applicant limited liability company is or was:

(A) a partner or managing agent of any partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(b) An applicant that is a partnership, corporation, or limited liability company may not be granted a beer wholesaling license if any of the following had any type of license, agency, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) a partner or managing agent of the applicant partnership;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted a beer wholesaling license if that person was:

(i) a partner or managing agent of a partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of the limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

~~[(4)]~~ (5) (a) A minor may not be:

(i) granted a beer wholesaling license; or ~~[be]~~

(ii) employed by a licensee to handle beer.

(b) The commission may not grant a beer wholesaling license to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the applicant partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) a manager or member who owns at least 20% of the applicant limited liability company.

~~[(5)]~~ (6) (a) A beer wholesaler may not be issued, directly or indirectly, nor hold, through any wholly or partially owned subsidiaries or otherwise, a brewery license or a retail beer license simultaneously with a wholesaling license.

(b) A retail beer licensee may not be issued, directly or indirectly, nor hold, through any wholly or partially owned subsidiaries or otherwise, a wholesaling license.

~~[(6)]~~ (7) The commission may not grant a beer wholesaling license to any person who has not met any applicable federal requirements for beer wholesaling.

~~[(7)]~~ (8) If any person to whom a license has been issued under this chapter no longer possesses the qualifications required by this title for obtaining that license, the commission may suspend or revoke that license.

Section 91. Section **32A-11-106** is amended to read:

**32A-11-106. Operational restrictions.**

~~[(1) Any]~~ Each person ~~[who is]~~ granted a beer wholesaling license, and the employees and management personnel of the licensee, shall ~~[abide by]~~ comply with the following conditions and requirements~~[-]~~. Failure to comply may result in a suspension or revocation of the beer wholesaling license or other disciplinary action taken against individual employees or management personnel of the licensee.

~~[(a)]~~ (1) A licensee may not wholesale any beer manufactured within the state by a brewer who is not licensed by the commission as a manufacturing licensee.

~~[(b)]~~ (2) A licensee may not wholesale any beer manufactured out of state by a brewer who has not obtained a certificate of approval from the department.

~~[(c)]~~ (3) (a) A licensee may not sell or distribute beer to any person within the state except licensed beer retailers or holders of temporary retail beer permits ~~[or licenses]~~ issued by ~~[a local authority]~~ the commission for temporary special events ~~[that do not last longer than 30 days]~~ pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits.

(b) A violation of this Subsection (3) is a class A misdemeanor.

~~[(d)]~~ (4) (a) A licensee may not sell or distribute any beer to any retailer outside of the geographic area designated on its application, except that if a licensee is temporarily unable to supply retail dealers within its authorized geographical area, the department may grant temporary authority to another licensed wholesaler who distributes the same brand in another area to supply retailers.

(b) A violation of this Subsection (4) is a class B misdemeanor.

~~[(e)]~~ (i) (5) (a) Every licensee shall own, lease, or otherwise control and maintain a warehouse facility located in this state for the receipt, storage, and further distribution of all beer sold by the licensee to any person within the state.

~~[(i)]~~ (b) A licensee may not sell beer to any person in this state, other than the department, unless the beer has first been physically removed from the vehicle used to transport the beer from the supplier to the licensee and delivered into the actual possession and control of

the licensee in its warehouse or other facility.

~~[(f)]~~ (6) Each beer wholesaling licensee shall maintain accounting and other records and documents as the department may require. Any licensee or person acting for the licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the licensee required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission or the department, or any of their officials or employees, is subject to the immediate suspension or revocation of the beer wholesaling license and possible criminal prosecution under Chapter 12, Criminal Offenses.

~~[(g)]~~ (7) A licensee may not sell, transfer, assign [or transfer its], exchange, barter, give, or attempt in any way to dispose of the beer wholesaling license to any person, whether for monetary gain or not, unless ~~[the assignment or transfer]~~ it is done:

- (a) in accordance with the commission rules; and
- (b) after written consent has been given by the commission.

~~[(h)]~~ (8) A licensee may not sell or distribute any alcoholic beverage that is not clearly labeled in a manner reasonably calculated to put the public on notice that the beverage is an alcoholic beverage. The beverage shall bear the label "alcoholic beverage" or a manufacturer's label which in common usage apprises the general public that the beverage contains alcohol.

~~[(2) Failure to comply with the provisions of Subsection (1) may result in suspension or revocation of the beer wholesaling license or other disciplinary action taken against individual employees or management personnel of the licensee.]~~

Section 92. Section **32A-11a-106** is amended to read:

**32A-11a-106. Prohibited conduct of wholesaler.**

- (1) A wholesaler may not:
- (a) induce, coerce, or attempt to induce or coerce, any retailer to engage in any illegal act or course of conduct;
  - (b) impose a requirement that is discriminatory by its terms or in the methods of enforcement as compared to requirements imposed by the wholesaler on similarly situated

retailers;

- (c) prohibit a retailer from selling the product of any other wholesaler;
- (d) fix or maintain the price at which a retailer may resell beer;
- (e) require any retailer to accept delivery of any beer or any other item that is not voluntarily ordered by the retailer;
- (f) restrict or inhibit, directly or indirectly, the right of a retailer to participate in an organization representing interests of retailers for any lawful purpose;
- (g) require a retailer to participate in or contribute to any local, regional, or national advertising fund or other promotional activity;
- (h) retaliate against a retailer that files a complaint with the department or the applicable federal agency regarding an alleged violation by the wholesaler of a state or federal law or administrative rule; and
- (i) refuse to deliver beer products carried by the wholesaler to a properly licensed retailer who resides within the wholesaler's sales territory:
  - (i) in reasonable quantities; and
  - (ii) within a reasonable time after receipt of the retailer's order.
- (2) Notwithstanding Subsection (1)(i), the wholesaler may refuse to deliver products if the refusal is due to:
  - (a) the retailer's failure to pay the wholesaler pursuant to Subsection 32A-12-603[(17)](7);
  - (b) an unforeseeable event beyond the wholesaler's control;
  - (c) a work stoppage or delay due to a strike or labor problem;
  - (d) a bona fide shortage of materials; or
  - (e) a freight embargo.

Section 93. Section **32A-12-103** is amended to read:

**32A-12-103. Criminal responsibility for conduct of another.**

In addition to Title 76, Chapter 2, Part 2, [~~of the Utah Criminal Code relating to criminal responsibility for the conduct of another~~] Criminal Responsibility for the Conduct of Another,

the following principles apply to violations of this title:

(1) If a violation of this title is committed by any person in the employ of the occupant of any premises in which the offense is committed, or by any person who is required by the occupant to be or remain in or upon the premises, or to act in any way for the occupant, the occupant is prima facie considered a party to the offense committed, and is liable as a principal offender, notwithstanding the fact that the offense was committed by a person who is not proved to have committed it under or by the direction of the occupant. Nothing in this section relieves the person actually committing the offense from liability.

(2) If a violation of this title is committed by a corporation [or], association, partnership, or limited liability company, the officer or agent of the corporation or association, partner, manager, or member of the limited liability company in charge of the premises in which the offense is committed is prima facie considered a party to the offense committed, and is personally liable to the penalties prescribed for the offense as a principal offender. Nothing in this section relieves the corporation [or], association, partnership, or limited liability company, or the person who actually committed the offense from liability.

Section 94. Section **32A-12-105** is amended to read:

**32A-12-105. Additional criminal penalties.**

In addition to the penalties provided in Title 76, Chapter 3, [~~the Utah Criminal Code~~] Penalties:

(1) Upon any defendant's conviction of any offense defined in this title, the court may also order the defendant to make restitution or pay costs in accordance with Title 77, Chapter 32A, [~~the Utah Code of Criminal Procedure~~] Defense Costs.

(2) (a) Upon a corporation's [or], association's, partnership's, or limited liability company's conviction of any offense defined in this title, and a failure of the corporation [or], partnership, association, or limited liability company to pay a fine imposed upon it, the [~~corporate~~] powers, rights, and privileges of the corporation [or], association, partnership, or limited liability company, if it is a domestic corporation [or], association, partnership, or limited liability company may be suspended or revoked, and if a foreign corporation, association,

partnership, or limited liability company, it forfeits its right to do intrastate business in this state.

(b) The department shall transmit the name of each corporation [~~or~~], association, partnership, or limited liability company to the Division of Corporations and Commercial Code, which shall immediately record the action in a manner that makes the information available to the public. The suspension, revocation, or forfeiture is effective from the time the record is made, and the certificate of the Division of Corporations and Commercial Code is prima facie evidence of the suspension, revocation, or forfeiture. Nothing contained in this section may be construed as affecting, limiting, or restricting any proceedings that otherwise may be taken for the imposition of any other punishment or the modes of enforcement or recovery of fines or penalties.

(3) Upon the conviction of any business entity required to have a business license to operate its business activities, or upon the conviction of any of its agents, employees, or officers of any offense defined in this title, with the knowledge, consent, or acquiescence of the business entity, the department shall forward a copy of the judgment of conviction to the appropriate governmental entity responsible for issuing and revoking the business licenses. That governmental entity may institute appropriate proceedings to revoke the business' license, and upon revocation, a license may not be granted to the business entity for at least one year from the date of revocation. Upon the conviction for a second or other offense, a license may not be granted for at least two years from the date of revocation.

(4) Upon conviction of any physician, pharmacist, druggist, dentist, or veterinarian of any offense defined in this title, the department shall forward a certified copy of the judgment of conviction to the [~~Department of Commerce~~] Division of Occupational and Professional Licensing. That department may institute appropriate proceedings to revoke the defendant's license, and upon revocation, a license may not be granted to the defendant by the department for at least one year from the date of revocation. Upon the defendant's conviction for a second or other offense, a license may not be granted for at least two years from the date of revocation.

