

28 **Control Fund to the Department of Alcoholic Beverages and \$143,000 from the General**
29 **Fund to the Driver License Division of the Department of Public Safety.**

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

31 **AMENDS:**

- 32 **32A-1-102**, as renumbered and amended by Chapter 23, Laws of Utah 1990
33 **32A-1-105**, as last amended by Chapter 161, Laws of Utah 2002
34 **32A-1-107**, as last amended by Chapter 282, Laws of Utah 2002
35 **32A-1-109**, as last amended by Chapter 20, Laws of Utah 1993
36 **32A-1-111**, as renumbered and amended by Chapter 23, Laws of Utah 1990
37 **32A-1-113**, as last amended by Chapter 1, Laws of Utah 2000
38 **32A-1-116**, as renumbered and amended by Chapter 23, Laws of Utah 1990
39 **32A-1-119**, as last amended by Chapter 79, Laws of Utah 1996
40 **32A-1-122**, as last amended by Chapter 24, Laws of Utah 1995
41 **32A-1-123**, as enacted by Chapter 132, Laws of Utah 1991
42 **32A-1-401**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session
43 **32A-2-101**, as last amended by Chapter 132, Laws of Utah 1991
44 **32A-2-103**, as last amended by Chapter 282, Laws of Utah 2002
45 **32A-3-101**, as last amended by Chapter 354, Laws of Utah 2001
46 **32A-3-102**, as last amended by Chapter 1, Laws of Utah 2000
47 **32A-3-103**, as last amended by Chapter 132, Laws of Utah 1991
48 **32A-3-106**, as last amended by Chapter 282, Laws of Utah 2002
49 **32A-3-108**, as renumbered and amended by Chapter 23, Laws of Utah 1990
50 **32A-4-101**, as last amended by Chapter 87, Laws of Utah 2002
51 **32A-4-102**, as last amended by Chapters 1 and 197, Laws of Utah 2000
52 **32A-4-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
53 **32A-4-105**, as last amended by Chapter 132, Laws of Utah 1991
54 **32A-4-106**, as last amended by Chapter 282, Laws of Utah 2002
55 **32A-4-201**, as last amended by Chapter 19, Laws of Utah 1993
56 **32A-4-202**, as last amended by Chapters 1 and 197, Laws of Utah 2000
57 **32A-4-203**, as enacted by Chapter 23, Laws of Utah 1990
58 **32A-4-206**, as last amended by Chapter 282, Laws of Utah 2002

- 59 **32A-5-101**, as last amended by Chapter 132, Laws of Utah 1991
- 60 **32A-5-102**, as last amended by Chapters 1 and 197, Laws of Utah 2000
- 61 **32A-5-103**, as last amended by Chapter 30, Laws of Utah 1992
- 62 **32A-5-104**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 63 **32A-5-107**, as last amended by Chapter 282, Laws of Utah 2002
- 64 **32A-6-102**, as last amended by Chapter 132, Laws of Utah 1991
- 65 **32A-6-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 66 **32A-6-105**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 67 **32A-6-201**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 68 **32A-6-202**, as last amended by Chapter 282, Laws of Utah 2002
- 69 **32A-6-301**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 70 **32A-6-401**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 71 **32A-6-501**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 72 **32A-7-101**, as last amended by Chapter 88, Laws of Utah 1994
- 73 **32A-7-102**, as last amended by Chapter 1, Laws of Utah 2000
- 74 **32A-7-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 75 **32A-7-104**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 76 **32A-7-106**, as last amended by Chapter 127, Laws of Utah 1998
- 77 **32A-8-101**, as last amended by Chapters 77 and 88, Laws of Utah 1994
- 78 **32A-8-102**, as last amended by Chapter 1, Laws of Utah 2000
- 79 **32A-8-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 80 **32A-8-106**, as last amended by Chapter 1, Laws of Utah 2000
- 81 **32A-8-501**, as enacted by Chapter 20, Laws of Utah 1993
- 82 **32A-8-502**, as last amended by Chapter 1, Laws of Utah 2000
- 83 **32A-8-503**, as enacted by Chapter 20, Laws of Utah 1993
- 84 **32A-8-505**, as last amended by Chapter 1, Laws of Utah 2000
- 85 **32A-9-102**, as last amended by Chapter 1, Laws of Utah 2000
- 86 **32A-9-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 87 **32A-9-106**, as last amended by Chapter 1, Laws of Utah 2000
- 88 **32A-10-101**, as last amended by Chapter 132, Laws of Utah 1991
- 89 **32A-10-102**, as last amended by Chapters 77 and 88, Laws of Utah 1994

- 90 **32A-10-201**, as last amended by Chapter 87, Laws of Utah 2002
- 91 **32A-10-202**, as last amended by Chapters 1 and 197, Laws of Utah 2000
- 92 **32A-10-203**, as enacted by Chapter 23, Laws of Utah 1990
- 93 **32A-10-205**, as enacted by Chapter 23, Laws of Utah 1990
- 94 **32A-10-206**, as last amended by Chapter 282, Laws of Utah 2002
- 95 **32A-11-101**, as last amended by Chapters 77 and 88, Laws of Utah 1994
- 96 **32A-11-102**, as last amended by Chapter 1, Laws of Utah 2000
- 97 **32A-11-103**, as last amended by Chapter 88, Laws of Utah 1994
- 98 **32A-11-106**, as last amended by Chapter 1, Laws of Utah 2000
- 99 **32A-11a-106**, as enacted by Chapter 328, Laws of Utah 1998
- 100 **32A-12-102**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 101 **32A-12-103**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 102 **32A-12-105**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 103 **32A-12-201**, as last amended by Chapter 20, Laws of Utah 1993
- 104 **32A-12-203**, as last amended by Chapter 20, Laws of Utah 1995
- 105 **32A-12-204**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 106 **32A-12-207**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 107 **32A-12-209**, as last amended by Chapter 365, Laws of Utah 1997
- 108 **32A-12-210**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 109 **32A-12-212**, as last amended by Chapter 132, Laws of Utah 1991
- 110 **32A-12-213**, as last amended by Chapter 141, Laws of Utah 1998
- 111 **32A-12-215**, as last amended by Chapter 241, Laws of Utah 1991
- 112 **32A-12-216**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 113 **32A-12-218**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 114 **32A-12-301**, as last amended by Chapter 241, Laws of Utah 1991
- 115 **32A-12-305**, as last amended by Chapter 1, Laws of Utah 2000
- 116 **32A-12-306**, as last amended by Chapter 1, Laws of Utah 2000
- 117 **32A-12-307**, as last amended by Chapter 1, Laws of Utah 2000
- 118 **32A-12-308**, as last amended by Chapter 1, Laws of Utah 2000
- 119 **32A-12-401**, as last amended by Chapter 132, Laws of Utah 1991
- 120 **32A-12-501**, as last amended by Chapter 141, Laws of Utah 1998

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

129 ENACTS:

- 130 **32A-4-301**, Utah Code Annotated 1953
- 131 **32A-4-302**, Utah Code Annotated 1953
- 132 **32A-4-303**, Utah Code Annotated 1953
- 133 **32A-4-304**, Utah Code Annotated 1953
- 134 **32A-4-305**, Utah Code Annotated 1953
- 135 **32A-4-306**, Utah Code Annotated 1953
- 136 **32A-4-307**, Utah Code Annotated 1953
- 137 **32A-4-401**, Utah Code Annotated 1953
- 138 **32A-4-402**, Utah Code Annotated 1953
- 139 **32A-4-403**, Utah Code Annotated 1953
- 140 **32A-4-404**, Utah Code Annotated 1953
- 141 **32A-4-405**, Utah Code Annotated 1953
- 142 **32A-4-406**, Utah Code Annotated 1953
- 143 **32A-4-407**, Utah Code Annotated 1953
- 144 **32A-6-502**, Utah Code Annotated 1953
- 145 **32A-6-503**, Utah Code Annotated 1953
- 146 **32A-6-603**, Utah Code Annotated 1953
- 147 **32A-10-301**, Utah Code Annotated 1953
- 148 **32A-10-302**, Utah Code Annotated 1953
- 149 **32A-10-303**, Utah Code Annotated 1953
- 150 **32A-10-304**, Utah Code Annotated 1953
- 151 **32A-10-305**, Utah Code Annotated 1953

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

161 REPEALS:

162 **32A-1-501**, as enacted by Chapter 20, Laws of Utah 1993
163 **32A-1-502**, as enacted by Chapter 20, Laws of Utah 1993
164 **32A-1-503**, as enacted by Chapter 20, Laws of Utah 1993
165 **32A-1-504**, as last amended by Chapter 1, Laws of Utah 2000
166 **32A-4-107**, as renumbered and amended by Chapter 23, Laws of Utah 1990
167 **32A-4-207**, as enacted by Chapter 23, Laws of Utah 1990
168 **32A-5-105**, as last amended by Chapters 132 and 241, Laws of Utah 1991
169 **32A-5-108**, as renumbered and amended by Chapter 23, Laws of Utah 1990
170 **32A-12-309**, as last amended by Chapter 241, Laws of Utah 1991
171 **32A-12-503**, as renumbered and amended by Chapter 23, Laws of Utah 1990
172 **63-55-232**, as last amended by Chapter 175, Laws of Utah 1998

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

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

175 **32A-1-102. Application of title.**

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

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

183 ~~the offense is considered committed before July 1, 1985.]~~

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

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

189 Section 2. Section **32A-1-105** is amended to read:

190 **32A-1-105. Definitions.**

191 As used in this title:

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

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

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

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

205 (4) "Banquet" means an event:

206 (a) for which there is a contract:

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

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

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

212 (i) hotel;

213 (ii) resort facility;

- 214 (iii) sports center; or
215 (iv) convention center; and
216 (c) at which food and alcoholic beverages may be sold and served.
217 (5) "Bar" means a counter or similar structure:
218 (a) at which alcoholic beverages are:
219 (i) stored; or
220 (ii) dispensed; or
221 (b) from which alcoholic beverages are served.
222 [~~(4)~~] (6) (a) "Beer" means [all products that contain] any product that contains:
223 (i) 63/100 of 1% of alcohol by volume or 1/2 of 1% of alcohol by weight, but not more
224 than 4% of alcohol by volume or 3.2% by weight[;]; and [are]
225 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.
226 (b) Beer may or may not contain hops or other vegetable products.
227 (c) Beer includes [products] a product that:
228 (i) contains alcohol in the percentages described in Subsection (6)(a); and
229 (ii) is referred to as:
230 (A) malt liquor[;];
231 (B) malted beverages[;]; or
232 (C) malt coolers.
233 [~~(5)~~] (7) (a) "Beer retailer" means any business establishment that is:
234 (i) engaged, primarily or incidentally, in the retail sale [or distribution] of beer to
235 public patrons, whether for consumption on or off the establishment's premises[;]; and [that is]
236 (ii) licensed to sell beer by:
237 (A) the commission[; by];
238 (B) a local authority[;]; or
239 (C) both the commission and a local authority.
240 (b) (i) "On-premise beer retailer" means any beer retailer engaged, primarily or
241 incidentally, in the sale [or distribution] of beer to public patrons for consumption on the beer
242 retailer's premises.
243 (ii) "On-premise beer retailer" includes [taverns] a tavern.
244 [~~(c) (i) "Tavern" means any business establishment engaged primarily in the retail sale~~

245 ~~or distribution of beer to public patrons for consumption on the establishment's premises, and~~
246 ~~that is licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.]~~

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

250 ~~[(6)] (8) "Billboard" means any public display used to advertise including:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

273 ~~[(h) displays at the site of a temporary special event for which a single event liquor~~
274 ~~permit has been obtained from the commission or a temporary special event beer permit has~~
275 ~~been obtained from a local authority to inform attendees of the location where alcoholic~~

276 ~~beverages are being dispensed.]~~

277 ~~[(7)] (9) "Brewer" means any person engaged in manufacturing beer[, malt liquor, or~~
278 ~~malted beverages].~~

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

280 (a) at:

281 (i) a banquet; or

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

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

284 ~~[(8)] (11) "Chartered bus" means a passenger bus, coach, or other motor vehicle~~
285 ~~provided by a bus company to a group of persons pursuant to a common purpose, under a~~
286 ~~single contract, and at a fixed charge in accordance with the bus company's tariff, for the~~
287 ~~purpose of giving the group of persons the exclusive use of the bus and a driver to travel~~
288 ~~together to a specified destination or destinations.~~

289 ~~[(9)] (12) "Church" means a building:~~

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

291 ~~(b) in which religious services are held;~~

292 ~~(c) with which clergy is associated; and~~

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

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

296 ~~[(10)] (13) "Club" and "private club" means [any nonprofit corporation operating as a~~
297 ~~social club, recreational, fraternal, or athletic association, or kindred association] any of the~~
298 ~~following organized primarily for the benefit of its [stockholders or] members[.];~~

299 (a) a social club;

300 (b) a recreational association;

301 (c) a fraternal association;

302 (d) an athletic association; or

303 (e) a kindred association.

304 ~~[(11)] (14) "Commission" means the Alcoholic Beverage Control Commission.~~

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

- 307 (15) "Convention center" is as defined by rule by the commission.
- 308 [~~(13)~~] (16) "Department" means the Department of Alcoholic Beverage Control.
- 309 [~~(14)~~] (17) "Distressed merchandise" means any alcoholic beverage in the possession
310 of the department that is saleable, but for some reason is unappealing to the public.
- 311 [~~(15)~~] (18) "General food store" means any business establishment primarily engaged
312 in selling food and grocery supplies to public patrons for off-premise consumption.
- 313 [~~(16)~~] ~~"Governing body" means the board of not fewer than five shareholders or voting~~
314 ~~members of a private club who have been elected and authorized to control or conduct the~~
315 ~~business and affairs of that club.]~~
- 316 [~~(17)~~] (19) "Guest" means a person accompanied by an active member or visitor of a
317 club who enjoys only those privileges derived from the host for the duration of the visit to the
318 club.
- 319 [~~(18)~~] (20) (a) "Heavy beer" means [all products that contain] any product that:
320 (i) contains more than 4% alcohol by volume; and
321 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.
- 322 (b) "Heavy beer" is considered "liquor" for the purposes of this title.
- 323 (21) "Hosted bar" means the service of alcoholic beverages:
324 (a) without charge; and
325 (b) at a:
326 (i) banquet; or
327 (ii) privately-hosted event.
- 328 (22) "Hotel" is as defined by rule by the commission.
- 329 [~~(19)~~] (23) "Identification card" means the identification card issued under Title 53,
330 Chapter 3, Part 8, Identification Card Act.
- 331 [~~(20)~~] (24) "Interdicted person" means a person to whom the sale, gift, or provision of
332 an alcoholic beverage is prohibited by:
333 (a) law; or
334 (b) court order.
- 335 (25) "Intoxicated" means that to a degree that is unlawful under Section 76-9-701 a
336 person is under the influence of:
337 (a) an alcoholic beverage;

338 (b) a controlled substance;

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

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

341 [~~(21)~~] (26) "Licensee" means any person issued a license by the commission to sell,
342 manufacture, store, or allow consumption of alcoholic beverages on premises owned or
343 controlled by the person.

344 [~~(22)~~] (27) "Limousine" means any motor vehicle licensed by the state or a local
345 authority, other than a bus or taxicab:

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

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

351 [~~(23)~~] (28) (a) "Liquor" means alcohol, or any alcoholic, [~~spiritous~~] spirituous, vinous,
352 fermented, malt, or other liquid, or combination of liquids, a part of which is [~~spiritous~~]
353 spirituous, vinous, or fermented, and all other drinks, or drinkable liquids that contain more
354 than 1/2 of 1% of alcohol by volume and is suitable to use for beverage purposes.

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

357 [~~(24)~~] (29) "Local authority" means:

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

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

362 [~~(25)~~] (30) "Manufacture" means to distill, brew, rectify, mix, compound, process,
363 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
364 others.

365 [~~(26)~~] (31) "Member" means a person who, after paying regular dues, has full
366 privileges of a club under this title.

367 [~~(27)~~] (32) "Minor" means any person under the age of 21 years.

368 [~~(28)~~] (33) "Outlet" means a location other than a state store or package agency where

369 alcoholic beverages are sold pursuant to a license issued by the commission.

370 ~~[(29)]~~ (34) "Package" means any container, bottle, vessel, or other receptacle
371 containing liquor.

372 ~~[(30)]~~ (35) "Package agency" means a retail liquor location operated under a
373 contractual agreement with the department, by a person other than the state, who is authorized
374 by the commission to sell package liquor for consumption off the premises of the agency.

375 ~~[(31)]~~ (36) "Package agent" means any person permitted by the commission to operate
376 a package agency pursuant to a contractual agreement with the department to sell liquor from
377 premises that the package agent shall provide and maintain.

378 ~~[(32)]~~ (37) "Permittee" means any person issued a permit by the commission to
379 perform acts or exercise privileges as specifically granted in the permit.

380 ~~[(33)]~~ (38) "Person" means any individual, partnership, firm, corporation, limited
381 liability company, association, business trust, or other form of business enterprise, including a
382 receiver or trustee, and the plural as well as the singular number, unless the intent to give a
383 more limited meaning is disclosed by the context.

384 ~~[(34)]~~ (39) "Policy" means a statement of principles established by the commission to
385 guide the administration of this title and the management of the affairs of the department.

386 ~~[(35)]~~ (40) "Premises" means any building, enclosure, room, or equipment used in
387 connection with the sale, storage, service, manufacture, distribution, or consumption of
388 alcoholic products, unless otherwise defined in this title or in the rules adopted by the
389 commission.

390 ~~[(36)]~~ (41) "Prescription" means a writing in legal form, signed by a physician or
391 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

392 ~~[(37)]~~ (42) (a) "Privately hosted event" or "private social function" means a specific
393 social, business, or recreational event for which an entire room, area, or hall has been leased or
394 rented, in advance by an identified group, and the event or function is limited in attendance to
395 people who have been specifically designated and their guests.

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

398 ~~[(38)]~~ (43) "Proof of age" means:

399 (a) an identification card;

- 400 (b) an identification that:
- 401 (i) is substantially similar to an identification card;
- 402 (ii) is issued in accordance with the laws of a state other than Utah in which the
- 403 identification is issued;
- 404 (iii) includes date of birth; and
- 405 (iv) has a picture affixed;
- 406 (c) a valid driver license certificate that:
- 407 (i) includes date of birth;
- 408 (ii) has a picture affixed; and
- 409 (iii) is issued:
- 410 (A) under Title 53, Chapter 3, Uniform Driver License Act; or
- 411 (B) in accordance with the laws of the state in which it is issued;
- 412 (d) a military identification card that:
- 413 (i) includes date of birth; and
- 414 (ii) has a picture affixed; or
- 415 (e) a valid passport.
- 416 [~~(39)~~] (44) (a) "Public building" means any building or permanent structure owned or
- 417 leased by the state, a county, or local government entity that is used for:
- 418 (i) public education;
- 419 (ii) transacting public business; or
- 420 (iii) regularly conducting government activities.
- 421 (b) "Public building" does not mean or refer to any building owned by the state or a
- 422 county or local government entity when the building is used by anyone, in whole or in part, for
- 423 proprietary functions.
- 424 [~~(40)~~] (45) "Representative" means an individual who is compensated by salary,
- 425 commission, or any other means for representing and selling the alcoholic beverage products of
- 426 a manufacturer, supplier, or importer of liquor, wine, or heavy beer.
- 427 [~~(41)~~] (46) "Residence" means the person's principal place of abode within Utah.
- 428 (47) "Resort facility" is as defined by rule by the commission.
- 429 [~~(42)~~] (48) "Restaurant" means any business establishment:
- 430 (a) where a variety of foods is prepared and complete meals are served to the general

431 public;

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

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

435 ~~[(43)]~~ (49) "Retailer" means any person engaged in the sale or distribution of alcoholic
436 beverages to the consumer.

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

438 (a) hotel; or

439 (b) resort facility.

440 ~~[(44)]~~ (51) (a) (i) "Rule" means a general statement adopted by the commission;

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

442 and

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

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

445 (III) to describe the organization, procedure, or practice requirements of the department

446 in order to carry out the intent of the law and ensure its uniform application. ~~[This definition]~~

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

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

451 ~~[(45)]~~ (52) (a) "Sample" includes:

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

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

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

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

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

460 ~~[(d)]~~ (c) "Industry representative sample" means liquor, wine, and heavy beer that has
461 been placed in the possession of the department for testing, analysis, and sampling by local

462 industry representatives on the premises of the department to educate themselves of the quality
463 and characteristics of the product.

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

466 ~~[(i) to a local industry representative holding a license described in Section~~
467 ~~32A-8-501;]~~

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

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

473 ~~[(46)]~~ (53) (a) "School" means any building used primarily for the general education of
474 minors.

475 (b) "School" does not include:

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

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

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

479 ~~[(47)]~~ (54) "Sell," "sale," and "to sell" means any transaction, exchange, or barter
480 whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred,
481 solicited, ordered, delivered for value, or by any means or under any pretext is promised or
482 obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or
483 employee, unless otherwise defined in this title or the rules made by the commission.

484 ~~[(48)]~~ (55) "Small brewer" means a brewer who manufactures less than 60,000 barrels
485 of beer and heavy beer per year.

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

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

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

490 ~~[(49)]~~ (58) (a) "State label" means the official label designated by the commission
491 affixed to all liquor containers sold in the state.

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

493 number.

494 ~~[(50)]~~ (59) (a) "State store" means a facility for the sale of package liquor;

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

496 (ii) operated by state employees.

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

498 (i) licensee~~;~~;

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

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

501 ~~[(51)]~~ (60) "Supplier" means any person selling alcoholic beverages to the department.

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

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

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

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

508 (i) a beer bar;

509 (ii) a parlor;

510 (iii) a lounge;

511 (iv) a cabaret; or

512 (v) a nightclub.

513 ~~[(52)]~~ (62) "Temporary domicile" means the principal place of abode within Utah of a
514 person who does not have a present intention to continue residency within Utah permanently or
515 indefinitely.

516 ~~[(53)]~~ (63) "Unsaleable liquor merchandise" means merchandise that:

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

519 (b) is in a container;

520 (i) having faded labels or defective caps or corks~~;~~~~or~~;

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

522 or

523 (iii) that contains;

524 (A) sediment[;]; or

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

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

527 [~~(54)~~] (64) "Visitor" means [~~a person holding~~] an individual that in accordance with
528 Section 32A-5-107 holds limited privileges in a private club by virtue of a visitor card
529 [purchased from the club and authorized by a sponsoring member of the club].

530 [~~(55)~~] (65) "Warehouser" means any person, other than a licensed manufacturer,
531 engaged in the importation for sale, storage, or distribution of liquor regardless of amount.

532 [~~(56)~~] (66) "Wholesaler" means any person engaged in the importation for sale, or in
533 the sale of beer in wholesale or jobbing quantities to retailers, other than a small brewer selling
534 beer manufactured by that brewer.

535 [~~(57)~~] (67) (a) "Wine" means any alcoholic beverage obtained by the fermentation of
536 the natural sugar content of fruits, plants, honey, or milk, or any other like substance, whether
537 or not other ingredients are added.

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

540 Section 3. Section **32A-1-107** is amended to read:

541 **32A-1-107. Powers and duties of the commission.**

542 (1) The commission shall:

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

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

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

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

547 (ii) controlling liquor merchandise inventory including:

548 (A) listing and delisting products;

549 (B) the procedures for testing new products;

550 (C) purchasing policy;

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

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

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

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

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

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

560 (i) package agencies;

561 (ii) restaurant licenses;

562 (iii) airport lounge licenses;

563 (iv) limited restaurant licenses;

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

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

566 [~~(v)~~] (vii) on-premise beer retailer licenses;

567 (viii) temporary special event beer permits;

568 [~~(vi)~~] (ix) special use permits;

569 [~~(vii)~~] (x) single event permits;

570 [~~(viii)~~] (xi) manufacturing licenses;

571 [~~(ix)~~] (xii) liquor warehousing licenses; and

572 [~~(x)~~] (xiii) beer wholesaling licenses;

573 (f) fix prices at which liquors are sold that are the same at all state stores, package
574 agencies, and outlets;

575 (g) issue and distribute price lists showing the price to be paid by purchasers for each
576 class, variety, or brand of liquor kept for sale by the department;

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

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

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

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

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

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

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

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

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

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

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

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

608 Section 4. Section **32A-1-109** is amended to read:

609 **32A-1-109. Powers and duties of the director.**

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

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

616 (2) within the general policies, directives, rules, and procedures of the commission,

617 provide day-to-day direction, coordination, and delegation of responsibilities in the
618 administrative activities of the department's business and promulgate internal department
619 policies, directives, rules, and procedures relating to department personnel matters, and the
620 day-to-day operation of the department;

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

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

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

632 (6) prepare for commission approval:

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

635 (b) recommendations regarding the issuance, suspension, nonrenewal, and revocation
636 of licenses and permits;

637 (c) annual budgets, proposed legislation, and reports as required by law and sound
638 business principles;

639 (d) plans for reorganizing divisions of the department and their functions;

640 (e) manuals containing all commission and department policies, directives, rules, and
641 procedures;

642 (f) an inventory control system;

643 (g) any other reports and recommendations as may be requested by the commission;

644 (h) rules governing the credit terms of beer sales to beer retailer licensees;

645 (i) rules governing the calibration, maintenance, and regulation of calibrated metered
646 dispensing systems;

647 (j) rules governing the posting of a list of types and brand names of liquor being served

648 through calibrated metered dispensing systems;

649 (k) price lists issued and distributed showing the price to be paid for each class, variety,
650 or brand of liquor kept for sale at state stores, package agencies, and outlets;

651 (l) directives prescribing the books of account kept by the department and by state
652 stores, package agencies, and outlets;

653 (m) an official state label and the manner in which the label shall be affixed to every
654 package of liquor sold under this title; and

655 (n) a policy prescribing the manner of giving and serving notices required by this title
656 or rules made under this title; [~~and~~]

657 [~~(o) rules governing department trade shows;~~]

658 (7) make available through the department to any person, upon request, a copy of any
659 policy or directive promulgated by the director;

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

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

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

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

670 [~~(10)~~] (11) perform other duties required by the commission and by law.

671 Section 5. Section **32A-1-111** is amended to read:

672 **32A-1-111. Department employees -- Requirements.**

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

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

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

678 [~~(b) convicted of~~] (ii) any violation of any federal or state law or local ordinance

679 concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of
680 alcoholic beverages; ~~or~~

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

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

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

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

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

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

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

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

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

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

702 or

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

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

708 ~~[(3)]~~ (4) (a) A person who seeks employment with the department shall file with the
709 department an application under oath or affirmation in a form prescribed by the commission.

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

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

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

715 (ii) qualified for the position sought.

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

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

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

720 (a) a package agent;

721 (b) a licensee;

722 (c) an employee of a package agent; or

723 (d) an employee of a licensee.

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

725 (a) work in:

726 (i) any state liquor store; or

727 (ii) departmental warehouse[-]; or ~~to~~

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

729 Section 6. Section **32A-1-113** is amended to read:

730 **32A-1-113. Department expenditures and revenues -- Liquor Control Fund --**
731 **Exempt from Division of Finance -- Annual audits.**

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

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

739 (c) The fiscal officers of the department shall transfer annually from the Liquor Control
740 Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor

741 since the preceding transfer of funds. The transfer shall be made within 90 days of the end of
742 the department's fiscal year on June 30.

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

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

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

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

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

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

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

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

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

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

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

769 (i) licensee; or

770 (ii) permittee.

771 (c) The termination of the operation of a package agency under this Subsection (5) is

772 grounds for the forfeiture of the bond of the package agency.

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

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

780 Section 7. Section **32A-1-116** is amended to read:

781 **32A-1-116. Purchase of liquor.**

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

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

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

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

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

789 Section 8. Section **32A-1-119** is amended to read:

790 **32A-1-119. Adjudicative proceedings -- Procedure.**

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

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

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

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

803 department.

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

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

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

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

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

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

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

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

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

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

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

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

- 834 (i) if required by law~~[, and in all cases]~~;
- 835 (ii) before revoking or suspending any permit or license ~~[or permit]~~ issued under this
- 836 title~~[, unless waived by the respondent]~~; or
- 837 (iii) before imposing a fine against:
- 838 (A) a permittee;
- 839 (B) a licensee; or
- 840 (C) any officer, employee, or agent of a permittee or licensee.
- 841 (b) Inexcusable failure of a respondent to appear at a scheduled evidentiary hearing
- 842 after receiving proper notice is an admission of the charged violation.
- 843 (c) The validity of any hearing is not affected by the failure of any person to attend or
- 844 remain in attendance.
- 845 (d) All evidentiary hearings shall be presided over by the commission or an appointed
- 846 hearing examiner.
- 847 (e) A hearing may be closed only after the commission or hearing examiner makes a
- 848 written finding that the public interest in an open hearing is clearly outweighed by factors
- 849 enumerated in the closure order.
- 850 (f) The commission or its hearing examiner may administer oaths or affirmations, take
- 851 evidence, take depositions within or without this state, require by subpoena from any place
- 852 within this state the testimony of any person at a hearing, and the production of any books,
- 853 records, papers, contracts, agreements, documents, or other evidence considered relevant to the
- 854 inquiry.
- 855 (i) Persons subpoenaed shall testify and produce any books, papers, documents, or
- 856 tangible things as required in the subpoena.
- 857 (ii) Any witness subpoenaed or called to testify or produce evidence who claims a
- 858 privilege against self-incrimination may not be compelled to testify, but the commission or the
- 859 hearing examiner shall file a written report with the county attorney or district attorney in the
- 860 jurisdiction where the privilege was claimed or where the witness resides setting forth the
- 861 circumstance of the claimed privilege.
- 862 (iii) A person is not excused from obeying a subpoena without just cause. Any district
- 863 court within the judicial district in which a person alleged to be guilty of willful contempt of
- 864 court or refusal to obey a subpoena is found or resides, upon application by the party issuing

865 the subpoena, may issue an order requiring the person to appear before the issuing party, and to
866 produce documentary evidence if so ordered, or to give evidence regarding the matter in
867 question. Failure to obey an order of the court may be punished by the court as contempt.

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

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

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

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

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

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

884 (ii) impose a fine against:

885 (A) the permittee;

886 (B) the licensee; or

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

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

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

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

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

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

896 (A) during the suspension;

897 (B) by the permittee or licensee; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

927 (7)(a)(i).

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

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

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

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

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

937 (B) the manufacturer, supplier, or importer:

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

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

941 Section 9. Section **32A-1-122** is amended to read:

942 **32A-1-122. Liquor prices.**

943 (1) Except as provided in Subsections (2) and (3), all liquor sold within the state shall
944 be marked up in an amount not less than [~~61%~~] 64% above the cost to the department[~~;~~
945 ~~excluding federal excise taxes~~].

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

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

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

956 Section 10. Section **32A-1-123** is amended to read:

957 **32A-1-123. Licensee compliance with other laws.**

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

962 (2) The commission:

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

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

966 Section 11. Section **32A-1-401** is amended to read:

967 **32A-1-401. Alcohol training and education -- Revocation or suspension of**
968 **licenses.**

969 (1) The commission may [~~revoke,~~] suspend, [~~withhold~~] revoke, or not renew the
970 license of any [~~new or renewing~~] licensee if any of the following persons, as defined in Section
971 62A-15-401, fail to complete the seminar required in Section 62A-15-401:

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

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

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

977 (2) A city, town, or county in which an establishment conducts its business may
978 [~~revoke,~~] suspend, [~~withhold~~] revoke, or not renew the business license of the establishment if
979 any person described in Subsection (1) fails to complete the seminar required in Section
980 62A-15-401.

981 Section 12. Section **32A-2-101** is amended to read:

982 **32A-2-101. Commission's power to establish state stores -- Limitations.**

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

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

988 (2) (a) The total number of state stores may not at any time aggregate more than that

989 number determined by dividing the population of the state by 48,000. [Population]

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

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

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

993 governments.

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

997 (b) A state store may not be established within 200 feet of any public or private school,
998 church, public library, public playground, or park measured in a straight line from the nearest
999 entrance of the proposed state store to the nearest property boundary of the public or private
1000 school, church, public library, public playground, or park.

1001 (c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the
1002 following exceptions applies:

1003 ~~[(i) The commission finds after full investigation that the premises are located within a~~
1004 ~~city of the third class or a town, and compliance with the distance requirements would result in~~
1005 ~~peculiar and exceptional practical difficulties or exceptional and undue hardships in the~~
1006 ~~establishment of a state store. In that event, the commission may, after giving full~~
1007 ~~consideration to all of the attending circumstances, following a public hearing in the city or~~
1008 ~~town, and where practical in the neighborhood concerned, authorize a variance from the~~
1009 ~~distance requirements to relieve the difficulties or hardships if the variance may be granted~~
1010 ~~without substantial detriment to the public good and without substantially impairing the intent~~
1011 ~~and purpose of this title.]~~

1012 (i) with respect to the establishment of a state store within a city of the third class, a
1013 town, or the unincorporated area of a county, the commission may authorize a variance that
1014 reduces the proximity requirements of Subsection (3)(a) or (b) if:

1015 (A) alternative locations for establishing a state store in the community are limited;

1016 (B) a public hearing has been held in the city, town, or county, and where practical in
1017 the neighborhood concerned; and

1018 (C) after giving full consideration to all of the attending circumstances, the commission
1019 determines that establishing the state store would not be detrimental to the public health, peace,

1020 safety, and welfare of the community; or

1021 (ii) [~~With~~] with respect to the establishment of a state store in any location, the
1022 commission may~~[, after giving full consideration to all of the attending circumstances,~~
1023 ~~following a public hearing in the county, and where practical in the neighborhood concerned,~~
1024 ~~reduce the proximity requirements]~~ authorize a variance to reduce the proximity requirements
1025 of Subsection (3)(a) or (b) in relation to a church;

1026 (A) if the local governing body of the church in question gives its written [approval:]
1027 consent to the variance;

1028 (B) following a public hearing in the county, and where practical in the neighborhood
1029 concerned; and

1030 (C) after giving full considerations to all of the attending circumstances.

1031 (4) With respect to any public or private school, church, public library, public
1032 playground, or park, the 600 foot limitation is measured from the nearest entrance of the state
1033 store by following the shortest route of [~~either~~] ordinary pedestrian [~~traffic or, where~~
1034 ~~applicable, vehicular travel along public thoroughfares, whichever is the closer,~~] travel to the
1035 property boundary of the public or private school, church, public library, public playground,
1036 school playground, or park.

1037 (5) (a) Nothing in this section prevents the commission from considering the proximity
1038 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
1039 decision on a proposed location.

1040 (b) For purposes of this Subsection (5), "educational facility" includes:

1041 (i) a nursery [schools,] school;

1042 (ii) an infant day care [centers,] center; and

1043 (iii) a trade and technical [schools] school.

1044 Section 13. Section **32A-2-103** is amended to read:

1045 **32A-2-103. Operational restrictions.**

1046 (1) Liquor may not be sold from a state store except in a sealed package. The package
1047 may not be opened on the premises of any state store.

1048 (2) (a) An officer, agent, clerk, or employee of a state store may not consume or allow
1049 to be consumed by any person any alcoholic beverage on the premises of a state store.

1050 (b) Violation of this Subsection (2) is a class B misdemeanor.

- 1051 (3) All liquor sold shall be in packages that are properly marked and labeled in
1052 accordance with the rules adopted under this title.
- 1053 (4) Liquor may not be sold except at prices fixed by the commission.
- 1054 (5) Liquor may not be sold, delivered, or furnished to any:
- 1055 (a) minor;
- 1056 (b) person actually, apparently, or obviously [~~drunk~~] intoxicated;
- 1057 (c) known habitual drunkard; or
- 1058 (d) known interdicted person.
- 1059 (6) Sale or delivery of liquor may not be made on or from the premises of any state
1060 store, nor may any state store be kept open for the sale of liquor:
- 1061 (a) on Sunday;
- 1062 (b) on any state or federal legal holiday;
- 1063 (c) on any day on which any regular general election, regular primary election, or
1064 statewide special election is held;
- 1065 (d) on any day on which any municipal, special district, or school election is held, but
1066 only within the boundaries of the municipality, special district, or school district holding the
1067 election and only if the municipality, special district, or school district in which the election is
1068 being held notifies the department at least 30 days prior to the date of the election; or
- 1069 (e) except on days and during hours as the commission may direct by rule or order.
- 1070 (7) Each state store shall display in a prominent place in the store a sign in large letters
1071 stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is
1072 prosecuted aggressively in Utah."
- 1073 Section 14. Section **32A-3-101** is amended to read:
- 1074 **32A-3-101. Commission's power to establish package agencies -- Limitations.**
- 1075 (1) (a) The commission may, when considered necessary, create package agencies by
1076 entering into contractual relationships with persons to sell liquor in sealed packages from
1077 premises other than those owned or leased by the state.
- 1078 (b) The commission shall authorize a person to operate a package agency by issuing a
1079 certificate from the commission that designates the person in charge of the agency as a
1080 "package agent" as defined under Section 32A-1-105.
- 1081 (2) (a) Subject to this Subsection (2), the total number of package agencies may not at

1082 any time aggregate more than that number determined by dividing the population of the state
1083 by 18,000.

1084 (b) For purposes of Subsection (2)(a), population shall be determined by:

1085 (i) the most recent United States decennial or special census; or

1086 (ii) any other population determination made by the United States or state
1087 governments.

1088 (c) (i) The commission may establish seasonal package agencies established in areas
1089 ~~[and for periods it]~~ the commission considers necessary.

1090 (ii) A seasonal package agency ~~[may not be operated]~~ shall be for a period ~~[longer than~~
1091 ~~nine]~~ of six consecutive months ~~[subject to the restrictions stated in Subsections (2)(c)(i)~~
1092 ~~through (iii)]~~.

1093 ~~[(†)]~~ (iii) A package agency established for operation during a summer time period is
1094 known as a "Seasonal A" package agency. The period of operation for a "Seasonal A" agency
1095 ~~[may begin as early as February 1 and may continue until October 31.]~~ shall:

1096 (A) begin on May 1; and

1097 (B) end on October 31.

1098 ~~[(†)]~~ (iv) A package agency established for operation during a winter time period is
1099 known as a "Seasonal B" package agency. The period of operation for a "Seasonal B" agency
1100 ~~[may begin as early as September 1 and may continue until May 31.]~~ shall:

1101 (A) begin on November 1; and

1102 (B) end on April 30.

1103 ~~[(†)]~~ (v) In determining the number of package agencies that the commission may
1104 establish under this section:

1105 (A) a seasonal package agency is counted as ~~[one-half]~~ 1/2 of one package agency; and

1106 (B) each "Seasonal A" agency shall be paired with a "Seasonal B" agency~~[; and]~~.

1107 ~~[(C) the total number of months that each combined pair may be established for~~
1108 ~~operation may not exceed 12 months for each calendar year.]~~

1109 (d) (i) If the location, design, and construction of a hotel may require more than one
1110 package agency sales location to serve the public convenience, the commission may authorize a
1111 single package agent to sell liquor at as many as three locations within the hotel under one
1112 package agency if:

1113 (A) the hotel has a minimum of 150 guest rooms; and

1114 (B) all locations under the agency are:

1115 (I) within the same hotel facility; and

1116 (II) on premises that are managed or operated and owned or leased by the package

1117 agent.

1118 (ii) Facilities other than hotels may not have more than one sales location under a

1119 single package agency.

1120 (3) (a) As measured by the method in Subsection (4), the premises of a package agency

1121 may not be established within 600 feet of any[?] public or private school, church, public library,

1122 public playground, or park.

1123 [~~(i) public or private school;~~]

1124 [~~(ii) church;~~]

1125 [~~(iii) public library;~~]

1126 [~~(iv) public playground; or]~~

1127 [~~(v) park.~~]

1128 (b) [~~A~~] The premises of a package agency may not be established within 200 feet of

1129 any public or private school, church, public library, public playground, or park, measured in a

1130 straight line from the nearest entrance of the proposed package agency to the nearest property

1131 boundary of the public or private school, church, public library, public playground, or park.

1132 (c) The restrictions contained in Subsections (3)(a) and (b) govern unless [~~Subsection~~

1133 ~~(3)(c)(i) or (ii)~~] one of the following exemptions applies[?]:

1134 [~~(i) If the commission finds after full investigation that the premises are located within a~~

1135 ~~city of the third class or a town, and compliance with the distance requirements would result in~~

1136 ~~peculiar and exceptional practical difficulties or exceptional and undue hardships in the~~

1137 ~~establishment of a package agency, the commission may authorize a variance from the distance~~

1138 ~~requirement to relieve the difficulties or hardships:]~~

1139 [~~(A) after giving full consideration to all of the attending circumstances;~~]

1140 [~~(B) following a public hearing in:]~~

1141 [~~(F) the city or town concerned; and]~~

1142 [~~(H) where practical, in the neighborhood concerned; and]~~

1143 [~~(C) if the variance may be granted without:]~~

1144 ~~[(F) substantial detriment to the public good; and]~~
1145 ~~[(H) substantially impairing the intent and purpose of this title.]~~
1146 ~~[(ii) With respect to the establishment of a package agency in any location, the~~
1147 ~~commission may reduce the proximity requirements in relation to a church:]~~
1148 ~~[(A) after giving full consideration to all of the attending circumstances;]~~
1149 ~~[(B) following a public hearing in:]~~
1150 ~~[(F) the county concerned; and]~~
1151 ~~[(H) where practical, in the neighborhood concerned; and]~~
1152 ~~[(C) if the local governing body of the church in question gives its written approval:]~~
1153 (i) with respect to the establishment of a package agency within a city of the third class,
1154 a town, or the unincorporated area of a county, the commission may authorize a variance to
1155 reduce the proximity requirements of Subsection (3)(a) or (b) if:
1156 (A) the local governing authority has granted its written consent to the variance;
1157 (B) alternative locations for establishing a package agency in the community are
1158 limited;
1159 (C) a public hearing has been held in the city, town, or county, and where practical in
1160 the neighborhood concerned; and
1161 (D) after giving full consideration to all of the attending circumstances, the
1162 commission determines that establishing the package agency would not be detrimental to the
1163 public health, peace, safety, and welfare of the community;
1164 (ii) with respect to the establishment of a package agency in any location, the
1165 commission may authorize a variance to reduce the proximity requirements Subsection (3)(a)
1166 or (b) in relation to a church:
1167 (A) if the local governing body of the church in question gives its written consent to
1168 the variance;
1169 (B) following a public hearing in the city, town, or county and where practical in the
1170 neighborhood concerned; and
1171 (C) after giving full consideration to all of the attending circumstances; or
1172 (iii) with respect to the premises of a package agency issued by the commission that
1173 under goes a change of ownership, the commission may waive or vary the proximity
1174 requirements of Subsection (3)(a) or (b) in considering whether to grant a package agency to

1175 the new owner of the premises if:

1176 (A) the premises previously received a variance reducing the proximity requirements of
1177 Subsection (3)(a) or (b); or

1178 (B) a variance from proximity or distance requirements was otherwise allowed under
1179 this title.

1180 (4) With respect to any public or private school, church, public library, public
1181 playground, or park, the 600 foot limitation is measured from the nearest entrance of the
1182 package agency by following the shortest route of [~~either~~] ordinary pedestrian [~~traffic, or where~~
1183 ~~applicable, vehicular travel along public thoroughfares, whichever is the closer,]~~ travel to the
1184 property boundary of the public or private school, church, public library, public playground,
1185 school playground, or park.

1186 (5) (a) Nothing in this section prevents the commission from considering the proximity
1187 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
1188 decision on a proposed location.

1189 (b) For purposes of Subsection (5)(a), "educational facility" includes:

1190 (i) a nursery school;

1191 (ii) an infant day care center; and

1192 (iii) a trade and technical school.

1193 (6) (a) The package agent, under the direction of the department, shall be responsible
1194 for implementing and enforcing this title and the rules adopted under this title to the extent they
1195 relate to the conduct of the agency and its sale of liquor.

1196 (b) A package agent may not be, or construed to be, a state employee nor be otherwise
1197 entitled to any benefits of employment from the state.

1198 (c) A package agent, when selling liquor from a package agency, is considered an agent
1199 of the state only to the extent specifically expressed in the package agency agreement.

1200 (7) The commission may prescribe by policy, directive, or rule, consistent with this
1201 title, general operational requirements of all package agencies relating to:

1202 (a) physical facilities;

1203 (b) conditions of operation;

1204 (c) hours of operation;

1205 (d) inventory levels;

- 1206 (e) payment schedules;
1207 (f) methods of payment;
1208 (g) premises security; and
1209 (h) any other matters considered appropriate by the commission.

1210 Section 15. Section **32A-3-102** is amended to read:

1211 **32A-3-102. Application requirements.**

1212 (1) A person seeking to operate a package agency as a package agent under this chapter
1213 shall file a written application with the department in a form prescribed by the department.

1214 (2) The application shall be accompanied by:

1215 (a) a nonrefundable application fee of \$100;

1216 (b) written consent of the local authority;

1217 (c) evidence of proximity to any public or private school, church, public library, public
1218 playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of
1219 Subsections 32A-3-101(3)[;] and (4)[, ~~and~~ (5)], the application shall be processed in
1220 accordance with those subsections;

1221 (d) a bond as specified by Section 32A-3-105;

1222 (e) a floor plan of the premises, including a description and highlighting of that part of
1223 the premises in which the applicant proposes that the package agency be established;

1224 (f) evidence that the package agency is carrying public liability insurance in an amount
1225 and form satisfactory to the department;

1226 (g) a signed consent form stating that the package agent will permit any authorized
1227 representative of the commission, department, or any law enforcement officer to have
1228 unrestricted right to enter the package agency;

1229 (h) in the case of [~~a corporate~~] an applicant that is a partnership, corporation, or limited
1230 liability company, proper verification evidencing that the person or persons signing the package
1231 agency application are authorized to so act on [~~the corporation's~~] behalf of the partnership,
1232 corporation, or limited liability company; and

1233 (i) any other information as the commission or department may direct.

1234 Section 16. Section **32A-3-103** is amended to read:

1235 **32A-3-103. Qualifications.**

1236 (1) (a) The commission may not grant a package agency to any person who has been

1237 convicted of:

1238 (i) a felony under any federal or state law;

1239 (ii) any violation of any federal or state law or local ordinance concerning the sale,
1240 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

1241 [~~or~~]

1242 (iii) any crime involving moral turpitude[-]; or

1243 (iv) on two or more occasions within the five years before the day on which the
1244 package agency is granted, driving under the influence of alcohol, any drug, or the combined
1245 influence of alcohol and any drug.

1246 (b) In the case of a partnership [~~or~~], corporation, or limited liability company, the
1247 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
1248 offense described in Subsection (1)(a):

1249 (i) a partner[-];

1250 (ii) a managing agent[-];

1251 (iii) a manager;

1252 (iv) an officer[-];

1253 (v) a director[-~~or~~];

1254 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
1255 [an] the applicant corporation [~~has been convicted of any offense as provided in Subsection~~
1256 (a)]; or

1257 (vii) a member who owns at least 20% of the applicant limited liability company.

1258 ~~[(2)(a) If any employee or proprietor of a package agency is convicted of any offense~~
1259 ~~designated in Subsection (1)(a), the]~~

1260 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
1261 supervisory or managerial capacity for a package agency has been convicted of any offense
1262 described in Subsection (1)(a).

1263 (2) The commission may [~~pursuant to a package agency agreement,~~] immediately
1264 suspend or revoke the package agency[-] and terminate the package agency agreement
1265 if after the day on which the package agency is granted a person described in Subsection (1)(a),
1266 (b), or (c):

1267 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior

1268 to the package agency being granted; or

1269 (b) on or after the day on which the package agency is granted:

1270 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

1271 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the

1272 combined influence of alcohol and any drug; and

1273 (B) was convicted of driving under the influence of alcohol, any drug, or the combined

1274 influence of alcohol and any drug within five years before the day on which the person is

1275 convicted of the offense described in Subsection (2)(b)(ii)(A).

1276 ~~[(b) In the case of a partnership or corporation that operates a package agency, if any~~

1277 ~~partner, managing agent, officer, director, or stockholder who holds at least 20% of the total~~

1278 ~~issued and outstanding stock of a corporation is convicted of any offense designated in~~

1279 ~~Subsection (1)(a), the commission may, pursuant to a package agency agreement, immediately~~

1280 ~~revoke the package agency.]~~

1281 (3) ~~[Upon the arrest of any package agent on any charge set forth in Subsection (1)(a),~~

1282 ~~the] The~~ director may take emergency action by immediately suspending the operation of the

1283 package agency for the period during which the criminal matter is being adjudicated[-] if a

1284 person described in Subsection (1)(a), (b), or (c):

1285 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

1286 or

1287 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,

1288 any drug, or the combined influence of alcohol and any drug; and

1289 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined

1290 influence of alcohol and any drug within five years before the day on which the person is

1291 arrested on a charge described in Subsection (3)(b)(i).

1292 (4) (a) (i) The commission may not grant a package agency to any person who has had
1293 any type of license, agency, or permit issued under this title revoked within the last three years.

1294 (ii) The commission may not grant a package agency to any ~~[corporation or~~
1295 ~~partnership]~~ applicant that is a partnership, corporation, or limited liability company if any

1296 partner, managing agent, manager, officer, director, ~~[or]~~ stockholder who holds at least 20% of

1297 the total issued and outstanding stock of the applicant corporation, or member who owns at

1298 least 20% of the applicant limited liability company is or was;

1299 (A) a partner or managing agent of any partnership~~[, or is or was]~~ that had any type of
1300 license, agency, or permit issued under this title revoked within the last three years;

1301 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
1302 of the total issued and outstanding stock of any corporation that had any type of license,
1303 agency, or permit issued under this title revoked within the last three years; or

1304 (C) a manager or member who owns or owned at least 20% of any limited liability
1305 company that had ~~[a liquor]~~ any type of license, agency, or permit issued under this title
1306 revoked within the last three years.

1307 (b) ~~[A corporation or partnership]~~ An applicant that is a partnership, corporation, or
1308 limited liability company may not be granted a package agency if any of the following had any
1309 type of license, agency, or permit issued under this title revoked while acting in that person's
1310 individual capacity within the last three years:

1311 (i) any partner or managing agent of the applicant partnership ~~[or]~~;

1312 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
1313 total issued and outstanding stock of the ~~[corporate]~~ applicant ~~[had a liquor license, agency, or~~
1314 permit revoked while acting in their individual capacity within the last three years.]
1315 corporation; or

1316 (iii) any manager or member who owns at least 20% of the applicant limited liability
1317 company.

1318 (c) A person acting in an individual capacity may not be granted a package agency if
1319 that person was:

1320 (i) a partner or managing agent of a partnership~~[, or]~~ that had any type of license,
1321 agency, or permit issued under this title revoked within the last three years;

1322 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
1323 total issued and outstanding stock of a corporation that had any type of license, agency, or
1324 permit issued under this title revoked within the last three years; or

1325 (iii) a manager or member who owned at least 20% of the limited liability company
1326 that had ~~[a liquor]~~ any type of license, agency, or permit issued under this title revoked within
1327 the last three years.

1328 (5) (a) Each package agency shall be operated by a natural person, who is either:

1329 (i) the package agent; or

- 1330 (ii) another natural person that package agent designates.
- 1331 (b) Each designee shall be:
- 1332 (i) an employee of the package agent; and ~~[shall be]~~
- 1333 (ii) responsible for the operation of the agency.
- 1334 (c) The conduct of the designee shall be attributable to the package agent.
- 1335 (d) The package agent shall provide the name of the person operating the package
- 1336 agency to the department for ~~[its]~~ the department's approval.
- 1337 (e) The name and title of any designee shall be stated on the application for the
- 1338 package agency.
- 1339 (f) The package agent shall:
- 1340 (i) inform the department of any proposed change in the person designated to operate
- 1341 the agency~~[-];~~ and ~~[shall]~~
- 1342 (ii) receive prior approval from the department before implementing the change as
- 1343 described in this Subsection (5)(f).
- 1344 (g) Failure to comply with the requirements of this Subsection (5) may result in the
- 1345 immediate termination of the package agency agreement.
- 1346 ~~[(6) (a) A person having a license to sell draft beer may not be allowed to operate a~~
- 1347 ~~package agency from the same location in which the draft beer is sold.]~~
- 1348 ~~[(b) The commission may not establish a package agency in:]~~
- 1349 ~~[(i) any restaurant;]~~
- 1350 ~~[(ii) any eating place; or]~~
- 1351 ~~[(iii) any other location that is situated or arranged so as to make the agency part of the~~
- 1352 ~~restaurant or eating place.]~~
- 1353 ~~[(7)]~~ (6) (a) A minor may not be:
- 1354 (i) granted a package agency; or ~~[be]~~
- 1355 (ii) employed by a package agent to handle liquor.
- 1356 **(b) The commission may not grant a package agency to an applicant that is a**
- 1357 **partnership, corporation, or limited liability company if any of the following is a minor:**
- 1358 **(i) a partner or managing agent of the applicant partnership;**
- 1359 **(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the**
- 1360 **total issued and outstanding stock of the applicant corporation; or**

1361 (iii) a manager or member who owns at least 20% of the applicant limited liability
1362 company.

1363 ~~[(8)] (7)~~ If any package agent no longer possesses the qualifications required by this
1364 title for obtaining a package agency, the commission may terminate the package agency
1365 contract.

1366 Section 17. Section **32A-3-106** is amended to read:

1367 **32A-3-106. Operational restrictions.**

1368 (1) (a) A package agency may not be operated until a package agency agreement has
1369 been entered into by the package agent and the department.

1370 (b) The agreement shall state the conditions of operation by which the package agent
1371 and the department are bound.

1372 (c) If the package agent violates the conditions, terms, or covenants contained in the
1373 agreement, or violates any provisions of this title, the department may take whatever action
1374 against the agent that is allowed by the package agency agreement.

1375 (d) Actions against the package agent are governed solely by the agreement and may
1376 include suspension or revocation of the agency.

1377 ~~[(2) The department shall provide all liquor sold by package agencies.]~~

1378 (2) (a) A package agency may not purchase liquor from any person except from the
1379 department.

1380 (b) At the discretion of the department, liquor may be provided by the department to a
1381 package agency for sale on consignment.

1382 (3) The department may pay or otherwise remunerate a package agent on any basis
1383 ~~[other than]~~ including sales or volume of business done by the agency.

1384 (4) Liquor may not be sold from any package agency except in a sealed package. The
1385 package may not be opened on the premises of a package agency.

1386 (5) All liquor sold shall be in packages that are properly marked and labeled in
1387 accordance with the rules adopted under this title.

1388 (6) A package agency may not display liquor or price lists in windows or showcases
1389 visible to passersby.

1390 (7) (a) An officer, agent, clerk, or employee of a package agency may not consume or
1391 allow to be consumed by any person any alcoholic beverage on the premises of a package

1392 agency.

1393 (b) Violation of this Subsection (7) is a class B misdemeanor.

1394 (8) Liquor may not be sold except at prices fixed by the commission.

1395 (9) Liquor may not be sold, delivered, or furnished to any:

1396 (a) minor;

1397 (b) person actually, apparently, or obviously [~~drunk~~] intoxicated;

1398 (c) known habitual drunkard; or

1399 (d) known interdicted person.

1400 (10) Sale or delivery of liquor may not be made on or from the premises of any
1401 package agency nor may any package agency be kept open for the sale of liquor:

1402 (a) on Sunday;

1403 (b) on any state or federal legal holiday;

1404 (c) on any day on which any regular general election, regular primary election, or
1405 statewide special election is held until after the polls are closed;

1406 (d) on any day on which any municipal, special district, or school election is held until
1407 after the polls are closed, but only within the boundaries of the municipality, special district, or
1408 school district holding the election and only if the municipality, special district, or school
1409 district in which the election is being held notifies the department at least 30 days prior to the
1410 date of the election; or

1411 (e) except on days and during hours as the commission may direct by rule or order.

1412 (11) The package agency certificate issued by the commission shall be permanently
1413 posted in a conspicuous place in the package agency.

1414 (12) Each package agent shall display in a prominent place in the package agency a
1415 sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a
1416 serious crime that is prosecuted aggressively in Utah."

1417 (13) (a) A package agency may not close or cease operation for a period longer than 72
1418 hours, unless [~~written notice is given to~~]:

1419 (i) the package agency notifies the department in writing at least seven days before the
1420 closing[?]; and

1421 (ii) the closure or cessation of operation is first approved by the department.

1422 (b) [~~It~~] Notwithstanding Subsection (13)(a), in the case of emergency closure,

1423 immediate notice of closure shall be made to the department by telephone.

1424 (c) (i) The department may authorize a closure or cessation of operation for a period
1425 not to exceed 60 days.

1426 (ii) The department may extend the initial period an additional 30 days upon written
1427 request of the package agency and upon a showing of good cause.

1428 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1429 commission approval.

1430 (d) ~~[Each]~~ The notice required by Subsection (13)(a) shall include:

1431 (i) the dates of closure or cessation of operation[;];

1432 (ii) the reason for the closure or cessation of operation[;]; and

1433 (iii) the date on which the agency will reopen or resume operation.

1434 (e) Failure of the agency to provide notice and to obtain department authorization prior
1435 to closure or cessation of operation shall result in an automatic termination of the package
1436 agency contract effective immediately.

1437 (f) Failure of the agency to reopen or resume operation by the approved date shall
1438 result in an automatic termination of the package agency contract effective on that date.

1439 ~~[(14) (a) All liquor shall be stored and sold from the location designated in the package
1440 agent's application as approved by the commission.]~~

1441 (14) Liquor may not be stored or sold in any place other than as designated in the
1442 package agent's application, unless the package agent first applies for and receives approval
1443 from the department for a change of location within the package agency premises.

1444 ~~[(b)]~~ (15) A package agency may not transfer its operations from one location to
1445 another without prior written approval of the commission.

1446 ~~[(15)]~~ (16) (a) A person, having been granted a package agency, may not sell, transfer,
1447 assign, exchange, barter, give, or attempt in any way to dispose of the package agency to any
1448 other person, whether for monetary gain or not.

1449 (b) A package agency has no monetary value for the purpose of any type of disposition.

