

ALCOHOLIC BEVERAGE CONTROL

AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

- ▶ amends definition provisions;
- ▶ corrects language addressing powers and duties of the commission;
- ▶ addresses the appointment ~~H [and compensation and benefits for] OF h~~ the director;
- ▶ amends provisions related to wineries;
- ▶ modifies provisions related to restaurant liquor licensees including:
 - correcting language related to a patron serving wine from the bottle; and
 - modifying language related to hours of service by restaurant liquor licensees in cases of local elections;
- ▶ modifies provisions related to airport lounge liquor licenses including:
 - correcting language related to the commission revoking an airport lounge liquor license; and
 - correcting language related to a patron serving wine from the bottle;
- ▶ modifies the operational restrictions for a limited restaurant license;
- ▶ addresses the size of containers in which beer may be sold for on-premise consumption;
- ▶ modifies provisions related to on-premise banquet licensees including:



- 28 • defining terms;
- 29 • providing for governmental entities obtaining the license;
- 30 • addressing operational restrictions applicable to room service; and
- 31 • correcting language related to an attendee serving wine from the bottle;
- 32 ▶ modifies provisions related to private clubs including:
 - 33 • providing for revocation of a private club license if the private club does not
 - 34 provide notice of change of ownership or other changes to the commission;
 - 35 • addressing membership procedures;
 - 36 • providing rulemaking authority to the commission;
 - 37 • requiring hosting of minors at a dance or concert hall if it is on the premises of a
 - 38 class D private club;
 - 39 • amending provisions related to when a dance or concert hall permit may be
 - 40 suspended or revoked; and
 - 41 • modifying language related to hours of service in cases of local elections and
 - 42 hours during which alcoholic beverages may be consumed;
- 43 ▶ modifies provisions related to single event permits including providing for
- 44 governmental entities obtaining the permit;
- 45 ▶ modifies provisions related to brewery licenses including to whom a brewer may
- 46 sell beer;
- 47 ▶ modifies provisions related to local industry representatives including:
 - 48 • modifying limitations as to whom a license may be granted; and
 - 49 • modifying operational restrictions;
- 50 ▶ modifies provisions related to on-premise beer retailer license including:
 - 51 • providing for a government entity to obtain the license; and
 - 52 • providing for when multiple licenses are required for a building or resort
 - 53 facility;
- 54 ▶ modifies provisions related to on-premise beer retailer licenses including:
 - 55 • the manner by which beer can be sold; and
 - 56 • the hours during which alcoholic beverages may be consumed;
- 57 ▶ modifies provisions related to temporary special event beer permits including
- 58 providing for a government entity to obtain the permit;

- 59 ▶ modifies provisions related to beer wholesaling licenses including modifying to
- 60 whom beer may be directly sold or distributed;
- 61 ▶ modifies when there is an inference that an alcoholic beverage is an alcoholic
- 62 beverage;
- 63 ▶ corrects a reference to a brewer in the provision governing unlawful sale or
- 64 furnishing;
- 65 ▶ modifies the provision related to unlawful dispensing;
- 66 ▶ modifies the provision related to disposition of liquor items shipped to the
- 67 department;
- 68 ▶ corrects a citation to federal regulations;
- 69 ▶ addresses the tied house provisions including:
 - 70 • clarifying when samples are charged back to an industry member; and
 - 71 • modifying provisions related to visiting a state store or package agency; and
- 72 ▶ makes technical changes including correcting cross references.

73 **Monies Appropriated in this Bill:**

74 None

75 **Other Special Clauses:**

76 None

77 **Utah Code Sections Affected:**

78 AMENDS:

- 79 **32A-1-105**, as last amended by Chapter 314, Laws of Utah 2003
- 80 **32A-1-107**, as last amended by Chapter 314, Laws of Utah 2003
- 81 **32A-1-108**, as last amended by Chapter 175, Laws of Utah 1998
- 82 **32A-3-106**, as last amended by Chapter 314, Laws of Utah 2003
- 83 **32A-4-106**, as last amended by Chapter 314, Laws of Utah 2003
- 84 **32A-4-202**, as last amended by Chapter 314, Laws of Utah 2003
- 85 **32A-4-206**, as last amended by Chapter 314, Laws of Utah 2003
- 86 **32A-4-307**, as enacted by Chapter 314, Laws of Utah 2003
- 87 **32A-4-303**, as enacted by Chapter 314, Laws of Utah 2003
- 88 **32A-4-401**, as enacted by Chapter 314, Laws of Utah 2003
- 89 **32A-4-402**, as enacted by Chapter 314, Laws of Utah 2003

90 **32A-4-406**, as enacted by Chapter 314, Laws of Utah 2003
 91 **32A-5-102**, as last amended by Chapter 314, Laws of Utah 2003
 92 **32A-5-107**, as last amended by Chapter 314, Laws of Utah 2003
 93 **32A-7-101**, as last amended by Chapter 314, Laws of Utah 2003
 94 **32A-7-102**, as last amended by Chapter 314, Laws of Utah 2003
 95 **32A-7-106**, as last amended by Chapter 314, Laws of Utah 2003
 96 **32A-8-401**, as last amended by Chapters 77 and 88, Laws of Utah 1994
 97 **32A-8-503**, as last amended by Chapter 314, Laws of Utah 2003
 98 **32A-8-505**, as last amended by Chapter 314, Laws of Utah 2003
 99 **32A-10-202**, as last amended by Chapter 314, Laws of Utah 2003
 100 **32A-10-206**, as last amended by Chapter 314, Laws of Utah 2003
 101 **32A-10-302**, as enacted by Chapter 314, Laws of Utah 2003
 102 **32A-10-306**, as enacted by Chapter 314, Laws of Utah 2003
 103 **32A-11-101**, as last amended by Chapter 314, Laws of Utah 2003
 104 **32A-11-102**, as last amended by Chapter 314, Laws of Utah 2003
 105 **32A-11-106**, as last amended by Chapter 314, Laws of Utah 2003
 106 **32A-11a-107**, as enacted by Chapter 328, Laws of Utah 1998
 107 **32A-12-102**, as renumbered and amended by Chapter 23, Laws of Utah 1990
 108 **32A-12-201**, as last amended by Chapter 314, Laws of Utah 2003
 109 **32A-12-213**, as last amended by Chapter 314, Laws of Utah 2003
 110 **32A-12-222**, as enacted by Chapter 314, Laws of Utah 2003
 111 **32A-12-501**, as last amended by Chapter 314, Laws of Utah 2003
 112 **32A-12-601**, as last amended by Chapter 314, Laws of Utah 2003
 113 **32A-12-603**, as last amended by Chapter 314, Laws of Utah 2003
 114 **41-6-44.20**, as last amended by Chapter 200, Laws of Utah 2002
 115 ~~Ĥ [67-22-2, as last amended by Chapter 16, Laws of Utah 2003] Ĥ~~
 116 **76-10-1506**, as last amended by Chapter 141, Laws of Utah 1998

117

118 *Be it enacted by the Legislature of the state of Utah:*119 Section 1. Section **32A-1-105** is amended to read:120 **32A-1-105. Definitions.**

121 As used in this title:

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

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

127 (3) (a) "Alcoholic products" means all products that:

128 (i) contain:

129 (A) at least 63/100 of 1% of alcohol by volume; or

130 (B) at least 1/2 of 1% by weight[;]; and

131 (ii) are obtained by fermentation, infusion, decoction, brewing, distillation, or any other
132 process that uses any liquid or combinations of liquids, whether drinkable or not, to create
133 alcohol in an amount greater than the amount prescribed in ~~[this]~~ Subsection (3)(a)(i).

134 (b) "Alcoholic products" does not include any of the following common items that
135 otherwise come within the definition of alcoholic products:

136 (i) extracts[;];

137 (ii) vinegars[;];

138 (iii) ciders[;];

139 (iv) essences[;];

140 (v) tinctures[;];

141 (vi) food preparations[;]; or

142 (vii) over-the-counter drugs and medicines ~~[that otherwise come within this definition].~~

143 ~~[(4) "Banquet" means an event:]~~

144 ~~[(a) for which there is a contract:]~~

145 ~~[(i) between any person and a person listed in Subsection (4)(b); and]~~

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

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

150 ~~[(i) hotel;]~~

151 ~~[(ii) resort facility;]~~

152 ~~[(iii) sports center, or]~~
153 ~~[(iv) convention center, and]~~
154 ~~[(c) at which food and alcoholic beverages may be sold and served.]~~
155 ~~[(5)]~~ (4) "Bar" means a counter or similar structure:
156 (a) at which alcoholic beverages are:
157 (i) stored; or
158 (ii) dispensed; or
159 (b) from which alcoholic beverages are served.
160 ~~[(6)]~~ (5) (a) "Beer" means any product that contains:
161 (i) 63/100 of 1% of alcohol by volume or 1/2 of 1% of alcohol by weight, but not more
162 than 4% of alcohol by volume or 3.2% by weight; and
163 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.
164 (b) Beer may or may not contain hops or other vegetable products.
165 (c) Beer includes a product that:
166 (i) contains alcohol in the percentages described in Subsection ~~[(6)]~~ (5)(a); and
167 (ii) is referred to as:
168 (A) malt liquor;
169 (B) malted beverages; or
170 (C) malt coolers.
171 ~~[(7)]~~ (6) (a) "Beer retailer" means any business establishment that is:
172 (i) engaged, primarily or incidentally, in the retail sale of beer to public patrons,
173 whether for consumption on or off the establishment's premises; and
174 (ii) licensed to sell beer by:
175 (A) the commission;
176 (B) a local authority; or
177 (C) both the commission and a local authority.
178 (b) (i) "On-premise beer retailer" means any beer retailer engaged, primarily or
179 incidentally, in the sale of beer to public patrons for consumption on the beer retailer's
180 premises.
181 (ii) "On-premise beer retailer" includes a tavern.
182 ~~[(8)]~~ (7) "Billboard" means any public display used to advertise including:

- 183 (a) a light device;
- 184 (b) a painting;
- 185 (c) a drawing;
- 186 (d) a poster;
- 187 (e) a sign;
- 188 (f) a signboard; or
- 189 (g) a scoreboard.
- 190 ~~[(9)]~~ (8) "Brewer" means any person engaged in manufacturing beer.
- 191 ~~[(10)]~~ (9) "Cash bar" means the service of alcoholic beverages:
- 192 (a) at:
- 193 (i) a banquet; or
- 194 (ii) a temporary event for which a permit is issued under this title; and
- 195 (b) if an attendee at the banquet or ~~[special]~~ temporary event is charged for the
- 196 alcoholic beverage.
- 197 ~~[(11)]~~ (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle
- 198 provided by a bus company to a group of persons pursuant to a common purpose[;];
- 199 (a) under a single contract~~[, and]~~;
- 200 (b) at a fixed charge in accordance with the bus company's tariff[;]; and
- 201 (c) for the purpose of giving the group of persons the exclusive use of the bus and a
- 202 driver to travel together to a specified destination or destinations.
- 203 ~~[(12)]~~ (11) "Church" means a building:
- 204 (a) set apart for the purpose of worship;
- 205 (b) in which religious services are held;
- 206 (c) with which clergy is associated; and
- 207 (d) which is tax exempt under the laws of this state.
- 208 ~~[(13)]~~ (12) "Club" and "private club" means any of the following organized primarily
- 209 for the benefit of its members:
- 210 (a) a social club;
- 211 (b) a recreational association;
- 212 (c) a fraternal association;
- 213 (d) an athletic association; or

214 (e) a kindred association.

215 [~~(14)~~] (13) "Commission" means the Alcoholic Beverage Control Commission.

216 [~~(15)~~] "~~Convention center~~" is as defined by rule by the commission.]

217 [~~(16)~~] (14) "Department" means the Department of Alcoholic Beverage Control.

218 [~~(17)~~] (15) "Distressed merchandise" means any alcoholic beverage in the possession
219 of the department that is saleable, but for some reason is unappealing to the public.

220 [~~(18)~~] (16) "General food store" means any business establishment primarily engaged
221 in selling food and grocery supplies to public patrons for off-premise consumption.

222 [~~(19)~~] (17) "Guest" means a person accompanied by an active member or visitor of a
223 club who enjoys only those privileges derived from the host for the duration of the visit to the
224 club.

225 [~~(20)~~] (18) (a) "Heavy beer" means any product that:

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

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

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

229 [~~(21)~~] (19) "Hosted bar" means the service of alcoholic beverages:

230 (a) without charge; and

231 (b) at a:

232 (i) banquet; or

233 (ii) privately hosted event.

234 [~~(22)~~] "~~Hotel~~" is as defined by rule by the commission.]

235 [~~(23)~~] (20) "Identification card" means the identification card issued under Title 53,
236 Chapter 3, Part 8, Identification Card Act.

237 [~~(24)~~] (21) "Interdicted person" means a person to whom the sale, gift, or provision of
238 an alcoholic beverage is prohibited by:

239 (a) law; or

240 (b) court order.

241 [~~(25)~~] (22) "Intoxicated" means that to a degree that is unlawful under Section
242 76-9-701 a person is under the influence of:

243 (a) an alcoholic beverage;

244 (b) a controlled substance;

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

246 (d) a combination of Subsections [~~(25)~~] (22)(a) through (c).

247 [~~(26)~~] (23) "Licensee" means any person issued a license by the commission to sell,
248 manufacture, store, or allow consumption of alcoholic beverages on premises owned or
249 controlled by the person.

250 [~~(27)~~] (24) "Limousine" means any motor vehicle licensed by the state or a local
251 authority, other than a bus or taxicab:

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

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

257 [~~(28)~~] (25) (a) "Liquor" means alcohol, or any alcoholic, spirituous, vinous, fermented,
258 malt, or other liquid, or combination of liquids, a part of which is spirituous, vinous, or
259 fermented, and all other drinks, or drinkable liquids that contain more than 1/2 of 1% of
260 alcohol by volume and is suitable to use for beverage purposes.

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

263 [~~(29)~~] (26) "Local authority" means:

264 (a) the governing body of the county if the premises are located in an unincorporated
265 area of a county; or

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

268 [~~(30)~~] (27) "Manufacture" means to distill, brew, rectify, mix, compound, process,
269 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
270 others.

271 [~~(31)~~] (28) "Member" means a person who, after paying regular dues, has full
272 privileges of a club under this title.

273 [~~(32)~~] (29) "Minor" means any person under the age of 21 years.

274 [~~(33)~~] (30) "Outlet" means a location other than a state store or package agency where
275 alcoholic beverages are sold pursuant to a license issued by the commission.

276 [~~(34)~~] (31) "Package" means any of the following containing liquor:

277 (a) a container[;];

278 (b) a bottle[;];

279 (c) a vessel[;]; or

280 (d) other receptacle [~~containing liquor~~].

281 [~~(35)~~] (32) "Package agency" means a retail liquor location operated under a
282 contractual agreement with the department, by a person other than the state, who is authorized
283 by the commission to sell package liquor for consumption off the premises of the agency.

284 [~~(36)~~] (33) "Package agent" means any person permitted by the commission to operate
285 a package agency pursuant to a contractual agreement with the department to sell liquor from
286 premises that the package agent shall provide and maintain.

287 [~~(37)~~] (34) "Permittee" means any person issued a permit by the commission to
288 perform acts or exercise privileges as specifically granted in the permit.

289 [~~(38)~~] (35) "Person" means any individual, partnership, firm, corporation, limited
290 liability company, association, business trust, or other form of business enterprise, including a
291 receiver or trustee, and the plural as well as the singular number, unless the intent to give a
292 more limited meaning is disclosed by the context.

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

295 [~~(40)~~] (36) "Premises" means any building, enclosure, room, or equipment used in
296 connection with the sale, storage, service, manufacture, distribution, or consumption of
297 alcoholic products, unless otherwise defined in this title or in the rules adopted by the
298 commission.

299 [~~(41)~~] (37) "Prescription" means a writing in legal form, signed by a physician or
300 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

301 [~~(42)~~] (38) (a) "Privately hosted event" or "private social function" means a specific
302 social, business, or recreational event for which an entire room, area, or hall has been leased or
303 rented, in advance by an identified group, and the event or function is limited in attendance to
304 people who have been specifically designated and their guests.

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

- 307 [~~(43)~~] (39) "Proof of age" means:
- 308 (a) an identification card;
- 309 (b) an identification that:
- 310 (i) is substantially similar to an identification card;
- 311 (ii) is issued in accordance with the laws of a state other than Utah in which the
- 312 identification is issued;
- 313 (iii) includes date of birth; and
- 314 (iv) has a picture affixed;
- 315 (c) a valid driver license certificate that:
- 316 (i) includes date of birth;
- 317 (ii) has a picture affixed; and
- 318 (iii) is issued:
- 319 (A) under Title 53, Chapter 3, Uniform Driver License Act; or
- 320 (B) in accordance with the laws of the state in which it is issued;
- 321 (d) a military identification card that:
- 322 (i) includes date of birth; and
- 323 (ii) has a picture affixed; or
- 324 (e) a valid passport.

325 [~~(44)~~] (40) (a) "Public building" means any building or permanent structure owned or

326 leased by the state, a county, or local government entity that is used for:

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

330 (b) "Public building" does not mean or refer to any building owned by the state or a

331 county or local government entity when the building is used by anyone, in whole or in part, for

332 proprietary functions.

333 [~~(45)~~] (41) "Representative" means an individual who is compensated by salary,

334 commission, or any other means for representing and selling the alcoholic beverage products of

335 a manufacturer, supplier, or importer of liquor, wine, or heavy beer.

336 [~~(46)~~] (42) "Residence" means the person's principal place of abode within Utah.

337 [~~(47)~~] "Resort facility" is as defined by rule by the commission.]

338 [~~(48)~~] (43) "Restaurant" means any business establishment:

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

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

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

344 [~~(49)~~] (44) "Retailer" means any person engaged in the sale or distribution of alcoholic
345 beverages to the consumer.

346 [~~(50) "Room service" includes service of alcoholic beverages to a guest room of a:]~~

347 [~~(a) hotel; or]~~

348 [~~(b) resort facility.]~~

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

350 [~~(A) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;~~
351 and]

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

353 [~~(H) to implement or interpret this title; or]~~

354 [~~(H) to describe the organization, procedure, or practice requirements of the~~
355 department in order to carry out the intent of the law and ensure its uniform application.]

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

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

360 [~~(52)~~] (45) (a) "Sample" includes:

361 (i) a department sample; and

362 (ii) an industry representative sample.

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

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

369 ~~[(53)]~~ (46) (a) "School" means any building used primarily for the general education of
370 minors.

371 (b) "School" does not include:

372 (i) a nursery school;

373 (ii) an infant day care center; or

374 (iii) a trade or technical school.

375 ~~[(54)]~~ (47) "Sell," "sale," and "to sell" means any transaction, exchange, or barter
376 whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred,
377 solicited, ordered, delivered for value, or by any means or under any pretext is promised or
378 obtained, whether done by a person as a principal, proprietor, or as an agent, servant, or
379 employee, unless otherwise defined in this title or the rules made by the commission.

380 ~~[(55)]~~ (48) "Small brewer" means a brewer who manufactures less than 60,000 barrels
381 of beer and heavy beer per year.

382 ~~[(56)]~~ (49) (a) "Spirituous liquor" means liquor that is distilled.

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

385 ~~[(57) "Sports center" is as defined by rule by the commission.]~~

386 ~~[(58)]~~ (50) (a) "State label" means the official label designated by the commission
387 affixed to all liquor containers sold in the state.

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

390 ~~[(59)]~~ (51) (a) "State store" means a facility for the sale of package liquor:

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

392 (ii) operated by state employees.

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

394 (i) licensee;

395 (ii) permittee; or

396 (iii) package agency.

397 ~~[(60)]~~ (52) "Supplier" means any person selling alcoholic beverages to the department.

398 ~~[(61)]~~ (53) (a) "Tavern" means any business establishment that is:

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

400 establishment's premises; and

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

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

404 (i) a beer bar;

405 (ii) a parlor;

406 (iii) a lounge;

407 (iv) a cabaret; or

408 (v) a nightclub.

409 [~~(62)~~] (54) "Temporary domicile" means the principal place of abode within Utah of a
410 person who does not have a present intention to continue residency within Utah permanently or
411 indefinitely.

412 [~~(63)~~] (55) "Unsaleable liquor merchandise" means merchandise that:

413 (a) is unsaleable because the merchandise is:

414 (i) unlabeled[;];

415 (ii) leaky[;];

416 (iii) damaged[;];

417 (iv) difficult to open[;]; or

418 (v) partly filled;

419 (b) is in a container:

420 (i) having faded labels or defective caps or corks;

421 (ii) in which the contents are:

422 (A) cloudy[;];

423 (B) spoiled[;]; or

424 (C) chemically determined to be impure; or

425 (iii) that contains:

426 (A) sediment; or

427 (B) any foreign substance; or

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

429 [~~(64)~~] (56) "Visitor" means an individual that in accordance with Section 32A-5-107
430 holds limited privileges in a private club by virtue of a visitor card.

431 [(65)] (57) "Warehouser" means any person, other than a licensed manufacturer,
432 engaged in the importation for sale, storage, or distribution of liquor regardless of amount.

433 [(66)] (58) "Wholesaler" means any person engaged in the importation for sale, or in
434 the sale of beer in wholesale or jobbing quantities to retailers, other than a small brewer selling
435 beer manufactured by that brewer.

436 [(67)] (59) (a) "Wine" means any alcoholic beverage obtained by the fermentation of
437 the natural sugar content of fruits, plants, honey, or milk, or any other like substance, whether
438 or not other ingredients are added.

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

441 Section 2. Section **32A-1-107** is amended to read:

442 **32A-1-107. Powers and duties of the commission.**

443 (1) The commission shall:

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

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

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

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

448 (ii) controlling liquor merchandise inventory including:

449 (A) listing and delisting products;

450 (B) the procedures for testing new products;

451 (C) purchasing policy;

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

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

454 (iii) determining the location of state stores, package agencies, and outlets;

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

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

460 (i) package agencies;

461 (ii) restaurant licenses;

- 462 (iii) airport lounge licenses;
- 463 (iv) limited restaurant licenses;
- 464 (v) beginning on July 1, 2003 and ending June 30, 2005, on-premise banquet licenses;
- 465 (vi) private club licenses;
- 466 (vii) on-premise beer retailer licenses;
- 467 (viii) temporary special event beer permits;
- 468 (ix) special use permits;
- 469 (x) single event permits;
- 470 (xi) manufacturing licenses;
- 471 (xii) liquor warehousing licenses; and
- 472 (xiii) beer wholesaling licenses;
- 473 (f) fix prices at which liquors are sold that are the same at all state stores, package
- 474 agencies, and outlets;
- 475 (g) issue and distribute price lists showing the price to be paid by purchasers for each
- 476 class, variety, or brand of liquor kept for sale by the department;
- 477 (h) (i) require the director to follow sound management principles; and
- 478 (ii) require periodic reporting from the director to ensure that [~~these~~];
- 479 (A) sound management principles are being followed; and [~~that~~]
- 480 (B) policies established by the commission are being observed;
- 481 (i) receive, consider, and act in a timely manner upon all reports, recommendations,
- 482 and matters submitted by the director to the commission, and do all things necessary to support
- 483 the department in properly performing [~~its~~] the department's duties and responsibilities;
- 484 (j) obtain temporarily and for special purposes the services of experts and persons
- 485 engaged in the practice of a profession or who possess any needed skills, talents, or abilities if;
- 486 (i) considered expedient; and [~~if~~]
- 487 (ii) approved by the governor;
- 488 (k) prescribe the duties of departmental officials authorized to issue permits and
- 489 licenses under this title;
- 490 (l) prescribe, consistent with this title, the fees payable for permits, licenses, and
- 491 package agencies issued under this title, or for anything done or permitted to be done under this
- 492 title;

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

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

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

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

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

505 (4) (a) In any case where the commission is given the power to suspend any license or
506 permit, ~~[it]~~ the commission may impose a fine in addition to or in lieu of suspension.

507 (b) Fines imposed may not exceed \$25,000 in the aggregate for any single Notice of
508 Agency Action.

509 ~~[(b)]~~ (c) The commission shall promulgate, by rule, a schedule setting forth a range of
510 fines for each violation.

511 Section 3. Section **32A-1-108** is amended to read:

512 **32A-1-108. Director of alcoholic beverage control -- Qualifications -- Oath and**
513 **bond -- Compensation -- Accountable to commission -- Removal from office.**

514 (1) (a) The commission by ~~[unanimous]~~ a vote of four of the five commissioners, with
515 the approval of the governor, shall appoint a director of alcoholic beverage control who is the
516 administrative head of the department.

517 (b) The director may not be a member of the commission.

518 (c) The director shall be qualified in administration and knowledgeable by experience
519 and training in the field of business management and shall possess any other qualifications
520 prescribed by the commission.

521 (2) (a) The director shall qualify by:

522 (i) taking the oath of office; and

523 (ii) giving a bond for the faithful performance of the director's duties in an amount

524 determined by the Division of Finance and in form approved by the attorney general.

525 (b) The bond premium for the bond required by Subsection (2)(a) shall be paid by the
526 state.

527 (3) The director's compensation shall be established by the governor within the salary
528 range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

529 (4) The director shall:

530 (a) carry out the policies of the commission and those of the department;

531 (b) keep the commission fully informed of all operations and administrative activities
532 of the department; and

533 (c) assist the commission in the proper discharge of its duties and responsibilities.

534 (5) (a) The director may be removed from office for cause by a majority vote of the
535 commission after a public hearing before the full commission.

536 (b) The director shall receive written notice of:

537 (i) the date, time, and place of the hearing; and

538 (ii) the alleged grounds for removal at least ten days before the hearing.

539 (c) The director shall be afforded the opportunity to:

540 (i) attend the hearing;

541 (ii) present witnesses and other evidence; and

542 (iii) confront and cross examine witnesses.

543 (d) Following the hearing, written findings of fact, conclusions of law, and the final
544 order of the commission shall be issued and served upon the director.

545 Section 4. Section **32A-3-106** is amended to read:

546 **32A-3-106. Operational restrictions.**

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

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

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

554 (d) Actions against the package agent are governed solely by the agreement and may

555 include suspension or revocation of the agency.

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

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

560 (3) The department may pay or otherwise remunerate a package agent on any basis
561 including sales or volume of business done by the agency.

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

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

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

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

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

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

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

574 (a) minor;

575 (b) person actually, apparently, or obviously intoxicated;

576 (c) known habitual drunkard; or

577 (d) known interdicted person.