Section 95. Section **32A-12-201** is amended to read:

**32A-12-201. Unlawful sale or furnishing.**

~~(1) It is unlawful for any person[, licensee, permittee, or their officers, managers, employees, or agents to keep for sale, or to directly or indirectly or upon any pretense or device, sell, offer to sell, or otherwise furnish or supply to another, any alcoholic beverage or product, except as provided by this title or the rules of the commission adopted under this title. (2) Except as otherwise provided, a manufacturer, supplier, or importer of liquor, wine, and heavy beer products, and their employees, agents, and representatives may not sell, offer to sell, solicit or canvass for orders, or otherwise furnish or supply these products to another within this state other than the department and military installations.] in the business of selling liquor, or any manufacturer, supplier, or importer of liquor, or their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold, shipped, or transported any liquor from an out-of-state location directly or indirectly into this state except to the extent authorized by this title to:~~

~~(a) the department;~~

~~(b) a military installation;~~

~~(c) a holder of a special use permit to the extent authorized by the commission in the permit; or~~

~~(d) a bonded liquor warehouse licensed by the commission to distribute and transport liquor to:~~

~~(i) the department; or~~

~~(ii) an out-of-state wholesaler or retailer.~~

~~(2) (a) It is unlawful for any person in the business of selling beer, or any manufacturer, supplier, or importer of beer, or their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold, shipped, or transported any beer from an out-of-state location directly or indirectly into this state except to the extent authorized by this title to:~~

~~(i) a licensed beer wholesaler;~~

~~(ii) a military installation; or~~

~~(iii) a holder of a special use permit to the extent authorized by the commission in the permit.~~

~~(b) Subsection (2)(a) does not preclude a small brewer that holds a certificate of approval~~



under Subsection 32A-8-101(4) from selling, shipping, or transporting beer directly to a licensed beer retailer to the extent authorized by Subsection 32A-8-401(5).

(3) (a) It is unlawful for any manufacturer, supplier, or importer of liquor in this state, or their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold, shipped, or transported any liquor directly or indirectly to any person in this state except to the extent authorized by this title to:

(i) the department;

(ii) a military installation;

(iii) a holder of a special use permit to the extent authorized by the commission in the permit; or

(iv) a bonded liquor warehouse licensed by the commission to distribute and transport liquor to:

(A) the department; or

(B) an out-of-state wholesaler or retailer.

(b) Subsection (3)(a) does not preclude a winery licensed under this title and located in this state from selling wine to persons on its winery premises:

(i) to the extent authorized by Subsection 32A-8-201(4)(c); or

(ii) under a package agency established by the commission on the winery premises.

(4) (a) It is unlawful for any manufacturer, supplier, or importer of beer in this state, or their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold, shipped, or transported any beer directly or indirectly to any person in this state except to the extent authorized by this title to:

(i) a licensed beer wholesaler;

(ii) a military installation; or

(iii) a holder of a special use permit to the extent authorized by the commission in the permit.

(b) Subsection (4)(a) does not preclude:

(i) a small brewer licensed under this title and located in this state from selling, shipping,

and transporting beer directly to a licensed beer retailer in this state to the extent authorized by Subsection 32A-8-401(5); or

(ii) a brewery licensed under this title from selling beer to persons on its manufacturing premises under Subsection 32A-8-401(4)(c).

(5) It is unlawful for any person other than a person described in Subsection (1) or (2) to sell, ship, transport, or cause to be sold, shipped, or transported any alcoholic beverage or product from an out-of-state location directly or indirectly into this state, except as otherwise provided by this title.

(6) It is unlawful for any person in this state other than a person described in Subsection (3) or (4) to sell, ship, transport, or cause to be sold, shipped, or transported any alcoholic beverage or product directly or indirectly to any other person in this state, except as otherwise provided by this title.

(7) It is unlawful for any retail licensee or permittee in this state, or their officers, managers, employees, or agents to keep for sale, or to directly or indirectly, sell, offer to sell, or otherwise furnish to another, any alcoholic beverage or product, except as otherwise provided by this title.

(8) (a) A violation of Subsection (1), (2), (3), or (4) is a third degree felony.

(b) A violation of Subsection (5) or (6) is a class B misdemeanor.

(c) A violation of Subsection (7) is a class B misdemeanor, except where otherwise provided by this title.

Section 96. Section **32A-12-203** is amended to read:

**32A-12-203. Unlawful sale or furnishing to minors.**

(1) A person may not sell, offer to sell, or otherwise furnish [~~or supply~~] any alcoholic beverage or product to any [~~person under the age of 21 years~~] minor.

(2) (a) Except as otherwise provided in Subsection (4), a person is guilty of a class B misdemeanor if that person:

(i) sells, offers to sell, or otherwise furnishes any alcoholic beverage or product to any minor; and

(ii) negligently or recklessly fails to determine whether the recipient of the alcoholic beverage or product is a minor.

(b) As used in this Subsection (2), "negligently" means with simple negligence.

~~[(2)] (3)~~ Except as otherwise provided in Subsection ~~[(3)] (4)~~, a person who ~~[knowingly]~~ sells, offers to sell, or otherwise furnishes ~~[or supplies]~~ any alcoholic beverage or product to any ~~[person under the age of 21 years]~~ minor knowing that the recipient of the alcoholic beverage or product is a minor is guilty of a class A misdemeanor.

~~[(3)] (4)~~ This section does not apply to the furnishing ~~[or supplying]~~ of an alcoholic beverage or product to a minor in accordance with this title:

(a) for medicinal purposes by:

(i) the parent or guardian of the minor; or [by]

(ii) the minor's physician or dentist[, in accordance with this title]; or

(b) as part of a church's or religious organization's religious services.

Section 97. Section **32A-12-204** is amended to read:

**32A-12-204. Unlawful sale or furnishing to intoxicated persons.**

(1) A person may not sell, offer to sell, or otherwise furnish [or supply] any alcoholic beverage or product to:

(a) any person who is actually or apparently ~~[under the influence of intoxicating alcoholic beverages or products or drugs]~~ intoxicated; or [to]

(b) a person whom the person furnishing the alcoholic beverage knew or should have known from the circumstances was ~~[under the influence of intoxicating alcoholic beverages or products or drugs]~~ actually or apparently intoxicated.

(2) (a) A person who negligently or recklessly violates Subsection (1) is guilty of a class B misdemeanor.

(b) A person who knowingly violates Subsection (1) is guilty of a class A misdemeanor.

(3) As used in Subsection (2)(a), "negligently" means with simple negligence.

Section 98. Section **32A-12-207** is amended to read:

**32A-12-207. Unlawful sale or furnishing during emergency.**

~~[(1) A person may not] During a period of emergency proclaimed by the governor to exist in an area of the state, it is unlawful for a person to sell, offer to sell, or otherwise furnish [or supply] any alcoholic product in [an] that area [during a period of emergency proclaimed by the governor to exist in the area. (2) This section does not apply if, in the judgment of the governor, the emergency does not require suspension of sale or supply of alcoholic beverages, and the emergency proclamation so provides.] if the director of the department has publicly announced and directed that alcoholic products may not be sold, offered for sale, or otherwise furnished in that area during the period of emergency.~~

Section 99. Section **32A-12-209** is amended to read:

**32A-12-209. Unlawful purchase, possession, or consumption by minors.**

(1) It is unlawful for any ~~[person under the age of 21 years]~~ minor to purchase, attempt to purchase, solicit another person to purchase, possess, or consume any alcoholic beverage or product, unless specifically authorized by this title.

(2) It is unlawful for ~~[any person under the age of 21 years to misrepresent his age, or for any other person to misrepresent the age of a minor, for]~~ the purpose of purchasing or otherwise obtaining an alcoholic beverage or product for a minor~~[-]~~ for:

(a) any minor to misrepresent the minor's age; or

(b) any other person to misrepresent the age of a minor.

(3) It is unlawful for ~~[any person under the age of 21 years]~~ a minor to possess or consume any alcoholic beverage while riding in a limousine or chartered bus.

(4) When a person who is at least 13 years old, but younger than 18 years old, is found by the court to have violated this section, the provisions regarding suspension of the driver's license under Section 78-3a-506 apply to the violation.

(5) When the court has issued an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under the provisions of Section 53-3-219.

(6) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while ~~[his]~~ the person's license is suspended pursuant to

this section, the department shall extend the suspension for an additional like period of time.

~~[(7) A violation of this section is a class B misdemeanor.]~~

Section 100. Section **32A-12-210** is amended to read:

**32A-12-210. Unlawful purchase by intoxicated persons.**

A person may not purchase any alcoholic beverage or product when ~~[he]~~ the person is ~~[under the influence of intoxicating alcoholic beverages, products, or drugs]~~ intoxicated.

Section 101. Section **32A-12-212** is amended to read:

**32A-12-212. Unlawful possession -- Exceptions.**

(1) A person may not have or possess within this state any liquor unless authorized by this title or the rules of the commission, except that:

(a) a person who clears United States Customs when entering this country may have or possess for personal consumption and not for sale or resale, a maximum of ~~[one liter]~~ two liters of liquor purchased from without the United States; ~~[or]~~

(b) a person who moves ~~[his]~~ the person's residence to this state from outside of this state may have or possess for personal consumption and not for sale or resale, any liquor previously purchased outside the state and brought into this state during the move, if:

- (i) the person first obtains department approval prior to moving the liquor into the state;
- (ii) the department affixes the official state label to the liquor; and
- (iii) the person pays the department a reasonable administrative handling fee as

determined by the commission~~[-];~~ or

(c) a person who as a beneficiary inherits as part of an estate liquor that is located outside the state, may have or possess the liquor and transport or cause the liquor to be transported into the state if:

- (i) the person first obtains department approval prior to moving the liquor into the state;
- (ii) the person provides sufficient documentation to the department to establish the

person's legal right to the liquor as a beneficiary;

(iii) the department affixes the official state label to the liquor; and

(iv) the person pays the department a reasonable administrative handling fee as

determined by the commission.

(2) (a) Approval under Subsection (1)(b) may be obtained by ~~[persons who are either]~~ a person who:

(i) is transferring ~~[their]~~ the person's permanent ~~[residences]~~ residence to this state; or  
~~[who maintain]~~

(ii) maintains separate residences both in and out of this state.

(b) A person may not obtain approval to transfer liquor under ~~[that subsection]~~

Subsection (1)(b) more than once.

Section 102. Section **32A-12-213** is amended to read:

**32A-12-213. Unlawful bringing onto premises for consumption.**

~~[(1) A person may not bring onto the premises of any licensed or unlicensed restaurant, airport lounge, licensed or unlicensed private club, on-premise beer retailer licensee, or any establishment open to the general public any alcoholic beverage for on-premises consumption, except:]~~

(1) Except as provided in Subsection (3), a person may not bring for on-premise consumption any alcoholic beverage onto the premises of any:

(a) licensed or unlicensed restaurant;

(b) licensed or unlicensed private club;

(c) airport lounge licensee;

(d) on-premise banquet licensee;

(e) on-premise beer retailer licensee;

(f) event where alcoholic beverages are sold or served under a single event permit or temporary special event beer permit issued under this title; or

(g) any establishment open to the general public.

(2) Except as provided in Subsection (3), a licensed or unlicensed restaurant or private club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer licensee, or holder of a single event permit or temporary special event beer permit issued under this title, or its officers, managers, employees, or agents may not allow a person to bring onto its premises

any alcoholic beverage for on-premise consumption or allow consumption of any such alcoholic beverage in violation of this section.