1450 Section 18. Section **32A-3-108** is amended to read:

1451 **32A-3-108. Return of inventory.**

1452 Any liquor previously ~~[purchased]~~ received from the department on consignment that
1453 remains unsold ~~[and in saleable condition]~~ at the time the package agent's package agency

1454 agreement terminates for any reason, shall be immediately returned to the department [~~for a~~
1455 ~~refund of the current value of the liquor~~] or the liquor is subject to immediate seizure by the
1456 department.

1457 Section 19. Section ~~32A-4-101~~ is amended to read:

1458 **32A-4-101. Commission's power to grant licenses -- Limitations.**

1459 (1) Before [~~any~~] a restaurant may sell or allow the consumption of liquor on its
1460 premises, it shall first obtain a license from the commission as provided in this part.

1461 (2) The commission may issue restaurant liquor licenses for the purpose of establishing
1462 restaurant liquor outlets at places and in numbers it considers proper for the storage, sale, and
1463 consumption of liquor on premises operated as public restaurants.

1464 (3) (a) (i) Subject to this Subsection (3), the total number of restaurant liquor licenses
1465 may not at any time aggregate more than that number determined by dividing the population of
1466 the state by [~~4,500~~] 5,500.

1467 (ii) If the total number of restaurant liquor licenses in effect on May 5, 2003, equals or
1468 exceeds the limitation of Subsection (3)(a)(i):

1469 (A) a license that is in effect on May 5, 2003:

1470 (I) is not invalidated by Subsection (3)(a)(i); and

1471 (II) may be renewed in accordance with this chapter; and

1472 (B) the commission may not grant a new restaurant liquor license until such time as the
1473 total number of restaurant liquor licenses granted under this chapter is less than the limitation
1474 of Subsection (3)(a)(i).

1475 (b) [~~Population~~] For purposes of this Subsection (3), population shall be determined
1476 by:

1477 (i) the most recent United States decennial or special census; or [by]

1478 (ii) any other population determination made by the United States or state
1479 governments.

1480 [~~(a)~~] (c) (i) The commission may issue seasonal restaurant liquor licenses established
1481 in areas [~~and for periods it~~] the commission considers necessary.

1482 (ii) A seasonal restaurant liquor license [may not be operated] shall be for a period
1483 [longer than nine] of six consecutive months [subject to the following restrictions].

1484 [~~(i)~~] (iii) [~~Licenses~~] A restaurant liquor license issued for operation during a summer

1485 time ~~[periods are]~~ period is known as a "Seasonal A" restaurant ~~[licenses]~~ liquor license. The
1486 period of operation for a "Seasonal A" restaurant liquor license ~~[may begin as early as February~~
1487 ~~1 and may continue until October 31.]~~ shall:

1488 (A) begin on May 1; and

1489 (B) end on October 31.

1490 ~~[(ii)]~~ (iv) ~~[Licenses]~~ A restaurant liquor license issued for operation during a winter
1491 time ~~[periods are]~~ period is known as a "Seasonal B" restaurant ~~[licenses]~~ liquor license. The
1492 period of operation for a "Seasonal B" restaurant liquor license ~~[may begin as early as~~
1493 ~~September 1 and may continue until May 31.]~~ shall:

1494 (A) begin on November 1; and

1495 (B) end on April 30.

1496 ~~[(iii)]~~ (v) In determining the number of restaurant liquor licenses that the commission
1497 may issue under this section~~[-];~~

1498 (A) a seasonal ~~[licenses are]~~ license is counted as 1/2 of one restaurant liquor license~~[-~~
1499 ~~Each]; and~~

1500 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license ~~[and the total~~
1501 ~~number of months that each combined pair may be issued for operation may not exceed 12~~
1502 ~~months for each calendar year].~~

1503 ~~[(b)]~~ (d) If the location, design, and construction of a hotel may require more than one
1504 restaurant liquor sales location within the hotel to serve the public convenience, the
1505 commission may authorize the sale of liquor at as many as three restaurant locations within the
1506 hotel under one license if the hotel has a minimum of 150 guest rooms and if all locations
1507 under the license are within the same hotel facility and on premises that are managed or
1508 operated and owned or leased by the licensee. Facilities other than hotels shall have a separate
1509 restaurant liquor license for each restaurant where liquor is sold.

1510 (4) (a) ~~[Restaurant liquor licensee]~~ The premises of a restaurant liquor license may not
1511 be established within 600 feet of any public or private school, church, public library, public
1512 playground, or park, as measured by the method in Subsection (5).

1513 (b) ~~[Restaurant liquor licensee]~~ The premises of a restaurant liquor license may not be
1514 established within 200 feet of any public or private school, church, public library, public
1515 playground, or park, measured in a straight line from the nearest entrance of the proposed

1516 outlet to the nearest property boundary of the public or private school, church, public library,
1517 public playground, or park.

1518 (c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the
1519 following exemptions applies:

1520 ~~[(i) The commission finds after full investigation that the premises are located within a~~
1521 ~~city of the third class, a town, or the unincorporated area of a county, and compliance with the~~
1522 ~~distance requirements would result in peculiar and exceptional practical difficulties or~~
1523 ~~exceptional and undue hardships in the granting of a restaurant liquor license. In that event, the~~
1524 ~~commission may, after giving full consideration to all of the attending circumstances,~~
1525 ~~following a public hearing in the city or town, and where practical in the neighborhood~~
1526 ~~concerned, authorize a variance from the distance requirements to relieve the difficulties or~~
1527 ~~hardships if the variance may be granted without substantial detriment to the public good and~~
1528 ~~without substantially impairing the intent and purpose of this title.]~~

1529 ~~[(ii) With respect to the establishment of a restaurant licensee in any location, the~~
1530 ~~commission may, after giving full consideration to all of the attending circumstances,~~
1531 ~~following a public hearing in the county, and where practical in the neighborhood concerned,~~
1532 ~~reduce the proximity requirements in relation to a church if the local governing body of the~~
1533 ~~church in question gives its written approval.]~~

1534 ~~[(iii) Any on-premises beer retailer licensee existing on March 1, 1990, need not~~
1535 ~~comply with the restrictions contained in Subsections (4)(a) and (b) if it applies for a restaurant~~
1536 ~~liquor license before January 1, 1991.]~~

1537 (i) with respect to the establishment of a restaurant liquor license in any location, the
1538 commission may authorize a variance to reduce the proximity requirements of Subsection
1539 (4)(a) or (b) if:

1540 (A) the local governing authority has granted its written consent to the variance;

1541 (B) alternative locations for establishing a restaurant liquor license in the community
1542 are limited;

1543 (C) a public hearing has been held in the city, town, or county, and where practical in
1544 the neighborhood concerned; and

1545 (D) after giving full consideration to all of the attending circumstances, the
1546 commission determines that establishing the license would not be detrimental to the public

1547 health, peace, safety, and welfare of the community; or

1548 (ii) with respect to the premises of a restaurant liquor license issued by the commission
1549 that under goes a change of ownership, the commission may waive or vary the proximity
1550 requirements of Subsection (4)(a) or (b) in considering whether to grant a restaurant liquor
1551 license to the new owner of the premises if:

1552 (A) the premises previously received a variance reducing the proximity requirements of
1553 Subsection (4)(a) or (b); or

1554 (B) a variance from proximity or distance requirements was otherwise allowed under
1555 this title.

1556 (5) With respect to any public or private school, church, public library, public
1557 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
1558 by following the shortest route of [~~either~~] ordinary pedestrian [~~traffic, or where applicable,~~
1559 ~~vehicular travel along public thoroughfares, whichever is the closer,~~] travel to the property
1560 boundary of the public or private school, church, public library, public playground, school
1561 playground, or park.

1562 (6) (a) Nothing in this section prevents the commission from considering the proximity
1563 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
1564 decision on a proposed location.

1565 (b) For purposes of this Subsection (6), "educational facility" includes:

1566 (i) a nursery [~~schools,~~] school;

1567 (ii) an infant day care [~~centers,~~] center; and

1568 (iii) a trade and technical [~~schools~~] school.

1569 Section 20. Section **32A-4-102** is amended to read:

1570 **32A-4-102. Application and renewal requirements.**

1571 (1) A person seeking a restaurant liquor license under this [~~chapter~~] part shall file a
1572 written application with the department, in a form prescribed by the department. It shall be
1573 accompanied by:

1574 (a) a nonrefundable [~~\$300~~] \$250 application fee;

1575 (b) an initial license fee of [~~\$300~~] \$1,750, which is refundable if a license is not
1576 granted;

1577 (c) written consent of the local authority;

1578 (d) a copy of the applicant's current business license;
 1579 (e) evidence of proximity to any public or private school, church, public library, public
 1580 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
 1581 Subsections 32A-4-101(4)[;] and (5)[, and (6)], the application shall be processed in
 1582 accordance with those subsections;

1583 (f) a bond as specified by Section 32A-4-105;

1584 (g) a floor plan of the restaurant, including consumption areas and the area where the
 1585 applicant proposes to keep, store, and sell liquor;

1586 (h) evidence that the restaurant is carrying public liability insurance in an amount and
 1587 form satisfactory to the department;

1588 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
 1589 \$500,000 per occurrence and \$1,000,000 in the aggregate;

1590 (j) a signed consent form stating that the restaurant will permit any authorized
 1591 representative of the commission, department, or any law enforcement officer unrestricted right
 1592 to enter the restaurant;

1593 (k) in the case of [~~a corporate~~] an applicant that is a partnership, corporation, or limited
 1594 liability company, proper verification evidencing that the person or persons signing the
 1595 restaurant application are authorized to so act on [~~the corporation's~~] behalf of the partnership,
 1596 corporation, or limited liability company; and

1597 (l) any other information the commission or department may require.

1598 (2) (a) All restaurant liquor licenses expire on October 31 of each year.

1599 (b) Persons desiring to renew their restaurant liquor license shall [~~submit a renewal fee~~
 1600 ~~of \$300 and a completed renewal application to the department~~] by no later than September
 1601 30[;] submit:

1602 (i) a completed renewal application to the department; and

1603 (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>\$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>

1608 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of

1609 the license effective on the date the existing license expires.

1610 (d) Renewal applications shall be in a form as prescribed by the department.

1611 (3) ~~[H]~~ To ensure compliance with Subsection 32A-4-106(28), the commission may

1612 suspend or revoke any restaurant liquor license if the restaurant liquor licensee does not

1613 immediately notify the department of any change in:

1614 (a) ownership of the restaurant~~[-or]~~;

1615 (b) in the case of a ~~[Utah]~~ corporate owner, ~~[of any change in]~~ the:

1616 (i) corporate officers or directors~~[-, the commission may suspend or revoke that~~

1617 ~~license.]; or~~

1618 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the

1619 corporation; or

1620 (c) in the case of a limited liability company:

1621 (i) managers; or

1622 (ii) members owning at least 20% of the limited liability company.

1623 Section 21. Section **32A-4-103** is amended to read:

1624 **32A-4-103. Qualifications.**

1625 (1) (a) The commission may not grant a restaurant liquor license to ~~[a restaurant whose~~
1626 ~~proprietor]~~ any person who has been convicted of:

1627 (i) a felony under any federal or state law;

1628 (ii) any violation of any federal or state law or local ordinance concerning the sale,

1629 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

1630 ~~[or]~~

1631 (iii) any crime involving moral turpitude~~[-]; or~~

1632 (iv) on two or more occasions within the five years before the day on which the license

1633 is granted, driving under the influence of alcohol, any drug, or the combined influence of

1634 alcohol and any drug.

1635 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the

1636 proscription under Subsection (1)(a) applies if any of the following has been convicted of any

1637 offense described in Subsection (1)(a):

1638 (i) a partner[-];

1639 (ii) a managing agent[-];

1640 (iii) a manager;
1641 (iv) an officer[-];
1642 (v) a director[-,or];
1643 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
1644 ~~[an] the applicant corporation [has been convicted of any offense as provided in this~~
1645 ~~subsection]; or~~
1646 (vii) a member who owns at least 20% of the applicant limited liability company.
1647 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
1648 supervisory or managerial capacity for a restaurant has been convicted of any offense described
1649 in Subsection (1)(a).
1650 ~~[(2) (a) If any employee or proprietor of a restaurant liquor licensee is convicted of any~~
1651 ~~offense designated in Subsection (1), the commission may take emergency action by~~
1652 ~~immediately revoking the license according to the procedures and requirements of Title 63,~~
1653 ~~Chapter 46b.]~~
1654 ~~[(b) In the case of a partnership or corporation that has been granted a restaurant liquor~~
1655 ~~license, if any partner, managing agent, officer, director, or stockholder who holds at least 20%~~
1656 ~~of the total issued and outstanding stock of a corporation is convicted of any offense designated~~
1657 ~~in Subsection (1), the commission may take emergency action by immediately revoking the~~
1658 ~~license according to the procedures and requirements of Title 63, Chapter 46b.]~~
1659 (2) The commission may immediately suspend or revoke a restaurant liquor license if
1660 after the day on which the restaurant liquor license is granted, a person described in Subsection
1661 (1)(a), (b), or (c):
1662 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
1663 to the license being granted; or
1664 (b) on or after the day on which the license is granted:
1665 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
1666 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
1667 combined influence of alcohol and any drug; and
1668 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
1669 influence of alcohol and any drug within five years before the day on which the person is
1670 convicted of the offense described in Subsection (2)(b)(ii)(A).

1671 (3) ~~Upon the arrest of any restaurant liquor licensee on any charge set forth in~~
1672 ~~Subsection (1), the~~ The director may take emergency action by immediately suspending the
1673 operation of ~~the licensee~~ a restaurant liquor license according to the procedures and
1674 requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during
1675 which the criminal matter is being adjudicated~~[-]~~ if a person described in Subsection (1)(a), (b),
1676 or (c):

1677 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
1678 or

1679 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
1680 any drug, or the combined influence of alcohol and any drug; and

1681 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
1682 influence of alcohol and any drug within five years before the day on which the person is
1683 arrested on a charge described in Subsection (3)(b)(i).

1684 (4) (a) (i) The commission may not grant a restaurant liquor license to any person who
1685 has had any type of license, agency, or permit issued under this title revoked within the last
1686 three years.

1687 (ii) The commission may not grant a restaurant liquor license to ~~any corporation or~~
1688 ~~partnership~~ an applicant that is a partnership, corporation, or limited liability company if any
1689 partner, managing agent, manager, officer, director, ~~[or]~~ stockholder who holds at least 20% of
1690 the total issued and outstanding stock of the applicant corporation, or member who owns at
1691 least 20% of the applicant limited liability company is or was:

1692 (A) a partner or managing agent of any partnership~~[-, or is or was]~~ that had any type of
1693 license, agency, or permit issued under this title revoked within the last three years;

1694 (B) a managing agent, officer, director, or [a] stockholder who holds or held at least
1695 20% of the total issued and outstanding stock of any corporation that had any type of license,
1696 agency, or permit issued under this title revoked within the last three years; or

1697 (C) a manager or member who owns or owned at least 20% of any limited liability
1698 company that had ~~[a liquor]~~ any type of license, agency, or permit issued under this title
1699 revoked within the last three years.

1700 (b) ~~[A corporation or partnership]~~ An applicant that is a partnership, corporation, or
1701 limited liability company may not be granted a restaurant liquor license if any of the following

1702 had any type of license, agency, or permit issued under this title revoked while acting in that
1703 person's individual capacity within the last three years:

1704 (i) a partner or managing agent of the applicant partnership [or];

1705 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
1706 total issued and outstanding stock of the [corporate applicant had a liquor license, agency, or
1707 permit revoked while acting in their individual capacity within the last three years.] applicant
1708 corporation; or

1709 (iii) a manager or member who owns at least 20% of the applicant limited liability
1710 company.

1711 (c) A person acting in an individual capacity may not be granted a restaurant liquor
1712 license if that person was:

1713 (i) a partner or managing agent of a partnership[-or] that had any type of license,
1714 agency, or permit issued under this title revoked within the last three years;

1715 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
1716 total issued and outstanding stock of a corporation that had any type of license, agency, or
1717 permit issued under this title revoked within the last three years; or

1718 (iii) a manager or member of a limited liability company who owned at least 20% of
1719 the limited liability company that had [a liquor] any type of license, agency, or permit issued
1720 under this title revoked within the last three years.

1721 (5) (a) A minor may not be granted a restaurant liquor license.

1722 (b) The commission may not grant a restaurant liquor license to an applicant that is a
1723 partnership, corporation, or limited liability company if any of the following is a minor:

1724 (i) a partner or managing agent of the applicant partnership;

1725 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
1726 total issued and outstanding stock of the applicant corporation; or

1727 (iii) a manager or member who owns at least 20% of the applicant limited liability
1728 company.

1729 (6) If any person to whom a license has been issued under this part no longer possesses
1730 the qualifications required by this title for obtaining that license, the commission may suspend
1731 or revoke that license.

1732 Section 22. Section **32A-4-105** is amended to read:

1733 **32A-4-105. Bond.**

1734 (1) Each restaurant liquor licensee shall post a cash or corporate surety bond in the
1735 penal sum of [~~\$5,000~~] \$10,000 payable to the department, which the licensee has procured and
1736 must maintain for so long as the licensee continues to operate as a restaurant liquor licensee.

1737 (2) The bond shall be in a form approved by the attorney general, conditioned upon the
1738 licensee's faithful compliance with this title and the rules of the commission.

1739 (3) (a) If the [~~\$5,000~~] \$10,000 surety bond is canceled due to the licensee's negligence,
1740 a \$300 reinstatement fee may be assessed.

1741 (b) No part of any cash or corporate bond so posted may be withdrawn:

1742 (i) during the period the license is in effect[;]; or

1743 (ii) while revocation proceedings are pending against the licensee.

1744 (c) A bond filed by a licensee may be forfeited if the license is finally revoked.

1745 Section 23. Section **32A-4-106** is amended to read:

1746 **32A-4-106. Operational restrictions.**

1747 Each person granted a restaurant liquor license and the employees and management
1748 personnel of the restaurant shall comply with the following conditions and requirements.
1749 Failure to comply may result in a suspension or revocation of the license or other disciplinary
1750 action taken against individual employees or management personnel.

1751 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from state
1752 stores or package agencies.

1753 (b) Liquor purchased may be transported by the restaurant liquor licensee from the
1754 place of purchase to the licensed premises.

1755 (c) Payment for liquor shall be made in accordance with rules established by the
1756 commission.

1757 (2) A restaurant liquor licensee may [~~not~~] sell or provide [~~any~~] a primary spirituous
1758 liquor [~~except in one ounce quantities~~] only in a quantity not to exceed one ounce per beverage
1759 dispensed through a calibrated metered dispensing system approved by the department in
1760 accordance with commission rules adopted under this title, except that:

1761 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1762 system if used as a secondary flavoring ingredient in a beverage subject to the following
1763 restrictions:

1764 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1765 a primary spirituous liquor;

1766 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

1767 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored
1768 on the floor plan provided to the department; and

1769 (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

1770 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1771 system if used;

1772 (i) as a flavoring on desserts; and

1773 (ii) in the preparation of flaming food dishes, drinks, and desserts;

1774 (c) each restaurant patron may have no more than 2.75 ounces of spirituous liquor at a
1775 time; and

1776 (d) each restaurant patron may have no more than one spirituous liquor drink at a time
1777 before the patron.

1778 [~~(c) wine~~] (3) (a) (i) Wine may be sold and served by the glass [in quantities not
1779 exceeding] or in an individual portion not to exceed five ounces per glass[; and] or individual
1780 portion.

1781 (ii) An individual portion of wine may be served to a patron in more than one glass as
1782 long as the total amount of wine does not exceed five ounces.

1783 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1784 Subsection (7)(e).

1785 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
1786 fixed by the commission to tables of four or more persons.

1787 (ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by
1788 the commission to tables of less than four persons.

1789 (c) A wine service may be performed and a service charge assessed by the restaurant as
1790 authorized by commission rule for wine purchased at the restaurant.

1791 [~~(d) heavy~~] (4) (a) Heavy beer may be served in original containers not exceeding one
1792 liter at prices fixed by the commission.

1793 (b) A service charge may be assessed by the restaurant as authorized by commission
1794 rule for heavy beer purchased at the restaurant.

1795 ~~[(3) (a) Restaurants]~~ (5) (a) A restaurant licensed to sell liquor may sell beer in any
1796 size container not exceeding two liters, and on draft for on-premise consumption without
1797 obtaining a separate on-premise beer retailer license from the commission.

1798 (b) ~~[Restaurants]~~ A restaurant licensed under this chapter that ~~[sell]~~ sells beer pursuant
1799 to Subsection ~~[(3)]~~ (5)(a) shall comply with all appropriate operational restrictions under
1800 Chapter 10, Beer Retailer Licenses, that apply to on-premise beer retailers except when those
1801 restrictions are inconsistent with or less restrictive than the operational restrictions under this
1802 ~~[chapter]~~ part.

1803 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1804 Licenses, required by Subsection ~~[(3)]~~ (5)(b) may result in a suspension or revocation of the
1805 restaurant's:

1806 (i) state liquor license; and

1807 (ii) alcoholic beverage license issued by the local authority.

1808 ~~[(4) Wine may be served in accordance with commission rule in containers not~~
1809 ~~exceeding 750 ml.]~~

1810 ~~[(5) (a) Liquor]~~ (6) Alcoholic beverages may not be stored, served, or sold in any place
1811 other than as designated in the licensee's application, unless the licensee first applies for and
1812 receives approval from the department for a change of location within the restaurant.

1813 ~~[(b)]~~ (7) (a) (i) A patron may only make alcoholic beverage purchases in the restaurant
1814 from ~~[a server]~~ and be served by a person employed, designated, and trained by the licensee to
1815 sell and serve alcoholic beverages.

1816 (ii) Notwithstanding Subsection (7)(a)(i), a patron who has purchased bottled wine
1817 from an employee of the restaurant or has carried bottled wine onto the premises of the
1818 restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to themselves
1819 or others at the patron's table.

1820 (b) Alcoholic beverages shall be delivered by a server to the patron.

1821 (c) Any alcoholic beverage may only be consumed at the patron's table or counter.

1822 ~~[(d) Liquor may not be stored where it is visible to patrons of the restaurant.]~~

1823 ~~[(6) (a) Alcoholic beverages may not be dispensed directly to a patron from the storage~~
1824 ~~area.]~~

1825 ~~[(b) Alcoholic beverages shall be delivered by a server to the patron.]~~

1826 (d) Alcoholic beverages may not be served to or consumed by a patron at a bar.

1827 (e) Each restaurant patron may have no more than two alcoholic beverages of any kind

1828 at a time before the patron, subject to the limitation in Subsection (2)(a).

1829 [~~(7)~~] (8) The liquor storage area shall remain locked at all times other than those hours
1830 and days when liquor sales are authorized by law.

1831 [~~(8)~~] (9) (a) Liquor may not be sold [~~or~~], offered for sale, served, or otherwise

1832 furnished at a restaurant during the following days or hours:

1833 (i) until after the polls are closed on the day of any:

1834 (A) regular general election[;];

1835 (B) regular primary election[;]; or

1836 (C) statewide special election [~~until after the polls are closed~~];

1837 (ii) on the day of any municipal, special district, or school election, but only:

1838 (A) within the boundaries of the municipality, special district, or school district; and

1839 (B) if closure is required by local ordinance; and

1840 (iii) on any other day after 12 midnight and before 12 noon.

1841 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer

1842 Licenses, for on-premise beer licensees.

1843 [~~(9)~~] (10) Alcoholic beverages may not be sold except in connection with an order for

1844 food prepared, sold, and served at the restaurant.

1845 [~~(10)~~] (11) Alcoholic beverages may not be sold, [~~delivered~~], served, or otherwise

1846 furnished to any:

1847 (a) minor;

1848 (b) person actually, apparently, or obviously [~~drunk~~] intoxicated;

1849 (c) known habitual drunkard; or

1850 (d) known interdicted person.

1851 [~~(11)~~] (12) (a) [~~Liquor~~] An alcoholic beverage may not be sold [~~except at prices fixed~~

1852 by the commission] at less than the cost of the alcoholic beverage to the licensee.

1853 [~~(b) Mixed drinks and wine may not be sold at discount prices on any date or at any~~

1854 time.]

1855 [~~(12) Each restaurant patron may have only one alcoholic beverage at a time before the~~

1856 patron on the patron's table.]

1857 ~~[(13) No more than one ounce of primary liquor may be served to a patron at a time,~~
1858 ~~except:]~~

1859 ~~[(a) wine as provided in Subsection (2)(c); and]~~

1860 ~~[(b) heavy beer as provided in Subsection (2)(d).]~~

1861 (b) An alcoholic beverage may not be sold at a special or reduced price that encourages
1862 over-consumption or intoxication.

1863 (c) An alcoholic beverage may not be sold at a special or reduced price for only certain
1864 hours of the restaurant's business day such as a "happy hour."

1865 (d) The sale or service of more than one alcoholic beverage for the price of a single
1866 alcoholic beverage is prohibited.

1867 (e) The sale or service of an indefinite or unlimited number of alcoholic beverages
1868 during any set period for a fixed price is prohibited.

1869 (f) A restaurant licensee may not engage in a public promotion involving or offering
1870 free alcoholic beverages to the general public.

1871 ~~[(14)]~~ (13) Alcoholic beverages may not be purchased by the licensee, or any employee
1872 or agent of the licensee, for patrons of the restaurant.

1873 ~~[(15) Alcoholic beverages purchased in a restaurant may not be served or consumed at~~
1874 ~~any location where they are stored or dispensed.]~~

1875 ~~[(16) (a) A wine service may be performed and a service charge assessed by the~~
1876 ~~restaurant as authorized by commission rule for wine purchased at the restaurant or carried in~~
1877 ~~by a patron.]~~

1878 ~~[(b) If wine is carried in by a patron, the patron shall deliver the wine to a server or~~
1879 ~~other representative of the licensee upon entering the licensee premises.]~~

1880 ~~[(17)]~~ (14) (a) A person may not bring onto the premises of a restaurant liquor licensee
1881 any alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1882 discretion of the licensee, ~~[cork-finished]~~ bottled wine onto the premises of any restaurant
1883 liquor licensee ~~[and consume wine pursuant to Subsection (16)]~~ for on-premise consumption.

1884 (b) ~~[A]~~ Except bottled wine under Subsection (14)(a), a restaurant~~[, whether licensed~~
1885 ~~under this title or unlicensed;]~~ liquor licensee or its officers, managers, employees, or agents
1886 may not allow:

1887 (i) a person to bring onto the restaurant premises any alcoholic beverage for on-premise

1888 consumption; or

1889 (ii) consumption of any such alcoholic beverage on its premises~~[-, except cork-finished~~
1890 ~~wine under Subsection (17)(a)].~~

1891 ~~[(c) If a restaurant licensee, or any of its officers, managers, employees, or agents~~
1892 ~~violates this Subsection (17):]~~

1893 ~~[(i) the commission may immediately suspend or revoke the restaurant's liquor license~~
1894 ~~and the restaurant licensee is subject to possible criminal prosecution under Chapter 12,~~
1895 ~~Criminal Offenses; and]~~

1896 ~~[(ii) the local authority may immediately suspend or revoke the restaurant's:]~~

1897 ~~[(A) local liquor license;]~~

1898 ~~[(B) local consent under Subsection 32A-4-102(1); or]~~

1899 ~~[(C) local business license:]~~

1900 ~~[(18) Alcoholic beverages purchased from the restaurant may not be removed from the~~
1901 ~~restaurant premises:]~~

1902 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1903 or other representative of the licensee upon entering the restaurant.

1904 (d) A wine service may be performed and a service charge assessed by the restaurant as
1905 authorized by commission rule for wine carried in by a patron.

1906 (15) (a) Except as provided in Subsection (15)(b), a restaurant licensee and its
1907 employees may not permit a restaurant patron to carry from the restaurant premises an open
1908 container that:

1909 (i) is used primarily for drinking purposes; and

1910 (ii) contains any alcoholic beverage.

1911 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the
1912 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought
1913 onto the premises of the restaurant in accordance with Subsection (14), provided the bottle has
1914 been recorked or recapped before removal.

1915 ~~[(19)]~~ (16) (a) [Minors] A minor may not be employed by a restaurant licensee to sell
1916 or dispense alcoholic beverages.

1917 (b) Notwithstanding Subsection ~~[(19)]~~ (16)(a), a minor may be employed to enter the
1918 sale at a cash register or other sales recording device.

1919 [~~(20)~~] (17) An employee of a restaurant liquor licensee, while on duty, may not:

1920 (a) consume an alcoholic beverage; or

1921 (b) be [~~under the influence of alcoholic beverages~~] intoxicated.

1922 [~~(21) (a) Advertising or other reference to the sale of liquor and wine is not allowed on~~
1923 ~~a food menu except that a statement of availability of a liquor and wine menu on request, the~~
1924 ~~content and form of which is approved by the department, may be attached to or carried on a~~
1925 ~~food menu. The context of both food and liquor and wine menus may not in any manner~~
1926 ~~attempt to promote or increase the sale of alcoholic beverages.]~~

1927 [~~(b) A server, employee, or agent of a licensee may not draw attention to the~~
1928 ~~availability of alcoholic beverages for sale, unless a patron or guest first inquires about it.]~~

1929 [~~(c)~~] (18) Any [~~set-up charge, service charge, chilling fee, or any other~~] charge or fee
1930 made in connection with the sale, service, or consumption of liquor may be stated in food or
1931 alcoholic beverage menus[:] including:

1932 (a) a set-up charge;

1933 (b) a service charge; or

1934 (c) a chilling fee.

1935 [~~(22)~~] (19) Each restaurant liquor licensee shall display in a prominent place in the
1936 restaurant:

1937 (a) the liquor license that is issued by the department;

1938 (b) a list of the types and brand names of liquor being served through its calibrated
1939 metered dispensing system; and

1940 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1941 drugs is a serious crime that is prosecuted aggressively in Utah."

1942 [~~(23)~~] (20) The following acts or conduct in a restaurant licensed under this chapter are
1943 considered contrary to the public welfare and morals, and are prohibited upon the premises:

1944 (a) employing or using any person in the sale or service of alcoholic beverages while
1945 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
1946 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
1947 buttocks, vulva, or genitals;

1948 (b) employing or using the services of any person to mingle with the patrons while the
1949 person is unclothed or in attire, costume, or clothing described in Subsection [~~(23)~~] (20)(a);

1950 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
1951 buttocks, anus, or genitals of any other person;

1952 (d) permitting any employee or person to wear or use any device or covering, exposed
1953 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

1954 (e) permitting any person to use artificial devices or inanimate objects to depict any of
1955 the prohibited activities described in this Subsection [~~(23)~~] (20);

1956 (f) permitting any person to remain in or upon the premises who exposes to public
1957 view any portion of that person's genitals or anus; or

1958 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
1959 depicting:

1960 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
1961 copulation, flagellation, or any sexual acts prohibited by Utah law;

1962 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
1963 genitals;

1964 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
1965 drawings are used to portray, any of the prohibited activities described in this Subsection [~~(23)~~]
1966 (20); or

1967 (iv) scenes wherein a person displays the vulva or the anus or the genitals.

1968 [~~(24)~~] (21) Nothing in Subsection [~~(23)~~] (20) precludes a local authority from being
1969 more restrictive of acts or conduct of the type prohibited in Subsection [~~(23)~~] (20).

1970 [~~(25)~~] (22) (a) Although live entertainment is permitted on the premises of a restaurant
1971 liquor licensee, a licensee may not allow any person to perform or simulate sexual acts
1972 prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral
1973 copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or
1974 genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform
1975 only upon a stage or at a designated area approved by the commission.

1976 (b) Nothing in Subsection [~~(25)~~] (22)(a) precludes a local authority from being more
1977 restrictive of acts or conduct of the type prohibited in Subsection [~~(25)~~] (22)(a).

1978 [~~(26)~~] (23) A restaurant liquor licensee may not engage in or permit any form of
1979 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1980 Part 11, Gambling, on the premises of the restaurant liquor licensee.

1981 [~~(27)~~] (24) (a) Each restaurant liquor licensee shall maintain an expense ledger or
1982 record showing in detail:

1983 (i) quarterly expenditures made separately for:

1984 (A) malt or brewed beverages;

1985 (B) set-ups;

1986 (C) liquor;

1987 (D) food; and

1988 (E) all other items required by the department; and

1989 (ii) sales made separately for:

1990 (A) malt or brewed beverages;

1991 (B) set-ups;

1992 (C) food; and

1993 (D) all other items required by the department.

1994 (b) The record required by Subsection [~~(27)~~] (24)(a) shall be kept:

1995 (i) in a form approved by the department; and

1996 (ii) current for each three-month period.

1997 (c) Each expenditure shall be supported by:

1998 (i) delivery tickets;

1999 (ii) invoices;

2000 (iii) receipted bills;

2001 (iv) canceled checks;

2002 (v) petty cash vouchers; or

2003 (vi) other sustaining data or memoranda.

2004 [~~(28) (a) Each~~] (d) In addition to a ledger or record required under Subsection (24)(a).

2005 a restaurant liquor licensee shall maintain accounting and other records and documents as the
2006 department may require.

2007 [~~(b)~~] (e) Any restaurant or person acting for the restaurant, who knowingly forges,

2008 falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of

2009 account or other documents of the restaurant required to be made, maintained, or preserved by

2010 this title or the rules of the commission for the purpose of deceiving the commission or the

2011 department, or any of their officials or employees, is subject to the [~~immediate~~] suspension or

2012 revocation of the restaurant's liquor license and possible criminal prosecution under Chapter
2013 12, Criminal Offenses.

2014 ~~[(29)]~~ (25) (a) A restaurant liquor licensee may not close or cease operation for a
2015 period longer than 240 hours, unless:

2016 (i) the restaurant liquor ~~[license]~~ licensee notifies the department in writing at least
2017 seven days before the closing; and

2018 (ii) the closure or cessation of operation is first approved by the department.

2019 (b) Notwithstanding Subsection ~~[(29)]~~ (25)(a), in the case of emergency closure,
2020 immediate notice of closure shall be made to the department by telephone.

2021 (c) The department may authorize a closure or cessation of operation for a period not to
2022 exceed 60 days. The department may extend the initial period an additional 30 days upon
2023 written request of the restaurant licensee and upon a showing of good cause. A closure or
2024 cessation of operation may not exceed a total of 90 days without commission approval.

2025 (d) Any notice shall include:

2026 (i) the dates of closure or cessation of operation;

2027 (ii) the reason for the closure or cessation of operation; and

2028 (iii) the date on which the licensee will reopen or resume operation.

2029 (e) Failure of the licensee to provide notice and to obtain department authorization
2030 prior to closure or cessation of operation shall result in an automatic forfeiture of:

2031 (i) the license; and

2032 (ii) the unused portion of the license fee for the remainder of the license year effective
2033 immediately.

2034 (f) Failure of the licensee to reopen or resume operation by the approved date shall
2035 result in an automatic forfeiture of:

2036 (i) the license; and

2037 (ii) the unused portion of the license fee for the remainder of the license year.

2038 ~~[(30)]~~ (26) Each restaurant liquor licensee shall maintain at least 70% of its total
2039 restaurant business from the sale of food, which does not include mix for alcoholic beverages
2040 or service charges.

2041 ~~[(31) A person may not transfer a]~~

2042 (27) A restaurant liquor license may not be transferred from one location to another,

2043 without prior written approval of the commission.

2044 [~~(32)~~] (28) (a) A person, having been granted a restaurant liquor license may not sell,
2045 transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any
2046 other person whether for monetary gain or not.

2047 (b) A restaurant liquor license has no monetary value for the purpose of any type of
2048 disposition.

2049 [~~(33)~~] (29) Each server of alcoholic beverages in a licensee's establishment shall keep a
2050 written beverage tab for each table or group that orders or consumes alcoholic beverages on the
2051 premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or
2052 consumed.

2053 [~~(34)~~] (30) A person's willingness to serve alcoholic beverages may not be made a
2054 condition of employment as a server with a restaurant that has a restaurant liquor license.

2055 Section 24. Section **32A-4-201** is amended to read:

2056 **32A-4-201. Commission's power to grant licenses -- Limitations.**

2057 (1) Before [~~any~~] an airport lounge may sell or allow the consumption of liquor on its
2058 premises, it shall first obtain a license from the commission as provided in this part.

2059 (2) The commission may issue airport lounge liquor licenses for the purpose of
2060 establishing airport liquor outlets at international airports for the storage, sale, and consumption
2061 of liquor on premises operated as public airport lounges.

2062 (3) The total number of airport lounge liquor licenses may not exceed one lounge per
2063 terminal plus one lounge per concourse located beyond the security point at that international
2064 airport.

2065 Section 25. Section **32A-4-202** is amended to read:

2066 **32A-4-202. Application and renewal requirements.**

2067 (1) A person seeking an airport lounge liquor license under this part shall file a written
2068 application with the department, in a form prescribed by the department, accompanied by:

2069 (a) a nonrefundable [~~\$1,000~~] \$250 application fee;

2070 (b) an initial license fee of [~~\$1,000~~] \$7,000, which is refundable if a license is not
2071 granted;

2072 (c) written consent of the local and airport authority;

2073 (d) a copy of the applicant's current business license;

- 2074 (e) a bond as specified by Section 32A-4-205;
- 2075 (f) a floor plan of the airport lounge, including consumption areas and the area where
2076 the applicant proposes to keep, store, and sell liquor;
- 2077 (g) a copy of the sign proposed to be used by the licensee on its premises to inform the
2078 public that alcoholic beverages are sold and consumed there;
- 2079 (h) evidence that the airport lounge is carrying public liability insurance in an amount
2080 and form satisfactory to the department;
- 2081 (i) evidence that the airport lounge is carrying dramshop insurance coverage of at least
2082 \$500,000 per occurrence and \$1,000,000 in the aggregate;
- 2083 (j) a signed consent form stating that the airport lounge will permit any authorized
2084 representative of the commission, department, or any law enforcement officer unrestricted right
2085 to enter the airport lounge;
- 2086 (k) in the case of [~~a corporate~~] an applicant that is a partnership, corporation, or limited
2087 liability company, proper verification evidencing that the person or persons signing the airport
2088 lounge application are authorized to so act on [~~the corporation's~~] behalf of the partnership,
2089 corporation, or limited liability company; and
- 2090 (1) any other information the commission or department may require.
- 2091 (2) All airport lounge liquor licenses expire on October 31 of each year. Persons
2092 desiring to renew their airport lounge liquor license shall submit a renewal fee of [~~\$1,000~~]
2093 \$5,000 and a completed renewal application to the department no later than September 30.
2094 Failure to meet the renewal requirements shall result in an automatic forfeiture of the license,
2095 effective on the date the existing license expires. Renewal applications shall be in a form as
2096 prescribed by the department.
- 2097 (3) [~~If any~~] To ensure compliance with Subsection 32A-4-206(21), the commissioner
2098 may revoke an airport lounge liquor license if the airport liquor licensee does not immediately
2099 notify the department of any change in:
- 2100 (a) ownership of the licensee[~~, or~~];
- 2101 (b) in the case of a [~~Utah~~] corporate owner [~~of any change in~~], the:
- 2102 (i) corporate officers or directors[~~, the commission may suspend or revoke that~~
2103 ~~license.~~]; or
- 2104 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the

2105 corporation; or

2106 (c) in the case of a limited liability company:

2107 (i) managers; or

2108 (ii) members owning at least 20% of the limited liability company.

2109 Section 26. Section **32A-4-203** is amended to read:

2110 **32A-4-203. Qualifications.**

2111 (1) (a) The commission may not grant an airport lounge liquor license to ~~[an airport~~
2112 ~~lounge whose proprietor]~~ any person who has been convicted of:

2113 (i) a felony under any federal or state law;

2114 (ii) any violation of any federal or state law or local ordinance concerning the sale,
2115 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

2116 ~~[or]~~

2117 (iii) any crime involving moral turpitude~~[-];~~ or

2118 (iv) on two or more occasions within the five years before the day on which the license
2119 is granted, driving under the influence of alcohol, any drug, or the combined influence of
2120 alcohol and any drug.

2121 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the
2122 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
2123 offense described in Subsection (1)(a):

2124 (i) a partner~~[-];~~

2125 (ii) a managing agent~~[-];~~

2126 (iii) a manager;

2127 (iv) an officer~~[-];~~

2128 (v) a director~~[-or];~~

2129 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
2130 [an] the applicant corporation ~~[has been convicted of any offense as provided in this~~
2131 subsection.]; or

2132 (vii) a member who owns at least 20% of the limited liability company.

2133 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
2134 supervisory or managerial capacity for an airport lounge has been convicted of any offense
2135 described in Subsection (1)(a).

2136 (2) ~~[(a) If any employee or proprietor of an airport lounge liquor licensee is convicted~~
2137 ~~of any offense designated in Subsection (1), the] The~~ commission may ~~[take emergency action~~
2138 ~~by] immediately [revoking the] suspend or revoke an airport lounge license [according to the~~
2139 ~~procedures and requirements of Title 63, Chapter 46b.]~~ if after the day on which the airport
2140 lounge license is granted, a person described in Subsection (1)(a), (b), or (c):

2141 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
2142 to the license being granted; or

2143 (b) on or after the day on which the license is granted:

2144 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

2145 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
2146 combined influence of alcohol and any drug; and

2147 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
2148 influence of alcohol and any drug within five years before the day on which the person is
2149 convicted of the offense described in Subsection (2)(b)(ii)(A).

2150 ~~[(b) In the case of a partnership or corporation that has been granted an airport lounge~~
2151 ~~liquor license, if any partner, managing agent, officer, director, or stockholder who holds at~~
2152 ~~least 20% of the total issued and outstanding stock of a corporation is convicted of any offense~~
2153 ~~designated in Subsection (1), the commission may take emergency action by immediately~~
2154 ~~revoking the license according to the procedures and requirements of Title 63, Chapter 46b.]~~

2155 (3) ~~[Upon the arrest of any airport lounge liquor licensee on any charge set forth in~~
2156 ~~Subsection (1), the] The~~ director may take emergency action by immediately suspending the
2157 operation of ~~[the licensee] an airport lounge liquor license~~ according to the procedures and
2158 requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during
2159 which the criminal matter is being adjudicated~~[-]~~ if a person described in Subsection (1)(a), (b),
2160 or (c):

2161 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

2162 or

2163 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
2164 any drug, or the combined influence of alcohol and any drug; and

2165 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
2166 influence of alcohol and any drug within five years before the day on which the person is

2167 arrested on a charge described in Subsection (3)(b)(i).

2168 (4) (a) (i) The commission may not grant an airport lounge liquor license to any person
2169 who has had any type of license, agency, or permit issued under this title revoked within the
2170 last three years.

2171 (ii) The commission may not grant an airport lounge liquor license to any [~~corporation~~
2172 ~~or partnership~~] applicant that is a partnership, corporation, or limited liability company if any
2173 partner, managing agent, manager, officer, director, [~~or~~] stockholder who holds at least 20% of
2174 the total issued and outstanding stock of the applicant corporation, or member who owns at
2175 least 20% of the applicant limited liability company is or was:

2176 (A) a partner or managing agent of any partnership[~~, or is or was~~] that had any type of
2177 license, agency, or permit issued under this title revoked within the last three years;

2178 (B) a managing agent, officer, director, or a stockholder who holds or held at least 20%
2179 of the total issued and outstanding stock of any corporation that had any type of license,
2180 agency, or permit issued under this title revoked within the last three years; or

2181 (C) a manager or member who owns or owned at least 20% of the limited liability
2182 company that had [a liquor] any type of license, agency, or permit issued under this title
2183 revoked within the last three years.

2184 (b) A corporation or partnership applicant may not be granted an airport lounge liquor
2185 license if any of the following had any type of license, agency, or permit issued under this title
2186 revoked while acting in that person's individual capacity within the last three years:

2187 (i) any partner or managing agent of the applicant partnership [or];

2188 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
2189 total issued and outstanding stock of the [corporate] applicant [had a liquor license, agency, or
2190 permit revoked while acting in their individual capacity within the last three years:]
2191 corporation; or

2192 (iii) any manager or member who owns at least 20% of the applicant limited liability
2193 company.

2194 (c) A person acting in an individual capacity may not be granted an airport lounge
2195 liquor license if that person was:

2196 (i) a partner or managing agent of a partnership[~~, or~~] that had any type of license,
2197 agency, or permit issued under this title revoked within the last three years;

2198 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
2199 total issued and outstanding stock of a corporation that had any type of license, agency, or
2200 permit issued under this title revoked within the last three years; or

2201 (iii) a manager or member who owns at least 20% of a limited liability company that
2202 had [a liquor] any type of license, agency, or permit issued under this title revoked within the
2203 last three years.

2204 (5) (a) A minor may not be granted an airport lounge liquor license.

2205 (b) The commission may not grant a airport lounge liquor license to an applicant that is
2206 a partnership, corporation, or limited liability company if any of the following is a minor:

2207 (i) a partner or managing agent of the applicant partnership;

2208 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
2209 total issued and outstanding stock of the applicant corporation; or

2210 (iii) a manager or member who owns at least 20% of the applicant limited liability
2211 company.

2212 (6) If any person to whom a license has been issued under this part no longer possesses
2213 the qualifications required by this title for obtaining that license, the commission may suspend
2214 or revoke that license.

2215 Section 27. Section **32A-4-206** is amended to read:

2216 **32A-4-206. Operational restrictions.**

2217 Each person granted an airport lounge liquor license and the employees and
2218 management personnel of the airport lounge shall comply with the following conditions and
2219 requirements. Failure to comply may result in a suspension or revocation of the license or
2220 other disciplinary action taken against individual employees or management personnel.

2221 (1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from
2222 state stores or package agencies.

2223 (b) Liquor purchased may be transported by the licensee from the place of purchase to
2224 the licensed premises.

2225 (c) Payment for liquor shall be made in accordance with the rules established by the
2226 commission.

2227 (2) An airport lounge liquor licensee may ~~not~~ sell or provide ~~any~~ a primary
2228 spirituous liquor [except in one ounce quantities] only in a quantity not to exceed one ounce

2229 per beverage dispensed through a calibrated metered dispensing system approved by the
2230 department in accordance with commission rules adopted under this title, except that:

2231 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
2232 system if used as a secondary flavoring ingredient in a beverage subject to the following
2233 restrictions:

2234 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
2235 a spirituous primary liquor;

2236 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

2237 (iii) the airport lounge liquor licensee shall designate a location where flavorings are
2238 stored on the floor plan provided to the department; and

2239 (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

2240 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
2241 system if used:

2242 (i) as a flavoring on desserts; and

2243 (ii) in the preparation of flaming food dishes, drinks, and desserts; and

2244 (c) each airport lounge patron may have no more than 2.75 ounces of spirituous liquor
2245 at a time before the patron.

2246 [~~(b) wine~~] (3) (a) (i) Wine may be sold and served by the glass [in quantities not
2247 exceeding] or an individual portion not to exceed five ounces per glass[; and] or individual
2248 portion.

2249 (ii) An individual portion may be served to a patron in more than one glass as long as
2250 the total amount of wine does not exceed five ounces.

2251 (iii) An individual portion of wine is considered to be one alcoholic beverage under
2252 Subsection (7)(c).

2253 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
2254 fixed by the commission to tables of four or more persons.

2255 (ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by
2256 the commission to tables of less than four persons.

2257 (c) A wine service may be performed and a service charge assessed by the airport
2258 lounge as authorized by commission rule for wine purchased at the airport lounge.

2259 [~~(c) heavy~~] (4) (a) Heavy beer may be served in original containers not exceeding one

2260 liter at prices fixed by the commission.

2261 (b) A service charge may be assessed by the airport lounge as authorized by
2262 commission rule for heavy beer purchased at the airport lounge.

2263 [~~(3)~~(a) ~~Airport lounges~~] (5) (a) An airport lounge licensed to sell liquor may sell beer
2264 in any size container not exceeding two liters, and on draft for on-premise consumption
2265 without obtaining a separate on-premise beer retailer license from the commission.

2266 (b) [~~Airport lounges that sell~~] An airport lounge that sells beer pursuant to Subsection
2267 [~~(3)~~] (5)(a) shall comply with all appropriate operational restrictions under Chapter 10, Beer
2268 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are
2269 inconsistent with or less restrictive than the operational restrictions under this [chapter that
2270 apply to airport lounges] part.

2271 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2272 Licenses, [~~as set forth in~~] required by Subsection [~~(3)~~] (5)(b) may result in a suspension or
2273 revocation of the airport lounge's:

2274 (i) state liquor license; and [its]

2275 (ii) alcoholic beverage license issued by the local authority.

2276 [~~(4) Wine may be served in accordance with commission rule in containers not~~
2277 ~~exceeding 750 ml.]~~

2278 [~~(5)(a) Liquor~~] (6) Alcoholic beverages may not be stored, served, or sold in any place
2279 other than as designated in the licensee's application, unless the licensee first applies for and
2280 receives approval from the department for a change of location within the airport lounge.

2281 [~~(b)~~] (7) (a) A patron [or guest] may only make purchases in the airport lounge from
2282 and be served by a [server] person employed, designated, and trained by the licensee to sell,
2283 dispense, and serve alcoholic beverages.

2284 [~~(c) Alcoholic beverages may not be stored where they are visible to persons outside~~
2285 ~~the airport lounge.]~~

2286 (b) Notwithstanding Subsection (7)(a), a patron who has purchased bottled wine from
2287 an employee of the airport lounge may serve wine from the bottle to themselves or others at the
2288 patron's table.

2289 (c) Each airport lounge patron may have no more than two alcoholic beverages of any
2290 kind at a time before the patron.

2291 ~~[(6)]~~ (8) The liquor storage area shall remain locked at all times other than those hours
2292 and days when liquor sales and service are authorized by law.

2293 ~~[(7)]~~ (9) Alcoholic beverages may not be sold ~~[or]~~, offered for sale, served, or
2294 otherwise furnished at an airport lounge ~~[during the following days or hours: (a) on the day of~~
2295 ~~any regular general election, regular primary election, or statewide special election until after~~
2296 ~~the polls are closed; and (b)]~~ on any ~~[other]~~ day after 12 midnight and before 8 a.m.

2297 ~~[(8)]~~ (10) Alcoholic beverages may not be sold, ~~[delivered;]~~ served, or otherwise
2298 furnished to any:

2299 (a) minor;

2300 (b) person actually, apparently, or obviously ~~[drunk]~~ intoxicated;

2301 (c) known habitual drunkard; or

2302 (d) known interdicted person.

2303 ~~[(9) Liquor]~~ (11) (a) Alcoholic beverages may not be sold ~~[except at prices fixed by~~
2304 ~~the commission. Mixed drinks and wine may not be sold at discount prices on any day or at~~
2305 ~~any time.]~~ at less than the cost of the alcoholic beverage to the licensee.

2306 ~~[(10) An airport lounge patron or guest may have only one alcoholic beverage at a time~~
2307 ~~before him.]~~

2308 ~~[(11) No more than one ounce of primary liquor may be served to a patron or guest at a~~
2309 ~~time, except:]~~

2310 ~~[(a) wine as provided in Subsection (2)(b); and]~~

2311 ~~[(b) heavy beer as provided in Subsection (2)(c).]~~

2312 (b) An alcoholic beverage may not be sold at a special or reduced price that encourages
2313 over-consumption or intoxication.

2314 (c) An alcoholic beverage may not be sold at a special or reduced price for only certain
2315 hours of the airport lounge's business day such as a "happy hour."

2316 (d) The sale or service of more than one alcoholic beverage for the price of a single
2317 alcoholic beverage is prohibited.

2318 (e) The sale or service of an indefinite or unlimited number of alcoholic beverages
2319 during any set period for a fixed price is prohibited.

2320 (f) An airport lounge licensee may not engage in a public promotion involving or
2321 offering free alcoholic beverages to the general public.

2322 (12) Alcoholic beverages may not be purchased by the licensee, or any employee or
2323 agent of the licensee, for patrons [~~or guests~~] of the airport lounge.

2324 (13) (a) [~~Beginning January 1, 1991, a~~] A person may not bring onto the premises of an
2325 airport lounge licensee any alcoholic beverage for on-premise consumption.

2326 (b) [~~Beginning January 1, 1991, an~~] An airport lounge or its officers, managers,
2327 employees, or agents may not allow a person to bring onto the airport lounge premises any
2328 alcoholic beverage for on-premise consumption or allow consumption of any such alcoholic
2329 beverage on its premises.

2330 [~~(c) Beginning January 1, 1991, if any airport lounge liquor licensee or any of its~~
2331 ~~officers, managers, employees, or agents violates Subsection (13):]~~

2332 [~~(i) the commission may immediately suspend or revoke the airport lounge's liquor~~
2333 ~~license and the airport lounge liquor licensee is subject to criminal prosecution under Chapter~~
2334 ~~12, Criminal Offenses; and]~~

2335 [~~(ii) the local authority may immediately suspend or revoke the airport lounge's local~~
2336 ~~liquor license, local consent under Subsection 32A-4-202(1), or local business license.]~~

2337 (14) [~~Alcoholic beverages purchased from the airport lounge may not be removed from~~
2338 ~~the airport lounge premises]~~ An airport lounge licensee and its employees may not permit a
2339 patron to remove any alcoholic beverages from the airport lounge premises.

2340 (15) (a) [~~Minors~~] A minor may not be employed by an airport lounge licensee to sell or
2341 dispense alcoholic beverages.

2342 (b) Notwithstanding Subsection (15)(a), a minor may be employed to enter the sale at a
2343 cash register or other sales recording device.

2344 (16) An employee of [~~a~~] an airport lounge licensee, while on duty, may not:

2345 (a) consume an alcoholic beverage; or

2346 (b) be [~~under the influence of alcoholic beverages~~] intoxicated.

2347 (17) Any charge or fee made in connection with the sale, service, or consumption of
2348 liquor may be stated in a food or alcoholic beverage menu including:

2349 (a) a set-up charge;

2350 (b) a service charge; or

2351 (c) a chilling fee.

2352 [~~(17)] (18) Each airport lounge liquor licensee shall display in a prominent place in the~~

2353 airport lounge:

2354 (a) the liquor license that is issued by the department;

2355 (b) a list of the types and brand names of liquor being served through its calibrated
2356 metered dispensing system; and

2357 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2358 drugs is a serious crime that is prosecuted aggressively in Utah."

2359 ~~[(18)]~~ (19) (a) Each airport lounge liquor licensee shall maintain an expense ledger or
2360 record showing in detail:

2361 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all
2362 other items required by the department; and

2363 (ii) sales made separately for malt or brewed beverages, food, and all other items
2364 required by the department.

2365 (b) This record shall be kept in a form approved by the department and shall be kept
2366 current for each three-month period. Each expenditure shall be supported by delivery tickets,
2367 invoices, receipted bills, canceled checks, petty cash vouchers, or other sustaining data or
2368 memoranda.

2369 ~~[(19) Each]~~ (c) In addition to a ledger or record required by Subsection (19)(a), each
2370 airport lounge liquor licensee shall maintain accounting and other records and documents as the
2371 department may require.

2372 (d) Any airport lounge or person acting for the airport lounge, who knowingly forges,
2373 falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of
2374 account or other documents of the airport lounge required to be made, maintained, or preserved
2375 by this title or the rules of the commission for the purpose of deceiving the commission or the
2376 department, or any of their officials or employees, is subject to the immediate suspension or
2377 revocation of the airport lounge's liquor license and possible criminal prosecution under
2378 Chapter 12, Criminal Offenses.

2379 (20) ~~[There shall be no transfer of an]~~ An airport lounge liquor license may not be
2380 transferred from one location to another, without prior written approval of the commission.

2381 (21) (a) ~~[A person, having been granted an]~~ An airport lounge liquor ~~[license]~~ licensee,
2382 may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the
2383 license to any other person, whether for monetary gain or not.

2384 (b) An airport lounge liquor license has no monetary value for the purpose of any type
2385 of disposition.

2386 (22) Each server of alcoholic beverages in a licensee's establishment shall keep a
2387 written beverage tab for each table or group that orders or consumes alcoholic beverages on the
2388 premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or
2389 consumed.

2390 (23) An airport lounge liquor licensee's premises may not be leased for private
2391 functions.

2392 (24) An airport lounge liquor licensee may not engage in or permit any form of
2393 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2394 Part 11, Gambling, on the premises of the airport lounge liquor licensee.

2395 Section 28. Section **32A-4-301** is enacted to read:

2396 **Part 3. Limited Restaurant Licenses**

2397 **32A-4-301. Definitions.**

2398 For purposes of this part, wine includes all alcoholic beverages defined as wine under
2399 27 U.S.C. 211 and 27 C.F.R. Section 4.10 including the following alcoholic beverages made
2400 in the manner of wine containing not less than 7% and not more than 24% of alcohol by
2401 volume:

2402 (1) sparkling and carbonated wine;

2403 (2) wine made from condensed grape must;

2404 (3) wine made from other agricultural products than the juice of sound, ripe grapes;

2405 (4) imitation wine;

2406 (5) compounds sold as wine;

2407 (6) vermouth;

2408 (7) cider;

2409 (8) perry; and

2410 (9) sake.

2411 Section 29. Section **32A-4-302** is enacted to read:

2412 **32A-4-302. Commission's power to grant licenses -- Limitations.**

2413 (1) A restaurant wanting to sell and allow the consumption of only wine, heavy beer,
2414 and beer on its premises, but not spirituous liquor, must obtain a limited restaurant license from

2415 the commission as provided in this part before selling or allowing the consumption of wine,
2416 heavy beer, or beer on its premises.

2417 (2) (a) Subject to the other provisions of this section, the commission may issue limited
2418 restaurant licenses for the purpose of establishing limited restaurant outlets at places and in
2419 numbers the commission considers proper for the storage, sale, and consumption of wine,
2420 heavy beer, and beer on premises operated as public restaurants.

2421 (b) The total number of limited restaurant licenses issued under this part may not at any
2422 time aggregate more than that number determined by dividing the population of the state by
2423 10,000.

2424 (c) For purposes of this Subsection (2), population shall be determined by:

2425 (i) the most recent United States decennial or special census; or

2426 (ii) any other population determination made by the United States or state
2427 governments.

2428 (3) (a) (i) The commission may issue seasonal limited restaurant licenses established in
2429 areas the commission considers necessary.

2430 (ii) A seasonal limited restaurant license shall be for a period of six consecutive
2431 months.