578 (10) ~~(a)~~ ~~[Sale]~~ Subject to Subsection (10)(b), sale or delivery of liquor may not be
579 made on or from the premises of any package agency nor may any package agency be kept
580 open for the sale of liquor:

581 ~~(a)~~ (i) on Sunday;

582 ~~(b)~~ (ii) on any state or federal legal holiday;

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

585 ~~(d)~~ (iv) on any day on which any municipal, special district, or school election is held

586 until after the polls are closed, but only within the boundaries of the municipality, special
 587 district, or school district holding the election and only if the municipality, special district, or
 588 school district in which the election is being held notifies the department at least 30 days prior
 589 to the date of the election; or

590 ~~[(e)]~~ (v) except on days and during hours as the commission may direct by rule or
 591 order.

592 (b) The restrictions in Subsections (10)(a)(i) and (ii) govern unless:

593 (i) the package agency is located at a winery licensed under Chapter 8, Manufacturing
 594 Licenses;

595 (ii) the winery licensed under Chapter 8, Manufacturing Licenses, holds:

596 (A) a restaurant liquor license under Chapter 4, Part 1, Restaurant Liquor Licenses; or

597 (B) a limited restaurant license under Chapter 4, Part 3, Limited Restaurant Licenses;

598 (iii) the restaurant described in Subsection (10)(b)(ii) is located at the winery;

599 (iv) the restaurant described in Subsection (10)(b)(ii) sells wines produced at the
 600 winery;

601 (v) the winery described in Subsection (10)(b)(i):

602 § ~~(A) manages the restaurant;~~

603 ~~(B) operates and~~ (A) § owns the restaurant; or

604 § ~~(C) leases~~ (B) OPERATES § the restaurant;

605 (vi) the package agency only sells wine produced at the winery; and

606 (vii) the package agency's days and hours of sale are the same as the days and hours of
 607 sale at the restaurant described in Subsection (10)(b)(ii).

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

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

613 (13) (a) A package agency may not close or cease operation for a period longer than 72
 614 hours, unless:

615 (i) the package agency notifies the department in writing at least seven days before the
 616 closing; and

617 (ii) the closure or cessation of operation is first approved by the department.
618 (b) Notwithstanding Subsection (13)(a), in the case of emergency closure, immediate
619 notice of closure shall be made to the department by telephone.
620 (c) (i) The department may authorize a closure or cessation of operation for a period
621 not to exceed 60 days.
622 (ii) The department may extend the initial period an additional 30 days upon written
623 request of the package agency and upon a showing of good cause.
624 (iii) A closure or cessation of operation may not exceed a total of 90 days without
625 commission approval.
626 (d) The notice required by Subsection (13)(a) shall include:
627 (i) the dates of closure or cessation of operation;
628 (ii) the reason for the closure or cessation of operation; and
629 (iii) the date on which the agency will reopen or resume operation.
630 (e) Failure of the agency to provide notice and to obtain department authorization prior
631 to closure or cessation of operation shall result in an automatic termination of the package
632 agency contract effective immediately.
633 (f) Failure of the agency to reopen or resume operation by the approved date shall
634 result in an automatic termination of the package agency contract effective on that date.
635 (14) Liquor may not be stored or sold in any place other than as designated in the
636 package agent's application, unless the package agent first applies for and receives approval
637 from the department for a change of location within the package agency premises.
638 (15) A package agency may not transfer its operations from one location to another
639 without prior written approval of the commission.
640 (16) (a) A person, having been granted a package agency, may not sell, transfer, assign,
641 exchange, barter, give, or attempt in any way to dispose of the package agency to any other
642 person, whether for monetary gain or not.
643 (b) A package agency has no monetary value for the purpose of any type of disposition.
644 Section 5. Section **32A-4-106** is amended to read:
645 **32A-4-106. Operational restrictions.**
646 Each person granted a restaurant liquor license and the employees and management
647 personnel of the restaurant shall comply with the following conditions and requirements.

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

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

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

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

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

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

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

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

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

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

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

671 (i) as a flavoring on desserts; and

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

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

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

677 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to
678 exceed five ounces per glass or individual portion.

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

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

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

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

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

689 (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices
690 fixed by the commission.

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

693 (5) (a) (i) [A] Subject to Subsection (5)(a)(ii), a restaurant licensed to sell liquor may
694 sell beer [in any size container not exceeding two liters, and on draft] for on-premise
695 consumption [without obtaining a separate on-premise beer retailer license from the
696 commission.];

697 (A) in an open container; and

698 (B) on draft.

699 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
700 not exceed two liters, except that beer may not be sold to an individual patron in a size of
701 container that exceeds one liter.

702 (b) A restaurant licensed under this chapter that sells beer pursuant to Subsection (5)(a);

703 (i) may do so without obtaining a separate on-premise beer retailer license from the
704 commission; and

705 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
706 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are
707 inconsistent with or less restrictive than the operational restrictions under this part.

708 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
709 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the

710 restaurant's:

711 (i) state liquor license; and

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

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

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

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

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

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

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

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

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

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

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

733 (A) regular general election;

734 (B) regular primary election; or

735 (C) statewide special election;

736 (ii) until after the polls are closed on the day of any municipal, special district, or
737 school election, but only:

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

739 (B) if [~~closure is~~] required by local ordinance; and

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

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

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

745 (11) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

746 (a) minor;

747 (b) person actually, apparently, or obviously intoxicated;

748 (c) known habitual drunkard; or

749 (d) known interdicted person.

750 (12) (a) (i) Liquor may be sold only at prices fixed by the commission.

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

752 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
753 beverage to the licensee.

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

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

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

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

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

764 (13) Alcoholic beverages may not be purchased for a patron of a restaurant by:

765 (a) the licensee[-]; or

766 (b) any employee or agent of the licensee[~~-, for patrons of the restaurant~~].

767 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee any
768 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
769 discretion of the licensee, bottled wine onto the premises of any restaurant liquor licensee for
770 on-premise consumption.

771 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or its

772 officers, managers, employees, or agents may not allow:

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

775 (ii) consumption of any such alcoholic beverage on its premises.

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

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

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

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

784 (ii) contains any alcoholic beverage.

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

789 (16) (a) A minor may not be employed by a restaurant licensee to sell or dispense
790 alcoholic beverages.

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

793 (17) An employee of a restaurant liquor licensee, while on duty, may not:

794 (a) consume an alcoholic beverage; or

795 (b) be intoxicated.

796 (18) Any charge or fee made in connection with the sale, service, or consumption of
797 liquor may be stated in food or alcoholic beverage menus including:

798 (a) a set-up charge;

799 (b) a service charge; or

800 (c) a chilling fee.

801 (19) Each restaurant liquor licensee shall display in a prominent place in the restaurant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

831 or

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

833 (21) Nothing in Subsection (20) precludes a local authority from being more restrictive

834 of acts or conduct of the type prohibited in Subsection (20).

835 (22) (a) Although live entertainment is permitted on the premises of a restaurant liquor
836 licensee, a licensee may not allow any person to perform or simulate sexual acts prohibited by
837 Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation,
838 flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the
839 displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a
840 stage or at a designated area approved by the commission.

841 (b) Nothing in Subsection (22)(a) precludes a local authority from being more
842 restrictive of acts or conduct of the type prohibited in Subsection (22)(a).

843 (23) A restaurant liquor licensee may not engage in or permit any form of gambling, or
844 have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11,
845 Gambling, on the premises of the restaurant liquor licensee.

846 (24) (a) Each restaurant liquor licensee shall maintain an expense ledger or record
847 showing in detail:

848 (i) quarterly expenditures made separately for:

849 (A) malt or brewed beverages;

850 (B) set-ups;

851 (C) liquor;

852 (D) food; and

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

854 (ii) sales made separately for:

855 (A) malt or brewed beverages;

856 (B) set-ups;

857 (C) food; and

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

859 (b) The record required by Subsection (24)(a) shall be kept:

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

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

862 (c) Each expenditure shall be supported by:

863 (i) delivery tickets;

864 (ii) invoices;

- 865 (iii) receipted bills;
866 (iv) canceled checks;
867 (v) petty cash vouchers; or
868 (vi) other sustaining data or memoranda.

869 (d) In addition to a ledger or record required under Subsection (24)(a), a restaurant
870 liquor licensee shall maintain accounting and other records and documents as the department
871 may require.

872 (e) Any restaurant or person acting for the restaurant, who knowingly forges, falsifies,
873 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or
874 other documents of the restaurant required to be made, maintained, or preserved by this title or
875 the rules of the commission for the purpose of deceiving the commission or the department, or
876 any of their officials or employees, is subject to:

- 877 (i) the suspension or revocation of the restaurant's liquor license; and
878 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

879 (25) (a) A restaurant liquor licensee may not close or cease operation for a period
880 longer than 240 hours, unless:

881 (i) the restaurant liquor licensee notifies the department in writing at least seven days
882 before the closing; and

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

884 (b) Notwithstanding Subsection (25)(a), in the case of emergency closure, immediate
885 notice of closure shall be made to the department by telephone.

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

890 (d) Any notice shall include:

- 891 (i) the dates of closure or cessation of operation;
892 (ii) the reason for the closure or cessation of operation; and
893 (iii) the date on which the licensee will reopen or resume operation.

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

896 (i) the license; and
897 (ii) the unused portion of the license fee for the remainder of the license year effective
898 immediately.

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

901 (i) the license; and
902 (ii) the unused portion of the license fee for the remainder of the license year.

903 (26) Each restaurant liquor licensee shall maintain at least 70% of its total restaurant
904 business from the sale of food, which does not include mix for alcoholic beverages or service
905 charges.

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

908 (28) (a) A person, having been granted a restaurant liquor license may not sell, transfer,
909 assign, exchange, barter, give, or attempt in any way to dispose of the license to any other
910 person whether for monetary gain or not.

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

913 (29) Each server of alcoholic beverages in a licensee's establishment shall keep a
914 written beverage tab for each table or group that orders or consumes alcoholic beverages on the
915 premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or
916 consumed.

917 (30) A person's willingness to serve alcoholic beverages may not be made a condition
918 of employment as a server with a restaurant that has a restaurant liquor license.

919 Section 6. Section **32A-4-202** is amended to read:

920 **32A-4-202. Application and renewal requirements.**

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

- 923 (a) a nonrefundable \$250 application fee;
- 924 (b) an initial license fee of \$7,000, which is refundable if a license is not granted;
- 925 (c) written consent of the local and airport authority;
- 926 (d) a copy of the applicant's current business license;

- 927 (e) a bond as specified by Section 32A-4-205;
- 928 (f) a floor plan of the airport lounge, including consumption areas and the area where
929 the applicant proposes to keep, store, and sell liquor;
- 930 (g) a copy of the sign proposed to be used by the licensee on its premises to inform the
931 public that alcoholic beverages are sold and consumed there;
- 932 (h) evidence that the airport lounge is carrying public liability insurance in an amount
933 and form satisfactory to the department;
- 934 (i) evidence that the airport lounge is carrying dramshop insurance coverage of at least
935 \$500,000 per occurrence and \$1,000,000 in the aggregate;
- 936 (j) a signed consent form stating that the airport lounge will permit any authorized
937 representative of the commission, department, or any law enforcement officer unrestricted right
938 to enter the airport lounge;
- 939 (k) in the case of an applicant that is a partnership, corporation, or limited liability
940 company, proper verification evidencing that the person or persons signing the airport lounge
941 application are authorized to so act on behalf of the partnership, corporation, or limited liability
942 company; and
- 943 (l) any other information the commission or department may require.
- 944 (2) (a) All airport lounge liquor licenses expire on October 31 of each year.
- 945 (b) ~~[Persons]~~ A person desiring to renew ~~[their]~~ that person's airport lounge liquor
946 license shall submit a renewal fee of \$5,000 and a completed renewal application to the
947 department no later than September 30.
- 948 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
949 the license, effective on the date the existing license expires.
- 950 (d) Renewal applications shall be in a form as prescribed by the department.
- 951 (3) To ensure compliance with Subsection 32A-4-206(21), the ~~[commissioner]~~
952 commission may revoke an airport lounge liquor license if the airport liquor licensee does not
953 immediately notify the department of any change in:
- 954 (a) ownership of the licensee;
- 955 (b) for a corporate owner, the:
- 956 (i) corporate officers or directors; or
- 957 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the

958 corporation; or

959 (c) for a limited liability company:

960 (i) managers; or

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

962 Section 7. Section **32A-4-206** is amended to read:

963 **32A-4-206. Operational restrictions.**

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

968 (1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from
969 state stores or package agencies.

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

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

974 (2) An airport lounge liquor licensee may sell or provide a primary spirituous liquor
975 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
976 dispensing system approved by the department in accordance with commission rules adopted
977 under this title, except that:

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

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

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

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

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

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

989 (i) as a flavoring on desserts; and
990 (ii) in the preparation of flaming food dishes, drinks, and desserts; and
991 (c) each airport lounge patron may have no more than 2.75 ounces of spirituous liquor
992 at a time before the patron.

993 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
994 exceed five ounces per glass or individual portion.

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

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

999 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
1000 fixed by the commission to tables of four or more persons.

1001 (ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by
1002 the commission to tables of less than four persons.

1003 (c) A wine service may be performed and a service charge assessed by the airport
1004 lounge as authorized by commission rule for wine purchased at the airport lounge.

1005 (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices
1006 fixed by the commission.

1007 (b) A service charge may be assessed by the airport lounge as authorized by
1008 commission rule for heavy beer purchased at the airport lounge.

1009 (5) (a) (i) [An] Subject to Subsection (5)(a)(ii), an airport lounge licensed to sell liquor
1010 may sell beer [in any size container not exceeding two liters, and on draft] for on-premise
1011 consumption [without obtaining a separate on-premise beer retailer license from the
1012 commission.];

1013 (A) in an open container; and

1014 (B) on draft.

1015 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1016 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1017 container that exceeds one liter.

1018 (b) An airport lounge that sells beer pursuant to Subsection (5)(a);

1019 (i) may do so without obtaining a separate on-premise beer retailer license from the

1020 commission; and

1021 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1022 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are
1023 inconsistent with or less restrictive than the operational restrictions under this part.

1024 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1025 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the airport
1026 lounge's:

1027 (i) state liquor license; and

1028 (ii) alcoholic beverage license issued by the local authority.

1029 (6) Alcoholic beverages may not be stored, served, or sold in any place other than as
1030 designated in the licensee's application, unless the licensee first applies for and receives
1031 approval from the department for a change of location within the airport lounge.

1032 (7) (a) A patron may only make purchases in the airport lounge from and be served by
1033 a person employed, designated, and trained by the licensee to sell, dispense, and serve alcoholic
1034 beverages.

1035 (b) Notwithstanding Subsection (7)(a), a patron who has purchased bottled wine from
1036 an employee of the airport lounge may serve wine from the bottle to [~~themselves~~] the patron or
1037 others at the patron's table.

1038 (c) Each airport lounge patron may have no more than two alcoholic beverages of any
1039 kind at a time before the patron.

1040 (8) The liquor storage area shall remain locked at all times other than those hours and
1041 days when liquor sales and service are authorized by law.

1042 (9) Alcoholic beverages may not be sold, offered for sale, served, or otherwise
1043 furnished at an airport lounge on any day after 12 midnight and before 8 a.m.

1044 (10) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

1045 (a) minor;

1046 (b) person actually, apparently, or obviously intoxicated;

1047 (c) known habitual drunkard; or

1048 (d) known interdicted person.

1049 (11) (a) (i) Liquor may be sold only at prices fixed by the commission.

1050 (ii) Liquor may not be sold at discount prices on any date or at any time.

1051 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
1052 to the licensee.

1053 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1054 over consumption or intoxication.

1055 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1056 hours of the airport lounge's business day such as a "happy hour."

1057 (e) The sale or service of more than one alcoholic beverage for the price of a single
1058 alcoholic beverage is prohibited.

1059 (f) The sale or service of an indefinite or unlimited number of alcoholic beverages
1060 during any set period for a fixed price is prohibited.

1061 (g) An airport lounge licensee may not engage in a public promotion involving or
1062 offering free alcoholic beverages to the general public.

1063 (12) Alcoholic beverages may not be purchased for a patron of an airport lounge by:

1064 (a) the licensee[-]; or

1065 (b) any employee or agent of the licensee[-, for patrons of the airport lounge].

1066 (13) (a) A person may not bring onto the premises of an airport lounge licensee any
1067 alcoholic beverage for on-premise consumption.

1068 (b) An airport lounge or its officers, managers, employees, or agents may not allow a
1069 person to bring onto the airport lounge premises any alcoholic beverage for on-premise
1070 consumption or allow consumption of any such alcoholic beverage on its premises.

1071 (14) An airport lounge licensee and its employees may not permit a patron to remove
1072 any alcoholic beverages from the airport lounge premises.

1073 (15) (a) A minor may not be employed by an airport lounge licensee to sell or dispense
1074 alcoholic beverages.

1075 (b) Notwithstanding Subsection (15)(a), a minor may be employed to enter the sale at a
1076 cash register or other sales recording device.

1077 (16) An employee of an airport lounge licensee, while on duty, may not:

1078 (a) consume an alcoholic beverage; or

1079 (b) be intoxicated.

1080 (17) Any charge or fee made in connection with the sale, service, or consumption of
1081 liquor may be stated in a food or alcoholic beverage menu including:

- 1082 (a) a set-up charge;
- 1083 (b) a service charge; or
- 1084 (c) a chilling fee.
- 1085 (18) Each airport lounge liquor licensee shall display in a prominent place in the airport
- 1086 lounge:
- 1087 (a) the liquor license that is issued by the department;
- 1088 (b) a list of the types and brand names of liquor being served through its calibrated
- 1089 metered dispensing system; and
- 1090 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 1091 drugs is a serious crime that is prosecuted aggressively in Utah."
- 1092 (19) (a) Each airport lounge liquor licensee shall maintain an expense ledger or record
- 1093 showing in detail:
- 1094 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all
- 1095 other items required by the department; and
- 1096 (ii) sales made separately for malt or brewed beverages, food, and all other items
- 1097 required by the department.
- 1098 (b) This record shall be kept:
- 1099 (i) in a form approved by the department; and [~~shall be kept~~]
- 1100 (ii) current for each three-month period.
- 1101 (c) Each expenditure shall be supported by:
- 1102 (i) delivery tickets[;];
- 1103 (ii) invoices[;];
- 1104 (iii) receipted bills[;];
- 1105 (iv) canceled checks[;];
- 1106 (v) petty cash vouchers[;]; or
- 1107 (vi) other sustaining data or memoranda.
- 1108 [~~(c)~~] (d) In addition to a ledger or record required by Subsection (19)(a), each airport
- 1109 lounge liquor licensee shall maintain accounting and other records and documents as the
- 1110 department may require.
- 1111 [~~(d)~~] (e) Any airport lounge or person acting for the airport lounge, who knowingly
- 1112 forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books

1113 of account or other documents of the airport lounge required to be made, maintained, or
1114 preserved by this title or the rules of the commission for the purpose of deceiving the
1115 commission or the department, or any of their officials or employees, is subject to:

1116 (i) the immediate suspension or revocation of the airport lounge's liquor license; and

1117 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1118 (20) An airport lounge liquor license may not be transferred from one location to
1119 another, without prior written approval of the commission.

1120 (21) (a) An airport lounge liquor licensee may not sell, transfer, assign, exchange,
1121 barter, give, or attempt in any way to dispose of the license to any other person, whether for
1122 monetary gain or not.

1123 (b) An airport lounge liquor license has no monetary value for the purpose of any type
1124 of disposition.

1125 (22) Each server of alcoholic beverages in a licensee's establishment shall keep a
1126 written beverage tab for each table or group that orders or consumes alcoholic beverages on the
1127 premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or
1128 consumed.

1129 (23) An airport lounge liquor licensee's premises may not be leased for private
1130 functions.

1131 (24) An airport lounge liquor licensee may not engage in or permit any form of
1132 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1133 Part 11, Gambling, on the premises of the airport lounge liquor licensee.

1134 Section 8. Section **32A-4-303** is amended to read:

1135 **32A-4-303. Application and renewal requirements.**

1136 (1) A person seeking a limited restaurant license under this part shall file a written
1137 application with the department, in a form prescribed by the department. The application shall
1138 be accompanied by:

1139 (a) a nonrefundable \$250 application fee;

1140 (b) an initial license fee of \$500, which is refundable if a license is not granted;

1141 (c) written consent of the local authority;

1142 (d) a copy of the applicant's current business license;

1143 (e) evidence of proximity to any public or private school, church, public library, public

1144 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
1145 Subsections 32A-4-302(4) and (5), the application shall be processed in accordance with those
1146 subsections;

1147 (f) a bond as specified by Section 32A-4-306;

1148 (g) a floor plan of the restaurant, including:

1149 (i) consumption areas; and

1150 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and
1151 beer;

1152 (h) evidence that the restaurant is carrying public liability insurance in an amount and
1153 form satisfactory to the department;

1154 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
1155 \$500,000 per occurrence and \$1,000,000 in the aggregate;

1156 (j) a signed consent form stating that the restaurant will permit any authorized
1157 representative of the commission, department, or any law enforcement officer unrestricted right
1158 to enter the restaurant;

1159 (k) in the case of an applicant that is a partnership, corporation, or limited liability
1160 company, proper verification evidencing that the person or persons signing the restaurant
1161 application are authorized to so act on behalf of the partnership, corporation, or limited liability
1162 company; and

1163 (l) any other information the commission or department may require.

1164 (2) A holder of a restaurant liquor license or a private club license on May 5, 2003,
1165 may not be required to pay the application or initial license fees for a limited restaurant license
1166 under this chapter if the licensee:

1167 (a) surrenders the restaurant liquor license or private club license before being granted
1168 a limited restaurant license; and

1169 (b) applies for a limited restaurant license in calendar year 2003:

1170 (i) for the same premises for which the restaurant liquor license or private club license
1171 was granted; and

1172 (ii) before the expiration of the restaurant liquor license or private club license.

1173 (3) (a) All limited restaurant licenses expire on October 31 of each year.

1174 (b) ~~Persons~~ A person desiring to renew ~~their~~ that person's limited restaurant license

1175 shall submit:

1176 (i) a renewal fee of \$300; and

1177 (ii) a renewal application to the department no later than September 30.

1178 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of

1179 the license effective on the date the existing license expires.

1180 (d) Renewal applications shall be in a form as prescribed by the department.

1181 (4) To ensure compliance with Subsection 32A-4-307[~~(27)~~](28), the commission may

1182 suspend or revoke a limited restaurant license if the limited restaurant licensee does not

1183 immediately notify the department of any change in:

1184 (a) ownership of the restaurant;

1185 (b) for a corporate owner, the:

1186 (i) corporate officer or directors; or

1187 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the

1188 corporation; or

1189 (c) for a limited liability company:

1190 (i) managers; or

1191 (ii) members owning at least 20% of the limited liability company.

1192 Section 9. Section **32A-4-307** is amended to read:

1193 **32A-4-307. Operational restrictions.**

1194 Each person granted a limited restaurant license and the employees and management

1195 personnel of the restaurant shall comply with the following conditions and requirements.

1196 Failure to comply may result in a suspension or revocation of the license or other disciplinary

1197 action taken against individual employees or management personnel.

1198 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee

1199 except from state stores or package agencies.

1200 (b) Wine and heavy beer purchased in accordance with Subsection (1)(a) may be

1201 transported by the licensee from the place of purchase to the licensed premises.

1202 (c) Payment for wine and heavy beer shall be made in accordance with rules

1203 established by the commission.

1204 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of

1205 spirituous liquor on the premises of the restaurant.

1206 (b) Spirituous liquor may not be on the premises of the restaurant except for use:

1207 (i) as a flavoring on desserts; and

1208 (ii) in the preparation of flaming food dishes, drinks, and desserts.

1209 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
1210 exceed five ounces per glass or individual portion.

1211 (ii) An individual portion may be served to a patron in more than one glass as long as
1212 the total amount of wine does not exceed five ounces.

1213 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1214 Subsection (7)~~(c)~~(e).

1215 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
1216 fixed by the commission to tables of four or more persons.

1217 (ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by
1218 the commission to tables of less than four persons.

1219 (c) A wine service may be performed and a service charge assessed by the limited
1220 restaurant as authorized by commission rule for wine purchased at the limited restaurant.

1221 (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices
1222 fixed by the commission.

1223 (b) A service charge may be assessed by the limited restaurant as authorized by
1224 commission rule for heavy beer purchased at the restaurant.

1225 (5) (a) (i) [A] Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell
1226 beer [in any size container not exceeding two liters, and on draft] for on-premise consumption
1227 [without obtaining a separate on-premise beer retailer license from the commission.];

1228 (A) in an open container; and

1229 (B) on draft.

1230 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1231 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1232 container that exceeds one liter.

1233 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

1234 (i) may do so without obtaining a separate on-premise beer retailer license from the
1235 commission; and

1236 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer

1237 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are
 1238 inconsistent with or less restrictive than the operational restrictions under this part.

1239 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
 1240 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
 1241 restaurant's:

1242 (i) limited restaurant license; and

1243 (ii) alcoholic beverage license issued by the local authority.

1244 (6) Wine, heavy beer, and beer may not be stored, served, or sold in any place other
 1245 than as designated in the licensee's application, unless the licensee first applies for and receives
 1246 approval from the department for a change of location within the restaurant.

1247 (7) (a) (i) A patron may only make alcoholic beverage purchases in the limited
 1248 restaurant from and be served by a person employed, designated, and trained by the licensee to
 1249 sell and serve alcoholic beverages.

1250 ~~[(b)]~~ (ii) Notwithstanding Subsection (7)(a)(i), a patron who has purchased bottled
 1251 wine from an employee of the restaurant or has carried bottled wine onto the premises of the
 1252 restaurant pursuant to Subsection ~~[(13)]~~ (14) may thereafter serve wine from the bottle to
 1253 ~~[themselves]~~ the patron or others at the patron's table.

1254 (b) Alcoholic beverages shall be delivered by a server to the patron.

1255 (c) Any alcoholic beverage may only be consumed at the patron's table or counter.

1256 (d) Alcoholic beverages may not be served to or consumed by a patron at a bar.

1257 ~~[(e)]~~ (e) Each restaurant patron may have no more than two alcoholic beverages of any
 1258 kind at a time before the patron.

1259 (8) The alcoholic beverage storage area shall remain locked at all times other than
 1260 those hours and days when alcoholic beverage sales are authorized by law.

1261 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
 1262 furnished at a limited restaurant during the following days or hours:

1263 (i) until after the polls are closed on the day of any:

1264 (A) regular general election;

1265 (B) regular primary election; or

1266 (C) statewide special election;

1267 (ii) until after the polls are closed on the day of any municipal, special district, or

1268 school election, but only:

1269 (A) within the boundaries of the municipality, special district, or school district; and

1270 (B) if [~~closure is~~] required by local ordinance; and

1271 (iii) on any other day after 12 midnight and before 12 noon.