(3) (a) [a] A person may bring [~~cork-finished wines~~] bottled wine onto the premises of any restaurant liquor licensee, limited restaurant licensee, or private club [~~liquor~~] licensee and consume the wine pursuant to the applicable restrictions contained in Subsection 32A-4-106[~~(17)~~](14), 32A-4-307(13), or 32A-5-107[~~(24)~~](m), ~~as the case may be~~[(32)];

(b) a passenger of a limousine may bring onto, have, and consume any alcoholic beverage on the limousine if:

(i) the travel of the limousine begins and ends at:

(A) the residence of the passenger;

(B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(C) the temporary domicile of the passenger; and

(ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department;

(c) a passenger of a chartered bus may bring onto, have, and consume any alcoholic beverage on the chartered bus:

(i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or

(B) if the travel of the chartered bus begins and ends at:

(I) the residence of the passenger;

(II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(III) the temporary domicile of the passenger; and

(ii) the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption; and

(d) a person may bring onto any premises, have, and consume any alcoholic beverage at a privately hosted event that is not open to the general public.

[~~(2)~~] (4) Except as provided in Subsection [~~(1)~~] (3)(c)(i)(A), the consumption of alcoholic beverages in limousines and chartered buses is not allowed if the limousine or

chartered bus drops off passengers at locations from which they depart in private vehicles.

~~[(3) A licensed or unlicensed private club, licensed or unlicensed restaurant, airport lounge, or on-premise beer retailer licensee, or its officers, managers, employees, or agents may not allow a person to bring onto its premises any alcoholic beverage for on-premises consumption or allow consumption of any such alcoholic beverage in violation of this section, except as authorized in Subsection (1).]~~

~~[(4) This section does not apply to a retail licensee wine tasting, as defined in Section 32A-1-105, and as provided in Subsection 32A-12-603(20).]~~

Section 103. Section **32A-12-215** is amended to read:

**32A-12-215. Unlawful storage.**

~~[(1)]~~ It is unlawful for any person to store liquor in any establishment that is authorized to sell beer for on-premise consumption but is not licensed by the commission to sell liquor.

~~[(2) A violation of this section is a class B misdemeanor.]~~

Section 104. Section **32A-12-216** is amended to read:

**32A-12-216. Unlawful permitting of intoxication.**

~~[(1) The offense of intoxication shall be defined and punished in accordance with Section 76-9-701 of the Utah Criminal Code.]~~

~~[(2)]~~ (1) A person may not permit any other person to become intoxicated~~[, as defined in Section 76-9-701,]~~ or any intoxicated person to consume any alcoholic beverage in:

(a) any premises of which the person is the owner, tenant, or occupant~~;~~; or

(b) in any chartered bus or limousine of which the person is the owner or operator.

~~[(3)]~~ (2) A violation of Subsection ~~[(2)]~~ (1) is ~~[an infraction]~~ a class C misdemeanor.

Section 105. Section **32A-12-218** is amended to read:

**32A-12-218. Unlawful labeling or lack of label.**

(1) ~~[It]~~ Unless otherwise provided by this title or the rules of the commission, it is unlawful for any person to possess any liquor unless ~~[it]~~:

(a) the liquor is contained in its original package; and ~~[unless]~~

(b) the package has affixed to it the official commission label and markings as required



by this title and the rules of the commission[~~; unless otherwise provided by this title or the rules of the commission~~].

~~[(2) This section does not apply to any person holding a public service permit that allows service of liquor on railroads, airlines, or other public conveyances.]~~

(2) Unless authorized by the department, it is unlawful for any person to be in possession of or use an official commission label, marking, or equipment that is used by the department, a state store, or a package agency to label or mark original liquor bottles or packages.

(3) A violation of Subsection (2) is a third degree felony.

Section 106. Section **32A-12-222** is enacted to read:

**32A-12-222. Unlawful dispensing.**

(1) For purposes of this section:

(a) "primary spirituous liquor" means the main distilled spirit in a beverage; and

(b) "primary spirituous liquor" does not include any secondary alcoholic product used as flavorings in conjunction with the primary distilled spirit in the beverage.

(2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous liquor for consumption on the licensed premises, or any officer, manager, employee, or agent of the licensee may not:

(a) sell, serve, dispense, or otherwise furnish any primary spirituous liquor to any person on the licensed premises except in a quantity that does not exceed one ounce per beverage dispensed through a calibrated metered dispensing system approved by the department;

(b) sell, serve, dispense, or otherwise furnish more than a total of 1.75 ounces of spirituous liquors as secondary flavoring ingredients per beverage;

(c) allow any person on the licensed premises to have more than two alcoholic beverages containing spirituous liquor at a time; or

(d) allow any person on the licensed premises to have more than a total of 2.75 ounces of spirituous liquor at a time.

(3) Any of the following or an officer, manager, employee, or agent of the following may not allow any person on the premises of the following to have more than one spirituous liquor

beverage at a time:

- (a) a restaurant liquor licensee;
  - (b) limited restaurant licensee;
  - (c) an on-premise banquet licensee; or
  - (d) a single event permittee.
- (4) A violation of this section is a class C misdemeanor.

Section 107. Section **32A-12-301** is amended to read:

**32A-12-301. Operating without a license or permit.**

[~~(1)~~] A person may not operate a restaurant, airport lounge, private club, on-premise beer retailer outlet, or similar establishment that allows patrons, customers, members, guests, visitors, or other persons to purchase or consume alcoholic beverages on the premises, except as provided by this title or the rules of the commission.

[~~(2) A violation of this section is a class B misdemeanor.~~]

Section 108. Section **32A-12-305** is amended to read:

**32A-12-305. Obstructing an officer making a search or an official proceeding or investigation.**

(1) A person in or having charge of any premises may not refuse or fail to admit to the premises or obstruct the entry of any member of the commission, authorized representative of the commission or department, or any law enforcement officer who demands entry when acting under this title.

(2) A person in or having charge of any premises may not interfere with any of the following who is conducting an investigation under this title at the premises:

- (a) a member of the commission;
- (b) an authorized representative of the commission or department; or
- (c) any law enforcement officer.

[~~(2)~~] (3) A person is guilty of a second degree felony if, believing that an official proceeding or investigation is pending or about to be instituted under this title, that person:

- (a) alters, destroys, conceals, or removes any writing or record with a purpose to impair

its verity or availability in the proceeding or investigation; or

(b) makes, presents, or uses anything that the person knows to be false with a purpose to deceive any commissioner, department official or employee, law enforcement official, or other person who may be engaged in a proceeding or investigation under this title.

Section 109. Section **32A-12-306** is amended to read:

**32A-12-306. Conflicting interests.**

(1) A member of the commission, the department director, or ~~[an]~~ any employee of the department may not be directly or indirectly interested or engaged in any other business or undertaking dealing in alcoholic products, whether as owner, part owner, partner, member of syndicate, shareholder, agent, or employee and whether for the member's own benefit or in a fiduciary capacity for some other person or entity.

(2) A member of the commission, the department director, or ~~[an]~~ any employee of the department may not enter into or participate in any business transaction as a partner, co-owner, joint venturer, or shareholder with any agent, representative, employee, or officer of any supplier of alcoholic products to the department.

(3) The following are governed by Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act:

(a) a member of the commission;

(b) the department director; or

(c) any employee of the department.

~~[(3)]~~ (4) This section does not prevent the purchase of alcoholic products by any commission member, the department director, or any employee of the department as authorized by this title.

Section 110. Section **32A-12-307** is amended to read:

**32A-12-307. Interfering with suppliers.**

A member of the commission, the department director, or an employee of the department may not directly or indirectly participate in any manner, by recommendation or otherwise, in the appointment, employment, or termination of appointment or employment of any agent,

representative, employee, or officer of any manufacturer, supplier, or importer of liquor, wine, or heavy beer to the department except to determine qualifications for licensing under Chapter 8, Part 5, Local Industry Representative Licenses, and to enforce compliance with this title.

Section 111. Section **32A-12-308** is amended to read:

**32A-12-308. Offering or soliciting bribes or gifts.**

(1) A person~~[, association, or corporation]~~ having sold, selling, or offering any alcoholic product for sale to the commission or department may not offer, make, tender, or in any way deliver or transfer any bribe, gift as defined in Section 67-16-5, or share of profits to:

- (a) any commissioner~~[-];~~;
- (b) the department director~~[-];~~;
- (c) any department employee~~[-, officer, or agent,];~~ or
- (d) any law enforcement officer responsible for the enforcement of this title.

(2) A commissioner, the department director, any department employee, ~~[officer, or agent,]~~ or any law enforcement officer responsible for the enforcement of this title may not knowingly solicit, receive, accept, take, or seek, directly or indirectly, any commission, ~~[remuneration]~~ compensation as defined in Section 67-16-3, gift as defined in Section 67-16-5, or loan whatsoever from any person, association, or corporation having sold, selling, or offering any alcoholic product for sale.

(3) A violation of this section is ~~[a third degree felony]~~ punishable under the provisions of Section 67-16-12.

~~[(4) No other provision of law supersedes this section.]~~

Section 112. Section **32A-12-401** is amended to read:

**32A-12-401. Advertising prohibited -- Exceptions.**

- (1) The advertising of liquor by the department is prohibited, except:
- (a) the department may provide for an appropriate sign in the window or on the front of a state store or package agency denoting that it is a state authorized liquor outlet;
  - (b) the department may provide printed price lists to the public; and
  - (c) the department may authorize the use of price posting and floor stacking of liquor

within state stores.

~~[(2) The advertising or use of any means or media to induce persons to buy liquor is prohibited, except:]~~

~~[(a) a restaurant licensee, an airport lounge licensee, a manufacturing licensee, or a private club licensee may display a sign on the front of, in the window of, and inside its premises stating "Department of Alcoholic Beverage Control Licensee," "DABC Licensee," or "State Liquor Licensee" in a form approved by the department;]~~

~~[(b) a restaurant licensee may use the designation "Department of Alcoholic Beverage Control Licensee," "DABC Licensee," or "State Liquor Licensee" in magazines, newspapers, telephone book advertising pages, and other advertising in a nonbold 10-point type face;]~~

~~[(c) a permittee may use the designation "Department of Alcoholic Beverage Control Permittee," "DABC Permittee," or "State Liquor Permittee" in a form approved by the department when informing the public or its invited guests about the event or service for which the permit was obtained;]~~

~~[(d) a restaurant licensee may advertise liquor availability in menus only to the extent authorized in Chapter 4;]~~

~~[(e) a hotel may advise its guests of liquor availability at its outlets in informational materials; and]~~

~~[(f) as otherwise authorized by this title or the rules of the commission.]~~

~~[(3)] (2) (a) The [advertising of] department may not advertise alcoholic beverages on billboards [is prohibited. This prohibition may not be construed to prevent the use of temporary advertising methods to publicly recognize the sponsorship of a single sporting or other event by corporations that manufacture or sell alcoholic beverages, so long as this recognition does not overtly promote the consumption of alcoholic beverages contrary to the purposes of this title, and such advertising methods and the duration of the advertising are approved in advance of the event by the commission].~~

(b) A package agency may not advertise alcoholic beverages on billboards except to the extent allowed by the commission by rule.