2432 (b) (i) A limited restaurant license issued for operation during a summer time period is
2433 known as a "Seasonal A" limited restaurant license. The period of operation for a "Seasonal A"
2434 limited restaurant license shall:

2435 (A) begin on May 1; and

2436 (B) end on October 31.

2437 (ii) A limited restaurant license issued for operation during a winter time period is
2438 known as a "Seasonal B" limited restaurant license. The period of operation for a "Seasonal B"
2439 limited restaurant license shall:

2440 (A) begin on November 1; and

2441 (B) end on April 30.

2442 (iii) In determining the number of limited restaurant licenses that the commission may
2443 issue under this section:

2444 (A) a seasonal limited restaurant license is counted as 1/2 of one limited restaurant
2445 license; and

2446 (B) each "Seasonal A" limited restaurant license shall be paired with a "Seasonal B"
2447 limited restaurant license.

2448 (c) If the location, design, and construction of a hotel may require more than one
2449 limited restaurant sales location within the hotel to serve the public convenience, the
2450 commission may authorize the sale of wine, heavy beer, and beer at as many as three limited
2451 restaurant locations within the hotel under one license if:

2452 (i) the hotel has a minimum of 150 guest rooms; and

2453 (ii) all locations under the license are:

2454 (A) within the same hotel facility; and

2455 (B) on premises that are:

2456 (I) managed or operated by the licensee; and

2457 (II) owned or leased by the licensee.

2458 (d) Facilities other than hotels shall have a separate limited restaurant license for each
2459 restaurant where wine, heavy beer, and beer are sold.

2460 (4) (a) The premises of a limited restaurant license may not be established within 600
2461 feet of any public or private school, church, public library, public playground, or park, as
2462 measured by the method in Subsection (5).

2463 (b) The premises of a limited restaurant license may not be established within 200 feet
2464 of any public or private school, church, public library, public playground, or park, measured in
2465 a straight line from the nearest entrance of the proposed outlet to the nearest property boundary
2466 of the public or private school, church, public library, public playground, or park.

2467 (c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the
2468 following exemptions applies:

2469 (i) with respect to the establishment of a limited restaurant license in any location, the
2470 commission may authorize a variance to reduce the proximity requirements of Subsection
2471 (4)(a) or (b) if:

2472 (A) the local governing authority has granted its written consent to the variance;

2473 (B) alternative locations for establishing a limited restaurant license in the community
2474 are limited;

2475 (C) a public hearing has been held in the city, town, or county, and where practical in
2476 the neighborhood concerned; and

2477 (D) after giving full consideration to all of the attending circumstances, the
2478 commission determines that establishing the license would not be detrimental to the public
2479 health, peace, safety, and welfare of the community; or

2480 (ii) with respect to the premises of any limited restaurant license issued by the
2481 commission that undergoes a change of ownership, the commission may waive or vary the
2482 proximity requirements of Subsections (4)(a) and (b) in considering whether to grant a limited
2483 restaurant license to the new owner of the premises if:

2484 (A) the premises previously received a variance reducing the proximity requirements of
2485 Subsection (4)(a) or (b); or

2486 (B) a variance from proximity or distance requirement was otherwise allowed under
2487 this title.

2488 (5) With respect to any public or private school, church, public library, public
2489 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
2490 by following the shortest route of ordinary pedestrian travel to the property boundary of the
2491 public or private school, church, public library, public playground, school playground, or park.

2492 (6) (a) Nothing in this section prevents the commission from considering the proximity
2493 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
2494 decision on a proposed location.

2495 (b) For purposes of this Subsection (6), "educational facility" includes:

2496 (i) a nursery school;

2497 (ii) an infant day care center; and

2498 (iii) a trade and technical school.

2499 Section 30. Section **32A-4-303** is enacted to read:

2500 **32A-4-303. Application and renewal requirements.**

2501 (1) A person seeking a limited restaurant license under this part shall file a written
2502 application with the department, in a form prescribed by the department. The application shall
2503 be accompanied by:

2504 (a) a nonrefundable \$250 application fee;

2505 (b) an initial license fee of \$500, which is refundable if a license is not granted;

2506 (c) written consent of the local authority;

2507 (d) a copy of the applicant's current business license;

2508 (e) evidence of proximity to any public or private school, church, public library, public
2509 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
2510 Subsections 32A-4-302(4) and (5), the application shall be processed in accordance with those
2511 subsections;

2512 (f) a bond as specified by Section 32A-4-306;

2513 (g) a floor plan of the restaurant, including:

2514 (i) consumption areas; and

2515 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and
2516 beer;

2517 (h) evidence that the restaurant is carrying public liability insurance in an amount and
2518 form satisfactory to the department;

2519 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
2520 \$500,000 per occurrence and \$1,000,000 in the aggregate;

2521 (j) a signed consent form stating that the restaurant will permit any authorized
2522 representative of the commission, department, or any law enforcement officer unrestricted right
2523 to enter the restaurant;

2524 (k) in the case of an applicant that is a partnership, corporation, or limited liability
2525 company, proper verification evidencing that the person or persons signing the restaurant
2526 application are authorized to so act on behalf of the partnership, corporation, or limited liability
2527 company; and

2528 (l) any other information the commission or department may require.

2529 (2) A holder of a restaurant liquor license or a private club license on May 5, 2003,
2530 may not be required to pay the application or initial license fees for a limited restaurant license
2531 under this chapter if the licensee:

2532 (a) surrenders the restaurant liquor license or private club license before being granted
2533 a limited restaurant license; and

2534 (b) applies for a limited restaurant license:

2535 (i) for the same premises for which the restaurant liquor license or private club license
2536 was granted; and

2537 (ii) before the expiration of the restaurant liquor license or private club license.

2538 (3) (a) All limited restaurant licenses expire on October 31 of each year.

- 2539 (b) Persons desiring to renew their limited restaurant license shall submit:
2540 (i) a renewal fee of \$300; and
2541 (ii) renewal application to the department no later than September 30.
2542 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
2543 the license effective on the date the existing license expires.
2544 (d) Renewal applications shall be in a form as prescribed by the department.
2545 (4) To ensure compliance with Subsection 32A-4-307(27), the commission may
2546 suspend or revoke a limited restaurant license if the limited restaurant licensee does not
2547 immediately notify the department of any change in:
2548 (a) ownership of the restaurant;
2549 (b) in the case of a corporate owner, the:
2550 (i) corporate officer or directors; or
2551 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
2552 corporation; or
2553 (c) in the case of a limited liability company:
2554 (i) managers; or
2555 (ii) members owning at least 20% of the limited liability company.
2556 Section 31. Section **32A-4-304** is enacted to read:
2557 **32A-4-304. Qualifications.**
2558 (1) (a) The commission may not grant a limited restaurant license to any person who
2559 has been convicted of:
2560 (i) a felony under any federal or state law;
2561 (ii) any violation of any federal or state law or local ordinance concerning the sale,
2562 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
2563 (iii) any crime involving moral turpitude; or
2564 (iv) on two or more occasions within the five years before the day on which the license
2565 is granted, driving under the influence of alcohol, any drug, or the combined influence of
2566 alcohol and any drug.
2567 (b) In the case of a partnership, corporation, or limited liability company, the
2568 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
2569 offense described in Subsection (1)(a):

2570 (i) a partner;
2571 (ii) a managing agent;
2572 (iii) a manager;
2573 (iv) an officer;
2574 (v) a director;
2575 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
2576 the applicant corporation; or
2577 (vii) a member who owns at least 20% of the applicant limited liability company.
2578 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
2579 supervisory or managerial capacity for the limited restaurant has been convicted of any offense
2580 described in Subsection (1)(a).
2581 (2) The commission may immediately suspend or revoke a limited restaurant license if
2582 after the day on which the limited restaurant license is granted, a person described in
2583 Subsection (1)(a), (b), or (c):
2584 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
2585 to the license being granted; or
2586 (b) on or after the day on which the license is granted:
2587 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
2588 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
2589 combined influence of alcohol and any drug; and
2590 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
2591 influence of alcohol and any drug within five years before the day on which the person is
2592 convicted of the offense described in Subsection (2)(b)(ii)(A).
2593 (3) The director may take emergency action by immediately suspending the operation
2594 of the limited restaurant license according to the procedures and requirements of Title 63,
2595 Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is
2596 being adjudicated if a person described in Subsection (1)(a), (b), or (c):
2597 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii) or (iii);
2598 or
2599 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
2600 any drug, or the combined influence of alcohol and any drug; and

2601 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
2602 influence of alcohol and any drug within five years before the day on which the person is
2603 arrested on a charge described in Subsection (3)(b)(i).

2604 (4) (a) (i) The commission may not grant a limited restaurant license to any person who
2605 has had any type of license, agency, or permit issued under this title revoked within the last
2606 three years.

2607 (ii) The commission may not grant a limited restaurant license to an applicant that is a
2608 partnership, corporation, or limited liability company if any partner, managing agent, manager,
2609 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
2610 of an applicant corporation, or member who owns at least 20% of an applicant limited liability
2611 company is or was:

2612 (A) a partner or managing agent of any partnership that had any type of license, agency,
2613 or permit issued under this title revoked within the last three years;

2614 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
2615 of the total issued and outstanding stock of any corporation that had any type of license,
2616 agency, or permit issued under this title revoked within the last three years; or

2617 (C) a manager or member of any limited liability company who owns or owned at least
2618 20% of a limited liability company that had any type of license, agency, or permit issued under
2619 this title revoked within the last three years.

2620 (b) An applicant that is a partnership, corporation, or limited liability company may not
2621 be granted a limited restaurant license if any of the following had any type of license, agency,
2622 or permit issued under this title revoked while acting in their individual capacity within the last
2623 three years:

2624 (i) any partner or managing agent of the applicant partnership;

2625 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
2626 total issued and outstanding stock of the applicant corporation; or

2627 (iii) any manager or member who owns at least 20% of the applicant limited liability
2628 company.

2629 (c) A person acting in an individual capacity may not be granted a limited restaurant
2630 license if that person was:

2631 (i) a partner or managing agent of a partnership that had any type of license, agency, or

2632 permit issued under this title revoked within the last three years;

2633 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
2634 total issued and outstanding stock of a corporation that had any type of license, agency, or
2635 permit issued under this title revoked within the last three years; or

2636 (iii) a manager or member of a limited liability company who owned at least 20% of
2637 the limited liability company that had any type of license, agency, or permit issued under this
2638 title revoked within the last three years.

2639 (5) (a) A minor may not be granted a limited restaurant license.

2640 (b) The commission may not grant a limited restaurant license to an applicant that is a
2641 partnership, corporation, or limited liability company if any of the following is a minor:

2642 (i) a partner or managing agent of the applicant partnership;

2643 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
2644 total issued and outstanding stock of the applicant corporation; or

2645 (iii) a manager or member who owns at least 20% of the applicant limited liability
2646 company.

2647 (6) If any person to whom a license has been issued under this part no longer possesses
2648 the qualifications required by this title for obtaining that license, the commission may suspend
2649 or revoke that license.

2650 Section 32. Section **32A-4-305** is enacted to read:

2651 **32A-4-305. Commission and department duties before granting licenses.**

2652 (1) (a) Before a limited restaurant license may be granted by the commission, the
2653 department shall conduct an investigation and may hold public hearings for the purpose of
2654 gathering information and making recommendations to the commission as to whether or not a
2655 license should be granted.

2656 (b) The department shall forward the information and recommendations described in
2657 Subsection (1)(a) to the commission to aid in the commission's determination.

2658 (2) Before issuing any limited restaurant license, the commission shall:

2659 (a) determine that the applicant has complied with all basic qualifications and
2660 requirements for making application for a license as provided by Sections 32A-4-302 and
2661 32A-4-303;

2662 (b) determine that the application is complete;

2663 (c) consider the locality within which the proposed limited restaurant outlet is located,
2664 including:

2665 (i) physical characteristics such as:

2666 (A) the condition of the premises;

2667 (B) square footage; and

2668 (C) parking availability; and

2669 (ii) operational factors such as:

2670 (A) tourist traffic;

2671 (B) proximity to and density of other state stores, package agencies, and outlets;

2672 (C) demographics;

2673 (D) population to be served; and

2674 (E) the extent of and proximity to any school, church, public library, public

2675 playground, or park;

2676 (d) consider the applicant's ability to manage and operate a limited restaurant license,

2677 including:

2678 (i) management experience;

2679 (ii) past retail liquor experience; and

2680 (iii) the type of management scheme employed by the restaurant;

2681 (e) consider the nature or type of restaurant operation, including:

2682 (i) the type of menu items offered and emphasized;

2683 (ii) whether the restaurant emphasizes service to an adult clientele or to minors;

2684 (iii) the hours of operation;

2685 (iv) the seating capacity of the facility; and

2686 (v) the gross sales of food items; and

2687 (f) consider any other factors or circumstances the commission considers necessary.

2688 Section 33. Section **32A-4-306** is enacted to read:

2689 **32A-4-306. Bond.**

2690 (1) Each limited restaurant licensee shall post a cash or corporate surety bond in the
2691 penal sum of \$5,000 payable to the department, which the licensee has procured and must
2692 maintain for so long as the licensee continues to operate as a limited restaurant licensee.

2693 (2) The bond shall be in a form approved by the attorney general, conditioned upon the

2694 licensee's faithful compliance with this title and the rules of the commission.

2695 (3) (a) If the \$5,000 surety bond is canceled due to the licensee's negligence, a \$300
2696 reinstatement fee may be assessed.

2697 (b) No part of any cash or corporate bond so posted may be withdrawn during the
2698 period the license is in effect, or while revocation proceedings are pending against the licensee.

2699 (c) A bond filed by a licensee may be forfeited if the license is finally revoked.

2700 Section 34. Section **32A-4-307** is enacted to read:

2701 **32A-4-307. Operational restrictions.**

2702 Each person granted a limited restaurant license and the employees and management
2703 personnel of the restaurant shall comply with the following conditions and requirements.

2704 Failure to comply may result in a suspension or revocation of the license or other disciplinary
2705 action taken against individual employees or management personnel.

2706 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee
2707 except from state stores or package agencies.

2708 (b) Wine and heavy beer purchased in accordance with Subsection (1)(a) may be
2709 transported by the licensee from the place of purchase to the licensed premises.

2710 (c) Payment for wine and heavy beer shall be made in accordance with rules
2711 established by the commission.

2712 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of
2713 spirituous liquor on the premises of the restaurant.

2714 (b) Spirituous liquor may not be on the premises of the restaurant except for use:

2715 (i) as a flavoring on desserts; and

2716 (ii) in the preparation of flaming food dishes, drinks, and desserts.

2717 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
2718 exceed five ounces per glass or individual portion.

2719 (ii) An individual portion may be served to a patron in more than one glass as long as
2720 the total amount of wine does not exceed five ounces.

2721 (iii) An individual portion of wine is considered to be one alcoholic beverage under
2722 Subsection (7)(c).

2723 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
2724 fixed by the commission to tables of four or more persons.

2725 (ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by
2726 the commission to tables of less than four persons.

2727 (c) A wine service may be performed and a service charge assessed by the limited
2728 restaurant as authorized by commission rule for wine purchased at the limited restaurant.

2729 (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices
2730 fixed by the commission.

2731 (b) A service charge may be assessed by the limited restaurant as authorized by
2732 commission rule for heavy beer purchased at the restaurant.

2733 (5) (a) A limited restaurant licensee may sell beer in any size container not exceeding
2734 two liters, and on draft for on-premise consumption without obtaining a separate on-premise
2735 beer retailer license from the commission.

2736 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a) shall
2737 comply with all appropriate operational restrictions under Chapter 10, Beer Retailer Licenses,
2738 that apply to on-premise beer retailers except when those restrictions are inconsistent with or
2739 less restrictive than the operational restrictions under this part.

2740 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2741 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
2742 restaurant's:

2743 (i) limited restaurant license; and

2744 (ii) alcoholic beverage license issued by the local authority.

2745 (6) Wine, heavy beer, and beer may not be stored, served, or sold in any place other
2746 than as designated in the licensee's application, unless the licensee first applies for and receives
2747 approval from the department for a change of location within the restaurant.

2748 (7) (a) A patron may only make alcoholic beverage purchases in the limited restaurant
2749 from and be served by a person employed, designated, and trained by the licensee to sell and
2750 serve alcoholic beverages.

2751 (b) Notwithstanding Subsection (7)(a), a patron who has purchased bottled wine from
2752 an employee of the restaurant or has carried bottled wine onto the premises of the restaurant
2753 pursuant to Subsection (13) may thereafter serve wine from the bottle to themselves or others at
2754 the patron's table.

2755 (c) Each restaurant patron may have no more than two alcoholic beverages of any kind

2756 at a time before the patron.

2757 (8) The alcoholic beverage storage area shall remain locked at all times other than
2758 those hours and days when alcoholic beverage sales are authorized by law.

2759 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
2760 furnished at a limited restaurant during the following days or hours:

2761 (i) until after the polls are closed on the day of any:

2762 (A) regular general election;

2763 (B) regular primary election; or

2764 (C) statewide special election;

2765 (ii) on the day of any municipal, special district, or school election, but only:

2766 (A) within the boundaries of the municipality, special district, or school district; and

2767 (B) if closure is required by local ordinance; and

2768 (iii) on any other day after 12 midnight and before 12 noon.

2769 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2770 Licenses, for on-premise beer licensees.

2771 (10) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to any:

2772 (a) minor;

2773 (b) person actually, apparently, or obviously intoxicated;

2774 (c) known habitual drunkard; or

2775 (d) known interdicted person.

2776 (11) (a) Alcoholic beverages may not be sold at less than the cost of the alcoholic
2777 beverages to the licensee.

2778 (b) An alcoholic beverage may not be sold at a special or reduced price that encourages
2779 over-consumption or intoxication.

2780 (c) An alcoholic beverage may not be sold at a special or reduced price for only certain
2781 hours of the limited restaurant's business day such as a "happy hour."

2782 (d) The sale or service of more than one alcoholic beverage for the price of a single
2783 alcoholic beverage is prohibited.

2784 (e) The sale or service of an indefinite or unlimited number of alcoholic beverages
2785 during any set period for a fixed price is prohibited.

2786 (f) A limited restaurant licensee may not engage in a public promotion involving or

2787 offering free alcoholic beverages to the general public.

2788 (12) Alcoholic beverages may not be purchased by the licensee, or any employee or
2789 agent of the licensee, for a patron of the restaurant.

2790 (13) (a) A person may not bring onto the premises of a limited restaurant licensee any
2791 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
2792 discretion of the licensee, bottled wine onto the premises of any limited restaurant licensee for
2793 on-premise consumption.

2794 (b) Except bottled wine under Subsection (13)(a), a limited restaurant licensee or its
2795 officers, managers, employees, or agents may not allow:

2796 (i) a person to bring onto the restaurant premises any alcoholic beverage for on-premise
2797 consumption; or

2798 (ii) consumption of any alcoholic beverage described in Subsection (13)(b)(i) on its
2799 premises.

2800 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
2801 or other representative of the licensee upon entering the restaurant.

2802 (d) A wine service may be performed and a service charge assessed by the restaurant as
2803 authorized by commission rule for wine carried in by a patron.

2804 (14) (a) Except as provided in Subsection (14)(b), a limited restaurant licensee and its
2805 employees may not permit a restaurant patron to carry from the restaurant premises an open
2806 container that:

2807 (i) is used primarily for drinking purposes; and

2808 (ii) contains any alcoholic beverage.

2809 (b) Notwithstanding Subsection (14)(a), a patron may remove the unconsumed
2810 contents of a bottle of wine if before removal the bottle has been recorked or recapped.

2811 (15) (a) A minor may not be employed by a limited restaurant licensee to sell or
2812 dispense alcoholic beverages.

2813 (b) Notwithstanding Subsection (15)(a), a minor may be employed to enter the sale at a
2814 cash register or other sales recording device.

2815 (16) An employee of a limited restaurant licensee, while on duty, may not:

2816 (a) consume an alcoholic beverage; or

2817 (b) be intoxicated.

2818 (17) A charge or fee made in connection with the sale, service, or consumption of wine
2819 or heavy beer may be stated in food or alcoholic beverage menus including:

2820 (a) a service charge; or

2821 (b) a chilling fee.

2822 (18) Each limited restaurant licensee shall display in a prominent place in the
2823 restaurant:

2824 (a) the license that is issued by the department; and

2825 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2826 drugs is a serious crime that is prosecuted aggressively in Utah."

2827 (19) The following acts or conduct in a restaurant licensed under this part are
2828 considered contrary to the public welfare and morals, and are prohibited upon the premises:

2829 (a) employing or using any person in the sale or service of alcoholic beverages while
2830 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
2831 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
2832 buttocks, vulva, or genitals;

2833 (b) employing or using the services of any person to mingle with the patrons while the
2834 person is unclothed or in attire, costume, or clothing described in Subsection (19)(a);

2835 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
2836 buttocks, anus, or genitals of any other person;

2837 (d) permitting any employee or person to wear or use any device or covering, exposed
2838 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

2839 (e) permitting any person to use artificial devices or inanimate objects to depict any of
2840 the prohibited activities described in this subsection;

2841 (f) permitting any person to remain in or upon the premises who exposes to public
2842 view any portion of that person's genitals or anus; or

2843 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
2844 depicting:

2845 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
2846 copulation, flagellation, or any sexual acts prohibited by Utah law;

2847 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
2848 genitals;

2849 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
2850 drawings are used to portray, any of the prohibited activities described in this subsection; or

2851 (iv) scenes wherein a person displays the vulva, anus, or the genitals.

2852 (20) Nothing in Subsection (19) precludes a local authority from being more restrictive
2853 of acts or conduct of the type prohibited in Subsection (19).

2854 (21) (a) Although live entertainment is permitted on the premises of a limited
2855 restaurant licensee, a licensee may not allow any person to perform or simulate sexual acts
2856 prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral
2857 copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or
2858 genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform
2859 only upon a stage or at a designated area approved by the commission.

2860 (b) Nothing in Subsection (21)(a) precludes a local authority from being more
2861 restrictive of acts or conduct of the type prohibited in Subsection (21)(a).

2862 (22) A limited restaurant licensee may not engage in or permit any form of gambling,
2863 or have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11,
2864 Gambling, on the premises of the restaurant.

2865 (23) (a) Each limited restaurant licensee shall maintain an expense ledger or record
2866 showing in detail:

2867 (i) quarterly expenditures made separately for:

2868 (A) wine;

2869 (B) heavy beer;

2870 (C) beer;

2871 (D) food; and

2872 (E) all other items required by the department; and

2873 (ii) sales made separately for:

2874 (A) wine;

2875 (B) heavy beer;

2876 (C) beer;

2877 (D) food; and

2878 (E) all other items required by the department.

2879 (b) The record required by Subsection (23)(a) shall be kept:

- 2880 (i) in a form approved by the department; and
2881 (ii) current for each three-month period.
2882 (c) Each expenditure shall be supported by:
2883 (i) delivery tickets;
2884 (ii) invoices;
2885 (iii) receipted bills;
2886 (iv) canceled checks;
2887 (v) petty cash vouchers; or
2888 (vi) other sustaining data or memoranda.
2889 (d) In addition to the ledger or record maintained under Subsections (23)(a) through
2890 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
2891 the department may require.
2892 (e) Any restaurant or person acting for the restaurant, who knowingly forges, falsifies,
2893 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or
2894 other documents of the restaurant required to be made, maintained, or preserved by this title or
2895 the rules of the commission for the purpose of deceiving the commission or department, or any
2896 of their officials or employees, is subject to the suspension or revocation of the limited
2897 restaurant's license and possible criminal prosecution under Chapter 12, Criminal Offenses.
2898 (24) (a) A limited restaurant licensee may not close or cease operation for a period
2899 longer than 240 hours, unless:
2900 (i) the limited restaurant licensee notifies the department in writing at least seven days
2901 before the closing; and
2902 (ii) the closure or cessation of operation is first approved by the department.
2903 (b) Notwithstanding Subsection (24)(a), in the case of emergency closure, immediate
2904 notice of closure shall be made to the department by telephone.
2905 (c) (i) Subject to Subsection (24)(c)(iii), the department may authorize a closure or
2906 cessation of operation for a period not to exceed 60 days.
2907 (ii) The department may extend the initial period an additional 30 days upon:
2908 (A) written request of the limited restaurant licensee; and
2909 (B) a showing of good cause.
2910 (iii) A closure or cessation of operation may not exceed a total of 90 days without

2911 commission approval.

2912 (d) Any notice required by this Subsection (24)(a) shall include:

2913 (i) the dates of closure or cessation of operation;

2914 (ii) the reason for the closure or cessation of operation; and

2915 (iii) the date on which the licensee will reopen or resume operation.

2916 (e) Failure of the licensee to provide notice and to obtain department authorization

2917 before closure or cessation of operation shall result in an automatic forfeiture of:

2918 (i) the license; and

2919 (ii) the unused portion of the license fee for the remainder of the license year effective
2920 immediately.

2921 (f) Failure of the licensee to reopen or resume operation by the approved date shall
2922 result in an automatic forfeiture of:

2923 (i) the license; and

2924 (ii) the unused portion of the license fee for the remainder of the license year.

2925 (25) Each limited restaurant licensee shall maintain at least 70% of its total restaurant
2926 business from the sale of food, which does not include service charges.

2927 (26) A limited restaurant license may not be transferred from one location to another,
2928 without prior written approval of the commission.

2929 (27) (a) A limited restaurant license may not sell, transfer, assign, exchange, barter,
2930 give, or attempt in any way to dispose of the license to any other person whether for monetary
2931 gain or not.

2932 (b) A limited restaurant license has no monetary value for the purpose of any type of
2933 disposition.

2934 (28) (a) Each server of wine, heavy beer, and beer in a limited restaurant licensee's
2935 establishment shall keep a written beverage tab for each table or group that orders or consumes
2936 alcoholic beverages on the premises.

2937 (b) The beverage tab required by Subsection (28)(a) shall list the type and amount of
2938 alcoholic beverages ordered or consumed.

2939 (29) A limited restaurant licensee may not make a person's willingness to serve
2940 alcoholic beverages a condition of employment as a server with the restaurant.

2941 Section 35. Section **32A-4-401** is enacted to read:

2942 **Part 4. On-Premise Banquet License**2943 **32A-4-401. Commission's power to grant licenses -- Limitations.**

2944 (1) (a) Beginning May 5, 2003, and ending June 30, 2005, the commission may issue
2945 an on-premise banquet license to any of the following persons for the purpose of allowing the
2946 storage, sale, service, and consumption of alcoholic beverages in connection with that person's
2947 banquet and room service activities:

2948 (i) hotel;

2949 (ii) resort facility;

2950 (iii) sports center; or

2951 (iv) convention center.

2952 (b) This chapter is not intended to prohibit liquor on the premises of a person listed in
2953 Subsection (1) to the extent otherwise permitted by this title.

2954 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not
2955 at any time aggregate more than that number determined by dividing the population of the state
2956 by 30,000.

2957 (b) For purposes of this Subsection (2), the population of the state shall be determined
2958 by:

2959 (i) the most recent United States decennial or special census; or

2960 (ii) any other population determination made by the United States or state
2961 governments.

2962 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet
2963 licensee:

2964 (a) the host of a contracted banquet may request an on-premise banquet licensee to
2965 provide alcoholic beverages served at a banquet; and

2966 (b) an on-premise banquet licensee may provide the alcoholic beverages served at a
2967 banquet.

2968 (4) At a banquet, an on-premise banquet licensee may provide:

2969 (a) a hosted bar; or

2970 (b) a cash bar.

2971 (5) Nothing in this section shall prohibit a qualified on-premise banquet license
2972 applicant from applying for a package agency.

2973 (6) (a) The premises of an on-premise banquet license may not be established within
2974 600 feet of any public or private school, church, public library, public playground, or park, as
2975 measured by the method in Subsection (7).

2976 (b) The premises of an on-premise banquet license may not be established within 200
2977 feet of any public or private school, church, public library, public playground, or park,
2978 measured in a straight line from the nearest entrance of the proposed outlet to the nearest
2979 property boundary of the public or private school, church, public library, public playground, or
2980 park.

2981 (c) The restrictions contained in Subsections (6)(a) and (b) govern unless one of the
2982 following exemptions applies:

2983 (i) with respect to the establishment of an on-premise banquet license within any
2984 location, the commission may authorize a variance to reduce the proximity requirements of
2985 Subsection (6)(a) or (b) if:

2986 (A) the local governing authority has granted its written consent to the variance;

2987 (B) alternative locations for establishing an on-premise banquet license in the
2988 community are limited;

2989 (C) a public hearing has been held in the city, town, or county, and where practical in
2990 the neighborhood concerned; and

2991 (D) after giving full consideration to all of the attending circumstances, the
2992 commission determines that establishing the license would not be detrimental to the public
2993 health, peace, safety and welfare of the community; or

2994 (ii) with respect to the premises of any on-premise banquet license issued by the
2995 commission that undergoes a change of ownership, the commission may waive or vary the
2996 proximity requirements of Subsections (6)(a) and (b) in considering whether to grant an
2997 on-premise banquet license to the new owner of the premises if:

2998 (A) the premises previously received a variance reducing the proximity requirements of
2999 Subsection (6)(a) or (b); or

3000 (B) a variance from proximity or distance requirements was otherwise allowed under
3001 this title.

3002 (7) With respect to any public or private school, church, public library, public
3003 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet

3004 by following the shortest route of ordinary pedestrian travel to the property boundary of the
3005 public or private school, church, public library, public playground, school playground, or park.

3006 (8) (a) Nothing in this section prevents the commission from considering the proximity
3007 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
3008 decision on a proposed location.

3009 (b) For purposes of this Subsection (8), "educational facility" includes:

3010 (i) a nursery school;

3011 (ii) an infant day care center; and

3012 (iii) a trade and technical school.

3013 Section 36. Section **32A-4-402** is enacted to read:

3014 **32A-4-402. Application and renewal requirements.**

3015 (1) A person seeking an on-premise banquet license under this part shall file a written
3016 application with the department, in a form prescribed by the department. The application shall
3017 be accompanied by:

3018 (a) a nonrefundable \$250 application fee;

3019 (b) an initial license fee of \$500, which is refundable if a license is not granted;

3020 (c) written consent of the local authority;

3021 (d) a copy of the applicant's current business license;

3022 (e) evidence of proximity to any public or private school, church, public library, public
3023 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of

3024 Subsections 32A-4-401(7) and (8), the application shall be processed in accordance with those
3025 subsections;

3026 (f) a bond as specified by Section 32A-4-405;

3027 (g) a description or floor plan and boundary map of the premises, where appropriate, of
3028 the on-premise banquet license applicant's location, designating:

3029 (i) the location at which the on-premise banquet license applicant proposes that
3030 alcoholic beverages be stored; and

3031 (ii) the designated locations on the premises of the applicant from which the
3032 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and
3033 consumed;

3034 (h) evidence that the on-premise banquet license applicant is carrying public liability

3035 insurance in an amount and form satisfactory to the department;

3036 (i) evidence that the on-premise banquet license applicant is carrying dramshop
3037 insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

3038 (j) a signed consent form stating that the on-premise banquet license applicant will
3039 permit any authorized representative of the commission, department, or any law enforcement
3040 officer unrestricted right to enter the restaurant;

3041 (k) in the case of an applicant that is a partnership, corporation, or limited liability
3042 company, proper verification evidencing that the person or persons signing the on-premise
3043 banquet license application are authorized to so act on behalf of the partnership, corporation, or
3044 limited liability company; and

3045 (l) any other information the commission or department may require.

3046 (2) Additional locations in or on the premises of an on-premise banquet license
3047 applicant's business from which the on-premise banquet license applicant may propose that
3048 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's
3049 original application may be approved by the department upon proper application, in accordance
3050 with guidelines approved by the commission.

3051 (3) (a) All on-premise banquet licenses expire on October 31 of each year.

3052 (b) Persons desiring to renew their on-premise banquet license shall submit a renewal
3053 fee of \$500 and a completed renewal application to the department no later than September 30.

3054 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
3055 the license effective on the date the existing license expires.

3056 (d) Renewal applications shall be in a form as prescribed by the department.

3057 (4) To ensure compliance with Subsection 32A-4-406(26), the commission may
3058 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to
3059 immediately notify the department of any change in:

3060 (a) ownership of the licensee;

3061 (b) in the case of a corporate owner, the:

3062 (i) corporate officers or directors; or

3063 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
3064 corporation; or

3065 (c) in the case of a limited liability company;

3066 (i) managers; or

3067 (ii) members owning at least 20% of the limited liability company.

3068 Section 37. Section **32A-4-403** is enacted to read:

3069 **32A-4-403. Qualifications.**

3070 (1) (a) The commission may not grant an on-premise banquet license to any person
3071 who has been convicted of:

3072 (i) a felony under any federal or state law;

3073 (ii) any violation of any federal or state law or local ordinance concerning the sale,
3074 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

3075 (iii) any crime involving moral turpitude; or

3076 (iv) on two or more occasions within the five years before the day on which the license
3077 is granted, driving under the influence of alcohol, any drug, or the combined influence of
3078 alcohol and any drug.

3079 (b) In the case of a partnership, corporation, or limited liability company, the
3080 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
3081 offense described in Subsection (1)(a):

3082 (i) a partner;

3083 (ii) a managing agent;

3084 (iii) a manager;

3085 (iv) an officer;

3086 (v) a director;

3087 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
3088 the applicant corporation; or

3089 (vii) a member who owns at least 20% of the applicant limited liability company.

3090 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
3091 supervisory or managerial capacity for the on-premise banquet licensee has been convicted of
3092 any offense described in Subsection (1)(a).

3093 (2) The commission may immediately suspend or revoke an on-premise banquet
3094 license if after the day on which the on-premise banquet license is granted, a person described
3095 in Subsection (1)(a), (b), or (c):

3096 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior

3097 to the license being granted; or

3098 (b) on or after the day on which the license is granted:

3099 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

3100 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the

3101 combined influence of alcohol and any drug; and

3102 (B) was convicted of driving under the influence of alcohol, any drug, or the combined

3103 influence of alcohol and any drug within five years before the day on which the person is

3104 convicted of the offense described in Subsection (2)(b)(ii)(A).

3105 (3) The director may take emergency action by immediately suspending the operation

3106 of an on-premise banquet license according to the procedures and requirements of Title 63,

3107 Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is

3108 being adjudicated if a person described in Subsection (1)(a), (b), or (c):

3109 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii) or (iii);

3110 or

3111 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,

3112 any drug, or the combined influence of alcohol and any drug; and

3113 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined

3114 influence of alcohol and any drug within five years before the day on which the person is

3115 arrested on a charge described in Subsection (3)(b)(i).

3116 (4) (a) (i) The commission may not grant an on-premise banquet license to any person

3117 who has had any type of license, agency, or permit issued under this title revoked within the

3118 last three years.

3119 (ii) The commission may not grant an on-premise banquet license to an applicant that

3120 is a partnership, corporation, or limited liability company if any partner, managing agent,

3121 manager, officer, director, stockholder who holds at least 20% of the total issued and

3122 outstanding stock of an applicant corporation, or member who owns at least 20% of an

3123 applicant limited liability company is or was:

3124 (A) a partner or managing agent of any partnership that had any type of license, agency,

3125 or permit issued under this title revoked within the last three years;

3126 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%

3127 of the total issued and outstanding stock of any corporation that had any type of license,

3128 agency, or permit issued under this title revoked within the last three years; or

3129 (C) a manager or member who owns or owned at least 20% of any limited liability
3130 company that had any type of license, agency, or permit issued under this title revoked within
3131 the last three years.

3132 (b) An applicant that is a partnership, corporation, or limited liability company may not
3133 be granted an on-premise banquet license if any of the following had any type of license,
3134 agency, or permit issued under this title revoked while acting in their individual capacity within
3135 the last three years:

3136 (i) any partner or managing agent of the applicant partnership;

3137 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
3138 total issued and outstanding stock of the applicant corporation; or

3139 (iii) any manager or member who owns at least 20% of the applicant limited liability
3140 company.

3141 (c) A person acting in an individual capacity may not be granted an on-premise banquet
3142 license if that person was:

3143 (i) a partner or managing agent of a partnership that had any type of license, agency, or
3144 permit issued under this title revoked within the last three years;

3145 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
3146 total issued and outstanding stock of a corporation that had any type of license, agency, or
3147 permit issued under this title revoked within the last three years; or

3148 (iii) a manager or member who owned at least 20% of the limited liability company
3149 that had any type of license, agency, or permit issued under this title revoked within the last
3150 three years.

3151 (5) (a) A minor may not be granted an on-premise banquet license.

3152 (b) The commission may not grant an on-premise banquet license to an applicant that is
3153 a partnership, corporation, or limited liability company if any of the following is a minor:

3154 (i) a partner or managing agent of the applicant partnership;

3155 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
3156 total issued and outstanding stock of the applicant corporation; or

3157 (iii) a manager or member who owns at least 20% of the applicant limited liability
3158 company.

3159 (6) If any person to whom a license has been issued under this part no longer possesses
3160 the qualifications required by this title for obtaining that license, the commission may suspend
3161 or revoke that license.

3162 Section 38. Section **32A-4-404** is enacted to read:

3163 **32A-4-404. Commission and department duties before granting licenses.**

3164 (1) (a) Before an on-premise banquet license may be granted by the commission, the
3165 department shall conduct an investigation, and may hold public hearings for the purpose of
3166 gathering information and making recommendations to the commission as to whether or not an
3167 on-premise banquet license should be granted.

3168 (b) The department shall forward the information and recommendations described in
3169 Subsection (1)(a) to the commission to aid in the commission's determination.

3170 (2) Before issuing an on-premise banquet license, the commission shall:

3171 (a) determine that the applicant has complied with all basic qualifications and
3172 requirements for making application for a license as provided by Sections 32A-4-402 and
3173 32A-4-403;

3174 (b) determine that the application is complete;

3175 (c) consider, where appropriate, the locations the on-premise banquet license applicant
3176 proposes to designate for use under an on-premise banquet license, including:

3177 (i) the physical characteristics of the locations such as:

3178 (A) the condition of the premises;

3179 (B) square footage; and

3180 (C) parking availability; and

3181 (ii) operational factors such as:

3182 (A) tourist traffic;

3183 (B) demographics; and

3184 (C) population to be served;

3185 (d) consider the applicant's ability to manage and operate an on-premise banquet
3186 license, including:

3187 (i) past management experience;

3188 (ii) past alcohol license experience; and

3189 (iii) the type of management scheme to be employed by the on-premise banquet license

3190 applicant;

3191 (e) consider the nature or type of on-premise banquet license applicant's business

3192 operation; and

3193 (f) consider any other factors or circumstances the commission considers necessary.

3194 Section 39. Section **32A-4-405** is enacted to read:

3195 **32A-4-405. Bond.**

3196 (1) Each on-premise banquet licensee shall post a cash or corporate surety bond in the

3197 penal sum of \$10,000 payable to the department, which the licensee has procured and must

3198 maintain for so long as the licensee continues to operate as an on-premise banquet licensee.

3199 (2) The bond shall be in a form approved by the attorney general, conditioned upon the

3200 licensee's faithful compliance with this title and the rules of the commission.

3201 (3) (a) If the \$10,000 surety bond is canceled due to the licensee's negligence, a \$300

3202 reinstatement fee may be assessed.

3203 (b) No part of any cash or corporate bond so posted may be withdrawn during the

3204 period the license is in effect, or while revocation proceedings are pending against the licensee.

3205 (c) A bond filed by an on-premise banquet licensee may be forfeited if the license is

3206 finally revoked.

3207 Section 40. Section **32A-4-406** is enacted to read:

3208 **32A-4-406. Operational restrictions.**

3209 Each person granted an on-premise banquet license and the employees and management

3210 personnel of the on-premise banquet licensee shall comply with this title, the rules of the

3211 commission, and the following conditions and requirements. Failure to comply may result in a

3212 suspension or revocation of the license or other disciplinary action taken against individual

3213 employees or management personnel.

3214 (1) A person involved in the sale or service of alcoholic beverages under the

3215 on-premise banquet license shall:

3216 (a) be under the supervision and direction of the on-premise banquet licensee; and

3217 (b) complete the seminar provided for in Section 62A-15-401.

3218 (2) (a) Liquor may not be purchased by the on-premise banquet licensee except from

3219 state stores or package agencies.

3220 (b) Liquor purchased in accordance with Subsection (2)(a) may be transported by the

3221 on-premise banquet licensee from the place of purchase to the licensed premises.

3222 (c) Payment for liquor shall be made in accordance with rules established by the
3223 commission.

3224 (3) Alcoholic beverages may be sold or provided at a banquet, or in connection with
3225 room service, subject to the following restrictions:

3226 (a) An on-premise banquet licensee may sell or provide any primary spirituous liquor
3227 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
3228 dispensing system approved by the department in accordance with commission rules adopted
3229 under this title, except that:

3230 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing
3231 system if used as a secondary flavoring ingredient in a beverage subject to the following
3232 restrictions:

3233 (A) the secondary ingredient may be dispensed only in conjunction with the purchase
3234 of a primary spirituous liquor;

3235 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;

3236 (C) the on-premise banquet licensee shall designate a location where flavorings are
3237 stored on the floor plan provided to the department; and

3238 (D) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

3239 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing
3240 system if used:

3241 (A) as a flavoring on desserts; and

3242 (B) in the preparation of flaming food dishes, drinks, and desserts;

3243 (iii) each attendee may have no more than 2.75 ounces of spirituous liquor at a time
3244 before the attendee; and

3245 (iv) each attendee may have no more than one spirituous liquor drink at a time before
3246 the attendee.

3247 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to
3248 exceed five ounces per glass or individual portion.

3249 (B) An individual portion may be served to an attendee in more than one glass as long
3250 as the total amount of wine does not exceed five ounces.

3251 (C) An individual portion of wine is considered to be one alcoholic beverage under

3252 Subsection (5)(c).

3253 (ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed
3254 by the commission.

3255 (iii) A wine service may be performed and a service charge assessed by the on-premise
3256 banquet licensee as authorized by commission rule for wine purchased on the banquet
3257 premises.

3258 (c) (i) Heavy beer may be served in original containers not exceeding one liter at prices
3259 fixed by the commission.

3260 (ii) A service charge may be assessed by the on-premise banquet licensee as authorized
3261 by commission rule for heavy beer purchased on the banquet premises.

3262 (d) Beer may be sold and served in any size container not exceeding two liters, and on
3263 draft for on-premise consumption.

3264 (4) Alcoholic beverages may not be stored, served, or sold in any place other than as
3265 designated in the on-premise banquet licensee's application, except that additional locations in
3266 or on the premises of an on-premise banquet licensee may be approved in accordance with
3267 guidelines approved by the commission as provided in Subsection 32A-4-402(2).

3268 (5) (a) An attendee may only make alcoholic beverage purchases from and be served by
3269 a person employed, designated, and trained by the on-premise banquet licensee to sell and
3270 serve alcoholic beverages.

3271 (b) Notwithstanding Subsection (5)(a), an attendee who has purchased bottled wine
3272 from an employee of the on-premise banquet licensee may thereafter serve wine from the bottle
3273 to themselves or others at the attendee's table.

3274 (c) Each attendee may have no more than two alcoholic beverages of any kind at a time
3275 before the attendee.

3276 (6) The alcoholic beverage storage area shall remain locked at all times other than
3277 those hours and days when alcoholic beverage sales are authorized by law.

3278 (7) (a) Except as provided in Subsection (7)(b), alcoholic beverages may be offered for
3279 sale, sold, served, or otherwise furnished from 10:00 a.m. to 1:00 a.m. seven days a week:

3280 (i) at a banquet; or

3281 (ii) in connection with room service.

3282 (b) Notwithstanding Subsection (7)(a), a sale or service of alcoholic beverages may not

3283 occur at a banquet or in connection with room service until after the polls are closed on the day
3284 of:

3285 (i) a regular general election;

3286 (ii) a regular primary election; or

3287 (iii) a statewide special election.

3288 (8) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

3289 (a) minor;

3290 (b) person actually, apparently, or obviously intoxicated;

3291 (c) known habitual drunkard; or

3292 (d) known interdicted person.

3293 (9) (a) Alcoholic beverages may not be sold at less than the cost of the alcoholic
3294 beverage to the licensee.

3295 (b) An alcoholic beverage may not be sold at a special or reduced price that encourages
3296 over-consumption or intoxication.

3297 (c) An alcoholic beverage may not be sold at a special or reduced price for only certain
3298 hours of the on-premise banquet licensee's business day such as a "happy hour."

3299 (d) The sale or service of more than one alcoholic beverage for the price of a single
3300 alcoholic beverage is prohibited.

3301 (e) An on-premise banquet licensee may not engage in a public promotion involving or
3302 offering free alcoholic beverages to the general public.

3303 (10) Alcoholic beverages may not be purchased by the on-premise banquet licensee, or
3304 any employee or agent of the licensee, for an attendee.

3305 (11) An attendee of a banquet may not bring any alcoholic beverage into or onto, or
3306 remove any alcoholic beverage from the premises of a banquet.

3307 (12) (a) Except as otherwise provided in this title, the sale and service of alcoholic
3308 beverages by an on-premise banquet licensee at a banquet shall be made only for consumption
3309 at the location of the banquet.

3310 (b) The host of a banquet, an attendee, or any other person other than the on-premise
3311 banquet licensee or its employees, may not remove any alcoholic beverage from the premises
3312 of the banquet.

3313 (13) An on-premise banquet licensee employee shall remain at the banquet at all times

3314 when alcoholic beverages are being sold, served, or consumed at the banquet.

3315 (14) (a) An on-premise banquet licensee may not leave any unsold alcoholic beverages
3316 at the banquet following the conclusion of the banquet.

3317 (b) At the conclusion of a banquet, the on-premise banquet licensee or its employees,
3318 shall:

3319 (i) destroy any opened and unused alcoholic beverages that are not saleable, under
3320 conditions established by the department; and

3321 (ii) return to the on-premise banquet licensee's approved locked storage area any:

3322 (A) opened and unused alcoholic beverage that is saleable; and

3323 (B) unopened containers of alcoholic beverages.

3324 (15) Except as provided in Subsection (14), any open or sealed container of alcoholic
3325 beverages not sold or consumed at a banquet:

3326 (a) shall be stored by the on-premise banquet licensee in the licensee's approved locked
3327 storage area; and

3328 (b) may be used at more than one banquet.

3329 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense,
3330 or otherwise furnish alcoholic beverages in connection with the licensee's banquet and room
3331 service activities.

3332 (17) An employee of an on-premise banquet licensee, while on duty, may not:

3333 (a) consume an alcoholic beverage; or

3334 (b) be intoxicated.

3335 (18) An on-premise banquet licensee shall prominently display at each banquet at
3336 which alcoholic beverages are sold or served:

3337 (a) a copy of the licensee's on-premise banquet license; and

3338 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
3339 drugs is a serious crime that is prosecuted aggressively in Utah."

3340 (19) The following acts or conduct are considered contrary to the public welfare and
3341 morals, and are prohibited at and during the hours of a banquet:

3342 (a) employing or using any person in the sale or service of alcoholic beverages while
3343 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
3344 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the

3345 buttocks, vulva, or genitals;

3346 (b) employing or using the services of any person to mingle with the patrons while the
3347 person is unclothed or in attire, costume, or clothing described in Subsection (19)(a);

3348 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
3349 buttocks, anus, or genitals of any other person;

3350 (d) permitting any employee or person to wear or use any device or covering, exposed
3351 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

3352 (e) permitting any person to use artificial devices or inanimate objects to depict any of
3353 the prohibited activities described in this subsection;

3354 (f) permitting any person to remain in or upon the premises who exposes to public
3355 view any portion of that person's genitals or anus; or

3356 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
3357 depicting:

3358 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
3359 copulation, flagellation, or any sexual acts prohibited by Utah law;

3360 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
3361 genitals;

3362 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
3363 drawings are used to portray, any of the prohibited activities described in this subsection; or

3364 (iv) scenes wherein a person displays the vulva, anus, or the genitals.

3365 (20) Nothing in Subsection (19) precludes a local authority from being more restrictive
3366 of acts or conduct of the type prohibited in Subsection (19).

3367 (21) (a) Although live entertainment is permitted at a banquet, an on-premise banquet
3368 licensee may not allow any person to perform or simulate sexual acts prohibited by Utah law,
3369 including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the
3370 touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of
3371 the pubic hair, anus, vulva, or genitals.

3372 (b) Nothing in Subsection (21)(a) precludes a local authority from being more
3373 restrictive of acts or conduct of the type prohibited in Subsection (21)(a).

3374 (22) An on-premise banquet licensee may not engage in or permit any form of
3375 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,

3376 Part 11, Gambling, on the premises of the:

3377 (a) hotel;

3378 (b) resort facility;

3379 (c) sports center; or

3380 (d) convention center.

3381 (23) (a) An on-premise banquet licensee shall maintain accounting and such other
3382 records and documents as the commission or department may require.

3383 (b) An on-premise banquet licensee or person acting for the on-premise banquet
3384 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the
3385 entries in any of the books of account or other documents of the on-premise banquet licensee
3386 required to be made, maintained, or preserved by this title or the rules of the commission for
3387 the purpose of deceiving the commission or department, or any of their officials or employees,
3388 is subject to the suspension or revocation of the on-premise banquet license and possible
3389 criminal prosecution under Chapter 12, Criminal Offenses.

3390 (24) An on-premise banquet licensee shall maintain at least 50% of its total annual
3391 banquet gross receipts from the sale of food, not including:

3392 (a) mix for alcoholic beverages; and

3393 (b) charges in connection with the service of alcoholic beverages.

3394 (25) A person may not transfer an on-premise banquet license from one business
3395 location to another without prior written approval of the commission.

3396 (26) (a) An on-premise banquet license may not sell, transfer, assign, exchange, barter,
3397 give, or attempt in any way to dispose of the license to any other person, whether for monetary
3398 gain or not.

3399 (b) An on-premise banquet license has no monetary value for the purpose of any type
3400 of disposition.

3401 (27) (a) Room service of alcoholic beverages to a guest room of a hotel or resort
3402 facility shall be provided in person by an on-premise banquet licensee employee only to an
3403 adult guest in the guest room.

3404 (b) Alcoholic beverages may not be left outside a guest room for retrieval by a guest.

3405 (c) An on-premise banquet licensee may only provide alcoholic beverages for room
3406 service in sealed containers.

3407 Section 41. Section ~~32A-4-407~~ is enacted to read:

3408 **32A-4-407. Report on pilot program.**

3409 On or before the November 2004 interim committee meeting of the designated interim
3410 committee, the commission shall prepare and present a report and recommendation concerning
3411 the on-premise banquet license pilot program to the legislative interim committee designated
3412 by the Legislative Management Committee.

3413 Section 42. Section ~~32A-5-101~~ is amended to read:

3414 **32A-5-101. Commission's power to license private clubs -- Limitations.**

3415 (1) Before [~~any~~] a private club may sell or allow the consumption of [~~liquor~~] alcoholic
3416 beverages on its premises, [~~it~~] the private club shall first obtain a license from the commission
3417 as provided in this chapter.

3418 (2) The commission may [~~issue~~] grant private club [~~liquor~~] licenses to social clubs,
3419 recreational, athletic, or kindred associations [~~incorporated under the Utah Nonprofit~~
3420 ~~Corporation and Cooperative Association Act, which~~] that desire to maintain premises upon
3421 which alcoholic beverages may be stored, sold, served, and consumed. [~~All such licenses shall~~
3422 ~~be issued in the name of an officer or director of the club or association.~~]

3423 (3) At the time the commission grants a private club license the commission shall
3424 designate whether the private club license qualifies as a class A, B, C, or D license as defined
3425 in Subsections (3)(a) through (d).

3426 (a) A "class A licensee" is a private club licensee that:

3427 (i) meets the requirements of this chapter;

3428 (ii) owns, maintains, or operates a substantial recreational facility in conjunction with a
3429 club house such as:

3430 (A) a golf course; or

3431 (B) a tennis facility;

3432 (iii) has at least 50% of the total membership having:

3433 (A) full voting rights; and

3434 (B) an equal share of the equity of the club; and

3435 (iv) if there is more than one class of membership, has at least one class of membership
3436 that entitles each member in that class to:

3437 (A) full voting rights; and

- 3438 (B) an equal share of the equity of the club.
- 3439 (b) A "class B licensee" is a private club licensee that:
- 3440 (i) meets the requirements of this chapter;
- 3441 (ii) has no capital stock;
- 3442 (iii) exists solely for:
- 3443 (A) the benefit of its members and their beneficiaries; and
- 3444 (B) any lawful social, intellectual, educational, charitable, benevolent, moral, fraternal,
- 3445 patriotic, or religious purpose for the benefit of its members or the public, carried on through
- 3446 voluntary activity of its members in their local lodges;
- 3447 (iv) has a representative form of government; and
- 3448 (v) has a lodge system in which:
- 3449 (A) there is a supreme governing body;
- 3450 (B) subordinate to the supreme governing body are local lodges, however designated,
- 3451 into which individuals are admitted as members in accordance with the laws of the fraternal;
- 3452 (C) the local lodges are required by the laws of the fraternal to hold regular meetings at
- 3453 least monthly; and
- 3454 (D) the local lodges regularly engage in programs involving member participation to
- 3455 implement the purposes of Subsection (3)(b)(iii).
- 3456 (c) A "class C licensee" is a private club licensee that:
- 3457 (i) meets the requirements of this chapter;
- 3458 (ii) is a dining club, as determined by the commission in accordance with Subsection
- 3459 (4)(b); and
- 3460 (iii) maintains at least 50% of its total private club business from the sale of food, not
- 3461 including:
- 3462 (A) mix for alcoholic beverages; or
- 3463 (B) service charges.
- 3464 (d) A "class D licensee" is a private club licensee that:
- 3465 (i) meets the requirements of this chapter; and
- 3466 (ii) (A) does not meet the requirements of a class A, B, or C license; or
- 3467 (B) seeks to qualify as a class D licensee.
- 3468 (4) (a) (i) Notwithstanding Subsection (3), for a private club license in effect on May 5,

3469 2003, the commission shall designate whether that license qualifies as a class A, B, C, D
3470 license as defined in Subsection (3) at the time the license is renewed.

3471 (ii) Until the class of license is designated under Subsection (4)(a)(i), the private club
3472 licensee holding a license described in Subsection (4)(a)(i) shall operate under the restrictions
3473 of the part applicable to the class of license for which the private club licensee qualifies.

3474 (b) In determining whether an applicant is a dining club under Subsection (3)(c), the
3475 commission:

3476 (i) shall determine whether the applicant maintains at least 50% of its total private club
3477 business from the sale of food, not including:

3478 (A) mix for alcoholic beverages; or

3479 (B) service charges; and

3480 (ii) may consider:

3481 (A) the square footage and seating capacity of the applicant;

3482 (B) what portion of the square footage and seating capacity will be used for a dining
3483 area in comparison to the portion that will be used as a bar area;

3484 (C) whether full meals including appetizers, main courses, and desserts are served;

3485 (D) whether the applicant will maintain adequate on-premise culinary facilities to

3486 prepare full meals, except an applicant that is located on the premise of a hotel or resort facility
3487 may use the culinary facilities of the hotel or resort facility;

3488 (E) whether the entertainment provided at the club is suitable for minors; and

3489 (F) the club management's ability to manage and operate a dining club including:

3490 (I) management experience;

3491 (II) past dining club or restaurant management experience; and

3492 (III) the type of management scheme employed by the private club.

3493 [(3)] (5) (a) A [~~nonprofit corporation, association, or~~] private club or any officer,
3494 director, managing agent, or employee of a [~~nonprofit corporation, association, or~~] private club
3495 may not store, sell, serve, or permit consumption of [~~liquor~~] alcoholic beverages upon [~~its~~] the
3496 premises of the club, under a permit issued by local authority or otherwise, unless a private
3497 club [~~liquor~~] license has been first issued by the commission.

3498 (b) Violation of this Subsection (5) is a class [~~A~~] B misdemeanor.

3499 [(4)] (6) (a) Subject to this Subsection (6), the commission may issue private club

3500 [~~liquor~~] licenses at places and in numbers as it considers necessary.

3501 (b) The total number of private club [~~liquor~~] licenses may not at any time aggregate
3502 more than that number determined by dividing the population of the state by 7,000.

3503 (c) [~~Population~~] For purposes of this Subsection (6), population shall be determined
3504 by:

3505 (i) the most recent United States decennial or special census; or [~~by~~]

3506 (ii) any other population determination made by the United States or state
3507 governments.

3508 [~~(a)~~] (d) (i) The commission may issue seasonal private club [~~liquor~~] licenses to be
3509 established in areas [~~and for periods as it~~] the commission considers necessary.

3510 (ii) A seasonal private club [~~liquor~~] license [~~may not be operated~~] shall be for a period
3511 [~~longer than nine~~] of six consecutive months [~~subject to the following restrictions~~].

3512 [(i)] (iii) [~~Licenses~~] A private club license issued for operation during a summer time
3513 [~~periods are~~] period is known as a "Seasonal A" private club [~~licenses~~] license. The period of
3514 operation for a "Seasonal A" club license [~~may begin as early as February 1 and may continue~~
3515 ~~until October 31~~] shall:

3516 (A) begin on May 1; and

3517 (B) end on October 31.

3518 [(ii)] (iv) [~~Licenses~~] A private club license issued for operation during a winter time
3519 [~~periods are~~] period is known as a "Seasonal B" private club [~~licenses~~] license. The period of
3520 operation for a "Seasonal B" club license [~~may begin as early as September 1 and may continue~~
3521 ~~until May 31~~] shall:

3522 (A) begin on November 1; and

3523 (B) end on April 30.

3524 [(iii)] (v) In determining the number of private club [~~liquor~~] licenses that the
3525 commission may issue under this section[-];

3526 (A) a seasonal [~~licenses are~~] private club license is counted as [~~one half~~] 1/2 of one
3527 private club [~~liquor~~] license[- ~~Each~~]; and

3528 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license [~~and the total~~
3529 ~~number of months that each combined pair may be issued for operation may not exceed 12~~
3530 ~~months for each calendar year~~].