1272 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer

1273 Licenses, for on-premise beer licensees.

1274 (10) Alcoholic beverages may not be sold except in connection with an order of food

1275 prepared, sold, and served at the restaurant.

1276 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to any:

1277 (a) minor;

1278 (b) person actually, apparently, or obviously intoxicated;

1279 (c) known habitual drunkard; or

1280 (d) known interdicted person.

1281 (12) (a) (i) Wine and heavy beer may be sold only at prices fixed by the commission.

1282 (ii) Wine and heavy beer may not be sold at discount prices on any date or at any time.

1283 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverages

1284 to the licensee.

1285 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages

1286 over consumption or intoxication.

1287 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain

1288 hours of the limited restaurant's business day such as a "happy hour."

1289 (e) The sale or service of more than one alcoholic beverage for the price of a single

1290 alcoholic beverage is prohibited.

1291 (f) The sale or service of an indefinite or unlimited number of alcoholic beverages

1292 during any set period for a fixed price is prohibited.

1293 (g) A limited restaurant licensee may not engage in a public promotion involving or

1294 offering free alcoholic beverages to the general public.

1295 (13) Alcoholic beverages may not be purchased for a patron of the restaurant by:

1296 (a) the licensee[~~;~~]; or

1297 (b) any employee or agent of the licensee[~~, for a patron of the restaurant~~].

1298 (14) (a) A person may not bring onto the premises of a limited restaurant licensee any

1299 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1300 discretion of the licensee, bottled wine onto the premises of any limited restaurant licensee for
1301 on-premise consumption.

1302 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or its
1303 officers, managers, employees, or agents may not allow:

1304 (i) a person to bring onto the restaurant premises any alcoholic beverage for on-premise
1305 consumption; or

1306 (ii) consumption of any alcoholic beverage described in Subsection (14)(b)(i) on its
1307 premises.

1308 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1309 or other representative of the licensee upon entering the restaurant.

1310 (d) A wine service may be performed and a service charge assessed by the restaurant as
1311 authorized by commission rule for wine carried in by a patron.

1312 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and its
1313 employees may not permit a restaurant patron to carry from the restaurant premises an open
1314 container that:

1315 (i) is used primarily for drinking purposes; and

1316 (ii) contains any alcoholic beverage.

1317 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
1318 contents of a bottle of wine if before removal the bottle has been recorked or recapped.

1319 (16) (a) A minor may not be employed by a limited restaurant licensee to sell or
1320 dispense alcoholic beverages.

1321 (b) Notwithstanding Subsection (16)(a), a minor may be employed to enter the sale at a
1322 cash register or other sales recording device.

1323 (17) An employee of a limited restaurant licensee, while on duty, may not:

1324 (a) consume an alcoholic beverage; or

1325 (b) be intoxicated.

1326 (18) A charge or fee made in connection with the sale, service, or consumption of wine
1327 or heavy beer may be stated in food or alcoholic beverage menus including:

1328 (a) a service charge; or

1329 (b) a chilling fee.

- 1330 (19) Each limited restaurant licensee shall display in a prominent place in the
1331 restaurant:
- 1332 (a) the license that is issued by the department; and
 - 1333 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1334 drugs is a serious crime that is prosecuted aggressively in Utah."
- 1335 (20) The following acts or conduct in a restaurant licensed under this part are
1336 considered contrary to the public welfare and morals, and are prohibited upon the premises:
- 1337 (a) employing or using any person in the sale or service of alcoholic beverages while
1338 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
1339 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
1340 buttocks, vulva, or genitals;
 - 1341 (b) employing or using the services of any person to mingle with the patrons while the
1342 person is unclothed or in attire, costume, or clothing described in Subsection (20)(a);
 - 1343 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
1344 buttocks, anus, or genitals of any other person;
 - 1345 (d) permitting any employee or person to wear or use any device or covering, exposed
1346 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;
 - 1347 (e) permitting any person to use artificial devices or inanimate objects to depict any of
1348 the prohibited activities described in this Subsection (20);
 - 1349 (f) permitting any person to remain in or upon the premises who exposes to public
1350 view any portion of that person's genitals or anus; or
 - 1351 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
1352 depicting:
 - 1353 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
1354 copulation, flagellation, or any sexual acts prohibited by Utah law;
 - 1355 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
1356 genitals;
 - 1357 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
1358 drawings are used to portray, any of the prohibited activities described in this Subsection (20);
1359 or
 - 1360 (iv) scenes wherein a person displays the vulva, anus, or the genitals.

1361 (21) Nothing in Subsection (20) precludes a local authority from being more restrictive
1362 of acts or conduct of the type prohibited in Subsection (20).

1363 (22) (a) Although live entertainment is permitted on the premises of a limited
1364 restaurant licensee, a licensee may not allow any person to perform or simulate sexual acts
1365 prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral
1366 copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or
1367 genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform
1368 only upon a stage or at a designated area approved by the commission.

1369 (b) Nothing in Subsection (22)(a) precludes a local authority from being more
1370 restrictive of acts or conduct of the type prohibited in Subsection (22)(a).

1371 (23) A limited restaurant licensee may not engage in or permit any form of gambling,
1372 or have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11,
1373 Gambling, on the premises of the restaurant.

1374 (24) (a) Each limited restaurant licensee shall maintain an expense ledger or record
1375 showing in detail:

1376 (i) quarterly expenditures made separately for:

1377 (A) wine;

1378 (B) heavy beer;

1379 (C) beer;

1380 (D) food; and

1381 (E) all other items required by the department; and

1382 (ii) sales made separately for:

1383 (A) wine;

1384 (B) heavy beer;

1385 (C) beer;

1386 (D) food; and

1387 (E) all other items required by the department.

1388 (b) The record required by Subsection (24)(a) shall be kept:

1389 (i) in a form approved by the department; and

1390 (ii) current for each three-month period.

1391 (c) Each expenditure shall be supported by:

- 1392 (i) delivery tickets;
- 1393 (ii) invoices;
- 1394 (iii) receipted bills;
- 1395 (iv) canceled checks;
- 1396 (v) petty cash vouchers; or
- 1397 (vi) other sustaining data or memoranda.
- 1398 (d) In addition to the ledger or record maintained under Subsections (24)(a) through
- 1399 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
- 1400 the department may require.
- 1401 (e) Any restaurant or person acting for the restaurant, who knowingly forges, falsifies,
- 1402 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or
- 1403 other documents of the restaurant required to be made, maintained, or preserved by this title or
- 1404 the rules of the commission for the purpose of deceiving the commission or department, or any
- 1405 of their officials or employees, is subject to:
- 1406 (i) the suspension or revocation of the limited restaurant's license; and
- 1407 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1408 (25) (a) A limited restaurant licensee may not close or cease operation for a period
- 1409 longer than 240 hours, unless:
- 1410 (i) the limited restaurant licensee notifies the department in writing at least seven days
- 1411 before the closing; and
- 1412 (ii) the closure or cessation of operation is first approved by the department.
- 1413 (b) Notwithstanding Subsection (25)(a), in the case of emergency closure, immediate
- 1414 notice of closure shall be made to the department by telephone.
- 1415 (c) (i) Subject to Subsection (25)(c)(iii), the department may authorize a closure or
- 1416 cessation of operation for a period not to exceed 60 days.
- 1417 (ii) The department may extend the initial period an additional 30 days upon:
- 1418 (A) written request of the limited restaurant licensee; and
- 1419 (B) a showing of good cause.
- 1420 (iii) A closure or cessation of operation may not exceed a total of 90 days without
- 1421 commission approval.
- 1422 (d) Any notice required by Subsection (25)(a) shall include:

- 1423 (i) the dates of closure or cessation of operation;
- 1424 (ii) the reason for the closure or cessation of operation; and
- 1425 (iii) the date on which the licensee will reopen or resume operation.
- 1426 (e) Failure of the licensee to provide notice and to obtain department authorization
- 1427 before closure or cessation of operation shall result in an automatic forfeiture of:
- 1428 (i) the license; and
- 1429 (ii) the unused portion of the license fee for the remainder of the license year effective
- 1430 immediately.
- 1431 (f) Failure of the licensee to reopen or resume operation by the approved date shall
- 1432 result in an automatic forfeiture of:
- 1433 (i) the license; and
- 1434 (ii) the unused portion of the license fee for the remainder of the license year.
- 1435 (26) Each limited restaurant licensee shall maintain at least 70% of its total restaurant
- 1436 business from the sale of food, which does not include service charges.
- 1437 (27) A limited restaurant license may not be transferred from one location to another,
- 1438 without prior written approval of the commission.
- 1439 (28) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,
- 1440 give, or attempt in any way to dispose of the license to any other person whether for monetary
- 1441 gain or not.
- 1442 (b) A limited restaurant license has no monetary value for the purpose of any type of
- 1443 disposition.
- 1444 (29) (a) Each server of wine, heavy beer, and beer in a limited restaurant licensee's
- 1445 establishment shall keep a written beverage tab for each table or group that orders or consumes
- 1446 alcoholic beverages on the premises.
- 1447 (b) The beverage tab required by Subsection (29)(a) shall list the type and amount of
- 1448 alcoholic beverages ordered or consumed.
- 1449 (30) A limited restaurant licensee may not make a person's willingness to serve
- 1450 alcoholic beverages a condition of employment as a server with the restaurant.
- 1451 Section 10. Section **32A-4-401** is amended to read:
- 1452 **32A-4-401. Commission's power to grant licenses -- Limitations.**
- 1453 (1) (a) For purposes of this part:

1454 (i) "Banquet" means an event:
1455 (A) for which there is a contract:
1456 (I) between any person and a person listed in Subsection (1)(a)(i)(B); and
1457 (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide
1458 alcoholic beverages at the event;
1459 (B) held at one or more designated locations approved by the commission in or on the
1460 premises of a:
1461 (I) hotel;
1462 (II) resort facility;
1463 (III) sports center; or
1464 (IV) convention center; and
1465 (C) at which food and alcoholic beverages may be sold and served.
1466 (ii) "Convention center" is as defined by the commission by rule.
1467 (iii) "Hotel" is as defined by the commission by rule.
1468 (iv) "Resort facility" is as defined by the commission by rule.
1469 (v) "Room service" means service of alcoholic beverages to a guest room of a:
1470 (A) hotel; or
1471 (B) resort facility.
1472 (vi) "Sports center" is as defined by the commission by rule.
1473 ~~[(+)(a)]~~ (b) Beginning May 5, 2003, and ending June 30, 2005, the commission may
1474 issue an on-premise banquet license to any of the following persons for the purpose of allowing
1475 the storage, sale, service, and consumption of alcoholic beverages in connection with that
1476 person's banquet and room service activities:
1477 (i) hotel;
1478 (ii) resort facility;
1479 (iii) sports center; or
1480 (iv) convention center.
1481 ~~[(b)]~~ (c) This chapter is not intended to prohibit liquor on the premises of a person
1482 listed in Subsection (1) to the extent otherwise permitted by this title.
1483 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not
1484 at any time aggregate more than that number determined by dividing the population of the state

1485 by 30,000.

1486 (b) For purposes of this Subsection (2), the population of the state shall be determined
1487 by:

1488 (i) the most recent United States decennial or special census; or

1489 (ii) any other population determination made by the United States or state
1490 governments.

1491 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet
1492 licensee:

1493 (a) the host of a contracted banquet may request an on-premise banquet licensee to
1494 provide alcoholic beverages served at a banquet; and

1495 (b) an on-premise banquet licensee may provide the alcoholic beverages served at a
1496 banquet.

1497 (4) At a banquet, an on-premise banquet licensee may provide:

1498 (a) a hosted bar; or

1499 (b) a cash bar.

1500 (5) Nothing in this section shall prohibit a qualified on-premise banquet license
1501 applicant from applying for a package agency.

1502 (6) (a) The premises of an on-premise banquet license may not be established within
1503 600 feet of any public or private school, church, public library, public playground, or park, as
1504 measured by the method in Subsection (7).

1505 (b) The premises of an on-premise banquet license may not be established within 200
1506 feet of any public or private school, church, public library, public playground, or park,
1507 measured in a straight line from the nearest entrance of the proposed outlet to the nearest
1508 property boundary of the public or private school, church, public library, public playground, or
1509 park.

1510 (c) The restrictions contained in Subsections (6)(a) and (b) govern unless one of the
1511 following exemptions applies:

1512 (i) with respect to the establishment of an on-premise banquet license within any
1513 location, the commission may authorize a variance to reduce the proximity requirements of
1514 Subsection (6)(a) or (b) if:

1515 (A) the local governing authority has granted its written consent to the variance;

1516 (B) alternative locations for establishing an on-premise banquet license in the
1517 community are limited;

1518 (C) a public hearing has been held in the city, town, or county, and where practical in
1519 the neighborhood concerned; and

1520 (D) after giving full consideration to all of the attending circumstances and the policies
1521 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
1522 license would not be detrimental to the public health, peace, safety, and welfare of the
1523 community; or

1524 (ii) with respect to the premises of any on-premise banquet license issued by the
1525 commission that undergoes a change of ownership, the commission may waive or vary the
1526 proximity requirements of Subsections (6)(a) and (b) in considering whether to grant an
1527 on-premise banquet license to the new owner of the premises if:

1528 (A) the premises previously received a variance reducing the proximity requirements of
1529 Subsection (6)(a) or (b); or

1530 (B) a variance from proximity or distance requirements was otherwise allowed under
1531 this title.

1532 (7) With respect to any public or private school, church, public library, public
1533 playground, or park, the 600 foot limitation is measured from the nearest entrance of the outlet
1534 by following the shortest route of ordinary pedestrian travel to the property boundary of the
1535 public or private school, church, public library, public playground, school playground, or park.

1536 (8) (a) Nothing in this section prevents the commission from considering the proximity
1537 of any educational, religious, and recreational facility, or any other relevant factor in reaching a
1538 decision on a proposed location.

1539 (b) For purposes of this Subsection (8), "educational facility" includes:

1540 (i) a nursery school;

1541 (ii) an infant day care center; and

1542 (iii) a trade and technical school.

1543 Section 11. Section **32A-4-402** is amended to read:

1544 **32A-4-402. Application and renewal requirements.**

1545 (1) (a) A person seeking an on-premise banquet license under this part shall file a
1546 written application with the department, in a form prescribed by the department. The

1547 application shall be accompanied by:

1548 ~~[(a)]~~ (i) a nonrefundable \$250 application fee;

1549 ~~[(b)]~~ (ii) an initial license fee of \$500, which is refundable if a license is not granted;

1550 ~~[(c)]~~ (iii) written consent of the local authority;

1551 ~~[(d)]~~ (iv) a copy of the applicant's current business license;

1552 ~~[(e)]~~ (v) evidence of proximity to any public or private school, church, public library,
1553 public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
1554 Subsections 32A-4-401~~[(7)]~~(6) and ~~[(8)]~~ (7), the application shall be processed in accordance
1555 with those subsections;

1556 ~~[(f)]~~ (vi) a bond as specified by Section 32A-4-405;

1557 ~~[(g)]~~ (vii) a description or floor plan and boundary map of the premises, where
1558 appropriate, of the on-premise banquet license applicant's location, designating:

1559 ~~[(h)]~~ (A) the location at which the on-premise banquet license applicant proposes that
1560 alcoholic beverages be stored; and

1561 ~~[(i)]~~ (B) the designated locations on the premises of the applicant from which the
1562 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and
1563 consumed;

1564 ~~[(j)]~~ (viii) evidence that the on-premise banquet license applicant is carrying public
1565 liability insurance in an amount and form satisfactory to the department;

1566 ~~[(k)]~~ (ix) evidence that the on-premise banquet license applicant is carrying dramshop
1567 insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

1568 ~~[(l)]~~ (x) a signed consent form stating that the on-premise banquet license applicant
1569 will permit any authorized representative of the commission, department, or any law
1570 enforcement officer unrestricted right to enter the ~~[restaurant]~~ on-premise banquet premises;

1571 ~~[(m)]~~ (xi) in the case of an applicant that is a partnership, corporation, or limited
1572 liability company, proper verification evidencing that the person or persons signing the
1573 on-premise banquet license application are authorized to so act on behalf of the partnership,
1574 corporation, or limited liability company; and

1575 ~~[(n)]~~ (xii) any other information the commission or department may require.

1576 (b) An applicant need not meet the requirements of § ~~[Subsection]~~ SUBSECTIONS § (1)(a)(i),

1576a (ii), (iii), (iv),

1577 and (vi) if the applicant is:

1578 (i) a state agency; or
1579 (ii) a political subdivision of the state including:
1580 (A) a county; or
1581 (B) a municipality.
1582 (2) Additional locations in or on the premises of an on-premise banquet license
1583 applicant's business from which the on-premise banquet license applicant may propose that
1584 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's
1585 original application may be approved by the department upon proper application, in accordance
1586 with guidelines approved by the commission.
1587 (3) (a) All on-premise banquet licenses expire on October 31 of each year.
1588 (b) (i) ~~[Persons]~~ Except as provided in Subsection (3)(b)(ii), a person desiring to renew
1589 ~~[their]~~ that person's on-premise banquet license shall submit a renewal fee of \$500 and a
1590 completed renewal application to the department no later than September 30.
1591 (ii) A licensee is not required to submit the renewal fee if the licensee is:
1592 (A) a state agency; or
1593 (B) a political subdivision of the state including:
1594 (I) a county; or
1595 (II) a municipality.
1596 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1597 the license effective on the date the existing license expires.
1598 (d) Renewal applications shall be in a form as prescribed by the department.
1599 (4) To ensure compliance with Subsection 32A-4-406(26), the commission may
1600 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to
1601 immediately notify the department of any change in:
1602 (a) ownership of the licensee;
1603 (b) for a corporate owner, the:
1604 (i) corporate officers or directors; or
1605 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
1606 corporation; or
1607 (c) for a limited liability company:
1608 (i) managers; or

1609 (ii) members owning at least 20% of the limited liability company.

1610 Section 12. Section **32A-4-406** is amended to read:

1611 **32A-4-406. Operational restrictions.**

1612 Each person granted an on-premise banquet license and the employees and management
1613 personnel of the on-premise banquet licensee shall comply with this title, the rules of the
1614 commission, and the following conditions and requirements. Failure to comply may result in a
1615 suspension or revocation of the license or other disciplinary action taken against individual
1616 employees or management personnel.

1617 (1) A person involved in the sale or service of alcoholic beverages under the
1618 on-premise banquet license shall:

1619 (a) be under the supervision and direction of the on-premise banquet licensee; and

1620 (b) complete the seminar provided for in Section 62A-15-401.

1621 (2) (a) Liquor may not be purchased by the on-premise banquet licensee except from
1622 state stores or package agencies.

1623 (b) Liquor purchased in accordance with Subsection (2)(a) may be transported by the
1624 on-premise banquet licensee from the place of purchase to the licensed premises.

1625 (c) Payment for liquor shall be made in accordance with rules established by the
1626 commission.

1627 (3) Alcoholic beverages may be sold or provided at a banquet~~[, or in connection with~~
1628 ~~room service,]~~ subject to the ~~[following]~~ restrictions~~[:]~~ set forth in this Subsection (3).

1629 (a) An on-premise banquet licensee may sell or provide any primary spirituous liquor
1630 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
1631 dispensing system approved by the department in accordance with commission rules adopted
1632 under this title, except that:

1633 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing
1634 system if used as a secondary flavoring ingredient in a beverage subject to the following
1635 restrictions:

1636 (A) the secondary ingredient may be dispensed only in conjunction with the purchase
1637 of a primary spirituous liquor;

1638 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;

1639 (C) the on-premise banquet licensee shall designate a location where flavorings are

1640 stored on the floor plan provided to the department; and

1641 (D) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

1642 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing
1643 system if used:

1644 (A) as a flavoring on desserts; and

1645 (B) in the preparation of flaming food dishes, drinks, and desserts;

1646 (iii) each attendee may have no more than 2.75 ounces of spirituous liquor at a time
1647 before the attendee; and

1648 (iv) each attendee may have no more than one spirituous liquor drink at a time before
1649 the attendee.

1650 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to
1651 exceed five ounces per glass or individual portion.

1652 (B) An individual portion may be served to an attendee in more than one glass as long
1653 as the total amount of wine does not exceed five ounces.

1654 (C) An individual portion of wine is considered to be one alcoholic beverage under
1655 Subsection (5)(c).

1656 (ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed
1657 by the commission.

1658 (iii) A wine service may be performed and a service charge assessed by the on-premise
1659 banquet licensee as authorized by commission rule for wine purchased on the banquet
1660 premises.

1661 (c) (i) Heavy beer may be served in original containers not exceeding one liter at prices
1662 fixed by the commission.

1663 (ii) A service charge may be assessed by the on-premise banquet licensee as authorized
1664 by commission rule for heavy beer purchased on the banquet premises.

1665 (d) (i) [Beer] Except as provided in Subsection (3)(d)(ii), beer may be sold and served
1666 for on-premise consumption:

1667 (A) in [any size] an open container [not exceeding two liters,]; and

1668 (B) on draft [for on-premise consumption].

1669 (ii) Beer sold pursuant to Subsection (3) § [(a)] (d) § (i) shall be in a size of container that
1669a does

1670 not exceed two liters, except that beer may not be sold to an individual attendee in a container

1671 size that exceeds one liter.

1672 (4) Alcoholic beverages may not be stored, served, or sold in any place other than as
1673 designated in the on-premise banquet licensee's application, except that additional locations in
1674 or on the premises of an on-premise banquet licensee may be approved in accordance with
1675 guidelines approved by the commission as provided in Subsection 32A-4-402(2).

1676 (5) (a) An attendee may only make alcoholic beverage purchases from and be served by
1677 a person employed, designated, and trained by the on-premise banquet licensee to sell and
1678 serve alcoholic beverages.

1679 (b) Notwithstanding Subsection (5)(a), an attendee who has purchased bottled wine
1680 from an employee of the on-premise banquet licensee may thereafter serve wine from the bottle
1681 to [~~themselves~~] the attendee or others at the attendee's table.

1682 (c) Each attendee may have no more than two alcoholic beverages of any kind at a time
1683 before the attendee.

1684 (6) The alcoholic beverage storage area shall remain locked at all times other than
1685 those hours and days when alcoholic beverage sales are authorized by law.

1686 (7) (a) Except as provided in Subsection (7)(b), alcoholic beverages may be offered for
1687 sale, sold, served, or otherwise furnished from 10 a.m. to 1 a.m. seven days a week:

1688 (i) at a banquet; or

1689 (ii) in connection with room service.

1690 (b) Notwithstanding Subsection (7)(a), a sale or service of alcoholic beverages may not
1691 occur at a banquet or in connection with room service until after the polls are closed on the day
1692 of:

1693 (i) a regular general election;

1694 (ii) a regular primary election; or

1695 (iii) a statewide special election.

1696 (8) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

1697 (a) minor;

1698 (b) person actually, apparently, or obviously intoxicated;

1699 (c) known habitual drunkard; or

1700 (d) known interdicted person.

1701 (9) (a) (i) Liquor may be sold only at prices fixed by the commission.

- 1702 (ii) Liquor may not be sold at discount prices on any date or at any time.
- 1703 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
1704 to the licensee.
- 1705 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1706 over consumption or intoxication.
- 1707 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1708 hours of the on-premise banquet licensee's business day such as a "happy hour."
- 1709 (e) The sale or service of more than one alcoholic beverage for the price of a single
1710 alcoholic beverage is prohibited.
- 1711 (f) An on-premise banquet licensee may not engage in a public promotion involving or
1712 offering free alcoholic beverages to the general public.
- 1713 (10) Alcoholic beverages may not be purchased for an attendee by:
- 1714 (a) the on-premise banquet licensee[;]; or
- 1715 (b) any employee or agent of the on-premise banquet licensee[~~, for an attendee~~].
- 1716 (11) An attendee of a banquet may not bring any alcoholic beverage into or onto, or
1717 remove any alcoholic beverage from the premises of a banquet.
- 1718 (12) (a) Except as otherwise provided in this title, the sale and service of alcoholic
1719 beverages by an on-premise banquet licensee at a banquet shall be made only for consumption
1720 at the location of the banquet.
- 1721 (b) The host of a banquet, an attendee, or any other person other than the on-premise
1722 banquet licensee or its employees, may not remove any alcoholic beverage from the premises
1723 of the banquet.
- 1724 (13) An on-premise banquet licensee employee shall remain at the banquet at all times
1725 when alcoholic beverages are being sold, served, or consumed at the banquet.
- 1726 (14) (a) An on-premise banquet licensee may not leave any unsold alcoholic beverages
1727 at the banquet following the conclusion of the banquet.
- 1728 (b) At the conclusion of a banquet, the on-premise banquet licensee or its employees,
1729 shall:
- 1730 (i) destroy any opened and unused alcoholic beverages that are not saleable, under
1731 conditions established by the department; and
- 1732 (ii) return to the on-premise banquet licensee's approved locked storage area any:

- 1733 (A) opened and unused alcoholic beverage that is saleable; and
- 1734 (B) unopened containers of alcoholic beverages.
- 1735 (15) Except as provided in Subsection (14), any open or sealed container of alcoholic
- 1736 beverages not sold or consumed at a banquet:
- 1737 (a) shall be stored by the on-premise banquet licensee in the licensee's approved locked
- 1738 storage area; and
- 1739 (b) may be used at more than one banquet.
- 1740 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense,
- 1741 or otherwise furnish alcoholic beverages in connection with the licensee's banquet and room
- 1742 service activities.
- 1743 (17) An employee of an on-premise banquet licensee, while on duty, may not:
- 1744 (a) consume an alcoholic beverage; or
- 1745 (b) be intoxicated.
- 1746 (18) An on-premise banquet licensee shall prominently display at each banquet at
- 1747 which alcoholic beverages are sold or served:
- 1748 (a) a copy of the licensee's on-premise banquet license; and
- 1749 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 1750 drugs is a serious crime that is prosecuted aggressively in Utah."
- 1751 (19) The following acts or conduct are considered contrary to the public welfare and
- 1752 morals, and are prohibited at and during the hours of a banquet:
- 1753 (a) employing or using any person in the sale or service of alcoholic beverages while
- 1754 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
- 1755 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
- 1756 buttocks, vulva, or genitals;
- 1757 (b) employing or using the services of any person to mingle with the patrons while the
- 1758 person is unclothed or in attire, costume, or clothing described in Subsection (19)(a);
- 1759 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
- 1760 buttocks, anus, or genitals of any other person;
- 1761 (d) permitting any employee or person to wear or use any device or covering, exposed
- 1762 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;
- 1763 (e) permitting any person to use artificial devices or inanimate objects to depict any of

1764 the prohibited activities described in this Subsection (19);

1765 (f) permitting any person to remain in or upon the premises who exposes to public
1766 view any portion of that person's genitals or anus; or

1767 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
1768 depicting:

1769 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
1770 copulation, flagellation, or any sexual acts prohibited by Utah law;

1771 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
1772 genitals;

1773 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
1774 drawings are used to portray, any of the prohibited activities described in this Subsection (19);

1775 or

1776 (iv) scenes wherein a person displays the vulva, anus, or the genitals.