~~[(4)] (3) (a)~~ The department may not display [of] liquor or price lists in windows or showcases visible to passersby [is prohibited].

~~[(5)]~~ The advertising of beer is permitted to the extent authorized by commission rule and not inconsistent with Subsection (3).]

(b) A package agency may not display liquor or price lists in windows or showcases visible to passersby except to the extent allowed by the commission by rule.

(4) Except to the extent prohibited by this title, the advertising of alcoholic beverages is allowed under guidelines established by the commission by rule.

~~[(6)] (5)~~ The advertising or use of any means or media to offer alcoholic beverages to the general public without charge is prohibited.

Section 113. Section **32A-12-501** is amended to read:

**32A-12-501. Disposition of liquor items shipped to the department.**

(1) All liquor items received by the department from suppliers~~[, other than as samples or as items not specifically listed on department purchase orders,]~~ shall be handled in accordance with and subject to Subsection 32A-12-603~~[(3)(j)].~~(4)(c)(ix), except for:

(a) a sample; or

(b) an item not specifically listed on a department purchase order.

(2) Funds of the department may not be used to pay freight or charges on samples or any liquor items:

(a) shipped to the department by suppliers; and

(b) not listed on its purchase orders.

Section 114. Section **32A-12-504** is amended to read:

**32A-12-504. Unlawful transportation.**

It is unlawful for any person, including a motor carrier, or any officer, agent, or employee of a motor carrier, ~~[or any other person,]~~ to order or purchase any alcoholic product or to cause any alcoholic product to be shipped, carried, or transported into this state, or from one place to another within this state~~[- when the alcoholic product is intended by any interested person to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in~~

~~violation of the laws of this state]~~ except as otherwise authorized by this title.

Section 115. Section **32A-12-505** is amended to read:

**32A-12-505. Lawful transportation.**

Nothing contained in Sections 32A-12-503 and 32A-12-504 prohibits any carrier from:

(1) transporting [~~beer~~] alcoholic products in the course of export from the state[~~;~~]; or  
[~~from~~]

(2) transporting [~~liquor~~] alcoholic products across any part of this state while in transit pursuant to a bona fide consignment of the [~~liquor~~] alcoholic products to a person outside of this state.

Section 116. Section **32A-12-601** is amended to read:

**32A-12-601. Definitions.**

[~~For purposes of~~] As used in this part:

(1) (a) For purposes of Section 32A-12-602, "exclusion" is as defined in 27 C.F.R.

Sections 8.51 through 8.54.

(b) For purposes of Section 32A-12-603, "exclusion" is as defined in 27 C.F.R. Sections 8.151 through 8.153.

[~~(1)~~] (2) (a) "Industry member" means an alcoholic beverage manufacturer, producer, supplier, importer, wholesaler, bottler, or warehouse and bottler, or any of its affiliates, subsidiaries, officers, directors, partners, agents, employees, or representatives.

(b) "Industry member" does not include the commission or the department or any of its officers or employees.

[~~(2)~~] (3) "Retailer" means the holder of an alcoholic beverage license or permit issued by the commission or by local authority to allow the holder to engage in the sale of alcoholic beverages to consumers whether for consumption on or off the premises or any of the holder's, agents, officers, directors, shareholders, partners, or employees.

Section 117. Section **32A-12-602** is amended to read:

**32A-12-602. Exclusive outlets.**

(1) It is unlawful for any industry member, directly or indirectly or through an affiliate, to

require, by agreement or otherwise, that the department or a retailer purchase any alcoholic beverage products from the industry member or the department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons.

(2) (a) Subsection (1) applies only to a transaction between:

(i) one or more industry members; and

(ii) (A) the department; or

(B) one or more retailers.

(b) Subsection (1) does not apply to a transaction between two or more industry members including between a manufacturer and a wholesaler.

~~[(2) This prohibition]~~ (3) Subsection (1) includes purchases coerced by industry members through acts or threats of physical or economic harm, as well as voluntary industry member-retailer purchase agreements.

(4) (a) Subsection (1) includes any contract or agreement, written or unwritten, that has the effect of requiring the department or retailer to purchase alcoholic beverages from the industry member beyond a single sales transaction.

(b) Examples of a contract described in Subsection (4)(a) include:

(i) an advertising contract between an industry member and a retailer with the express or implied requirement of the purchase of the advertiser's products; or

(ii) a sales contract awarded on a competitive bid basis that has the effect of prohibiting the department or retailer from purchasing from other industry members by:

(A) requiring that the retailer purchase a product or line of products exclusively from the industry member for the period of the agreement; or

(B) requiring that the retailer purchase a specific or minimum quantity during the period of the agreement.

(5) (a) Subsection (1) includes any contract, agreement, or other arrangement between an industry member and a third party nonretailer that requires the department or a retailer to purchase the industry member's products to the exclusion in whole or in part of any alcoholic beverage products sold or offered for sale by other persons.



(b) This Subsection (5) applies whether the contract, agreement, or other arrangement originates with the industry member or the third party.

(c) Examples of a contract, agreement, or other arrangement described in this Subsection (5) include:

(i) a contract, agreement, or arrangement:

(A) with a third party such as a ball club or municipal or private corporation that is not a retailer;

(B) under which the third party leases the concession rights and is able to control the purchasing decisions of a retailer; and

(C) that requires the retailer to purchase the industry member's products to the exclusion in whole or in part of any alcoholic beverage products sold or offered for sale by other persons;  
or

(ii) a contract, agreement, or arrangement with a third party nonretailer that in return requires a retailer to purchase the industry member's products to the exclusion in whole or in part of any alcoholic beverage products sold or offered for sale by other persons in return for which the third party provides a service or other thing of value such as:

(A) sponsoring radio or television broadcasting;

(B) paying for advertising; or

(C) providing other services or things of value.

Section 118. Section **32A-12-603** is amended to read:

**32A-12-603. Tied house -- Prohibitions.**

(1) (a) It is unlawful for any industry member, directly or indirectly or through an affiliate, to induce~~[, through any of the following means,]~~ any retailer to purchase any alcoholic beverages from the industry member or from the department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons~~[-(†)]~~ by acquiring or holding any interest in any ~~[retailer's]~~ license with respect to the premises of a retailer, except where the license is held by a retailer that is completely owned by the industry member~~[-or]~~.

~~[(ii) by acquiring any interest in real or personal property owned, occupied, or used by~~

any retailer in the conduct of the retailer's business.]

~~[(b) For purposes of Subsection (1)(a)(ii), "interest" does not include complete ownership of a retail business by an industry member but may include acquiring a mortgage on a retailer's real or personal property or paying for display space at a retail establishment.]~~

~~[(2) It is unlawful for any industry member, directly or indirectly or through an affiliate, to furnish, give, rent, lend, or sell any equipment, fixtures, signs, supplies, money, services, or other thing of value, as defined in federal law 27 C.F.R. Section 6.41 through 6.47, to the department, to any retailer, or to any third party retailer association or display company where the benefits resulting from the thing of value flow to the individual retailers, subject to the following exceptions:]~~

~~[(a) (i) Product displays such as wine racks, bins, barrels, casks, shelving and the like from which liquor, wine, and heavy beer are displayed may be provided to the department, package agencies, private clubs, airport lounges, public service permittees, and single event permittees to the extent allowed by federal law 27 C.F.R. Section 6.83, but may only be displayed so as not to be visible to persons off the premises.]~~

~~[(ii) Product displays from which beer is displayed may be provided to package agencies, licensed off-premise beer retailers, taverns, private clubs, airport lounges, public service permittees, and single event permittees to the extent allowed by federal law 27 C.F.R. Section 6.83, but may only be displayed so as not to be visible to persons off the premises.]~~

~~[(b) (i) Inside signs relating to liquor, wine, and heavy beer products may be provided to private clubs, airport lounges, public service permittees, and single event permittees that bear advertising matter such as posters, placards, designs, and mechanical devices, and point-of-sale advertising matter such as table tents and menu clip-ons if they have no secondary value, are of value to the retailer only as advertising, are displayed in a manner so as not to be visible off the retailer's premises, otherwise comply with the advertising provisions of this title, and the industry member does not directly or indirectly pay or credit the retailer for displaying the sign or pay any expense incidental to its operation.]~~

~~[(ii) Inside signs as described in Subsection (2)(b)(i) relating to beer products may be~~

~~provided to off-premise beer retailers licensed by local authority, taverns, private clubs, airport lounges, public service permittees, and single event permittees if they are displayed in a manner so as not to be visible off of the retailer's premises, otherwise comply with the advertising provisions of this title, and the industry member does not directly or indirectly pay or credit the retailer for displaying the sign or pay any expenses incidental to its operation.]~~

~~[(c) (i) Liquor, wine, and heavy beer retailer advertising specialties such as trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, and calendars may be provided to licensed private clubs, airport lounges, public service permittees, and single event permittees but only to the extent allowed by federal law 27 C.F.R. Section 6.85 if they bear advertising matter and are primarily valuable to the retailer as point of sale advertising.]~~

~~[(ii) Beer retailer advertising specialties as described in Subsection (2)(c)(i) may be provided to licensed taverns, private clubs, airport lounges, public service permittees, and single event permittees if sold at a price not less than the cost to the industry member, if the price is collected within 30 days of the sale date, and if they bear advertising matter and are primarily valuable to the retailer as point of sale advertising.]~~

~~[(d) (i) Trade literature, recipes, brochures, wine lists, and wine menus relating to liquor, wine, and heavy beer products may be provided to licensed private clubs, restaurants with a state liquor license, airport lounges, special use permittees, and single event permittees.]~~

~~[(ii) Trade literature, recipes, and brochures relating to beer products may be provided to licensed on-premise beer retailers, off-premise beer retailers licensed by local authority, private clubs, restaurants with a state liquor license, airport lounges, special use permittees, and single event permittees.]~~

~~[(e) (i) Glassware that bears advertising matter relating to liquor, wine, and heavy beer, and identifying the industry member or the industry member's product may be provided to private clubs, airport lounges, public service permittees, and single event permittees if sold at a price not less than the cost to the industry member and the price is collected within 30 days of the sale date.]~~

~~[(ii) Glassware that bears advertising matter relating to beer and identifying the industry member or the industry member's product may be provided to licensed on-premise beer retailers, private clubs, airport lounges, public service permittees, and single event permittees if sold at a price not less than the cost to the industry member and the price is collected within 30 days of the sale date.]~~

~~[(f) Beer and wine tapping accessories such as standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves, and coil cleaning services may be provided to private clubs, restaurants with a state liquor license, airport lounges, public service permittees, and single event permittees. Beer tapping accessories, coil cleaning services, and supplies also may be provided to licensed on-premise beer retailers. All wine tapping accessories referenced in this subsection shall be sold at a price not less than the cost to the industry member and the price shall be collected within 30 days of the sale date. All wine services and supplies referenced in this subsection shall be sold at reasonable market price for the locality and the price shall be collected within 30 days of the sale. All beer tapping accessories referenced in this subsection may be provided without charge.]~~

~~[(3) (a) Samples of liquor, wine, and heavy beer may be provided:]~~

~~[(i) under the conditions listed in Subsections (3)(b) through (r):]~~

~~[(A) to the department; and]~~

~~[(B) to licensed retailers; and]~~

~~[(ii) for retail licensee wine tasting of cork-finished wines in accordance with:]~~

~~[(A) this Subsection (3); and]~~

~~[(B) Subsection (20):]~~

(b) Interest in any retail license includes any interest acquired by a corporate official, partner, employee, or other representative of the industry member.