3531 ~~[(b)]~~ (e) If the location, design, and construction of a hotel may require more than one
3532 private club location within the hotel to serve the public convenience, the commission may
3533 authorize as many as three private club locations within the hotel under one license if the hotel
3534 has a minimum of 150 guest rooms and if all locations under the license are within the same
3535 hotel facility and on premises which are managed or operated and owned or leased by the
3536 licensee. Facilities other than hotels may not have more than one private club location under a
3537 single private club ~~[liquor]~~ license.

3538 ~~[(5)]~~ (7) (a) ~~[(A)]~~ The premises of a private club [licensee's premises] license may not be
3539 established within 600 feet of any public or private school, church, public library, public
3540 playground, or park, as measured by the method in Subsection ~~[(6)]~~ (8).

3541 (b) ~~[(A)]~~ The premises of a private club [licensee premises] license may not be
3542 established within 200 feet of any public or private school, church, public library, public
3543 playground, or park, measured in a straight line from the nearest entrance of the proposed
3544 outlet to the nearest property boundary of the public or private school, church, public library,
3545 public playground, or park.

3546 (c) The restrictions contained in Subsections (7)(a) and (b) govern unless one of the
3547 following exemptions applies:

3548 ~~[(i) The commission finds after full investigation that the premises are located within a
3549 city of the third class or a town, and compliance with the distance requirements would result in
3550 peculiar and exceptional practical difficulties or exceptional and undue hardships in the
3551 granting of a private club license. In that event, the commission may, after giving full
3552 consideration to all of the attending circumstances, following a public hearing in the city or
3553 town, and where practical in the neighborhood concerned, authorize a variance from the
3554 distance requirements to relieve the difficulties or hardships if the variance may be granted
3555 without substantial detriment to the public good and without substantially impairing the intent
3556 and purpose of this title.]~~

3557 (i) with respect to the establishment of a private club license within a city of the third
3558 class, a town, or the unincorporated area of a county, the commission may authorize a variance
3559 to reduce the proximity requirements of Subsection (7)(a) or (b) if:

3560 (A) the local governing authority has granted its written consent to the variance;

3561 (B) alternative locations for establishing a private club license in the community are

3562 limited;

3563 (C) a public hearing has been held in the city, town, or county, and where practical in
3564 the neighborhood concerned; and

3565 (D) after giving full consideration to all of the attending circumstances, the
3566 commission determines that establishing the license would not be detrimental to the public
3567 health, peace, safety and welfare of the community;

3568 (ii) with respect to the establishment of a private club [~~licensee~~] license in any location,
3569 the commission may [~~after giving full consideration to all of the attending circumstances,~~
3570 ~~following a public hearing in the county, and where practical in the neighborhood concerned,~~
3571 ~~reduce the proximity~~] authorize a variance to reduce the proximity requirements of Subsection
3572 (7)(a) or (b) in relation to a church;

3573 (A) if the local governing body of the church in question gives its written [approval]
3574 consent to the variance;

3575 (B) following a public hearing in the city, town, or county and where practical in the
3576 neighborhood concerned; and

3577 (C) after giving full consideration to all of the attending circumstances; or

3578 [~~(iii) Any on-premises beer retailer licensee existing on March 1, 1990, need not~~
3579 ~~comply with the restrictions contained in Subsections (a) and (b) if it applies for a private club~~
3580 ~~liquor license before January 1, 1991.~~]

3581 (iii) with respect to the premises of a private club license issued by the commission that
3582 under goes a change of ownership, the commission may waive or vary the proximity
3583 requirements of Subsection (7)(a) or (b) in considering whether to grant a private club license
3584 to the new owner of the premises if:

3585 (A) the premises previously received a variance reducing the proximity requirements of
3586 Subsection (7)(a) or (b); or

3587 (B) a variance from proximity or distance requirements was otherwise allowed under
3588 this title.

3589 [~~(6)~~] (8) With respect to any public or private school, church, public library, public
3590 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
3591 by following the shortest route of [~~either~~] ordinary pedestrian [~~traffic, or where applicable,~~
3592 ~~vehicular travel along public thoroughfares, whichever is the closer,~~] travel to the property

3593 boundary of the public or private school, church, public library, public playground, or park.

3594 ~~[(7)]~~ (9) (a) Nothing in this section prevents the commission from considering the
3595 proximity of any educational, religious, and recreational facility, or any other relevant factor in
3596 reaching a decision on whether to issue a private club ~~[liquor]~~ license.

3597 (b) For purposes of this Subsection (9), "educational facility" includes:

3598 (i) a nursery ~~[schools,]~~ school;

3599 (ii) infant day care ~~[centers,]~~ center; and

3600 (iii) a trade and technical ~~[schools]~~ school.

3601 (10) If requested by a private club licensee, the commission may approve a change in
3602 the class of private club license in accordance with rules made by the commission.

3603 Section 43. Section **32A-5-102** is amended to read:

3604 **32A-5-102. Application and renewal requirements.**

3605 (1) A ~~[person]~~ club seeking a class A, B, C, or D private club ~~[liquor]~~ license under
3606 this chapter shall file a written application with the department~~[-, in the name of an officer or~~
3607 ~~director of a corporation,]~~ in a form prescribed by the department. ~~[It]~~ The application shall be
3608 accompanied by:

3609 (a) a nonrefundable ~~[\$1,000]~~ \$250 application fee;

3610 (b) an initial license fee of ~~[\$750]~~ \$2,500, which is refundable if a license is not
3611 granted;

3612 (c) written consent of the local authority;

3613 (d) a copy of the applicant's current business license;

3614 ~~[(e) evidence that the applicant is a corporation or association organized under the Utah~~
3615 ~~Nonprofit Corporation and Cooperative Association Act, and is in good standing;]~~

3616 ~~[(f)]~~ (e) evidence of proximity to any public or private school, church, public library,
3617 public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of
3618 Subsections 32A-5-101~~[(5), (6), and]~~ (7) and (8), the application shall be processed in
3619 accordance with those subsections;

3620 ~~[(g)]~~ (f) evidence that the applicant operates a club where a variety of food is prepared
3621 and served in connection with dining accommodations;

3622 ~~[(h)]~~ (g) a bond as specified by Section 32A-5-106;

3623 ~~[(i)]~~ (h) a floor plan of the club premises, including consumption areas and the area

3624 where the applicant proposes to keep and store liquor;

3625 ~~[(j)]~~ (i) evidence that the club is carrying public liability insurance in an amount and
3626 form satisfactory to the department;

3627 ~~[(k)]~~ (j) evidence that the club is carrying dramshop insurance coverage of at least
3628 \$500,000 per occurrence and \$1,000,000 in the aggregate;

3629 ~~[(h)]~~ (k) a copy of the club's ~~[articles,]~~ bylaws~~;~~ or house rules, and any amendments to
3630 those documents, which shall be kept on file with the department at all times;

3631 ~~[(m)]~~ (l) a signed consent form stating that the club and its management will permit
3632 any authorized representative of the commission, department, or any law enforcement officer
3633 unrestricted right to enter the club premises;

3634 ~~[(n) a signed consent form authorizing the department to obtain Internal Revenue
3635 Service tax information on the club;]~~

3636 ~~[(o) a signed consent form authorizing the department to obtain state and county real
3637 and personal property tax information on the club;]~~

3638 ~~[(p) profit and loss statements for the previous fiscal year and pro forma statements for
3639 one year if the applicant has not previously operated; and]~~

3640 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,
3641 C, or D private club licensee; and

3642 (ii) evidence that the private club meets the requirements for the classification for
3643 which it is applying;

3644 (n) in the case of a partnership, corporation, or limited liability company applicant,
3645 proper verification evidencing that the person or persons signing the private club application
3646 are authorized to so act on behalf of the partnership, corporation, or limited liability company;
3647 and

3648 ~~[(q)]~~ (o) any other information~~[-, documents, and evidence]~~ the commission or
3649 department may require [by rule or policy to allow complete evaluation of the application].

3650 ~~[(2) (a) Each application shall be signed and verified by oath or affirmation by an
3651 executive officer or any person specifically authorized by the corporation or association to sign
3652 the application, to which shall be attached written evidence of said authority.]~~

3653 ~~[(b) The applicant may attach to the application a verified copy of a letter of exemption
3654 from federal tax, issued by the United States Treasury Department, Internal Revenue Service,~~

3655 ~~which the commission may consider as evidence of the applicant's nonprofit status. The~~
 3656 ~~commission may also consider the fact that the licensee has lost its tax exemption from federal~~
 3657 ~~tax as evidence that the licensee has ceased to operate as a nonprofit corporation.]~~

3658 ~~[(3)]~~ (2) (a) The commission may refuse to issue a license if [it] the commission
 3659 determines that any provisions of the club's [~~articles,~~] bylaws[;] or house rules, or amendments
 3660 to [~~any of~~] those documents are not reasonable and consistent with the declared nature and
 3661 purpose of the applicant and the purposes of this chapter.

3662 (b) Club bylaws or house rules shall include provisions respecting the following:

3663 (i) standards of eligibility for members;

3664 (ii) limitation of members, consistent with the nature and purpose of the [~~corporation~~
 3665 ~~or association~~] private club;

3666 (iii) the period for which dues are paid, and the date upon which the period expires;

3667 (iv) provisions for dropping members for the nonpayment of dues or other cause; and

3668 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor
 3669 cards.

3670 (4) (a) All private club [~~liquor~~] licenses expire on June 30 of each year.

3671 (b) Persons desiring to renew their private club [~~liquor~~] license shall submit [~~a renewal~~
 3672 ~~fee of \$750 and a completed renewal application to the department]~~ by no later than May 31[-]:

3673 (i) a completed renewal application to the department; and

3674 (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 \$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>

3679 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
 3680 the license effective on the date the existing license expires.

3681 (d) Renewal applications shall be in a form as prescribed by the department.

3682 Section 44. Section **32A-5-103** is amended to read:

3683 **32A-5-103. Qualifications.**

3684 [~~(1) Any club or association seeking a private club liquor license shall meet the~~
 3685 ~~following qualifications:]~~

3686 ~~[(a) Each member shall own one share of stock and no member or other person shall~~
3687 ~~own or control, directly or indirectly, more than one share.]~~

3688 ~~[(b) At least 35% of the total number of outstanding shares shall be of a class that~~
3689 ~~entitles each holder of that class to full voting rights and, upon liquidation, to an equal share of~~
3690 ~~the equity of the corporation.]~~

3691 ~~[(c) If there is more than one class of outstanding stock, the total number of~~
3692 ~~outstanding shares of the classes entitled to vote and share in the equity shall be at least 35% of~~
3693 ~~the total number of outstanding stock of all classes.]~~

3694 ~~[(d) The voting stock of the club shall be subject to assessment for obligations of the~~
3695 ~~club.]~~

3696 ~~[(e) The club shall be managed and operated by a governing board, which consists of at~~
3697 ~~least five individuals, each of whom is a shareholder or voting member of the club and is~~
3698 ~~elected by the holders of shares or members entitled to vote.]~~

3699 ~~[(f) The club shall post proper notice of all elections in a conspicuous place within the~~
3700 ~~club premises not less than ten working days prior to the election.]~~

3701 ~~[(2) (a) In lieu of the requirements of Subsections (1)(a), (b), and (c), a corporation~~
3702 ~~having no authorized, issued, or outstanding stock shall have at least 75% of all members as~~
3703 ~~voting members with one vote each.]~~

3704 ~~[(b) Upon dissolution or sale of the corporation, either:]~~

3705 ~~[(i) each voting member shares equally in the equity; or]~~

3706 ~~[(ii) the assets revert to a national nonprofit organization that originally chartered the~~
3707 ~~Utah corporation whose bylaws require that the assets be distributed, after payment of debts,~~
3708 ~~either immediately or after a period of time not exceeding ten years during which period the~~
3709 ~~assets are held in trust, to a charitable organization or fund, or a nonprofit corporation qualified~~
3710 ~~under this chapter.]~~

3711 ~~[(c) The voting members of any club qualifying under this subsection shall be subject~~
3712 ~~to assessment for obligations of the club to the extent of unpaid membership fees, unless the~~
3713 ~~membership has been previously terminated.]~~

3714 ~~[(3)] (1) (a) The commission may not grant a private club [liquor] license to [a club~~
3715 ~~whose proprietor, officer, director, or managing agent] any person who has been convicted of:~~

3716 ~~[(a) convicted of] (i) a felony under any federal or state law;~~

3717 ~~[(b) convicted of]~~ (ii) any violation of any federal or state law or local ordinance
3718 concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of
3719 alcoholic beverages; ~~[or]~~

3720 ~~[(c) convicted of]~~ (iii) any crime involving moral turpitude~~[-]; or~~

3721 ~~[(4) If any employee, proprietor, officer, director, or managing agent of a private club-~~
3722 ~~licensee is convicted of any offense designated in Subsection (3), the commission may take~~
3723 ~~emergency action by immediately revoking the license according to the procedures and~~
3724 ~~requirements of Title 63, Chapter 46b, Administrative Procedures Act.]~~

3725 ~~[(5) Upon the arrest of any proprietor, officer, director, or managing agent of a private~~
3726 ~~club liquor licensee on any charge set forth in Subsection (3), the director may take emergency~~
3727 ~~action by immediately suspending the operation of the licensee for the period during which the~~
3728 ~~criminal matter is being adjudicated.]~~

3729 ~~[(6) (a) (i) The commission may not grant a private club liquor license to any corporate~~
3730 ~~applicant who had any type of license, agency, or permit issued under this title revoked within~~
3731 ~~the last three years.]~~

3732 ~~[(ii) This proscription also applies if any managing agent, officer, or director of the~~
3733 ~~applicant is or was a partner or managing agent of any partnership, or is or was a managing~~
3734 ~~agent, officer, director, or a stockholder who holds or held at least 20% of the total issued and~~
3735 ~~outstanding stock of any corporation that had a liquor license, agency, or permit revoked within~~
3736 ~~the last three years.]~~

3737 ~~[(b) The corporate applicant may not be granted a license if any managing agent,~~
3738 ~~officer, or director of the applicant had a liquor license, agency, or permit revoked while acting~~
3739 ~~in his individual capacity within the last three years.]~~

3740 (iv) on two or more occasions within the five years before the day on which the license
3741 is granted, driving under the influence of alcohol, any drug, or the combined influence of
3742 alcohol and any drug.

3743 (b) In the case of a partnership, corporation, or limited liability company, the
3744 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
3745 offense described in Subsection (1)(a):

3746 (i) a partner;

3747 (ii) a managing agent;

3748 (iii) a manager;
3749 (iv) an officer;
3750 (v) a director;
3751 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
3752 the applicant corporation; or
3753 (vii) a member who owns at least 20% of the applicant limited liability company.
3754 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
3755 supervisory or managerial capacity for a private club has been convicted of any offense
3756 described in Subsections (1)(a).
3757 (2) The commission may immediately suspend or revoke a private club license if after
3758 the day on which the private club license is granted, a person described in Subsection (1)(a),
3759 (b), or (c):
3760 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
3761 to the license being granted; or
3762 (b) on or after the day on which the license is granted:
3763 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
3764 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
3765 combined influence of alcohol and any drug; and
3766 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
3767 influence of alcohol and any drug within five years before the day on which the person is
3768 convicted of the offense described in Subsection (2)(b)(ii)(A).
3769 (3) The director may take emergency action by immediately suspending the operation
3770 of a private club license according to the procedures and requirements of Title 63, Chapter 46b,
3771 Administrative Procedures Act, for the period during which the criminal matter is being
3772 adjudicated if a person described in Subsection (1)(a), (b), or (c):
3773 (a) is arrested on a charge for any offense described in Subsection (1)(a), (ii), or (iii); or
3774 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
3775 any drug, or the combined influence of alcohol and any drug; and
3776 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
3777 influence of alcohol and any drug within five years before the day on which the person is
3778 arrested on a charge described in Subsection (3)(b)(i).

3779 (4) (a) (i) The commission may not grant a private club license to any person who has
3780 had any type of license, agency, or permit issued under this title revoked within the last three
3781 years.

3782 (ii) The commission may not grant a private club license to any applicant that is a
3783 partnership, corporation, or limited liability company if any partner, managing agent, manager,
3784 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
3785 of an applicant corporation, or member who owns at least 20% of an applicant limited liability
3786 company is or was:

3787 (A) a partner or managing agent of any partnership that had any type of license, agency,
3788 or permit issued under this title revoked within the last three years;

3789 (B) a managing agent, officer, director, or a stockholder who holds or held at least 20%
3790 of the total issued and outstanding stock of any corporation that had any type of license,
3791 agency, or permit issued under this title revoked within the last three years; or

3792 (C) a manager or member who owns or owned at least 20% of any limited liability
3793 company that had any type of license, agency, or permit issued under this title revoked within
3794 the last three years.

3795 (b) An applicant that is a partnership, corporation, or limited liability company may not
3796 be granted a private club license if any of the following had any type of license, agency, or
3797 permit issued under this title revoked while acting in that person's individual capacity within
3798 the last three years:

3799 (i) any partner or managing agent of the applicant partnership;

3800 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
3801 total issued and outstanding stock of the applicant corporation; or

3802 (iii) any manager or member who owned at least 20% of the applicant limited liability
3803 company.

3804 (c) A person acting in an individual capacity may not be granted a private club license
3805 if that person was:

3806 (i) a partner or managing agent of a partnership that had any type of license, agency, or
3807 permit issued under this title revoked within the last three years;

3808 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
3809 total issued and outstanding stock of a corporation that had any type of license, agency, or

3810 permit issued under this title revoked within the last three years; or

3811 (iii) a manager or member of a limited liability company who owned at least 20% of
3812 the limited liability company that had any type of license, agency, or permit issued under this
3813 title revoked within the last three years.

3814 (5) (a) A minor may not be granted a private club license.

3815 (b) The commission may not grant a private club license to an applicant that is a
3816 partnership, corporation, or limited liability company if any of the following is a minor:

3817 (i) a partner or managing agent of the applicant partnership;

3818 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
3819 total issued and outstanding stock of the applicant corporation; or

3820 (iii) a manager or member who owns at least 20% of the applicant limited liability
3821 company.

3822 [~~(7)~~] (6) If any person or entity to whom a license has been issued under this chapter no
3823 longer possesses the qualifications required by this title for obtaining that license, the
3824 commission may suspend or revoke that license.

3825 Section 45. Section **32A-5-104** is amended to read:

3826 **32A-5-104. Commission and department duties before granting licenses.**

3827 (1) (a) Before a private club [~~liquor~~] license may be granted by the commission, the
3828 department shall conduct an investigation and may hold public hearings for the purpose of
3829 gathering information and making recommendations to the commission as to whether or not a
3830 license should be granted.

3831 (b) The department shall forward the information [~~shall be forwarded~~] and
3832 recommendations described in Subsection (1)(a) to the commission to aid in [~~its~~] the
3833 commission's determination.

3834 (2) Before issuing any private club [~~liquor~~] license, the commission shall:

3835 (a) determine that the applicant has complied with all basic qualifications and
3836 requirements for making application for a license as provided by Sections 32A-5-102 and
3837 32A-5-103, and that the application is complete;

3838 (b) determine whether the applicant qualifies as a class A, B, C, or D private club
3839 licensee;

3840 [~~(b)~~] (c) consider the locality within which the proposed private club [~~liquor~~] outlet is

3841 located including~~[-, but not limited to]~~:

3842 (i) physical characteristics such as:

3843 (A) condition of the premises~~[-]~~;

3844 (B) square footage~~[-]~~; and

3845 (C) parking availability; and

3846 (ii) operational factors such as:

3847 (A) tourist traffic~~[-]~~;

3848 (B) proximity to and density of other state stores, package agencies, and licensed

3849 outlets~~[-]~~;

3850 (C) demographics~~[-]~~;

3851 (D) population to be served~~[-]~~; and

3852 (E) the extent of and proximity to any school, church, public library, public

3853 playground, or park;

3854 ~~[(c)]~~ (d) consider the ~~[applicant's]~~ club management's ability to manage and operate a
3855 private club ~~[liquor]~~ license, including ~~[but not limited to,]~~ management experience, past retail
3856 liquor experience, and the type of management scheme employed by the private club;

3857 ~~[(d)]~~ (e) consider the nature or type of private club operation of the proposed liquor
3858 licensee, including ~~[but not limited to,]~~ the type of menu items offered and emphasized, the
3859 hours of operation, the seating capacity of the facility, and the gross sales of food items; and

3860 ~~[(e)]~~ (f) consider any other factor or circumstance ~~[it]~~ the commission considers
3861 necessary.

3862 Section 46. Section **32A-5-107** is amended to read:

3863 **32A-5-107. Operational restrictions.**

3864 Each ~~[corporation or association]~~ club granted a private club ~~[liquor]~~ license and ~~[its]~~
3865 the employees, ~~[officers, managing agent]~~ management personnel, and members of the club
3866 shall comply with the following conditions and requirements. Failure to comply may result in
3867 a suspension or revocation of the license or other disciplinary action taken against individual
3868 employees or management personnel.

3869 (1) Each private club shall ~~[hold]~~ have a governing body that:

3870 (a) consists of three or more members of the club; and

3871 (b) holds regular meetings to:

3872 (i) review membership applications; and
3873 (ii) conduct any other business as required by [~~its articles or~~] the bylaws [~~and conduct~~
3874 ~~its business through regularly elected officers. Within ten days following the election of any~~
3875 ~~officer, the department shall be notified in writing of the officer's name, address, and office to~~
3876 ~~which the officer has been elected, and the term of that office.] or house rules of the private
3877 club.~~

3878 (2) (a) Each private club may admit [~~members~~] an individual as a member only on
3879 written application signed by the applicant, following investigation and approval of the
3880 governing body.

3881 (b) Admissions shall be recorded in the official minutes of a regular meeting of the
3882 governing body and the application, whether approved or disapproved, shall be filed as a part
3883 of the official records of the licensee.

3884 (c) An applicant may not be accorded the privileges of a member until a quorum of the
3885 governing body has formally voted upon and approved the applicant as a member.

3886 (d) An applicant may not be admitted to membership [~~until~~] sooner than seven days
3887 after the application is submitted.

3888 (e) The spouse of a member of any class of private club is entitled to all the rights and
3889 privileges of the member.

3890 (f) The minor child of a member of a class A private club is entitled to all the rights
3891 and privileges of the member:

3892 (i) to the extent permitted by the bylaws or house rules of the private club; and

3893 (ii) except to the extent restricted by this title.

3894 (3) (a) Each private club shall maintain a current and complete membership record
3895 showing:

3896 (i) the date of application of each proposed member[~~, the~~];

3897 (ii) each member's address[~~;~~];

3898 (iii) the date [~~of admission following application, and~~] the governing body approved a
3899 member's admission;

3900 (iv) the date initiation fees and dues were assessed and paid[~~. The record shall also~~
3901 ~~show~~]; and

3902 (v) the serial number of the membership card issued to each member.

3903 (b) A current record shall also be kept indicating when members [~~were~~] are dropped or
3904 resigned.

3905 (4) Each private club shall establish in the club bylaws or house rules initial fees and
3906 monthly dues, as established by commission rules, which are collected from all members.

3907 ~~[(5) Each private club may allow guests or visitors to use the premises only when~~
3908 ~~previously authorized by a member. A member is responsible for all services extended to~~
3909 ~~guests and visitors. If]~~

3910 (5) (a) Each private club may, in its discretion, allow an individual to be admitted to or
3911 use the club premises as a guest only under the following conditions:

3912 (i) each guest must be previously authorized by one of the following who agrees to host
3913 the guest into the club:

3914 (A) an active member of the club; or

3915 (B) a holder of a current visitor card;

3916 (ii) each guest must be known by the guest's host based on a pre-existing bonafide
3917 business or personal relationship with the host prior to the guest's admittance to the club;

3918 (iii) each guest must be accompanied by the guest's host for the duration of the guest's
3919 visit to the club;

3920 (iv) each guest's host must remain on the club premises for the duration of the guest's
3921 visit to the club;

3922 (v) each guest's host is responsible for the cost of all services extended to the guest;

3923 (vi) each guest enjoys only those privileges derived from the guest's host for the
3924 duration of the guest's visit to the club;

3925 (vii) an employee of the club, while on duty, may not act as a host for a guest;

3926 (viii) an employee of the club, while on duty, may not attempt to locate a member or
3927 current visitor card holder to serve as a host for a guest with whom the member or visitor card
3928 holder has no acquaintance based on a pre-existing bonafide business or personal relationship
3929 prior to the guest's arrival at the club; and

3930 (ix) a club and its employees may not enter into an agreement or arrangement with a
3931 club member or holder of a current visitor card to indiscriminately host members of the general
3932 public into the club as guests.

3933 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

3934 (i) the licensee is a class B private club; and

3935 (ii) the guest [or visitor] is a member of the same fraternal organization as the private
3936 club [liquor] licensee[; no previous authorization is required].

3937 ~~(6) Each private club [shall limit the issuance of visitor cards for a period not to exceed~~
3938 ~~two weeks and assess and collect a fee from each visitor of not less than \$5 for each two-week~~
3939 ~~period the visitor card is issued. One dollar of every visitor card fee shall be remitted quarterly~~
3940 ~~to the department for the administration of this title. A current record of the issuance of each~~
3941 ~~card shall be maintained and shall contain the name of the member sponsoring the visitor.]~~
3942 may, in its discretion, issue visitor cards to allow individuals to enter and use the club premises
3943 on a temporary basis under the following conditions:

3944 (a) each visitor card shall be issued for a period not to exceed three weeks;

3945 (b) a fee of not less than \$4 shall be assessed for each visitor card issued;

3946 (c) a visitor card shall not be issued to a minor;

3947 (d) a holder of a visitor card may not host more than seven guests at one time;

3948 (e) each visitor card issued shall include:

3949 (i) the visitor's full name and signature;

3950 (ii) the date the card was issued;

3951 (iii) the date the card expires;

3952 (iv) the club's name; and

3953 (v) the serial number of the card; and

3954 (f) (i) the club shall maintain a current record of the issuance of each visitor card on the
3955 club premises; and

3956 (ii) the record described in Subsection (6)(f) shall:

3957 (A) be available for inspection by the department; and

3958 (B) include:

3959 (I) the name of the person to whom the card was issued;

3960 (II) the date the card was issued;

3961 (III) the date the card expires; and

3962 (IV) the serial number of the card.

3963 (7) A private club may not sell alcoholic beverages to or allow any person to be
3964 admitted to or use the club premises other than:

- 3965 (a) a member~~[, guest, or];~~
- 3966 (b) a visitor who holds a valid visitor card issued under Subsection (6)~~[:]; or~~
- 3967 (c) a guest of:
- 3968 (i) a member; or
- 3969 (ii) a holder of a current visitor card.
- 3970 (8) (a) A ~~[person who is under 21 years of age]~~ minor may not be:
- 3971 (i) a member, officer, director, or trustee of a private club~~[:];~~
- 3972 (ii) issued a visitor card;
- 3973 (iii) admitted into, use, or be on the premises of a class D private club under any
- 3974 circumstances; or
- 3975 (iv) admitted into, use, or be on the premises of any lounge or bar area of any class A,
- 3976 B, or C private club under any circumstances.
- 3977 (b) Nothing in Subsection (8)(a)(iv) precludes a local authority from being more
- 3978 restrictive of a minor's admittance to, use of, or presence on the premises of a class A, B, or C
- 3979 private club.
- 3980 (9) An employee of a club, while on duty, may not:
- 3981 (a) consume an alcoholic beverage~~[, be under the influence of alcoholic beverages,~~
- 3982 ~~sponsor a person for visitor privileges, or];~~
- 3983 (b) be intoxicated; or
- 3984 (c) act as a host for a guest.
- 3985 ~~[(10) A visitor to a club may not host more than five guests at one time.]~~
- 3986 ~~[(11)]~~ (10) (a) Each private club shall maintain an expense ledger or record showing in
- 3987 detail all expenditures separated by payments for malt or brewed beverages, liquor, food,
- 3988 detailed payroll, entertainment, rent, utilities, supplies, and all other expenditures. ~~[This]~~
- 3989 (b) The record required by this Subsection (10) shall be kept in a form approved by the
- 3990 department and balanced each month.
- 3991 (c) Each expenditure shall be supported by delivery tickets, invoices, receipted bills,
- 3992 canceled checks, petty cash vouchers, or other sustaining data or memoranda.
- 3993 (d) All invoices and receipted bills for the current calendar or fiscal year documenting
- 3994 purchases made by ~~[officers of]~~ the club ~~[for the benefit of the club]~~ shall also be maintained.
- 3995 ~~[(12) Each private club shall maintain a bank account that shows all income and~~

3996 ~~expenditures as a control on the income and disbursements records. This account shall be~~
3997 ~~balanced each month under the direction of the treasurer or other officer of the licensee.]~~

3998 ~~[(13)]~~ (11) Each private club shall maintain a minute book that is posted currently by
3999 the ~~[secretary]~~ club. This record shall contain the minutes of all regular and special meetings
4000 of the governing body ~~[and all committee meetings held to conduct club business].~~

4001 Membership lists shall also be maintained.

4002 ~~[(14)]~~ (12) (a) Each private club shall maintain current copies of the club's ~~[articles of~~
4003 ~~incorporation,]~~ current bylaws[;] and current house rules.

4004 (b) Changes in the bylaws or house rules are not effective unless submitted to the
4005 department within ten days after adoption, and become effective 15 days after received by the
4006 department unless rejected by the department before the expiration of the 15-day period.

4007 ~~[(15)]~~ (13) Each private club shall maintain accounting and other records and
4008 documents as the department may require.

4009 ~~[(16)]~~ (14) Any club or person acting for the club, who knowingly forges, falsifies,
4010 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or
4011 other documents of the club required to be made, maintained, or preserved by this title or the
4012 rules of the commission for the purpose of deceiving the commission or the department, or any
4013 of their officials or employees, is subject to the ~~[immediate]~~ suspension or revocation of the
4014 club's license and possible criminal prosecution under Chapter 12, Criminal Offenses.

4015 ~~[(17)]~~ (15) Each private club shall maintain and keep all the records required by this
4016 section and all other books, records, receipts, and disbursements maintained or utilized by the
4017 licensee, as the department requires, for a minimum period of three years. All records, books,
4018 receipts, and disbursements are subject to inspection by authorized representatives of the
4019 commission and the department. The club shall allow the department, through its auditors or
4020 examiners, to audit all records of the club at times the department considers advisable. The
4021 department shall audit the records of the licensee at least once annually.

4022 ~~[(18)]~~ Each private club shall make available to the department, upon request, verified
4023 copies of any returns filed with the United States Treasury Department, Internal Revenue
4024 Service, under the federal Internal Revenue Code. Failure to provide any returns and
4025 supporting documents upon reasonable request by the department or, alternatively, to provide
4026 evidence of an extension granted by the Internal Revenue Service, constitutes sufficient

4027 ~~grounds for the commission to suspend or revoke a license. Any return or copy of a return so~~
4028 ~~filed with the department is confidential and may not be used in any manner not directly~~
4029 ~~connected with the enforcement of this title, nor may it be disclosed to any person or any~~
4030 ~~department or agency of government, whether federal, state, or local.]~~

4031 ~~[(19)]~~ (16) Each private club shall own or lease premises suitable for ~~[its]~~ the club's
4032 ~~activities [in its own name. A copy of the lease shall be filed with the department].~~

4033 ~~[(20) Each private club shall operate the club under the supervision of a manager or~~
4034 ~~house committee, appointed by the governing body of the club.]~~

4035 ~~[(21)]~~ (17) (a) A private club may not maintain facilities in any manner that barricades
4036 or conceals the club operation.

4037 (b) Any member of the commission, authorized department personnel, or any peace
4038 officer shall, upon presentation of credentials, be admitted immediately to the club and
4039 permitted without hindrance or delay to inspect completely the entire club premises and all
4040 books and records of the licensee, at any time during which the same are open for the
4041 transaction of business to its members.

4042 ~~[(22) A private club may not pay any person or entity any fee, salary, rent, or other~~
4043 ~~payment of any kind in excess of the fair market value for the service rendered, goods~~
4044 ~~furnished, or facilities or equipment rented. It is the intention of this subsection to insure that~~
4045 ~~no officer, managing agent, employee, or other person derives a principal economic benefit~~
4046 ~~from the operation of a club.]~~

4047 ~~[(23) A private club may not engage in any public solicitation or public advertising~~
4048 ~~calculated to increase its membership.]~~

4049 ~~[(24) Each private club shall comply with the following operational restrictions:]~~

4050 ~~[(a) The liquor storage and sales area shall remain locked at all times when it is not~~
4051 ~~open for business.]~~

4052 (18) Any public advertising related to a private club by the following shall clearly
4053 identify a club as being "a private club for members":

4054 (a) the private club;

4055 (b) the employees or agents of the private club; or

4056 (c) any person under a contract or agreement with the club.

4057 (19) A private club must have food available at all times when alcoholic beverages are

4058 sold, served, or consumed on the premises.

4059 ~~[(b)]~~ (20) (a) Liquor may not be purchased by a private club [~~liquor~~] licensee except
4060 from state stores or package agencies.

4061 (b) Liquor so purchased may be transported by the licensee from the place of purchase
4062 to the licensed premises.

4063 (c) Payment for liquor shall be made in accordance with rules established by the
4064 commission.

4065 ~~[(c) Beginning July 1, 1991, a]~~ (21) A private club [~~liquor~~] licensee may [~~not~~] sell or
4066 provide any primary spirituous liquor [~~except in one ounce quantities~~] only in a quantity not to
4067 exceed one ounce per beverage dispensed through a calibrated metered dispensing system
4068 approved by the department in accordance with commission rules adopted under this title,
4069 except that:

4070 ~~[(i)]~~ (a) spirituous liquor need not be dispensed through a calibrated metered
4071 dispensing system if used as a secondary flavoring ingredient in a beverage subject to the
4072 following restrictions:

4073 ~~[(A) the beverage shall contain liquor from a lawfully purchased container;]~~

4074 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
4075 a primary spirituous liquor;

4076 ~~[(B)]~~ (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

4077 ~~[(C)]~~ (iii) the private club licensee shall designate a location where flavorings are
4078 stored on the floor plan provided to the department; and

4079 ~~[(D)]~~ (iv) all flavoring containers shall be plainly and conspicuously labeled
4080 "flavorings";

4081 ~~[(i)]~~ (b) spirituous liquor need not be dispensed through a calibrated metered
4082 dispensing system if used:

4083 (i) as a flavoring on desserts; and

4084 (ii) in the preparation of flaming food dishes, drinks, and desserts; and

4085 (c) each club patron may have no more than 2.75 ounces of spirituous liquor at a time
4086 before the patron.

4087 ~~[(iii) wine]~~ (22) (a) (i) Wine may be sold and served by the glass [~~in quantities not~~
4088 ~~exceeding~~] or an individual portion not to exceed five ounces per glass [~~; and~~] or individual

4089 portion.

4090 (ii) An individual portion may be served to a patron in more than one glass as long as
4091 the total amount of wine does not exceed five ounces.

4092 (iii) An individual portion of wine is considered to be one alcoholic beverage under
4093 Subsection (26)(c).

4094 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
4095 fixed by the commission to tables of four or more persons.

4096 (ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by
4097 the commission to tables of less than four persons.

4098 (c) A wine service may be performed and a service charge assessed by the private club
4099 as authorized by commission rule for wine purchased at the private club.

4100 ~~[(iv) heavy]~~ (23) (a) Heavy beer may be served in [standard] original containers not
4101 exceeding one liter at prices fixed by the commission.

4102 (b) A service charge may be assessed by the private club for heavy beer purchased at
4103 the private club.

4104 ~~[(d)(i) Private clubs]~~ (24) (a) A private club licensed to sell liquor may sell beer in
4105 any size container not exceeding two liters, and on draft for on-premise consumption without
4106 obtaining a separate on-premise beer retailer license from the commission.

4107 ~~[(ii) Private clubs]~~ (b) (i) A private club licensed under this chapter that [sell] sells
4108 beer pursuant to Subsection [(24)(d)(i)] (24)(a) shall comply with all appropriate operational
4109 restrictions under Chapter 10, Beer Retailer Licenses, that apply to on-premise beer retailers
4110 except when those restrictions are inconsistent with or less restrictive than the operational
4111 restrictions under this chapter.

4112 ~~[(iii)]~~ (ii) Failure to comply with the operational restrictions under Chapter 10, Beer
4113 Retailer Licenses, [as set forth in Subsection (24)(d)(i)] required by Subsection (24)(b)(i) may
4114 result in a suspension or revocation of the private club's:

4115 (A) state liquor license; and [its]

4116 (B) alcoholic beverage license issued by the local authority.

4117 ~~[(e) Wine may be served in accordance with commission rule in containers not~~
4118 ~~exceeding 750 ml.]~~

4119 ~~[(f) A private club may not charge for the service or supply of glasses, ice, or mixers~~

4120 ~~unless the charges are fixed in the house rules of the club and a copy of the rules is kept on the~~
4121 ~~club premises and available at all times for examination by the members, guests, and visitors to~~
4122 ~~the club.]~~

4123 ~~[(g) Minors may not be employed by any club to sell, dispense, or handle any alcoholic~~
4124 ~~beverage.]~~

4125 ~~[(h) An officer, director, managing agent, employee, and any other person employed by~~
4126 ~~or acting for or in behalf of any licensee, may not sell, deliver, or furnish, or cause or permit to~~
4127 ~~be sold, delivered, or furnished any liquor to any:]~~

4128 (25) Alcoholic beverages may not be stored, served, or sold in any place other than as
4129 designated in the licensee's application, unless the licensee first applies for and receives
4130 approval from the department for a change of location within the private club.

4131 (26) (a) A patron may only make alcoholic beverage purchases in the private club from
4132 and be served by a person employed, designated, and trained by the licensee to sell, dispense,
4133 and serve alcoholic beverages.

4134 (b) Notwithstanding Subsection (26)(a), a patron who has purchased bottled wine from
4135 an employee of the private club or has carried bottled wine onto the premises of the private
4136 club pursuant to Subsection (32) may thereafter serve wine from the bottle to themselves or
4137 others at the patron's table.

4138 (c) Each club patron may have no more than two alcoholic beverages of any kind at a
4139 time before the patron.

4140 (27) The liquor storage area shall remain locked at all times other than those hours and
4141 days when liquor sales and service are authorized by law.

4142 (28) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
4143 private club during the following days or hours:

4144 (i) until after the polls are closed on the day of any:

4145 (A) regular general election;

4146 (B) regular primary election; or

4147 (C) statewide special election;

4148 (ii) on the day of any municipal, special district, or school election, but only if closure
4149 is required by local ordinance; and

4150 (iii) on any other day after 1 a.m. and before 10 a.m.

4151 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
4152 Licenses, for on-premise beer licenses.

4153 (c) Notwithstanding Subsections (28)(a) and (b), a private club shall remain open for
4154 one hour after the private club ceases the sale and service of alcoholic beverages during which
4155 time a patron of the club may finish consuming:

4156 (i) any single drink containing spirituous liquor;

4157 (ii) a single serving of wine not exceeding five ounces;

4158 (iii) a single serving of heavy beer not exceeding 12 ounces; or

4159 (iv) a single serving of beer not exceeding 12 ounces.

4160 (29) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

4161 [(i)] (a) minor;

4162 [(ii)] (b) person actually, apparently, or obviously [~~drunk~~] intoxicated;

4163 [(iii)] (c) known habitual drunkard; or

4164 [(iv)] (d) known interdicted person.

4165 [(i) (i) Liquor may not be sold or offered for sale at any private club during the
4166 following days or hours:]

4167 [(A) on the day of any regular general election, regular primary election, or statewide
4168 special election until after the polls are closed;]

4169 [(B) on the day of any municipal, special district, or school election, but only within
4170 the boundaries of the municipality, special district, or school district, and only if closure is
4171 required by local ordinance; and]

4172 [(C) on Sunday and any state or federal legal holiday after 12 midnight and before 12
4173 noon.]

4174 [(ii) The hours of beer sales are those specified in Chapter 10, Beer Retailer Licenses,
4175 for on-premise beer licensees.]

4176 [(j) On all other days the liquor storage and sales area in the club shall be closed from 1
4177 a.m. until 10 a.m.]

4178 [(k) Liquor may not be sold except at prices fixed by the commission. Mixed drinks
4179 and wine may not be sold at discount prices on any date or at any time.]

4180 [(l) Beginning July 1, 1991, no more than one ounce of primary liquor may be served
4181 to a member, guest, or visitor at a time, except.]

- 4182 ~~[(i) wine as provided in Subsection (24)(c)(iii); and]~~
4183 ~~[(ii) heavy beer as provided in Subsection (24)(c)(iv).]~~
4184 ~~[(m)(i) Beginning January 1, 1991, a]~~
4185 (30) (a) Alcoholic beverages may not be sold at less than the cost of the alcoholic
4186 beverage to the licensee.
4187 (b) An alcoholic beverage may not be sold at a special or reduced price that encourages
4188 over-consumption or intoxication.
4189 (c) The price of a single serving of a primary spirituous liquor shall be the same
4190 whether served as a single drink or in conjunction with another alcoholic beverage.
4191 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
4192 hours of the private club's business day such as a "happy hour."
4193 (e) The sale or service of more than one alcoholic beverage for the price of a single
4194 alcoholic beverage is prohibited.
4195 (f) The sale or service of an indefinite or unlimited number of alcoholic beverages
4196 during any set period for a fixed price is prohibited.
4197 (g) A private club licensee may not engage in a promotion involving or offering free
4198 alcoholic beverages to patrons of the club.
4199 (31) Alcoholic beverages may not be purchased by the licensee, or any employee or
4200 agent of the licensee, for a patron of the private club.
4201 (32) (a) A person may not bring onto the premises of a private club [liquor] licensee
4202 any alcoholic beverage for on-premise consumption, except a person may bring, subject to the
4203 discretion of the licensee, [cork-finished] bottled wine onto the premises of any private club
4204 [liquor] licensee [and consume wine pursuant to Subsection (24)(n)] for on-premise
4205 consumption.
4206 ~~[(ii) Beginning January 1, 1991, a]~~
4207 (b) Except bottled wine under Subsection (32)(a), a private club or its officers,
4208 managers, employees, or agents may not allow:
4209 (i) a person to bring onto the private club premises any alcoholic beverage for
4210 [on-premise] consumption[; except cork-finished wine under Subsection (24)(m)(i).] on the
4211 private club premises; or
4212 (ii) consumption of alcoholic beverages described in Subsection (32)(b)(i) on the

4213 premises of the private club.

4214 ~~[(iii) Beginning January 1, 1991, if any private club licensee or any of its officers,~~
4215 ~~managers, employees, or agents violates this Subsection (24):]~~

4216 ~~[(A) the commission may immediately suspend or revoke the private club's liquor~~
4217 ~~license and the private club licensee is subject to criminal prosecution under Chapter 12,~~
4218 ~~Criminal Offenses; and]~~

4219 ~~[(B) the local authority may immediately suspend or revoke the private club's local~~
4220 ~~liquor license, local consent under Subsection 32A-5-102(1), or local business license.]~~

4221 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
4222 or other representative of the licensee upon entering the private club.

4223 ~~[(n)]~~ (d) A wine service may be performed and a service charge assessed by the private
4224 club as authorized by commission rule for wine [purchased at the private club or] carried in by
4225 a [member, guest, or visitor. If wine is carried in by a member, guest, or visitor, the member,
4226 guest, or visitor shall deliver the wine to a server or other representative of the licensee upon
4227 entering the licensee premises] patron.

4228 ~~[(o) A member, guest, or visitor to a]~~

4229 (33) (a) Except as provided in Subsection (33)(b), a private club and its employees may
4230 not permit a patron of the club to carry from [a] the club premises an open container that:

4231 (i) is used primarily for drinking purposes [containing]; and

4232 (ii) contains any alcoholic beverage.

4233 (b) A patron may remove the unconsumed contents of a bottle of wine if before
4234 removal the bottle has been recorked or recapped.

4235 (34) (a) Except as provided in Subsection (34)(b), a minor may not be employed by any
4236 class A, B, or C private club to sell, dispense, or handle any alcoholic beverage.

4237 (b) Notwithstanding Subsection (34)(a), a minor may be employed by a class A or C
4238 private club to enter the sale at a cash register or other sales recording device.

4239 (c) A minor may not be employed by or be on the premises of any class D private club.

4240 (d) A minor may not be employed to work in any lounge or bar area of any class A, B,
4241 or C private club.

4242 (35) An employee of a private club, while on duty, may not:

4243 (a) consume an alcoholic beverage; or

4244 (b) be intoxicated.

4245 (36) (a) A private club may not charge for the service or supply of glasses, ice, or
4246 mixers unless:

4247 (i) the charges are fixed in the house rules of the club; and

4248 (ii) a copy of the house rules is kept on the club premises and available at all times for
4249 examination by patrons of the club.

4250 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
4251 may be stated in food or alcoholic beverage menus including:

4252 (i) a set-up charge;

4253 (ii) service charge; or

4254 (iii) chilling fee.

4255 ~~[(p)]~~ (37) Each private club ~~[liquor]~~ licensee shall display in a prominent place in the
4256 private club:

4257 ~~[(i)]~~ (a) the private club ~~[liquor]~~ license that is issued by the department;

4258 ~~[(ii)]~~ (b) a list of the types and brand names of liquor being served through its
4259 calibrated metered dispensing system; and

4260 ~~[(iii)]~~ (c) a sign in large letters stating: "Warning: Driving under the influence of
4261 alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

4262 ~~[(q)]~~ (38) The following acts or conduct in a private club licensed under this chapter
4263 are considered contrary to the public welfare and morals, and are prohibited upon the premises:

4264 ~~[(i)]~~ (a) employing or using any person in the sale or service of alcoholic beverages
4265 while the person is unclothed or in attire, costume, or clothing that exposes to view any portion
4266 of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of
4267 the buttocks, vulva, or genitals;

4268 ~~[(ii)]~~ (b) employing or using the services of any person to mingle with the patrons
4269 while the person is unclothed or in attire, costume, or clothing described in Subsection

4270 ~~[(24)(q)(i)]~~ (38)(a);

4271 ~~[(iii)]~~ (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
4272 buttocks, anus, or genitals of any other person;

4273 ~~[(iv)]~~ (d) permitting any employee or person to wear or use any device or covering,
4274 exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

4275 ~~[(v)]~~ (e) permitting any person to use artificial devices or inanimate objects to depict
4276 any of the prohibited activities described in this Subsection ~~[(24)]~~ (38);

4277 ~~[(vi)]~~ (f) permitting any person to remain in or upon the premises who exposes to
4278 public view any portion of his or her genitals or anus; or

4279 ~~[(vii)]~~ (g) showing films, still pictures, electronic reproductions, or other visual
4280 reproductions depicting:

4281 ~~[(A)]~~ (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality,
4282 oral copulation, flagellation, or any sexual acts prohibited by Utah law;

4283 ~~[(B)]~~ (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus,
4284 or genitals;

4285 ~~[(C)]~~ (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
4286 drawings are used to portray, any of the prohibited activities described in this Subsection ~~[(24)]~~
4287 (38); or

4288 ~~[(D)]~~ (iv) scenes wherein a person displays the vulva or the anus or the genitals.

4289 ~~[(r)]~~ (39) Nothing in Subsection ~~[(24)(q)]~~ (38) precludes a local authority from being
4290 more restrictive of acts or conduct of the type prohibited in Subsection ~~[(24)(q)]~~ (38).

4291 ~~[(s)(i)]~~ (40)(a) Although live entertainment is permitted on the premises of a club
4292 liquor licensee, a licensee may not allow any person to perform or simulate sexual acts
4293 prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral
4294 copulation, flagellation, or the touching, caressing, or fondling of the breast, buttocks, anus, or
4295 genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform
4296 only upon a stage or at a designated area approved by the commission.

4297 ~~[(i)]~~ (b) Nothing in Subsection ~~[(24)(s)(i)]~~ (40)(a) precludes a local authority from
4298 being more restrictive of acts or conduct of the type prohibited in Subsection ~~[(24)(s)(i)]~~
4299 (40)(a).

4300 ~~[(25)]~~ (41) A private club may not engage in or permit any form of gambling, or have
4301 any video gaming device, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling,
4302 on the premises of the private club.

4303 ~~[(26)]~~ (42) (a) A private club may not close or cease operation for a period longer than
4304 240 hours, unless ~~[written notice is given to the department]~~;

4305 (i) the private club licensee notifies the department in writing at least seven days before

4306 the closing[;]; and

4307 (ii) the closure or cessation of operation is first approved by the department.

4308 (b) ~~[It]~~ Notwithstanding Subsection (42)(a), in the case of emergency closure,
4309 immediate notice of closure shall be made to the department by telephone.

4310 (c) The department may authorize a closure or cessation of operation for a period not to
4311 exceed 60 days. The department may extend the initial period an additional 30 days upon
4312 written request of the private club and upon a showing of good cause. A closure or cessation of
4313 operation may not exceed a total of 90 days without commission approval.

4314 (d) ~~[Any]~~ The notice required by Subsection (42)(a) shall include:

4315 (i) the dates of closure or cessation of operation[;];

4316 (ii) the reason for the closure or cessation of operation[;]; and

4317 (iii) the date on which the licensee will reopen or resume operation.

4318 (e) Failure of the licensee to provide notice and to obtain department authorization
4319 prior to closure or cessation of operation shall result in an automatic forfeiture of:

4320 (i) the license; and ~~[the forfeiture of]~~

4321 (ii) the unused portion of the license fee for the remainder of the license year effective
4322 immediately.

4323 (f) Failure of the licensee to reopen or resume operation by the approved date shall
4324 result in an automatic forfeiture of:

4325 (i) the license; and ~~[the forfeiture of]~~

4326 (ii) the unused portion of the club's license fee for the remainder of the license year.

4327 ~~[(27) Each private club shall conduct its affairs so that it is not operated for a pecuniary~~
4328 ~~profit.]~~

4329 ~~[(28)]~~ (43) A private club ~~[may not transfer a private club liquor]~~ license may not be
4330 transferred from one location to another, without prior written approval of the commission.

4331 ~~[(29)]~~ (44) (a) A ~~[person, having been granted a]~~ private club ~~[liquor license]~~ licensee,
4332 may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the
4333 license to any other person, whether for monetary gain or not.

4334 (b) A private club ~~[liquor]~~ license has no monetary value for the purpose of any type of
4335 disposition.

4336 Section 47. Section **32A-6-102** is amended to read:

4337 **32A-6-102. Application and renewal requirements.**

4338 (1) A person seeking a special use permit of any kind under this chapter shall file a
4339 written application with the department in a form prescribed by the department. ~~[(h)]~~ The
4340 application shall be accompanied by:

4341 (a) a nonrefundable application fee ~~[where]~~ if required by any section of this chapter;

4342 (b) an initial permit fee if required by any section of this chapter, which is refundable if
4343 a permit is not granted;

4344 ~~[(b)]~~ (c) [unless otherwise provided in this chapter,] a one-time special use permit fee
4345 [of \$50] if required by any section of this chapter, which is refundable if a permit is not
4346 granted;

4347 ~~[(e)]~~ (d) a statement of the purpose for which the applicant has applied for the special
4348 permit;

4349 ~~[(d)]~~ (e) written consent of the local authority;

4350 ~~[(e)]~~ (f) a bond, where required by any section of this chapter;

4351 ~~[(f)]~~ (g) where required by any section of this chapter, a floor plan of the immediate
4352 area within the premises in which the applicant proposes that alcoholic products are stored,
4353 used, mixed, sold, or consumed;

4354 ~~[(g)]~~ (h) a signed consent form stating that the permittee will permit any authorized
4355 representative of the commission, department, or any other law enforcement officer
4356 unrestricted right to enter the permittee's premises;

4357 ~~[(h)]~~ (i) in the case of ~~[a corporate]~~ an applicant that is a partnership, corporation, or
4358 limited liability company, proper verification evidencing that the person or persons signing the
4359 special use permit application are authorized to so act on the ~~[corporation's]~~ behalf of the
4360 partnership, corporation, or limited liability company;

4361 ~~[(i)]~~ (j) a description of the types of alcoholic product the applicant intends to use
4362 under authority of the special use permit; and

4363 ~~[(j)]~~ (k) any other information the commission or department may require by rule or
4364 policy to allow complete evaluation of the application.

4365 (2) (a) All special use permits expire on December 31 of each year unless otherwise
4366 provided on the permit.

4367 (b) Persons desiring to renew a renewable special use permit shall submit a completed

4368 renewal application to the department no later than November 30.

4369 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
4370 the license, effective on the date the existing permit expires.

4371 (d) Renewal applications shall be in a form prescribed by the department.

4372 (3) To ensure compliance with Subsection 32A-6-105(8), the commission may suspend
4373 or revoke a special use permit if any special use permittee does not immediately notify the
4374 department of any change in:

4375 (a) ownership of the permittee's business;

4376 (b) in the case of a corporate owner, the:

4377 (i) corporate officers or directors; or

4378 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
4379 corporation; or

4380 (c) in the case of a limited liability company:

4381 (i) managers; or

4382 (ii) members owning at least 20% of the limited liability company.

4383 Section 48. Section **32A-6-103** is amended to read:

4384 **32A-6-103. Qualifications.**

4385 (1) Special use permits may be granted only to the following persons or organizations:

4386 (a) ~~[sacramental]~~ a religious wine use permit may be granted to a church or religious
4387 organization;

4388 (b) an industrial or manufacturing use permit may be granted to a person or
4389 organization engaged in an industrial or manufacturing pursuit;

4390 (c) a scientific or educational use permit may be granted to a person or organization
4391 engaged in a scientific or educational pursuit;

4392 (d) a health care facility use permit may be granted to a hospital or health care facility;
4393 and

4394 (e) a public service permit may be granted to an operator of an airline, railroad, or other
4395 public conveyance.

4396 (2) (a) The commission may not issue a special use permit to any person who has been
4397 convicted of:

4398 (i) ~~[convicted of]~~ a felony under any federal or state law;

4399 (ii) ~~[convicted of]~~ any violation of any federal or state law or local ordinance
4400 concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of
4401 alcoholic products; ~~[or]~~

4402 (iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-]; or~~

4403 (iv) on two or more occasions within the five years before the day on which the special
4404 use permit is granted, driving under the influence of alcohol, any drug, or the combined
4405 influence of alcohol and any drug.

4406 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the
4407 proscription under Subsection (2)(a) applies if any of the following has been convicted of any
4408 offense described in Subsection (2)(a):

4409 (i) a partner[-];

4410 (ii) a managing agent[-];

4411 (iii) a manager;

4412 (iv) an officer[-];

4413 (v) a director[-~~or~~];

4414 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
4415 an applicant corporation [has been convicted of any offense as provided in this Subsection
4416 (2)-]; or

4417 (vii) a member who owns at least 20% of an applicant limited liability company.

4418 (c) The proscription under Subsection (2)(a) applies if any person employed to act in a
4419 supervisory or managerial capacity for a special use permittee has been convicted of any
4420 offense described in Subsection (2)(a).

4421 (3) ~~[(a) If any employee or proprietor of a permittee is convicted of any offense~~
4422 ~~designated in Subsection (2), the] The commission may ~~[take emergency action by]~~
4423 immediately [revoking the] suspend or revoke a special use permit [according to the procedures
4424 and requirements of Title 63, Chapter 46b.] if after the day on which the special use permit is
4425 granted, a person described in Subsection (2)(a), (b), or (c):~~

4426 ~~[(b) In the case of a partnership or corporation that has been granted a special use~~
4427 ~~permit, if any partner, managing agent, officer, director, or stockholder who holds at least 20%~~
4428 ~~of the total issued and outstanding stock of a corporation is convicted of any offense designated~~
4429 ~~in Subsection (2), the commission may take emergency action by immediately revoking the~~

4430 ~~permit according to the procedures and requirements of Title 63, Chapter 46b.]~~
4431 ~~[(4) Upon the arrest of any permittee on any charge set forth in Subsection (2), the]~~
4432 ~~(a) is found to have been convicted of any offense described in Subsection (2)(a) prior~~
4433 ~~to the permit being granted; or~~
4434 ~~(b) on or after the day on which the permit is granted:~~
4435 ~~(i) is convicted of an offense described in Subsection (2)(a)(i), (ii), or (iii); or~~
4436 ~~(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the~~
4437 ~~combined influence of alcohol and any drug; and~~
4438 ~~(B) was convicted of driving under the influence of alcohol, any drug, or the combined~~
4439 ~~influence of alcohol and any drug within five years before the day on which the person is~~
4440 ~~convicted of the offense described in Subsection (3)(b)(ii)(A).~~
4441 ~~(4) The director may take emergency action by immediately suspending the operation~~
4442 ~~of [the permittee] a special use permit according to the procedures and requirements of Title~~
4443 ~~63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal~~
4444 ~~matter is being adjudicated[-] if a person described in Subsection (2)(a), (b), or (c):~~
4445 ~~(a) is arrested on a charge described in Subsection (2)(a)(i), (ii), or (iii); or~~
4446 ~~(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,~~
4447 ~~any drug, or the combined influence of alcohol and any drug; and~~
4448 ~~(ii) was convicted of driving under the influence of alcohol, any drug, or the combined~~
4449 ~~influence of alcohol and any drug within five years before the day on which the person is~~
4450 ~~arrested on a charge described in Subsection (4)(b)(i).~~
4451 ~~(5) (a) (i) The commission may not grant a special use permit to any person who has~~
4452 ~~had any type of license, agency, or permit issued under this title revoked within the last three~~
4453 ~~years.~~
4454 ~~(ii) The commission may not grant a special use permit to any applicant that is a~~
4455 ~~partnership, corporation, or limited liability company if any partner, managing agent, manager,~~
4456 ~~officer, director, stockholder who holds at least 20% of the total issued and outstanding stock~~
4457 ~~of the applicant corporation, or member who owns at least 20% of the applicant limited~~
4458 ~~liability company is or was:~~
4459 ~~(A) a partner or managing agent of any partnership that had any type of license, agency,~~
4460 ~~or permit issued under this title revoked within the last three years;~~

4461 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
4462 of the total issued and outstanding stock of any corporation that had any type of license,
4463 agency, or permit issued under this title revoked within the last three years; or

4464 (C) a manager or member who owns or owned at least 20% of any limited liability
4465 company that had any type of license, agency, or permit issued under this title revoked within
4466 the last three years.