1777 (20) Nothing in Subsection (19) precludes a local authority from being more restrictive
1778 of acts or conduct of the type prohibited in Subsection (19).

1779 (21) (a) Although live entertainment is permitted at a banquet, an on-premise banquet
1780 licensee may not allow any person to perform or simulate sexual acts prohibited by Utah law,
1781 including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the
1782 touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of
1783 the pubic hair, anus, vulva, or genitals.

1784 (b) Nothing in Subsection (21)(a) precludes a local authority from being more
1785 restrictive of acts or conduct of the type prohibited in Subsection (21)(a).

1786 (22) An on-premise banquet licensee may not engage in or permit any form of
1787 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1788 Part 11, Gambling, on the premises of the:

1789 (a) hotel;

1790 (b) resort facility;

1791 (c) sports center; or

1792 (d) convention center.

1793 (23) (a) An on-premise banquet licensee shall maintain accounting and such other
1794 records and documents as the commission or department may require.

1795 (b) An on-premise banquet licensee or person acting for the on-premise banquet
1796 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the
1797 entries in any of the books of account or other documents of the on-premise banquet licensee
1798 required to be made, maintained, or preserved by this title or the rules of the commission for
1799 the purpose of deceiving the commission or department, or any of their officials or employees,
1800 is subject to:

1801 (i) the suspension or revocation of the on-premise banquet license; and

1802 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1803 (24) An on-premise banquet licensee shall maintain at least 50% of its total annual
1804 banquet gross receipts from the sale of food, not including:

1805 (a) mix for alcoholic beverages; and

1806 (b) charges in connection with the service of alcoholic beverages.

1807 (25) A person may not transfer an on-premise banquet license from one business
1808 location to another without prior written approval of the commission.

1809 (26) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange,
1810 barter, give, or attempt in any way to dispose of the license to any other person, whether for
1811 monetary gain or not.

1812 (b) An on-premise banquet license has no monetary value for the purpose of any type
1813 of disposition.

1814 (27) (a) Room service of alcoholic beverages to a guest room of a hotel or resort
1815 facility shall be provided in person by an on-premise banquet licensee employee only to an
1816 adult guest in the guest room.

1817 (b) Alcoholic beverages may not be left outside a guest room for retrieval by a guest.

1818 (c) An on-premise banquet licensee may only provide alcoholic beverages for room
1819 service in sealed containers.

1820 Section 13. Section **32A-5-102** is amended to read:

1821 **32A-5-102. Application and renewal requirements.**

1822 (1) A club seeking a class A, B, C, or D private club license under this chapter shall
1823 file a written application with the department in a form prescribed by the department. The
1824 application shall be accompanied by:

1825 (a) a nonrefundable \$250 application fee;

- 1826 (b) an initial license fee of \$2,500, which is refundable if a license is not granted;
- 1827 (c) written consent of the local authority;
- 1828 (d) a copy of the applicant's current business license;
- 1829 (e) evidence of proximity to any public or private school, church, public library, public
- 1830 playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of
- 1831 Subsections 32A-5-101 (7) and (8), the application shall be processed in accordance with those
- 1832 subsections;
- 1833 (f) evidence that the applicant operates a club where a variety of food is prepared and
- 1834 served in connection with dining accommodations;
- 1835 (g) a bond as specified by Section 32A-5-106;
- 1836 (h) a floor plan of the club premises, including consumption areas and the area where
- 1837 the applicant proposes to keep and store liquor;
- 1838 (i) evidence that the club is carrying public liability insurance in an amount and form
- 1839 satisfactory to the department;
- 1840 (j) evidence that the club is carrying dramshop insurance coverage of at least \$500,000
- 1841 per occurrence and \$1,000,000 in the aggregate;
- 1842 (k) a copy of the club's bylaws or house rules, and any amendments to those
- 1843 documents, which shall be kept on file with the department at all times;
- 1844 (l) a signed consent form stating that the club and its management will permit any
- 1845 authorized representative of the commission, department, or any law enforcement officer
- 1846 unrestricted right to enter the club premises;
- 1847 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,
- 1848 C, or D private club licensee; and
- 1849 (ii) evidence that the private club meets the requirements for the classification for
- 1850 which ~~[it]~~ the club is applying;
- 1851 (n) in the case of a partnership, corporation, or limited liability company applicant,
- 1852 proper verification evidencing that the person or persons signing the private club application
- 1853 are authorized to so act on behalf of the partnership, corporation, or limited liability company;
- 1854 and
- 1855 (o) any other information the commission or department may require.
- 1856 (2) (a) The commission may refuse to issue a license if the commission determines that

1857 any provisions of the club's bylaws or house rules, or amendments to those documents are not;

1858 (i) reasonable; and

1859 (ii) consistent with;

1860 (A) the declared nature and purpose of the applicant; and

1861 (B) the purposes of this chapter.

1862 (b) Club bylaws or house rules shall include provisions respecting the following:

1863 (i) standards of eligibility for members;

1864 (ii) limitation of members, consistent with the nature and purpose of the private club;

1865 (iii) the period for which dues are paid, and the date upon which the period expires;

1866 (iv) provisions for dropping members for the nonpayment of dues or other cause; and

1867 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor

1868 cards.

1869 (3) (a) All private club licenses expire on June 30 of each year.

1870 (b) ~~[Persons]~~ A person desiring to renew ~~[their]~~ that person's private club license shall

1871 submit by no later than May 31:

1872 (i) a completed renewal application to the department; and

1873 (ii) a renewal fee in the following amount:

1874 Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
1875 under \$10,000	\$1,000
1876 equals or exceeds \$10,000 but less than \$25,000	\$1,250
1877 equals or exceeds \$25,000 but less than \$75,000	\$1,750
1878 equals or exceeds \$75,000	\$2,250.

1879 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1880 the license effective on the date the existing license expires.

1881 (d) Renewal applications shall be in a form as prescribed by the department.

1882 (4) To ensure compliance with Subsection 32A-5-107(44), the commission may
1883 suspend or revoke any private club license if the private club licensee does not immediately
1884 notify the department of any change in:

1885 (a) ownership of the club;

1886 (b) for a corporate owner, the:

1887 (i) corporate officers or directors; or

1888 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
1889 corporation; or

1890 (c) for a limited liability company:

1891 (i) managers; or

1892 (ii) members owning at least 20% of the limited liability company.

1893 Section 14. Section **32A-5-107** is amended to read:

1894 **32A-5-107. Operational restrictions.**

1895 Each club granted a private club license and the employees, management personnel, and
1896 members of the club shall comply with the following conditions and requirements. Failure to
1897 comply may result in a suspension or revocation of the license or other disciplinary action
1898 taken against individual employees or management personnel.

1899 (1) Each private club shall have a governing body that:

1900 (a) consists of three or more members of the club; and

1901 (b) holds regular meetings to:

1902 (i) review membership applications; and

1903 (ii) conduct any other business as required by the bylaws or house rules of the private
1904 club.

1905 (2) (a) Each private club may admit an individual as a member only on written
1906 application signed by the applicant, ~~following~~ subject to:

1907 (i) the applicant paying an application fee as required by Subsection (4); and

1908 (ii) investigation ~~and~~, vote, and approval of a quorum of the governing body.

1909 (b) (i) Admissions shall be recorded in the official minutes of a regular meeting of the
1910 governing body ~~and the~~.

1911 (ii) An application, whether approved or disapproved, shall be filed as a part of the
1912 official records of the licensee.

1913 ~~[(c) An applicant may not be accorded the privileges of a member until a quorum of the~~
1914 ~~governing body has formally voted upon and approved the applicant as a member.]~~

1915 ~~[(d) An applicant may not be admitted to membership sooner than seven days after the~~
1916 ~~application is submitted.]~~

1917 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an
1918 applicant and immediately accord the applicant temporary privileges of a member until the

1919 governing body completes its investigation and votes on the application, subject to the
1920 following conditions:
1921 (i) the applicant shall:
1922 (A) submit a written application; and
1923 (B) pay the application fee required by Subsection (4);
1924 (ii) the governing body votes on the application at its next meeting which shall take
1925 place no later than 31 days following the day on which the application was submitted; and
1926 (iii) the applicant's temporary membership privileges are terminated if the governing
1927 body disapproves the application.
1928 (e) The spouse of a member of any class of private club is entitled to all the rights and
1929 privileges of the member:
1930 (i) to the extent permitted by the bylaws or house rules of the private club; and
1931 (ii) except to the extent restricted by this title.
1932 (f) The minor child of a member of a class A private club is entitled to all the rights
1933 and privileges of the member:
1934 (i) to the extent permitted by the bylaws or house rules of the private club; and
1935 (ii) except to the extent restricted by this title.
1936 (3) (a) Each private club shall maintain a current and complete membership record
1937 showing:
1938 (i) the date of application of each proposed member;
1939 (ii) each member's address;
1940 (iii) the date the governing body approved a member's admission;
1941 (iv) the date initiation fees and dues were assessed and paid; and
1942 (v) the serial number of the membership card issued to each member.
1943 (b) A current record shall also be kept indicating when members are dropped or
1944 resigned.
1945 (4) (a) Each private club shall establish in the club bylaws or house rules [~~initial~~
1946 application fees and [~~monthly~~] membership dues[-];
1947 (i) as established by commission rules[-]; and
1948 (ii) which are collected from all members.
1949 (b) An application fee:

1950 (i) shall not be less than \$4;
1951 (ii) shall be paid when the applicant applies for membership; and
1952 (iii) at the discretion of the private club, may be credited toward \$ [monthly] \$ membership
1953 dues if the governing body approves the applicant as a member.

1954 (5) (a) Each private club may, in its discretion, allow an individual to be admitted to or
1955 use the club premises as a guest only under the following conditions:

1956 (i) each guest must be previously authorized by one of the following who agrees to host
1957 the guest into the club:

1958 (A) an active member of the club; or

1959 (B) a holder of a current visitor card;

1960 (ii) each guest must be known by the guest's host based on a preexisting bonafide
1961 business or personal relationship with the host prior to the guest's admittance to the club;

1962 (iii) each guest must be accompanied by the guest's host for the duration of the guest's
1963 visit to the club;

1964 (iv) each guest's host must remain on the club premises for the duration of the guest's
1965 visit to the club;

1966 (v) each guest's host is responsible for the cost of all services extended to the guest;

1967 (vi) each guest enjoys only those privileges derived from the guest's host for the
1968 duration of the guest's visit to the club;

1969 (vii) an employee of the club, while on duty, may not act as a host for a guest;

1970 (viii) an employee of the club, while on duty, may not attempt to locate a member or
1971 current visitor card holder to serve as a host for a guest with whom the member or visitor card
1972 holder has no acquaintance based on a preexisting bonafide business or personal relationship
1973 prior to the guest's arrival at the club; and

1974 (ix) a club and its employees may not enter into an agreement or arrangement with a
1975 club member or holder of a current visitor card to indiscriminately host members of the general
1976 public into the club as guests.

1977 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

1978 (i) the licensee is a class B private club; and

1979 (ii) the guest is a member of the same fraternal organization as the private club
1980 licensee.

- 1981 (6) Each private club may, in its discretion, issue visitor cards to allow individuals to
1982 enter and use the club premises on a temporary basis under the following conditions:
- 1983 (a) each visitor card shall be issued for a period not to exceed three weeks;
- 1984 (b) a fee of not less than \$4 shall be assessed for each visitor card issued;
- 1985 (c) a visitor card shall not be issued to a minor;
- 1986 (d) a holder of a visitor card may not host more than seven guests at one time;
- 1987 (e) each visitor card issued shall include:
- 1988 (i) the visitor's full name and signature;
- 1989 (ii) the date the card was issued;
- 1990 (iii) the date the card expires;
- 1991 (iv) the club's name; and
- 1992 (v) the serial number of the card; and
- 1993 (f) (i) the club shall maintain a current record of the issuance of each visitor card on the
1994 club premises; and
- 1995 (ii) the record described in Subsection (6)(f)(i) shall:
- 1996 (A) be available for inspection by the department; and
- 1997 (B) include:
- 1998 (I) the name of the person to whom the card was issued;
- 1999 (II) the date the card was issued;
- 2000 (III) the date the card expires; and
- 2001 (IV) the serial number of the card.
- 2002 (7) A private club may not sell alcoholic beverages to or allow any ~~person~~ patron to
2003 be admitted to or use the club premises other than:
- 2004 (a) a member;
- 2005 (b) a visitor who holds a valid visitor card issued under Subsection (6); or
- 2006 (c) a guest of:
- 2007 (i) a member; or
- 2008 (ii) a holder of a current visitor card.
- 2009 (8) (a) A minor may not be:
- 2010 (i) a member, officer, director, or trustee of a private club;
- 2011 (ii) issued a visitor card;

2012 (iii) admitted into, use, or be on the premises of a class D private club except to the
2013 extent authorized under Subsections (8)(b) through (g);

2014 (iv) admitted into, use, or be on the premises of any lounge or bar area, as defined by
2015 commission rule, of any private club except to the extent authorized under Subsection
2016 (8)(c)(ii); or

2017 (v) admitted into, use, or be on the premises of any private club that:

2018 (A) provides sexually oriented adult entertainment as defined by commission rule or by
2019 local ordinance; or

2020 (B) operates as a sexually oriented business as defined by commission rule or by local
2021 ordinance.

2022 (b) At the discretion of a class D private club, a minor may be admitted into, use, or be
2023 on the premises of a class D private club under the following circumstances:

2024 (i) during periods when no alcoholic beverages are sold, served, otherwise furnished,
2025 or consumed on the premises, but in no event later than 1 p.m.;

2026 (ii) when accompanied at all times by a member or holder of a current visitor card who
2027 is the minor's parent, legal guardian, or spouse; and

2028 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food
2029 service provider.

2030 (c) A minor may be employed by a class D private club on the premises of the club if:

2031 (i) the parent or legal guardian of the minor owns or operates the class D private club;
2032 or

2033 (ii) the minor performs maintenance and cleaning services during the hours when the
2034 club is not open for business.

2035 (d) (i) [~~A~~] Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may
2036 be admitted into, use, or be on the premises of a dance or concert hall if:

2037 (A) the dance or concert hall is located:

2038 (I) on the premises of a class D private club; or
2039 (II) on the property that immediately adjoins the premises of and is operated by a class
2040 D private club; and

2041 (B) the commission has issued the class D private club a permit to operate a minor
2042 dance or concert hall based on the criteria described in Subsection (8)(d)[~~(ii)~~] (iii).

- 2043 (ii) If the dance or concert hall is located on the premises of a class D private club, a
 2044 minor must be properly hosted in accordance with Subsection (5) by:
- 2045 (A) a member; or
 2046 (B) a holder of a current visitor card.
- 2047 [~~(ii)~~] (iii) The commission may issue a minor dance or concert hall permit if:
 2048 (A) the club's lounge, bar, and alcoholic beverage consumption area is:
 2049 (I) not accessible to minors;
 2050 (II) clearly defined; **§ AND §**
 2051 (III) separated from the dance or concert hall area by walls, multiple floor levels, or
 2052 other substantial physical barriers;
- 2053 (B) any bar or dispensing area is not visible to minors;
 2054 (C) no consumption of alcoholic beverages may occur in:
 2055 (I) the dance or concert hall area; or
 2056 (II) any area of the club accessible to a minor;
 2057 (D) the club maintains sufficient security personnel to prevent the passing of beverages
 2058 from the club's lounge, bar, or alcoholic beverage consumption areas to:
 2059 (I) the dance or concert hall area; or
 2060 (II) any area of the club accessible to a minor;
- 2061 (E) there are separate entrances, exits, and restroom facilities from the club's lounge,
 2062 bar, and alcoholic beverage consumption areas than for:
 2063 (I) the dance or concert hall area; or
 2064 (II) any area accessible to a minor; and
 2065 (F) the club complies with any other restrictions imposed by the commission by rule.
- 2066 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
 2067 guardian who is a member or holder of a current visitor card may be admitted into, use, or be
 2068 on the premises of a concert hall described in Subsection (8)(d)(i) if:
 2069 (i) all requirements of Subsection (8)(d) are met; and
 2070 (ii) all signage, product, and dispensing equipment containing recognition of alcoholic
 2071 beverages is not visible to the minor.
- 2072 (f) A minor under 18 years of age but who is 14 years of age or older who is not
 2073 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of

2074 a concert hall described in Subsection (8)(d)(i) if:

2075 (i) all requirements of Subsections (8)(d) and (8)(e)(ii) are met; and

2076 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the
2077 class D private club.

2078 (g) The commission may suspend or revoke a minor dance or concert permit issued to
2079 a class D private club and suspend or revoke the license of the class D private club if:

2080 (i) the club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);

2081 (ii) the club sells, serves, or otherwise furnishes alcoholic beverages to a minor;

2082 (iii) the licensee or a supervisory or managerial level employee of the private club is
2083 convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities
2084 that occurred on:

2085 (A) the licensed premises; or

2086 (B) the dance or concert hall that is located on property that immediately adjoins the
2087 premises of and is operated by the class D private club;

2088 (iv) there are three or more convictions of patrons of the private club under Title 58,
2089 Chapter 37, Utah Controlled Substances Act, based on activities that occurred on:

2090 (A) the licensed premises; or

2091 (B) the dance or concert hall that is located on property that immediately adjoins the
2092 premises of and is operated by the class D private club;

2093 (v) there is more than one conviction;

2094 (A) of:

2095 (I) the licensee;

2096 (II) employee of the licensee;

2097 (III) entertainer contracted by the licensee; or

2098 (IV) patron of the private club; and

2099 (B) made on the basis of lewd acts or lewd entertainment prohibited by this title that
2100 occurred on:

2101 [~~(A)~~] (I) the licensed premises; or

2102 [~~(B)~~] (II) the dance or concert hall that is located on property that immediately adjoins
2103 the premises of and is operated by the class D private club; or

2104 (vi) the commission finds acts or conduct contrary to the public welfare and morals

2105 involving lewd acts or lewd entertainment prohibited by this title that occurred on:

2106 (A) the licensed premises; or

2107 (B) the dance or concert hall that is located on property that immediately adjoins the
2108 premises of and is operated by the class D private club.

2109 (h) Nothing in this Subsection (8) shall prohibit a class D private club from selling,
2110 serving, or otherwise furnishing alcoholic beverages in a dance or concert area located on the
2111 club premises on days and times when the club does not allow minors into those areas.

2112 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being
2113 more restrictive of a minor's admittance to, use of, or presence on the premises of any private
2114 club.

2115 (9) An employee of a club, while on duty, may not:

2116 (a) consume an alcoholic beverage;

2117 (b) be intoxicated; or

2118 (c) act as a host for a guest.

2119 (10) (a) Each private club shall maintain an expense ledger or record showing in detail
2120 all expenditures separated by payments for:

2121 (i) malt or brewed beverages[;];

2122 (ii) liquor[;];

2123 (iii) food[;];

2124 (iv) detailed payroll[;];

2125 (v) entertainment[;];

2126 (vi) rent[;];

2127 (vii) utilities[;];

2128 (viii) supplies[;]; and

2129 (ix) all other expenditures.

2130 (b) The record required by this Subsection (10) shall be:

2131 (i) kept in a form approved by the department; and

2132 (ii) balanced each month.

2133 (c) Each expenditure shall be supported by:

2134 (i) delivery tickets[;];

2135 (ii) invoices[;];

2136 (iii) receipted bills[;];
2137 (iv) canceled checks[;];
2138 (v) petty cash vouchers[;]; or
2139 (vi) other sustaining data or memoranda.
2140 (d) All invoices and receipted bills for the current calendar or fiscal year documenting
2141 purchases made by the club shall also be maintained.
2142 (11) (a) Each private club shall maintain a minute book that is posted currently by the
2143 club. [~~This record~~]
2144 (b) The minute book required by this Subsection (11) shall contain the minutes of all
2145 regular and special meetings of the governing body.
2146 (c) Membership lists shall also be maintained.
2147 (12) (a) Each private club shall maintain current copies of the club's current bylaws and
2148 current house rules.
2149 (b) Changes in the bylaws or house rules;
2150 (i) are not effective unless submitted to the department within ten days after
2151 adoption[;]; and
2152 (ii) become effective 15 days after received by the department unless rejected by the
2153 department before the expiration of the 15-day period.
2154 (13) Each private club shall maintain accounting and other records and documents as
2155 the department may require.
2156 (14) Any club or person acting for the club, who knowingly forges, falsifies, alters,
2157 cancels, destroys, conceals, or removes the entries in any of the books of account or other
2158 documents of the club required to be made, maintained, or preserved by this title or the rules of
2159 the commission for the purpose of deceiving the commission or the department, or any of their
2160 officials or employees, is subject to:
2161 (a) the suspension or revocation of the club's license; and
2162 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.
2163 (15) (a) Each private club shall maintain and keep all the records required by this
2164 section and all other books, records, receipts, and disbursements maintained or [~~utilized~~] used
2165 by the licensee, as the department requires, for a minimum period of three years.
2166 (b) All records, books, receipts, and disbursements are subject to inspection by

2167 authorized representatives of the commission and the department.

2168 (c) The club shall allow the department, through its auditors or examiners, to audit all
2169 records of the club at times the department considers advisable.

2170 (d) The department shall audit the records of the licensee at least once annually.

2171 (16) Each private club shall own or lease premises suitable for the club's activities.

2172 (17) (a) A private club may not maintain facilities in any manner that barricades or
2173 conceals the club operation.

2174 (b) Any member of the commission, authorized department personnel, or any peace
2175 officer shall, upon presentation of credentials, be admitted immediately to the club and
2176 permitted without hindrance or delay to inspect completely the entire club premises and all
2177 books and records of the licensee, at any time during which the same are open for the
2178 transaction of business to its members.

2179 (18) Any public advertising related to a private club by the following shall clearly
2180 identify a club as being "a private club for members":

2181 (a) the private club;

2182 (b) the employees or agents of the private club; or

2183 (c) any person under a contract or agreement with the club.

2184 (19) A private club must have food available at all times when alcoholic beverages are
2185 sold, served, or consumed on the premises.

2186 (20) (a) Liquor may not be purchased by a private club licensee except from state
2187 stores or package agencies.

2188 (b) Liquor [sø] purchased in accordance with Subsection (20)(a) may be transported by
2189 the licensee from the place of purchase to the licensed premises.

2190 (c) Payment for liquor shall be made in accordance with rules established by the
2191 commission.

2192 (21) A private club licensee may sell or provide any primary spirituous liquor only in a
2193 quantity not to exceed one ounce per beverage dispensed through a calibrated metered
2194 dispensing system approved by the department in accordance with commission rules adopted
2195 under this title, except that:

2196 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
2197 system if used as a secondary flavoring ingredient in a beverage subject to the following

2198 restrictions:

2199 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
2200 a primary spirituous liquor;

2201 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

2202 (iii) the private club licensee shall designate a location where flavorings are stored on
2203 the floor plan provided to the department; and

2204 (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

2205 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
2206 system if used:

2207 (i) as a flavoring on desserts; and

2208 (ii) in the preparation of flaming food dishes, drinks, and desserts; and

2209 (c) each club patron may have no more than 2.75 ounces of spirituous liquor at a time
2210 before the patron.

2211 (22) (a) (i) Wine may be sold and served by the glass or an individual portion not to
2212 exceed five ounces per glass or individual portion.

2213 (ii) An individual portion may be served to a patron in more than one glass as long as
2214 the total amount of wine does not exceed five ounces.

2215 (iii) An individual portion of wine is considered to be one alcoholic beverage under
2216 Subsection (26)(c).

2217 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
2218 fixed by the commission to tables of four or more persons.

2219 (ii) Wine may be sold and served in containers not exceeding 750 ml at prices fixed by
2220 the commission to tables of less than four persons.

2221 (c) A wine service may be performed and a service charge assessed by the private club
2222 as authorized by commission rule for wine purchased at the private club.

2223 (23) (a) Heavy beer may be served in original containers not exceeding one liter at
2224 prices fixed by the commission.

2225 (b) A service charge may be assessed by the private club for heavy beer purchased at
2226 the private club.

2227 (24) (a) (i) ~~[A] Subject to Subsection (24)(a)(ii), a private club licensed to sell liquor~~
2228 ~~may sell beer [in any size container not exceeding two liters, and on draft] for on-premise~~

2229 consumption [~~without obtaining a separate on-premise beer retailer license from the~~
2230 ~~commission.~~];

2231 (A) in an open container; and

2232 (B) on draft.

2233 (ii) Beer sold pursuant to Subsection (24)(a)(i) shall be in a size of container that does
2234 not exceed two liters, except that beer may not be sold to an individual patron in a size of
2235 container that exceeds one liter.

2236 (b) (i) A private club licensed under this chapter that sells beer pursuant to Subsection
2237 (24)(a);

2238 (A) may do so without obtaining a separate on-premise beer retailer license from the
2239 commission; and

2240 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
2241 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are
2242 inconsistent with or less restrictive than the operational restrictions under this chapter.

2243 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2244 Licenses, required by Subsection (24)(b)(i) may result in a suspension or revocation of the
2245 private club's:

2246 (A) state liquor license; and

2247 (B) alcoholic beverage license issued by the local authority.

2248 (25) Alcoholic beverages may not be stored, served, or sold in any place other than as
2249 designated in the licensee's application, unless the licensee first applies for and receives
2250 approval from the department for a change of location within the private club.

2251 (26) (a) A patron may only make alcoholic beverage purchases in the private club from
2252 and be served by a person employed, designated, and trained by the licensee to sell, dispense,
2253 and serve alcoholic beverages.

2254 (b) Notwithstanding Subsection (26)(a), a patron who has purchased bottled wine from
2255 an employee of the private club or has carried bottled wine onto the premises of the private
2256 club pursuant to Subsection (32) may thereafter serve wine from the bottle to [~~themselves~~] the
2257 patron or others at the patron's table.

2258 (c) Each club patron may have no more than two alcoholic beverages of any kind at a
2259 time before the patron.