(c) Any interest in a retail license acquired by a separate corporation in which the industry member or the industry member's officials hold ownership or are otherwise affiliated is an interest in a retail license.

(d) Less than complete ownership of a retail business by an industry member constitutes

an interest in a retail license within the meaning of Subsection (1)(a).

(2) (a) It is unlawful for any industry member, directly or indirectly or through an affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or from the department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons by acquiring any interest in real or personal property owned, occupied, or used by the retailer in the conduct of the retailer's business.

(b) For purposes of Subsection (2)(a):

(i) "interest" does not include complete ownership of a retail business by an industry member;

(ii) interest in retail property includes any interest acquired by a corporate official, partner, employee, or other representative of the industry member;

(iii) any interest in a retail license acquired by a separate corporation in which the industry member or its officials hold ownership or are otherwise affiliated is an interest in the retailer's property;

(iv) less than complete ownership of a retail business by an industry member constitutes an interest in retail property;

(v) the acquisition of a mortgage on a retailer's real or personal property by an industry member constitutes an interest in the retailer's property; and

(vi) the renting of display space by an industry member at a retail establishment constitutes an interest in the retailer's property.

(3) (a) It is unlawful for any industry member, directly or indirectly or through an affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or from the department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons by furnishing, giving, renting, lending, or selling to the retailer any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to the exceptions enumerated in Subsection (4).

(b) (i) For purposes of this Subsection (3), indirect inducement includes:

(A) furnishing things of value to a third party where the benefits resulting from the things

of value flow to individual retailers; and

(B) making payments for advertising to a retailer association or a display company where the resulting benefits flow to individual retailers.

(ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

(A) the thing of value was furnished to a retailer by the third party without the knowledge or intent of the industry member; or

(B) the industry member did not reasonably foresee that the thing of value would have been furnished to a retailer.

(iii) Anything that may lawfully be furnished, given, rented, lent, or sold by industry members to retailers under Subsection (4) may be furnished directly by a third party to a retailer.

(c) (i) A transaction in which equipment is sold to a retailer by an industry member, except as provided in Subsection (4), is the selling of equipment within the meaning of Subsection (3)(a) regardless of how the equipment is sold.

(ii) The negotiation by an industry member of a special price to a retailer for equipment from an equipment company is the furnishing of a thing of value within the meaning of Subsection (3)(a).

(d) The furnishing of free warehousing by delaying delivery of alcoholic beverages beyond the time that payment for the product is received, or if a retailer is purchasing on credit, delaying final delivery of products beyond the close of the period of time for which credit is lawfully extended, is the furnishing of a service or thing of value within the meaning of Subsection (3)(a).

(e) Any financial, legal, administrative, or influential assistance given a retailer by an industry member in the retailer's acquisition of the retailer's license is the furnishing of a service or thing of value within the meaning of Subsection (3)(a).

(4) (a) Notwithstanding Subsection (3), things of value may be furnished by industry members to retailers under the conditions and within the limitations prescribed in:

(i) this Subsection (4); and

(ii) the applicable federal laws cited in this Subsection (4).

(b) (i) The following may be furnished by an industry member:

(A) a product display as provided in 27 C.F.R. Sec. 6.83;

(B) point of sale advertising materials and consumer advertising specialties as provided in 27 C.F.R. Sec. 6.84;

(C) things of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;

(D) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;

(E) combination packaging as provided in 27 C.F.R. Sec. 6.93;

(F) educational seminars as provided in 27 C.F.R. Sec. 6.94;

(G) consumer promotions as provided in 27 C.F.R. Sec. 6.96;

(H) advertising service as provided in 27 C.F.R. Sec. 6.98;

(I) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;

(J) merchandise as provided in 27 C.F.R. Sec. 6.101; and

(K) outside signs as provided in 27 C.F.R. Sec. 6.102.

(ii) The following exceptions provided in federal law are not adopted:

(A) the exception for samples provided in 27 C.F.R. Sec. 6.91;

(B) the exception for consumer tasting or sampling at retail establishments provided in 27 C.F.R. Sec. 6.95; and

(C) the exception for participation in retailer association activities provided in 27 C.F.R. Sec. 6.100.

(iii) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall keep and maintain a record:

(A) of all items furnished to a retailer;

(B) on premises of the industry member; and

(C) for a three-year period.

(c) Samples of liquor, wine, and heavy beer may be provided to the department under the conditions listed in this Subsection (4)(c).

~~[(b) An]~~ (i) With the department's permission, an industry member may submit department samples to the department for product testing, analysis, and sampling~~[- but only with~~

the department's permission].

~~[(e)]~~ (ii) No more than two department samples of a particular type, vintage, and production lot of a particular branded product may be submitted to the department for department testing, analysis, and sampling within a consecutive 120-day period.

~~[(d)]~~ (i) (iii) (A) Each sample of liquor may not exceed 1 liter.

(ii) (B) Each sample of wine and heavy beer may not exceed 1.5 liters unless that exact product is only commercially packaged in a larger size, not to exceed 5 liters.

~~[(e)]~~ (i) (iv) (A) Department samples submitted to the department:

(I) shall be shipped prepaid by the industry member by common carrier; and ~~[not via]~~

(II) may not be shipped by United States mail directly to the department's central administrative warehouse office.

(ii) (B) Department samples may not be shipped to any other location within the state.

~~[(f)]~~ (v) Department samples submitted to the department shall be accompanied by a letter from the industry member:

(i) (A) clearly identifying the product as a "department sample"; and

(ii) (B) clearly stating the FOB case price of the product.

~~[(g)]~~ (i) (vi) (A) The department may transfer listed items from current stock for use as comparison control samples or to verify product spoilage as deemed appropriate.

(ii) (B) Each sample transferred under Subsection ~~[(3)]~~ ~~[(g)]~~ (i) (4) (c) (vi) (A) shall be billed back, debited, to ~~[their]~~ the respective industry members.

~~[(h)]~~ (vii) The department shall:

(i) (A) account for, label, and record all department samples received or transferred;

(ii) (B) account for the department sample's disposition; and

(iii) (C) maintain a record:

(I) of the samples and their disposition; and

(II) for a two-year period.

(i) (viii) The department shall affix to each bottle or container a label clearly identifying the product as a "department sample".



~~[(j)] (ix)~~ Each department sample delivered to the department or transferred from the department's current stock shall be disposed of at the discretion of the department in one of the following ways:

~~[(i)] (A)~~ tested and analyzed with the remaining contents destroyed under controlled and audited conditions established by the department;

~~[(ii)] (B)~~ entire contents destroyed under controlled and audited conditions established by the department; or

~~[(iii)] (C)~~ added to the inventory of the department for sale to the public.

~~[(k) An industry member, for purposes of educating licensed retailers of the quality and characteristics of the industry member's liquor, wine, or heavy beer product may utilize department trade show samples for tasting and analysis purposes only.]~~

~~[(l) (i) Department trade show samples shall be shipped prepaid by the industry member by common carrier and not via United States mail directly to the department's central administrative warehouse office.]~~

~~[(ii) These samples may not be shipped to any other location within the state.]~~

~~[(m) Department trade show samples shall be accompanied by a letter from the industry member:]~~

~~[(i) clearly identifying the product as a "department trade show sample"; and]~~

~~[(ii) stating:]~~

~~[(A) the name, time, and location of the trade show;]~~

~~[(B) the FOB case price of the product; and]~~

~~[(C) the name of the industry member who will be representing the product at the trade show:]~~

~~[(n) The department shall assess a reasonable handling, labeling, storage, and delivery fee for each department trade show sample received.]~~

~~[(o) The department shall affix to each bottle or container a label clearly identifying the product as a "department trade show sample".]~~

~~[(p) The department shall:]~~

~~[(i) account for and record each department trade show sample received;]~~

~~[(ii) account for the department trade show sample's disposition; and]~~

~~[(iii) maintain a record of the samples and their disposition for a two-year period.]~~

~~[(q) The department shall:]~~

~~[(i) transport department trade show samples to the appropriate trade show designated in the letter described in Subsection (3)(m); and]~~

~~[(ii) deliver the sample to the industry member designated to represent the product at the trade show.]~~

~~[(r) Department trade show samples may not be removed from the premises of the trade show.]~~

~~[(4) The department shall take reasonable measures to ensure that only industry members, licensed retailers, trade show permittees, their employees and agents, and department personnel are in attendance, and to ensure that retailer trade show samples are not removed from the premises except by the department.]~~

~~[(5) Industry members may charge a fee to trade show attendees for tasting samples of their product at a department trade show.]~~

~~[(6) At the conclusion of the trade show, the department shall take possession of all department trade show sample bottles and:]~~

~~[(a) destroy the unused portion of all opened sample bottles under controlled and audited conditions established by the department; and]~~

~~[(b) either destroy the contents of unopened sample bottles under controlled and audited conditions established by the department or return the bottles to the department and add them to the inventory of the department for sale to the public.]~~

~~[(7) (x) Persons other than authorized department officials may not be in possession of department [or department trade show] samples except as otherwise provided.~~

~~[(8)(a) (d) Samples of beer may be provided by a beer industry member to a [licensed on-premise beer retailer, off-premise beer retailer licensed by local authority, private club, restaurant with a liquor license, airport lounge, public service permittee, and single event~~

~~permittee;~~ retailer under the conditions listed in this Subsection (4)(d).