4467 (b) An applicant that is a partnership, corporation, or limited liability company may not
4468 be granted a special use permit if any of the following had any type of license, agency, or
4469 permit issued under this title revoked while acting in that person's individual capacity within
4470 the last three years:

4471 (i) any partner or managing agent of the applicant partnership;

4472 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
4473 total issued and outstanding stock of the applicant corporation; or

4474 (iii) any manager or member who owns at least 20% of the applicant limited liability
4475 company.

4476 (c) A person acting in an individual capacity may not be granted a special use permit if
4477 that person was:

4478 (i) a partner or managing agent of a partnership that had any type of license, agency, or
4479 permit issued under this title revoked within the last three years;

4480 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
4481 total issued and outstanding stock of a corporation that had any type of license, agency, permit
4482 issued under this title revoked within the last three years; or

4483 (iii) a manager or member who owned at least 20% of a limited liability that had any
4484 type of license, agency, or permit revoked within the last three years.

4485 ~~[(5)]~~ (6) (a) A minor may not be:

4486 (i) granted a special use permit; or [be]

4487 (ii) employed by a permittee to handle alcoholic beverages.

4488 (b) The commission may not grant a special use permit to an applicant that is a
4489 partnership, corporation, or limited liability company if any of the following is a minor:

4490 (i) a partner or managing agent of the applicant partnership;

4491 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the

4492 total issued and outstanding stock of the applicant corporation; or

4493 (iii) a manager or member who owns at least 20% of the applicant limited liability

4494 company.

4495 ~~[(6)]~~ (7) If any person to whom a permit has been issued under this chapter no longer
4496 possesses the qualifications required by this title for obtaining that permit, the commission may
4497 suspend or revoke that permit.

4498 Section 49. Section **32A-6-105** is amended to read:

4499 **32A-6-105. Operational restrictions.**

4500 Each person granted a special use permit and the employees and management personnel
4501 of the permittee shall abide by the following conditions and requirements. Failure to comply
4502 may result in a revocation of the permit, or other disciplinary action taken against individual
4503 employees or management personnel. Suspension or revocation of a permit may be done by
4504 the commission with or without cause.

4505 (1) Where authorized by the permit, a permittee may purchase and receive
4506 non-consumable alcoholic products directly from a manufacturer for industrial, educational,
4507 scientific, manufacturing, or health care facility use purposes.

4508 (2) Except as otherwise provided, liquor may not be purchased by any permittee except
4509 from state stores or package agencies. Liquor so purchased may be transported by the
4510 permittee from the place of purchase to the permittee's premises. All liquor shall be purchased
4511 at prices set by the commission.

4512 (3) Alcoholic products may not be stored, used, manufactured, blended, sold, or
4513 consumed in any place other than as designated in the permittee's application.

4514 (4) A permittee may not purchase, store, sell, use, consume, or manufacture any
4515 alcoholic products for any purpose other than that authorized by the special use permit.

4516 (5) ~~[Liquor]~~ Except as otherwise provided, alcoholic products may not be sold,
4517 ~~[delivered,]~~ served, or otherwise furnished to any:

4518 (a) minor;

4519 (b) person actually, apparently, or obviously ~~[drunk]~~ intoxicated;

4520 (c) known habitual drunkard; or

4521 (d) known interdicted person.

4522 (6) Each permittee shall keep records and accounts, as required by commission rule, of

4523 all alcoholic products purchased, manufactured, used, and sold.

4524 ~~[(7) A permittee authorized to sell or serve liquor may not engage in any public~~
4525 ~~solicitation or public advertising calculated to increase liquor consumption.]~~

4526 ~~[(8) (7) [There shall be no transfer of a] A~~ special use permit may not be transferred
4527 from one location to another, without prior written approval of the commission.

4528 ~~[(9) (8) [A person, having been granted a] A~~ special use ~~[permit,] permittee~~ may not
4529 sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to
4530 any other person whether for monetary gain or not.

4531 Section 50. Section **32A-6-201** is amended to read:

4532 **32A-6-201. Application and renewal requirements.**

4533 (1) Each application for a public service permit shall, in addition to the requirements of
4534 Section 32A-6-102, include:

4535 (a) a nonrefundable ~~[\$100] \$50~~ application fee;

4536 ~~(b) a \$200 initial permit fee;~~

4537 ~~[(b)] (c)~~ the total of regularly numbered flights, trains, buses, boats, or other types of
4538 conveyance for which the applicant plans to use the special use permit;

4539 ~~[(c)] (d)~~ written consent of the local authority;

4540 ~~[(d)] (e)~~ a cash or corporate surety bond in the penal sum of \$1,000 payable to the
4541 department, which the permittee has procured and must maintain for so long as the permittee
4542 continues to operate as a special use permittee;

4543 ~~[(e)] (f)~~ a floor plan of any room or facility in which the applicant plans to establish a
4544 hospitality room where the sale or service of alcoholic beverages is made to persons then in
4545 transit, using the host company's airline, railroad, or other public conveyance; and

4546 ~~[(f)] (g)~~ evidence of proximity of a proposed hospitality room to the arrival and
4547 departure area used by persons traveling on the host company's airline, railroad, bus, or other
4548 public conveyance.

4549 (2) Each public service permittee shall remit to the department an annual public service
4550 permit fee of [\$15] \$30 for each regularly numbered passenger airplane flight, passenger train,
4551 or any other regularly scheduled public conveyance upon which alcoholic beverages are sold
4552 or served.

4553 (3) (a) The bond required under Subsection (1) shall be in a form approved by the

4554 attorney general, conditioned upon the permittee's faithful compliance with this title and the
4555 rules of the commission.

4556 (b) If the surety bond is canceled due to the permittee's negligence a \$300 reinstatement
4557 fee may be assessed.

4558 (c) No part of any cash bond so posted may be withdrawn during the period the permit
4559 is in effect.

4560 (d) A bond filed by a permittee may be forfeited if the permit is finally revoked.

4561 Section 51. Section **32A-6-202** is amended to read:

4562 **32A-6-202. Operational restrictions.**

4563 In addition to the restrictions, conditions, and requirements of Section 32A-6-105, each
4564 public service permit is subject to the following operating restrictions:

4565 (1) (a) A public service permittee whose public conveyances operate on an interstate
4566 basis may purchase alcoholic beverages outside of the state and bring it into the state and sell
4567 and serve it to passengers traveling on the permittee's public conveyance for consumption
4568 while en route on the conveyance.

4569 (b) A public service permittee whose public conveyances operate solely within the
4570 state shall purchase to sell and serve to passengers traveling on the permittee's public
4571 conveyance for consumption while en route on the conveyance:

4572 (i) liquor from state stores or package agencies; and

4573 (ii) beer from a local beer wholesaler.

4574 (2) A public service permittee may establish a hospitality room in which alcoholic
4575 beverages may be stored, sold, served, and consumed, if:

4576 (a) the room is located within a depot, terminal, or similar facility adjacent to and
4577 servicing the permittee's airline, railroad, bus, boat, or other public conveyance;

4578 (b) the room is completely enclosed and the interior is not visible to the public;

4579 (c) the sale or service of alcoholic beverages is made only to persons then in transit
4580 using the host company's airline, railroad, bus line, or other public conveyance, and holding a
4581 valid boarding pass or similar travel document issued by the host company; and

4582 (d) (i) all liquor is purchased from;

4583 (A) a state store; or

4584 (B) package agency[-]; and

4585 (ii) beer is purchased from a local licensed beer wholesaler.

4586 (3) Each public service permittee operating a hospitality room shall display in a
4587 prominent place in the hospitality room, a sign in large letters stating: "Warning: Driving under
4588 the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

4589 (4) The operation of all hospitality rooms shall be done in accordance with this chapter
4590 and rules adopted by the commission.

4591 Section 52. Section **32A-6-301** is amended to read:

4592 **32A-6-301. Application requirements.**

4593 (1) Each application for an industrial or manufacturing use permit shall, in addition to
4594 the requirements of Section 32A-6-102, include:

4595 (a) a nonrefundable [~~\$100~~] \$50 application fee;

4596 (b) a \$200 one-time special use permit fee;

4597 [~~(b)~~] (c) a cash or corporate surety bond in the penal sum of \$1,000 payable to the
4598 department, which the permittee has procured and must maintain for so long as the permittee
4599 continues to operate as a special use permittee;

4600 [~~(c)~~] (d) written consent of the local authority; and

4601 [~~(d)~~] (e) a floor plan of the immediate area within the premises in which the applicant
4602 proposes that alcoholic products be stored, used, mixed, sold, or consumed.

4603 (2) (a) The bond required under Subsection (1) shall be:

4604 (i) in a form approved by the attorney general[~~;~~]; and

4605 (ii) conditioned upon the permittee's faithful compliance with this title and the rules of
4606 the commission.

4607 (b) If the surety bond is cancelled due to the permittee's negligence, a \$300
4608 reinstatement fee may be assessed.

4609 (c) No part of any cash or corporate bond so posted may be withdrawn during the
4610 period the permit is in effect.

4611 (d) A bond filed by a permittee may be forfeited if the permit is finally revoked.

4612 (3) Any person desiring a special use permit to produce gasohol or any alcoholic
4613 product shall provide evidence to the department that an approved Notice of Registration of
4614 Distilled Spirits Plant and the appropriate permit from the Federal Bureau of Alcohol, Tobacco
4615 and Firearms has been obtained by the person.

4616 Section 53. Section **32A-6-401** is amended to read:

4617 **32A-6-401. Application requirements.**

4618 Each application for a scientific or educational use permit shall, in addition to the
4619 requirements of Section 32A-6-102, include a [~~nonrefundable \$25 application fee~~] \$100
4620 one-time special use permit fee.

4621 Section 54. Section **32A-6-501** is amended to read:

4622 **32A-6-501. Operational restrictions.**

4623 In addition to the restrictions, conditions, and requirements of Section 32A-6-105, each
4624 [~~sacramental~~] religious wine use permittee is subject to the following operational restrictions:

4625 (1) A [~~sacramental~~] religious wine use permittee may purchase wine from state stores
4626 as the department may designate at the department's cost plus freight charges.

4627 (2) A [~~sacramental~~] religious wine use permittee may not use wine purchased under the
4628 permit for other than religious purposes.

4629 Section 55. Section **32A-6-502** is enacted to read:

4630 **32A-6-502. Church or religious organization exemption.**

4631 (1) A church or religious organization that provides or allows to be provided any
4632 alcoholic product to any person as part of the church's or religious organization's religious
4633 services:

4634 (a) does not violate this title by providing or allowing the provision of an alcoholic
4635 product as part of the religious service; and

4636 (b) is not required to hold a special use permit or license to provide or allow the
4637 provision of an alcoholic product for the religious services.

4638 (2) This exemption does not exempt a church or religious organization from complying
4639 with this title with respect to alcoholic beverages purchased by the church or religious
4640 organization for purposes other than the purpose stated in Subsection (1).

4641 Section 56. Section **32A-6-503** is enacted to read:

4642 **32A-6-503. Application requirements.**

4643 Each application for a religious wine use permit shall, in addition to the requirements of
4644 Section 32A-6-102, include a \$100 one-time special use permit fee.

4645 Section 57. Section **32A-6-603** is enacted to read:

4646 **32A-6-603. Application requirements.**

4647 Each application for a health care facility use permit shall, in addition to the
4648 requirements of Section 32A-6-102, include a \$100 one-time special use permit fee.

4649 Section 58. Section **32A-7-101** is amended to read:

4650 **32A-7-101. Commission's power to grant permits -- Limitations.**

4651 (1) The commission may issue a single event permit to a bona fide partnership,
4652 corporation, limited liability company, church, political organization, or incorporated
4653 association, or to a recognized subordinate lodge, chapter, or other local unit thereof that is
4654 conducting a convention, civic, or community enterprise.

4655 (2) ~~(a)~~ The single event permit ~~shall~~ may authorize~~[-];~~:

4656 (a) for a period not to exceed ~~[72]~~ 120 consecutive hours, the storage, sale, service, and
4657 consumption of liquor at an event at which the storage, sale, service, or consumption of liquor
4658 is otherwise prohibited by this title~~[-]; and~~

4659 ~~[(b) Authorization for the storage, sale, service, and consumption of beer at the event~~
4660 ~~shall be obtained from local authority and is not governed by this chapter or Chapter 10 except~~
4661 ~~where otherwise provided.]~~

4662 (b) the storage, sale, service, and consumption of beer at the same event for the period
4663 that the storage, sale, service, or consumption of liquor is authorized under Subsection (2)(a)
4664 for the permit.

4665 (3) The commission may not issue more than ~~[two]~~ four single event permits in any
4666 one calendar year to the same ~~[association]~~ partnership, corporation, limited liability company,
4667 church, ~~[or]~~ political organization, or incorporated association or recognized subordinate lodge,
4668 chapter, or other local unit thereof.

4669 (4) (a) The 600 foot and 200 foot proximity limitations to educational, religious, and
4670 recreational facilities that are applicable to state stores, package agencies, and licensees, do not
4671 apply to single event permits.

4672 (b) Nothing in this section, however, prevents the commission from considering the
4673 proximity of any educational, religious, or recreational facility, or any other relevant factor in
4674 deciding whether to grant a single event permit.

4675 Section 59. Section **32A-7-102** is amended to read:

4676 **32A-7-102. Application requirements.**

4677 (1) A qualified applicant for a single event permit shall file a written application with

4678 the department in a form as the department shall prescribe.

4679 (2) The application shall be accompanied by:

4680 (a) a single event permit fee of \$100, which is refundable if a permit is not granted and
4681 shall be returned to the applicant with the application;

4682 (b) written consent of the local authority;

4683 (c) a bond as specified by Section 32A-7-105;

4684 (d) the times, dates, location, estimated attendance, nature, and purpose of the event;

4685 (e) a description or floor plan designating:

4686 (i) the area in which the applicant proposes that [~~liquor~~] alcoholic beverages be stored;

4687 (ii) the site from which the applicant proposes that [~~liquor~~] alcoholic beverages be sold
4688 or served; and

4689 (iii) the area in which the applicant proposes that [~~liquor~~] alcoholic beverages be
4690 allowed to be consumed;

4691 (f) a statement of the purpose of the [~~association~~] partnership, corporation, limited
4692 liability company, church, [~~or~~] political organization, or incorporated association, or [~~its local~~]
4693 recognized subordinate lodge, chapter, or other local unit;

4694 (g) a signed consent form stating that authorized representatives of the commission,
4695 department, or any law enforcement officers will have unrestricted right to enter the premises
4696 during the event;

4697 (h) proper verification evidencing that the person signing the application is authorized
4698 to act on behalf of the [~~association~~] partnership, corporation, limited liability company, church,
4699 [~~or~~] political organization, or incorporated association, or recognized subordinate lodge,
4700 chapter, or local unit thereof; and

4701 (i) any other information as the commission or department may direct.

4702 Section 60. Section **32A-7-103** is amended to read:

4703 **32A-7-103. Qualifications.**

4704 (1) [~~In order to~~] To qualify for a single event permit, the applicant[~~:(a) may not be the~~
4705 ~~holder of or be affiliated with the holder of any other type of retail liquor package agency or~~
4706 ~~license issued under this title; and (b)] shall have been in existence as a bona fide organization
4707 for at least one year prior to the date of application.~~

4708 (2) (a) The commission may not grant a single event permit to any person who has

4709 been convicted of:

4710 (i) [~~convicted of~~] a felony under any federal or state law;

4711 (ii) [~~convicted of~~] any violation of any federal or state law or local ordinance

4712 concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of

4713 alcoholic beverages; [~~or~~]

4714 (iii) [~~convicted of~~] any crime involving moral turpitude[~~-~~]; or

4715 (iv) on two or more occasions within the last five years before the day on which the

4716 permit is granted, driving under the influence of alcohol, any drug, or the combined influence

4717 of alcohol and any drug.

4718 (b) In the case of a partnership [~~or~~], corporation, or limited liability company the

4719 proscription under Subsection (2)(a) applies if any of the following has been convicted of any

4720 offense described in Subsection (2)(a):

4721 (i) a partner[~~-~~];

4722 (ii) a managing agent[~~-~~];

4723 (iii) a manager;

4724 (iv) an officer[~~-~~];

4725 (v) a director[~~-~~];

4726 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of

4727 an applicant corporation [~~has been convicted of any offense as provided in this Subsection.~~]; or

4728 (vii) a member who owns at least 20% of an applicant limited liability company.

4729 (c) The proscription under Subsection (2)(a) applies if any person employed to act in a

4730 supervisory or managerial capacity for the single event permittee has been convicted of any

4731 offense described in Subsections (2)(a).

4732 [~~(3) Upon the arrest of any single event permittee on any charge set forth in Subsection~~

4733 ~~(2), the~~]

4734 (3) The commission may immediately suspend or revoke a single event permit if after

4735 the day on which the permit is granted, a person described in Subsection (2)(a), (b), or (c):

4736 (a) is found to have been convicted of any offense described in Subsection (2)(a) prior

4737 to the permit being granted; or

4738 (b) on or after the day on which the permit is granted:

4739 (i) is convicted of an offense described in Subsection (2)(a)(i), (ii), or (iii); or

4740 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
4741 combined influence of alcohol and any drug; and

4742 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
4743 influence of alcohol and any drug within five years before the day on which the person is
4744 convicted of the offense described in Subsection (3)(b)(ii)(A).

4745 (4) The director may take emergency action by immediately revoking the permit
4746 according to the procedures and requirements of Title 63, Chapter 46b[-], Administrative
4747 Procedures Act, if a person described in Subsection (2)(a), (b), or (c):

4748 (a) is arrested on a charge for an offense described in Subsection (2)(a)(i), (ii), or (iii);
4749 or

4750 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
4751 any drug, or the combined influence of alcohol and any drug; and

4752 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
4753 influence of alcohol and any drug within five years before the day on which the person is
4754 arrested on a charge described in Subsection (4)(b)(i).

4755 ~~[(4)]~~ (5) (a) (i) The commission may not grant a single event permit to any person who
4756 has had any type of license, agency, or permit issued under this title revoked within the last
4757 three years.

4758 (ii) The commission may not grant a single event permit to any [corporation or
4759 partnership] applicant that is a partnership, corporation, or limited liability company if any
4760 partner, managing agent, manager, officer, director, [~~or~~] stockholder who holds at least 20% of
4761 the total issued and outstanding stock of the applicant corporation, or member who owns at
4762 least 20% of the applicant limited liability company is or was:

4763 (A) a partner or managing agent of any partnership[~~, or is or was~~] that had any type of
4764 license, agency, or permit issued under this title revoked within the last three years;

4765 (B) a managing agent, officer, director, or [a] stockholder who holds or held at least
4766 20% of the total issued and outstanding stock of any corporation [~~which~~] that had any type of
4767 license, agency, or permit issued under this title revoked within the last three years; or

4768 (C) a manager or member who owns or owned at least 20% of any limited liability
4769 company that had a liquor license, agency, or permit revoked within the last three years.

4770 (b) [A corporation or partnership] An applicant that is a partnership, corporation, or

4771 limited liability company may not be granted a permit if any of the following had any type of
4772 license, agency, or permit issued under this title revoked while acting in that person's individual
4773 capacity within the last three years:

4774 (i) any partner or managing agent of the applicant partnership ~~[or]~~;

4775 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
4776 total issued and outstanding stock of the ~~[corporate]~~ applicant ~~[had a liquor license, agency, or~~
4777 ~~permit revoked while acting in their individual capacity within the last three years.]~~
4778 corporation; or

4779 (iii) any manager or member who owns at least 20% of the applicant limited liability
4780 company.

4781 ~~[(5)]~~ (6) (a) A minor may not be:

4782 (i) granted a single event permit; or ~~[be]~~

4783 (ii) employed by a single event permittee to handle alcoholic beverages.

4784 (b) The commission may not grant a single event permit to an applicant that is a
4785 partnership, corporation, or limited liability company if any of the following is a minor:

4786 (i) a partner or managing agent of the applicant partnership;

4787 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
4788 total issued and outstanding stock of the applicant corporation; or

4789 (iii) a manager or member who owns at least 20% of the applicant limited liability
4790 company.

4791 ~~[(6)]~~ (7) If a person to whom a permit has been issued under this chapter no longer
4792 possesses the qualifications required by this title for obtaining that permit, the commission may
4793 suspend or revoke that permit.

4794 Section 61. Section **32A-7-104** is amended to read:

4795 **32A-7-104. Commission and department duties before granting permits.**

4796 (1) Before any single event permit may be granted by the commission, the department
4797 shall conduct an investigation, gather information, and make recommendations to the
4798 commission as to whether or not a permit should be granted. The information shall be
4799 forwarded to the commission to aid in its determination.

4800 (2) Before issuing any single event permit, the commission shall:

4801 (a) determine that the applicant has complied with all basic qualifications and

4802 requirements as provided by Sections 32A-7-102 and 32A-7-103~~[, and]~~;

4803 (b) determine that the application is complete;

4804 ~~[(b)]~~ (c) consider the purpose of the organization or its local lodge, chapter, or other
4805 local unit;

4806 ~~[(c)]~~ (d) consider the times, dates, location, and purpose of the event; ~~[and]~~

4807 (e) to minimize the risk of minors being sold or furnished alcohol or adults being over
4808 served alcohol at the event, assess the adequacy of control measures for:

4809 (i) a large-scale public event where the estimated attendance is in excess of 1,000
4810 people; or

4811 (ii) for an outdoor public event; and

4812 ~~[(d)]~~ (f) consider any other factors or circumstances ~~[it]~~ the commission considers
4813 necessary.

4814 (3) (a) The commission shall determine the maximum amount that may be charged by
4815 a permittee for an alcoholic beverage, including any set-up fee or other charge.

4816 (b) The maximum amount that may be charged shall be set forth in the permit.

4817 (4) Upon commission approval of any application and upon issuance of a single event
4818 permit, the department shall send copies of the approved application and the permit to state and
4819 local law enforcement authorities before the scheduled event.

4820 Section 62. Section **32A-7-106** is amended to read:

4821 **32A-7-106. Operational restrictions.**

4822 (1) (a) Any organization granted a single event permit and any person involved in the
4823 storage, sale, or service of ~~[liquor]~~ alcoholic beverages at the event for which the permit is
4824 issued, shall abide by:

4825 (i) this title~~[-];~~

4826 (ii) the rules of the commission~~[-];~~ and

4827 (iii) the special conditions and requirements provided in this section.

4828 (b) Failure to ~~[do so]~~ comply with Subsection (1)(a):

4829 (i) may result in:

4830 (A) an immediate revocation of the permit~~[-];~~

4831 (B) forfeiture of the surety bond~~[-];~~ and

4832 (C) immediate seizure of all ~~[liquor]~~ alcoholic beverages present at the event~~[-];~~ and

4833 (ii) disqualifies the organization from applying for a single event permit under this
4834 chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special
4835 Event Beer Permits, for a period of three years from the date of revocation of the permit.

4836 (c) Any [~~liquor~~] alcoholic beverages seized under this Subsection (1) shall be returned
4837 to the organization after the event if forfeiture proceedings are not instituted under Section
4838 32A-13-103.

4839 (2) Special conditions and requirements for single event permittees include~~[, but are~~
4840 ~~not limited to,]~~ the following:

4841 (a) (i) All persons involved in the storage, sale, or service of [~~liquor~~] alcoholic
4842 beverages at the event do so under the supervision and direction of the permittee.

4843 (ii) All persons involved in the sale or service of alcoholic beverages at the event may
4844 not, while on duty:

4845 (A) consume an alcoholic beverage; or

4846 (B) be intoxicated.

4847 (b) (i) All liquor stored, sold, served, and consumed at the event shall be purchased by
4848 the permittee from a state store or package agency~~[, and is]~~.

4849 (ii) All beer purchased by the permittee shall be purchased from:

4850 (A) a licensed beer wholesaler; or

4851 (B) a licensed beer retailer.

4852 (iii) All alcoholic beverages are considered under the control of the permittee during
4853 the event.

4854 (iv) Attendees of the event may not bring any [~~liquor other than that furnished by the~~
4855 ~~permittee]~~ alcoholic beverages onto the premises of the event.

4856 (c) A permittee may not charge more than the maximum amount set forth in the permit
4857 for any alcoholic beverage.

4858 (d) Each permittee shall post in a prominent place in the area in which [~~liquor is~~]
4859 alcoholic beverages are being sold, served, and consumed, a copy of the permit, together with a
4860 list of the operational restrictions and requirements of single event permittees set forth in this
4861 section.

4862 (e) [~~Liquor~~] Alcoholic beverages purchased for the event may not be stored, sold,
4863 served, or consumed in any [~~place~~] location other than that described in the application and

4864 designated on the permit unless the permittee first applies for and receives approval from the
4865 commission for a change of location.

4866 ~~[(f) Liquor purchased for the event may not be sold or served in any place other than~~
4867 ~~the site described in the application and designated on the permit.]~~

4868 ~~[(g) Liquor purchased for the event may not be consumed in any area other than that~~
4869 ~~described in the application and designated on the permit.]~~

4870 ~~[(h)]~~ (f) (i) A single event permittee may ~~[not]~~ sell or provide ~~[any]~~ a primary
4871 spirituous liquor ~~[except in one ounce quantities,]~~ only in a quantity not to exceed one ounce

4872 per beverage except that~~[(A)]~~ additional spirituous liquor may be used in a beverage if:

4873 (A) used as a secondary flavoring ingredient~~[, but only];~~

4874 (B) used in conjunction with the primary spirituous liquor ~~[and only if];~~

4875 (C) the secondary ingredient is not the only spirituous liquor in the beverage; and

4876 ~~[(B) wine may be served by the glass in quantities not exceeding five ounces per glass;~~
4877 ~~and]~~

4878 ~~[(C) heavy beer may be served in original containers not exceeding one liter.]~~

4879 (D) each attendee may have no more than 2.75 ounces of spirituous liquor at a time
4880 before the attendee.

4881 (ii) ~~[Liquor otherwise]~~ Spirituous liquor need not be dispensed through a calibrated
4882 metered dispensing system.

4883 ~~[(i) Hours of sale, service, and consumption shall be in accordance with any local~~
4884 ~~ordinance restrictions.]~~

4885 (g) (i) (A) Wine may be sold and served by the glass or an individual portion that does
4886 not exceed five ounces per glass or individual portion.

4887 (B) An individual portion may be served to an attendee in more than one glass as long
4888 as the total amount of wine does not exceed five ounces.

4889 (C) An individual portion of wine is considered to be one alcoholic beverage under
4890 Subsection (2)(p).

4891 (ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed
4892 by the commission.

4893 (iii) A wine service may be performed and a service charge assessed by the single event
4894 permittee as authorized by commission rule for wine purchased at the event.

4895 (h) (i) Heavy beer may be served in original containers not exceeding one liter at prices
4896 fixed by the commission.

4897 (ii) A service charge may be assessed by the single event permittee as authorized by
4898 commission rule for heavy beer purchased at the event.

4899 (i) Beer may be sold in any size container not exceeding two liters and on draft.

4900 (j) (i) Alcoholic beverages may not be sold, served, or consumed between the hours or
4901 1:00 a.m. and 10:00 a.m.

4902 (ii) This Subsection (2)(j) does not preclude a local authority from being more
4903 restrictive with respect to the hours of sale, service, or consumption of alcoholic beverages at a
4904 temporary single event.

4905 ~~[(j) Liquor]~~ (k) Alcoholic beverages may not be sold, served, or otherwise furnished
4906 until after the polls are closed on the day of any:

4907 (i) regular general election[;];

4908 (ii) regular primary election[;]; or

4909 (iii) statewide special election [until after the polls are closed].

4910 ~~[(k) (l) [Liquor]~~ Alcoholic beverages may not be sold, served, ~~[delivered;]~~ or
4911 otherwise furnished to any:

4912 (i) minor;

4913 (ii) person actually, apparently, or obviously [drunk] intoxicated;

4914 (iii) known habitual drunkard; or

4915 (iv) known interdicted person.

4916 (m) (i) Alcoholic beverages may not be sold at less than the cost of the alcoholic
4917 beverage to the permittee.

4918 (ii) An alcoholic beverage may not be sold at a price that encourages over-consumption
4919 or intoxication.

4920 (iii) An alcoholic beverage may not be sold at a special or reduced price for only
4921 certain hours of the day of the permitted event.

4922 (iv) The sale or service of more than one alcoholic beverage for the price of a single
4923 alcoholic beverage is prohibited.

4924 (v) The permittee may not engage in a public promotion involving or offering free
4925 alcoholic beverages to the general public.

4926 (n) A single event permittee and its employees may not permit an attendee to carry
4927 from the premises an open container that:

4928 (i) is used primarily for drinking purposes; and

4929 (ii) contains any alcoholic beverage.

4930 ~~[(H)]~~ (o) [Minors] A minor may not sell, serve, dispense, or handle any alcoholic
4931 beverage at the event.

4932 ~~[(m) Public advertising of the event may not include reference to the availability of any~~
4933 ~~alcoholic beverage at the event. However, the permittee may use signs or similar displays at~~
4934 ~~the site of the event to inform attendees of the locations where alcoholic beverages are being~~
4935 ~~dispensed.]~~

4936 (p) Each attendee may have no more than one alcoholic beverage of any kind at a time
4937 before the patron.

4938 (3) The following acts or conduct at an event for which a permit is issued under this
4939 chapter are considered contrary to the public welfare and morals, and are prohibited upon the
4940 premises:

4941 (a) employing or using any person in the sale or service of alcoholic beverages while
4942 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
4943 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
4944 buttocks, vulva, or genitals;

4945 (b) employing or using the services of any person to mingle with the patrons while the
4946 person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);

4947 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
4948 buttocks, anus, or genitals of any other person;

4949 (d) permitting any employee or person to wear or use any device or covering, exposed
4950 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

4951 (e) permitting any person to use artificial devices or inanimate objects to depict any of
4952 the prohibited activities described in this subsection;

4953 (f) permitting any person to remain in or upon the premises who exposes to public
4954 view any portion of his or her genitals or anus;

4955 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
4956 depicting:

4957 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
4958 copulation, flagellation, or any sexual acts prohibited by Utah law;

4959 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
4960 genitals;

4961 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
4962 drawings are used to portray, any of the prohibited activities described in this subsection; or

4963 (iv) scenes wherein a person displays the vulva or the anus or the genitals.

4964 (4) Nothing in Subsection (3) precludes a local authority from being more restrictive of
4965 acts or conduct of the type prohibited in Subsection (3).

4966 (5) (a) Although live entertainment is permitted at the event for which a permit has
4967 been issued under this chapter, a permittee may not allow any person to perform or simulate
4968 sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy,
4969 bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast,
4970 buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.
4971 Entertainers shall perform only upon a stage or at a designated area approved by the
4972 commission.

4973 (b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive
4974 of acts or conduct of the type prohibited in Subsection (5)(a).

4975 (6) The permittee shall maintain an expense and revenue ledger or record showing:

4976 (a) expenditures made for liquor and beer, set-ups, and other ingredients and
4977 components of alcoholic beverages; and

4978 (b) the revenue from sale of alcoholic beverages.

4979 (7) [~~Single~~] A single event [~~permits are~~] permit may not [~~transferable~~] be transferred.

4980 (8) A single event permittee may not engage in or allow any form of gambling, or have
4981 any video gaming device as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling,
4982 on the premises serviced by the single event permittee.

4983 Section 63. Section **32A-8-101** is amended to read:

4984 **32A-8-101. Commission's power to grant licenses -- Limitations.**

4985 (1) The commission may issue alcoholic beverage manufacturing licenses to
4986 manufacturers whose businesses are located in this state for the manufacture, storage, and sale
4987 of alcoholic beverages for each type of license provided by this chapter.

- 4988 (2) The type of manufacturing licenses issued under this chapter are known as:
- 4989 (a) winery licenses[;];
- 4990 (b) distillery licenses[;]; and
- 4991 (c) brewery licenses.
- 4992 (3) (a) A person may not manufacture any alcoholic beverage unless an alcoholic
- 4993 beverage manufacturing license has been issued by the commission.
- 4994 (b) A separate license is required for each place of manufacture, storage, and sale of
- 4995 alcoholic beverages.
- 4996 (c) Violation of this Subsection (3) is a class B misdemeanor.
- 4997 (4) Brewers located outside the state are not required to be licensed under this chapter.
- 4998 However, they must obtain a certificate of approval from the department before selling or
- 4999 delivering beer to licensed beer wholesalers in this state, or if a small brewer, to licensed beer
- 5000 wholesalers or retailers in this state.
- 5001 (a) A brewer seeking a certificate of approval shall file a written application with the
- 5002 department, in a form prescribed by the department. [Ht] The application shall be accompanied
- 5003 by:
- 5004 (i) a nonrefundable [~~\$100~~] \$50 application fee;
- 5005 (ii) an initial certificate of approval fee of [~~\$50~~] \$250 that is refundable if a certificate
- 5006 is not granted;
- 5007 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and
- 5008 Firearms to brew beer and heavy beer products;
- 5009 (iv) any other information or documents the department may require.
- 5010 (b) Each application shall be signed and verified by oath or affirmation by a partner if a
- 5011 partnership, or by an executive officer, manager, or person specifically authorized by a
- 5012 corporation or limited liability company to sign the application to which shall be attached
- 5013 written evidence of this authority.
- 5014 (c) (i) All certificates of approval expire on December 31 of each year.
- 5015 (ii) Brewers desiring to renew their certificates shall submit a renewal fee of [~~\$50~~]
- 5016 \$200, and a completed renewal application to the department no later than November 30 of the
- 5017 year the certificate expires.
- 5018 (iii) Failure to meet the renewal requirements shall result in an automatic forfeiture of

5019 the certificate effective on the date the existing certificate expires.

5020 (iv) Renewal applications shall be in a form prescribed by the department.

5021 (5) The commission may prescribe by policy, directive, or rule, consistent with this
5022 title, the general operational requirements of licensees relating to:

5023 (a) physical facilities;

5024 (b) conditions of sale, storage, or manufacture of alcoholic beverages;

5025 (c) storage and sales quantity limitations; and

5026 (d) other matters considered appropriate by the commission.

5027 Section 64. Section **32A-8-102** is amended to read:

5028 **32A-8-102. Application and renewal requirements.**

5029 (1) Each person seeking an alcoholic beverage manufacturing license of any kind under
5030 this chapter shall file a written application with the department, in a form prescribed by the
5031 department. ~~[(f)]~~ The application shall be accompanied by:

5032 (a) a nonrefundable application fee of ~~[\$100]~~ \$250;

5033 (b) an initial license fee of ~~[\$1,000]~~ \$3,250 unless otherwise provided in this chapter,
5034 which is refundable if a license is not granted;

5035 (c) a statement of the purpose for which the applicant has applied for the alcoholic
5036 beverage manufacturing license;

5037 (d) written consent of the local authority;

5038 (e) a bond as specified by Section 32A-8-105;

5039 (f) evidence that the applicant is carrying public liability insurance in an amount and
5040 form satisfactory to the department;

5041 (g) evidence that the applicant is authorized by the United States to manufacture
5042 alcoholic beverages;

5043 (h) a signed consent form stating that the licensee will permit any authorized
5044 representative of the commission, department, or any law enforcement officer to have
5045 unrestricted right to enter the premises; ~~[and]~~

5046 (i) in the case of an applicant that is a partnership, corporation, or limited liability
5047 company, proper verification evidencing that the person or persons signing the application are
5048 authorized to so act on behalf of the partnership, corporation, or limited liability company; and

5049 ~~[(f)]~~ (f) any other documents and evidence the department may require by rule or policy

5050 to allow complete evaluation of the application.

5051 ~~[(2) Each application shall be signed and verified by oath or affirmation by an~~
5052 ~~executive officer or any person specifically authorized by the corporation or association to sign~~
5053 ~~the application, to which shall be attached written evidence of said authority.]~~

5054 ~~[(3)]~~ (2) (a) All alcoholic beverage manufacturing licenses expire on December 31 of
5055 each year.

5056 (b) Persons desiring to renew their license shall submit a renewal fee of ~~[\$1,000]~~
5057 \$2,500 and a completed renewal application to the department no later than November 30 of
5058 the year the license expires.

5059 (c) Failure to meet the renewal requirements results in an automatic forfeiture of the
5060 license effective on the date the existing license expires. Renewal applications shall be in a
5061 form prescribed by the department.

5062 ~~[(4) If any]~~ (3) To ensure compliance with Subsection 32A-8-106(1)(f), the
5063 commission may suspend or revoke an alcoholic beverage manufacturing license if the
5064 manufacturing licensee does not immediately notify the department of any change in:

5065 (a) ownership of the licensee~~[-or];~~

5066 (b) in the case of a [Utah] corporate owner ~~[of any change in], the:~~

5067 (i) corporate officers or directors~~[-the commission may suspend or revoke that~~
5068 license.]; or

5069 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
5070 corporation; or

5071 (c) in the case of a limited liability company:

5072 (i) managers; or

5073 (ii) members owning at least 20% of the limited liability company.

5074 Section 65. Section **32A-8-103** is amended to read:

5075 **32A-8-103. Qualifications.**

5076 (1) (a) The commission may not grant an alcoholic beverage manufacturing license to
5077 any person who has been convicted of:

5078 (i) ~~[convicted of]~~ a felony under any federal or state law;

5079 (ii) ~~[convicted of]~~ any violation of any federal or state law or local ordinance

5080 concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of

5081 alcoholic beverages; ~~[or]~~

5082 (iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-]; or~~

5083 (iv) on two or more occasions within the five years before the day on which the license

5084 is granted, driving under the influence of alcohol, any drug, or the combined influence of

5085 alcohol and any drug.

5086 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the

5087 proscription under Subsection (1)(a) applies if any of the following has been convicted of any

5088 offense described in Subsection (1)(a):

5089 (i) a partner[-];

5090 (ii) a managing agent[-];

5091 (iii) a manager;

5092 (iv) an officer[-];

5093 (v) a director[-,or];

5094 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of

5095 ~~[an] the applicant corporation [has been convicted of any offense as provided in this~~

5096 ~~Subsection-]; or~~

5097 (vii) a member who owns at least 20% of the applicant limited liability company.

5098 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a

5099 supervisory or managerial capacity for the manufacturer has been convicted of any offense

5100 described in Subsection (1)(a).

5101 (2) ~~[(a) If any employee or proprietor of an alcoholic beverage manufacturing licensee~~

5102 ~~is convicted of any offense designated in Subsection (1), the] The commission may [take~~

5103 ~~emergency action by] immediately [revoking the] suspend or revoke an alcoholic beverage~~

5104 ~~manufacturer license [according to the procedures and requirements of Title 63, Chapter 46b.]~~

5105 if after the day on which the alcoholic beverage manufacturing license is granted, a person

5106 described in Subsection (1)(a), (b), or (c):

5107 ~~[(b) In the case of a partnership or corporation that has been granted an alcoholic~~

5108 ~~beverage manufacturing license, if any partner, managing agent, officer, director, or~~

5109 ~~stockholder, who holds at least 20% of the total issued and outstanding stock of a corporation~~

5110 ~~is convicted of any offense provided in Subsection (1), the commission may take emergency~~

5111 ~~action by immediately revoking the license according to the procedures and requirements of~~

5112 Title 63, Chapter 46b.]

5113 [~~(3) Upon the arrest of any alcoholic beverage manufacturing licensee on any charge~~
5114 ~~set forth in Subsection (1), the]~~

5115 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
5116 to the license being granted; or

5117 (b) on or after the day on which the license is granted:

5118 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

5119 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the

5120 combined influence of alcohol and any drug; and

5121 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
5122 influence of alcohol and any drug within five years before the day on which the person is
5123 convicted of the offense described in Subsection (2)(b)(ii)(A).

5124 (3) The director may take emergency action by immediately suspending the operation
5125 of the licensee according to the procedures and requirements of Title 63, Chapter 46b,
5126 Administrative Procedures Act, for the period during which the criminal matter is being
5127 adjudicated[-] if a person described in Subsection (1)(a), (b), or (c):

5128 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

5129 or

5130 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
5131 any drug, or the combined influence of alcohol and any drug; and

5132 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
5133 influence of alcohol and any drug within five years before the day on which the person is
5134 arrested on a charge described in Subsection (3)(b)(i).

5135 (4) (a) (i) The commission may not grant a manufacturing license to any person who
5136 has had any type of license, agency, or permit issued under this title revoked within the last
5137 three years.

5138 (ii) The commission may not grant a manufacturing license to any applicant that is a
5139 partnership, corporation, or limited liability company if any partner, managing agent, manager,
5140 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
5141 of the applicant corporation, or member who owns at least 20% of the applicant limited
5142 liability company is or was:

5143 (A) a partner or managing agent of any partnership that had any type of license, agency,
5144 or permit issued under this title revoked within the last three years;

5145 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
5146 of the total issued and outstanding stock of any corporation that had any type of license,
5147 agency, or permit issued under this title revoked within the last three years; or

5148 (C) a manager or member who owns or owned at least 20% of the limited liability
5149 company that had any type of license, agency, or permit issued under this title revoked within
5150 the last three years.

5151 (b) An applicant that is a partnership, corporation, or limited liability company may not
5152 be granted a manufacturing license if any of the following had any type of license, agency, or
5153 permit issued under this title revoked while acting in that person's individual capacity within
5154 the last three years:

5155 (i) any partner or managing agent of the applicant partnership;

5156 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
5157 total issued and outstanding stock of the applicant corporation; or

5158 (iii) any manager or member who owns at least 20% of the applicant limited liability
5159 company.

5160 (c) A person acting in an individual capacity may not be granted a manufacturing
5161 license if that person was:

5162 (i) a partner or managing agent of a partnership that had any type of license, agency, or
5163 permit issued under this title revoked within the last three years;

5164 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
5165 total issued and outstanding stock of a corporation that had any type of license, agency, permit
5166 issued under this title revoked within the last three years; or

5167 (iii) a manager or member who owned at least 20% of a limited liability company that
5168 had any type of license, agency, or permit issued under this title revoked within the last three
5169 years.

5170 ~~[(4)]~~ (5) (a) A minor may not be:

5171 (i) granted an alcoholic beverage manufacturing license; or ~~[be]~~

5172 (ii) employed by a manufacturing licensee to handle ~~[liquor]~~ alcoholic beverages.

5173 (b) The commission may not grant a alcoholic beverage manufacturing license to an

5174 applicant that is a partnership, corporation, or limited liability company if any of the following
5175 is a minor:

5176 (i) a partner or managing agent of the applicant partnership;

5177 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
5178 total issued and outstanding stock of the applicant corporation; or

5179 (iii) a manager or member who owns at least 20% of the applicant limited liability
5180 company.

5181 [~~5~~] (6) The commission may not grant an alcoholic beverage manufacturing license to
5182 any person who has not met any applicable federal requirements for the operation of wineries,
5183 distilleries, or breweries.

5184 [~~6~~] (7) If any person to whom a license has been issued under this chapter no longer
5185 possesses the qualifications required by this title for obtaining that license, the commission
5186 may suspend or revoke that license.

5187 Section 66. Section **32A-8-106** is amended to read:

5188 **32A-8-106. Operational restrictions.**

5189 (1) Each person granted an alcoholic beverage manufacturing license and the
5190 employees and management of the licensee shall abide by the following conditions and
5191 requirements, and any special conditions and restrictions otherwise provided in this chapter.
5192 Failure to comply may result in a suspension or revocation of the license or other disciplinary
5193 action taken against individual employees or management personnel:

5194 (a) A licensee may not sell any liquor within the state except to the department and to
5195 military installations.

5196 (b) Each license issued under this chapter shall be conspicuously displayed on the
5197 licensed premises.

5198 (c) A licensee may not advertise its product in violation of this title or any other federal
5199 or state law, except that nothing in this title prohibits the advertising or solicitation of orders
5200 for industrial alcohol from holders of special permits.

5201 (d) Each alcoholic beverage manufacturing licensee shall maintain accounting and
5202 other records and documents as the department may require. Any manufacturing licensee or
5203 person acting for the manufacturing licensee, who knowingly forges, falsifies, alters, cancels,
5204 destroys, conceals, or removes the entries in any of the books of account or other documents of

5205 the licensee required to be made, maintained, or preserved by this title or the rules of the
5206 commission for the purpose of deceiving the commission, or the department, or any of their
5207 officials or employees, is subject to the immediate suspension or revocation of the
5208 manufacturing license and criminal prosecution under Chapter 12, Criminal Offenses.

5209 (e) ~~[There shall be no transfer of an]~~ An alcoholic beverage manufacturing license may
5210 not be transferred from one location to another, without prior written approval of the
5211 commission.

5212 (f) (i) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give, or
5213 attempt in any way to dispose of the license to any other person or entity, whether for monetary
5214 gain or not.

5215 (ii) A manufacturing license has no monetary value for the purpose of any type of
5216 disposition.

5217 ~~[(f)]~~ (g) Each licensee shall from time to time, on request of the department, furnish for
5218 analytical purposes samples of the alcoholic products that it has for sale or that it has in the
5219 course of manufacture for sale in this state.

5220 (2) Nothing in this chapter prevents any manufacturer of, or dealer in, patent or
5221 proprietary medicines containing alcohol from selling the medicines in the original and
5222 unbroken package if the medicine contains sufficient medication to prevent its use as an
5223 alcoholic beverage. Each manufacturer or dealer who keeps patent or proprietary medicines for
5224 sale shall, upon request by the department, provide a sufficient sample of the medicine to
5225 enable the department to have the medicine analyzed.

5226 (3) (a) Nothing in this chapter prevents any person from manufacturing vinegar or
5227 preserved nonintoxicating cider for use or sale, or the manufacture or sale for lawful purposes
5228 of any food preparation, or any United States Pharmacopoeia or national formulary preparation
5229 in conformity with the Utah pharmacy laws, if the preparation conforms to standards
5230 established by the state departments of agriculture and health, and contains no more alcohol
5231 than is absolutely necessary to preserve or extract the medicinal, flavoring, or perfumed
5232 properties of the treated substances.

5233 (b) Nothing in this chapter prevents the manufacture or sale of wood or denatured
5234 alcohol under rules established by the department and in compliance with the formulas and
5235 rules established by the United States.

5236 Section 67. Section **32A-8-501** is amended to read:

5237 **32A-8-501. Commission's power to grant licenses.**

5238 (1) The commission may issue local industry representative licenses to individual
5239 residents of Utah, Utah partnerships, ~~[and]~~ Utah corporations, and Utah limited liability
5240 companies who are employed by a manufacturer, supplier, or importer, whether compensated
5241 by salary, commission, or any other means, to represent liquor, wine, or heavy beer products
5242 with the department, package agencies, licensees, and permittees under this title.

5243 (2) (a) Before any Utah resident, Utah partnership, ~~[or]~~ Utah corporation, or Utah
5244 limited liability company may represent a liquor, wine, or heavy beer product of a
5245 manufacturer, supplier, or importer, the resident, partnership, or corporation shall first obtain a
5246 local industry representative license from the commission as provided in this part.

5247 (b) A violation of this Subsection (2) is a class B misdemeanor.

5248 (3) Individual employees or agents of ~~[partnership or of corporate]~~ a local industry
5249 representative licensees are not required to be separately licensed.

5250 (4) A local industry representative may represent more than one manufacturer,
5251 supplier, or importer at a time.

5252 (5) (a) A manufacturer, supplier, or importer is not required to use a local industry
5253 representative to represent its products with the department, package agencies, licensees, or
5254 permittees. ~~[However, any]~~

5255 (b) Any employee or agent of the manufacturer, supplier, or importer who is not a local
5256 industry representative while in the state ~~[must]~~ shall first register with the department, on
5257 forms provided by the department, before representing alcoholic beverage products with the
5258 department, package agencies, licensees, and permittees of the department.

5259 (c) A manufacturer, supplier, or importer described in Subsection (5)(b) and their
5260 employees and agents are subject to the same operational restrictions of this part and Chapter
5261 12, Criminal Offenses.

5262 Section 68. Section **32A-8-502** is amended to read:

5263 **32A-8-502. Application and renewal requirements.**

5264 (1) An individual resident, partnership, ~~[or]~~ corporation, or limited liability company
5265 seeking a local industry representative license under this chapter shall file a written application
5266 with the department, in a form prescribed by the department. ~~[It]~~ The application shall be

5267 accompanied by:

5268 (a) a nonrefundable [~~\$100~~] \$50 application fee;

5269 (b) an initial license fee of [~~\$50~~] \$100, which is refundable if a license is not granted;

5270 (c) verification that the applicant is:

5271 (i) a resident of Utah~~[, or]~~;

5272 (ii) a Utah partnership ~~[or]~~;

5273 (iii) a Utah corporation; or

5274 (iv) a Utah limited liability company;

5275 (d) an affidavit stating the name and address of all manufacturers, suppliers, and
5276 importers the applicant will represent;

5277 (e) a signed consent form stating that the local industry representative will permit any
5278 authorized representative of the commission, department, or any law enforcement officer the
5279 right to enter, during normal business hours, the specific premises where the representative
5280 conducts business;

5281 (f) in the case of [~~a partnership or corporate~~] an applicant that is a partnership,
5282 corporation, or limited liability company, proper verification evidencing that the person or
5283 persons signing the application are authorized to so act on [~~the partnership's or corporation's~~]
5284 behalf of the partnership, corporation, or a limited liability company; and

5285 (g) any other information the commission or department may require.

5286 (2) (a) All local industry representative licenses expire on January 1 of each year.

5287 (b) Licensees desiring to renew their license shall submit a renewal fee of [~~\$50~~] \$100
5288 and a completed renewal application to the department no later than November 30.

5289 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
5290 the license effective on the date the existing license expires.

5291 (d) Renewal applications shall be in a form as prescribed by the department, but shall
5292 require the licensee to file an affidavit stating the name and address of all manufacturers,
5293 suppliers, and importers the licensee currently represents.

5294 (3) A licensed local industry representative may represent more than one manufacturer,
5295 supplier, or importer without paying additional license fees.

5296 (4) In order to ensure compliance with Subsection 32A-8-505(8), the commission may
5297 suspend or revoke a local representative license if a local industry representative licensee does

5298 not immediately notify the department of any change in:

5299 (a) ownership of the business;

5300 (b) in the case of a corporate owner, the:

5301 (i) corporate officers or directors; or

5302 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
5303 corporation; or

5304 (c) in the case of a limited liability company:

5305 (i) managers; or

5306 (ii) members owning at least 20% of the limited liability company.

5307 Section 69. Section **32A-8-503** is amended to read:

5308 **32A-8-503. Qualifications.**

5309 (1) (a) The commission may not grant a local industry representative license to [~~an~~
5310 ~~individual~~] any person who has been convicted of:

5311 (i) a felony under any federal or state law;

5312 (ii) any violation of any federal or state law or local ordinance concerning the sale,
5313 manufacture, distribution, importing, warehousing, adulteration, or transportation of alcoholic
5314 beverages; [~~or~~]

5315 (iii) any crime involving moral turpitude[~~;~~]; or

5316 (iv) on two or more occasions within the five years before the day on which the license
5317 is granted, driving under the influence of alcohol, any drug, or the combined influence of
5318 alcohol and any drug.

5319 (b) In the case of a partnership [~~or~~], corporation, or limited liability company the
5320 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
5321 offense described in Subsection (1)(a):

5322 (i) a partner[~~;~~];

5323 (ii) a managing agent[~~;~~];

5324 (iii) a manager;

5325 (iv) an officer[~~;~~];

5326 (v) a director[~~;~~or];

5327 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
5328 [~~an~~] the applicant corporation [~~has been convicted of any offense as provided in Subsection~~

5329 ~~(1)(a):~~; or

5330 (vii) a member who owns at least 20% of the applicant limited liability company.

5331 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
5332 supervisory or managerial capacity for the local industry representative has been convicted of
5333 any offense described in Subsection (1)(a).

5334 (2) ~~[(a) If any employee of a local industry representative licensee is convicted of any~~
5335 ~~offense designated in Subsection (1)(a), the] The commission may ~~[take emergency action by]~~
5336 immediately [revoking] suspend or revoke the local industry representative license [according
5337 to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act.] if
5338 after the day on which the local industry representative license is granted, a person described in
5339 Subsection (1)(a), (b), or (c):~~

5340 ~~[(b) In the case of a partnership or corporation that has been granted a local industry~~
5341 ~~representative license, if any partner, managing agent, officer, director, or stockholder who~~
5342 ~~holds at least 20% of the total issued and outstanding stock of a corporation is convicted of any~~
5343 ~~offense designated in Subsection (1)(a), the commission may take emergency action by~~
5344 ~~immediately revoking the license according to the procedures and requirements of Title 63,~~
5345 ~~Chapter 46b.]~~

5346 ~~[(3) Upon the arrest of any local industry representative licensee on any charge set~~
5347 ~~forth in Subsection (1)(a), the]~~

5348 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
5349 to the license being granted; or

5350 (b) on or after the day on which the license is granted:

5351 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

5352 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
5353 combined influence of alcohol and any drug; and

5354 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
5355 influence of alcohol and any drug within five years before the day on which the person is
5356 convicted of the offense described in Subsection (2)(b)(ii)(A).

5357 (3) The director may take emergency action by immediately suspending the operation
5358 of the ~~[licensee] local industry representative license~~ according to the procedures and
5359 requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during

5360 which the criminal matter is being adjudicated~~[-]~~ if a person described in Subsection (1)(a), (b),
5361 or (c):

5362 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

5363 or

5364 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
5365 any drug, or the combined influence of alcohol and any drug; and

5366 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
5367 influence of alcohol and any drug within five years before the day on which the person is
5368 arrested on a charge described in Subsection (3)(b)(i).

5369 (4) (a) (i) The commission may not grant a local industry representative license to any
5370 individual who has had any type of license, agency, or permit issued under this title revoked
5371 within the last three years.

5372 (ii) The commission may not grant a local industry representative license to [~~any~~
5373 ~~partnership or corporation~~] an applicant that is a partnership, corporation, or limited liability
5374 company if any partner, managing agent, manager, officer, director, [~~or~~] stockholder who holds
5375 at least 20% of the total issued and outstanding stock of [~~the~~] an applicant corporation, or
5376 member who owns at least 20% of an applicant limited liability company is or was:

5377 (A) a partner or managing agent of any partnership~~[-, or is or was]~~ that had any type of
5378 license, agency, or permit issued under this title revoked within the last three years;

5379 (B) a managing agent, officer, director, or [~~a~~] stockholder who holds or held at least
5380 20% of the total issued and outstanding stock of any corporation that had any type of license,
5381 agency, or permit issued under this title revoked within the last three years; or

5382 (C) a manager or member who owns or owned at least 20% of any limited liability
5383 company that had [~~a liquor~~] any type of license, agency, or permit issued under this title
5384 revoked within the last three years.

5385 (b) [~~A partnership or corporation~~] An applicant that is a partnership, corporation, or
5386 limited liability company may not be granted a local industry representative license if any of
5387 the following had any type of license, agency, or permit issued under this title revoked while
5388 acting in that person's individual capacity within the last three years:

5389 (i) any partner or managing agent of the applicant partnership [~~or~~];

5390 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the

5391 total issued and outstanding stock of the ~~[corporate]~~ applicant ~~[had a liquor license, agency, or~~
5392 ~~permit revoked while acting in their individual capacity within the last three years.]~~
5393 corporation; or

5394 (iii) any manager or member who owns at least 20% of the applicant limited liability
5395 company.

5396 (c) A person acting in an individual capacity may not be granted an industry
5397 representative license if that person was:

5398 (i) a partner or managing agent of a partnership~~[-or]~~ that had any type of license,
5399 agency, or permit issued under this title revoked within the last three years;

5400 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
5401 total issued and outstanding stock of a corporation that had any type of license, agency, or
5402 permit issued under this title revoked within the last three years; or

5403 (iii) a manager or member who owned at least 20% of a limited liability company that
5404 had ~~a liquor~~ any type of license, agency, or permit issued under this title revoked within the
5405 last three years.

5406 (5) (a) The commission may not grant a local industry representative license to ~~[any~~
5407 ~~person who is under the age of 21 years]~~ a minor.

5408 (b) The commission may not grant a local industry representative license to an
5409 applicant that is a partnership, corporation, or limited liability company if any of the following
5410 is a minor:

5411 (i) a partner or managing agent of the applicant partnership;

5412 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
5413 total issued and outstanding stock of the applicant corporation; or

5414 (iii) a manager or member who owns at least 20% of the applicant limited liability
5415 company.

5416 (6) The commission may not grant a local industry representative license to any holder
5417 of any retail license issued under this title, to any employee or agent of any retail license issued
5418 under this title, or to any individual, partnership, ~~[or]~~ corporation, or limited liability company
5419 who holds any interest in any retail license issued under this title except as otherwise provided.

5420 (7) If any individual, partnership, ~~[or]~~ corporation, or limited liability company to
5421 whom a local industry representative license has been issued under this part no longer

5422 possesses the qualifications required by this title for obtaining that license, the commission
5423 may suspend or revoke that license.

5424 Section 70. Section **32A-8-505** is amended to read:

5425 **32A-8-505. Operational restrictions.**

5426 (1) (a) A local industry representative licensee, employee or agent of the licensee, or
5427 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
5428 state, shall abide by the conditions and requirements set forth in this section.

5429 (b) If any person listed in Subsection (1)(a) knowingly violates or fails to comply with
5430 the conditions and requirements set forth in this section, such violation or failure to comply
5431 may result in a suspension or revocation of the license or other disciplinary action taken against
5432 individual employees or agents of the licensee, and the commission may order the removal of
5433 the manufacturer's, supplier's, or importer's products from the department's sales list and a
5434 suspension of the department's purchase of those products for a period determined by the
5435 commission if the manufacturer, supplier, or importer directly committed the violation, or
5436 solicited, requested, commanded, encouraged, or intentionally aided another to engage in the
5437 violation.