2260 (27) The liquor storage area shall remain locked at all times other than those hours and
2261 days when liquor sales and service are authorized by law.

2262 (28) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
2263 private club during the following days or hours:

2264 (i) until after the polls are closed on the day of any:

2265 (A) regular general election;

2266 (B) regular primary election; or

2267 (C) statewide special election;

2268 (ii) until after the polls are closed on the day of any municipal, special district, or
2269 school election, but only ~~[if closure is]~~:

2270 (A) within the boundaries of the municipality, special district, or school district; and

2271 (B) if required by local ordinance; and

2272 (iii) on any other day after 1 a.m. and before 10 a.m.

2273 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2274 Licenses, for on-premise beer licenses.

2275 (c) (i) Notwithstanding Subsections (28)(a) and (b), a private club shall remain open
2276 for one hour after the private club ceases the sale and service of alcoholic beverages during
2277 which time a patron of the club may finish consuming:

2278 (A) any single drink containing spirituous liquor;

2279 (B) a single serving of wine not exceeding five ounces;

2280 (C) a single serving of heavy beer; or

2281 (D) a single serving of beer not exceeding ~~[25]~~ 26 ounces.

2282 (ii) A club is not required to remain open:

2283 (A) after all patrons have vacated the premises; or

2284 (B) during an emergency.

2285 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club may not allow a
2286 patron to remain on the premises to consume alcoholic beverages on the premises.

2287 (29) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

2288 (a) minor;

2289 (b) person actually, apparently, or obviously intoxicated;

2290 (c) known habitual drunkard; or

- 2291 (d) known interdicted person.
- 2292 (30) (a) (i) Liquor may be sold only at prices fixed by the commission.
- 2293 (ii) Liquor may not be sold at discount prices on any date or at any time.
- 2294 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
- 2295 to the licensee.
- 2296 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 2297 over consumption or intoxication.
- 2298 (d) The price of a single serving of a primary spirituous liquor shall be the same
- 2299 whether served as a single drink or in conjunction with another alcoholic beverage.
- 2300 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 2301 hours of the private club's business day such as a "happy hour."
- 2302 (f) The sale or service of more than one alcoholic beverage for the price of a single
- 2303 alcoholic beverage is prohibited.
- 2304 (g) The sale or service of an indefinite or unlimited number of alcoholic beverages
- 2305 during any set period for a fixed price is prohibited.
- 2306 (h) A private club licensee may not engage in a promotion involving or offering free
- 2307 alcoholic beverages to patrons of the club.
- 2308 (31) Alcoholic beverages may not be purchased for a patron of the private club by:
- 2309 (a) the licensee~~[-]~~; or
- 2310 (b) any employee or agent of the licensee~~[-, for a patron of the private club]~~.
- 2311 (32) (a) A person may not bring onto the premises of a private club licensee any
- 2312 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
- 2313 discretion of the licensee, bottled wine onto the premises of any private club licensee for
- 2314 on-premise consumption.
- 2315 (b) Except bottled wine under Subsection (32)(a), a private club or its officers,
- 2316 managers, employees, or agents may not allow:
- 2317 (i) a person to bring onto the private club premises any alcoholic beverage for
- 2318 consumption on the private club premises; or
- 2319 (ii) consumption of alcoholic beverages described in Subsection (32)(b)(i) on the
- 2320 premises of the private club.
- 2321 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server

2322 or other representative of the licensee upon entering the private club.

2323 (d) A wine service may be performed and a service charge assessed by the private club
2324 as authorized by commission rule for wine carried in by a patron.

2325 (33) (a) Except as provided in Subsection (33)(b), a private club and its employees may
2326 not permit a patron of the club to carry from the club premises an open container that:

2327 (i) is used primarily for drinking purposes; and

2328 (ii) contains any alcoholic beverage.

2329 (b) A patron may remove the unconsumed contents of a bottle of wine if before
2330 removal the bottle has been recorked or recapped.

2331 (34) (a) ~~[Except as provided in Subsection (34)(b), a]~~ A minor may not be employed by
2332 any class A, B, or C private club to sell, dispense, or handle any alcoholic beverage.

2333 (b) Notwithstanding Subsection (34)(a), a minor may be employed by a class A or C
2334 private club to enter the sale at a cash register or other sales recording device.

2335 (c) Except to the extent authorized in Subsection ~~[32A-5-107]~~(8)(c), a minor may not
2336 be employed by or be on the premises of any class D private club.

2337 (d) A minor may not be employed to work in any lounge or bar area of any class A, B,
2338 or C private club.

2339 (35) An employee of a private club, while on duty, may not:

2340 (a) consume an alcoholic beverage; or

2341 (b) be intoxicated.

2342 (36) (a) A private club may not charge for the service or supply of glasses, ice, or
2343 mixers unless:

2344 (i) the charges are fixed in the house rules of the club; and

2345 (ii) a copy of the house rules is kept on the club premises and available at all times for
2346 examination by patrons of the club.

2347 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
2348 may be stated in food or alcoholic beverage menus including:

2349 (i) a set-up charge;

2350 (ii) a service charge; or

2351 (iii) a chilling fee.

2352 (37) Each private club licensee shall display in a prominent place in the private club:

- 2353 (a) the private club license that is issued by the department;
- 2354 (b) a list of the types and brand names of liquor being served through its calibrated
2355 metered dispensing system; and
- 2356 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2357 drugs is a serious crime that is prosecuted aggressively in Utah."
- 2358 (38) The following acts or conduct in a private club licensed under this chapter are
2359 considered contrary to the public welfare and morals, and are prohibited upon the premises:
- 2360 (a) employing or using any person in the sale or service of alcoholic beverages while
2361 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
2362 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
2363 buttocks, vulva, or genitals;
- 2364 (b) employing or using the services of any person to mingle with the patrons while the
2365 person is unclothed or in attire, costume, or clothing described in Subsection (38)(a);
- 2366 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
2367 buttocks, anus, or genitals of any other person;
- 2368 (d) permitting any employee or person to wear or use any device or covering, exposed
2369 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;
- 2370 (e) permitting any person to use artificial devices or inanimate objects to depict any of
2371 the prohibited activities described in this Subsection (38);
- 2372 (f) permitting any person to remain in or upon the premises who exposes to public
2373 view any portion of his or her genitals or anus; or
- 2374 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
2375 depicting:
 - 2376 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
2377 copulation, flagellation, or any sexual acts prohibited by Utah law;
 - 2378 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
2379 genitals;
 - 2380 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
2381 drawings are used to portray, any of the prohibited activities described in this Subsection (38);
2382 or
 - 2383 (iv) scenes wherein a person displays the vulva or the anus or the genitals.

2384 (39) Nothing in Subsection (38) precludes a local authority from being more restrictive
2385 of acts or conduct of the type prohibited in Subsection (38).

2386 (40) (a) Although live entertainment is permitted on the premises of a club liquor
2387 licensee, a licensee may not allow any person to perform or simulate sexual acts prohibited by
2388 Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation,
2389 flagellation, or the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or
2390 the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon
2391 a stage or at a designated area approved by the commission.

2392 (b) Nothing in Subsection (40)(a) precludes a local authority from being more
2393 restrictive of acts or conduct of the type prohibited in Subsection (40)(a).

2394 (41) A private club may not engage in or permit any form of gambling, or have any
2395 video gaming device, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling, on
2396 the premises of the private club.

2397 (42) (a) A private club may not close or cease operation for a period longer than 240
2398 hours, unless:

2399 (i) the private club licensee notifies the department in writing at least seven days before
2400 the closing; and

2401 (ii) the closure or cessation of operation is first approved by the department.

2402 (b) Notwithstanding Subsection (42)(a), in the case of emergency closure, immediate
2403 notice of closure shall be made to the department by telephone.

2404 (c) The department may authorize a closure or cessation of operation for a period not to
2405 exceed 60 days. The department may extend the initial period an additional 30 days upon
2406 written request of the private club and upon a showing of good cause. A closure or cessation of
2407 operation may not exceed a total of 90 days without commission approval.

2408 (d) The notice required by Subsection (42)(a) shall include:

2409 (i) the dates of closure or cessation of operation;

2410 (ii) the reason for the closure or cessation of operation; and

2411 (iii) the date on which the licensee will reopen or resume operation.

2412 (e) Failure of the licensee to provide notice and to obtain department authorization
2413 prior to closure or cessation of operation shall result in an automatic forfeiture of:

2414 (i) the license; and

2415 (ii) the unused portion of the license fee for the remainder of the license year effective
2416 immediately.

2417 (f) Failure of the licensee to reopen or resume operation by the approved date shall
2418 result in an automatic forfeiture of:

2419 (i) the license; and

2420 (ii) the unused portion of the club's license fee for the remainder of the license year.

2421 (43) A private club license may not be transferred from one location to another,
2422 without prior written approval of the commission.

2423 (44) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give, or
2424 attempt in any way to dispose of the license to any other person, whether for monetary gain or
2425 not.

2426 (b) A private club license has no monetary value for the purpose of any type of
2427 disposition.

2428 Section 15. Section **32A-7-101** is amended to read:

2429 **32A-7-101. Commission's power to grant permits -- Limitations.**

2430 (1) The commission may issue a single event permit to any of the following that is
2431 conducting a convention, civic, or community enterprise, a bona fide:

2432 (a) partnership[;];

2433 (b) corporation[;];

2434 (c) limited liability company[;];

2435 (d) church[;];

2436 (e) political organization[~~;~~or];

2437 (f) incorporated association[~~;~~or to a];

2438 (g) recognized subordinate lodge, chapter, or other local unit [~~thereof that is conducting~~
2439 ~~a convention, civic, or community enterprise.~~] of an entity described in Subsections (1)(a)
2440 through (f);

2441 (h) state agency; or

2442 (i) political subdivision of the state including:

2443 (i) a county; or

2444 (ii) a municipality.

2445 (2) The single event permit may authorize:

2446 (a) for a period not to exceed 120 consecutive hours, the storage, sale, service, and
2447 consumption of liquor at an event at which the storage, sale, service, or consumption of liquor
2448 is otherwise prohibited by this title; and

2449 (b) the storage, sale, service, and consumption of beer at the same event for the period
2450 that the storage, sale, service, or consumption of liquor is authorized under Subsection (2)(a)
2451 for the permit.

2452 (3) The commission may not issue more than four single event permits in any one
2453 calendar year to the same:

2454 (a) partnership[;];

2455 (b) corporation[;];

2456 (c) limited liability company[;];

2457 (d) church[;];

2458 (e) political organization[~~;~~or];

2459 (f) incorporated association [~~or~~];

2460 (g) recognized subordinate lodge, chapter, or other local unit [~~thereof.~~] of an entity
2461 described in Subsections (3)(a) through (f);

2462 (h) state agency; or

2463 (i) political subdivision of the state including:

2464 (i) a county; or

2465 (ii) a municipality.

2466 (4) (a) The 600 foot and 200 foot proximity limitations to educational, religious, and
2467 recreational facilities that are applicable to state stores, package agencies, and licensees, do not
2468 apply to single event permits.

2469 (b) Nothing in this section, however, prevents the commission from considering the
2470 proximity of any educational, religious, or recreational facility, or any other relevant factor in
2471 deciding whether to grant a single event permit.

2472 Section 16. Section **32A-7-102** is amended to read:

2473 **32A-7-102. Application requirements.**

2474 (1) A qualified applicant for a single event permit shall file a written application with
2475 the department in a form as the department shall prescribe.

2476 (2) The application shall be accompanied by:

- 2477 (a) a single event permit fee of \$100, which is refundable if a permit is not granted and
2478 shall be returned to the applicant with the application;
- 2479 (b) written consent of the local authority;
- 2480 (c) a bond as specified by Section 32A-7-105;
- 2481 (d) the times, dates, location, estimated attendance, nature, and purpose of the event;
- 2482 (e) a description or floor plan designating:
- 2483 (i) the area in which the applicant proposes that alcoholic beverages be stored;
- 2484 (ii) the site from which the applicant proposes that alcoholic beverages be sold or
2485 served; and
- 2486 (iii) the area in which the applicant proposes that alcoholic beverages be allowed to be
2487 consumed;
- 2488 (f) a statement of the purpose of the:
- 2489 (i) partnership[;];
- 2490 (ii) corporation[;];
- 2491 (iii) limited liability company[;];
- 2492 (iv) church[;];
- 2493 (v) political organization[~~;~~];
- 2494 (vi) incorporated association[;]; or
- 2495 (vii) recognized subordinate lodge, chapter, or other local unit of an entity described in
2496 Subsections (2)(f)(i) through (vi);
- 2497 (g) a signed consent form stating that authorized representatives of the commission,
2498 department, or any law enforcement officers will have unrestricted right to enter the premises
2499 during the event;
- 2500 (h) proper verification evidencing that the person signing the application is authorized
2501 to act on behalf of the:
- 2502 (i) partnership[;];
- 2503 (ii) corporation[;];
- 2504 (iii) limited liability company[;];
- 2505 (iv) church[;];
- 2506 (v) political organization[~~;~~];
- 2507 (vi) incorporated association[~~;~~];

2508 (vii) recognized subordinate lodge, chapter, or local unit [thereof] of an entity
 2509 described in Subsections (2)(h)(i) through (vi); [and]
 2510 (viii) state agency; or
 2511 (ix) political subdivision of the state including:
 2512 (A) a county; or
 2513 (B) a municipality § [:] ; AND §
 2514 (i) any other information as the commission or department may direct.
 2515 (3) The applicant need not meet the requirements of Subsections (2)(a), (b), (c), and (f)
 2516 if the applicant is:
 2517 (a) a state agency; or
 2518 (b) a political subdivision of the state including:
 2519 (i) a county; or
 2520 (ii) a municipality.
 2521 Section 17. Section **32A-7-106** is amended to read:
 2522 **32A-7-106. Operational restrictions.**
 2523 (1) (a) Any organization granted a single event permit and any person involved in the
 2524 storage, sale, or service of alcoholic beverages at the event for which the permit is issued, shall
 2525 abide by:
 2526 (i) this title;
 2527 (ii) the rules of the commission; and
 2528 (iii) the special conditions and requirements provided in this section.
 2529 (b) Failure to comply with Subsection (1)(a):
 2530 (i) may result in:
 2531 (A) an immediate revocation of the permit;
 2532 (B) forfeiture of the surety bond; and
 2533 (C) immediate seizure of all alcoholic beverages present at the event; and
 2534 (ii) disqualifies the organization from applying for a single event permit under this
 2535 chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special
 2536 Event Beer Permits, for a period of three years from the date of revocation of the permit.
 2537 (c) Any alcoholic beverages seized under this Subsection (1) shall be returned to the
 2538 organization after the event if forfeiture proceedings are not instituted under Section

2539 32A-13-103.

2540 (2) Special conditions and requirements for single event permittees include the
2541 following:

2542 (a) (i) All persons involved in the storage, sale, or service of alcoholic beverages at the
2543 event do so under the supervision and direction of the permittee.

2544 (ii) All persons involved in the sale or service of alcoholic beverages at the event may
2545 not, while on duty:

2546 (A) consume an alcoholic beverage; or

2547 (B) be intoxicated.

2548 (b) (i) All liquor stored, sold, served, and consumed at the event shall be purchased by
2549 the permittee from a state store or package agency.

2550 (ii) All beer purchased by the permittee shall be purchased from:

2551 (A) a licensed beer wholesaler; or

2552 (B) a licensed beer retailer.

2553 (iii) All alcoholic beverages are considered under the control of the permittee during
2554 the event.

2555 (iv) Attendees of the event may not bring any alcoholic beverages onto the premises of
2556 the event.

2557 (c) A permittee may not charge more than the maximum amount set forth in the permit
2558 for any alcoholic beverage.

2559 (d) Each permittee shall post in a prominent place in the area in which alcoholic
2560 beverages are being sold, served, and consumed, a copy of the permit, together with a list of the
2561 operational restrictions and requirements of single event permittees set forth in this section.

2562 (e) Alcoholic beverages purchased for the event may not be stored, sold, served, or
2563 consumed in any location other than that described in the application and designated on the
2564 permit unless the permittee first applies for and receives approval from the commission for a
2565 change of location.

2566 (f) (i) A single event permittee may sell or provide a primary spirituous liquor only in a
2567 quantity not to exceed one ounce per beverage except that additional spirituous liquor may be
2568 used in a beverage if:

2569 (A) used as a secondary flavoring ingredient;

- 2570 (B) used in conjunction with the primary spirituous liquor;
- 2571 (C) the secondary ingredient is not the only spirituous liquor in the beverage; and
- 2572 (D) each attendee may have no more than 2.75 ounces of spirituous liquor at a time
- 2573 before the attendee.
- 2574 (ii) Spirituous liquor need not be dispensed through a calibrated metered dispensing
- 2575 system.
- 2576 (g) (i) (A) Wine may be sold and served by the glass or an individual portion that does
- 2577 not exceed five ounces per glass or individual portion.
- 2578 (B) An individual portion may be served to an attendee in more than one glass as long
- 2579 as the total amount of wine does not exceed five ounces.
- 2580 (C) An individual portion of wine is considered to be one alcoholic beverage under
- 2581 Subsection (2)(p).
- 2582 (ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed
- 2583 by the commission.
- 2584 (iii) A wine service may be performed and a service charge assessed by the single event
- 2585 permittee as authorized by commission rule for wine purchased at the event.
- 2586 (h) (i) Heavy beer may be served in original containers not exceeding one liter at prices
- 2587 fixed by the commission.
- 2588 (ii) A service charge may be assessed by the single event permittee as authorized by
- 2589 commission rule for heavy beer purchased at the event.
- 2590 (i) (i) [Beer] Subject to Subsection (2)(i)(ii), beer may be sold for on-premise
- 2591 consumption:
- 2592 (A) in [any size] an open container [not exceeding two liters]; and
- 2593 (B) on draft.
- 2594 (ii) Beer sold pursuant to Subsection (2)(i)(i) shall be in a size of container that does
- 2595 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
- 2596 container that exceeds one liter.
- 2597 (j) (i) Alcoholic beverages may not be sold, served, or consumed between the hours of
- 2598 1 a.m. and 10 a.m.
- 2599 (ii) This Subsection (2)(j) does not preclude a local authority from being more
- 2600 restrictive with respect to the hours of sale, service, or consumption of alcoholic beverages at a

2601 temporary single event.

2602 (k) Alcoholic beverages may not be sold, served, or otherwise furnished until after the
2603 polls are closed on the day of any:

- 2604 (i) regular general election;
- 2605 (ii) regular primary election; or
- 2606 (iii) statewide special election.

2607 (l) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

- 2608 (i) minor;
- 2609 (ii) person actually, apparently, or obviously intoxicated;
- 2610 (iii) known habitual drunkard; or
- 2611 (iv) known interdicted person.

2612 (m) (i) (A) Liquor may be sold only at prices fixed by the commission.

2613 (B) Liquor may not be sold at discount prices on any date or at any time.

2614 (ii) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
2615 to the permittee.

2616 (iii) An alcoholic beverage may not be sold at a price that encourages over
2617 consumption or intoxication.

2618 (iv) An alcoholic beverage may not be sold at a special or reduced price for only
2619 certain hours of the day of the permitted event.

2620 (v) The sale or service of more than one alcoholic beverage for the price of a single
2621 alcoholic beverage is prohibited.

2622 (vi) The permittee may not engage in a public promotion involving or offering free
2623 alcoholic beverages to the general public.

2624 (n) A single event permittee and its employees may not permit an attendee to carry
2625 from the premises an open container that:

- 2626 (i) is used primarily for drinking purposes; and
- 2627 (ii) contains any alcoholic beverage.

2628 (o) A minor may not sell, serve, dispense, or handle any alcoholic beverage at the event.

2629 (p) Each attendee may have no more than one alcoholic beverage of any kind at a time
2630 before the patron.

2631 (3) The following acts or conduct at an event for which a permit is issued under this

2632 chapter are considered contrary to the public welfare and morals, and are prohibited upon the
2633 premises:

2634 (a) employing or using any person in the sale or service of alcoholic beverages while
2635 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
2636 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
2637 buttocks, vulva, or genitals;

2638 (b) employing or using the services of any person to mingle with the patrons while the
2639 person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);

2640 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
2641 buttocks, anus, or genitals of any other person;

2642 (d) permitting any employee or person to wear or use any device or covering, exposed
2643 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

2644 (e) permitting any person to use artificial devices or inanimate objects to depict any of
2645 the prohibited activities described in this Subsection (3);

2646 (f) permitting any person to remain in or upon the premises who exposes to public
2647 view any portion of his or her genitals or anus;

2648 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
2649 depicting:

2650 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
2651 copulation, flagellation, or any sexual acts prohibited by Utah law;

2652 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
2653 genitals;

2654 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
2655 drawings are used to portray, any of the prohibited activities described in this Subsection (3); or

2656 (iv) scenes wherein a person displays the vulva or the anus or the genitals.

2657 (4) Nothing in Subsection (3) precludes a local authority from being more restrictive of
2658 acts or conduct of the type prohibited in Subsection (3).

2659 (5) (a) Although live entertainment is permitted at the event for which a permit has
2660 been issued under this chapter, a permittee may not allow any person to perform or simulate
2661 sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy,
2662 bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast,

2663 buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.
2664 Entertainers shall perform only upon a stage or at a designated area approved by the
2665 commission.

2666 (b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive
2667 of acts or conduct of the type prohibited in Subsection (5)(a).

2668 (6) The permittee shall maintain an expense and revenue ledger or record showing:

2669 (a) expenditures made for liquor and beer, set-ups, and other ingredients and
2670 components of alcoholic beverages; and

2671 (b) the revenue from sale of alcoholic beverages.

2672 (7) A single event permit may not be transferred.

2673 (8) A single event permittee may not engage in or allow any form of gambling, or have
2674 any video gaming device as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling,
2675 on the premises serviced by the single event permittee.

2676 Section 18. Section **32A-8-401** is amended to read:

2677 **32A-8-401. Authority and operational restrictions.**

2678 (1) A brewery license allows the licensee to:

2679 (a) manufacture, brew, store, transport, or export beer and heavy beer;

2680 (b) sell heavy beer to the department, to military installations, and to out-of-state
2681 customers;

2682 (c) sell beer to licensed wholesalers;

2683 (d) in the case of a small brewer, sell in accordance with Subsection (5) beer

2684 manufactured by the brewer to [~~licensed retailers in accordance with Subsection (5); and~~];

2685 (i) a licensed retailer;

2686 (ii) a holder of a single event permit issued by the commission pursuant to Chapter 7,

2687 Single Event Permits; and

2688 (iii) a holder of a temporary retail beer permit issued by the commission for a

2689 temporary special event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits;

2690 and

2691 (e) warehouse on its premises alcoholic beverages which it manufactures or purchases
2692 for manufacturing purposes.

2693 (2) If considered necessary, the commission or department may:

- 2694 (a) require certain alterations to the plant, equipment, or premises;
- 2695 (b) require the alteration or removal of any unsuitable alcoholic beverage-making
2696 equipment or material;
- 2697 (c) require the licensee to clean, disinfect, ventilate, or otherwise improve the sanitary
2698 and working conditions of any plant, premises, and equipment; or
- 2699 (d) demand that all books, records, or data pertaining to the materials and ingredients
2700 used in the manufacture of alcoholic products are available to the commission or department
2701 upon request.
- 2702 (3) A brewery licensee may not sell heavy beer to any person within the state except
2703 the department and military installations.
- 2704 (4) A brewery licensee may not permit any beer to be consumed on its premises, except
2705 under the ~~[following]~~ circumstances~~[-]~~ described in this Subsection (4).
- 2706 (a) A brewer may allow its off-duty employees to consume beer on its premises
2707 without charge.
- 2708 (b) A brewery licensee may allow any person who can lawfully buy beer or malted
2709 beverages for wholesale or retail distribution to consume bona fide samples of its product on
2710 the brewery premises.
- 2711 (c) (i) A brewery licensee may operate on its manufacturing premises a retail facility
2712 allowing consumption on premises of beer in bottles or draft as long as food is also available.
- 2713 (ii) Any retail facility located on the premises of a brewery licensee shall be operated or
2714 supervised by the brewer.
- 2715 (iii) In operating an on-site retail facility, a brewery licensee shall comply with the
2716 requirements of Sections 32A-10-101 and 32A-10-102.
- 2717 (5) (a) Every small brewer licensee located in this state, and every small brewer located
2718 outside this state that obtains a certificate of approval from the department to sell beer in this
2719 state under Subsection 32A-8-101(4), that sells beer manufactured by the small brewer directly
2720 to a retailer licensee or permittee shall own, lease, or maintain and control a warehouse facility
2721 located in this state for the storage of all beer to be sold to any retailer licensee or permittee.
- 2722 (b) A small brewer may not sell beer to a retailer licensee or permittee unless the beer:
2723 (i) was manufactured by the small brewer; and
2724 (ii) has first been placed in the small brewer's warehouse facility in this state.

2725 (c) (i) Each small brewer warehouse shall maintain complete beer importation,
2726 inventory, tax, distribution, sales records, and other documents as the department and State Tax
2727 Commission may require. [~~These~~]

2728 (ii) ~~The~~ records and documents described in Subsection (5)(c)(i) are subject to
2729 inspection by:

2730 (A) the department; and [by]

2731 (B) the State Tax Commission.

2732 (iii) Any small brewer or person acting for the small brewer, who knowingly forges,
2733 falsifies, alters, cancels, destroys, conceals, or removes the records or documents required to be
2734 made, maintained, or preserved by this title or the rules of the commission, or State Tax
2735 Commission for the purpose of deceiving the commission, department, State Tax Commission,
2736 or any of their officials or employees, is subject to:

2737 (A) the immediate suspension or revocation of:

2738 (I) the brewery license; or

2739 (II) certificate of approval; and

2740 (B) possible criminal prosecution under Chapter 12, Criminal Offenses.

2741 Section 19. Section **32A-8-503** is amended to read:

2742 **32A-8-503. Qualifications.**

2743 (1) (a) The commission may not grant a local industry representative license to any
2744 person who has been convicted of:

2745 (i) a felony under any federal or state law;

2746 (ii) any violation of any federal or state law or local ordinance concerning the sale,
2747 manufacture, distribution, importing, warehousing, adulteration, or transportation of alcoholic
2748 beverages;

2749 (iii) any crime involving moral turpitude; or

2750 (iv) on two or more occasions within the five years before the day on which the license
2751 is granted, driving under the influence of alcohol, any drug, or the combined influence of
2752 alcohol and any drug.