(i) Samples of beer may be provided by an industry member only to a retailer who has not purchased the brand of beer from that industry member within the last 12 months.

~~[(b)]~~ (ii) For each ~~[on-premise beer retailer or liquor licensee or permittee;]~~ retailer, the industry member may give not more than ~~[two]~~ three gallons of any brand of beer, except that if a particular product is not available in a size within the quantity limitation an industry member may furnish the next largest size.

~~[(c) For each off-premise beer retailer, the industry member may give not more than two liters of any brand of beer.]~~

~~[(9)]~~ (e) Educational seminars may involve an industry member under the ~~[following]~~ conditions~~[-]~~ listed in this Subsection (4)(e).

~~[(a)]~~ (i) An industry member may provide or participate in educational seminars:

(A) involving:

(I) the department ~~[and its employees;]~~

(II) retailers~~[-]~~;

(III) holders of educational or scientific special use permits~~[-or]~~;

(IV) other industry members; or

(V) employees of the persons listed in Subsections (4)(e)(i)(A)(I) through (IV); and

(B) regarding such topics as:

(I) merchandising and product knowledge~~[-]~~;

(II) use of equipment; and

(III) tours of alcoholic beverage manufacturing facilities.

(ii) An industry member may not pay a department employee's, retailer's, or permittee's expenses or compensate them for attending ~~[these seminars and tours]~~ a seminar or tour described in Subsection (4)(e)(i).

~~[(b) An]~~ (iii) (A) A liquor, wine, and heavy beer industry member may conduct tastings of the industry member's products:

(I) for the department, at the department's request~~[-]~~; and

~~(II) for licensed industry representatives, but only at the department's central administrative warehouse office[, and for licensed retailers authorized to sell the type of products to be tasted, but only at department trade shows. Tastings may not be offered to the general public].~~

~~(B) The industry member may only use department[, department trade show,] or industry representative samples when conducting any tasting of the industry member's products.~~

~~(iv) A beer industry member may conduct tastings of beer products for a licensed beer retailer either at:~~

~~(A) the industry member's premises; or~~

~~(B) a retail establishment.~~

~~(v) Except to the extent authorized by commission rule, an alcoholic beverage industry member may not conduct tasting or sampling activities with:~~

~~(A) a retailer; or~~

~~(B) a member of the general public.~~

~~[(10) An] (f) A beer industry member may participate in beer retailer association activities[, and may:] to the extent authorized by 27 C.F.R. Sec. 6.100.~~

~~[(a) display its products at a retailer convention or trade show, except that liquor, wine, and heavy beer products may only be displayed at department trade shows and products shall be processed, labeled, and delivered to the trade show by the department under the terms and conditions of this title;~~

~~[(b) rent display booth space if the rental fee is not excessive and is the same as paid by all exhibitors;~~

~~[(c) provide its own hospitality that is independent from association sponsored activities;~~

~~[(d) purchase tickets to functions and pay registration fees if the payments or fees are not excessive and are the same as paid by all exhibitors; and~~

~~[(e) make payments for advertisements in programs or brochures issued by retailer associations at a retailer convention or trade show if the total payments made by an industry~~

~~member for all such advertisements do not exceed that allowed by federal law per year for any retailer association as provided in 27 C.F.R. Section 6.100.]~~

~~[(11)(a)]~~ (g) (i) An industry member may contribute to charitable, civic, religious, fraternal, educational, or community activities. ~~[These contributions]~~

(ii) A contribution described in Subsection (4)(g)(i) may not be given to influence a retailer in the selection of the alcoholic beverage products ~~[which]~~ that may be sold at these activities and events.

~~[(b) If]~~ (iii) An industry member or retailer violates this section if:

(A) the industry member's contribution described in Subsection ~~[(11)(a)]~~ (4)(g)(i) influences, directly or indirectly, the retailer in the selection of alcoholic beverage products~~[-];~~ and

(B) a competitor's alcoholic beverage products are excluded in whole or in part from sale at the activity or event~~[-, the industry member and the retailer violate the provisions of this section].~~

~~[(12) An industry member, who is also engaged in business as a bona fide vendor of other merchandise, such as groceries or drugs, may sell that merchandise to a retailer if the merchandise:]~~

~~[(a) is sold at its fair market value;]~~

~~[(b) is not sold in combination with alcoholic beverages; and]~~

~~[(c) is itemized separately on the industry member's invoices and other records.]~~

~~[(13) Things of value covered in other subsections of this section may be furnished to retailers only as provided in those subsections.]~~

(h) (i) An industry member may lease or furnish equipment listed in Subsection (4)(h)(ii) to a retailer if:

(A) the equipment is leased or furnished for a special event;

(B) a reasonable rental or service fee is charged for the equipment; and

(C) the period for which the equipment is leased or furnished does not exceed 30 days.

(ii) This Subsection (4)(h) applies to the following equipment:

- (A) a picnic pump;
- (B) a cold plate;
- (C) a tub;
- (D) a keg box;
- (E) a refrigerated trailer;
- (F) a refrigerated van; or
- (G) a refrigerated draft system.

~~[(14) (a)]~~ (i) (i) A liquor, wine, and heavy beer industry member may assist the department in:

- (A) ordering, shipping, and delivering merchandise[;];
- (B) new product notification[;];
- (C) listing and delisting information[;];
- (D) price quotations[;];
- (E) product sales analysis[;];
- (F) shelf management[;]; and
- (G) educational seminars[; and].

(ii) (A) Subject to Subsection (4)(i)(ii)(B), a liquor, wine, and heavy beer industry member may, for the purpose of acquiring new listings, solicit orders from the department and submit to the department samples of their products under Subsection (4)(c) and price lists.  
~~[However, an]~~

(B) An industry member may not solicit either in person, by mail, or otherwise, any state store personnel for the purpose or with the intent of furthering the sale of a particular brand or brands of alcoholic beverage product as against another brand or brands.

(iii) Any visitations to a state store or package agency by an industry member shall be confined to the customer areas of the store. Calls on the state warehouse by industry members are to be confined to the office area only unless otherwise approved.

~~[(b)]~~ (iv) A beer industry member may assist licensed ~~[on-premise beer retailers,~~ off-premise beer retailers licensed by local authority, private clubs, restaurants with liquor

licenses, airport lounges, public service permittees, and single event permittees] retailers in:

(A) ordering, shipping, and delivering beer merchandise[;];

(B) new product notification[;];

(C) listing and delisting information[;];

(D) price quotations[;];

(E) product sales analysis[;];

(F) shelf management[;]; and

(G) educational seminars[~~,-and~~].

(v) A beer industry member may, for the purpose of acquiring new listings[;]:

(A) solicit orders from [~~them~~] licensed retailers; and

(B) submit to [~~them~~] licensed retailers samples of their beer products under Subsection (4)(c) and price lists.

~~[(c) A beer industry member may, at a licensed on-premise beer retailer, off-premise beer retailer licensed by local authority, private club, restaurant with liquor license, airport lounge, public service permittee and single event permittee premises or establishment, stock, rotate, and affix the price to beer products which they sell, provided products purchased from other industry members are not altered or disturbed.]~~

~~[(15)(a)]~~ (5) It is unlawful for any industry member, directly or indirectly or through an affiliate, to [~~pay the department or any retailer licensed under this title by the commission or by local authority~~] induce any retailer to purchase any alcoholic beverages from the industry member or from the department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons by paying or crediting the retailer for any advertising, display, or distribution service:

(a) as defined [~~in federal law~~] in and to the extent restricted by 27 C.F.R. Sections 6.51 through 6.56[;]; and

(b) subject to the exceptions:

(i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

(ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

~~[(b) An industry member may not, directly or indirectly, share the cost of an advertisement with a retailer.]~~

~~[(c) An industry member may give, furnish, loan, rent, or sell copy ready art, newspaper cuts, mats or engraved blocks to licensed beer retailers for use in beer retailer advertisements to the extent such advertisements are authorized by this title.]~~

~~[(16)] (6) It is unlawful for any industry member, directly or indirectly or through an affiliate, to [guarantee any loan or the repayment of any financial obligation of a retailer including, but not limited to, personal loans, home mortgages, car loans, operating capital obligations, or utilities] induce any retailer to purchase any alcoholic beverages from the industry member or from the department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons by guaranteeing any loan or the repayment of any financial obligation of the retailer.~~

~~[(17)] (7) (a) It is unlawful for any industry member, directly or indirectly or through an affiliate, to induce [beer purchases] any retailer to purchase any beer from the industry member to the exclusion in whole or in part of any beer products sold or offered for sale by other persons by extending to any [beer] retailer credit for a period in excess of 15 days from the date of delivery to the date of full legal discharge of the retailer through the payment of cash or its equivalent, from all indebtedness arising from the transaction, so long as that beer purchased or delivered during the first 15 days of any month is paid for in cash or its equivalent on or before the 25th day of the same month, and beer purchased or delivered after the 15th day of any month is paid for in cash or its equivalent on or before the 10th day of the next succeeding month.~~

~~(b) First party in-state checks [which] are considered cash payment if the checks:~~

~~(i) are honored on presentment; and [which are]~~

~~(ii) received under the terms prescribed in Subsection [(17)] (7)(a) [are considered cash payments].~~

~~(c) An extension of credit for product purchased by an industry member to a retailer whose account is in arrears does not constitute a violation of Subsection (7)(a) if the retailer pays in advance or on delivery an amount equal to or greater than the value of each order, regardless~~



of the manner in which the industry member applies the payment in its records.

~~[(18)]~~ (8) (a) It is unlawful for any industry member, directly or indirectly or through an affiliate, to ~~[require]~~ induce any retailer to purchase any alcoholic beverages from the industry member or from the department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons by requiring:

(i) ~~the department to take and dispose of a certain quota of any alcoholic products; or [to require]~~

(ii) a beer retailer ~~[or wholesaler]~~ to take and dispose of a certain quota of any beer products.

(b) (i) ~~[A requirement that]~~ It is an unlawful means to induce to require:

(A) the department to purchase one product in order to purchase another; or ~~[that]~~

(B) a beer retailer ~~[or wholesaler]~~ to purchase one beer product in order to purchase another [is also prohibited].

(ii) This Subsection (8)(b) includes:

(A) the requirement to take a minimum quantity of a product in standard packaging in order to obtain the same product in some type of premium package such as:

(I) a distinctive decanter; or

(II) a wooden or tin box; or

(B) combination sales if one or more products may be purchased only in combination with other products and not individually.