5438 (2) A local industry representative licensee, employee or agent of the licensee, or
5439 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
5440 state:

5441 (a) may assist the department in ordering, shipping, and delivering merchandise, new
5442 product notification, listing and delisting information, price quotations, product sales analysis,
5443 shelf management, and educational seminars, and may, for the purpose of acquiring new
5444 listings, solicit orders from the department and submit to the department price lists and samples
5445 of their products, but only to the extent authorized by Chapter 12, Criminal Offenses;

5446 (b) may not sell any liquor, wine, or heavy beer within the state except to the
5447 department and military installations;

5448 (c) may not ship or transport, or cause to be shipped or transported, into this state or
5449 from one place to another within this state any liquor, wine, or heavy beer;

5450 (d) may not sell or furnish[~~except as provided in Section 32A-12-603 for retail~~
5451 ~~licensee wine tasting;~~] any liquor, wine, or heavy beer to any person within this state other than
5452 to the department and military installations;

5453 (e) except as otherwise provided, may not advertise products it represents in violation
5454 of this title or any other federal or state law;

5455 (f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and

5456 (g) may only provide samples of their products for tasting and sampling purposes[~~:(i)~~]
5457 as provided in Section 32A-12-603[~~:(ii)~~] by the department[~~;~~or].

5458 [~~(iii) by retail licensees or permittees at a department trade show.~~]

5459 (3) (a) A local industry representative licensee shall maintain on file with the
5460 department a current accounts list of the names and addresses of all manufacturers, suppliers,
5461 and importers the licensee represents.

5462 (b) The licensee shall notify the department in writing of any changes to the accounts
5463 listed within 14 days from the date the licensee either acquired or lost the account of a
5464 particular manufacturer, supplier, or importer.

5465 (4) A local industry representative licensee shall maintain accounting and other records
5466 and documents as the department may require for at least three years.

5467 (5) Any local industry representative licensee or person acting for the licensee, who
5468 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of
5469 the books of account or other documents of the licensee required to be made, maintained, or
5470 preserved by this title or the rules of the commission for the purpose of deceiving the
5471 commission or the department, or any of their officials or employees, is subject to the
5472 immediate suspension or revocation of the industry representative's license and possible
5473 criminal prosecution under Chapter 12, Criminal Offenses.

5474 (6) A local industry representative licensee may, for the purpose of becoming educated
5475 as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee
5476 represents, taste and analyze industry representative samples under the following conditions:

5477 (a) The licensee may not receive more than two industry representative samples of a
5478 particular type, vintage, and production lot of a particular branded product within a consecutive
5479 120-day period.

5480 (b) (i) Each sample of liquor may not exceed 1 liter.

5481 (ii) Each sample of wine or heavy beer may not exceed 1.5 liters unless that exact
5482 product is only commercially packaged in a larger size, not to exceed 5 liters.

5483 (c) Each industry representative sample may only be of a product not presently listed

5484 on the department's sales list.

5485 (d) Industry representative samples shall be shipped prepaid by the manufacturer,
5486 supplier, or importer by common carrier and not via United States mail directly to the
5487 department's central administrative warehouse office. These samples may not be shipped to
5488 any other location within the state.

5489 (e) Industry representative samples shall be accompanied by a letter from the
5490 manufacturer, supplier, or importer:

5491 (i) clearly identifying the product as an "industry representative sample"; and

5492 (ii) clearly stating:

5493 (A) the FOB case price of the product; and

5494 (B) the name of the local industry representative for who it is intended.

5495 (f) The department shall assess a reasonable handling, labeling, and storage fee for
5496 each industry representative sample received.

5497 (g) The department shall affix to each bottle or container a label clearly identifying the
5498 product as an "industry representative sample".

5499 (h) The department shall:

5500 (i) account for and record each industry representative sample received;

5501 (ii) account for the sample's disposition; and

5502 (iii) maintain a record of the sample and its disposition for a two-year period.

5503 (i) Industry representative samples may not leave the premises of the department's
5504 central administrative warehouse office.

5505 (j) Licensed industry representatives and their employees and agents may, at regularly
5506 scheduled days and times established by the department, taste and analyze industry
5507 representative samples on the premises of the department's central administrative warehouse
5508 office.

5509 (k) Any unused contents of an opened product remaining after the product has been
5510 sampled shall be destroyed by the department under controlled and audited conditions
5511 established by the department.

5512 (l) Industry representative samples that are not tasted within 30 days of receipt by the
5513 department shall be disposed of at the discretion of the department in one of the following
5514 ways:

5515 (i) contents destroyed under controlled and audited conditions established by the
5516 department; or

5517 (ii) added to the inventory of the department for sale to the public.

5518 (7) ~~[A] An employee or agent of a local industry representative licensee may [conduct~~
5519 ~~retail licensee wine tasting as provided in Section 32A-12-603.] not be:~~

5520 (a) the holder of any retail license issued under this title; or

5521 (b) an employee or agent of any retail licensee issued under this title.

5522 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
5523 give, or attempt in any way to dispose of the license to any other person, whether for monetary
5524 gain or not.

5525 (b) A local industry representative license has no monetary value for the purpose of any
5526 type of disposition.

5527 Section 71. Section **32A-9-102** is amended to read:

5528 **32A-9-102. Application and renewal requirements.**

5529 (1) A person seeking a warehousing license under this chapter shall file a written
5530 application with the department, in a form prescribed by the department. ~~[H]~~ The application
5531 shall be accompanied by:

5532 (a) a nonrefundable ~~[\$100]~~ \$250 application fee;

5533 (b) an initial license fee of ~~[\$250]~~ \$750, which is refundable if a license is not granted;

5534 (c) written consent of the local authority;

5535 (d) a copy of the applicant's current business license;

5536 (e) a bond as specified by Section 32A-9-105;

5537 (f) evidence that the applicant is carrying public liability insurance in an amount and
5538 form satisfactory to the department;

5539 (g) a floor plan of the applicant's warehouse, including the area in which the applicant
5540 proposes that liquor be stored;

5541 (h) a signed consent form stating that the licensee will permit any authorized
5542 representative of the commission, department, or any law enforcement officer unrestricted right
5543 to enter the warehouse premises; ~~[and]~~

5544 (i) in the case of an applicant that is a partnership, corporation, or limited liability
5545 company, proper verification evidencing that the person or persons signing the warehousing

5546 license application are authorized to so act on behalf of the partnership, corporation, or limited
5547 liability company; and

5548 ~~[(†)]~~ (j) any other documents and evidence the department may require by rule or policy
5549 to allow complete evaluation of the application.

5550 ~~[(2) Each application shall be signed and verified by oath or affirmation by an~~
5551 ~~executive officer or any person specifically authorized by the corporation to sign the~~
5552 ~~application, to which shall be attached written evidence of said authority.]~~

5553 ~~[(3)]~~ (2) (a) All warehousing licenses expire on December 31 of each year.

5554 (b) Persons desiring to renew their license shall submit a renewal fee of ~~[\$250]~~ \$1,000
5555 and a completed renewal application to the department no later than November 30 of the year
5556 the license expires.

5557 (c) Failure to meet the renewal requirements results in an automatic forfeiture of the
5558 license effective on the date the existing license expires.

5559 (d) Renewal applications shall be in a form prescribed by the department.

5560 ~~[(4) If any]~~ (3) To ensure compliance with Subsection 32A-9-106(9), the commission
5561 may suspend or revoke a warehousing license if a warehousing licensee does not immediately
5562 notify the department of any change in:

5563 (a) ownership of the licensee~~[-or];~~

5564 (b) in the case of a ~~[Utah]~~ corporate owner ~~[of any change in]~~, the:

5565 (i) corporate officers or directors~~[-the commission may suspend or revoke that~~
5566 ~~license-]; or~~

5567 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
5568 corporation; or

5569 (c) in the case of a limited liability company:

5570 (i) managers; or

5571 (ii) members owning at least 20% of the limited liability company.

5572 Section 72. Section **32A-9-103** is amended to read:

5573 **32A-9-103. Qualifications.**

5574 (1) (a) The commission may not grant a warehousing license to any person who has
5575 been convicted of:

5576 (i) ~~[convicted of]~~ a felony under any federal or state law;

5577 (ii) ~~[convicted of]~~ any federal or state law or local ordinance concerning the sale,
5578 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;
5579 ~~[or]~~

5580 (iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-]; or~~

5581 (iv) on two or more occasions within the five years before the day on which the license
5582 is granted, driving under the influence of alcohol, any drug, or the combined influence of
5583 alcohol and any drug.

5584 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company the
5585 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
5586 offense described in Subsection (1)(a):

5587 (i) a partner[-];

5588 (ii) a managing agent[-];

5589 (iii) a manager;

5590 (iv) an officer[-];

5591 (v) a director[-~~or~~];

5592 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
5593 [an] the applicant corporation [has been convicted of any offense as provided in this
5594 Subsection.]; or

5595 (vii) a member who owns at least 20% of the applicant limited liability company.

5596 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
5597 supervisory or managerial capacity for the warehouse has been convicted of any offense
5598 described in Subsections (1)(a).

5599 (2) ~~[If any employee or proprietor of a warehousing licensee is convicted of any~~
5600 ~~offense provided in Subsection (1), the] The commission may ~~[take emergency action by]~~
5601 ~~immediately [revoking the] suspend or revoke a warehousing license [according to the~~
5602 ~~procedures and requirements of Title 63, Chapter 46b.]~~ if after the day on which the
5603 warehousing license is granted, a person described in Subsection (1)(a), (b), or (c):~~

5604 ~~[(3) Upon the arrest of any warehousing licensee on any charge set forth in Subsection~~
5605 ~~(1), the]~~

5606 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
5607 to the license being granted; or

5608 (b) on or after the day on which the license is granted:

5609 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

5610 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
5611 combined influence of alcohol and any drug; and

5612 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
5613 influence of alcohol and any drug within five years before the day on which the person is
5614 convicted of the offense described in Subsection (2)(b)(ii)(A).

5615 (3) The director may take emergency action by immediately suspending the operation
5616 of the [licensee] warehousing license according to the procedures and requirements of Title 63,
5617 Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is
5618 being adjudicated[-] if a person described in Subsection (1)(a), (b), or (c):

5619 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

5620 or

5621 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
5622 any drug, or the combined influence of alcohol and any drug; and

5623 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
5624 influence of alcohol and any drug within five years before the day on which the person is
5625 arrested on a charge described in Subsection (3)(b)(i).

5626 (4) (a) (i) The commission may not grant a warehousing license to any person who has
5627 had any type of license, agency, or permit issued under this title revoked within the last three
5628 years.

5629 (ii) The commission may not grant a warehousing license to an applicant that is a
5630 partnership, corporation, or limited liability company if any partner, managing agent, manager,
5631 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
5632 of an applicant corporation, or member who owns at least 20% of an applicant limited liability
5633 company is or was:

5634 (A) a partner or managing agent of any partnership that had any type of license, agency,
5635 or permit issued under this title revoked within the last three years;

5636 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
5637 of the total issued and outstanding stock of any corporation that had any type of license,
5638 agency, or permit issued under this title revoked within the last three years; or

5639 (C) a manager or member who owns or owned at least 20% of any limited liability
5640 company that had any type of license, agency, or permit issued under this title revoked within
5641 the last three years.

5642 (b) An applicant that is a partnership, corporation, or limited liability company may not
5643 be granted a warehousing license if any of the following had any type of license, agency, or
5644 permit issued under this title revoked while acting in that person's individual capacity within
5645 the last three years:

5646 (i) any partner or managing agent of the applicant partnership;

5647 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
5648 total issued and outstanding stock of the applicant corporation; or

5649 (iii) any manager or member who owns at least 20% of the applicant limited liability
5650 company.

5651 (c) A person acting in an individual capacity may not be granted a warehousing license
5652 if that person was:

5653 (i) a partner or managing agent of a partnership that had any type of license, agency, or
5654 permit issued under this title revoked within the last three years;

5655 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
5656 total issued and outstanding stock of a corporation that had any type of license, agency, or
5657 permit issued under this title revoked within the last three years; or

5658 (iii) any manager or member who owned at least 20% of a limited liability company
5659 that had any type of license, agency, or permit issued under this title revoked within the last
5660 three years.

5661 [~~4~~] (5) (a) A minor may not be:

5662 (i) granted a [~~liquor~~] warehousing license; or [~~be~~]

5663 (ii) employed by a warehouse to handle liquor.

5664 (b) The commission may not grant a warehousing license to an applicant that is a
5665 partnership, corporation, or limited liability company if any of the following is a minor:

5666 (i) a partner or managing agent of the applicant partnership;

5667 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
5668 total issued and outstanding stock of the applicant corporation; or

5669 (iii) a manager or member who owns at least 20% of the applicant limited liability

5670 company.

5671 [~~(5)~~] (6) A person, through any officer, director, representative, agent, or employee, or
5672 otherwise, either directly or indirectly, may not hold at the same time both a warehousing
5673 license and any other kind of license, agency, or permit issued under Title 32A, Chapter 3, 4, 5,
5674 6, or 7, or Chapter 10, Part 2.

5675 [~~(6)~~] (7) If any person to whom a license has been issued under this chapter no longer
5676 possesses the qualifications required by this title for obtaining that license, the commission
5677 may suspend or revoke that license.

5678 Section 73. Section **32A-9-106** is amended to read:

5679 **32A-9-106. Operational restrictions.**

5680 Each person granted a warehousing license and the employees and management of the
5681 licensee shall abide by the following conditions and requirements. Failure to comply may
5682 result in a suspension or revocation of the license, or other disciplinary action taken against
5683 individual employees or management personnel:

5684 (1) All liquor warehoused in this state and sold to out-of-state consignees, shall be
5685 transported out of the state only by a motor carrier regulated under Title 72, Chapter 9, Motor
5686 Carrier Safety Act.

5687 (2) All liquor warehoused in this state and sold to the department shall be transported
5688 by motor carriers approved by the department.

5689 (3) All liquor transported to or from the licensee's premises shall be carried in sealed
5690 conveyances that are made available for inspection by the department while en route within the
5691 state.

5692 (4) A licensee may not ship, convey, distribute, or remove liquor from any warehouse
5693 in less than full case lots.

5694 (5) A licensee may not ship, convey, distribute, or remove any liquor from a warehouse
5695 to any consignee outside the state that is not licensed as a liquor wholesaler or retailer by the
5696 state in which the consignee is domiciled.

5697 (6) A licensee may not receive, warehouse, ship, distribute, or convey any liquor that
5698 the commission has not authorized the licensee to handle through its warehouse.

5699 (7) Each licensee shall maintain accounting and other records and documents as the
5700 department may require. Any licensee or person acting for the licensee, who knowingly forges,

5701 falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of
5702 account or other documents of the licensee required to be made, maintained, or preserved by
5703 this title or the rules of the commission for the purpose of deceiving the commission or the
5704 department, or any of their officials or employees, is subject to the immediate suspension or
5705 revocation of the license and possible criminal prosecution under Chapter 12, Criminal
5706 Offenses.

5707 (8) ~~[There shall be no transfer of a]~~ A liquor warehousing license may not be
5708 transferred from one location to another, without prior written approval of the commission.

5709 (9) (a) A liquor warehousing licensee may not sell, transfer, assign, exchange, barter,
5710 give, or attempt in any way to dispose of the license to any other person, whether for monetary
5711 gain or not.

5712 (b) A liquor warehousing license has no monetary value for the purpose of any type of
5713 disposition.

5714 Section 74. Section **32A-10-101** is amended to read:

5715 **32A-10-101. State and local licensing -- Limitations.**

5716 (1) Any local authority may:

5717 (a) tax or prohibit any retail sale of beer;

5718 (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise
5719 consumption;

5720 (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise
5721 consumption at temporary special events that do not last longer than 30 days;

5722 (d) issue, suspend, and revoke licenses to general food stores and other establishments
5723 to sell beer at retail for off-premise consumption; ~~[and]~~

5724 (e) establish proximity restrictions for establishing premises where beer is sold at retail
5725 for off-premise consumption in relation to any public or private school, church, public library,
5726 public playground, or park; and

5727 ~~[(e)]~~ (f) otherwise regulate the retail sale of beer for off-premise consumption.

5728 (2) The commission shall issue licenses to sell beer at retail for on-premise
5729 consumption as provided in Part 2, On-Premise Beer Retailer Licenses.

5730 (3) Each licensee issued a license for on-premise consumption₁ by the commission
5731 under Subsection (2) or by the local authority under Subsection (1)₂ is subject to the operational

5732 restrictions provided in Section 32A-10-206, except as otherwise provided.

5733 (4) Suspension or revocation of ~~[the licensee]~~ an on-premise beer retailer license issued
5734 by the commission under Subsection (2) or ~~[the]~~ an on-premise beer retailer license issued by a
5735 local authority under Subsection (1) prohibits the establishment whose license is suspended or
5736 revoked from continuing to operate under the other state or local license it may have.

5737 ~~[(5) Licenses may not be granted by any local authority to sell beer in the proximity of
5738 any church or school. The local authority granting the license may determine in each case what
5739 constitutes proximity.]~~

5740 (5) The commission shall issue temporary permits to sell beer at retail for on-premise
5741 consumption at temporary special events that do not last longer than 30 days as provided in
5742 Part 3, Temporary Special Event Beer Permits.

5743 (6) Each permittee issued a temporary permit by the commission under Subsection (5)
5744 or by the local authority under Subsection (1), is subject to the operational restrictions provided
5745 in Section 32A-10-306, except as otherwise provided.

5746 (7) Suspension or revocation of a temporary permit issued by the commission under
5747 Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose
5748 permit is suspended or revoked from continuing to operate under the other state or local permit
5749 the permittee may have.

5750 Section 75. Section **32A-10-102** is amended to read:

5751 **32A-10-102. General restrictions.**

5752 (1) (a) (i) A beer retailer licensed under this part or Part 2, On-Premise Beer Retailer
5753 Licenses, may not purchase, acquire, possess for the purpose of resale, or sell any beer except
5754 that which has been lawfully purchased from a wholesaler licensed under this title or from a
5755 small brewer that manufactured the beer.

5756 (ii) Violation of Subsection (1)(a) is a class A misdemeanor.

5757 (b) (i) All purchases made of beer by any beer retailer from a licensed wholesaler shall
5758 be from that wholesaler who is authorized by the commission to sell beer in the geographical
5759 area in which the beer retailer is located, unless an alternate wholesaler is authorized by the
5760 ~~[commission]~~ department to sell to the beer retailer as provided in Section 32A-11-106.

5761 (ii) Violation of Subsection (1)(b) is a class B misdemeanor.

5762 (2) (a) Beer may not be sold, provided, or possessed for off-premise consumption in

5763 containers larger than two liters.

5764 (b) ~~[On-premise]~~ For a special event that does not last longer than 30 days:

5765 (i) an on-premise beer retailer [licenses] license issued by the commission [are] as
5766 provided in this part is not required for [temporary] the sale of beer at the special [events that
5767 do not last longer than 30 days] event; and

5768 (ii) a temporary beer permit must be obtained from the commission as provided in Part
5769 3, Temporary Special Event Beer Permits.

5770 (3) (a) A minor may not be granted a beer retailer license.

5771 (b) The commission may not grant a beer retailer license to an applicant that is a
5772 partnership, corporation, or limited liability company if any of the following is a minor:

5773 (i) a partner or managing agent of the applicant partnership;

5774 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
5775 total issued and outstanding stock of the applicant corporation; or

5776 (iii) a manager or member who owns at least 20% of the applicant limited liability
5777 company.

5778 (4) A minor may not sell beer on the premises of a beer retailer for off-premise
5779 consumption except under the supervision of a person 21 years of age or older who is on the
5780 premises.

5781 (5) (a) If malt beverage coolers or malt liquor is sold by a beer retailer for off-premise
5782 consumption, the beer retailer shall display a sign at the location on the premises where malt
5783 beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please read the
5784 label."

5785 (b) A violation of this Subsection (5) is an infraction.

5786 Section 76. Section **32A-10-201** is amended to read:

5787 **32A-10-201. Commission's power to grant licenses -- Limitations.**

5788 (1) ~~[Beginning January 1, 1991, before]~~ Before any establishment may sell beer at
5789 retail for on-premise consumption, it shall first obtain:

5790 (a) an on-premise beer retailer license from the commission as provided in this part;
5791 and

5792 (b) a license issued by the local authority, as provided in Section 32A-10-101, to sell
5793 beer at retail for on-premise consumption or other written consent of the local authority to sell

5794 beer at retail for on-premise consumption.

5795 (2) (a) The commission may issue on-premise beer retailer licenses for the purpose of
5796 establishing on-premise beer retailer outlets at places and in numbers as it considers proper for
5797 the storage, sale, and consumption of beer on premises operated as on-premise beer retailer
5798 outlets.

5799 (b) (i) Notwithstanding Subsection (2)(a), the total number of on-premise beer retailer
5800 licenses that are taverns may not at any time aggregate more than that number determined by
5801 dividing the population of the state by 22,500.

5802 (ii) If the total number of on-premise beer retailer licenses in effect on May 5, 2003,
5803 that are taverns equals or exceeds the limitation of Subsection (2)(b)(i):

5804 (A) a license for a tavern that is in effect on May 5, 2003:

5805 (I) is not invalidated by Subsection (2)(b)(i); and

5806 (II) may be renewed in accordance with this chapter; and

5807 (B) the commission may not grant a new on-premise beer retailer license to a tavern
5808 until such time as the total number of licenses granted to a tavern under this chapter is less than
5809 the limitation of Subsection (2)(b)(i).

5810 (iii) For purposes of this Subsection (2), the population of the state shall be determined
5811 by:

5812 (A) the most recent United States decennial special census; or

5813 (B) any other population determination made by the United States or state
5814 governments.

5815 (c) (i) The commission may issue seasonal licenses for taverns established in areas the
5816 commission considers necessary.

5817 (ii) A seasonal license for taverns shall be for a period of six consecutive months.

5818 (iii) An on-premise beer retailer license for a tavern issued for operation during a
5819 summer time period is known as a "Seasonal A" on-premise beer retailer license for a tavern.
5820 The period of operation for a "Seasonal A" on-premise beer retailer license for a tavern shall:

5821 (A) begin on May 1; and

5822 (B) end on October 31.

5823 (iv) An on-premise beer retailer license for a tavern issued for operation during a
5824 winter time period is known as a "Seasonal B" on-premise beer retailer license for a tavern.

5825 The period of operation for a "Seasonal B" on-premise beer retailer license for a tavern shall:

5826 (A) begin on November 1; and

5827 (B) end on April 30.

5828 (v) In determining the number of tavern licenses that the commission may issue under
5829 this section:

5830 (A) a seasonal on-premise beer retailer license for a tavern is counted as 1/2 of one
5831 on-premise beer retailer license for a tavern; and

5832 (B) each "Seasonal A" on-premise beer retailer license for a tavern shall be paired with
5833 a "Seasonal B" on-premise beer retailer license for a tavern.

5834 (3) (a) [~~Beginning January 1, 1991,~~] The premises of an on-premise beer retailer
5835 [~~licensee premises~~] license may not be established within 600 feet of any public or private
5836 school, church, public library, public playground, or park, as measured by the method in
5837 Subsection [~~(5)~~] (4).

5838 (b) [~~Beginning January 1, 1991,~~] The premises of an on-premise beer retailer [~~licensee~~
5839 ~~premises~~] license may not be established within 200 feet of any public or private school,
5840 church, public library, public playground, or park, measured in a straight line from the nearest
5841 entrance of the proposed outlet to the nearest property boundary of the public or private school,
5842 church, public library, public playground, or park.

5843 [~~(4)~~] (c) The restrictions of [~~Subsection~~] Subsections (3)(a) and (b) govern unless one
5844 of the following exemptions applies:

5845 [~~(a) The commission finds after full investigation that the premises are located within a~~
5846 ~~city of the third class, a town, or the unincorporated area of a county, and compliance with the~~
5847 ~~distance requirements would result in peculiar and exceptional practical difficulties or~~
5848 ~~exceptional and undue hardships in the granting of an on-premise beer retailer license. In that~~
5849 ~~event, the commission may, after giving full consideration to all of the attending~~
5850 ~~circumstances, following a public hearing in the city or town, and where practical in the~~
5851 ~~neighborhood concerned, authorize a variance from the distance requirements to relieve the~~
5852 ~~difficulties or hardships if the variance may be granted without substantial detriment to the~~
5853 ~~public good and without substantially impairing the intent and purpose of this title.]~~

5854 (i) with respect to the establishment of an on-premise beer retailer license that operates
5855 as a tavern within a city of the third class, a town, or the unincorporated area of a county, the

5856 commission may authorize a variance to reduce the proximity requirements of Subsection
5857 (3)(a) or (b) if:

5858 (A) the local governing authority has granted its written consent to the variance;

5859 (B) alternative locations for establishing an on-premise beer retailer tavern license in
5860 the community are limited;

5861 (C) a public hearing has been held in the city, town, or county, and where practical in
5862 the neighborhood concerned; and

5863 (D) after giving full consideration to all of the attending circumstances, the
5864 commission determines that establishing the license would not be detrimental to the public
5865 health, peace, safety and welfare of the community;

5866 ~~[(b)]~~ (ii) with respect to the establishment of an on-premise beer retailer [licensee]
5867 license that operates as a tavern in any location, the commission may~~[, after giving full~~
5868 ~~consideration to all of the attending circumstances, following a public hearing in the county,~~
5869 ~~and where practical in the neighborhood concerned, reduce the proximity]~~ authorize a variance
5870 to reduce the proximity requirements of Subsection (3)(a) or (b) in relation to a church;

5871 (A) if the local governing body of the church in question gives its written [approval.]
5872 consent to the variance;

5873 (B) following a public hearing in the city, town, or county and where practical in the
5874 neighborhood concerned; and

5875 (C) after giving full consideration to all of the attending circumstances;

5876 (iii) with respect to the establishment of an on-premise beer retailer license that does
5877 not operate as a tavern in any location, the commission may authorize a variance that reduces
5878 the proximity requirements of Subsection (3)(a) or (b) if:

5879 (A) the local governing authority has granted its written consent to the variance;

5880 (B) alternative locations for establishing an on-premise beer retailer license that does
5881 not operate as a tavern in the community are limited;

5882 (C) a public hearing has been held in the city, town, or county, and where practical in
5883 the neighborhood concerned; and

5884 (D) after giving full consideration to all of the attending circumstances, the
5885 commission determines that establishing a license would not be detrimental to the public
5886 health, peace, safety, and welfare of the community;

5887 ~~[(5)]~~ (iv) with respect to any on-premise beer retailer license issued by the commission
5888 before July 1, 1991, to an establishment that undergoes a change in ownership after that date,
5889 the commission may waive or vary the proximity ~~[restrictions of]~~ requirements of this
5890 Subsection (3) in considering whether to grant an on-premise retailer beer license to the new
5891 owner~~[-]; and~~

5892 (v) with respect to the premises of an on-premise beer retailer license issued by the
5893 commission that under goes a change of ownership, the commission may waive or vary the
5894 proximity requirements of Subsection (3)(a) or (b) in considering whether to grant an
5895 on-premise beer retailer license to the new owner of the premises if:

5896 (A) the premises previously received a variance from the proximity requirements of
5897 Subsection (3)(a) or (b); or

5898 (B) a variance from proximity or distance requirements was otherwise allowed under
5899 this title.

5900 ~~[(5)]~~ (4) With respect to any public or private school, church, public library, public
5901 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
5902 by following the shortest route of ~~[either]~~ ordinary pedestrian ~~[traffic, or where applicable,~~
5903 ~~vehicular travel along public thoroughfares, whichever is the closer,]~~ travel to the property
5904 boundary of the public or private school, church, public library, public playground, school
5905 playground or park.

5906 ~~[(6)]~~ (5) (a) Nothing in this section prevents the commission from considering the
5907 proximity of any educational, religious, and recreational facility, or any other relevant factor in
5908 reaching a decision on a proposed location.

5909 (b) For purposes of this Subsection ~~[(6)]~~ (5), "educational facility" includes:

5910 (i) a nursery ~~[schools,]~~ school;

5911 (ii) an infant day care ~~[centers,]~~ center; and

5912 (iii) trade and technical ~~[schools]~~ school.

5913 Section 77. Section **32A-10-202** is amended to read:

5914 **32A-10-202. Application and renewal requirements.**

5915 (1) A person seeking an on-premise beer retailer license under this chapter shall file a
5916 written application with the department, in a form prescribed by the department. ~~[(t)]~~ The
5917 application shall be accompanied by:

- 5918 (a) a nonrefundable [~~\$300~~] \$250 application fee;
- 5919 (b) an initial license fee [~~of \$100, which~~] that is refundable if a license is not granted[;]
- 5920 in the following amount:
- 5921 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial
- 5922 license fee is \$150; or
- 5923 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial licensee fee
- 5924 is \$1,250;
- 5925 (c) written consent of the local authority or a license to sell beer at retail for on-premise
- 5926 consumption granted by the local authority under Section 32A-10-101;
- 5927 (d) a copy of the applicant's current business license;
- 5928 (e) [~~for applications made on or after July 1, 1991,~~] evidence of proximity to any public
- 5929 or private school, church, public library, public playground, or park, and if the proximity is
- 5930 within the 600 foot or 200 foot limitation of Subsections 32A-10-201(3)[;] and (4), [~~and (5);~~]
- 5931 the application shall be processed in accordance with those subsections;
- 5932 (f) a bond as specified by Section 32A-10-205;
- 5933 (g) a floor plan of the premises, including consumption areas and the area where the
- 5934 applicant proposes to keep, store, and sell beer;
- 5935 (h) evidence that the on-premise beer retailer licensee is carrying public liability
- 5936 insurance in an amount and form satisfactory to the department;
- 5937 (i) for those licensees that sell more than \$5,000 of beer annually, evidence that the
- 5938 on-premise beer retailer licensee is carrying dramshop insurance coverage of at least \$500,000
- 5939 per occurrence and \$1,000,000 in the aggregate;
- 5940 (j) a signed consent form stating that the on-premise beer retailer licensee will permit
- 5941 any authorized representative of the commission, department, or any peace officer unrestricted
- 5942 right to enter the licensee premises;
- 5943 (k) in the case of [~~a corporate~~] an applicant that is a partnership, corporation, or limited
- 5944 liability company, proper verification evidencing that the person or persons signing the
- 5945 on-premise beer retailer licensee application are authorized to so act on the [~~corporation's~~]
- 5946 behalf of the partnership, corporation, or limited liability company; and
- 5947 (l) any other information the department may require.
- 5948 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each

5949 year[, except that all on-premise beer retailer licenses obtained before the last day of February
5950 1991 expire on the last day of February 1992].

5951 (b) Persons desiring to renew their on-premise beer retailer license shall submit [a
5952 renewal fee of \$100 and a completed renewal application to the department] by no later than
5953 January 31[-];

5954 (i) a completed renewal application to the department; and

5955 (ii) a renewal fee in the following amount:

5956 (A) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee
5957 is \$200; or

5958 (B) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
5959 \$1,000.

5960 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
5961 the license, effective on the date the existing license expires.

5962 (d) Renewal applications shall be in a form as prescribed by the department.

5963 (3) [H] To ensure compliance with Subsection 32A-10-206(18), the commission may
5964 suspend or revoke a beer retailer license if any beer retailer licensee does not immediately
5965 notify the department of any change in:

5966 (a) ownership of the beer retailer[-or];

5967 (b) in the case of a [Utah] corporate owner [of any change in], the:

5968 (i) corporate officers or directors[-, the commission may suspend or revoke that
5969 license-]; and

5970 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
5971 corporation; or

5972 (c) in the case of a limited liability company:

5973 (i) managers; or

5974 (ii) members owning at least 20% of the limited liability company.

5975 (4) If the applicant is a county, municipality, or other political subdivision, it need not
5976 meet the requirements of Subsections (1)(a), (b), (c), (d), and (f).

5977 (5) Only one state on-premise beer retailer license is required for each building or
5978 resort facility owned or leased by the same applicant. Separate licenses are not required for
5979 each retail beer dispensing outlet located in the same building or on the same resort premises

5980 owned or operated by the same applicant.

5981 Section 78. Section **32A-10-203** is amended to read:

5982 **32A-10-203. Qualifications.**

5983 (1) (a) The commission may not grant an on-premise beer retailer license to [~~an outlet~~
5984 ~~whose proprietor~~] any person who has been convicted of:

5985 (i) a felony under any federal or state law;

5986 (ii) any violation of any federal or state law or local ordinance concerning the sale,
5987 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

5988 [~~or~~]

5989 (iii) of any crime involving moral turpitude[~~;~~]; or

5990 (iv) on two or more occasions within the five years before the day on which the license
5991 is granted, driving under the influence of alcohol, any drug, or the combined influence of
5992 alcohol and any drug.

5993 (b) In the case of a partnership [~~or~~], corporation, or limited liability company the
5994 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
5995 offense described in Subsection (1)(a):

5996 (i) a partner[~~;~~];

5997 (ii) a managing agent[~~;~~];

5998 (iii) a manager;

5999 (iv) an officer[~~;~~];

6000 (v) a director[~~;~~~~or~~];

6001 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
6002 [an] the applicant corporation [has been convicted of any offense as provided in this
6003 subsection.]; or

6004 (vii) a manager or member who owns at least 20% of the applicant limited liability
6005 company.

6006 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
6007 supervisory or managerial capacity for the on-premise beer retailer has been convicted of any
6008 offense described in Subsection (1)(a).

6009 (2) [~~(a) If any employee or proprietor of an on-premise beer retailer licensee is~~
6010 ~~convicted of any offense designated in Subsection (1), the] The commission may [take~~

6011 ~~emergency action by~~ immediately ~~[revoking the]~~ suspend or revoke an on-premise beer retailer
6012 license [according to the procedures and requirements of Title 63, Chapter 46b.] if after the day
6013 on which the on-premise beer retailer license is granted, a person described in Subsection
6014 (1)(a), (b), or (c):

6015 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
6016 to the license being granted; or

6017 (b) on or after the day on which the license is granted:

6018 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

6019 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
6020 combined influence of alcohol and any drug; and

6021 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
6022 influence of alcohol and any drug within five years before the day on which the person is
6023 convicted of the offense described in Subsection (2)(b)(ii)(A).

6024 ~~[(b) In the case of a partnership or corporation that has been granted an on-premise~~
6025 ~~beer retailer license, if any partner, managing agent, officer, director, or stockholder who holds~~
6026 ~~at least 20% of the total issued and outstanding stock of a corporation is convicted of any~~
6027 ~~offense designated in Subsection (1), the commission may take emergency action by~~
6028 ~~immediately revoking the license according to the procedures and requirements of Title 63,~~
6029 ~~Chapter 46b.]~~

6030 (3) ~~[Upon the arrest of any on-premise beer retailer licensee on any charge set forth in~~
6031 ~~Subsection (1), the] The~~ director may take emergency action by immediately suspending the
6032 operation of ~~[the licensee]~~ an on-premise beer retailer license according to the procedures and
6033 requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during
6034 which the criminal matter is being adjudicated~~[-]~~ if a person described in Subsection (1)(a), (b),
6035 or (c):

6036 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
6037 or

6038 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
6039 any drug, or the combined influence of alcohol and any drug; and

6040 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
6041 influence of alcohol and any drug within five years before the day on which the person is

6042 arrested on a charge described in Subsection (3)(b)(i).

6043 (4) (a) (i) The commission may not grant an on-premise beer retailer license to any
6044 person who has had any type of license, agency, or permit issued under this title revoked within
6045 the last three years.

6046 (ii) The commission may not grant an on-premise beer retailer license to any
6047 ~~[corporation or partnership]~~ applicant that is a partnership, corporation, or limited liability
6048 company if any partner, managing agent, manager, officer, director, ~~[or]~~ stockholder who holds
6049 at least 20% of the total issued and outstanding stock of the applicant corporation, or member
6050 who owns at least 20% of the applicant limited liability company is or was:

6051 (A) a partner or managing agent of any partnership~~[-, or is or was]~~ that had any type of
6052 license, agency, or permit issued under this title revoked within the last three years;

6053 (B) a managing agent, officer, director, or ~~[a]~~ stockholder who holds or held at least
6054 20% of the total issued and outstanding stock of any corporation that had any type of license,
6055 agency, or permit issued under this title revoked within the last three years; or

6056 (C) a manager or member who owns or owned at least 20% of any limited liability
6057 company that had ~~[a liquor]~~ any type of license, agency, or permit issued under this title
6058 revoked within the last three years.

6059 (b) ~~[A corporation or partnership]~~ An applicant that is a partnership, corporation, or
6060 limited liability company may not be granted an on-premise beer retailer license if any of the
6061 following had any type of license, agency, or permit issued under this title revoked while acting
6062 in that person's individual capacity within the last three years:

6063 (i) any partner or managing agent of the applicant partnership ~~[or];~~

6064 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
6065 total issued and outstanding stock of the ~~[corporate]~~ applicant ~~[had a liquor license, agency, or~~
6066 ~~permit revoked while acting in their individual capacity within the last three years.]~~
6067 corporation; or

6068 (iii) any manager or member company who owns at least 20% of the applicant limited
6069 liability company.

6070 (c) A person acting in an individual capacity may not be granted an on-premise beer
6071 retailer license if that person was:

6072 (i) a partner or managing agent of a partnership~~[-, or]~~ that had any type of license,

6073 agency, or permit issued under this title revoked within the last three years;

6074 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
6075 total issued and outstanding stock of a corporation that had any type of license, agency, or
6076 permit issued under this title revoked within the last three years; or

6077 (iii) a manager or member of any limited liability company who owned at least 20% of
6078 a limited liability company that had ~~a liquor~~ any type of license, agency, or permit issued
6079 under this title revoked within the last three years.

6080 (5) (a) A minor may not be granted an on-premise beer retailer license.

6081 (b) The commission may not grant a on-premise beer retailer license to an applicant
6082 that is a partnership, corporation, or limited liability company if any of the following is a
6083 minor:

6084 (i) a partner or managing agent of the applicant partnership;

6085 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
6086 total issued and outstanding stock of the applicant corporation; or

6087 (iii) a manager or member who owns at least 20% of the applicant limited liability
6088 company.

6089 (6) If any person to whom a license has been issued under this part no longer possesses
6090 the qualifications required by this title for obtaining that license, the commission may suspend
6091 or revoke that license.

6092 Section 79. Section **32A-10-205** is amended to read:

6093 **32A-10-205. Bond.**

6094 (1) Each on-premise beer retailer licensee shall post a cash or corporate surety bond in
6095 the penal sum of [~~\$1,000~~] \$2,000 payable to the department, which the licensee has procured
6096 and must maintain for so long as the licensee continues to operate as an on-premise beer
6097 retailer licensee.

6098 (2) The bond shall be in a form approved by the attorney general, conditioned upon the
6099 licensee's faithful compliance with this title and the rules of the commission.

6100 (3) (a) If the [~~\$1,000~~] \$2,000 surety bond is canceled due to the licensee's negligence, a
6101 \$300 reinstatement fee may be assessed.

6102 (b) No part of any cash or corporate bond so posted may be withdrawn during the
6103 period the license is in effect, or while revocation proceedings are pending against the licensee.

6104 (c) A bond filed by a licensee may be forfeited if the license is finally revoked.

6105 Section 80. Section **32A-10-206** is amended to read:

6106 **32A-10-206. Operational restrictions.**

6107 Each person granted an on-premise beer retailer license and the employees and
6108 management personnel of the on-premise beer retailer licensee shall comply with the following
6109 conditions and requirements. Failure to comply may result in a suspension or revocation of the
6110 license or other disciplinary action taken against individual employees or management
6111 personnel.

6112 (1) On-premise beer retailer licensees may sell beer in open containers, in any size not
6113 exceeding two liters, and on draft.

6114 (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer
6115 licensee.

6116 (3) A patron [~~or guest~~] of the on-premise beer retailer may only make purchases [~~in the~~
6117 ~~on-premise beer retailer licensee~~] from [~~a server~~] and be served by a person employed,
6118 designated, and trained by the licensee to sell and serve beer.

6119 (4) (a) Beer may not be sold [~~or~~], offered for sale, served, or otherwise furnished at any
6120 on-premise beer retailer [~~licensee~~] establishment after 1 a.m. and before 10 a.m.

6121 (b) Beer may not be sold, [~~delivered,~~] served, or otherwise furnished to any:

6122 (i) minor;

6123 (ii) person actually, apparently, or obviously [~~drunk~~] intoxicated;

6124 (iii) known habitual drunkard; or

6125 (iv) known interdicted person.

6126 (c) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall remain
6127 open for one hour after the tavern ceases the sale and service of alcoholic beverages during
6128 which time a patron of the tavern may finish consuming a single serving of beer not exceeding
6129 12 ounces.

6130 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.

6131 (b) Beer may not be sold at a special or reduced price that encourages
6132 over-consumption or intoxication.

6133 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer
6134 retailer's business day such as a "happy hour."

6135 (d) The sale or service of more than one alcoholic beverage for the price of a single
6136 alcoholic beverage is prohibited.

6137 (e) The sale or service of an indefinite or unlimited number of alcoholic beverages
6138 during any set period for a fixed price is prohibited.

6139 (f) An on-premise beer licensee may not engage in a public promotion involving or
6140 offering free alcoholic beverages to the general public.

6141 ~~[(5)]~~ (6) Beer sold in sealed containers by the on-premise beer retailer licensee may be
6142 removed from the on-premise beer retailer premises.

6143 ~~[(6)]~~ (7) (a) ~~[Beginning January 1, 1991, a]~~ A person may not bring onto the premises
6144 of an on-premise beer retailer licensee any alcoholic beverage for on-premise consumption.

6145 (b) ~~[Beginning January 1, 1991, an]~~ An on-premise beer retailer licensee or its officers,
6146 managers, employees, or agents may not allow a person to bring onto the on-premise beer
6147 retailer licensee premises any alcoholic beverage for on-premise consumption or allow
6148 consumption of any such alcoholic beverage on its premises.

6149 ~~[(c) Beginning January 1, 1991, if any on-premise beer retailer licensee or any of its~~
6150 ~~officers, managers, employees, or agents violates this Subsection (6):]~~

6151 ~~[(i) the commission may immediately suspend or revoke the on-premise beer retailer~~
6152 ~~license and the on-premise beer retailer licensee is subject to possible criminal prosecution~~
6153 ~~under Chapter 12, Criminal Offenses, and]~~

6154 ~~[(ii) the local authority may immediately suspend or revoke the business license of the~~
6155 ~~on-premise beer retailer licensee.]~~

6156 (8) An on-premise beer retailer licensee and its employees may not permit a patron to
6157 carry from the premises an open container that:

6158 (a) is used primarily for drinking purposes; and

6159 (b) contains any alcoholic beverage.

6160 ~~[(7) Minors]~~ (9) (a) Except as provided in Subsection (9)(b), a minor may not be:

6161 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell
6162 [or], dispense, or otherwise furnish beer[. Minors may not be employed by or be]; or

6163 (ii) on the premises of any tavern.

6164 (b) Notwithstanding Subsection (9)(a), a minor may be employed to enter the sale at a
6165 cash register or other sales recording device on the premises of an on-premise beer retailer that

6166 is not a tavern.

6167 [~~(8)~~] (10) An employee of a licensee, while on duty, may not:

6168 (a) consume an alcoholic beverage; or

6169 (b) be [~~under the influence of alcoholic beverages~~] intoxicated.

6170 [~~(9)~~] (11) Each on-premise beer retailer licensee shall display in a prominent place in
6171 the on-premise beer retailer licensee:

6172 (a) the on-premise beer retailer license that is issued by the department; and

6173 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
6174 drugs is a serious crime that is prosecuted aggressively in Utah."

6175 [~~(10)~~] (12) The following acts or conduct in an on-premise beer retailer outlet licensed
6176 under this part are considered contrary to the public welfare and morals, and are prohibited
6177 upon the premises:

6178 (a) employing or using any person in the sale or service of alcoholic beverages while
6179 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
6180 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
6181 buttocks, vulva, or genitals;

6182 (b) employing or using the services of any person to mingle with the patrons while the
6183 person is unclothed or in attire, costume, or clothing as described in Subsection [~~(10)~~] (12)(a);

6184 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
6185 buttocks, anus, or genitals of any other person;

6186 (d) permitting any employee or person to wear or use any device or covering, exposed
6187 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

6188 (e) permitting any person to use artificial devices or inanimate objects to depict any of
6189 the prohibited activities described in this section;

6190 (f) permitting any person to remain in or upon the premises who exposes to public
6191 view any portion of his or her genitals or anus; or

6192 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
6193 depicting:

6194 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
6195 copulation, flagellation, or any sexual acts that are prohibited by Utah law;

6196 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or

6197 genitals;

6198 (iii) scenes wherein artificial devices or inanimate objects are employed to depict, or
6199 drawings are employed to portray, any of the prohibited activities described in this section; or

6200 (iv) scenes wherein a person displays the vulva or the anus or the genitals.

6201 ~~[(11)]~~ (13) Nothing in Subsection ~~[(10)]~~ (12) precludes a local authority from being
6202 more restrictive of acts or conduct of the type prohibited in Subsection ~~[(10)]~~ (12).

6203 ~~[(12) An on-premise beer retailer licensee may not engage in or permit any form of~~
6204 ~~gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter 10,~~
6205 ~~Part 11, Gambling, on the premises of the on-premise beer retailer licensee.]~~

6206 ~~[(13)]~~ (14) (a) Although live entertainment is permitted on the premises of an
6207 on-premise beer retailer licensee, a licensee may not permit any person to perform or simulate
6208 sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy,
6209 bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast,
6210 buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.
6211 Entertainers shall perform only upon a stage or at a designated area approved by the
6212 commission.

6213 (b) Nothing in Subsection ~~[(13)]~~ (14)(a) precludes a local authority from being more
6214 restrictive of acts or conduct of the type prohibited in Subsection ~~[(13)]~~ (14)(a).

6215 (15) An on-premise beer retailer licensee may not engage in or permit any form of
6216 gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
6217 Part 11, Gambling, on the premises of the on-premise beer retailer licensee.

6218 ~~[(14)]~~ (16) (a) Each on-premise beer retailer licensee shall maintain accounting and
6219 other records and documents as the department may require.

6220 (b) Any on-premise beer retailer licensee or person acting for the on-premise beer
6221 retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or
6222 removes the entries in any of the books of account or other documents of the on-premise beer
6223 retailer licensee required to be made, maintained, or preserved by this title or the rules of the
6224 commission for the purpose of deceiving the commission or the department, or any of their
6225 officials or employees, is subject to the immediate suspension or revocation of the on-premise
6226 beer retailer license and possible criminal prosecution under Chapter 12, Criminal Offenses.

6227 ~~[(15)]~~ (17) ~~[There shall be no transfer of an]~~ An on-premise beer retailer license may

6228 not be transferred from one location to another, without prior written approval of the
6229 commission.

6230 ~~[(16)] (18) (a) [A person having been granted an]~~ An on-premise beer retailer ~~[license]~~
6231 licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose
6232 of the license to any person, whether for monetary gain or not.

6233 (b) An on-premise beer retailer license has no monetary value for the purpose of any
6234 type of disposition.

6235 Section 81. Section **32A-10-301** is enacted to read:

6236 **Part 3. Temporary Special Event Beer Permits**

6237 **32A-10-301. Commission's power to grant temporary special event beer permits --**
6238 **Limitations.**

6239 (1) Beginning May 5, 2003, before any person may sell beer at retail for on-premise
6240 consumption at a temporary special event that does not last longer than 30 days, the person
6241 shall first obtain:

6242 (a) a temporary special event beer permit from the commission as provided in this part;
6243 and

6244 (b) (i) a temporary special event beer permit issued by the local authority as provided
6245 in Section 32A-10-101; or

6246 (ii) other written consent of the local authority to sell beer at retail for on-premise
6247 consumption at a temporary special event.

6248 (2) The commission may issue a temporary special event beer permit for the purpose of
6249 allowing the sale of beer for on-premise consumption at a temporary special event that does not
6250 last longer than 30 days.

6251 (3) (a) The temporary special event beer permit shall authorize, for a period not to
6252 exceed 30 days, the storage, sale, service, and consumption of beer at the temporary special
6253 event.

6254 (b) The sale of beer under a series of permits issued to the same person may not exceed
6255 a total of 90 days in any one calendar year.

6256 (c) A temporary special event beer permit may not be issued or obtained for the
6257 purpose of avoiding or attempting to avoid the requirement of state licensing under Part 2,
6258 On-premise Beer Retailer License.

6259 (4) (a) The 600 foot and 200 foot proximity limitations to educational, religious, and
6260 recreational facilities that are applicable to state stores, package agencies, and licensees, do not
6261 apply to a temporary special event beer permit.

6262 (b) Notwithstanding Subsection (4)(a), nothing in this section prevents the commission
6263 from considering the proximity of any educational, religious, or recreational facility, or any
6264 other relevant factor in deciding whether to grant a temporary special event beer permit.

6265 Section 82. Section **32A-10-302** is enacted to read:

6266 **32A-10-302. Application requirements.**

6267 (1) (a) A person seeking a temporary special event beer permit shall file a written
6268 application with the department in a form prescribed by the department.

6269 (b) The application required by this section shall be accompanied by:

6270 (i) a permit fee of \$75, which:

6271 (A) is refundable if a permit is not granted; and

6272 (B) shall be returned to the applicant with the application if the permit is not granted;

6273 (ii) (A) written consent of the local authority; or

6274 (B) a temporary permit granted by local authority under Section 32A-10-101;

6275 (iii) a bond as specified by Section 32A-10-305;

6276 (iv) the times, dates, location, estimated attendance, nature, and purpose of the
6277 temporary special event;

6278 (v) a description or floor plan designating:

6279 (A) the area in which the applicant proposes that beer be stored;

6280 (B) the site from which the applicant proposes that beer be sold or served; and

6281 (C) the area in which the applicant proposes that beer be allowed to be consumed;

6282 (vi) a statement of the purpose of the temporary special event;

6283 (vii) a signed consent form stating that authorized representatives of the commission,
6284 department, or any law enforcement officers will have unrestricted right to enter the premises
6285 during the temporary special event;

6286 (viii) in the case of an applicant that is a partnership, corporation, or limited liability
6287 company, proper verification evidencing that the person or persons signing the application are
6288 authorized to so act on behalf of the partnership, corporation, or limited liability company; and

6289 (ix) any other information the commission or department may require.

6290 (2) If the applicant is a county, municipality, or other political subdivision, it need not
6291 meet the requirements of Subsection (1)(b)(i), (ii), or (iii).

6292 Section 83. Section **32A-10-303** is enacted to read:

6293 **32A-10-303. Qualifications.**

6294 (1) (a) The commission may not grant a temporary special event beer permit to any
6295 person who has been convicted of:

6296 (i) a felony under any federal or state law;

6297 (ii) any violation of any federal or state law or local ordinance concerning the sale,
6298 manufacture, distribution, warehousing, adulteration, or transportation of alcoholic beverages;

6299 (iii) any crime involving moral turpitude; or

6300 (iv) on two or more occasions within the five years before the day on which the permit
6301 is granted, driving under the influence of alcohol, any drug, or the combined influence of
6302 alcohol and any drug.

6303 (b) In the case of a partnership, corporation, or limited liability company, the
6304 proscription under Subsection (1)(a) applies if any of the following has been convicted of an
6305 offense described in Subsection (1)(a):

6306 (i) a partner;

6307 (ii) a managing agent;

6308 (iii) a manager;

6309 (iv) an officer;

6310 (v) a director;

6311 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
6312 the applicant corporation; or

6313 (vii) a member who owns at least 20% of the applicant limited liability company.

6314 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
6315 supervisory or managerial capacity for the temporary special event beer permittee has been
6316 convicted of any offense as provided in Subsection (1)(a).

6317 (2) The commission may immediately suspend or revoke a temporary special event
6318 permit if after the day on which the permit is granted, a person described in Subsection (1)(a),
6319 (b), or (c):

6320 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior

6321 to the permit being granted; or

6322 (b) on or after the day on which the permit is granted:

6323 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

6324 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the

6325 combined influence of alcohol and any drug; and

6326 (B) was convicted of driving under the influence of alcohol, any drug, or the combined

6327 influence of alcohol and any drug within five years before the day on which the person is

6328 convicted of the offense described in Subsection (2)(b)(ii)(A).

6329 (3) The director may take emergency action by immediately revoking the temporary

6330 special event permit according to the procedures and requirements of Title 63, Chapter 46b,

6331 Administrative Procedures Act, if a person described in Subsection (1)(a), (b), or (c):

6332 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

6333 or

6334 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,

6335 any drug, or the combined influence of alcohol and any drug; and

6336 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined

6337 influence of alcohol and any drug within five years before the day on which the person is

6338 arrested on a charge described in Subsection (3)(b)(i).

6339 (4) (a) (i) The commission may not grant a temporary special event beer permit to any

6340 person who has had any type of license, agency, or permit issued under this title revoked within

6341 the last three years.

6342 (ii) The commission may not grant a temporary special event permit to an applicant

6343 that is a partnership, corporation, or limited liability company if any partner, managing agent,

6344 manager, officer, director, stockholder who holds at least 20% of the total issued and

6345 outstanding stock of an applicant corporation, or member who owns at least 20% of an

6346 applicant limited liability company is or was:

6347 (A) a partner or managing agent of any partnership that had any type of license, agency,

6348 or permit issued under this title revoked within the last three years;

6349 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%

6350 of the total issued and outstanding stock of any corporation that had any type of license,

6351 agency, or permit issued under this title revoked within the last three years; or

6352 (C) a manager or member who owns or owned at least 20% of any limited liability
6353 company that had any type of license, agency, or permit issued under this title revoked within
6354 the last three years.

6355 (b) An applicant that is a partnership, corporation, or limited liability company may not
6356 be granted a temporary special event permit if any of the following had any type of license,
6357 agency, or permit issued under this title revoked while acting in their individual capacity within
6358 the last three years:

6359 (i) any partner or managing agent of the applicant partnership;

6360 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
6361 total issued and outstanding stock of the applicant corporation; or

6362 (iii) any manager or member who owns at least 20% of the applicant limited liability
6363 company.

6364 (c) A person acting in an individual capacity may not be granted a temporary special
6365 event permit if that person was:

6366 (i) a partner or managing agent of a partnership that had any type of license, agency, or
6367 permit issued under this title revoked within the last three years;

6368 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
6369 total issued and outstanding stock of a corporation that had any type of license, agency, or
6370 permit issued under this title revoked within the last three years; or

6371 (iii) a manager or member who owned at least 20% of the limited liability company
6372 that had any type of license, agency, or permit issued under this title revoked within the last
6373 three years.

6374 (4) (a) A minor may not be:

6375 (i) granted a temporary special event permit; or

6376 (ii) employed by a temporary special event permittee to handle alcoholic beverages.

6377 (b) The commission may not grant a temporary special event permit to an applicant
6378 that is a partnership, corporation, or limited liability company if any of the following is a
6379 minor:

6380 (i) a partner or managing agent of the applicant partnership;

6381 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
6382 total issued and outstanding stock of the applicant corporation; or

6383 (iii) a manager or member who owns at least 20% of the applicant limited liability
6384 company.

6385 (5) If any person to whom a permit has been issued under this part no longer possesses
6386 the qualifications required by this title for obtaining that permit, the commission may suspend
6387 or revoke that permit.

6388 Section 84. Section **32A-10-304** is enacted to read:

6389 **32A-10-304. Commission and department duties before granting permits.**

6390 (1) (a) Before any temporary special event beer permit may be granted by the
6391 commission, the department shall conduct an investigation, gather information, and make
6392 recommendations to the commission as to whether or not a permit should be granted.

6393 (b) The department shall forward the information and recommendations described in
6394 Subsection (1)(a) to the commission to aid in the commission's determination.

6395 (2) Before issuing any temporary special event beer permit, the commission shall:

6396 (a) determine that the applicant has complied with all basic qualifications and
6397 requirements as provided by Sections 32A-10-302 and 32A-10-303;

6398 (b) determine that the application is complete;

6399 (c) consider the times, dates, location, estimated attendance, and purpose of the
6400 temporary special event;

6401 (d) to minimize the risk of minors being sold or furnished alcohol or adults being over
6402 served alcohol at the temporary special event, assess the adequacy of control measures for:

6403 (i) a large-scale public event where the estimated attendance is in excess of 1,000
6404 people; or

6405 (ii) an outdoor public event; and

6406 (e) consider any other factors or circumstances the commission considers necessary.

6407 (3) Upon commission approval of any application and upon issuance of a temporary
6408 special event beer permit, the department shall send copies of the approved application and the
6409 permit to state and local law enforcement authorities before the scheduled event.

6410 Section 85. Section **32A-10-305** is enacted to read:

6411 **32A-10-305. Bond.**

6412 (1) Any applicant for a temporary special event beer permit shall post a cash or
6413 corporate surety bond in the penal sum of \$500 payable to the department, which the applicant

6414 has procured and must maintain for so long as the permit is in effect.

6415 (2) The bond shall be in a form approved by the attorney general, conditioned upon the
6416 permittee's faithful compliance with this title and the rules of the commission.

6417 (3) (a) No part of any cash or corporate bond so posted may be withdrawn during the
6418 period the permit is in effect.

6419 (b) A bond filed by the permittee may be forfeited if the permit is revoked.

6420 Section 86. Section **32A-10-306** is enacted to read:

6421 **32A-10-306. Operational restrictions.**

6422 (1) (a) Any person granted a temporary special event beer permit and any person
6423 involved in the storage, sale, or service of beer at the event for which a temporary special event
6424 the permit is issued, shall abide by this title, the rules of the commission, and the special
6425 conditions and requirements provided in this section.

6426 (b) Failure to comply as provided in Subsection (1)(a):

6427 (i) may result in:

6428 (A) an immediate revocation of the permit;

6429 (B) forfeiture of the surety bond; and

6430 (C) immediate seizure of all beer present at the event; and

6431 (ii) disqualifies the organization from applying for a temporary special event beer
6432 permit under this part or a single event permit under Chapter 7, Single Event Permits, for a
6433 period of three years from the date of revocation of the temporary special event permit.

6434 (c) Any beer seized under this Subsection (1) shall be returned to the organization after
6435 the event if forfeiture proceedings are not instituted under Section 32A-13-103.

6436 (2) Special conditions and requirements for temporary special event beer permittees
6437 include the following:

6438 (a) (i) All persons involved in the storage, sale, or service of beer at the temporary
6439 special event do so under the supervision and direction of the permittee.

6440 (ii) All persons involved in the sale or service of beer at the temporary special event
6441 may not, while on duty:

6442 (A) consume an alcoholic beverage; or

6443 (B) be intoxicated.

6444 (b) (i) All beer stored, sold, served, and consumed at the temporary special event shall

6445 be purchased by the permittee from a licensed beer wholesaler or retailer.