2753 (b) In the case of a partnership, corporation, or limited liability company the
2754 proscription under Subsection (1)(a) applies if any of the following has been convicted of any
2755 offense described in Subsection (1)(a):

- 2756 (i) a partner;
- 2757 (ii) a managing agent;
- 2758 (iii) a manager;
- 2759 (iv) an officer;
- 2760 (v) a director;
- 2761 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of
- 2762 the applicant corporation; or
- 2763 (vii) a member who owns at least 20% of the applicant limited liability company.
- 2764 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a
- 2765 supervisory or managerial capacity for the local industry representative has been convicted of
- 2766 any offense described in Subsection (1)(a).
- 2767 (2) The commission may immediately suspend or revoke the local industry
- 2768 representative license if after the day on which the local industry representative license is
- 2769 granted, a person described in Subsection (1)(a), (b), or (c):
- 2770 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior
- 2771 to the license being granted; or
- 2772 (b) on or after the day on which the license is granted:
- 2773 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or
- 2774 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the
- 2775 combined influence of alcohol and any drug; and
- 2776 (B) was convicted of driving under the influence of alcohol, any drug, or the combined
- 2777 influence of alcohol and any drug within five years before the day on which the person is
- 2778 convicted of the offense described in Subsection (2)(b)(ii)(A).
- 2779 (3) The director may take emergency action by immediately suspending the operation
- 2780 of the local industry representative license according to the procedures and requirements of
- 2781 Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal
- 2782 matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):
- 2783 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);
- 2784 or
- 2785 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,
- 2786 any drug, or the combined influence of alcohol and any drug; and

2787 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined
2788 influence of alcohol and any drug within five years before the day on which the person is
2789 arrested on a charge described in Subsection (3)(b)(i).

2790 (4) (a) (i) The commission may not grant a local industry representative license to any
2791 individual who has had any type of license, agency, or permit issued under this title revoked
2792 within the last three years.

2793 (ii) The commission may not grant a local industry representative license to an
2794 applicant that is a partnership, corporation, or limited liability company if any partner,
2795 managing agent, manager, officer, director, stockholder who holds at least 20% of the total
2796 issued and outstanding stock of an applicant corporation, or member who owns at least 20% of
2797 an applicant limited liability company is or was:

2798 (A) a partner or managing agent of any partnership that had any type of license, agency,
2799 or permit issued under this title revoked within the last three years;

2800 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%
2801 of the total issued and outstanding stock of any corporation that had any type of license,
2802 agency, or permit issued under this title revoked within the last three years; or

2803 (C) a manager or member who owns or owned at least 20% of any limited liability
2804 company that had any type of license, agency, or permit issued under this title revoked within
2805 the last three years.

2806 (b) An applicant that is a partnership, corporation, or limited liability company may not
2807 be granted a local industry representative license if any of the following had any type of
2808 license, agency, or permit issued under this title revoked while acting in that person's individual
2809 capacity within the last three years:

2810 (i) any partner or managing agent of the applicant partnership;

2811 (ii) any managing agent, officer, director, or stockholder who holds at least 20% of the
2812 total issued and outstanding stock of the applicant corporation; or

2813 (iii) any manager or member who owns at least 20% of the applicant limited liability
2814 company.

2815 (c) A person acting in an individual capacity may not be granted an industry
2816 representative license if that person was:

2817 (i) a partner or managing agent of a partnership that had any type of license, agency, or

2818 permit issued under this title revoked within the last three years;

2819 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the
2820 total issued and outstanding stock of a corporation that had any type of license, agency, or
2821 permit issued under this title revoked within the last three years; or

2822 (iii) a manager or member who owned at least 20% of a limited liability company that
2823 had any type of license, agency, or permit issued under this title revoked within the last three
2824 years.

2825 (5) (a) The commission may not grant a local industry representative license to a
2826 minor.

2827 (b) The commission may not grant a local industry representative license to an
2828 applicant that is a partnership, corporation, or limited liability company if any of the following
2829 is a minor:

2830 (i) a partner or managing agent of the applicant partnership;

2831 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
2832 total issued and outstanding stock of the applicant corporation; or

2833 (iii) a manager or member who owns at least 20% of the applicant limited liability
2834 company.

2835 (6) ~~[The]~~ Except as otherwise provided, the commission may not grant a local industry
2836 representative license to:

2837 (a) any holder of any retail license issued under this title~~[-, to]~~ that sells spirituous
2838 liquor, wine, or heavy beer;

2839 (b) any employee or agent of any retail license issued under this title~~[-];~~ that sells
2840 spirituous liquor, wine, or heavy beer; or ~~[to]~~

2841 (c) any individual, partnership, corporation, or limited liability company who holds any
2842 interest in any retail license issued under this title ~~[except as otherwise provided]~~ that sells
2843 spirituous liquor, wine, or heavy beer.

2844 (7) If any individual, partnership, corporation, or limited liability company to whom a
2845 local industry representative license has been issued under this part no longer possesses the
2846 qualifications required by this title for obtaining that license, the commission may suspend or
2847 revoke that license.

2848 Section 20. Section **32A-8-505** is amended to read:

2849 **32A-8-505. Operational restrictions.**

2850 (1) (a) A local industry representative licensee, employee or agent of the licensee, or
 2851 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
 2852 state, shall abide by the conditions and requirements set forth in this section.

2853 (b) If any person listed in Subsection (1)(a) knowingly violates or fails to comply with
 2854 the conditions and requirements set forth in this section[;];

2855 (i) such violation or failure to comply may result in:

2856 (A) a suspension or revocation of the license; or

2857 (B) other disciplinary action taken against individual employees or agents of the
 2858 licensee[;]; and

2859 (ii) the commission may order the removal of the manufacturer's, supplier's, or
 2860 importer's products from the department's sales list and a suspension of the department's
 2861 purchase of those products for a period determined by the commission if the manufacturer,
 2862 supplier, or importer:

2863 (A) directly committed the violation[;] § ; § or

2864 (B) solicited, requested, commanded, encouraged, or intentionally aided another to
 2865 engage in the violation.

2866 (2) A local industry representative licensee, employee or agent of the licensee, or
 2867 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
 2868 state:

2869 (a) only to the extent authorized by Chapter 12, Criminal Offenses, may:

2870 (i) assist the department in:

2871 (A) ordering, shipping, and delivering merchandise[;];

2872 (B) providing new product notification[;];

2873 (C) obtaining listing and delisting information[;];

2874 (D) receiving price quotations[;];

2875 (E) providing product sales analysis[;];

2876 (F) conducting shelf management[;]; and

2877 (G) conducting educational seminars[;]; and [may;]

2878 (ii) for the purpose of acquiring new listings[;];

2879 (A) solicit orders from the department; and

2880 (B) submit to the department price lists and samples of ~~[their]~~ the products~~[-, but only to~~
2881 ~~the extent authorized by Chapter 12, Criminal Offenses]~~ of the manufacturer, supplier, or
2882 importer;

2883 (b) may not sell any liquor, wine, or heavy beer within the state except to the
2884 department and military installations;

2885 (c) may not ship or transport, or cause to be shipped or transported, into this state or
2886 from one place to another within this state any liquor, wine, or heavy beer;

2887 (d) may not sell or furnish any liquor, wine, or heavy beer to any person within this
2888 state other than to the department and military installations;

2889 (e) except as otherwise provided, may not advertise products it represents in violation
2890 of this title or any other federal or state law;

2891 (f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and

2892 (g) may only provide samples of ~~[their]~~ products of the manufacturer, supplier, or
2893 importer for tasting and sampling purposes as provided in Section 32A-12-603 by the
2894 department.

2895 (3) (a) A local industry representative licensee shall maintain on file with the
2896 department a current accounts list of the names and addresses of all manufacturers, suppliers,
2897 and importers the licensee represents.

2898 (b) The licensee shall notify the department in writing of any changes to the accounts
2899 listed within 14 days from the date the licensee either acquired or lost the account of a
2900 particular manufacturer, supplier, or importer.

2901 (4) A local industry representative licensee shall maintain accounting and other records
2902 and documents as the department may require for at least three years.

2903 (5) Any local industry representative licensee or person acting for the licensee, who
2904 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of
2905 the books of account or other documents of the licensee required to be made, maintained, or
2906 preserved by this title or the rules of the commission for the purpose of deceiving the
2907 commission or the department, or any of their officials or employees, is subject to:

2908 (a) the immediate suspension or revocation of the industry representative's license; and

2909 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

2910 (6) A local industry representative licensee may, for the purpose of becoming educated

2911 as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee
2912 represents, taste and analyze industry representative samples under the [following]
2913 conditions[?] listed in this Subsection (6).

2914 (a) The licensee may not receive more than two industry representative samples of a
2915 particular type, vintage, and production lot of a particular branded product within a consecutive
2916 120-day period.

2917 (b) (i) Each sample of liquor may not exceed 1 liter.

2918 (ii) Each sample of wine or heavy beer may not exceed 1.5 liters unless that exact
2919 product is only commercially packaged in a larger size, not to exceed 5 liters.

2920 (c) Each industry representative sample may only be of a product not presently listed
2921 on the department's sales list.

2922 (d) (i) Industry representative samples shall be shipped:

2923 (A) prepaid by the manufacturer, supplier, or importer;

2924 (B) by common carrier and not via United States mail; and

2925 (C) directly to the department's central administrative warehouse office.

2926 (ii) These samples may not be shipped to any other location within the state.

2927 (e) Industry representative samples shall be accompanied by a letter from the
2928 manufacturer, supplier, or importer:

2929 (i) clearly identifying the product as an "industry representative sample"; and

2930 (ii) clearly stating:

2931 (A) the FOB case price of the product; and

2932 (B) the name of the local industry representative for who it is intended.

2933 (f) The department shall assess a reasonable handling, labeling, and storage fee for
2934 each industry representative sample received.

2935 (g) The department shall affix to each bottle or container a label clearly identifying the
2936 product as an "industry representative sample".

2937 (h) The department shall:

2938 (i) account for and record each industry representative sample received;

2939 (ii) account for the sample's disposition; and

2940 (iii) maintain a record of the sample and its disposition for a two-year period.

2941 (i) Industry representative samples may not leave the premises of the department's

2942 central administrative warehouse office.

2943 (j) Licensed industry representatives and their employees and agents may, at regularly
2944 scheduled days and times established by the department, taste and analyze industry
2945 representative samples on the premises of the department's central administrative warehouse
2946 office.

2947 (k) Any unused contents of an opened product remaining after the product has been
2948 sampled shall be destroyed by the department under controlled and audited conditions
2949 established by the department.

2950 (l) Industry representative samples that are not tasted within 30 days of receipt by the
2951 department shall be disposed of at the discretion of the department in one of the following
2952 ways:

2953 (i) contents destroyed under controlled and audited conditions established by the
2954 department; or

2955 (ii) added to the inventory of the department for sale to the public.

2956 (7) An employee or agent of a local industry representative licensee may not be:

2957 (a) the holder of any retail license issued under this title that sells spirituous liquor,
2958 wine, or heavy beer; or

2959 (b) an employee or agent of any retail licensee issued under this title that sells
2960 spirituous liquor, wine, or heavy beer.

2961 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
2962 give, or attempt in any way to dispose of the license to any other person, whether for monetary
2963 gain or not.

2964 (b) A local industry representative license has no monetary value for the purpose of any
2965 type of disposition.

2966 Section 21. Section **32A-10-202** is amended to read:

2967 **32A-10-202. Application and renewal requirements.**

2968 (1) A person seeking an on-premise beer retailer license under this chapter shall file a
2969 written application with the department, in a form prescribed by the department. The
2970 application shall be accompanied by:

2971 (a) a nonrefundable \$250 application fee;

2972 (b) an initial license fee that is refundable if a license is not granted in the following

2973 amount:

2974 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial
2975 license fee is \$150; or

2976 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is
2977 \$1,250;

2978 (c) written consent of the local authority or a license to sell beer at retail for on-premise
2979 consumption granted by the local authority under Section 32A-10-101;

2980 (d) a copy of the applicant's current business license;

2981 (e) evidence of proximity to any public or private school, church, public library, public
2982 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
2983 Subsections 32A-10-201(3) and (4), the application shall be processed in accordance with
2984 those subsections;

2985 (f) a bond as specified by Section 32A-10-205;

2986 (g) a floor plan of the premises, including consumption areas and the area where the
2987 applicant proposes to keep, store, and sell beer;

2988 (h) evidence that the on-premise beer retailer licensee is carrying public liability
2989 insurance in an amount and form satisfactory to the department;

2990 (i) for those licensees that sell more than \$5,000 of beer annually, evidence that the
2991 on-premise beer retailer licensee is carrying dramshop insurance coverage of at least \$500,000
2992 per occurrence and \$1,000,000 in the aggregate;

2993 (j) a signed consent form stating that the on-premise beer retailer licensee will permit
2994 any authorized representative of the commission, department, or any peace officer unrestricted
2995 right to enter the licensee premises;

2996 (k) in the case of an applicant that is a partnership, corporation, or limited liability
2997 company, proper verification evidencing that the person or persons signing the on-premise beer
2998 retailer licensee application are authorized to so act on the behalf of the partnership,
2999 corporation, or limited liability company; and

3000 (l) any other information the department may require.

3001 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each
3002 year.

3003 (b) (i) ~~[Persons]~~ Except as provided in Subsection (2)(b)(ii), a person desiring to renew

3004 [~~their~~] the person's on-premise beer retailer license shall submit by no later than January 31:
3005 [~~(i)~~] (A) a completed renewal application to the department; and
3006 [~~(ii)~~] (B) a renewal fee in the following amount:
3007 [~~(A)~~] (I) if the on-premise beer retailer licensee does not operate as a tavern, the
3008 renewal fee is \$200; or
3009 [~~(B)~~] (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
3010 \$1,000.
3011 (ii) A licensee is not required to submit a renewal fee if the licensee is:
3012 (A) a state agency; or
3013 (B) a political subdivision of the state including:
3014 (I) a county; or
3015 (II) a municipality.
3016 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
3017 the license, effective on the date the existing license expires.
3018 (d) Renewal applications shall be in a form as prescribed by the department.
3019 (3) To ensure compliance with Subsection 32A-10-206(18), the commission may
3020 suspend or revoke a beer retailer license if any beer retailer licensee does not immediately
3021 notify the department of any change in:
3022 (a) ownership of the beer retailer;
3023 (b) for a corporate owner, the:
3024 (i) corporate officers or directors; and
3025 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
3026 corporation; or
3027 (c) for a limited liability company:
3028 (i) managers; or
3029 (ii) members owning at least 20% of the limited liability company.
3030 (4) [~~If the applicant is a county, municipality, or other political subdivision, it~~] An
3031 applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and (f)[~~:-~~] if the
3032 applicant is:
3033 (a) a state agency; or
3034 (b) a political subdivision of the state including:

3035 (i) a county; or

3036 (ii) a municipality.

3037 (5) (a) ~~[Only]~~ Except as provided in Subsection (5)(c), only one state on-premise beer
3038 retailer license is required for each building or resort facility owned or leased by the same
3039 applicant. ~~[Separate]~~

3040 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each
3041 retail beer dispensing outlet located in the same building or on the same resort premises owned
3042 or operated by the same applicant.

3043 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets
3044 in the building or resort facility operate in the same manner.

3045 (ii) If the condition described in Subsection (5)(c)(i) is not met:

3046 (A) one state on-premise beer retailer tavern license is required for all outlets in the
3047 same building or on the same resort premises that operate as a tavern; and

3048 (B) one state on-premise beer retailer license is required for all outlets in the same
3049 building or on the same resort premises that do not operate as a tavern.

3050 Section 22. Section **32A-10-206** is amended to read:

3051 **32A-10-206. Operational restrictions.**

3052 Each person granted an on-premise beer retailer license and the employees and
3053 management personnel of the on-premise beer retailer licensee shall comply with the following
3054 conditions and requirements. Failure to comply may result in a suspension or revocation of the
3055 license or other disciplinary action taken against individual employees or management
3056 personnel.

3057 (1) (a) ~~[On-premise]~~ Subject to Subsection (1)(b), a beer retailer ~~[licensees]~~ licensee
3058 may sell beer for on-premise consumption:

3059 (i) in an open ~~[containers, in any size not exceeding two liters,]~~ container; and

3060 (ii) on draft.

3061 (b) Beer sold pursuant to Subsection (1)(a) shall be in a size of container that does not
3062 exceed two liters, except that beer may not be sold to an individual patron in a size of container
3063 that exceeds one liter.

3064 (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer
3065 licensee.

3066 (3) A patron of the on-premise beer retailer may only make purchases from and be
3067 served by a person employed, designated, and trained by the licensee to sell and serve beer.

3068 (4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at any
3069 on-premise beer retailer establishment after 1 a.m. and before 10 a.m.

3070 (b) Beer may not be sold, served, or otherwise furnished to any:

3071 (i) minor;

3072 (ii) person actually, apparently, or obviously intoxicated;

3073 (iii) known habitual drunkard; or

3074 (iv) known interdicted person.

3075 (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall
3076 remain open for one hour after the tavern ceases the sale and service of alcoholic beverages
3077 during which time a patron of the tavern may finish consuming a single serving of beer not
3078 exceeding [~~25~~] 26 ounces.

3079 (ii) A tavern is not required to remain open:

3080 (A) after all patrons have vacated the premises; or

3081 (B) during an emergency.

3082 (d) Between the hours of 2 a.m. and 10 a.m. on any day a tavern may not allow a patron
3083 to remain on the premises to consume alcoholic beverages on the premises.

3084 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.

3085 (b) Beer may not be sold at a special or reduced price that encourages over
3086 consumption or intoxication.

3087 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer
3088 retailer's business day such as a "happy hour."

3089 (d) The sale or service of more than one alcoholic beverage for the price of a single
3090 alcoholic beverage is prohibited.

3091 (e) The sale or service of an indefinite or unlimited number of alcoholic beverages
3092 during any set period for a fixed price is prohibited.

3093 (f) An on-premise beer licensee may not engage in a public promotion involving or
3094 offering free alcoholic beverages to the general public.

3095 (6) Beer sold in sealed containers by the on-premise beer retailer licensee may be
3096 removed from the on-premise beer retailer premises.

3097 (7) (a) A person may not bring onto the premises of an on-premise beer retailer licensee
3098 any alcoholic beverage for on-premise consumption.

3099 (b) An on-premise beer retailer licensee or its officers, managers, employees, or agents
3100 may not:

3101 (i) allow a person to bring onto the on-premise beer retailer licensee premises any
3102 alcoholic beverage for on-premise consumption; or

3103 (ii) allow consumption of any such alcoholic beverage on its premises.

3104 (8) An on-premise beer retailer licensee and its employees may not permit a patron to
3105 carry from the premises an open container that:

3106 (a) is used primarily for drinking purposes; and

3107 (b) contains any alcoholic beverage.

3108 (9) (a) Except as provided in Subsection (9)(b), a minor may not be:

3109 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell,
3110 dispense, or otherwise furnish beer; or

3111 (ii) on the premises of any tavern.

3112 (b) Notwithstanding Subsection (9)(a), a minor may be employed to enter the sale at a
3113 cash register or other sales recording device on the premises of an on-premise beer retailer that
3114 is not a tavern.

3115 (10) An employee of a licensee, while on duty, may not:

3116 (a) consume an alcoholic beverage; or

3117 (b) be intoxicated.

3118 (11) Each on-premise beer retailer licensee shall display in a prominent place in the
3119 on-premise beer retailer licensee:

3120 (a) the on-premise beer retailer license that is issued by the department; and

3121 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
3122 drugs is a serious crime that is prosecuted aggressively in Utah."

3123 (12) The following acts or conduct in an on-premise beer retailer outlet licensed under
3124 this part are considered contrary to the public welfare and morals, and are prohibited upon the
3125 premises:

3126 (a) employing or using any person in the sale or service of alcoholic beverages while
3127 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the

3128 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
3129 buttocks, vulva, or genitals;

3130 (b) employing or using the services of any person to mingle with the patrons while the
3131 person is unclothed or in attire, costume, or clothing as described in Subsection (12)(a);

3132 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
3133 buttocks, anus, or genitals of any other person;

3134 (d) permitting any employee or person to wear or use any device or covering, exposed
3135 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

3136 (e) permitting any person to use artificial devices or inanimate objects to depict any of
3137 the prohibited activities described in this section;

3138 (f) permitting any person to remain in or upon the premises who exposes to public
3139 view any portion of his or her genitals or anus; or

3140 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
3141 depicting:

3142 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
3143 copulation, flagellation, or any sexual acts that are prohibited by Utah law;

3144 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
3145 genitals;

3146 (iii) scenes wherein artificial devices or inanimate objects are employed to depict, or
3147 drawings are employed to portray, any of the prohibited activities described in this section; or

3148 (iv) scenes wherein a person displays the vulva or the anus or the genitals.

3149 (13) Nothing in Subsection (12) precludes a local authority from being more restrictive
3150 of acts or conduct of the type prohibited in Subsection (12).

3151 (14) (a) Although live entertainment is permitted on the premises of an on-premise
3152 beer retailer licensee, a licensee may not permit any person to perform or simulate sexual acts
3153 prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral
3154 copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or
3155 genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform
3156 only upon a stage or at a designated area approved by the commission.

3157 (b) Nothing in Subsection (14)(a) precludes a local authority from being more
3158 restrictive of acts or conduct of the type prohibited in Subsection (14)(a).

3159 (15) An on-premise beer retailer licensee may not engage in or permit any form of
3160 gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
3161 Part 11, Gambling, on the premises of the on-premise beer retailer licensee.

3162 (16) (a) Each on-premise beer retailer licensee shall maintain accounting and other
3163 records and documents as the department may require.

3164 (b) Any on-premise beer retailer licensee or person acting for the on-premise beer
3165 retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes
3166 the entries in any of the books of account or other documents of the on-premise beer retailer
3167 licensee required to be made, maintained, or preserved by this title or the rules of the
3168 commission for the purpose of deceiving the commission or the department, or any of their
3169 officials or employees, is subject to:

3170 (i) the immediate suspension or revocation of the on-premise beer retailer license; and

3171 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

3172 (17) An on-premise beer retailer license may not be transferred from one location to
3173 another, without prior written approval of the commission.

3174 (18) (a) An on-premise beer retailer licensee may not sell, transfer, assign, exchange,
3175 barter, give, or attempt in any way to dispose of the license to any person, whether for
3176 monetary gain or not.

3177 (b) An on-premise beer retailer license has no monetary value for the purpose of any
3178 type of disposition.

3179 Section 23. Section **32A-10-302** is amended to read:

3180 **32A-10-302. Application requirements.**

3181 (1) (a) A person seeking a temporary special event beer permit shall file a written
3182 application with the department in a form prescribed by the department.

3183 (b) The application required by this section shall be accompanied by:

3184 (i) a permit fee of \$75, which:

3185 (A) is refundable if a permit is not granted; and

3186 (B) shall be returned to the applicant with the application if the permit is not granted;

3187 (ii) (A) written consent of the local authority; or

3188 (B) a temporary permit granted by the local authority under Section 32A-10-101;

3189 (iii) a bond as specified by Section 32A-10-305;

- 3190 (iv) the times, dates, location, estimated attendance, nature, and purpose of the
 3191 temporary special event;
- 3192 (v) a description or floor plan designating:
- 3193 (A) the area in which the applicant proposes that beer be stored;
- 3194 (B) the site from which the applicant proposes that beer be sold or served; and
- 3195 (C) the area in which the applicant proposes that beer be allowed to be consumed;
- 3196 (vi) a statement of the purpose of the temporary special event;
- 3197 (vii) a signed consent form stating that authorized representatives of the commission,
 3198 department, or any law enforcement officers will have unrestricted right to enter the premises
 3199 during the temporary special event;
- 3200 (viii) in the case of an applicant that is a partnership, corporation, or limited liability
 3201 company, proper verification evidencing that the person or persons signing the application are
 3202 authorized to so act on behalf of the partnership, corporation, or limited liability company; and
- 3203 (ix) any other information the commission or department may require.
- 3204 (2) ~~[If the applicant is a county, municipality, or other political subdivision, it]~~ An
 3205 applicant need not meet the requirements of Subsection (1)(b)(i), (ii), or (iii)[-] if the applicant
 3206 is:
- 3207 (a) a state agency; or
- 3208 (b) a political subdivision of the state including:
- 3209 (i) a county; or
- 3210 (ii) a municipality.
- 3211 Section 24. Section **32A-10-306** is amended to read:
- 3212 **32A-10-306. Operational restrictions.**
- 3213 (1) (a) Any person granted a temporary special event beer permit and any person
 3214 involved in the storage, sale, or service of beer at the event for which a temporary special event
 3215 the permit is issued, shall abide by this title, the rules of the commission, and the special
 3216 conditions and requirements provided in this section.
- 3217 (b) Failure to comply as provided in Subsection (1)(a):
- 3218 (i) may result in:
- 3219 (A) an immediate revocation of the permit;
- 3220 (B) forfeiture of the surety bond; and

- 3221 (C) immediate seizure of all beer present at the event; and
- 3222 (ii) disqualifies the organization from applying for a temporary special event beer
- 3223 permit under this part or a single event permit under Chapter 7, Single Event Permits, for a
- 3224 period of three years from the date of revocation of the temporary special event permit.
- 3225 (c) Any beer seized under this Subsection (1) shall be returned to the organization after
- 3226 the event if forfeiture proceedings are not instituted under Section 32A-13-103.
- 3227 (2) Special conditions and requirements for temporary special event beer permittees
- 3228 include the following:
- 3229 (a) (i) All persons involved in the storage, sale, or service of beer at the temporary
- 3230 special event do so under the supervision and direction of the permittee.
- 3231 (ii) All persons involved in the sale or service of beer at the temporary special event
- 3232 may not, while on duty:
- 3233 (A) consume an alcoholic beverage; or
- 3234 (B) be intoxicated.
- 3235 (b) (i) All beer stored, sold, served, and consumed at the temporary special event shall
- 3236 be purchased by the permittee from a licensed beer wholesaler or retailer.
- 3237 (ii) All beer is considered under the control of the permittee during the temporary
- 3238 special event.
- 3239 (iii) An attendee of the temporary special event may not bring any alcoholic beverages
- 3240 onto the premises of the temporary special event.
- 3241 (c) Each permittee shall post in a prominent place in the area in which beer is being
- 3242 sold, served, and consumed:
- 3243 (i) a copy of the permit; and
- 3244 (ii) a list of the operational restrictions and requirements of temporary special event
- 3245 beer permittees set forth in this section.
- 3246 (d) Beer purchased for a temporary special event may not be stored, sold, served, or
- 3247 consumed in any location other than that described in the application and designated on the
- 3248 temporary special event permit unless the permittee first applies for and receives approval from
- 3249 the commission for a change of location.
- 3250 (e) (i) [Beer] Subject to Subsection (2)(e)(ii), beer may be sold for on-premise
- 3251 consumption:

3252 (A) in ~~[any size]~~ an open container ~~[not exceeding two liters]~~; and
3253 (B) on draft.