(c) This Subsection ~~[(18)]~~ (8) does not preclude the selling, at a special combination price, two or more kinds or brands of products so long as the department or beer retailer:

(i) has the option of purchasing either product at the usual price; and

(ii) is not required to purchase any product ~~[he or she]~~ the department or beer retailer does not want.

(d) An industry member may package and distribute alcoholic beverages in combination with other nonalcoholic items or products.

(e) The combination package shall be designed to be delivered intact to the consumer and

the additional cost incurred by the industry member shall be included in the cost to the department or beer retailer.

~~[(19) It is unlawful for any industry member, directly or indirectly or through an affiliate, to provide financial, legal, administrative, or other assistance to a retailer or wholesaler to obtain a license or permit.]~~

~~[(20) Beginning July 1, 1998, and ending June 30, 2000, the department shall implement and operate a pilot program by which a local industry representative licensee may conduct retail licensee tastings of cork-finished wines under the following conditions:]~~

~~[(a) To conduct retail licensee wine tasting, a local industry representative licensee may check out bottles of cork-finished wine in accordance with this Subsection (20) at the department's club and restaurant store and at any other department store designated by the commission.]~~

~~[(b) A local industry representative licensee:]~~

~~[(i) shall pay:]~~

~~[(A) the prevailing retail purchase price for each bottle of cork-finished wine checked out for the purpose of conducting retail licensee wine tasting; and]~~

~~[(B) any fee charged under Subsection (20)(f);]~~

~~[(ii) may check out bottles of cork-finished wine for the purpose of conducting retail licensee wine tasting:]~~

~~[(A) in a reasonable number as determined by the commission;]~~

~~[(B) during regular business hours; and]~~

~~[(C) on regular store business days, except for the day preceding a recognized state or federal holiday;]~~

~~[(iii) shall show proper identification at the time of check out;]~~

~~[(iv) shall check out each bottle of cork-finished wine to be used for the purpose of conducting retail licensee tasting on a form designated by the department;]~~

~~[(v) shall return a bottle checked out for use in the retail licensee wine tasting program, whether opened or unopened:]~~

~~[(A) to the department's central administrative warehouse office;]~~

~~[(B) within seven days from the time of check out;]~~

~~[(C) at the same time that any bottle checked out with the bottle is returned and not in a piece-meal manner.]~~

~~[(c) (i) At time of check out, the department's employee shall:]~~

~~[(A) affix a bright-colored label on each bottle checked out, clearly identifying it for exclusive use in the retail licensee wine tasting program, as provided by this Subsection (20);]~~

~~[(B) maintain a record of each bottle of cork-finished wine checked out under this Subsection (20); and]~~

~~[(C) require the local industry representative licensee to sign a statement that the bottles of cork-finished wine will be used only in connection with the retail licensee wine tasting program.]~~

~~[(ii) At time of check in, the department's employee shall make a record of each bottle returned.]~~

~~[(d) A bottle of cork-finished wine checked out in connection with the retail licensee wine tasting program shall come from products listed by the department or special ordered in accordance with department procedures that are:]~~

~~[(i) located on the shelf of a department store identified in Subsection (20)(a); or]~~

~~[(ii) if arrangements are made with the department, located at its central administrative warehouse and transferred to one of the store locations authorized in Subsection (20)(a).]~~

~~[(e) Each bottle of cork-finished wine checked out by a local industry representative licensee and returned to the department shall be disposed of in one of the ways provided in Subsection (3)(j) or Subsection (6), at the department's discretion.]~~

~~[(f) (i) The department may charge a reasonable per bottle administrative fee to defray the department's actual, ordinary, and necessary costs directly incurred in administering the retail licensee wine tasting program.]~~

~~[(ii) All money received by the department under Subsection (20)(f)(i) shall be deposited in the General Fund as a dedicated credit of the department and may be expended by the~~

~~department only for the purposes described under Subsection (20)(f)(i).]~~

~~[(g) A retail licensee wine tasting:]~~

~~[(i) shall be conducted at the department's administrative complex in accordance with rules made by the commission concerning the persons who may attend and participate in the tasting;]~~

~~[(ii) may not be conducted in the view of:]~~

~~[(A) minors; or]~~

~~[(B) the general public; and]~~

~~[(iii) shall only be conducted by a local industry representative licensee from the original bottles of cork-finished wine checked out from the department.]~~

~~[(h) The local industry representative licensee may not leave the wine remaining in a bottle with a retail licensee following the conclusion of the tasting.]~~

~~[(i) The commission shall have the authority to promulgate rules to implement the retail licensee wine tasting pilot program.]~~

~~[(j) In addition to any other penalties provided in this title, a licensee violating the provisions of this Subsection (20) may be subject to suspension or revocation of their license as provided in Section 32A-8-505 and any rules made by the commission.]~~

~~[(k) Before November 1, 1999, the commission shall prepare and present a report and recommendation concerning the retail licensee wine tasting pilot program to an appropriate interim committee of the Legislature, as designated by the Legislative Management Committee.]~~

Section 119. Section **32A-12-604** is amended to read:

**32A-12-604. Commercial bribery.**

~~[Federal law]~~ This section adopts and makes applicable to all industry members, including beer industry members, doing business in this state 27 U.S.C. Section 205(c) and 27 C.F.R. Sections 10.1 through [10.24] 10.54 which [makes] make it unlawful for any industry member, directly or indirectly or through an affiliate, to induce a wholesaler or retailer engaged in the sale of alcoholic beverages[;] to purchase the industry member's products, to the complete or partial exclusion of alcoholic beverages sold or offered for sale by other persons, by

commercial bribery, or by offering or giving a bonus, premium, compensation, or other thing of value, to any officer, employee, or representative of the wholesaler or retailer [~~is hereby adopted and made applicable to beer industry members doing business in this state~~].

Section 120. Section **32A-12-605** is amended to read:

**32A-12-605. Consignment sales.**

(1) [~~Federal law~~] This section adopts and makes applicable to all industry members, including beer industry members, doing business in this state 27 U.S.C. Section 205(d) and 27 C.F.R. Sections 11.1 through 11.46, which [~~makes~~] make it unlawful for an industry member, directly or indirectly or through an affiliate to sell, offer for sale, or contract to sell to any wholesaler or retailer engaged in the sale of alcoholic beverages, or for any wholesaler or retailer to purchase, offer to purchase, or contract to purchase any of those products on consignment or under conditional sale or with the privilege of return or on any basis otherwise than a bona fide sale, or where any part of the transaction involves, directly or indirectly, the acquisition by that person from the wholesaler or retailer or [~~his~~] that person's agreement to acquire from the wholesaler or retailer other alcoholic beverages, if the sale, purchase, offer, or contract is made in the course of interstate or foreign commerce, or if the person or wholesaler or retailer engages in such practice to an extent so as substantially to restrain or prevent transactions in interstate or foreign commerce in any of those products or if the direct effect of the sale, purchase, offer, or contract is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any of those products to the wholesaler or retailer in interstate or foreign commerce [~~is hereby adopted and made applicable to beer industry members doing business in this state~~].

(2) This section does not apply to transactions involving solely the bona fide return of merchandise for ordinary and usual commercial reasons arising after the merchandise has been sold.

Section 121. Section **32A-12-606** is amended to read:

**32A-12-606. Unlawful acts involving consumers.**

(1) (a) It is unlawful for any industry member, directly or indirectly or through an affiliate, to give away any of its alcoholic products to any person except for testing, analysis, and

sampling purposes by the department[;] and local industry representative licensees[; ~~and licensed alcoholic beverage retailers~~] to the extent authorized by this title. [~~This~~]

(b) This Subsection (1) does not preclude an industry member from serving its alcoholic products to others at private social functions hosted by the industry member in the member's home or elsewhere so long as the product is not served:

- (i) as part of a promotion of [~~its~~] the industry member's products; or
- (ii) as a subterfuge to provide samples to others for product testing, analysis, or sampling purposes.

(2) It shall be unlawful for any industry member or retailer, directly or indirectly or through an affiliate, to engage in any advertisement or promotional scheme that requires the purchase or sale of an alcoholic beverage, or consumption of an alcoholic beverage in order to participate in any promotion, program, or other activity.

(3) It shall be unlawful for any industry member or retailer, directly or indirectly or through an affiliate, to pay, give, or deliver to any person any money or any other thing of value, including rebates, refunds, or prizes, based upon the purchase, display, use, sale, or consumption of alcoholic beverages.

(4) It shall be unlawful for any industry member or retailer to sponsor or underwrite any athletic, theatrical, scholastic, artistic, or scientific event that:

- [~~(a)~~] involves the display of drinking scenes;]
- [~~(b)~~] (a) overtly promotes the consumption of alcoholic products;
- [~~(c)~~] (b) offers alcoholic products to the general public without charge; or
- [~~(d)~~] (c) takes place on the premises of a school, college, university, or other educational institution.

Section 122. Section **32A-15a-101** is enacted to read:

## **CHAPTER 15a. NUISANCE LICENSEE ACT**

### **Part 1. General Provisions**

#### **32A-15a-101. Title.**

This chapter is known as the "Nuisance Licensee Act."

Section 123. Section **32A-15a-102** is enacted to read:

**32A-15a-102. Definitions.**

(1) As used in this chapter:

(a) "Objecting governmental entity" means:

(i) a local government entity;

(ii) a prosecutor's office; or

(iii) a law enforcement agency.

(b) "Nuisance activity" means:

(i) a judicial finding that a licensed establishment is a common public nuisance under Section 32A-13-106;

(ii) a single felony conviction within the last two years of:

(A) a retail licensee; or

(B) any supervisory or managerial level employee of the licensee;

(iii) a single conviction under Title 58, Chapter 37, Utah Controlled Substances Act:

(A) (I) of a retail licensee; or

(II) an employee of the licensee;

(B) within the last two years; and

(C) made on the basis of activities that occurred on the licensed premises;

(iv) three or more convictions of patrons of a retail licensee under Title 58, Chapter 37, Utah Controlled Substances Act, if:

(A) the convictions are made on the basis of activities that occurred on the licensed premises; and

(B) there is evidence that the licensee knew or should have known of the illegal activity;

(v) a single conviction within the last two years of a retail licensee or any employee of the licensee that is made on the basis of:

(A) pornographic and harmful materials:

(I) that are in violation of Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances; and

- (II) if the violation occurs on the licensed premises;
  - (B) prostitution;
  - (C) engaging in or permitting gambling, or having any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the licensed premises;
  - (D) a disturbance of the peace that occurs on the licensed premises; or
  - (E) disorderly conduct that occurs on the licensed premises; or
  - (vi) three or more adjudicated violations of this title within the last two years by a retail licensee or by the retail licensee's employees that result in a criminal citation or an administrative referral to the department relating to:
    - (A) the sale, service, or furnishing of alcohol to a minor;
    - (B) the sale, service, or furnishing of alcohol to a person actually, apparently, or obviously intoxicated;
    - (C) the sale or service of alcohol after lawful sales or service hours; or
    - (D) acts or conduct on the licensed premises contrary to the public welfare and morals involving lewd acts or lewd entertainment prohibited by this title.
  - (2) For purposes of Subsection (1)(b), "retail licensee" means:
    - (a) a person to whom a retail license has been issued by the commission; and
    - (b) in the case of a licensee that is a partnership, corporation, or limited liability company any of the following that is convicted of any offense described in Subsection (1)(b):
      - (i) a partner;
      - (ii) a managing agent;
      - (iii) a manager;
      - (iv) an officer;
      - (v) a director;
      - (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporate licensee; or
      - (vii) a member who owns at least 20% of a limited liability company licensee.
- Section 124. Section **32A-15a-103** is enacted to read:



**32A-15a-103. Rulemaking.**

In accordance with this chapter and Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules that govern the filing under this chapter of:

- (1) a formal objection to the renewal of a retail license; and
- (2) a request for hearing filed by a retail licensee.

Section 125. Section **32A-15a-201** is enacted to read:

**Part 2. Nonrenewal of Nuisance Licenses**

**32A-15a-201. Commission to prohibit nuisance activities by licensees -- License not renewed.**

(1) In accordance with Section 32A-1-103, the commission shall require a retail licensee as a condition of being licensed under this title to operate in a manner so as not to endanger the public health, peace, safety, welfare, or morals of the community.

(2) (a) In accordance with Title 63, Chapter 46b, Administrative Procedures Act, and Sections 32A-15a-202 and 32A-15a-203, the commission may deny the renewal of any retail license issued under this title if:

- (i) a formal objection to the renewal is filed; and
- (ii) the commission determines that the retail licensee has engaged in nuisance activities to such an extent that the nuisance activities have adversely impacted the public health, peace, safety, welfare, or morals of the neighboring community of the licensed premises.

(b) In making a determination under this Subsection (2), the commission may consider:

- (i) the types of nuisance activities in which a licensee has engaged;
- (ii) the frequency or pattern of the nuisance activities; and
- (iii) the retail licensee's notice of and failure to abate or correct the nuisance activities.

Section 126. Section **32A-15a-202** is enacted to read:

**32A-15a-202. Formal objections to renewal.**

(1) The department shall notify governmental entities that in accordance with this part an objecting governmental entity may file with the commission an objection to the renewal of a retail licensee's alcoholic beverage license in the objecting governmental entity's community.

(2) The department or an objecting governmental entity may file with the commission a formal objection to any license being renewed by the commission if the formal objection:

(a) is filed on the basis of nuisance activity;

(b) is filed no later than 60 days before the expiration date of the retail licensee's license;

and

(c) states with particularity all relevant facts and circumstances relating to the nuisance activity that forms the basis for the formal objection.

Section 127. Section **32A-15a-203** is enacted to read:

**32A-15a-203. Hearing on formal objections to renewal.**

(1) Upon receipt of a formal objection that meets the requirements of Section 32A-15a-202, the department shall:

(a) issue a notice of agency action; and

(b) serve on the retail licensee no later than 30 days before the expiration of the retail licensee's license:

(i) the notice of agency action; and

(ii) a copy of the formal objection.

(2) (a) A retail licensee against whom a notice of agency action is served under Subsection (1) may request a hearing.

(b) The request for hearing described in Subsection (2)(a) shall be:

(i) in writing; and

(ii) filed with the commission within ten days of the day on which the notice of agency action is served on the retail licensee.

(c) If a retail licensee fails to file a request for hearing in accordance with this Subsection (2), the commission may not renew the license of the retail licensee.

(3) (a) Upon receipt of a request for hearing meeting the requirements of Subsection (2), the department shall immediately schedule a hearing that shall be:

(i) held no later than ten days before the expiration date of the retail licensee's license;

and

(ii) electronically recorded by the department.

(b) The retail licensee or an objecting governmental entity, at its own expense, may have a reporter approved by the department prepare a transcript from the department's record of the hearing.

(c) (i) The department shall present information at the hearing that supports a finding that nuisance activities occurred.

(ii) The information described in Subsection (3)(c)(i) shall be made a part of the record of the hearing.

(d) The retail licensee shall:

(i) have the opportunity to challenge or explain whether any of the nuisance activities that form the basis for the formal objection occurred; and

(ii) be permitted to:

(A) testify;

(B) present evidence; and

(C) comment on the issues at the hearing.

(4) (a) Any hearing held under this chapter shall be conducted under the authority of the commission.

(b) The commission is responsible for rendering a final order on whether a retail licensee's license shall be renewed.

(c) Notwithstanding Subsections (4)(a) and (b), the commission may appoint necessary hearing examiners to administer the hearing process.

(d) The commission or the hearing examiner appointed by the commission shall serve as the presiding officer at a hearing held under this section.

(e) The presiding officer at a hearing held under this section:

(i) shall evaluate:

(A) the information presented at the hearing in support of the formal objection; and

(B) any explanation and evidence offered by the retail licensee; and

(ii) may consider such factors as:

(A) the length of time the retail licensee has operated the licensed premises;

(B) the condition of the premises;

(C) whether the retail licensee knew or should have known of the nuisance activities in question;

(D) whether the retail licensee failed to:

(I) make a substantial effort to correct the nuisance activities; and

(II) work with law enforcement to curtail the nuisance activity;

(E) whether the nuisance activities have been ongoing or temporary;

(F) whether the retail licensee or the licensee's employees:

(I) initiated contact with the law enforcement agency on the nuisance activities; and

(II) cooperated with the law enforcement agency's investigation; and

(G) whether prior efforts to stop the nuisance activities by the community or the retail licensee have been unsuccessful.

(5) An order issued under this section shall:

(a) be based on the evidence presented at the hearing; and

(b) state whether:

(i) the continued operation of the licensed establishment will endanger the public health, peace, safety, welfare, or morals of the community; and

(ii) the license should or should not be renewed.

(6) (a) If the presiding officer is a hearing examiner appointed by the commission, the hearing officer shall issue a signed order in writing that:

(i) complies with Subsection (5);

(ii) recommends to the commission whether the license should or should not be renewed;

(iii) states the reasons for the hearing officer's decision; and

(iv) notifies the retail licensee and the objecting governmental entity that the hearing examiner's order will be considered by the commission at the next regularly scheduled meeting of the commission.

(b) The department shall promptly mail a copy of the hearing examiner's order to:

- (i) the retail licensee; and
- (ii) any objecting governmental entity.

(c) The commission at its next regularly scheduled meeting after receipt of a hearing examiner's order, shall decide whether to renew or not renew the license on the basis of:

- (i) the record and evidence presented at the hearing; and
- (ii) the hearing examiner's recommendation.

(7) (a) As an alternative to ordering in accordance with this section that a retail license not be renewed, the commission may conditionally renew a retail license by requiring that:

(i) the licensee and the licensed premises be closely monitored during the licensing year  
by:

- (A) the department;
- (B) local government officials; and
- (C) law enforcement; and
- (ii) the matter be reviewed prior to the next renewal period.

(b) The commission may conditionally renew a retail license contingent on any person listed in Subsection (7)(b)(ii) divesting all interest in the retail licensed business if:

- (i) the retail licensee is a partnership, corporation, or limited liability company; and
- (ii) the formal objection filed under this section is filed solely on the basis of a felony

conviction:

- (A) of:
  - (I) a partner;
  - (II) a managing agent;
  - (III) a manager;
  - (IV) an officer;
  - (V) a director;
  - (VI) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporate licensee; or
  - (VII) a member who owns at least 20% of a limited liability company licensee; and

(B) for illegal activity that occurred off of the licensed premises.

(8) (a) In accordance with this section, the commission shall issue a written order setting forth the commission's decision and the reason for the commission's decision.

(b) The order described in Subsection (8)(a) is considered final on the date the order becomes effective.

(c) The department shall serve a copy of the order on the retail licensee.

(9) A licensee whose license has not been renewed by order of the commission may seek judicial review under the procedures provided in Section 32A-1-120.

(10) A licensee whose license is not renewed may not reapply for a license under this title for three years from the date the license is not renewed.

Section 128. Section **63-55b-132** is enacted to read:

**63-55b-132. Repeal dates -- Title 32.**

Title 32A, Chapter 4, Part 4, On-Premise Banquet License is repealed July 1, 2005.

Section 129. **Repealer.**

This act repeals:

Section **32A-1-501, Definitions.**

Section **32A-1-502, Purpose.**

Section **32A-1-503, Procedures.**

Section **32A-1-504, Operational restrictions.**

Section **32A-4-107, Return of inventory.**

Section **32A-4-207, Return of inventory.**

Section **32A-5-105, Utah Nonprofit Corporation and Cooperative Association Act applicable -- Exceptions.**

Section **32A-5-108, Return of inventory.**

Section **32A-12-309, Organizing for pecuniary profit.**

Section **32A-12-503, Unlawful importations.**

Section **63-55-232, Repeal dates, Title 32A.**

Section 130. **Appropriations.**

(1) For fiscal year 2002-03 only, there is appropriated \$325,900 from the Liquor Control Fund to the Department of Alcoholic Beverage Control.

(2) For fiscal year 2002-03 only, there is appropriated \$62,000 from the General Fund to the Driver License Division of the Department of Public Safety.

(3) Subject to future budget constraints, as an ongoing appropriation, there is appropriated \$1,893,000 for fiscal year 2003-04 from the Liquor Control Fund to the Department of Alcoholic Beverage Control.

(4) Subject to future budget constraints, as an ongoing appropriation, there is appropriated \$811,000 for fiscal year 2003-04 from the General Fund to the Liquor Law Enforcement Unit of the Department of Public Safety.

**Section 131. Coordination clause.**

It is the intent of the Legislature that if this bill, and S.B. 66, Alcoholic Beverage Enforcement and Treatment, both pass that:

(1) in preparing the Utah Code database for publication the Office of Legislative Research and General Counsel modify Subsection 32A-1-115(2)(b) in S.B. 66 to read:

"(b) The account shall be funded from:

(i) amounts deposited by the state treasurer in accordance with Section 59-15-109;

(ii) any appropriations made to the account by the Legislature; and

(iii) interest described in Subsection (2)(c)."; and

(2) subject to future budget constraints, as an ongoing appropriation, there is appropriated for fiscal year 2003-04 from the Liquor Control Fund \$700,000 to the Alcoholic Beverage Enforcement and Treatment Restricted Account created in the General Fund.