6446 (ii) All beer is considered under the control of the permittee during the temporary
6447 special event.

6448 (iii) An attendee of the temporary special event may not bring any alcoholic beverages
6449 onto the premises of the temporary special event.

6450 (c) Each permittee shall post in a prominent place in the area in which beer is being
6451 sold, served, and consumed:

6452 (i) a copy of the permit; and

6453 (ii) a list of the operational restrictions and requirements of temporary special event
6454 beer permittees set forth in this section.

6455 (d) Beer purchased for a temporary special event may not be stored, sold, served, or
6456 consumed in any location other than that described in the application and designated on the
6457 temporary special event permit unless the permittee first applies for and receives approval from
6458 the commission for a change of location.

6459 (e) Beer may be sold in any size container not exceeding two liters and on draft.

6460 (f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed
6461 between the hours of 1:00 a.m. and 10:00 a.m.

6462 (ii) This Subsection (2)(f) does not preclude a local authority from being more
6463 restrictive with respect to the hours of sale, service, or consumption of beer at a temporary
6464 special event.

6465 (g) Beer may not be sold, served, or otherwise furnished to any:

6466 (i) minor;

6467 (ii) person actually, apparently, or obviously intoxicated;

6468 (iii) known habitual drunkard; or

6469 (iv) known interdicted person.

6470 (h) (i) Beer may not be sold at less than the cost of the beer to the permittee.

6471 (ii) Beer may not be sold at a price that encourages over-consumption or intoxication.

6472 (iii) Beer may not be sold at a special or reduced price for only certain hours of the day
6473 of the permitted event.

6474 (iv) The sale or service of more than one beer beverage for the price of a single beer
6475 beverage is prohibited.

6476 (v) The permittee may not engage in a public promotion involving or offering free beer
6477 to the general public.

6478 (i) The permittee and its employees may not permit an attendee to carry from the
6479 premises an open container that:

6480 (i) is used for drinking purposes; and

6481 (ii) contains any alcoholic beverage.

6482 (j) A minor may not sell, serve, dispense, or handle any beer at a temporary special
6483 event.

6484 (3) The following acts or conduct at an event for which a permit is issued under this
6485 part are considered contrary to the public welfare and morals, and are prohibited upon the
6486 premises:

6487 (a) employing or using any person in the sale or service of alcoholic beverages while
6488 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
6489 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
6490 buttocks, vulva, or genitals;

6491 (b) employing or using the services of any person to mingle with the patrons while the
6492 person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);

6493 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
6494 buttocks, anus, or genitals of any other person;

6495 (d) permitting any employee or person to wear or use any device or covering, exposed
6496 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

6497 (e) permitting any person to use artificial devices or inanimate objects to depict any of
6498 the prohibited activities described in this subsection;

6499 (f) permitting any person to remain in or upon the premises who exposes to public
6500 view any portion of his or her genitals or anus; or

6501 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
6502 depicting:

6503 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
6504 copulation, flagellation, or any sexual acts prohibited by Utah law;

6505 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
6506 genitals;

6507 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
6508 drawings are used to portray, any of the prohibited activities described in this subsection; or

6509 (iv) scenes wherein a person displays the vulva, anus, or the genitals.

6510 (4) Nothing in Subsection (3) precludes a local authority from being more restrictive of
6511 acts or conduct of the type prohibited in Subsection (3).

6512 (5) (a) Although live entertainment is permitted at the event for which a permit has
6513 been issued under this chapter, a permittee may not allow any person to perform or simulate
6514 sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy,
6515 bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast,
6516 buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.
6517 Entertainers shall perform only upon a stage or at a designated area approved by the
6518 commission.

6519 (b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive
6520 of acts or conduct of the type prohibited in Subsection (5)(a).

6521 (6) The permittee shall maintain an expense and revenue ledger or record showing:

6522 (a) expenditures made for beer; and

6523 (b) the revenue from sale of beer.

6524 (7) A temporary special event beer permit may not be transferred.

6525 (8) A temporary special event beer permittee may not engage in or allow any form of
6526 gambling, or have any video gaming device as defined and proscribed by Title 76, Chapter 10,
6527 Part 11, Gambling, on the premises serviced by the permittee.

6528 Section 87. Section **32A-11-101** is amended to read:

6529 **32A-11-101. Commission's power to issue licenses.**

6530 (1) (a) The commission may issue beer wholesaling licenses for the import, purchase,
6531 storage, sale, and distribution of beer.

6532 (b) The license entitles the licensee to:

6533 (i) purchase and import beer into the state;

6534 (ii) store beer in approved warehouses; and

6535 (iii) sell and distribute beer directly to:

6536 (A) licensed beer retailers; and

6537 (B) holders of temporary retail beer permits [~~or licenses~~] issued [~~by any local authority~~]

6538 by the commission for temporary special events [~~that do not last longer than 30 days~~] pursuant
6539 to Chapter 10, Part 3, Temporary Special Event Beer Permits.

6540 (2) (a) A person may not import, purchase, store, sell, or distribute beer to retailers or
6541 act in any way as a beer wholesaler unless the person has been issued a beer wholesaler's
6542 license by the commission.

6543 (b) Nothing in this section precludes a small brewer from selling beer it has
6544 manufactured directly to a licensed beer retailer.

6545 (c) Violation of this subsection is a class A misdemeanor.

6546 (3) The commission may prescribe by policy, directive, or rule, consistent with this
6547 title, the general operational requirements of wholesaling licensees relating to physical
6548 facilities, conditions of purchase, storage, sale, importation, distribution, or transportation of
6549 beer within the state.

6550 Section 88. Section **32A-11-102** is amended to read:

6551 **32A-11-102. Application and renewal requirements.**

6552 (1) A person seeking a beer wholesaling license under this chapter shall file a written
6553 application with the department, in a form prescribed by the department. [~~H~~] The application
6554 shall be accompanied by:

6555 (a) a nonrefundable [~~\$100~~] \$250 application fee;

6556 (b) an initial license fee of [~~\$300~~] \$2,000, which is refundable if a license is not
6557 granted;

6558 (c) written consent of the local authority;

6559 (d) a copy of the applicant's current business license;

6560 (e) a bond as specified in Section 32A-11-105;

6561 (f) evidence that the applicant is carrying public liability insurance in an amount and
6562 form satisfactory to the department;

6563 (g) a signed consent form stating that the licensee will permit any authorized
6564 representative of the commission, department, or any peace officer unrestricted right to enter
6565 the licensed premises;

6566 (h) a statement of the brands of beer the applicant is authorized to sell and distribute;

6567 (i) a statement of all geographical areas in which the applicant is authorized to sell and
6568 distribute beer; [~~and~~]

6569 (j) in the case of an applicant that is a partnership, corporation, or limited liability
 6570 company, proper verification evidencing that the person or persons signing the beer
 6571 wholesaling license application are authorized to so act on behalf of the partnership,
 6572 corporation, or limited liability company; and

6573 ~~[(j)]~~ (k) any other documents and evidence as the department may direct.

6574 ~~[(2) Each application shall be signed and verified by oath or affirmation by an~~
 6575 ~~executive officer or any person specifically authorized by the corporation to sign the~~
 6576 ~~application, to which shall be attached written evidence of said authority.]~~

6577 ~~[(3)]~~ (2) (a) (i) All beer wholesaling licenses expire on December 31 of each year.

6578 (ii) Persons desiring to renew their beer wholesaling license shall submit ~~[a renewal fee~~
 6579 ~~of \$300 and a completed renewal application to the department]~~ by no later than November 30
 6580 of the year the license expires[-]:

6581 (A) a completed renewal application to the department; and

6582 (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>

6587 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
 6588 license effective on the date the existing license expires.

6589 (iv) Renewal applications shall be in a form prescribed by the department.

6590 (b) The annual renewal fee prescribed in this Subsection ~~[(3)]~~ (2) is independent of any
 6591 like license fee which may be assessed by the local authority of the city or county in which the
 6592 wholesaler's warehouse is located. Any local fees may not exceed \$300. Payment of local fees
 6593 shall be made directly to the local authority assessing them.

6594 ~~[(4) If any]~~ (3) To ensure compliance with Subsection 32A-11-106(1)(g), the
 6595 commission may suspend or revoke a beer wholesaling license if a beer wholesaling licensee
 6596 does not immediately notify the department of any change in:

6597 (a) ownership of the licensee~~[-or]~~;

6598 (b) in the case of a ~~[Utah]~~ corporate owner ~~[of any change in]~~, the:

6599 (i) corporate officers or directors~~[-, the commission may suspend or revoke that~~

6600 license-]; or

6601 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the

6602 corporation; or

6603 (c) in the case of a limited liability company:

6604 (i) managers; or

6605 (ii) members owning at least 20% of the limited liability company.

6606 Section 89. Section **32A-11-103** is amended to read:

6607 **32A-11-103. Qualifications.**

6608 (1) (a) The commission may not issue a beer wholesaling license to any person who
6609 has been convicted of:

6610 (i) ~~[convicted of]~~ a felony under any federal or state law;

6611 (ii) ~~[convicted of]~~ any violation of any federal or state law or local ordinance
6612 concerning the sale, manufacture, distribution, warehousing, adulteration, or transportation of
6613 alcoholic products; ~~[or]~~

6614 (iii) ~~[convicted of]~~ any crime involving moral turpitude~~[-];~~ or

6615 (iv) on two or more occasions within the five years before the day on which the license
6616 is granted, driving under the influence of alcohol, any drug, or the combined influence of
6617 alcohol and any drug.

6618 (b) In the case of a partnership ~~[or]~~, corporation, or limited liability company, the
6619 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
6620 offense described in Subsection (1)(a):

6621 (i) a partner[-];

6622 (ii) a managing agent[-];

6623 (iii) a manager;

6624 (iv) an officer[-];

6625 (v) a director[-or];

6626 (vi) a stockholder[-] who holds at least 20% of the total issued and outstanding stock of
6627 [an] the applicant corporation ~~[has been convicted of any offense as provided in this~~
6628 subsection-]; or

6629 (vii) a member who owns at least 20% of the applicant limited liability company.

6630 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a

6631 supervisory or managerial capacity for the wholesaler has been convicted of any offense as
6632 provided in Subsections (1)(a).

6633 (2) [~~(a) If any employee or proprietor of a licensee is convicted of any offense provided~~
6634 ~~in Subsection (1), the] The commission may [~~take emergency action by~~] immediately [~~revoking~~
6635 ~~the permit according to the procedures and requirements of Title 63, Chapter 46b,~~
6636 ~~Administrative Procedures Act.] suspend or revoke a beer wholesaling license if after the day
6637 on which the beer wholesaling license is granted, a person described in Subsection (1)(a), (b),
6638 or (c):~~~~

6639 [~~(b) In the case of a partnership or corporation that has been granted a beer wholesaling~~
6640 ~~license, if any partner, managing agent, officer, director, or stockholder who holds at least 20%~~
6641 ~~of the total issued and outstanding stock of a corporation is convicted of any offense provided~~
6642 ~~in Subsection (1), the commission may take emergency action by immediately revoking the~~
6643 ~~license according to the procedures and requirements of Title 63, Chapter 46b, Administrative~~
6644 ~~Procedures Act.]~~

6645 [~~(3) Upon the arrest of any licensee on any charge set forth in Subsection (1), the]~~
6646 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
6647 to the license being granted; or

6648 (b) on or after the day on which the license is granted:

6649 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

6650 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the

6651 combined influence of alcohol and any drug; and

6652 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
6653 influence of alcohol and any drug within five years before the day on which the person is
6654 convicted of the offense described in Subsection (2)(b)(ii)(A).

6655 (3) The director may take emergency action by immediately suspending the operation
6656 of [~~the licensee] a beer wholesaling license according to the procedures and requirements of
6657 Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal
6658 matter is being adjudicated[-] if a person described in Subsection (1)(a), (b), or (c):~~

6659 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

6660 or

6661 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,

6662 any drug, or the combined influence of alcohol and any drug; and

6663 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
6664 influence of alcohol and any drug within five years before the day on which the person is
6665 arrested on a charge described in Subsection (3)(b)(i).

6666 (4) (a) (i) The commission may not grant a beer wholesaling license to any person who
6667 has had any type of license, agency, or permit issued under this title revoked within the last
6668 three years.

6669 (ii) The commission may not grant a beer wholesaling license to an applicant that is a
6670 partnership, corporation, or limited liability company if any partner, managing agent, manager,
6671 officer, director, stockholder who holds at least 20% of the total issued and outstanding stock
6672 of the applicant corporation, or member who owns at least 20% of the applicant limited
6673 liability company is or was:

6674 (A) a partner or managing agent of any partnership that had any type of license, agency,
6675 or permit issued under this title revoked within the last three years;

6676 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
6677 of the total issued and outstanding stock of any corporation that had any type of license,
6678 agency, or permit issued under this title revoked within the last three years; or

6679 (C) a manager or member who owns or owned at least 20% of any limited liability
6680 company that had any type of license, agency, or permit issued under this title revoked within
6681 the last three years.

6682 (b) An applicant that is a partnership, corporation, or limited liability company may not
6683 be granted a beer wholesaling license if any of the following had any type of license, agency, or
6684 permit issued under this title revoked while acting in that person's individual capacity within
6685 the last three years:

6686 (i) a partner or managing agent of the applicant partnership;

6687 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
6688 total issued and outstanding stock of the applicant corporation; or

6689 (iii) any manager or member who owns at least 20% of the applicant limited liability
6690 company.

6691 (c) A person acting in an individual capacity may not be granted a beer wholesaling
6692 license if that person was:

6693 (i) a partner or managing agent of a partnership that had any type of license, agency, or
6694 permit issued under this title revoked within the last three years;

6695 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
6696 total issued and outstanding stock of a corporation that had any type of license, agency, or
6697 permit issued under this title revoked within the last three years; or

6698 (iii) a manager or member who owned at least 20% of the limited liability company
6699 that had any type of license, agency, or permit issued under this title revoked within the last
6700 three years.

6701 [~~4~~] (5) (a) A minor may not be;

6702 (i) granted a beer wholesaling license; or [be]

6703 (ii) employed by a licensee to handle beer.

6704 (b) The commission may not grant a beer wholesaling license to an applicant that is a
6705 partnership, corporation, or limited liability company if any of the following is a minor:

6706 (i) a partner or managing agent of the applicant partnership;

6707 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
6708 total issued and outstanding stock of the applicant corporation; or

6709 (iii) a manager or member who owns at least 20% of the applicant limited liability
6710 company.

6711 [~~5~~] (6) (a) A beer wholesaler may not be issued, directly or indirectly, nor hold,
6712 through any wholly or partially owned subsidiaries or otherwise, a brewery license or a retail
6713 beer license simultaneously with a wholesaling license.

6714 (b) A retail beer licensee may not be issued, directly or indirectly, nor hold, through
6715 any wholly or partially owned subsidiaries or otherwise, a wholesaling license.

6716 [~~6~~] (7) The commission may not grant a beer wholesaling license to any person who
6717 has not met any applicable federal requirements for beer wholesaling.

6718 [~~7~~] (8) If any person to whom a license has been issued under this chapter no longer
6719 possesses the qualifications required by this title for obtaining that license, the commission
6720 may suspend or revoke that license.

6721 Section 90. Section **32A-11-106** is amended to read:

6722 **32A-11-106. Operational restrictions.**

6723 [~~1~~ Any] Each person [who is] granted a beer wholesaling license, and the employees

6724 and management personnel of the licensee, shall ~~[abide by]~~ comply with the following
6725 conditions and requirements~~[:]~~. Failure to comply may result in a suspension or revocation of
6726 the beer wholesaling license or other disciplinary action taken against individual employees or
6727 management personnel of the licensee.

6728 ~~[(a)]~~ (1) A licensee may not wholesale any beer manufactured within the state by a
6729 brewer who is not licensed by the commission as a manufacturing licensee.

6730 ~~[(b)]~~ (2) A licensee may not wholesale any beer manufactured out of state by a brewer
6731 who has not obtained a certificate of approval from the department.

6732 ~~[(c)]~~ (3) (a) A licensee may not sell or distribute beer to any person within the state
6733 except licensed beer retailers or holders of temporary retail beer permits ~~[or licenses]~~ issued by
6734 ~~[a local authority]~~ the commission for temporary special events ~~[that do not last longer than 30~~
6735 ~~days]~~ pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits.

6736 (b) A violation of this Subsection (3) is a class A misdemeanor

6737 ~~[(d)]~~ (4) (a) A licensee may not sell or distribute any beer to any retailer outside of the
6738 geographic area designated on its application, except that if a licensee is temporarily unable to
6739 supply retail dealers within its authorized geographical area, the department may grant
6740 temporary authority to another licensed wholesaler who distributes the same brand in another
6741 area to supply retailers.

6742 (b) A violation of this Subsection (4) is a class B misdemeanor.

6743 ~~[(e)]~~ (i) (5) (a) Every licensee shall own, lease, or otherwise control and maintain a
6744 warehouse facility located in this state for the receipt, storage, and further distribution of all
6745 beer sold by the licensee to any person within the state.

6746 ~~[(i)]~~ (b) A licensee may not sell beer to any person in this state, other than the
6747 department, unless the beer has first been physically removed from the vehicle used to
6748 transport the beer from the supplier to the licensee and delivered into the actual possession and
6749 control of the licensee in its warehouse or other facility.

6750 ~~[(f)]~~ (6) Each beer wholesaling licensee shall maintain accounting and other records
6751 and documents as the department may require. Any licensee or person acting for the licensee,
6752 who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in
6753 any of the books of account or other documents of the licensee required to be made,
6754 maintained, or preserved by this title or the rules of the commission for the purpose of

6755 deceiving the commission or the department, or any of their officials or employees, is subject
6756 to the immediate suspension or revocation of the beer wholesaling license and possible
6757 criminal prosecution under Chapter 12, Criminal Offenses.

6758 ~~[(g)]~~ (7) A licensee may not sell, transfer, assign [or transfer its], exchange, barter,
6759 give, or attempt in any way to dispose of the beer wholesaling license to any person, whether
6760 for monetary gain or not, unless [the assignment or transfer] it is done;

6761 (a) in accordance with the commission rules; and

6762 (b) after written consent has been given by the commission.

6763 ~~[(h)]~~ (8) A licensee may not sell or distribute any alcoholic beverage that is not clearly
6764 labeled in a manner reasonably calculated to put the public on notice that the beverage is an
6765 alcoholic beverage. The beverage shall bear the label "alcoholic beverage" or a manufacturer's
6766 label which in common usage apprises the general public that the beverage contains alcohol.

6767 ~~[(2) Failure to comply with the provisions of Subsection (1) may result in suspension~~
6768 ~~or revocation of the beer wholesaling license or other disciplinary action taken against~~
6769 ~~individual employees or management personnel of the licensee.]~~

6770 Section 91. Section **32A-11a-106** is amended to read:

6771 **32A-11a-106. Prohibited conduct of wholesaler.**

6772 (1) A wholesaler may not:

6773 (a) induce, coerce, or attempt to induce or coerce, any retailer to engage in any illegal
6774 act or course of conduct;

6775 (b) impose a requirement that is discriminatory by its terms or in the methods of
6776 enforcement as compared to requirements imposed by the wholesaler on similarly situated
6777 retailers;

6778 (c) prohibit a retailer from selling the product of any other wholesaler;

6779 (d) fix or maintain the price at which a retailer may resell beer;

6780 (e) require any retailer to accept delivery of any beer or any other item that is not
6781 voluntarily ordered by the retailer;

6782 (f) restrict or inhibit, directly or indirectly, the right of a retailer to participate in an
6783 organization representing interests of retailers for any lawful purpose;

6784 (g) require a retailer to participate in or contribute to any local, regional, or national
6785 advertising fund or other promotional activity;

6786 (h) retaliate against a retailer that files a complaint with the department or the
6787 applicable federal agency regarding an alleged violation by the wholesaler of a state or federal
6788 law or administrative rule;

6789 (i) refuse to deliver beer products carried by the wholesaler to a properly licensed
6790 retailer who resides within the wholesaler's sales territory:

6791 (i) in reasonable quantities; and

6792 (ii) within a reasonable time after receipt of the retailer's order.

6793 (2) Notwithstanding Subsection (1)(i), the wholesaler may refuse to deliver products if
6794 the refusal is due to:

6795 (a) the retailer's failure to pay the wholesaler pursuant to Subsection
6796 32A-12-603[~~(17)~~](7);

6797 (b) an unforeseeable event beyond the wholesaler's control;

6798 (c) a work stoppage or delay due to a strike or labor problem;

6799 (d) a bona fide shortage of materials; or

6800 (e) a freight embargo.

6801 Section 92. Section **32A-12-102** is amended to read:

6802 **32A-12-102. Special burdens of proof -- Inferences and presumptions.**

6803 (1) In any prosecution of an offense defined in this title or in any proceeding brought to
6804 enforce this title:

6805 (a) it is not necessary that the state or commission establish the precise description or
6806 quantity of the alcoholic beverages or products or the precise consideration, if any, given or
6807 received for the alcoholic beverages or products;

6808 (b) there is [~~an inference, absent proof to the contrary,~~] a presumption that the
6809 [~~alcoholic~~] beverage or product in question is [~~intoxicating~~] an alcoholic beverage or product if
6810 the witness describes it;

6811 (i) as intoxicating;

6812 (ii) as an alcoholic beverage; or

6813 (iii) by a name that is commonly applied to an [~~intoxicating~~] alcoholic beverage or
6814 product;

6815 (c) if it is alleged that an association or corporation has violated this title, the fact of the
6816 incorporation of the association or corporation is presumed absent proof to the contrary;

6817 (d) a certificate or report signed or purporting to be signed by any state chemist,
6818 assistant state chemist, or state crime laboratory chemist, as to the analysis or ingredients of any
6819 alcoholic beverage or product is prima facie evidence of the facts stated in that certificate or
6820 report and of the authority of the person giving or making the report, and is admissible in
6821 evidence without any proof of appointment or signature absent proof to the contrary;

6822 (e) a copy of entries made in the records of the United States internal revenue collector,
6823 certified by the collector or a qualified notary public, showing the payment of the United States
6824 internal revenue special tax for the manufacture or sale of alcoholic beverages or products is
6825 prima facie evidence of the manufacture or sale by the party named in the entry within the
6826 period set forth in the record.

6827 (2) (a) In proving the unlawful sale, disposal, gift, or purchase, gratuitous or otherwise,
6828 or consumption of alcoholic beverages or products, it is not necessary that the state or
6829 commission establish that any money or other consideration actually passed or that an alcoholic
6830 beverage or product was actually consumed if the court or trier of fact is satisfied that a
6831 transaction in the nature of a sale, disposal, gift, or purchase actually occurred or that any
6832 consumption of alcoholic beverages or products was about to occur.

6833 (b) Proof of consumption or intended consumption of an alcoholic beverage or product
6834 on premises on which consumption is prohibited, by some person not authorized to consume
6835 alcoholic beverages or products on those premises, is evidence that an alcoholic beverage or
6836 product was sold or given to or purchased by the person consuming, about to consume, or
6837 carrying away the alcoholic beverage or product as against the occupant of the premises.

6838 Section 93. Section **32A-12-103** is amended to read:

6839 **32A-12-103. Criminal responsibility for conduct of another.**

6840 In addition to Title 76, Chapter 2, Part 2, [~~of the Utah Criminal Code relating to~~
6841 ~~criminal responsibility for the conduct of another~~] Criminal Responsibility for the Conduct of
6842 Another, the following principles apply to violations of this title:

6843 (1) If a violation of this title is committed by any person in the employ of the occupant
6844 of any premises in which the offense is committed, or by any person who is required by the
6845 occupant to be or remain in or upon the premises, or to act in any way for the occupant, the
6846 occupant is prima facie considered a party to the offense committed, and is liable as a principal
6847 offender, notwithstanding the fact that the offense was committed by a person who is not

6848 proved to have committed it under or by the direction of the occupant. Nothing in this section
6849 relieves the person actually committing the offense from liability.

6850 (2) If a violation of this title is committed by a corporation [or], association,
6851 partnership, or limited liability company, the officer or agent of the corporation or association,
6852 partner, manager, or member of the limited liability company in charge of the premises in
6853 which the offense is committed is prima facie considered a party to the offense committed, and
6854 is personally liable to the penalties prescribed for the offense as a principal offender. Nothing
6855 in this section relieves the corporation [or], association, partnership, or limited liability
6856 company, or the person who actually committed the offense from liability.

6857 Section 94. Section **32A-12-105** is amended to read:

6858 **32A-12-105. Additional criminal penalties.**

6859 In addition to the penalties provided in Title 76, Chapter 3, [~~the Utah Criminal Code~~]
6860 Penalties:

6861 (1) Upon any defendant's conviction of any offense defined in this title, the court may
6862 also order the defendant to make restitution or pay costs in accordance with Title 77, Chapter
6863 32A, [~~the Utah Code of Criminal Procedure~~] Defense Costs.

6864 (2) (a) Upon a corporation's [or], association's, partnership's, or limited liability
6865 company's conviction of any offense defined in this title, and a failure of the corporation [or],
6866 partnership, association, or limited liability company to pay a fine imposed upon it, the
6867 [~~corporate~~] powers, rights, and privileges of the corporation [or], association, partnership, or
6868 limited liability company, if it is a domestic corporation [or], association, partnership, or
6869 limited liability company may be suspended or revoked, and if a foreign corporation,
6870 association, partnership, or limited liability company, it forfeits its right to do intrastate
6871 business in this state.

6872 (b) The department shall transmit the name of each corporation [or], association,
6873 partnership, or limited liability company to the Division of Corporations and Commercial
6874 Code, which shall immediately record the action in a manner that makes the information
6875 available to the public. The suspension, revocation, or forfeiture is effective from the time the
6876 record is made, and the certificate of the Division of Corporations and Commercial Code is
6877 prima facie evidence of the suspension, revocation, or forfeiture. Nothing contained in this
6878 section may be construed as affecting, limiting, or restricting any proceedings that otherwise

6879 may be taken for the imposition of any other punishment or the modes of enforcement or
6880 recovery of fines or penalties.

6881 (3) Upon the conviction of any business entity required to have a business license to
6882 operate its business activities, or upon the conviction of any of its agents, employees, or
6883 officers of any offense defined in this title, with the knowledge, consent, or acquiescence of the
6884 business entity, the department shall forward a copy of the judgment of conviction to the
6885 appropriate governmental entity responsible for issuing and revoking the business licenses.
6886 That governmental entity may institute appropriate proceedings to revoke the business' license,
6887 and upon revocation, a license may not be granted to the business entity for at least one year
6888 from the date of revocation. Upon the conviction for a second or other offense, a license may
6889 not be granted for at least two years from the date of revocation.

6890 (4) Upon conviction of any physician, pharmacist, druggist, dentist, or veterinarian of
6891 any offense defined in this title, the department shall forward a certified copy of the judgment
6892 of conviction to the ~~[Department of Commerce]~~ Division of Occupational and Professional
6893 Licensing. That department may institute appropriate proceedings to revoke the defendant's
6894 license, and upon revocation, a license may not be granted to the defendant by the department
6895 for at least one year from the date of revocation. Upon the defendant's conviction for a second
6896 or other offense, a license may not be granted for at least two years from the date of revocation.

6897 Section 95. Section **32A-12-201** is amended to read:

6898 **32A-12-201. Unlawful sale or furnishing.**

6899 (1) It is unlawful for any person~~[-licensee, permittee, or their officers, managers,~~
6900 ~~employees, or agents to keep for sale, or to directly or indirectly or upon any pretense or~~
6901 ~~device, sell, offer to sell, or otherwise furnish or supply to another, any alcoholic beverage or~~
6902 ~~product, except as provided by this title or the rules of the commission adopted under this title.~~

6903 ~~(2) Except as otherwise provided, a manufacturer, supplier, or importer of liquor, wine, and~~
6904 ~~heavy beer products, and their employees, agents, and representatives may not sell, offer to sell,~~
6905 ~~solicit or canvass for orders, or otherwise furnish or supply these products to another within~~
6906 ~~this state other than the department and military installations.]~~ in the business of selling liquor,
6907 or any manufacturer, supplier, or importer of liquor, or their officers, managers, employees, or
6908 agents to sell, ship, transport, or cause to be sold, shipped, or transported any liquor from an
6909 out-of-state location directly or indirectly into this state except to the extent authorized by this

6910 title to:

6911 (a) the department;

6912 (b) a military installation;

6913 (c) a holder of a special use permit to the extent authorized by the commission in the

6914 permit; or

6915 (d) a bonded liquor warehouse licensed by the commission to distribute and transport

6916 liquor to:

6917 (i) the department; or

6918 (ii) an out-of-state wholesaler or retailer.

6919 (2) (a) It is unlawful for any person in the business of selling beer, or any manufacturer,

6920 supplier, or importer of beer, or their officers, managers, employees, or agents to sell, ship,

6921 transport, or cause to be sold, shipped, or transported any beer from an out-of-state location

6922 directly or indirectly into this state except to the extent authorized by this title to:

6923 (i) a licensed beer wholesaler;

6924 (ii) a military installation; or

6925 (iii) a holder of a special use permit to the extent authorized by the commission in the

6926 permit.

6927 (b) Subsection (2)(a) does not preclude a small brewer that holds a certificate of

6928 approval under Subsection 32A-8-101(4) from selling, shipping, or transporting beer directly to

6929 a licensed beer retailer to the extent authorized by Subsection 32A-8-401(5).

6930 (3) (a) It is unlawful for any manufacturer, supplier, or importer of liquor in this state,

6931 or their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold,

6932 shipped, or transported any liquor directly or indirectly to any person in this state except to the

6933 extent authorized by this title to:

6934 (i) the department;

6935 (ii) a military installation;

6936 (iii) a holder of a special use permit to the extent authorized by the commission in the

6937 permit; or

6938 (iv) a bonded liquor warehouse licensed by the commission to distribute and transport

6939 liquor to:

6940 (A) the department; or

- 6941 (B) an out-of-state wholesaler or retailer.
- 6942 (b) Subsection (3)(a) does not preclude a winery licensed under this title and located in
6943 this state from selling wine to persons on its winery premises:
- 6944 (i) to the extent authorized by Subsection 32A-8-201(4)(c); or
6945 (ii) under a package agency established by the commission on the winery premises.
- 6946 (4) (a) It is unlawful for any manufacturer, supplier, or importer of beer in this state, or
6947 their officers, managers, employees, or agents, to sell, ship, transport, or cause to be sold,
6948 shipped or transported any beer directly or indirectly to any person in this state except to the
6949 extent authorized by this title to:
- 6950 (i) a licensed beer wholesaler;
6951 (ii) a military installation; or
6952 (iii) a holder of a special use permit to the extent authorized by the commission in the
6953 permit.
- 6954 (b) Subsection (4)(a) does not preclude:
- 6955 (i) a small brewer licensed under this title and located in this state from selling,
6956 shipping, and transporting beer directly to a licensed beer retailer in this state to the extent
6957 authorized by Subsection 32A-8-401(5); or
6958 (ii) a brewery licensed under this title from selling beer to persons on its manufacturing
6959 premises under Subsection 32A-8-401(4)(c).
- 6960 (5) It is unlawful for any person other than a person described in Subsection (1) or (2)
6961 to sell, ship, transport, or cause to be sold, shipped, or transported any alcoholic beverage or
6962 product from an out-of-state location directly or indirectly into this state, except as otherwise
6963 provided by this title.
- 6964 (6) It is unlawful for any person in this state other than a person described in
6965 Subsection (3) or (4) to sell, ship, transport, or cause to be sold, shipped, or transported any
6966 alcoholic beverage or product directly or indirectly to any other person in this state, except as
6967 otherwise provided by this title.
- 6968 (7) It is unlawful for any retail licensee or permittee in this state, or their officers,
6969 managers, employees, or agents to keep for sale, or to directly or indirectly, sell, offer to sell, or
6970 otherwise furnish to another, any alcoholic beverage or product, except as otherwise provided
6971 by this title.

6972 (8) (a) A violation of Subsection (1), (2), (3), or (4) is a third degree felony.

6973 (b) A violation of Subsection (5) or (6) is a class B misdemeanor.

6974 (c) A violation of Subsection (7) is a class B misdemeanor, except where otherwise
6975 provided by this title.

6976 Section 96. Section **32A-12-203** is amended to read:

6977 **32A-12-203. Unlawful sale or furnishing to minors.**

6978 (1) A person may not sell, offer to sell, or otherwise furnish [~~or supply~~] any alcoholic
6979 beverage or product to any [~~person under the age of 21 years~~] minor.

6980 (2) (a) Except as otherwise provided in Subsection (4), a person is guilty of a class B
6981 misdemeanor if that person:

6982 (i) sells, offers to sell, or otherwise furnishes any alcoholic beverage or product to any
6983 minor; and

6984 (ii) negligently or recklessly fails to determine whether the recipient of the alcoholic
6985 beverage or product is a minor.

6986 (b) As used in this Subsection (2), "negligently" means with simple negligence.

6987 [~~(2)~~] (3) Except as otherwise provided in Subsection [~~(3)~~] (4), a person who
6988 [knowingly] sells, offers to sell, or otherwise furnishes [~~or supplies~~] any alcoholic beverage or
6989 product to any [~~person under the age of 21 years~~] minor knowing that the recipient of the
6990 alcoholic beverage or product is a minor is guilty of a class A misdemeanor.

6991 [~~(3)~~] (4) This section does not apply to the furnishing [~~or supplying~~] of an alcoholic
6992 beverage or product to a minor in accordance with this title:

6993 (a) for medicinal purposes by:

6994 (i) the parent or guardian of the minor; or [by]

6995 (ii) the minor's physician or dentist[, ~~in accordance with this title~~]; or

6996 (b) as part of a church's or religious organization's religious services.

6997 Section 97. Section **32A-12-204** is amended to read:

6998 **32A-12-204. Unlawful sale or furnishing to intoxicated persons.**

6999 (1) A person may not sell, offer to sell, or otherwise furnish [~~or supply~~] any alcoholic
7000 beverage or product to:

7001 (a) any person who is actually or apparently [~~under the influence of intoxicating~~
7002 alcoholic beverages or products or drugs] intoxicated; or [to]

7003 (b) a person whom the person furnishing the alcoholic beverage knew or should have
7004 known from the circumstances was [~~under the influence of intoxicating alcoholic beverages or~~
7005 ~~products or drugs~~] actually or apparently intoxicated.

7006 (2) (a) A person who negligently or recklessly violates Subsection (1) is guilty of a
7007 class B misdemeanor.

7008 (b) A person who knowingly violates Subsection (1) is guilty of a class A
7009 misdemeanor.

7010 (3) As used in Subsection (2)(a), "negligently" means with simple negligence.

7011 Section 98. Section **32A-12-207** is amended to read:

7012 **32A-12-207. Unlawful sale or furnishing during emergency.**

7013 ~~[(1) A person may not]~~ During a period of emergency proclaimed by the governor to
7014 exist in an area of the state, it is unlawful for a person to sell, offer to sell, or otherwise furnish
7015 [or supply] any alcoholic product in [an] that area [during a period of emergency proclaimed by
7016 the governor to exist in the area. (2) This section does not apply if, in the judgment of the
7017 governor, the emergency does not require suspension of sale or supply of alcoholic beverages,
7018 and the emergency proclamation so provides.] if the director of the department has publicly
7019 announced and directed that alcoholic products may not be sold, offered for sale, or otherwise
7020 furnished in that area during the period of emergency.

7021 Section 99. Section **32A-12-209** is amended to read:

7022 **32A-12-209. Unlawful purchase, possession, or consumption by minors.**

7023 (1) It is unlawful for any [~~person under the age of 21 years]~~ minor to purchase, attempt
7024 to purchase, solicit another person to purchase, possess, or consume any alcoholic beverage or
7025 product, unless specifically authorized by this title.

7026 (2) It is unlawful for [~~any person under the age of 21 years to misrepresent his age, or~~
7027 ~~for any other person to misrepresent the age of a minor, for]~~ the purpose of purchasing or
7028 otherwise obtaining an alcoholic beverage or product for a minor[:] for:

7029 (a) any minor to misrepresent the minor's age; or

7030 (b) for any other person to misrepresent the age of a minor.

7031 (3) It is unlawful for [~~any person under the age of 21 years]~~ a minor to possess or
7032 consume any alcoholic beverage while riding in a limousine or chartered bus.

7033 (4) When a person who is at least 13 years old, but younger than 18 years old, is found

7034 by the court to have violated this section, the provisions regarding suspension of the driver's
7035 license under Section 78-3a-506 apply to the violation.

7036 (5) When the court has issued an order suspending a person's driving privileges for a
7037 violation of this section, the Driver License Division shall suspend the person's license under
7038 the provisions of Section 53-3-219.

7039 (6) When the Department of Public Safety receives the arrest or conviction record of a
7040 person for a driving offense committed while [~~his~~] the person's license is suspended pursuant to
7041 this section, the department shall extend the suspension for an additional like period of time.

7042 [~~(7) A violation of this section is a class B misdemeanor.~~]

7043 Section 100. Section **32A-12-210** is amended to read:

7044 **32A-12-210. Unlawful purchase by intoxicated persons.**

7045 A person may not purchase any alcoholic beverage or product when [~~he~~] the person is
7046 [~~under the influence of intoxicating alcoholic beverages, products, or drugs~~] intoxicated.

7047 Section 101. Section **32A-12-212** is amended to read:

7048 **32A-12-212. Unlawful possession -- Exceptions.**

7049 (1) A person may not have or possess within this state any liquor unless authorized by
7050 this title or the rules of the commission, except that:

7051 (a) a person who clears United States Customs when entering this country may have or
7052 possess for personal consumption and not for sale or resale, a maximum of [~~one liter~~] two liters
7053 of liquor purchased from without the United States; [~~or~~]

7054 (b) a person who moves [~~his~~] the person's residence to this state from outside of this
7055 state may have or possess for personal consumption and not for sale or resale, any liquor
7056 previously purchased outside the state and brought into this state during the move, if:

7057 (i) the person first obtains department approval prior to moving the liquor into the
7058 state;

7059 (ii) the department affixes the official state label to the liquor; and

7060 (iii) the person pays the department a reasonable administrative handling fee as
7061 determined by the commission[~~;~~]; or

7062 (c) a person who as a beneficiary inherits as part of an estate liquor that is located
7063 outside the state, may have or possess the liquor and transport or cause the liquor to be
7064 transported into the state if:

7065 (i) the person first obtains department approval prior to moving the liquor into the
7066 state;

7067 (ii) the person provides sufficient documentation to the department to establish the
7068 person's legal right to the liquor as a beneficiary;

7069 (iii) the department affixes the official state label to the liquor; and

7070 (iv) the person pays the department a reasonable administrative handling fee as
7071 determined by the commission.

7072 (2) (a) Approval under Subsection (1)(b) may be obtained by [~~persons who are either~~] a
7073 person who:

7074 (i) is transferring [~~their~~] the person's permanent residences to this state; or [~~who~~
7075 maintain]

7076 (ii) maintains separate residences both in and out of this state.

7077 (b) A person may not obtain approval to transfer liquor under [~~that subsection~~]
7078 Subsection (1)(b) more than once.

7079 Section 102. Section **32A-12-213** is amended to read:

7080 **32A-12-213. Unlawful bringing onto premises for consumption.**

7081 [~~(1) A person may not bring onto the premises of any licensed or unlicensed restaurant,~~
7082 ~~airport lounge, licensed or unlicensed private club, on-premise beer retailer licensee, or any~~
7083 ~~establishment open to the general public any alcoholic beverage for on-premises consumption;~~
7084 ~~except:]~~

7085 (1) Except as provided in Subsection (3), a person may not bring for on-premise
7086 consumption any alcoholic beverage onto the premises of any:

7087 (a) licensed or unlicensed restaurant;

7088 (b) licensed or unlicensed private club;

7089 (c) airport lounge licensee;

7090 (d) on-premise banquet licensee;

7091 (e) on-premise beer retailer licensee;

7092 (f) event where alcoholic beverages are sold or served under a single event permit or
7093 temporary special event beer permit issued under this title; or

7094 (g) any establishment open to the general public.

7095 (2) Except as provided in Subsection (3), a licensed or unlicensed restaurant or private

7096 club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer licensee, or
7097 holder of a single event permit or temporary special event beer permit issued under this title, or
7098 its officers, managers, employees, or agents may not allow a person to bring onto its premises
7099 any alcoholic beverage for on-premises consumption or allow consumption of any such
7100 alcoholic beverage in violation of this section.

7101 (3) (a) [a] A person may bring [~~cork-finished wines~~] bottled wine onto the premises of
7102 any restaurant liquor licensee, limited restaurant licensee, or private club [~~liquor~~] licensee and
7103 consume the wine pursuant to the applicable restrictions contained in Subsection
7104 32A-4-106[~~(17)~~](14), 32A-4-307(13), or 32A-5-107[~~(24)~~(m), ~~as the case may be~~](32);

7105 (b) a passenger of a limousine may bring onto, have, and consume any alcoholic
7106 beverage on the limousine if:

7107 (i) the travel of the limousine begins and ends at:

7108 (A) the residence of the passenger;

7109 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

7110 (C) the temporary domicile of the passenger; and

7111 (ii) the driver of the limousine is separated from the passengers by partition or other
7112 means approved by the department;

7113 (c) a passenger of a chartered bus may bring onto, have, and consume any alcoholic
7114 beverage on the chartered bus:

7115 (i) (A) but may consume only during travel to a specified destination of the chartered
7116 bus and not during travel back to the place where the travel begins; or

7117 (B) if the travel of the chartered bus begins and ends at:

7118 (I) the residence of the passenger;

7119 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

7120 (III) the temporary domicile of the passenger; and

7121 (ii) the chartered bus has a nondrinking designee other than the driver traveling on the
7122 chartered bus to monitor consumption; and

7123 (d) a person may bring onto any premises, have, and consume any alcoholic beverage
7124 at a privately-hosted event that is not open to the general public.

7125 [~~(2)~~] (4) Except as provided in Subsection [~~(1)~~] (3)(c)(i)(A), the consumption of
7126 alcoholic beverages in limousines and chartered buses is not allowed if the limousine or

7127 chartered bus drops off passengers at locations from which they depart in private vehicles.

7128 ~~[(3) A licensed or unlicensed private club, licensed or unlicensed restaurant, airport~~
7129 ~~lounge, or on-premise beer retailer licensee, or its officers, managers, employees, or agents may~~
7130 ~~not allow a person to bring onto its premises any alcoholic beverage for on-premises~~
7131 ~~consumption or allow consumption of any such alcoholic beverage in violation of this section,~~
7132 ~~except as authorized in Subsection (1).]~~

7133 ~~[(4) This section does not apply to a retail licensee wine tasting, as defined in Section~~
7134 ~~32A-1-105, and as provided in Subsection 32A-12-603(20).]~~

7135 Section 103. Section **32A-12-215** is amended to read:

7136 **32A-12-215. Unlawful storage.**

7137 ~~[(1)]~~ It is unlawful for any person to store liquor in any establishment that is authorized
7138 to sell beer for on-premise consumption but is not licensed by the commission to sell liquor.

7139 ~~[(2) A violation of this section is a class B misdemeanor.]~~

7140 Section 104. Section **32A-12-216** is amended to read:

7141 **32A-12-216. Unlawful permitting of intoxication.**

7142 ~~[(1) The offense of intoxication shall be defined and punished in accordance with~~
7143 ~~Section 76-9-701 of the Utah Criminal Code.]~~

7144 ~~[(2)]~~ (1) A person may not permit any other person to become intoxicated~~[, as defined~~
7145 ~~in Section 76-9-701,]~~ or any intoxicated person to consume any alcoholic beverage in:

7146 (a) any premises of which the person is the owner, tenant, or occupant~~[-];~~ or

7147 (b) in any chartered bus or limousine of which the person is the owner or operator.

7148 ~~[(3)]~~ (2) A violation of Subsection ~~[(2)]~~ (1) is ~~[an infraction]~~ a class C misdemeanor.

7149 Section 105. Section **32A-12-218** is amended to read:

7150 **32A-12-218. Unlawful labeling or lack of label.**

7151 (1) ~~[(1)]~~ Unless otherwise provided by this title or the rules of the commission, it is
7152 unlawful for any person to possess any liquor unless [it]:

7153 (a) the liquor is contained in its original package; and ~~[unless]~~

7154 (b) the package has affixed to it the official commission label and markings as required
7155 by this title and the rules of the commission~~[, unless otherwise provided by this title or the rules~~
7156 ~~of the commission].~~

7157 ~~[(2) This section does not apply to any person holding a public service permit that~~

7158 ~~allows service of liquor on railroads, airlines, or other public conveyances.]~~

7159 (2) Unless authorized by the department, it is unlawful for any person to be in
7160 possession of or use an official commission label, marking, or equipment that is used by the
7161 department, a state store, or a package agency to label or mark original liquor bottles or
7162 packages.

7163 (3) A violation of Subsection (2) is a third degree felony.

7164 Section 106. Section **32A-12-222** is enacted to read:

7165 **32A-12-222. Unlawful dispensing.**

7166 (1) For purposes of this section:

7167 (a) "primary spirituous liquor" means the main distilled spirit in a beverage; and

7168 (b) "primary spirituous liquor" does not include any secondary alcoholic product used
7169 as flavorings in conjunction with the primary distilled spirit in the beverage.

7170 (2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous
7171 liquor for consumption on the licensed premises, or any officer, manager, employee, or agent
7172 of the licensee may not:

7173 (a) sell, serve, dispense, or otherwise furnish any primary spirituous liquor to any
7174 person on the licensed premises except in a quantity that does not exceed one ounce per
7175 beverage dispensed through a calibrated metered dispensing system approved by the
7176 department;

7177 (b) sell, serve, dispense, or otherwise furnish more than a total of 1.75 ounces of
7178 spirituous liquors as secondary flavoring ingredients per beverage;

7179 (c) allow any person on the licensed premises to have more than two alcoholic
7180 beverages containing spirituous liquor at a time; or

7181 (d) allow any person on the licensed premises to have more than a total of 2.75 ounces
7182 of spirituous liquor at a time.

7183 (3) A violation of this section is a class C misdemeanor.

7184 Section 107. Section **32A-12-301** is amended to read:

7185 **32A-12-301. Operating without a license or permit.**

7186 [(+)] A person may not operate a restaurant, airport lounge, private club, on-premise
7187 beer retailer outlet, or similar establishment that allows patrons, customers, members, guests,
7188 visitors, or other persons to purchase or consume alcoholic beverages on the premises, except

7189 as provided by this title or the rules of the commission.

7190 [~~(2)~~ A violation of this section is a class B misdemeanor.]

7191 Section 108. Section **32A-12-305** is amended to read:

7192 **32A-12-305. Obstructing an officer making a search or an official proceeding or**
7193 **investigation.**

7194 (1) A person in or having charge of any premises may not refuse or fail to admit to the
7195 premises or obstruct the entry of any member of the commission, authorized representative of
7196 the commission or department, or any law enforcement officer who demands entry when acting
7197 under this title.

7198 (2) A person in or having charge of any premises may not interfere with any of the
7199 following who is conducting an investigation under this title at the premises:

7200 (a) a member of the commission;

7201 (b) an authorized representative of the commission or department; or

7202 (c) any law enforcement officer.

7203 [~~(2)~~] (3) A person is guilty of a second degree felony if, believing that an official
7204 proceeding or investigation is pending or about to be instituted under this title, that person:

7205 (a) alters, destroys, conceals, or removes any writing or record with a purpose to impair
7206 its verity or availability in the proceeding or investigation; or

7207 (b) makes, presents, or uses anything that the person knows to be false with a purpose
7208 to deceive any commissioner, department official or employee, law enforcement official, or
7209 other person who may be engaged in a proceeding or investigation under this title.

7210 Section 109. Section **32A-12-306** is amended to read:

7211 **32A-12-306. Conflicting interests.**

7212 (1) A member of the commission, the department director, or [~~an~~] any employee of the
7213 department may not be directly or indirectly interested or engaged in any other business or
7214 undertaking dealing in alcoholic products, whether as owner, part owner, partner, member of
7215 syndicate, shareholder, agent, or employee and whether for the member's own benefit or in a
7216 fiduciary capacity for some other person or entity.

7217 (2) A member of the commission, the department director, or [~~an~~] any employee of the
7218 department may not enter into or participate in any business transaction as a partner, co-owner,
7219 joint venturer, or shareholder with any agent, representative, employee, or officer of any

7220 supplier of alcoholic products to the department.

7221 (3) The following are governed by Title 67, Chapter 16, Utah Public Officers' and

7222 Employees' Ethics Act:

7223 (a) a member of the commission;

7224 (b) the department director; or

7225 (c) any employee of the department.

7226 ~~[(3)]~~ (4) This section does not prevent the purchase of alcoholic products by any

7227 commission member, the department director, or any employee of the department as authorized

7228 by this title.

7229 Section 110. Section **32A-12-307** is amended to read:

7230 **32A-12-307. Interfering with suppliers.**

7231 A member of the commission, the department director, or an employee of the
7232 department may not directly or indirectly participate in any manner, by recommendation or
7233 otherwise, in the appointment, employment, or termination of appointment or employment of
7234 any agent, representative, employee, or officer of any manufacturer, supplier, or importer of
7235 liquor, wine, or heavy beer to the department except to determine qualifications for licensing
7236 under Chapter 8, Part 5, Local Industry Representative Licenses, and to enforce compliance
7237 with this title.

7238 Section 111. Section **32A-12-308** is amended to read:

7239 **32A-12-308. Offering or soliciting bribes or gifts.**

7240 (1) A person~~[-, association, or corporation]~~ having sold, selling, or offering any
7241 alcoholic product for sale to the commission or department may not offer, make, tender, or in
7242 any way deliver or transfer any bribe, gift as defined in Section 67-16-5, or share of profits to:

7243 (a) any commissioner[-];

7244 (b) the department director[-];

7245 (c) any department employee~~[-, officer, or agent,];~~ or

7246 (d) any law enforcement officer responsible for the enforcement of this title.

7247 (2) A commissioner, the department director, any department employee, ~~[officer, or~~
7248 ~~agent,]~~ or any law enforcement officer responsible for the enforcement of this title may not

7249 knowingly solicit, receive, accept, take, or seek, directly or indirectly, any commission,

7250 ~~[remuneration]~~ compensation as defined in Section 67-16-3, gift as defined in Section 67-16-5,

7251 or loan whatsoever from any person, association, or corporation having sold, selling, or
7252 offering any alcoholic product for sale.

7253 (3) A violation of this section is [~~a third degree felony~~] punishable under the provisions
7254 of Section 67-16-12.

7255 [~~(4) No other provision of law supersedes this section.~~]

7256 Section 112. Section **32A-12-401** is amended to read:

7257 **32A-12-401. Advertising prohibited -- Exceptions.**

7258 (1) The advertising of liquor by the department is prohibited, except:

7259 (a) the department may provide for an appropriate sign in the window or on the front of
7260 a state store or package agency denoting that it is a state authorized liquor outlet;

7261 (b) the department may provide printed price lists to the public; and

7262 (c) the department may authorize the use of price posting and floor stacking of liquor
7263 within state stores.

7264 [~~(2) The advertising or use of any means or media to induce persons to buy liquor is~~
7265 ~~prohibited, except:]~~

7266 [~~(a) a restaurant licensee, an airport lounge licensee, a manufacturing licensee, or a~~
7267 ~~private club licensee may display a sign on the front of, in the window of, and inside its~~
7268 ~~premises stating "Department of Alcoholic Beverage Control Licensee," "DABC Licensee," or~~
7269 ~~"State Liquor Licensee" in a form approved by the department;]~~

7270 [~~(b) a restaurant licensee may use the designation "Department of Alcoholic Beverage~~
7271 ~~Control Licensee," "DABC Licensee," or "State Liquor Licensee" in magazines, newspapers,~~
7272 ~~telephone book advertising pages, and other advertising in a nonbold 10-point type face;]~~

7273 [~~(c) a permittee may use the designation "Department of Alcoholic Beverage Control~~
7274 ~~Permittee," "DABC Permittee," or "State Liquor Permittee" in a form approved by the~~
7275 ~~department when informing the public or its invited guests about the event or service for which~~
7276 ~~the permit was obtained;]~~

7277 [~~(d) a restaurant licensee may advertise liquor availability in menus only to the extent~~
7278 ~~authorized in Chapter 4;]~~

7279 [~~(e) a hotel may advise its guests of liquor availability at its outlets in informational~~
7280 ~~materials; and]~~

7281 [~~(f) as otherwise authorized by this title or the rules of the commission.]~~

7282 ~~[(3)] (2) (a) The [advertising of] department may not advertise~~ alcoholic beverages on
7283 billboards ~~[is prohibited. This prohibition may not be construed to prevent the use of temporary~~
7284 ~~advertising methods to publicly recognize the sponsorship of a single sporting or other event by~~
7285 ~~corporations that manufacture or sell alcoholic beverages, so long as this recognition does not~~
7286 ~~overtly promote the consumption of alcoholic beverages contrary to the purposes of this title,~~
7287 ~~and such advertising methods and the duration of the advertising are approved in advance of~~
7288 ~~the event by the commission].~~

7289 (b) A package agency may not advertise alcoholic beverages on billboards except to the
7290 extent allowed by the commission by rule.

7291 ~~[(4)] (3) (a) The department may not display [of] liquor or price lists in windows or~~
7292 ~~showcases visible to passersby [is prohibited].~~

7293 ~~[(5) The advertising of beer is permitted to the extent authorized by commission rule~~
7294 ~~and not inconsistent with Subsection (3).]~~

7295 (b) A package agency may not display liquor or price lists in windows or showcases
7296 visible to passersby except to the extent allowed by the commission by rule.

7297 (4) Except to the extent prohibited by this title, the advertising of alcoholic beverages
7298 is allowed under guidelines established by the commission by rule.

7299 ~~[(6)] (5) The advertising or use of any means or media to offer alcoholic beverages to~~
7300 ~~the general public without charge is prohibited.~~

7301 Section 113. Section **32A-12-501** is amended to read:

7302 **32A-12-501. Disposition of liquor items shipped to the department.**

7303 (1) All liquor items received by the department from suppliers~~[, other than as samples~~
7304 ~~or as items not specifically listed on department purchase orders,]~~ shall be handled in
7305 accordance with and subject to Subsection 32A-12-603~~[(3)(j)].~~(4)(c)(ix), except for:

7306 (a) a sample; or

7307 (b) an item not specifically listed on a department purchase order.

7308 (2) Funds of the department may not be used to pay freight or charges on samples or
7309 any liquor items;

7310 (a) shipped to the department by suppliers; and

7311 (b) not listed on its purchase orders.

7312 Section 114. Section **32A-12-504** is amended to read:

7313 **32A-12-504. Unlawful transportation.**

7314 It is unlawful for any person, including a motor carrier, or any officer, agent, or
7315 employee of a motor carrier, [~~or any other person,~~] to order or purchase any alcoholic product
7316 or to cause any alcoholic product to be shipped, carried, or transported into this state, or from
7317 one place to another within this state[~~, when the alcoholic product is intended by any interested~~
7318 ~~person to be received, possessed, sold, or in any manner used, either in the original package or~~
7319 ~~otherwise, in violation of the laws of this state]~~ except as otherwise authorized by this title.

7320 Section 115. Section **32A-12-505** is amended to read:

7321 **32A-12-505. Lawful transportation.**

7322 Nothing contained in Sections 32A-12-503 and 32A-12-504 prohibits any carrier from:

7323 (1) transporting [beer] alcoholic products in the course of export from the state[~~;~~]; or
7324 [~~from]~~

7325 (2) transporting [liquor] alcoholic products across any part of this state while in transit
7326 pursuant to a bona fide consignment of the [~~liquor~~] alcoholic products to a person outside of
7327 this state.

7328 Section 116. Section **32A-12-601** is amended to read:

7329 **32A-12-601. Definitions.**

7330 [~~For purposes of~~] As used in this part:

7331 (1) (a) For purposes of Section 32A-12-602, "exclusion" is as defined in 27 C.F.R.
7332 Sections 8.51 through 8.54

7333 (b) For purposes of Section 32A-12-603, "exclusion" is as defined in 27 C.F.R.
7334 Sections 8.151 through 8.153.

7335 [~~(1)~~] (2) (a) "Industry member" means an alcoholic beverage manufacturer, producer,
7336 supplier, importer, wholesaler, bottler, or warehouse and bottler, or any of its affiliates,
7337 subsidiaries, officers, directors, partners, agents, employees, or representatives.

7338 (b) "Industry member" does not include the commission or the department or any of its
7339 officers or employees.

7340 [~~(2)~~] (3) "Retailer" means the holder of an alcoholic beverage license or permit issued
7341 by the commission or by local authority to allow the holder to engage in the sale of alcoholic
7342 beverages to consumers whether for consumption on or off the premises or any of the holder's,
7343 agents, officers, directors, shareholders, partners, or employees.

7344 Section 117. Section **32A-12-602** is amended to read:

7345 **32A-12-602. Exclusive outlets.**

7346 (1) It is unlawful for any industry member, directly or indirectly or through an affiliate,
7347 to require, by agreement or otherwise, that the department or a retailer purchase any alcoholic
7348 beverage products from the industry member or the department to the exclusion in whole or in
7349 part of any of those products sold or offered for sale by other persons.

7350 (2) (a) Subsection (1) applies only to a transaction between:

7351 (i) one or more industry members; and

7352 (ii) (A) the department; or

7353 (B) one or more retailers.

7354 (b) Subsection (1) does not apply to a transaction between two or more industry
7355 members including between a manufacturer and a wholesaler.

7356 [~~(2) This prohibition~~] (3) Subsection (1) includes purchases coerced by industry
7357 members through acts or threats of physical or economic harm, as well as voluntary industry
7358 member-retailer purchase agreements.

7359 (4) (a) Subsection (1) includes any contract or agreement, written or unwritten, that has
7360 the effect of requiring the department or retailer to purchase alcoholic beverages from the
7361 industry member beyond a single sales transaction.

7362 (b) Examples of a contract described in Subsection (4)(a) include:

7363 (i) an advertising contract between an industry member and a retailer with the express
7364 or implied requirement of the purchase of the advertiser's products; or

7365 (ii) a sales contract awarded on a competitive bid basis that has the effect of prohibiting
7366 the department or retailer from purchasing from other industry members by:

7367 (A) requiring that the retailer purchase a product or line of products exclusively from
7368 the industry member for the period of the agreement; or

7369 (B) requiring that the retailer purchase a specific or minimum quantity during the
7370 period of the agreement.

7371 (5) (a) Subsection (1) includes any contract, agreement, or other arrangement between
7372 an industry member and a third party non-retailer that requires the department or a retailer to
7373 purchase the industry member's products to the exclusion in whole or in part of any alcoholic
7374 beverage products sold or offered for sale by other persons.

7375 (b) This Subsection (5) applies whether the contract, agreement, or other arrangement
7376 originates with the industry member or the third party.

7377 (c) Examples of a contract, agreement, or other arrangement described in this
7378 Subsection (5) include:

7379 (i) a contract, agreement, or arrangement:

7380 (A) with a third party such as a ball club or municipal or private corporation that is not
7381 a retailer;

7382 (B) under which the third party leases the concession rights and is able to control the
7383 purchasing decisions of a retailer; and

7384 (C) that requires the retailer to purchase the industry member's products to the
7385 exclusion in whole or in part of any alcoholic beverage products sold or offered for sale by
7386 other persons; or

7387 (ii) a contract, agreement, or arrangement with a third party non-retailer that in return
7388 requires a retailer to purchase the industry member's products to the exclusion in whole or in
7389 part of any alcoholic beverage products sold or offered for sale by other persons in return for
7390 which the third-party provides a service or other thing of value such as:

7391 (A) sponsoring radio or television broadcasting;

7392 (B) paying for advertising; or

7393 (C) providing other services or things of value.

7394 Section 118. Section **32A-12-603** is amended to read:

7395 **32A-12-603. Tied house -- Prohibitions.**

7396 (1) (a) It is unlawful for any industry member, directly or indirectly or through an
7397 affiliate, to induce~~[- through any of the following means;]~~ any retailer to purchase any alcoholic
7398 beverages from the industry member or from the department to the exclusion in whole or in
7399 part of any of those products sold or offered for sale by other persons~~[-(i)]~~ by acquiring or
7400 holding any interest in any ~~retailer's~~ license with respect to the premises of a retailer, except
7401 where the license is held by a retailer that is completely owned by the industry member~~[-or]~~.

7402 ~~[(ii) by acquiring any interest in real or personal property owned, occupied, or used by~~
7403 ~~any retailer in the conduct of the retailer's business.]~~

7404 ~~[(b) For purposes of Subsection (1)(a)(ii), "interest" does not include complete~~
7405 ~~ownership of a retail business by an industry member but may include acquiring a mortgage on~~

7406 a retailer's real or personal property or paying for display space at a retail establishment.]

7407 ~~[(2) It is unlawful for any industry member, directly or indirectly or through an~~
7408 ~~affiliate, to furnish, give, rent, lend, or sell any equipment, fixtures, signs, supplies, money,~~
7409 ~~services, or other thing of value, as defined in federal law 27 C.F.R. Section 6.41 through 6.47,~~
7410 ~~to the department, to any retailer, or to any third party retailer association or display company~~
7411 ~~where the benefits resulting from the thing of value flow to the individual retailers, subject to~~
7412 ~~the following exceptions:]~~

7413 ~~[(a) (i) Product displays such as wine racks, bins, barrels, casks, shelving and the like~~
7414 ~~from which liquor, wine, and heavy beer are displayed may be provided to the department,~~
7415 ~~package agencies, private clubs, airport lounges, public service permittees, and single event~~
7416 ~~permittees to the extent allowed by federal law 27 C.F.R. Section 6.83, but may only be~~
7417 ~~displayed so as not to be visible to persons off the premises.]~~

7418 ~~[(ii) Product displays from which beer is displayed may be provided to package~~
7419 ~~agencies, licensed off-premise beer retailers, taverns, private clubs, airport lounges, public~~
7420 ~~service permittees, and single event permittees to the extent allowed by federal law 27 C.F.R.~~
7421 ~~Section 6.83, but may only be displayed so as not to be visible to persons off the premises.]~~

7422 ~~[(b) (i) Inside signs relating to liquor, wine, and heavy beer products may be provided~~
7423 ~~to private clubs, airport lounges, public service permittees, and single event permittees that~~
7424 ~~bear advertising matter such as posters, placards, designs, and mechanical devices, and~~
7425 ~~point-of-sale advertising matter such as table tents and menu clip-ons if they have no secondary~~
7426 ~~value, are of value to the retailer only as advertising, are displayed in a manner so as not to be~~
7427 ~~visible off the retailer's premises, otherwise comply with the advertising provisions of this title,~~
7428 ~~and the industry member does not directly or indirectly pay or credit the retailer for displaying~~
7429 ~~the sign or pay any expense incidental to its operation.]~~

7430 ~~[(ii) Inside signs as described in Subsection (2)(b)(i) relating to beer products may be~~
7431 ~~provided to off-premise beer retailers licensed by local authority, taverns, private clubs, airport~~
7432 ~~lounges, public service permittees, and single event permittees if they are displayed in a~~
7433 ~~manner so as not to be visible off of the retailer's premises, otherwise comply with the~~
7434 ~~advertising provisions of this title, and the industry member does not directly or indirectly pay~~
7435 ~~or credit the retailer for displaying the sign or pay any expenses incidental to its operation.]~~

7436 ~~[(c) (i) Liquor, wine, and heavy beer retailer advertising specialties such as trays,~~

7437 coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats,
7438 thermometers, clocks, and calendars may be provided to licensed private clubs, airport lounges,
7439 public service permittees, and single event permittees but only to the extent allowed by federal
7440 law 27 C.F.R. Section 6.85 if they bear advertising matter and are primarily valuable to the
7441 retailer as point of sale advertising.]

7442 [~~(ii) Beer retailer advertising specialties as described in Subsection (2)(c)(i) may be~~
7443 ~~provided to licensed taverns, private clubs, airport lounges, public service permittees, and~~
7444 ~~single event permittees if sold at a price not less than the cost to the industry member, if the~~
7445 ~~price is collected within 30 days of the sale date, and if they bear advertising matter and are~~
7446 ~~primarily valuable to the retailer as point of sale advertising.]~~

7447 [~~(d) (i) Trade literature, recipes, brochures, wine lists, and wine menus relating to~~
7448 ~~liquor, wine, and heavy beer products may be provided to licensed private clubs, restaurants~~
7449 ~~with a state liquor license, airport lounges, special use permittees, and single event permittees.]~~

7450 [~~(ii) Trade literature, recipes, and brochures relating to beer products may be provided~~
7451 ~~to licensed on-premise beer retailers, off-premise beer retailers licensed by local authority,~~
7452 ~~private clubs, restaurants with a state liquor license, airport lounges, special use permittees, and~~
7453 ~~single event permittees.]~~

7454 [~~(e) (i) Glassware that bears advertising matter relating to liquor, wine, and heavy beer,~~
7455 ~~and identifying the industry member or the industry member's product may be provided to~~
7456 ~~private clubs, airport lounges, public service permittees, and single event permittees if sold at a~~
7457 ~~price not less than the cost to the industry member and the price is collected within 30 days of~~
7458 ~~the sale date.]~~

7459 [~~(ii) Glassware that bears advertising matter relating to beer and identifying the~~
7460 ~~industry member or the industry member's product may be provided to licensed on-premise~~
7461 ~~beer retailers, private clubs, airport lounges, public service permittees, and single event~~
7462 ~~permittees if sold at a price not less than the cost to the industry member and the price is~~
7463 ~~collected within 30 days of the sale date.]~~

7464 [~~(f) Beer and wine tapping accessories such as standards, hoses, washers, couplings,~~
7465 ~~gas gauges, vent tongues, shanks, check valves, and coil cleaning services may be provided to~~
7466 ~~private clubs, restaurants with a state liquor license, airport lounges, public service permittees,~~
7467 ~~and single event permittees. Beer tapping accessories, coil cleaning services, and supplies also~~

7468 ~~may be provided to licensed on-premise beer retailers. All wine tapping accessories referenced~~
7469 ~~in this subsection shall be sold at a price not less than the cost to the industry member and the~~
7470 ~~price shall be collected within 30 days of the sale date. All wine services and supplies~~
7471 ~~referenced in this subsection shall be sold at reasonable market price for the locality and the~~
7472 ~~price shall be collected within 30 days of the sale. All beer tapping accessories referenced in~~
7473 ~~this subsection may be provided without charge.]~~

7474 ~~[(3) (a) Samples of liquor, wine, and heavy beer may be provided:]~~

7475 ~~[(i) under the conditions listed in Subsections (3)(b) through (r):]~~

7476 ~~[(A) to the department; and]~~

7477 ~~[(B) to licensed retailers; and]~~

7478 ~~[(ii) for retail licensee wine tasting of cork-finished wines in accordance with:]~~

7479 ~~[(A) this Subsection (3); and]~~

7480 ~~[(B) Subsection (20).]~~

7481 (b) Interest in any retail license includes any interest acquired by a corporate official,
7482 partner, employee, or other representative of the industry member.

7483 (c) Any interest in a retail license acquired by a separate corporation in which the
7484 industry member or the industry member's officials hold ownership or are otherwise affiliated
7485 is an interest in a retail license.

7486 (d) Less than complete ownership of a retail business by an industry member
7487 constitutes an interest in a retail license within the meaning of Subsection (1)(a).

7488 (2) (a) It is unlawful for any industry member, directly or indirectly or through an
7489 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
7490 or from the department to the exclusion in whole or in part of any of those products sold or
7491 offered for sale by other persons by acquiring any interest in real or personal property owned,
7492 occupied, or used by the retailer in the conduct of the retailers business.

7493 (b) For purposes of Subsection (2)(a):

7494 (i) "interest" does not include complete ownership of a retail business by an industry
7495 member;

7496 (ii) interest in retail property includes any interest acquired by a corporate official,
7497 partner, employee or other representative of the industry member;

7498 (iii) any interest in a retail license acquired by a separate corporation in which the

7499 industry member or its officials hold ownership or are otherwise affiliated is an interest in the
7500 retailer's property;

7501 (iv) less than complete ownership of a retail business by an industry member
7502 constitutes an interest in retail property;

7503 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry
7504 member constitutes an interest in the retailer's property; and

7505 (vi) the renting of display space by an industry member at a retail establishment
7506 constitutes an interest in the retailer's property.

7507 (3) (a) It is unlawful for any industry member, directly or indirectly or through an
7508 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
7509 or from the department to the exclusion in whole or in part of any of those products sold or
7510 offered for sale by other persons by furnishing, giving, renting, lending, or selling to the retailer
7511 any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to the
7512 exceptions enumerated in Subsection (4).

7513 (b) (i) For purposes of this Subsection (3), indirect inducement includes:

7514 (A) furnishing things of value to a third party where the benefits resulting from the
7515 things of value flow to individual retailers; and

7516 (B) making payments for advertising to a retailer association or a display company
7517 where the resulting benefits flow to individual retailers.

7518 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

7519 (A) the thing of value was furnished to a retailer by the third party without the
7520 knowledge or intent of the industry member; or

7521 (B) the industry member did not reasonably foresee that the thing of value would have
7522 been furnished to a retailer.

7523 (iii) Anything that may lawfully be furnished, given, rented, lent, or sold by industry
7524 members to retailers under Subsection (4) may be furnished directly by a third party to a
7525 retailer.

7526 (c) (i) A transaction in which equipment is sold to a retailer by an industry member,
7527 except as provided in Subsection (4), is the selling of equipment within the meaning of
7528 Subsection (3)(a) regardless of how the equipment is sold.

7529 (ii) The negotiation by an industry member of a special price to a retailer for equipment

7530 from an equipment company is the furnishing of a thing of value within the meaning of
7531 Subsection (3)(a).

7532 (d) The furnishing of free warehousing by delaying delivery of alcoholic beverages
7533 beyond the time that payment for the product is received, or if a retailer is purchasing on credit,
7534 delaying final delivery of products beyond the close of the period of time for which credit is
7535 lawfully extended, is the furnishing of a service or thing of value within the meaning of
7536 Subsection (3)(a).

7537 (e) Any financial, legal, administrative, or influential assistance given a retailer by an
7538 industry member in the retailer's acquisition of the retailer's license is the furnishing of a
7539 service or thing of value within the meaning of Subsection (3)(a).

7540 (4) (a) Notwithstanding Subsection (3), things of value may be furnished by industry
7541 members to retailers under the conditions and within the limitations prescribed in:

7542 (i) this Subsection (4); and

7543 (ii) the applicable federal laws cited in this Subsection (4).

7544 (b) (i) The following may be furnished by an industry member:

7545 (A) a product display as provided in 27 C.F.R. Subsection 6.83;

7546 (B) point of sale advertising materials and consumer advertising specialties as provided
7547 in 27 C.F.R. Subsection 6.84;

7548 (C) things of value to a temporary retailer to the extent allowed in 27 C.F.R.
7549 Subsection 6.85;

7550 (D) equipment and supplies as provided in 27 C.F.R. Subsection 6.88;

7551 (E) combination packaging as provided in 27 C.F.R. Subsection 6.93;

7552 (F) educational seminars as provided in 27 C.F.R. Subsection 6.94;

7553 (G) consumer promotions as provided in 27 C.F.R. Subsection 6.96;

7554 (H) advertising service as provided in 27 C.F.R. Subsection 6.98;

7555 (I) stocking, rotation, and pricing service as provided in 27 C.F.R. Subsection 6.99;

7556 (J) merchandise as provided in 27 C.F.R. Subsection 6.101; and

7557 (K) outside signs as provided in 27 C.F.R. Subsection 6.102.

7558 (ii) The following exceptions provided in federal law are not adopted:

7559 (A) the exception for samples provided in 27 C.F.R. Subsection 6.91;

7560 (B) the exception for consumer tasting or sampling at retail establishments provided in

7561 27 C.F.R. Subsection 6.95; and

7562 (C) the exception for participation in retailer association activities provided in 27

7563 C.F.R. Subsection 6.100.

7564 (iii) To the extent required by 27 C.F.R. Subsection 6.81(b) an industry member shall

7565 keep and maintain a record:

7566 (A) of all items furnished to a retailer;

7567 (B) on premises of the industry member; and

7568 (C) for a three-year period.

7569 (c) Samples of liquor, wine, and heavy beer may be provided to the department under
7570 the conditions listed in this Subsection (4)(c).

7571 ~~[(b) An]~~ (i) With the department's permission, an industry member may submit
7572 department samples to the department for product testing, analysis, and sampling~~[-but only~~
7573 ~~with the department's permission].~~

7574 ~~[(c)]~~ (ii) No more than two department samples of a particular type, vintage, and
7575 production lot of a particular branded product may be submitted to the department for
7576 department testing, analysis, and sampling within a consecutive 120-day period.

7577 ~~[(d) (i)]~~ (iii) (A) Each sample of liquor may not exceed 1 liter.

7578 ~~[(i)]~~ (B) Each sample of wine and heavy beer may not exceed 1.5 liters unless that
7579 exact product is only commercially packaged in a larger size, not to exceed 5 liters.

7580 ~~[(e) (i)]~~ (iv) (A) Department samples submitted to the department;

7581 (I) shall be shipped prepaid by the industry member by common carrier; and [not via]

7582 (II) may not be shipped by United States mail directly to the department's central
7583 administrative warehouse office.

7584 ~~[(i)]~~ (B) Department samples may not be shipped to any other location within the
7585 state.

7586 ~~[(f)]~~ (v) Department samples submitted to the department shall be accompanied by a
7587 letter from the industry member:

7588 ~~[(i)]~~ (A) clearly identifying the product as a "department sample"; and

7589 ~~[(ii)]~~ (B) clearly stating the FOB case price of the product.

7590 ~~[(g) (i)]~~ (vi) (A) The department may transfer listed items from current stock for use as
7591 comparison control samples or to verify product spoilage as deemed appropriate.

7592 [(i)] (B) Each sample transferred under Subsection [(3)(g)(i)] (4)(c)(vi)(A) shall be
7593 billed back, debited, to [their] the respective industry members.

7594 [(h)] (vii) The department shall:

7595 [(i)] (A) account for, label, and record all department samples received or transferred;

7596 [(i)] (B) account for the department sample's disposition; and

7597 [(iii)] (C) maintain a record;

7598 (I) of the samples and their disposition; and

7599 (II) for a two-year period.

7600 [(i)] (viii) The department shall affix to each bottle or container a label clearly
7601 identifying the product as a "department sample".

7602 [(j)] (ix) Each department sample delivered to the department or transferred from the
7603 department's current stock shall be disposed of at the discretion of the department in one of the
7604 following ways:

7605 [(i)] (A) tested and analyzed with the remaining contents destroyed under controlled
7606 and audited conditions established by the department;

7607 [(i)] (B) entire contents destroyed under controlled and audited conditions established
7608 by the department; or

7609 [(iii)] (C) added to the inventory of the department for sale to the public.

7610 [(k) ~~An industry member, for purposes of educating licensed retailers of the quality and~~
7611 ~~characteristics of the industry member's liquor, wine, or heavy beer product may utilize~~
7612 ~~department trade show samples for tasting and analysis purposes only.]~~

7613 [(l) (i) ~~Department trade show samples shall be shipped prepaid by the industry~~
7614 ~~member by common carrier and not via United States mail directly to the department's central~~
7615 ~~administrative warehouse office.]~~

7616 [(ii) ~~These samples may not be shipped to any other location within the state.]~~

7617 [(m) ~~Department trade show samples shall be accompanied by a letter from the~~
7618 ~~industry member:]~~

7619 [(i) ~~clearly identifying the product as a "department trade show sample"; and]~~

7620 [(ii) ~~stating:]~~

7621 [(A) ~~the name, time, and location of the trade show;]~~

7622 [(B) ~~the FOB case price of the product; and]~~

7623 ~~[(C) the name of the industry member who will be representing the product at the trade~~
7624 ~~show.]~~

7625 ~~[(n) The department shall assess a reasonable handling, labeling, storage, and delivery~~
7626 ~~fee for each department trade show sample received.]~~

7627 ~~[(o) The department shall affix to each bottle or container a label clearly identifying the~~
7628 ~~product as a "department trade show sample".]~~

7629 ~~[(p) The department shall:]~~

7630 ~~[(i) account for and record each department trade show sample received;]~~

7631 ~~[(ii) account for the department trade show sample's disposition; and]~~

7632 ~~[(iii) maintain a record of the samples and their disposition for a two-year period.]~~

7633 ~~[(q) The department shall:]~~

7634 ~~[(i) transport department trade show samples to the appropriate trade show designated~~
7635 ~~in the letter described in Subsection (3)(m); and]~~

7636 ~~[(ii) deliver the sample to the industry member designated to represent the product at~~
7637 ~~the trade show.]~~

7638 ~~[(r) Department trade show samples may not be removed from the premises of the~~
7639 ~~trade show.]~~

7640 ~~[(4) The department shall take reasonable measures to ensure that only industry~~
7641 ~~members, licensed retailers, trade show permittees, their employees and agents, and department~~
7642 ~~personnel are in attendance, and to ensure that retailer trade show samples are not removed~~
7643 ~~from the premises except by the department.]~~

7644 ~~[(5) Industry members may charge a fee to trade show attendees for tasting samples of~~
7645 ~~their product at a department trade show.]~~

7646 ~~[(6) At the conclusion of the trade show, the department shall take possession of all~~
7647 ~~department trade show sample bottles and:]~~

7648 ~~[(a) destroy the unused portion of all opened sample bottles under controlled and~~
7649 ~~audited conditions established by the department; and]~~

7650 ~~[(b) either destroy the contents of unopened sample bottles under controlled and~~
7651 ~~audited conditions established by the department or return the bottles to the department and add~~
7652 ~~them to the inventory of the department for sale to the public.]~~

7653 ~~[(7)]~~ (x) Persons other than authorized department officials may not be in possession of

7654 department [~~or department trade show~~] samples except as otherwise provided.

7655 [~~(8)(a)~~] (d) Samples of beer may be provided by a beer industry member to a [~~licensed~~
7656 ~~on-premise beer retailer, off-premise beer retailer licensed by local authority, private club,~~
7657 ~~restaurant with a liquor license, airport lounge, public service permittee, and single event~~
7658 ~~permittee.~~] retailer under the conditions listed in this Subsection (4)(d).

7659 (i) Samples of beer may be provided by an industry member only to a retailer who has
7660 not purchased the brand of beer from that industry member within the last 12 months.

7661 [~~(b)~~] (ii) For each [~~on-premise beer retailer or liquor licensee or permittee,~~] retailer, the
7662 industry member may give not more than [~~two~~] three gallons of any brand of beer, except that
7663 if a particular product is not available in a size within the quantity limitation an industry
7664 member may furnish the next largest size.

7665 [~~(c) For each off-premise beer retailer, the industry member may give not more than~~
7666 ~~two liters of any brand of beer.]~~

7667 [~~(9)~~] (e) Educational seminars may involve an industry member under the [~~following~~]
7668 ~~conditions[;]~~ listed in this Subsection (4)(e).

7669 [~~(a)~~] (i) An industry member may provide or participate in educational seminars;

7670 (A) involving:

7671 (I) the department [~~and its employees,];~~

7672 (II) retailers[;];

7673 (III) holders of educational or scientific special use permits[~~, or~~];

7674 (IV) other industry members; or

7675 (V) employees of the persons listed in Subsections (4)(e)(i)(A)(I) through (IV); and

7676 (B) regarding such topics as:

7677 (I) merchandising and product knowledge[;];

7678 (II) use of equipment; and

7679 (III) tours of alcoholic beverage manufacturing facilities.

7680 (ii) An industry member may not pay a department employee's, retailer's, or permittee's
7681 expenses or compensate them for attending [~~these seminars and tours~~] a seminar or tour
7682 described in Subsection (4)(e)(i).

7683 [~~(b) An~~] (iii) (A) A liquor, wine, and heavy beer industry member may conduct
7684 tastings of the industry member's products:

7685 (I) for the department, at the department's request[;]; and
7686 (II) for licensed industry representatives, but only at the department's central
7687 administrative warehouse office[; ~~and for licensed retailers authorized to sell the type of~~
7688 ~~products to be tasted, but only at department trade shows. Tastings may not be offered to the~~
7689 ~~general public~~].

7690 (B) The industry member may only use department[; ~~department trade show;~~] or
7691 industry representative samples when conducting any tasting of the industry member's
7692 products.

7693 (iv) A beer industry member may conduct tastings of beer products for a licensed beer
7694 retailer either at:

7695 (A) the industry member's premises; or

7696 (B) a retail establishment.

7697 (v) Except to the extent authorized by commission rule, an alcoholic beverage industry
7698 member may not conduct tasting or sampling activities with:

7699 (A) a retailer; or

7700 (B) a member of the general public.

7701 ~~[(10) An]~~ (f) A beer industry member may participate in beer retailer association
7702 activities[; ~~and may:~~] to the extent authorized by 27 C.F.R. Section 6.100.

7703 ~~[(a) display its products at a retailer convention or trade show, except that liquor, wine,~~
7704 ~~and heavy beer products may only be displayed at department trade shows and products shall~~
7705 ~~be processed, labeled, and delivered to the trade show by the department under the terms and~~
7706 ~~conditions of this title;]~~

7707 ~~[(b) rent display booth space if the rental fee is not excessive and is the same as paid by~~
7708 ~~all exhibitors;]~~

7709 ~~[(c) provide its own hospitality that is independent from association sponsored~~
7710 ~~activities;]~~

7711 ~~[(d) purchase tickets to functions and pay registration fees if the payments or fees are~~
7712 ~~not excessive and are the same as paid by all exhibitors; and]~~

7713 ~~[(e) make payments for advertisements in programs or brochures issued by retailer~~
7714 ~~associations at a retailer convention or trade show if the total payments made by an industry~~
7715 ~~member for all such advertisements do not exceed that allowed by federal law per year for any~~

7716 ~~retailer association as provided in 27 C.F.R. Section 6.100.]~~

7717 ~~[(11)(a)]~~ (g) (i) An industry member may contribute to charitable, civic, religious,
7718 fraternal, educational, or community activities. ~~[These contributions]~~

7719 (ii) A contribution described in Subsection (4)(g)(i) may not be given to influence a
7720 retailer in the selection of the alcoholic beverage products ~~[which]~~ that may be sold at these
7721 activities and events.

7722 ~~[(b) If]~~ (iii) An industry member or retailer violates this section if:

7723 (A) the industry member's contribution described in Subsection [(11)(a)] (4)(g)(i)
7724 influences, directly or indirectly, the retailer in the selection of alcoholic beverage products[;];
7725 and

7726 (B) a competitor's alcoholic beverage products are excluded in whole or in part from
7727 sale at the activity or event[; the industry member and the retailer violate the provisions of this
7728 section].

7729 ~~[(12) An industry member, who is also engaged in business as a bona fide vendor of~~
7730 ~~other merchandise, such as groceries or drugs, may sell that merchandise to a retailer if the~~
7731 ~~merchandise:]~~

7732 ~~[(a) is sold at its fair market value;]~~

7733 ~~[(b) is not sold in combination with alcoholic beverages; and]~~

7734 ~~[(c) is itemized separately on the industry member's invoices and other records.]~~

7735 ~~[(13) Things of value covered in other subsections of this section may be furnished to~~
7736 ~~retailers only as provided in those subsections.]~~

7737 (h) (i) An industry member may lease or furnish equipment listed in Subsection
7738 (4)(h)(ii) to a retailer if:

7739 (A) the equipment is leased or furnished for a special event;

7740 (B) a reasonable rental or service fee is charged for the equipment; and

7741 (C) the period for which the equipment is leased or furnished does not exceed 30 days.

7742 (ii) This Subsection (4)(h) applies to the following equipment:

7743 (A) a picnic pump;

7744 (B) a cold plate;

7745 (C) a tub;

7746 (D) a keg box;

- 7747 (E) a refrigerated trailer;
 7748 (F) a refrigerated van; or
 7749 (G) refrigerated draft system.
- 7750 ~~[(14)(a)]~~ (i)(i) A liquor, wine, and heavy beer industry member may assist the
 7751 department in:
- 7752 (A) ordering, shipping, and delivering merchandise[;];
 7753 (B) new product notification[;];
 7754 (C) listing and delisting information[;];
 7755 (D) price quotations[;];
 7756 (E) product sales analysis[;];
 7757 (F) shelf management[;]; and
 7758 (G) educational seminars[;and].
- 7759 (ii) (A) Subject to Subsection (4)(i)(ii)(B), a liquor, wine, and heavy beer industry
 7760 member may, for the purpose of acquiring new listings, solicit orders from the department and
 7761 submit to the department samples of their products under Subsection (4)(c) and price lists.
 7762 ~~[However, an]~~
- 7763 (B) An industry member may not solicit either in person, by mail, or otherwise, any
 7764 state store personnel for the purpose or with the intent of furthering the sale of a particular
 7765 brand or brands of alcoholic beverage product as against another brand or brands.
- 7766 (iii) Any visitations to a state store or package agency by an industry member shall be
 7767 confined to the customer areas of the store. Calls on the state warehouse by industry members
 7768 are to be confined to the office area only unless otherwise approved.
- 7769 ~~[(b)]~~ (iv) A beer industry member may assist licensed ~~[on-premise beer retailers,~~
 7770 ~~off-premise beer retailers licensed by local authority, private clubs, restaurants with liquor~~
 7771 ~~licenses, airport lounges, public service permittees, and single event permittees]~~ retailers in:
- 7772 (A) ordering, shipping, and delivering beer merchandise[;];
 7773 (B) new product notification[;];
 7774 (C) listing and delisting information[;];
 7775 (D) price quotations[;];
 7776 (E) product sales analysis[;];
 7777 (F) shelf management[;]; and

7778 (G) educational seminars~~[-and]~~.

7779 (v) A beer industry member may, for the purpose of acquiring new listings~~[-]~~:

7780 (A) solicit orders from ~~[them]~~ licensed retailers; and

7781 (B) submit to ~~[them]~~ licensed retailers samples of their beer products under Subsection

7782 (4)(c) and price lists.

7783 ~~[(c) A beer industry member may, at a licensed on-premise beer retailer, off-premise~~
7784 ~~beer retailer licensed by local authority, private club, restaurant with liquor license, airport~~
7785 ~~lounge, public service permittee and single event permittee premises or establishment, stock,~~
7786 ~~rotate, and affix the price to beer products which they sell, provided products purchased from~~
7787 ~~other industry members are not altered or disturbed.]~~

7788 ~~[(15)(a)]~~ (5) It is unlawful for any industry member, directly or indirectly or through
7789 an affiliate, to ~~[pay the department or any retailer licensed under this title by the commission or~~
7790 ~~by local authority]~~ induce any retailer to purchase any alcoholic beverages from the industry
7791 member or from the department to the exclusion in whole or in part of any of those products
7792 sold or offered for sale by other persons by paying or crediting the retailer for any advertising,
7793 display, or distribution service;

7794 (a) as defined ~~[in federal law]~~ in and to the extent restricted by 27 C.F.R. Sections 6.51
7795 through 6.56; and

7796 (b) subject to the exceptions:

7797 (i) for newspaper cuts listed in 27 C.F.R. Section 6.92; and

7798 (ii) for advertising services listed in 27 C.F.R. Section 6.98.

7799 ~~[(b) An industry member may not, directly or indirectly, share the cost of an~~
7800 ~~advertisement with a retailer.]~~

7801 ~~[(c) An industry member may give, furnish, loan, rent, or sell copy ready art,~~
7802 ~~newspaper cuts, mats or engraved blocks to licensed beer retailers for use in beer retailer~~
7803 ~~advertisements to the extent such advertisements are authorized by this title.]~~

7804 ~~[(16)]~~ (6) It is unlawful for any industry member, directly or indirectly or through an
7805 affiliate, to ~~[guarantee any loan or the repayment of any financial obligation of a retailer~~
7806 ~~including, but not limited to, personal loans, home mortgages, car loans, operating capital~~
7807 ~~obligations, or utilities]~~ induce any retailer to purchase any alcoholic beverages from the
7808 industry member or from the department to the exclusion in whole or in part of any of those

7809 products sold or offered for sale by other persons by guaranteeing any loan or the repayment of
7810 any financial obligation of the retailer.

7811 ~~[(17)]~~ (7) (a) It is unlawful for any industry member, directly or indirectly or through
7812 an affiliate, to induce ~~[beer purchases]~~ any retailer to purchase any beer from the industry
7813 member to the exclusion in whole or in part of any beer products sold or offered for sale by
7814 other persons by extending to any ~~[beer]~~ retailer credit for a period in excess of 15 days from
7815 the date of delivery to the date of full legal discharge of the retailer through the payment of
7816 cash or its equivalent, from all indebtedness arising from the transaction, so long as that beer
7817 purchased or delivered during the first 15 days of any month is paid for in cash or its equivalent
7818 on or before the 25th day of the same month, and beer purchased or delivered after the 15th day
7819 of any month is paid for in cash or its equivalent on or before the 10th day of the next
7820 succeeding month.

7821 (b) First party in-state checks ~~[which]~~ are considered cash payment if the checks:

7822 (i) are honored on presentment; and ~~[which are]~~

7823 (ii) received under the terms prescribed in Subsection ~~[(17)]~~ (7)(a) ~~[are considered cash~~
7824 ~~payments]~~.

7825 (c) An extension of credit for product purchased by an industry member to a retailer
7826 whose account is in arrears does not constitute a violation of Subsection (7)(a) if the retailer
7827 pays in advance or on delivery an amount equal to or greater than the value of each order,
7828 regardless of the manner in which the industry member applies the payment in its records.

7829 ~~[(18)]~~ (8) (a) It is unlawful for any industry member, directly or indirectly or through
7830 an affiliate, to ~~[require]~~ induce any retailer to purchase any alcoholic beverages from the
7831 industry member or from the department to the exclusion in whole or in part of any of those
7832 products sold or offered for sale by other persons by requiring:

7833 (i) the department to take and dispose of a certain quota of any alcoholic products; or
7834 ~~[to require]~~

7835 (ii) a beer retailer ~~[or wholesaler]~~ to take and dispose of a certain quota of any beer
7836 products.

7837 (b) (i) ~~[A requirement that]~~ It is an unlawful means to induce to require:

7838 (A) the department to purchase one product in order to purchase another; or ~~[that]~~

7839 (B) a beer retailer ~~[or wholesaler]~~ to purchase one beer product in order to purchase

7840 another ~~[is also prohibited]~~.

7841 (ii) This Subsection (8)(b) includes:

7842 (A) the requirement to take a minimum quantity of a product in standard packaging in
7843 order to obtain the same product in some type of premium package such as:

7844 (I) a distinctive decanter; or

7845 (II) wooden or tin box; or

7846 (B) combination sales if one or more products may be purchased only in combination
7847 with other products and not individually.

7848 (c) This Subsection ~~[(18)]~~ (8) does not preclude the selling, at a special combination
7849 price, two or more kinds or brands of products so long as the department or beer retailer;

7850 (i) has the option of purchasing either product at the usual price; and

7851 (ii) is not required to purchase any product ~~[he or she]~~ the department or beer retailer
7852 does not want.

7853 (d) An industry member may package and distribute alcoholic beverages in
7854 combination with other nonalcoholic items or products.

7855 (e) The combination package shall be designed to be delivered intact to the consumer
7856 and the additional cost incurred by the industry member shall be included in the cost to the
7857 department or beer retailer.

7858 ~~[(19) It is unlawful for any industry member, directly or indirectly or through an~~
7859 ~~affiliate, to provide financial, legal, administrative, or other assistance to a retailer or~~
7860 ~~wholesaler to obtain a license or permit.]~~

7861 ~~[(20) Beginning July 1, 1998, and ending June 30, 2000, the department shall~~
7862 ~~implement and operate a pilot program by which a local industry representative licensee may~~
7863 ~~conduct retail licensee tastings of cork-finished wines under the following conditions:]~~

7864 ~~[(a) To conduct retail licensee wine tasting, a local industry representative licensee may~~
7865 ~~check out bottles of cork-finished wine in accordance with this Subsection (20) at the~~
7866 ~~department's club and restaurant store and at any other department store designated by the~~
7867 ~~commission:]~~

7868 ~~[(b) A local industry representative licensee:]~~

7869 ~~[(i) shall pay:]~~

7870 ~~[(A) the prevailing retail purchase price for each bottle of cork-finished wine checked~~

7871 out for the purpose of conducting retail licensee wine tasting; and]
7872 [~~(B) any fee charged under Subsection (20)(f);~~]
7873 [~~(ii) may check out bottles of cork-finished wine for the purpose of conducting retail~~
7874 ~~licensee wine tasting;~~]
7875 [~~(A) in a reasonable number as determined by the commission;~~]
7876 [~~(B) during regular business hours; and~~]
7877 [~~(C) on regular store business days, except for the day preceding a recognized state or~~
7878 ~~federal holiday;~~]
7879 [~~(iii) shall show proper identification at the time of check out;~~]
7880 [~~(iv) shall check out each bottle of cork-finished wine to be used for the purpose of~~
7881 ~~conducting retail licensee tasting on a form designated by the department;~~]
7882 [~~(v) shall return a bottle checked out for use in the retail licensee wine tasting program,~~
7883 ~~whether opened or unopened;~~]
7884 [~~(A) to the department's central administrative warehouse office;~~]
7885 [~~(B) within seven days from the time of check out;~~]
7886 [~~(C) at the same time that any bottle checked out with the bottle is returned and not in a~~
7887 ~~piece-meal manner.~~]
7888 [~~(c) (i) At time of check out, the department's employee shall:~~]
7889 [~~(A) affix a bright-colored label on each bottle checked out, clearly identifying it for~~
7890 ~~exclusive use in the retail licensee wine tasting program, as provided by this Subsection (20);~~]
7891 [~~(B) maintain a record of each bottle of cork-finished wine checked out under this~~
7892 ~~Subsection (20); and~~]
7893 [~~(C) require the local industry representative licensee to sign a statement that the~~
7894 ~~bottles of cork-finished wine will be used only in connection with the retail licensee wine~~
7895 ~~tasting program.~~]
7896 [~~(ii) At time of check in, the department's employee shall make a record of each bottle~~
7897 ~~returned.~~]
7898 [~~(d) A bottle of cork-finished wine checked out in connection with the retail licensee~~
7899 ~~wine tasting program shall come from products listed by the department or special ordered in~~
7900 ~~accordance with department procedures that are:~~]
7901 [~~(i) located on the shelf of a department store identified in Subsection (20)(a); or~~]

7902 ~~[(ii) if arrangements are made with the department, located at its central administrative~~
7903 ~~warehouse and transferred to one of the store locations authorized in Subsection (20)(a).]~~

7904 ~~[(e) Each bottle of cork-finished wine checked out by a local industry representative~~
7905 ~~licensee and returned to the department shall be disposed of in one of the ways provided in~~
7906 ~~Subsection (3)(j) or Subsection (6), at the department's discretion.]~~

7907 ~~[(f) (i) The department may charge a reasonable per bottle administrative fee to defray~~
7908 ~~the department's actual, ordinary, and necessary costs directly incurred in administering the~~
7909 ~~retail licensee wine tasting program.]~~

7910 ~~[(ii) All money received by the department under Subsection (20)(f)(i) shall be~~
7911 ~~deposited in the General Fund as a dedicated credit of the department and may be expended by~~
7912 ~~the department only for the purposes described under Subsection (20)(f)(i).]~~

7913 ~~[(g) A retail licensee wine tasting:]~~

7914 ~~[(i) shall be conducted at the department's administrative complex in accordance with~~
7915 ~~rules made by the commission concerning the persons who may attend and participate in the~~
7916 ~~tasting;]~~

7917 ~~[(ii) may not be conducted in the view of:]~~

7918 ~~[(A) minors; or]~~

7919 ~~[(B) the general public; and]~~

7920 ~~[(iii) shall only be conducted by a local industry representative licensee from the~~
7921 ~~original bottles of cork-finished wine checked out from the department.]~~

7922 ~~[(h) The local industry representative licensee may not leave the wine remaining in a~~
7923 ~~bottle with a retail licensee following the conclusion of the tasting.]~~

7924 ~~[(i) The commission shall have the authority to promulgate rules to implement the~~
7925 ~~retail licensee wine tasting pilot program.]~~

7926 ~~[(j) In addition to any other penalties provided in this title, a licensee violating the~~
7927 ~~provisions of this Subsection (20) may be subject to suspension or revocation of their license as~~
7928 ~~provided in Section 32A-8-505 and any rules made by the commission.]~~

7929 ~~[(k) Before November 1, 1999, the commission shall prepare and present a report and~~
7930 ~~recommendation concerning the retail licensee wine tasting pilot program to an appropriate~~
7931 ~~interim committee of the Legislature, as designated by the Legislative Management~~
7932 ~~Committee.]~~

7933 Section 119. Section **32A-12-604** is amended to read:

7934 **32A-12-604. Commercial bribery.**

7935 ~~[Federal law]~~ This section adopts and makes applicable to all industry members,
7936 including beer industry members, doing business in this state 27 U.S.C. Section 205(c) and 27
7937 C.F.R. Sections 10.1 through ~~[10.24]~~ 10.54 which ~~[makes]~~ make it unlawful for any industry
7938 member directly or indirectly or through an affiliate to induce a wholesaler or retailer engaged
7939 in the sale of alcoholic beverages ~~[, to]~~ purchase the industry member's products, to the
7940 complete or partial exclusion of alcoholic beverages sold or offered for sale by other persons,
7941 by commercial bribery, or by offering or giving a bonus, premium, compensation, or other
7942 thing of value, to any officer, employee, or representative of the wholesaler or retailer ~~[is~~
7943 ~~hereby adopted and made applicable to beer industry members doing business in this state]~~.

7944 Section 120. Section **32A-12-605** is amended to read:

7945 **32A-12-605. Consignment sales.**

7946 (1) ~~[Federal law]~~ This section adopts and makes applicable to all industry members,
7947 including beer industry members, doing business in this state 27 U.S.C. Section 205(d) and 27
7948 C.F.R. Sections 11.1 through 11.46, which ~~[makes]~~ make it unlawful for an industry member,
7949 directly or indirectly or through an affiliate to sell, offer for sale, or contract to sell to any
7950 wholesaler or retailer engaged in the sale of alcoholic beverages, or for any wholesaler or
7951 retailer to purchase, offer to purchase, or contract to purchase any of those products on
7952 consignment or under conditional sale or with the privilege of return or on any basis otherwise
7953 than a bona fide sale, or where any part of the transaction involves, directly or indirectly, the
7954 acquisition by that person from the wholesaler or retailer or ~~[his]~~ that person's agreement to
7955 acquire from the wholesaler or retailer other alcoholic beverages, if the sale, purchase, offer, or
7956 contract is made in the course of interstate or foreign commerce, or if the person or wholesaler
7957 or retailer engages in such practice to an extent so as substantially to restrain or prevent
7958 transactions in interstate or foreign commerce in any of those products or if the direct effect of
7959 the sale, purchase, offer, or contract is to prevent, deter, hinder, or restrict other persons from
7960 selling or offering for sale any of those products to the wholesaler or retailer in interstate or
7961 foreign commerce ~~[is hereby adopted and made applicable to beer industry members doing~~
7962 ~~business in this state]~~.

7963 (2) This section does not apply to transactions involving solely the bona fide return of

7964 merchandise for ordinary and usual commercial reasons arising after the merchandise has been
7965 sold.

7966 Section 121. Section **32A-12-606** is amended to read:

7967 **32A-12-606. Unlawful acts involving consumers.**

7968 (1) (a) It is unlawful for any industry member, directly or indirectly or through an
7969 affiliate, to give away any of its alcoholic products to any person except for testing, analysis,
7970 and sampling purposes by the department[;] and local industry representative licensees[; ~~and~~
7971 ~~licensed alcoholic beverage retailers~~] to the extent authorized by this title. [~~This~~]

7972 (b) This Subsection (1) does not preclude an industry member from serving its
7973 alcoholic products to others at private social functions hosted by the industry member in the
7974 member's home or elsewhere so long as the product is not served:

7975 (i) as part of a promotion of [~~its~~] the industry member's products; or

7976 (ii) as a subterfuge to provide samples to others for product testing, analysis, or
7977 sampling purposes.

7978 (2) It shall be unlawful for any industry member or retailer, directly or indirectly or
7979 through an affiliate, to engage in any advertisement or promotional scheme that requires the
7980 purchase or sale of an alcoholic beverage, or consumption of an alcoholic beverage in order to
7981 participate in any promotion, program, or other activity.

7982 (3) It shall be unlawful for any industry member or retailer, directly or indirectly or
7983 through an affiliate, to pay, give, or deliver to any person any money or any other thing of
7984 value, including rebates, refunds, or prizes, based upon the purchase, display, use, sale, or
7985 consumption of alcoholic beverages.

7986 (4) It shall be unlawful for any industry member or retailer to sponsor or underwrite
7987 any athletic, theatrical, scholastic, artistic, or scientific event that:

7988 [~~(a) involves the display of drinking scenes;~~]

7989 [~~(b)~~] (a) overtly promotes the consumption of alcoholic products;

7990 [~~(c)~~] (b) offers alcoholic products to the general public without charge; or

7991 [~~(d)~~] (c) takes place on the premises of a school, college, university, or other
7992 educational institution.

7993 Section 122. Section **32A-15a-101** is enacted to read:

7994 **CHAPTER 15a. NUISANCE LICENSEE ACT**

7995 **Part 1. General Provisions**7996 **32A-15a-101. Title.**7997 This chapter is known as the "Nuisance Licensee Act."7998 Section 123. Section **32A-15a-102** is enacted to read:7999 **32A-15a-102. Definitions.**8000 (1) As used in this chapter:8001 (a) "Objecting governmental entity" means:8002 (i) a local government entity;8003 (ii) a prosecutor's office; or8004 (iii) a law enforcement agency.8005 (b) "Nuisance activity" means:8006 (i) a judicial finding that a licensed establishment is a common public nuisance under8007 Section 32A-13-106;8008 (ii) a single felony conviction within the last two years of:8009 (A) a retail licensee; or8010 (B) any supervisory or managerial level employee of the licensee;8011 (iii) a single conviction under Title 58, Chapter 37, Utah Controlled Substances Act:8012 (A) (I) of a retail licensee; or8013 (II) an employee of the licensee;8014 (B) within the last two years; and8015 (C) made on the basis of activities that occurred on the licensed premises;8016 (iv) three or more convictions of patrons of a retail licensee under Title 58, Chapter 37,8017 Utah Controlled Substances Act, if:8018 (A) the convictions are made on the basis of activities that occurred on the licensed8019 premises; and8020 (B) there is evidence that the licensee knew or should have known of the illegal8021 activity;8022 (v) a single conviction within the last two years of a retail licensee or any employee of8023 the licensee that is made on the basis of:8024 (A) pornographic and harmful materials:8025 (I) that are in violation of Title 76, Chapter 10, Part 12, Pornographic and Harmful

8026 Materials and Performances; and
8027 (II) if the violation occurs on the licensed premises;
8028 (B) prostitution;
8029 (C) engaging in or permitting gambling, or having any video gaming device, as defined
8030 and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the licensed premises;
8031 (D) a disturbance of the peace that occurs on the licensed premises; or
8032 (E) disorderly conduct that occurs on the licensed premises; or
8033 (vi) three or more adjudicated violations of this title within the last two years by a retail
8034 licensee or by the retail licensee's employees that result in a criminal citation or an
8035 administrative referral to the department relating to:
8036 (A) the sale, service, or furnishing of alcohol to a minor;
8037 (B) the sale, service, or furnishing of alcohol to a person actually, apparently, or
8038 obviously intoxicated;
8039 (C) the sale or service of alcohol after lawful sales or service hours; or
8040 (D) acts or conduct on the licensed premises contrary to the public welfare and morals
8041 involving lewd acts or lewd entertainment prohibited by this title.
8042 (2) For purposes of Subsection (1)(b), "retail licensee" means:
8043 (a) a person to whom a retail license has been issued by the commission; and
8044 (b) in the case of licensee that is a partnership, corporation, or limited liability
8045 company any of the following that is convicted of any offense described in Subsection (1)(b):
8046 (i) a partner;
8047 (ii) a managing agent;
8048 (iii) a manager;
8049 (iv) an officer;
8050 (v) a director;
8051 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a
8052 corporate licensee; or
8053 (vii) a member who owns at least 20% of a limited liability company licensee.
8054 Section 124. Section **32A-15a-103** is enacted to read:
8055 **32A-15a-103. Rulemaking.**
8056 In accordance with this chapter and Title 63, Chapter 46a, Utah Administrative

8057 Rulemaking Act, the commission may make rules that govern the filing under this chapter of:

8058 (1) a formal objection to the renewal of a retail license; and

8059 (2) a request for hearing filed by a retail licensee.

8060 Section 125. Section **32A-15a-201** is enacted to read:

8061 **Part 2. Nonrenewal of Nuisance Licenses**

8062 **32A-15a-201. Commission to prohibit nuisance activities by licensees -- License**
8063 **not renewed.**

8064 (1) In accordance with Section 32A-1-103, the commission shall require a retail
8065 licensee as a condition of being licensed under this title to operate in a manner so as not to
8066 endanger the public health, peace, safety, welfare, or morals of the community.

8067 (2) (a) In accordance with Title 63, Chapter 46b, Administrative Procedures Act, and
8068 Sections 32A-15a-202 and 32A-15a-203, the commission may deny the renewal of any retail
8069 license issued under this title if:

8070 (i) a formal objection to the renewal is filed; and

8071 (ii) the commission determines that the retail licensee has engaged in nuisance
8072 activities to such an extent that the nuisance activities have adversely impacted the public
8073 health, peace, safety, welfare, or morals of the neighboring community of the licensed
8074 premises.

8075 (b) In making a determination under this Subsection (2), the commission may consider:

8076 (i) the types of nuisance activities in which a licensee has engaged;

8077 (ii) the frequency or pattern of the nuisance activities; and

8078 (iii) the retail licensee's notice of and failure to abate or correct the nuisance activities.

8079 Section 126. Section **32A-15a-202** is enacted to read:

8080 **32A-15a-202. Formal objections to renewal.**

8081 (1) The department shall notify governmental entities that in accordance with this part
8082 an objecting governmental entity may file with the commission an objection to the renewal of a
8083 retail licensee's alcoholic beverage license in the objecting governmental entity's community.

8084 (2) The department or an objecting governmental entity may file with the commission a
8085 formal objection to any license being renewed by the commission if the formal objection:

8086 (a) is filed on the basis of nuisance activity;

8087 (b) is filed no later than 60 days before the expiration date of the retail licensee's

8088 license; and

8089 (c) states with particularity all relevant facts and circumstances relating to the nuisance
8090 activity that forms the basis for the formal objection.

8091 Section 127. Section **32A-15a-203** is enacted to read:

8092 **32A-15a-203. Hearing on formal objections to renewal.**

8093 (1) Upon receipt of a formal objection that meets the requirements of Section
8094 32A-15a-202, the department shall:

8095 (a) issue a notice of agency action; and

8096 (b) serve on the retail licensee no later than 30 days before the expiration of the retail
8097 licensee's license:

8098 (i) the notice of agency action; and

8099 (ii) a copy of the formal objection.

8100 (2) (a) A retail licensee against whom a notice of agency action is served under
8101 Subsection (1) may request a hearing.

8102 (b) The request for hearing described in Subsection (2)(a) shall be:

8103 (i) in writing; and

8104 (ii) filed with the commission within ten days of the day on which the notice of agency
8105 action is served on the retail license.

8106 (c) If a retail licensee fails to file a request for hearing in accordance with this
8107 Subsection (2), the commission may not renew the license of the retail licensee.

8108 (3) (a) Upon receipt of a request for hearing meeting the requirements of Subsection
8109 (2), the department shall immediately schedule a hearing that shall be:

8110 (i) held no later than ten days before the expiration date of the retail licensee's license;

8111 and

8112 (ii) electronically recorded by the department.

8113 (b) The retail licensee or an objecting governmental entity, at its own expense, may
8114 have a reporter approved by the department prepare a transcript from the department's record of
8115 the hearing.

8116 (c) (i) The department shall present information at the hearing that supports a finding
8117 that nuisance activities occurred.

8118 (ii) The information described in Subsection (3)(c)(i) shall be made a part of the record

- 8119 of the hearing.
- 8120 (d) The retail licensee shall:
- 8121 (i) have the opportunity to challenge or explain whether any of the nuisance activities
- 8122 that form the basis for the formal objection occurred; and
- 8123 (ii) be permitted to:
- 8124 (A) testify;
- 8125 (B) present evidence; and
- 8126 (C) comment on the issues at the hearing.
- 8127 (4) (a) Any hearing held under this chapter shall be conducted under the authority of
- 8128 the commission.
- 8129 (b) The commission is responsible for rendering a final order on whether a retail
- 8130 licensee's license shall be renewed.
- 8131 (c) Notwithstanding Subsections (4)(a) and (b), the commission may appoint necessary
- 8132 hearing examiners to administer the hearing process.
- 8133 (d) The commission or the hearing examiner appointed by the commission shall serve
- 8134 as the presiding officer at a hearing held under this section.
- 8135 (e) The presiding officer at a hearing held under this section:
- 8136 (i) shall evaluate the:
- 8137 (A) the information presented at the hearing in support of the formal objection; and
- 8138 (B) any explanation and evidence offered by the retail licensee; and
- 8139 (ii) may consider such factors as:
- 8140 (A) the length of time the retail licensee has operated the licensed premises;
- 8141 (B) the condition of the premises;
- 8142 (C) whether the retail licensee knew or should have known of the nuisance activities in
- 8143 question;
- 8144 (D) whether the retail licensee failed to:
- 8145 (I) make a substantial effort to correct the nuisance activities; and
- 8146 (II) work with law enforcement to curtail the nuisance activity;
- 8147 (E) whether the nuisance activities have been ongoing or temporary;
- 8148 (F) whether the retail licensee or the licensee's employees:
- 8149 (I) initiated contact with the law enforcement agency on the nuisance activities; and

- 8150 (II) cooperated with the law enforcement agency's investigation; and
8151 (G) whether prior efforts to stop the nuisance activities by the community or the retail
8152 licensee have been unsuccessful.
- 8153 (5) An order issued under this section shall:
8154 (a) be based on the evidence presented at the hearing; and
8155 (b) state whether:
8156 (i) the continued operation of the licensed establishment will endanger the public
8157 health, peace, safety, welfare or morals of the community; and
8158 (ii) the license should or should not be renewed.
- 8159 (6) (a) If the presiding officer is a hearing examiner appointed by the commission, the
8160 hearing officer shall issue a signed order in writing that:
8161 (i) complies with Subsection (5);
8162 (ii) recommends to the commission whether the license should or should not be
8163 renewed;
8164 (iii) states the reasons for the hearing officer's decision; and
8165 (iv) notifies the retail licensee and the objecting governmental entity that the hearing
8166 examiner's order will be considered by the commission at the next regularly scheduled meeting
8167 of the commission.
- 8168 (b) The department shall promptly mail a copy of the hearing examiner's order to:
8169 (i) the retail licensee; and
8170 (ii) any objecting governmental entity.
- 8171 (c) The commission at its next regularly scheduled meeting after receipt of a hearing
8172 examiner's order, shall decide whether to renew or not renew the license on the basis of:
8173 (i) the record and evidence presented at the hearing; and
8174 (ii) the hearing examiner's recommendation.
- 8175 (7) (a) As an alternative to ordering in accordance with this section that a retail license
8176 not be renewed, the commission may conditionally renew a retail license by requiring that:
8177 (i) the licensee and the licensed premises be closely monitored during the licensing
8178 year by:
8179 (A) the department;
8180 (B) local government officials; and

8181 (C) law enforcement; and
8182 (ii) the matter be reviewed prior to the next renewal period.
8183 (b) The commission may conditionally renew a retail license contingent on any person
8184 listed in Subsection (7)(b)(ii) divesting all interest in the retail licensed business if:
8185 (i) the retail licensee is a partnership, corporation, or limited liability company; and
8186 (ii) the formal objection filed under this section if filed solely on the basis of a felony
8187 conviction:
8188 (A) of:
8189 (I) a partner;
8190 (II) a managing agent;
8191 (III) a manager;
8192 (IV) an officer;
8193 (V) a director;
8194 (VI) a stockholder who holds at least 20% of the total issued and outstanding stock of a
8195 corporate licensee; or
8196 (VII) a member who owns at least 20% of a limited liability company licensee; and
8197 (B) for illegal activity that occurred off of the licensed premises.
8198 (8) (a) In accordance with this section, the commission shall issue a written order
8199 setting forth the commission's decision and the reason for the commission's decision.
8200 (b) The order described in Subsection (8)(a) is considered final on the date the order
8201 becomes effective.
8202 (c) The department shall serve a copy of the order on the retail licensee.
8203 (9) A licensee whose license has not been renewed by order of the commission may
8204 seek judicial review under the procedures provided in Section 32A-1-120.
8205 (10) A licensee whose license is not renewed may not reapply for a license under this
8206 title for three years from the date the license is not renewed.
8207 Section 128. Section **63-55b-132** is enacted to read:
8208 **63-55b-132. Repeal dates -- Title 32.**
8209 Title 32A, Chapter 4, Part, 4, On-Premise Banquet License is repealed July 1, 2005.
8210 Section 129. **Repealer.**
8211 This act repeals:

- 8212 Section **32A-1-501, Definitions.**
- 8213 Section **32A-1-502, Purpose.**
- 8214 Section **32A-1-503, Procedures.**
- 8215 Section **32A-1-504, Operational restrictions.**
- 8216 Section **32A-4-107, Return of inventory.**
- 8217 Section **32A-4-207, Return of inventory.**
- 8218 Section **32A-5-105, Utah Nonprofit Corporation and Cooperative Association Act**
- 8219 **applicable -- Exceptions.**
- 8220 Section **32A-5-108, Return of inventory.**
- 8221 Section **32A-12-309, Organizing for pecuniary profit.**
- 8222 Section **32A-12-503, Unlawful importations.**
- 8223 Section **63-55-232, Repeal dates, Title 32A.**
- 8224 Section 130. **Appropriations.**
- 8225 (1) For fiscal year 2002-03 only, there is appropriated \$325,900 from the Liquor
- 8226 Control Fund to the Department of Alcoholic Beverages.
- 8227 (2) For fiscal year 2002-03 only, there is appropriated \$62,000 from the General Fund
- 8228 to the Driver License Division of the Department of Public Safety.
- 8229 (3) Subject to future budget constraints, as an ongoing appropriation, there is
- 8230 appropriated \$1,396,900 for fiscal year 2003-04 from the Liquor Control Fund to the
- 8231 Department of Alcoholic Beverages.
- 8232 (4) Subject to future budget constraints, as an ongoing appropriation, there is
- 8233 appropriated \$143,000 for fiscal year 2003-04 from the General Fund to the Driver License
- 8234 Division of the Department of Public Safety.

Legislative Review Note

as of **2-13-03 9:41 AM**

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

Office of Legislative Research and General Counsel

Fiscal Note**Alcoholic Beverage Amendments***17-Feb-03***Bill Number: SB0153***12:39 PM*

Through a combination of increased fees and liquor markup, this bill will generate an additional \$694,900 in FY 2003 and \$3,366,100 in FY 2004. For FY 2003, the bill appropriates \$325,900 to the Department of Alcoholic Beverages and \$62,000 to the Driver License division of the Department of Public Safety. Subject to future budget constraints, the bill appropriates in FY 2004, \$1,396,900 to the Department of Alcoholic Beverages and \$143,000 to the Driver License Division of the Department of Public Safety. Appropriations from or revenue generated to the Liquor Control Fund affect the amount available for transfer to the General Fund.

	<u>FY 03 Approp.</u>	<u>FY 03 Revenue</u>	<u>FY 04 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Approp.</u>	<u>FY 05 Revenue</u>
General Fund	\$62,000	\$369,000	\$143,000	\$1,969,200	\$143,000	\$1,969,200
Liquor Control Fund	\$325,900	\$325,900	\$1,396,900	\$1,396,900	\$1,396,900	\$1,396,900
TOTAL	\$387,900	\$694,900	\$1,539,900	\$3,366,100	\$1,539,900	\$3,366,100

Individual and Business Impact

Liquor businesses will pay more as will their customers.

Office of the Legislative Fiscal Analyst