3254 (ii) Beer sold pursuant to Subsection (2)(e)(i) shall be in a size of container that does
3255 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
3256 container that exceeds one liter.

3257 (f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed
3258 between the hours of 1 a.m. and 10 a.m.

3259 (ii) This Subsection (2)(f) does not preclude a local authority from being more
3260 restrictive with respect to the hours of sale, service, or consumption of beer at a temporary
3261 special event.

3262 (g) Beer may not be sold, served, or otherwise furnished to any:
3263 (i) minor;
3264 (ii) person actually, apparently, or obviously intoxicated;
3265 (iii) known habitual drunkard; or
3266 (iv) known interdicted person.

3267 (h) (i) Beer may not be sold at less than the cost of the beer to the permittee.
3268 (ii) Beer may not be sold at a price that encourages over consumption or intoxication.
3269 (iii) Beer may not be sold at a special or reduced price for only certain hours of the day
3270 of the permitted event.

3271 (iv) The sale or service of more than one beer beverage for the price of a single beer
3272 beverage is prohibited.

3273 (v) The permittee may not engage in a public promotion involving or offering free beer
3274 to the general public.

3275 (i) The permittee and its employees may not permit an attendee to carry from the
3276 premises an open container that:
3277 (i) is used for drinking purposes; and
3278 (ii) contains any alcoholic beverage.

3279 (j) A minor may not sell, serve, dispense, or handle any beer at a temporary special
3280 event.

3281 (3) The following acts or conduct at an event for which a permit is issued under this
3282 part are considered contrary to the public welfare and morals, and are prohibited upon the

3283 premises:

3284 (a) employing or using any person in the sale or service of alcoholic beverages while
3285 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
3286 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
3287 buttocks, vulva, or genitals;

3288 (b) employing or using the services of any person to mingle with the patrons while the
3289 person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);

3290 (c) encouraging or permitting any person to touch, caress, or fondle the breasts,
3291 buttocks, anus, or genitals of any other person;

3292 (d) permitting any employee or person to wear or use any device or covering, exposed
3293 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;

3294 (e) permitting any person to use artificial devices or inanimate objects to depict any of
3295 the prohibited activities described in this Subsection (3);

3296 (f) permitting any person to remain in or upon the premises who exposes to public
3297 view any portion of his or her genitals or anus; or

3298 (g) showing films, still pictures, electronic reproductions, or other visual reproductions
3299 depicting:

3300 (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
3301 copulation, flagellation, or any sexual acts prohibited by Utah law;

3302 (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
3303 genitals;

3304 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
3305 drawings are used to portray, any of the prohibited activities described in this Subsection (3); or

3306 (iv) scenes wherein a person displays the vulva, anus, or the genitals.

3307 (4) Nothing in Subsection (3) precludes a local authority from being more restrictive of
3308 acts or conduct of the type prohibited in Subsection (3).

3309 (5) (a) Although live entertainment is permitted at the event for which a permit has
3310 been issued under this chapter, a permittee may not allow any person to perform or simulate
3311 sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy,
3312 bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast,
3313 buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.

3314 Entertainers shall perform only upon a stage or at a designated area approved by the
3315 commission.

3316 (b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive
3317 of acts or conduct of the type prohibited in Subsection (5)(a).

3318 (6) The permittee shall maintain an expense and revenue ledger or record showing:

3319 (a) expenditures made for beer; and

3320 (b) the revenue from sale of beer.

3321 (7) A temporary special event beer permit may not be transferred.

3322 (8) A temporary special event beer permittee may not engage in or allow any form of
3323 gambling, or have any video gaming device as defined and proscribed by Title 76, Chapter 10,
3324 Part 11, Gambling, on the premises serviced by the permittee.

3325 Section 25. Section **32A-11-101** is amended to read:

3326 **32A-11-101. Commission's power to issue licenses.**

3327 (1) (a) The commission may issue beer wholesaling licenses for the import, purchase,
3328 storage, sale, and distribution of beer.

3329 (b) The license entitles the licensee to:

3330 (i) purchase and import beer into the state;

3331 (ii) store beer in approved warehouses; and

3332 (iii) sell and distribute beer directly to:

3333 (A) a licensed beer [retailers; and] retailer;

3334 (B) a holder of a single event permit issued by the commission pursuant to Chapter 7,
3335 Single Event Permits; and

3336 [(B) holders] (C) a holder of a temporary retail beer [permits] permit issued by the
3337 commission for a temporary special [events] event pursuant to Chapter 10, Part 3, Temporary
3338 Special Event Beer Permits.

3339 (2) (a) A person may not import, purchase, store, sell, or distribute beer to retailers or
3340 act in any way as a beer wholesaler unless the person has been issued a beer wholesaler's
3341 license by the commission.

3342 (b) Nothing in this section precludes a small brewer from selling beer it has
3343 manufactured directly to a licensed beer retailer.

3344 (c) Violation of this subsection is a class A misdemeanor.

3345 (3) The commission may prescribe by policy, directive, or rule, consistent with this
3346 title, the general operational requirements of wholesaling licensees relating to physical
3347 facilities, conditions of purchase, storage, sale, importation, distribution, or transportation of
3348 beer within the state.

3349 Section 26. Section **32A-11-102** is amended to read:

3350 **32A-11-102. Application and renewal requirements.**

3351 (1) A person seeking a beer wholesaling license under this chapter shall file a written
3352 application with the department, in a form prescribed by the department. The application shall
3353 be accompanied by:

3354 (a) a nonrefundable \$250 application fee;

3355 (b) an initial license fee of \$2,000, which is refundable if a license is not granted;

3356 (c) written consent of the local authority;

3357 (d) a copy of the applicant's current business license;

3358 (e) a bond as specified in Section 32A-11-105;

3359 (f) evidence that the applicant is carrying public liability insurance in an amount and
3360 form satisfactory to the department;

3361 (g) a signed consent form stating that the licensee will permit any authorized
3362 representative of the commission, department, or any peace officer unrestricted right to enter
3363 the licensed premises;

3364 (h) a statement of the brands of beer the applicant is authorized to sell and distribute;

3365 (i) a statement of all geographical areas in which the applicant is authorized to sell and
3366 distribute beer;

3367 (j) in the case of an applicant that is a partnership, corporation, or limited liability
3368 company, proper verification evidencing that the person or persons signing the beer
3369 wholesaling license application are authorized to so act on behalf of the partnership,
3370 corporation, or limited liability company; and

3371 (k) any other documents and evidence as the department may direct.

3372 (2) (a) (i) All beer wholesaling licenses expire on December 31 of each year.

3373 (ii) ~~[Persons]~~ A person desiring to renew ~~[their]~~ that person's beer wholesaling license
3374 shall submit by no later than November 30 of the year the license expires:

3375 (A) a completed renewal application to the department; and

3376 (B) a renewal fee in the following amount:

3377 Case Sales in Previous License Year for the Licensee	Renewal Fee
3378 under 500,000 cases	\$1,000
3379 equals or exceeds 500,000 cases but less than 1,000,000 cases	\$2,000
3380 equals or exceeds 1,000,000 cases	\$3,000.

3381 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
3382 license effective on the date the existing license expires.

3383 (iv) Renewal applications shall be in a form prescribed by the department.

3384 (b) The annual renewal fee prescribed in this Subsection (2) is independent of any like
3385 license fee which may be assessed by the local authority of the city or county in which the
3386 wholesaler's warehouse is located. Any local fees may not exceed \$300. Payment of local fees
3387 shall be made directly to the local authority assessing ~~them~~ the local fees.

3388 (3) To ensure compliance with Subsection 32A-11-106~~(f)(g)~~ (7), the commission
3389 may suspend or revoke a beer wholesaling license if a beer wholesaling licensee does not
3390 immediately notify the department of any change in:

3391 (a) ownership of the licensee;

3392 (b) for a corporate owner, the:

3393 (i) corporate officers or directors; or

3394 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
3395 corporation; or

3396 (c) for a limited liability company:

3397 (i) managers; or

3398 (ii) members owning at least 20% of the limited liability company.

3399 Section 27. Section **32A-11-106** is amended to read:

3400 **32A-11-106. Operational restrictions.**

3401 Each person granted a beer wholesaling license, and the employees and management
3402 personnel of the licensee, shall comply with the following conditions and requirements.

3403 Failure to comply may result in a suspension or revocation of the beer wholesaling license or
3404 other disciplinary action taken against individual employees or management personnel of the
3405 licensee.

3406 (1) A licensee may not wholesale any beer manufactured within the state by a brewer

3407 who is not licensed by the commission as a manufacturing licensee.

3408 (2) A licensee may not wholesale any beer manufactured out of state by a brewer who
3409 has not obtained a certificate of approval from the department.

3410 (3) (a) A licensee may not sell or distribute beer to any person within the state except:

3411 (i) a licensed beer [~~retailers or holders~~] retailer;

3412 (ii) a holder of a single event permit issued by the commission pursuant to Chapter 7,

3413 Single Event Permits; or

3414 (iii) a holder of a temporary retail beer [~~permits~~] permit issued by the commission for a
3415 temporary special [~~events~~] event pursuant to Chapter 10, Part 3, Temporary Special Event Beer
3416 Permits.

3417 (b) A violation of this Subsection (3) is a class A misdemeanor.

3418 (4) (a) A licensee may not sell or distribute any beer to any retailer outside of the
3419 geographic area designated on its application, except that if a licensee is temporarily unable to
3420 supply retail dealers within its authorized geographical area, the department may grant
3421 temporary authority to another licensed wholesaler who distributes the same brand in another
3422 area to supply retailers.

3423 (b) A violation of this Subsection (4) is a class B misdemeanor.

3424 (5) (a) Every licensee shall own, lease, or otherwise control and maintain a warehouse
3425 facility located in this state for the receipt, storage, and further distribution of all beer sold by
3426 the licensee to any person within the state.

3427 (b) A licensee may not sell beer to any person in this state, other than the department,
3428 unless the beer has first been:

3429 (i) physically removed from the vehicle used to transport the beer from the supplier to
3430 the licensee; and

3431 (ii) delivered into the actual possession and control of the licensee in its warehouse or
3432 other facility.

3433 (6) (a) Each beer wholesaling licensee shall maintain accounting and other records and
3434 documents as the department may require.

3435 (b) Any licensee or person acting for the licensee, who knowingly forges, falsifies,
3436 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or
3437 other documents of the licensee required to be made, maintained, or preserved by this title or

3438 the rules of the commission for the purpose of deceiving the commission or the department, or
3439 any of their officials or employees, is subject to:

- 3440 (i) the immediate suspension or revocation of the beer wholesaling license; and
- 3441 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

3442 (7) A licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any
3443 way to dispose of the beer wholesaling license to any person, whether for monetary gain or not,
3444 unless it is done:

- 3445 (a) in accordance with the commission rules; and
- 3446 (b) after written consent has been given by the commission.

3447 (8) A licensee may not sell or distribute any alcoholic beverage that is not clearly
3448 labeled in a manner reasonably calculated to put the public on notice that the beverage is an
3449 alcoholic beverage. The beverage shall bear the label "alcoholic beverage" or a manufacturer's
3450 label which in common usage apprises the general public that the beverage contains alcohol.

3451 Section 28. Section **32A-11a-107** is amended to read:

3452 **32A-11a-107. Sale or transfer of business assets or ownership.**

3453 (1) Without the prior written approval of a sale or transfer by the supplier:

- 3454 (a) a wholesaler may not sell or transfer its business, or any portion of its business,
3455 including the distributorship agreement to a successor in interest; and
- 3456 (b) the owner of an interest in a wholesaler may not sell or transfer all or part of the
3457 owner's interest in the wholesaler to a successor in interest.

3458 (2) A supplier may not unreasonably withhold or delay its approval of a sale or
3459 transfer, including the wholesaler's rights and obligations under the terms of the distributorship
3460 agreement, if the person to be substituted meets reasonable standards that are imposed:

- 3461 (a) by the supplier pursuant to the distributorship agreement; and
- 3462 (b) on other wholesalers of that supplier of the same general class, taking into account
3463 the size and location of the sales territory and market to be served.

3464 (3) Notwithstanding Subsection (1), a wholesaler may not assign or transfer its license
3465 in violation of Subsection 32A-11-106~~(4)(g)~~(7).

3466 Section 29. Section **32A-12-102** is amended to read:

3467 **32A-12-102. Special burdens of proof -- Inferences and presumptions.**

3468 (1) In any prosecution of an offense defined in this title or in any proceeding brought to

3469 enforce this title:

3470 (a) it is not necessary that the state or commission establish the precise description or
3471 quantity of the alcoholic beverages or products or the precise consideration, if any, given or
3472 received for the alcoholic beverages or products;

3473 (b) there is an inference, absent proof to the contrary, that the alcoholic beverage or
3474 product in question is [~~intoxicating~~] an alcoholic beverage or product if the witness describes it
3475 [~~as intoxicating or~~];

3476 (i) as an alcoholic beverage or product;

3477 (ii) by a name that is commonly applied to an [~~intoxicating~~] alcoholic beverage or
3478 product; or

3479 (iii) as intoxicating;

3480 (c) if it is alleged that an association or corporation has violated this title, the fact of the
3481 incorporation of the association or corporation is presumed absent proof to the contrary;

3482 (d) a certificate or report signed or purporting to be signed by any state chemist,
3483 assistant state chemist, or state crime laboratory chemist, as to the analysis or ingredients of any
3484 alcoholic beverage or product is;

3485 (i) prima facie evidence;

3486 (A) of the facts stated in that certificate or report; and

3487 (B) of the authority of the person giving or making the report[;]; and [is]

3488 (ii) admissible in evidence without any proof of appointment or signature absent proof
3489 to the contrary; and

3490 (e) a copy of entries made in the records of the United States internal revenue collector,
3491 certified by the collector or a qualified notary public, showing the payment of the United States
3492 internal revenue special tax for the manufacture or sale of alcoholic beverages or products is
3493 prima facie evidence of the manufacture or sale by the party named in the entry within the
3494 period set forth in the record.

3495 (2) (a) In proving the unlawful sale, disposal, gift, or purchase, gratuitous or otherwise,
3496 or consumption of alcoholic beverages or products, it is not necessary that the state or
3497 commission establish that any money or other consideration actually passed or that an alcoholic
3498 beverage or product was actually consumed if the court or trier of fact is satisfied that;

3499 (i) a transaction in the nature of a sale, disposal, gift, or purchase actually occurred; or

3500 [that]

3501 (ii) any consumption of alcoholic beverages or products was about to occur.

3502 (b) Proof of consumption or intended consumption of an alcoholic beverage or product
3503 on premises on which consumption is prohibited, by some person not authorized to consume
3504 alcoholic beverages or products on those premises, is evidence that an alcoholic beverage or
3505 product was sold or given to or purchased by the person consuming, about to consume, or
3506 carrying away the alcoholic beverage or product as against the occupant of the premises.

3507 Section 30. Section **32A-12-201** is amended to read:

3508 **32A-12-201. Unlawful sale or furnishing.**

3509 (1) It is unlawful for any person in the business of selling liquor, or any manufacturer,
3510 supplier, or importer of liquor, or their officers, managers, employees, or agents to sell, ship,
3511 transport, or cause to be sold, shipped, or transported any liquor from an out-of-state location
3512 directly or indirectly into this state except to the extent authorized by this title to:

3513 (a) the department;

3514 (b) a military installation;

3515 (c) a holder of a special use permit to the extent authorized by the commission in the
3516 permit; or

3517 (d) a bonded liquor warehouse licensed by the commission to distribute and transport
3518 liquor to:

3519 (i) the department; or

3520 (ii) an out-of-state wholesaler or retailer.

3521 (2) (a) It is unlawful for any person in the business of selling beer, or any manufacturer,
3522 supplier, or importer of beer, or their officers, managers, employees, or agents to sell, ship,
3523 transport, or cause to be sold, shipped, or transported any beer from an out-of-state location
3524 directly or indirectly into this state except to the extent authorized by this title to:

3525 (i) a licensed beer wholesaler;

3526 (ii) a military installation; or

3527 (iii) a holder of a special use permit to the extent authorized by the commission in the
3528 permit.

3529 (b) Subsection (2)(a) does not preclude a small brewer that holds a certificate of
3530 approval under Subsection 32A-8-101(4) from selling, shipping, or transporting beer directly to

3531 a licensed beer retailer to the extent authorized by Subsection 32A-8-401(5).

3532 (3) (a) It is unlawful for any manufacturer, supplier, or importer of liquor in this state,
3533 or their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold,
3534 shipped, or transported any liquor directly or indirectly to any person in this state except to the
3535 extent authorized by this title to:

3536 (i) the department;

3537 (ii) a military installation;

3538 (iii) a holder of a special use permit to the extent authorized by the commission in the
3539 permit; or

3540 (iv) a bonded liquor warehouse licensed by the commission to distribute and transport
3541 liquor to:

3542 (A) the department; or

3543 (B) an out-of-state wholesaler or retailer.

3544 (b) Subsection (3)(a) does not preclude a winery licensed under this title and located in
3545 this state from selling wine to persons on its winery premises:

3546 (i) to the extent authorized by Subsection 32A-8-201(4)(c); or

3547 (ii) under a package agency established by the commission on the winery premises.

3548 (4) (a) It is unlawful for any manufacturer, supplier, or importer of beer in this state, or
3549 their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold,
3550 shipped, or transported any beer directly or indirectly to any person in this state except to the
3551 extent authorized by this title to:

3552 (i) a licensed beer wholesaler;

3553 (ii) a military installation; or

3554 (iii) a holder of a special use permit to the extent authorized by the commission in the
3555 permit.

3556 (b) Subsection (4)(a) does not preclude:

3557 (i) a small brewer licensed under this title and located in this state from selling,
3558 shipping, and transporting beer directly to a licensed beer retailer in this state to the extent
3559 authorized by Subsection 32A-8-401(5); or

3560 (ii) a ~~[brewery]~~ brewer licensed under this title from selling beer to persons on its
3561 manufacturing premises under Subsection 32A-8-401(4)(c).

3562 (5) It is unlawful for any person other than a person described in Subsection (1) or (2)
3563 to sell, ship, transport, or cause to be sold, shipped, or transported any alcoholic beverage or
3564 product from an out-of-state location directly or indirectly into this state, except as otherwise
3565 provided by this title.

3566 (6) It is unlawful for any person in this state other than a person described in
3567 Subsection (3) or (4) to sell, ship, transport, or cause to be sold, shipped, or transported any
3568 alcoholic beverage or product directly or indirectly to any other person in this state, except as
3569 otherwise provided by this title.

3570 (7) It is unlawful for any retail licensee or permittee in this state, or their officers,
3571 managers, employees, or agents to keep for sale, or to directly or indirectly, sell, offer to sell, or
3572 otherwise furnish to another, any alcoholic beverage or product, except as otherwise provided
3573 by this title.

3574 (8) (a) A violation of Subsection (1), (2), (3), or (4) is a third degree felony.

3575 (b) A violation of Subsection (5) or (6) is a class B misdemeanor.

3576 (c) A violation of Subsection (7) is a class B misdemeanor, except where otherwise
3577 provided by this title.

3578 Section 31. Section **32A-12-213** is amended to read:

3579 **32A-12-213. Unlawful bringing onto premises for consumption.**

3580 (1) Except as provided in Subsection (3), a person may not bring for on-premise
3581 consumption any alcoholic beverage onto the premises of any:

3582 (a) licensed or unlicensed restaurant;

3583 (b) licensed or unlicensed private club;

3584 (c) airport lounge licensee;

3585 (d) on-premise banquet licensee;

3586 (e) on-premise beer retailer licensee;

3587 (f) event where alcoholic beverages are sold or served under a single event permit or
3588 temporary special event beer permit issued under this title; or

3589 (g) any establishment open to the general public.

3590 (2) Except as provided in Subsection (3), a licensed or unlicensed restaurant or private
3591 club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer licensee, or
3592 holder of a single event permit or temporary special event beer permit issued under this title, or

3593 its officers, managers, employees, or agents may not allow a person to bring onto its premises
3594 any alcoholic beverage for on-premise consumption or allow consumption of any such
3595 alcoholic beverage in violation of this section.

3596 (3) (a) A person may bring bottled wine onto the premises of any restaurant liquor
3597 licensee, limited restaurant licensee, or private club licensee and consume the wine pursuant to
3598 the applicable restrictions contained in Subsection 32A-4-106(14), 32A-4-307[(13)](14), or
3599 32A-5-107(32);

3600 (b) a passenger of a limousine may bring onto, have, and consume any alcoholic
3601 beverage on the limousine if:

3602 (i) the travel of the limousine begins and ends at:

3603 (A) the residence of the passenger;

3604 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

3605 (C) the temporary domicile of the passenger; and

3606 (ii) the driver of the limousine is separated from the passengers by partition or other
3607 means approved by the department;

3608 (c) a passenger of a chartered bus may bring onto, have, and consume any alcoholic
3609 beverage on the chartered bus:

3610 (i) (A) but may consume only during travel to a specified destination of the chartered
3611 bus and not during travel back to the place where the travel begins; or

3612 (B) if the travel of the chartered bus begins and ends at:

3613 (I) the residence of the passenger;

3614 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

3615 (III) the temporary domicile of the passenger; and

3616 (ii) the chartered bus has a nondrinking designee other than the driver traveling on the
3617 chartered bus to monitor consumption; and

3618 (d) a person may bring onto any premises, have, and consume any alcoholic beverage
3619 at a privately hosted event that is not open to the general public.

3620 (4) Except as provided in Subsection (3)(c)(i)(A), the consumption of alcoholic
3621 beverages in limousines and chartered buses is not allowed if the limousine or chartered bus
3622 drops off passengers at locations from which they depart in private vehicles.

3623 Section 32. Section **32A-12-222** is amended to read:

3624 **32A-12-222. Unlawful dispensing.**

3625 (1) For purposes of this section:

3626 (a) "primary spirituous liquor" means the main distilled spirit in a beverage; and

3627 (b) "primary spirituous liquor" does not include any secondary alcoholic product used
3628 as flavorings in conjunction with the primary distilled spirit in the beverage.3629 (2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous
3630 liquor for consumption on the licensed premises, or any officer, manager, employee, or agent
3631 of the licensee may not:3632 (a) sell, serve, dispense, or otherwise furnish any primary spirituous liquor to any
3633 person on the licensed premises except in a quantity that does not exceed one ounce per
3634 beverage dispensed through a calibrated metered dispensing system approved by the
3635 department;3636 (b) sell, serve, dispense, or otherwise furnish more than a total of [~~1.75~~] 2.75 ounces of
3637 spirituous [~~liquors as secondary flavoring ingredients~~] liquor per beverage;3638 (c) allow any person on the licensed premises to have more than two alcoholic
3639 beverages containing spirituous liquor at a time; or3640 (d) allow any person on the licensed premises to have more than a total of 2.75 ounces
3641 of spirituous liquor at a time.3642 (3) Any of the following or an officer, manager, employee, or agent of the following
3643 may not allow any person on the premises of the following to have more than one spirituous
3644 liquor beverage at a time:

3645 (a) a restaurant liquor licensee;

3646 (b) limited restaurant licensee;

3647 (c) an on-premise banquet licensee; or

3648 (d) a single event permittee.

3649 (4) A violation of this section is a class C misdemeanor.

3650 Section 33. Section **32A-12-501** is amended to read:3651 **32A-12-501. Disposition of liquor items shipped to the department.**3652 (1) [~~AH~~] Any liquor [~~items~~] item received by the department from [~~suppliers~~] a
3653 supplier as a sample or as an item not specifically listed on a department purchase order shall
3654 be handled in accordance with and subject to Subsection 32A-12-603(4)(c)(ix)[~~, except for:~~].

3655 ~~[(a) a sample; or]~~

3656 ~~[(b) an item not specifically listed on a department purchase order.]~~

3657 (2) Funds of the department may not be used to pay freight or charges on ~~[samples]~~ a
3658 sample or any liquor ~~[items]~~ item:

3659 (a) shipped to the department by suppliers; and

3660 (b) not listed on ~~[its]~~ a department purchase ~~[orders]~~ order.

3661 Section 34. Section **32A-12-601** is amended to read:

3662 **32A-12-601. Definitions.**

3663 As used in this part:

3664 (1) (a) For purposes of Section 32A-12-602, "exclusion" is as defined in 27 C.F.R.

3665 Sections 8.51 through 8.54.

3666 (b) For purposes of Section 32A-12-603, "exclusion" is as defined in 27 C.F.R.

3667 Sections ~~[8.151 through 8.153]~~ 6.151 through 6.153.

3668 (2) (a) "Industry member" means:

3669 (i) an alcoholic beverage manufacturer~~[-];~~;

3670 (ii) a producer~~[-];~~;

3671 (iii) a supplier~~[-];~~;

3672 (iv) an importer~~[-];~~;

3673 (v) a wholesaler~~[-];~~;

3674 (vi) a bottler~~[-];~~; ~~§ [or] §~~

3675 (vii) a warehouse and bottler~~[-];~~; or

3676 (viii) for a person described in ~~§ [Subsection]~~ **SUBSECTIONS** § (2)(a)(i) through (vii), any

3676a of its:

3677 (A) affiliates~~[-];~~;

3678 (B) subsidiaries~~[-];~~;

3679 (C) officers~~[-];~~;

3680 (D) directors~~[-];~~;

3681 (E) partners~~[-];~~;

3682 (F) agents~~[-];~~;

3683 (G) employees~~[-];~~; or

3684 (H) representatives.

3685 (b) "Industry member" does not include:

- 3686 (i) the commission [~~or~~];
- 3687 (ii) the department; or
- 3688 (iii) any of [~~its~~] the commission's or department's officers or employees.
- 3689 (3) "Retailer" means:
- 3690 (a) the holder of an alcoholic beverage license or permit issued by the commission or
- 3691 by local authority to allow the holder to engage in the sale of alcoholic beverages to consumers
- 3692 whether for consumption on or off the premises; or
- 3693 (b) any of the holder's, agents, officers, directors, shareholders, partners, or employees.
- 3694 Section 35. Section **32A-12-603** is amended to read:
- 3695 **32A-12-603. Tied house -- Prohibitions.**
- 3696 (1) (a) It is unlawful for any industry member, directly or indirectly or through an
- 3697 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
- 3698 or from the department to the exclusion in whole or in part of any of those products sold or
- 3699 offered for sale by other persons by acquiring or holding any interest in any license with respect
- 3700 to the premises of a retailer, except where the license is held by a retailer that is completely
- 3701 owned by the industry member.
- 3702 (b) Interest in any retail license includes any interest acquired by a corporate official,
- 3703 partner, employee, or other representative of the industry member.
- 3704 (c) Any interest in a retail license acquired by a separate corporation in which the
- 3705 industry member or the industry member's officials hold ownership or are otherwise affiliated
- 3706 is an interest in a retail license.
- 3707 (d) Less than complete ownership of a retail business by an industry member
- 3708 constitutes an interest in a retail license within the meaning of Subsection (1)(a).
- 3709 (2) (a) It is unlawful for any industry member, directly or indirectly or through an
- 3710 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
- 3711 or from the department to the exclusion in whole or in part of any of those products sold or
- 3712 offered for sale by other persons by acquiring any interest in real or personal property owned,
- 3713 occupied, or used by the retailer in the conduct of the retailer's business.
- 3714 (b) For purposes of Subsection (2)(a):
- 3715 (i) "interest" does not include complete ownership of a retail business by an industry
- 3716 member;

3717 (ii) interest in retail property includes any interest acquired by a corporate official,
3718 partner, employee, or other representative of the industry member;

3719 (iii) any interest in a retail license acquired by a separate corporation in which the
3720 industry member or its officials hold ownership or are otherwise affiliated is an interest in the
3721 retailer's property;

3722 (iv) less than complete ownership of a retail business by an industry member
3723 constitutes an interest in retail property;

3724 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry
3725 member constitutes an interest in the retailer's property; and

3726 (vi) the renting of display space by an industry member at a retail establishment
3727 constitutes an interest in the retailer's property.

3728 (3) (a) It is unlawful for any industry member, directly or indirectly or through an
3729 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
3730 or from the department to the exclusion in whole or in part of any of those products sold or
3731 offered for sale by other persons by furnishing, giving, renting, lending, or selling to the retailer
3732 any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to the
3733 exceptions enumerated in Subsection (4).

3734 (b) (i) For purposes of this Subsection (3), indirect inducement includes:

3735 (A) furnishing things of value to a third party where the benefits resulting from the
3736 things of value flow to individual retailers; and

3737 (B) making payments for advertising to a retailer association or a display company
3738 where the resulting benefits flow to individual retailers.

3739 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

3740 (A) the thing of value was furnished to a retailer by the third party without the
3741 knowledge or intent of the industry member; or

3742 (B) the industry member did not reasonably foresee that the thing of value would have
3743 been furnished to a retailer.

3744 (iii) Anything that may lawfully be furnished, given, rented, lent, or sold by industry
3745 members to retailers under Subsection (4) may be furnished directly by a third party to a
3746 retailer.

3747 (c) (i) A transaction in which equipment is sold to a retailer by an industry member,

3748 except as provided in Subsection (4), is the selling of equipment within the meaning of
3749 Subsection (3)(a) regardless of how the equipment is sold.

3750 (ii) The negotiation by an industry member of a special price to a retailer for equipment
3751 from an equipment company is the furnishing of a thing of value within the meaning of
3752 Subsection (3)(a).

3753 (d) The furnishing of free warehousing by delaying delivery of alcoholic beverages
3754 beyond the time that payment for the product is received, or if a retailer is purchasing on credit,
3755 delaying final delivery of products beyond the close of the period of time for which credit is
3756 lawfully extended, is the furnishing of a service or thing of value within the meaning of
3757 Subsection (3)(a).

3758 (e) Any financial, legal, administrative, or influential assistance given a retailer by an
3759 industry member in the retailer's acquisition of the retailer's license is the furnishing of a
3760 service or thing of value within the meaning of Subsection (3)(a).

3761 (4) (a) Notwithstanding Subsection (3), things of value may be furnished by industry
3762 members to retailers under the conditions and within the limitations prescribed in:

3763 (i) this Subsection (4); and

3764 (ii) the applicable federal laws cited in this Subsection (4).

3765 (b) (i) The following may be furnished by an industry member:

3766 (A) a product display as provided in 27 C.F.R. Sec. 6.83;

3767 (B) point of sale advertising materials and consumer advertising specialties as provided
3768 in 27 C.F.R. Sec. 6.84;

3769 (C) things of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;

3770 (D) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;

3771 (E) combination packaging as provided in 27 C.F.R. Sec. 6.93;

3772 (F) educational seminars as provided in 27 C.F.R. Sec. 6.94;

3773 (G) consumer promotions as provided in 27 C.F.R. Sec. 6.96;

3774 (H) advertising service as provided in 27 C.F.R. Sec. 6.98;

3775 (I) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;

3776 (J) merchandise as provided in 27 C.F.R. Sec. 6.101; and

3777 (K) outside signs as provided in 27 C.F.R. Sec. 6.102.

3778 (ii) The following exceptions provided in federal law are not adopted:

- 3779 (A) the exception for samples provided in 27 C.F.R. Sec. 6.91;
- 3780 (B) the exception for consumer tasting or sampling at retail establishments provided in
- 3781 27 C.F.R. Sec. 6.95; and
- 3782 (C) the exception for participation in retailer association activities provided in 27
- 3783 C.F.R. Sec. 6.100.
- 3784 (iii) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall keep
- 3785 and maintain a record:
- 3786 (A) of all items furnished to a retailer;
- 3787 (B) on premises of the industry member; and
- 3788 (C) for a three-year period.
- 3789 (c) Samples of liquor, wine, and heavy beer may be provided to the department under
- 3790 the conditions listed in this Subsection (4)(c).
- 3791 (i) With the department's permission, an industry member may submit department
- 3792 samples to the department for product testing, analysis, and sampling.
- 3793 (ii) No more than two department samples of a particular type, vintage, and production
- 3794 lot of a particular branded product may be submitted to the department for department testing,
- 3795 analysis, and sampling within a consecutive 120-day period.
- 3796 (iii) (A) Each sample of liquor may not exceed 1 liter.
- 3797 (B) Each sample of wine and heavy beer may not exceed 1.5 liters unless that exact
- 3798 product is only commercially packaged in a larger size, not to exceed 5 liters.
- 3799 (iv) (A) Department samples submitted to the department:
- 3800 (I) shall be shipped prepaid by the industry member by common carrier; and
- 3801 (II) may not be shipped by United States mail directly to the department's central
- 3802 administrative warehouse office.
- 3803 (B) Department samples may not be shipped to any other location within the state.
- 3804 (v) Department samples submitted to the department shall be accompanied by a letter
- 3805 from the industry member:
- 3806 (A) clearly identifying the product as a "department sample"; and
- 3807 (B) clearly stating the FOB case price of the product.
- 3808 (vi) (A) The department may transfer listed items from current stock for use as
- 3809 comparison control samples or to verify product spoilage as deemed appropriate.

3810 (B) Each sample transferred under Subsection (4)(c)(vi)(A) shall be [~~billed back,~~
3811 ~~debited,~~] charged back to the respective industry [~~members~~] member.

3812 (vii) The department shall:

3813 (A) account for, label, and record all department samples received or transferred;

3814 (B) account for the department sample's disposition; and

3815 (C) maintain a record:

3816 (I) of the samples and their disposition; and

3817 (II) for a two-year period.

3818 (viii) The department shall affix to each bottle or container a label clearly identifying
3819 the product as a "department sample".

3820 (ix) Each department sample delivered to the department or transferred from the
3821 department's current stock shall be disposed of at the discretion of the department in one of the
3822 following ways:

3823 (A) tested and analyzed with the remaining contents destroyed under controlled and
3824 audited conditions established by the department;

3825 (B) entire contents destroyed under controlled and audited conditions established by
3826 the department; or

3827 (C) added to the inventory of the department for sale to the public.

3828 (x) Persons other than authorized department officials may not be in possession of
3829 department samples except as otherwise provided.

3830 (d) Samples of beer may be provided by a beer industry member to a retailer under the
3831 conditions listed in this Subsection (4)(d).

3832 (i) Samples of beer may be provided by an industry member only to a retailer who has
3833 not purchased the brand of beer from that industry member within the last 12 months.

3834 (ii) For each retailer, the industry member may give not more than three gallons of any
3835 brand of beer, except that if a particular product is not available in a size within the quantity
3836 limitation an industry member may furnish the next largest size.

3837 (e) Educational seminars may involve an industry member under the conditions listed
3838 in this Subsection (4)(e).

3839 (i) An industry member may provide or participate in educational seminars:

3840 (A) involving:

- 3841 (I) the department;
- 3842 (II) retailers;
- 3843 (III) holders of educational or scientific special use permits;
- 3844 (IV) other industry members; or
- 3845 (V) employees of the persons listed in Subsections (4)(e)(i)(A)(I) through (IV); and
- 3846 (B) regarding such topics as:
- 3847 (I) merchandising and product knowledge;
- 3848 (II) use of equipment; and
- 3849 (III) tours of alcoholic beverage manufacturing facilities.
- 3850 (ii) An industry member may not pay a department employee's, retailer's, or permittee's
- 3851 expenses or compensate them for attending a seminar or tour described in Subsection (4)(e)(i).
- 3852 (iii) (A) A liquor, wine, and heavy beer industry member may conduct tastings of the
- 3853 industry member's products:
- 3854 (I) for the department, at the department's request; and
- 3855 (II) for licensed industry representatives, but only at the department's central
- 3856 administrative warehouse office.
- 3857 (B) The industry member may only use department or industry representative samples
- 3858 when conducting any tasting of the industry member's products.
- 3859 (iv) A beer industry member may conduct tastings of beer products for a licensed beer
- 3860 retailer either at:
- 3861 (A) the industry member's premises; or
- 3862 (B) a retail establishment.
- 3863 (v) Except to the extent authorized by commission rule, an alcoholic beverage industry
- 3864 member may not conduct tasting or sampling activities with:
- 3865 (A) a retailer; or
- 3866 (B) a member of the general public.
- 3867 (f) A beer industry member may participate in beer retailer association activities to the
- 3868 extent authorized by 27 C.F.R. Sec. 6.100.
- 3869 (g) (i) An industry member may contribute to charitable, civic, religious, fraternal,
- 3870 educational, or community activities.
- 3871 (ii) A contribution described in Subsection (4)(g)(i) may not be given to influence a

3872 retailer in the selection of the alcoholic beverage products that may be sold at these activities
3873 and events.

3874 (iii) An industry member or retailer violates this section if:

3875 (A) the industry member's contribution described in Subsection (4)(g)(i) influences,
3876 directly or indirectly, the retailer in the selection of alcoholic beverage products; and

3877 (B) a competitor's alcoholic beverage products are excluded in whole or in part from
3878 sale at the activity or event.

3879 (h) (i) An industry member may lease or furnish equipment listed in Subsection

3880 (4)(h)(ii) to a retailer if:

3881 (A) the equipment is leased or furnished for a special event;

3882 (B) a reasonable rental or service fee is charged for the equipment; and

3883 (C) the period for which the equipment is leased or furnished does not exceed 30 days.

3884 (ii) This Subsection (4)(h) applies to the following equipment:

3885 (A) a picnic pump;

3886 (B) a cold plate;

3887 (C) a tub;

3888 (D) a keg box;

3889 (E) a refrigerated trailer;

3890 (F) a refrigerated van; or

3891 (G) a refrigerated draft system.

3892 (i) (i) A liquor, wine, and heavy beer industry member may assist the department in:

3893 (A) ordering, shipping, and delivering merchandise;

3894 (B) new product notification;

3895 (C) listing and delisting information;

3896 (D) price quotations;

3897 (E) product sales analysis;

3898 (F) shelf management; and

3899 (G) educational seminars.

3900 (ii) (A) Subject to Subsection (4)(i)(ii)(B), a liquor, wine, and heavy beer industry
3901 member may, for the purpose of acquiring new listings[;];

3902 (I) solicit orders from the department; and

3903 (II) submit to the department samples of their products under Subsection (4)(c) and
3904 price lists.

3905 (B) An industry member may not solicit either in person, by mail, or otherwise, any
3906 state store personnel for the purpose or with the intent of furthering the sale of a particular
3907 brand or brands of alcoholic beverage product as against another brand or brands.

3908 (iii) (A) Any visitations to a state store or package agency by an industry member shall
3909 be confined to the customer areas of the store unless otherwise approved.

3910 (B) Calls on the state warehouse by industry members are to be confined to the office
3911 area only unless otherwise approved.

3912 (iv) A beer industry member may assist licensed retailers in:

3913 (A) ordering, shipping, and delivering beer merchandise;

3914 (B) new product notification;

3915 (C) listing and delisting information;

3916 (D) price quotations;

3917 (E) product sales analysis;

3918 (F) shelf management; and

3919 (G) educational seminars.

3920 (v) A beer industry member may, for the purpose of acquiring new listings:

3921 (A) solicit orders from licensed retailers; and

3922 (B) submit to licensed retailers samples of their beer products under Subsection (4)(c)
3923 and price lists.

3924 (5) It is unlawful for any industry member, directly or indirectly or through an affiliate,
3925 to induce any retailer to purchase any alcoholic beverages from the industry member or from
3926 the department to the exclusion in whole or in part of any of those products sold or offered for
3927 sale by other persons by paying or crediting the retailer for any advertising, display, or
3928 distribution service:

3929 (a) as defined in and to the extent restricted by 27 C.F.R. Sections 6.51 through 6.56;
3930 and

3931 (b) subject to the exceptions:

3932 (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

3933 (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

3934 (6) It is unlawful for any industry member, directly or indirectly or through an affiliate,
3935 to induce any retailer to purchase any alcoholic beverages from the industry member or from
3936 the department to the exclusion in whole or in part of any of those products sold or offered for
3937 sale by other persons by guaranteeing any loan or the repayment of any financial obligation of
3938 the retailer.

3939 (7) (a) It is unlawful for any industry member, directly or indirectly or through an
3940 affiliate, to induce any retailer to purchase any beer from the industry member to the exclusion
3941 in whole or in part of any beer products sold or offered for sale by other persons by extending
3942 to any retailer credit for a period in excess of 15 days from the date of delivery to the date of
3943 full legal discharge of the retailer through the payment of cash or its equivalent, from all
3944 indebtedness arising from the transaction, so long as that beer purchased or delivered during
3945 the first 15 days of any month is paid for in cash or its equivalent on or before the 25th day of
3946 the same month, and beer purchased or delivered after the 15th day of any month is paid for in
3947 cash or its equivalent on or before the 10th day of the next succeeding month.

3948 (b) First party in-state checks are considered cash payment if the checks:

3949 (i) are honored on presentment; and

3950 (ii) received under the terms prescribed in Subsection (7)(a).

3951 (c) An extension of credit for product purchased by an industry member to a retailer
3952 whose account is in arrears does not constitute a violation of Subsection (7)(a) if the retailer
3953 pays in advance or on delivery an amount equal to or greater than the value of each order,
3954 regardless of the manner in which the industry member applies the payment in its records.

3955 (8) (a) It is unlawful for any industry member, directly or indirectly or through an
3956 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member
3957 or from the department to the exclusion in whole or in part of any of those products sold or
3958 offered for sale by other persons by requiring:

3959 (i) the department to take and dispose of a certain quota of any alcoholic products; or

3960 (ii) a beer retailer to take and dispose of a certain quota of any beer products.

3961 (b) (i) It is an unlawful means to induce to require:

3962 (A) the department to purchase one product in order to purchase another; or

3963 (B) a beer retailer to purchase one beer product in order to purchase another.

3964 (ii) This Subsection (8)(b) includes:

3965 (A) the requirement to take a minimum quantity of a product in standard packaging in
3966 order to obtain the same product in some type of premium package such as:

3967 (I) a distinctive decanter; or

3968 (II) a wooden or tin box; or

3969 (B) combination sales if one or more products may be purchased only in combination
3970 with other products and not individually.

3971 (c) This Subsection (8) does not preclude the selling, at a special combination price,
3972 two or more kinds or brands of products so long as the department or beer retailer:

3973 (i) has the option of purchasing either product at the usual price; and

3974 (ii) is not required to purchase any product the department or beer retailer does not
3975 want.

3976 (d) An industry member may package and distribute alcoholic beverages in
3977 combination with other nonalcoholic items or products.

3978 (e) The combination package shall be designed to be delivered intact to the consumer
3979 and the additional cost incurred by the industry member shall be included in the cost to the
3980 department or beer retailer.

3981 Section 36. Section **41-6-44.20** is amended to read:

3982 **41-6-44.20. Drinking alcoholic beverage and open containers in motor vehicle**
3983 **prohibited -- Definitions -- Exceptions.**

3984 (1) A person may not drink any alcoholic beverage while operating a motor vehicle or
3985 while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any
3986 highway.

3987 (2) A person may not keep, carry, possess, transport, or allow another to keep, carry,
3988 possess, or transport in the passenger compartment of a motor vehicle, when the vehicle is on
3989 any highway, any container which contains any alcoholic beverage if the container has been
3990 opened, its seal broken, or the contents of the container partially consumed.

3991 (3) In this section:

3992 (a) "Alcoholic beverage" has the meaning given in Section 32A-1-105.

3993 (b) "Chartered bus" has the meaning given in Section 32A-1-105.

3994 (c) "Limousine" has the meaning given in Section 32A-1-105.

3995 (d) "Passenger compartment" means the area of the vehicle normally occupied by the

3996 operator and passengers and includes areas accessible to them while traveling, such as a utility
 3997 or glove compartment, but does not include a separate front or rear trunk compartment or other
 3998 area of the vehicle not accessible to the operator or passengers while inside the vehicle.

3999 (4) Subsections (1) and (2) do not apply to passengers in the living quarters of a motor
 4000 home or camper.

4001 (5) Subsection (2) does not apply to passengers traveling in any licensed taxicab or bus.

4002 (6) Subsections (1) and (2) do not apply to passengers who have carried their own
 4003 alcoholic beverage onto a limousine or chartered bus that is in compliance with Subsections
 4004 32A-12-213[~~(+)~~] (3)(b) and (c).

4005 (7) Subsections (1) and (2) do not apply to a passenger in a motorboat on the waters of
 4006 this state as these terms are defined in Section 73-18-2.

4007 **Ĥ** [~~Section 37. Section 67-22-2 is amended to read:~~

4008 ~~67-22-2. Compensation -- Other state officers.~~

4009 ~~(1) The governor shall establish salaries for the following state officers within the~~
 4010 ~~following salary ranges fixed by the Legislature:~~

4011	State Officer	Salary Range
4012	Commissioner of Agriculture and Food	\$64,600 - \$87,500
4013	Commissioner of Insurance	\$64,600 - \$87,500
4014	Commissioner of the Labor Commission	\$64,600 - \$87,500
4015	[Director, Alcoholic Beverage Control]	
4016	[Commission]	[\$64,600 - \$87,500]
4017	Commissioner, Department of	
4018	Financial Institutions	\$64,600 - \$87,500
4019	Members, Board of Pardons and Parole	\$64,600 - \$87,500
4020	Executive Director, Department	
4021	of Commerce	\$64,600 - \$87,500
4022	Executive Director, Commission on	
4023	Criminal and Juvenile Justice	\$64,600 - \$87,500
4024	Adjutant General	\$64,600 - \$87,500
4025	Chair, Tax Commission	\$69,900 - \$94,300
4026	Commissioners, Tax Commission	\$69,900 - \$94,300 ĥ

4027	Ĥ Executive Director, Department of	
4028	Community and Economic	
4029	Development	\$69,900 - \$94,300
4030	Executive Director, Tax Commission	\$69,900 - \$94,300
4031	Chair, Public Service Commission	\$69,900 - \$94,300
4032	Commissioner, Public Service Commission	\$69,900 - \$94,300
4033	Executive Director, Department	
4034	of Corrections	\$76,000 - \$102,600
4035	Commissioner, Department of Public Safety	\$76,000 - \$102,600
4036	Executive Director, Department of	
4037	Natural Resources	\$76,000 - \$102,600
4038	Director, Governor's Office of Planning	
4039	and Budget	\$76,000 - \$102,600
4040	Executive Director, Department of	
4041	Administrative Services	\$76,000 - \$102,600
4042	Executive Director, Department of	
4043	Human Resource Management	\$76,000 - \$102,600
4044	Executive Director, Department of	
4045	Environmental Quality	\$76,000 - \$102,600
4046	Director, Department of Alcoholic	
4047	Beverage Control	\$82,800 - \$111,800
4048	State Olympic Officer	\$82,800 - \$111,800
4049	Executive Director, Department of	
4050	Workforce Services	\$82,800 - \$111,800
4051	Executive Director, Department of	
4052	Health	\$82,800 - \$111,800
4053	Executive Director, Department	
4054	of Human Services	\$82,800 - \$111,800
4055	Executive Director, Department	
4056	of Transportation	\$82,800 - \$111,800
4057	Chief Information Officer	\$82,800 - \$111,800 ĥ

4058 ~~Ĥ (2)(a) The Legislature fixes benefits for the state offices outlined in Subsection (1) as~~
4059 ~~follows:~~
4060 ~~—— (i) the option of participating in a state retirement system established by Title 49, Utah~~
4061 ~~State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered~~
4062 ~~by the State Retirement Office in accordance with the Internal Revenue Code and its~~
4063 ~~accompanying rules and regulations;~~
4064 ~~—— (ii) health insurance;~~
4065 ~~—— (iii) dental insurance;~~
4066 ~~—— (iv) basic life insurance;~~
4067 ~~—— (v) unemployment compensation;~~
4068 ~~—— (vi) workers' compensation;~~
4069 ~~—— (vii) required employer contribution to Social Security;~~
4070 ~~—— (viii) long-term disability income insurance;~~
4071 ~~—— (ix) the same additional state-paid life insurance available to other noncareer service~~
4072 ~~employees;~~
4073 ~~—— (x) the same severance pay available to other noncareer service employees;~~
4074 ~~—— (xi) the same sick leave, converted sick leave, educational allowances, and holidays~~
4075 ~~granted to Schedule B state employees, and the same annual leave granted to Schedule B state~~
4076 ~~employees with more than ten years of state service;~~
4077 ~~—— (xii) the option to convert accumulated sick leave to cash or insurance benefits as~~
4078 ~~provided by law or rule upon resignation or retirement according to the same criteria and~~
4079 ~~procedures applied to Schedule B state employees;~~
4080 ~~—— (xiii) the option to purchase additional life insurance at group insurance rates according~~
4081 ~~to the same criteria and procedures applied to Schedule B state employees; and~~
4082 ~~—— (xiv) professional memberships if being a member of the professional organization is a~~
4083 ~~requirement of the position.~~
4084 ~~(b) Each department shall pay the cost of additional state-paid life insurance for its~~
4085 ~~executive director from its existing budget.~~
4086 ~~(3) The Legislature fixes the following additional benefits:~~
4087 ~~—— (a) for the executive director of the State Tax Commission a vehicle for official and~~
4088 ~~personal use; ĥ~~

4089 ~~Ĥ (b) for the executive director of the Department of Transportation a vehicle for official~~
 4090 ~~and personal use;~~

4091 ~~—— (c) for the executive director of the Department of Natural Resources a vehicle for~~
 4092 ~~commute and official use;~~

4093 ~~—— (d) for the Commissioner of Public Safety;~~

4094 ~~—— (i) an accidental death insurance policy if POST certified; and~~

4095 ~~—— (ii) a public safety vehicle for official and personal use;~~

4096 ~~—— (e) for the executive director of the Department of Corrections:~~

4097 ~~—— (i) an accidental death insurance policy if POST certified; and~~

4098 ~~—— (ii) a public safety vehicle for official and personal use;~~

4099 ~~—— (f) for the Adjutant General a vehicle for official and personal use; [and]~~

4100 ~~—— (g) for each member of the Board of Pardons and Parole a vehicle for commute and~~
 4101 ~~official use[.]; and~~

4102 ~~—— (h) for the director of the Department of Alcoholic Beverage Control a vehicle for~~
 4103 ~~official and personal use.~~

4104 ~~—— (4) (a) The governor has the discretion to establish a specific salary for each office~~
 4105 ~~listed in Subsection (1), and, within that discretion, may provide salary increases within the~~
 4106 ~~range fixed by the Legislature.~~

4107 ~~—— (b) The governor shall apply the same overtime regulations applicable to other FLSA~~
 4108 ~~exempt positions.~~

4109 ~~—— (c) The governor may develop standards and criteria for reviewing the performance of~~
 4110 ~~the state officers listed in Subsection (1).~~

4111 ~~—— (5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which are~~
 4112 ~~not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary~~
 4113 ~~Act, shall be established as provided in Section 67-19-15.] ĥ~~

4114 Section ~~Ĥ [38] 37 ĥ~~ . Section ~~76-10-1506~~ is amended to read:

4115 **76-10-1506. Threatening breach of peace -- Disorderly conduct -- Foul language**
 4116 **-- Refusing requests -- Use of controlled substance, liquor, or tobacco -- Ejection of**
 4117 **passenger.**

4118 (1) A person is guilty of a class C misdemeanor, if he:

4119 (a) threatens a breach of the peace, is disorderly, or uses obscene, profane, or vulgar

4120 language on a bus;
4121 (b) is in or upon any bus while unlawfully under the influence of a controlled substance
4122 as defined in Section 58-37-2;
4123 (c) fails to obey a reasonable request or order of a bus driver, bus company
4124 representative, a nondrinking designee other than the driver as provided in Subsection
4125 32A-12-213[~~(1)~~] (3)(c)(ii), or other person in charge or control of a bus or terminal;
4126 (d) ingests any controlled substance, unless prescribed by a physician or medical
4127 facility, in or upon any bus, or drinks intoxicating liquor in or upon any bus, except a chartered
4128 bus as defined and provided in Sections 32A-1-105 and 41-6-44.20; or
4129 (e) smokes tobacco or other products in or upon any bus, except a chartered bus.
4130 (2) If any person violates Subsection (1), the driver of the bus or person in charge
4131 thereof may stop at the place where the offense is committed or at the next regular or
4132 convenient stopping place and remove such person, using only such force as may be necessary
4133 to accomplish the removal, and the driver or person in charge may request the assistance of
4134 passengers to assist in the removal. The driver or person in charge may cause the person so
4135 removed to be detained and delivered to the proper authorities.

Legislative Review Note
as of 2-5-04 6:30 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0058

Alcoholic Beverage Control Amendments

12-Feb-04

11:45 AM

State Impact

The provisions of this bill can be implemented within existing budgets. Among other amendments to the Alcoholic Beverage Control Act, the bill changes the salary range and benefit levels for the director, but funding is subject to a recommendation from the Governor and an appropriation from the Legislature.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst