

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 of 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:
 - defining terms;
 - providing for governmental entities obtaining the license;

- addressing operational restrictions applicable to room service; and
- correcting language related to an attendee serving wine from the bottle;
- ▶ modifies provisions related to private clubs including:
 - providing for revocation of a private club license if the private club does not provide notice of change of ownership or other changes to the commission;
 - addressing membership procedures;
 - providing rulemaking authority to the commission;
 - requiring hosting of minors at a dance or concert hall if it is on the premises of a class D private club;
 - amending provisions related to when a dance or concert hall permit may be suspended or revoked; and
 - modifying language related to hours of service in cases of local elections and hours during which alcoholic beverages may be consumed;
- ▶ modifies provisions related to single event permits including providing for governmental entities obtaining the permit;
- ▶ modifies provisions related to brewery licenses including to whom a brewer may sell beer;
- ▶ modifies provisions related to local industry representatives including:
 - modifying limitations as to whom a license may be granted; and
 - modifying operational restrictions;
- ▶ modifies provisions related to on-premise beer retailer license including:
 - providing for a government entity to obtain the license; and
 - providing for when multiple licenses are required for a building or resort facility;
- ▶ modifies provisions related to on-premise beer retailer licenses including:
 - the manner by which beer can be sold; and
 - the hours during which alcoholic beverages may be consumed;
- ▶ modifies provisions related to temporary special event beer permits including providing for a government entity to obtain the permit;

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

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 32A-1-105**, as last amended by Chapter 314, Laws of Utah 2003
- 32A-1-107**, as last amended by Chapter 314, Laws of Utah 2003
- 32A-1-108**, as last amended by Chapter 175, Laws of Utah 1998
- 32A-3-106**, as last amended by Chapter 314, Laws of Utah 2003
- 32A-4-106**, as last amended by Chapter 314, Laws of Utah 2003
- 32A-4-202**, as last amended by Chapter 314, Laws of Utah 2003
- 32A-4-206**, as last amended by Chapter 314, Laws of Utah 2003
- 32A-4-303**, as enacted by Chapter 314, Laws of Utah 2003
- 32A-4-307**, as enacted by Chapter 314, Laws of Utah 2003
- 32A-4-401**, as enacted by Chapter 314, Laws of Utah 2003
- 32A-4-402**, as enacted by Chapter 314, Laws of Utah 2003

32A-4-406, as enacted by Chapter 314, Laws of Utah 2003
32A-5-102, as last amended by Chapter 314, Laws of Utah 2003
32A-5-107, as last amended by Chapter 314, Laws of Utah 2003
32A-7-101, as last amended by Chapter 314, Laws of Utah 2003
32A-7-102, as last amended by Chapter 314, Laws of Utah 2003
32A-7-106, as last amended by Chapter 314, Laws of Utah 2003
32A-8-401, as last amended by Chapters 77 and 88, Laws of Utah 1994
32A-8-503, as last amended by Chapter 314, Laws of Utah 2003
32A-8-505, as last amended by Chapter 314, Laws of Utah 2003
32A-10-202, as last amended by Chapter 314, Laws of Utah 2003
32A-10-206, as last amended by Chapter 314, Laws of Utah 2003
32A-10-302, as enacted by Chapter 314, Laws of Utah 2003
32A-10-306, as enacted by Chapter 314, Laws of Utah 2003
32A-11-101, as last amended by Chapter 314, Laws of Utah 2003
32A-11-102, as last amended by Chapter 314, Laws of Utah 2003
32A-11-106, as last amended by Chapter 314, Laws of Utah 2003
32A-11a-107, as enacted by Chapter 328, Laws of Utah 1998
32A-12-102, as renumbered and amended by Chapter 23, Laws of Utah 1990
32A-12-201, as last amended by Chapter 314, Laws of Utah 2003
32A-12-213, as last amended by Chapter 314, Laws of Utah 2003
32A-12-222, as enacted by Chapter 314, Laws of Utah 2003
32A-12-501, as last amended by Chapter 314, Laws of Utah 2003
32A-12-601, as last amended by Chapter 314, Laws of Utah 2003
32A-12-603, as last amended by Chapter 314, Laws of Utah 2003
41-6-44.20, as last amended by Chapter 200, Laws of Utah 2002
76-10-1506, as last amended by Chapter 141, Laws of Utah 1998

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

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

32A-1-105. Definitions.

As used in this title:

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

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

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

(i) contain;

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

(B) at least 1/2 of 1% by weight~~;~~; and

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

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

(i) extracts~~;~~;

(ii) vinegars~~;~~;

(iii) ciders~~;~~;

(iv) essences~~;~~;

(v) tinctures~~;~~;

(vi) food preparations~~;~~; or

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

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

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

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

~~[(ii) under which a person listed in Subsection (4)(b) is required to provide alcoholic~~

beverages at the event;]

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

~~[(i) hotel;]~~

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

~~[(iii) sports center; or]~~

~~[(iv) convention center; and]~~

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

~~[(5)]~~ (4) "Bar" means a counter or similar structure:

(a) at which alcoholic beverages are:

(i) stored; or

(ii) dispensed; or

(b) from which alcoholic beverages are served.

~~[(6)]~~ (5) (a) "Beer" means any product that contains:

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

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

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

(c) Beer includes a product that:

(i) contains alcohol in the percentages described in Subsection ~~[(6)]~~ (5)(a); and

(ii) is referred to as:

(A) malt liquor;

(B) malted beverages; or

(C) malt coolers.

~~[(7)]~~ (6) (a) "Beer retailer" means any business establishment that is:

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

(ii) licensed to sell beer by:

- (A) the commission;
- (B) a local authority; or
- (C) both the commission and a local authority.

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

(ii) "On-premise beer retailer" includes a tavern.

~~[(8)]~~ (7) "Billboard" means any public display used to advertise including:

- (a) a light device;
- (b) a painting;
- (c) a drawing;
- (d) a poster;
- (e) a sign;
- (f) a signboard; or
- (g) a scoreboard.

~~[(9)]~~ (8) "Brewer" means any person engaged in manufacturing beer.

~~[(10)]~~ (9) "Cash bar" means the service of alcoholic beverages:

- (a) at:
 - (i) a banquet; or
 - (ii) a temporary event for which a permit is issued under this title; and
- (b) if an attendee at the banquet or ~~[special]~~ temporary event is charged for the alcoholic beverage.

~~[(11)]~~ (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose~~[-];~~:

- (a) under a single contract~~[-, and];~~
- (b) at a fixed charge in accordance with the bus company's tariff~~[-]; and~~
- (c) for the purpose of giving the group of persons the exclusive use of the bus and a driver to travel together to a specified destination or destinations.

~~[(12)]~~ (11) "Church" means a building:

- (a) set apart for the purpose of worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) which is tax exempt under the laws of this state.

~~[(13)]~~ (12) "Club" and "private club" means any of the following organized primarily for the benefit of its members:

- (a) a social club;
- (b) a recreational association;
- (c) a fraternal association;
- (d) an athletic association; or
- (e) a kindred association.

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

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

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

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

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

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

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

- (i) contains more than 4% alcohol by volume; and
 - (ii) is obtained by fermentation, infusion, or decoction of any malted grain.
- (b) "Heavy beer" is considered "liquor" for the purposes of this title.

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

- (a) without charge; and
- (b) at a:
 - (i) banquet; or

(ii) privately hosted event.

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

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

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

- (a) law; or
- (b) court order.

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

- (a) an alcoholic beverage;
- (b) a controlled substance;
- (c) a substance having the property of releasing toxic vapors; or
- (d) a combination of Subsections ~~[(25)]~~ (22)(a) through (c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) a container[;];

(b) a bottle[;];

(c) a vessel[;]; or

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

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

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

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

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

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

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

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

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

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

~~[(43)]~~ (39) "Proof of age" means:

(a) an identification card;

(b) an identification that:

(i) is substantially similar to an identification card;

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

(iii) includes date of birth; and

(iv) has a picture affixed;

(c) a valid driver license certificate that:

(i) includes date of birth;

(ii) has a picture affixed; and

(iii) is issued:

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

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

(d) a military identification card that:

(i) includes date of birth; and

(ii) has a picture affixed; or

(e) a valid passport.

~~[(44)]~~ (40) (a) "Public building" means any building or permanent structure owned or leased by the state, a county, or local government entity that is used for:

(i) public education;

(ii) transacting public business; or

(iii) regularly conducting government activities.

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

~~[(45)]~~ (41) "Representative" means an individual who is compensated by salary, commission, or any other means for representing and selling the alcoholic beverage products of a manufacturer, supplier, or importer of liquor, wine, or heavy beer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(i) a department sample; and~~

~~(ii) an industry representative sample.~~

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

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

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

~~(b) "School" does not include:~~

~~(i) a nursery school;~~

~~(ii) an infant day care center; or~~

~~(iii) a trade or technical school.~~

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

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

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

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

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

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

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

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

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

(ii) operated by state employees.

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

(i) licensee;

(ii) permittee; or

(iii) package agency.

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

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

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

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

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

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

- (i) a beer bar;
- (ii) a parlor;
- (iii) a lounge;
- (iv) a cabaret; or
- (v) a nightclub.

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

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

- (a) is unsaleable because the merchandise is:
 - (i) unlabeled[;];
 - (ii) leaky[;];
 - (iii) damaged[;];
 - (iv) difficult to open[;]; or
 - (v) partly filled;
- (b) is in a container:
 - (i) having faded labels or defective caps or corks;
 - (ii) in which the contents are:
 - (A) cloudy[;];
 - (B) spoiled[;]; or
 - (C) chemically determined to be impure; or
 - (iii) that contains:
 - (A) sediment; or
 - (B) any foreign substance; or
- (c) is otherwise considered by the department as unfit for sale.

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

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

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

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

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

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

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

(1) The commission shall:

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

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

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

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

(ii) controlling liquor merchandise inventory including:

(A) listing and delisting products;

(B) the procedures for testing new products;

(C) purchasing policy;

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

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

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

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

(e) issue, grant, deny, suspend, revoke, or not ~~[review]~~ renew the following permits, licenses, and package agencies for the purchase, sale, storage, service, manufacture, distribution,

and consumption of alcoholic products:

- (i) package agencies;
 - (ii) restaurant licenses;
 - (iii) airport lounge licenses;
 - (iv) limited restaurant licenses;
 - (v) beginning on July 1, 2003 and ending June 30, 2005, on-premise banquet licenses;
 - (vi) private club licenses;
 - (vii) on-premise beer retailer licenses;
 - (viii) temporary special event beer permits;
 - (ix) special use permits;
 - (x) single event permits;
 - (xi) manufacturing licenses;
 - (xii) liquor warehousing licenses; and
 - (xiii) beer wholesaling licenses;
- (f) fix prices at which liquors are sold that are the same at all state stores, package agencies, and outlets;
- (g) issue and distribute price lists showing the price to be paid by purchasers for each class, variety, or brand of liquor kept for sale by the department;
- (h) (i) require the director to follow sound management principles; and
- (ii) require periodic reporting from the director to ensure that ~~[these]~~:
- (A) sound management principles are being followed; and ~~[that]~~
- (B) policies established by the commission are being observed;
- (i) receive, consider, and act in a timely manner upon all reports, recommendations, and matters submitted by the director to the commission, and do all things necessary to support the department in properly performing ~~[its]~~ the department's duties and responsibilities;
- (j) obtain temporarily and for special purposes the services of experts and persons engaged in the practice of a profession or who possess any needed skills, talents, or abilities if:
- (i) considered expedient; and ~~[if]~~

(ii) approved by the governor;

(k) prescribe the duties of departmental officials authorized to issue permits and licenses under this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) taking the oath of office; and

(ii) giving a bond for the faithful performance of the director's duties in an amount determined by the Division of Finance and in form approved by the attorney general.

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

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

(4) The director shall:

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

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

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

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

(b) The director shall receive written notice of:

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

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

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

(i) attend the hearing;

(ii) present witnesses and other evidence; and

(iii) confront and cross examine witnesses.

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

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

32A-3-106. Operational restrictions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) minor;
- (b) person actually, apparently, or obviously intoxicated;
- (c) known habitual drunkard; or
- (d) known interdicted person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) owns the restaurant; or

(B) operates the restaurant;

(vi) the package agency only sells wine produced at the winery; and
(vii) the package agency's days and hours of sale are the same as the days and hours of sale at the restaurant described in Subsection (10)(b)(ii).

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

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

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

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

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

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

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

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

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

(d) The notice required by Subsection (13)(a) shall include:

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

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

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

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

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

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

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

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

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

Section 5. Section **32A-4-106** is amended to read:

32A-4-106. Operational restrictions.

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

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

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

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

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

(a) spirituous liquor need not be dispensed through a calibrated metered dispensing

system if used as a secondary flavoring ingredient in a beverage subject to the following restrictions:

- (i) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary spirituous liquor;
 - (ii) the secondary ingredient is not the only spirituous liquor in the beverage;
 - (iii) the restaurant liquor licensee shall designate a location where flavorings are stored on the floor plan provided to the department; and
 - (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";
- (b) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used:

- (i) as a flavoring on desserts; and
- (ii) in the preparation of flaming food dishes, drinks, and desserts;
- (c) each restaurant patron may have no more than 2.75 ounces of spirituous liquor at a time; and
- (d) each restaurant patron may have no more than one spirituous liquor drink at a time before the patron.

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

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

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

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

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

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

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

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

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

(A) in an open container; and

(B) on draft.

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

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

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

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

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

(i) state liquor license; and

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

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

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

alcoholic beverages.

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

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

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

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

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

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

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

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

(A) regular general election;

(B) regular primary election; or

(C) statewide special election;

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

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

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

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

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

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

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

- (a) minor;
- (b) person actually, apparently, or obviously intoxicated;
- (c) known habitual drunkard; or
- (d) known interdicted person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

consumption; or

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

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

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

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

(i) is used primarily for drinking purposes; and

(ii) contains any alcoholic beverage.

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

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

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

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

(a) consume an alcoholic beverage; or

(b) be intoxicated.

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

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) quarterly expenditures made separately for:

(A) malt or brewed beverages;

(B) set-ups;

(C) liquor;

(D) food; and

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

(ii) sales made separately for:

(A) malt or brewed beverages;

(B) set-ups;

(C) food; and

(D) all other items required by the department.

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

- (i) in a form approved by the department; and
- (ii) current for each three-month period.
- (c) Each expenditure shall be supported by:
 - (i) delivery tickets;
 - (ii) invoices;
 - (iii) receipted bills;
 - (iv) canceled checks;
 - (v) petty cash vouchers; or
 - (vi) other sustaining data or memoranda.

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

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

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

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

- (i) the restaurant liquor licensee notifies the department in writing at least seven days before the closing; and
- (ii) the closure or cessation of operation is first approved by the department.

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

(c) The department may authorize a closure or cessation of operation for a period not to exceed 60 days. The department may extend the initial period an additional 30 days upon written

request of the restaurant licensee and upon a showing of good cause. A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) Any notice shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) a nonrefundable \$250 application fee;
 - (b) an initial license fee of \$7,000, which is refundable if a license is not granted;
 - (c) written consent of the local and airport authority;
 - (d) a copy of the applicant's current business license;
 - (e) a bond as specified by Section 32A-4-205;
 - (f) a floor plan of the airport lounge, including consumption areas and the area where the applicant proposes to keep, store, and sell liquor;
 - (g) a copy of the sign proposed to be used by the licensee on its premises to inform the public that alcoholic beverages are sold and consumed there;
 - (h) evidence that the airport lounge is carrying public liability insurance in an amount and form satisfactory to the department;
 - (i) evidence that the airport lounge is carrying dramshop insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;
 - (j) a signed consent form stating that the airport lounge will permit any authorized representative of the commission, department, or any law enforcement officer unrestricted right to enter the airport lounge;
 - (k) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the airport lounge application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and
 - (l) any other information the commission or department may require.
- (2) (a) All airport lounge liquor licenses expire on October 31 of each year.

(b) ~~[Persons]~~ A person desiring to renew ~~[their]~~ that person's airport lounge liquor license shall submit a renewal fee of \$5,000 and a completed renewal application to the department no later than September 30.

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

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

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

(a) ownership of the licensee;

(b) for a corporate owner, the:

(i) corporate officers or directors; or

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

(c) for a limited liability company:

(i) managers; or

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

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

32A-4-206. Operational restrictions.

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

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

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

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

commission.

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

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

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

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

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

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

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

(i) as a flavoring on desserts; and

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

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

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

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

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

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

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

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

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

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

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

(A) in an open container; and

(B) on draft.

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

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

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

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

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

(i) state liquor license; and

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

(6) Alcoholic beverages may not be stored, served, or sold in any place other than as

designated in the licensee's application, unless the licensee first applies for and receives approval from the department for a change of location within the airport lounge.

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

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

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

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

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

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

- (a) minor;
- (b) person actually, apparently, or obviously intoxicated;
- (c) known habitual drunkard; or
- (d) known interdicted person.

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

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

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

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

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

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

alcoholic beverage is prohibited.

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

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

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

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

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

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

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

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

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

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

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

(a) consume an alcoholic beverage; or

(b) be intoxicated.

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

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(18) Each airport lounge liquor licensee shall display in a prominent place in the airport

lounge:

- (a) the liquor license that is issued by the department;
- (b) a list of the types and brand names of liquor being served through its calibrated metered dispensing system; and
- (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(19) (a) Each airport lounge liquor licensee shall maintain an expense ledger or record showing in detail:

(i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all other items required by the department; and

(ii) sales made separately for malt or brewed beverages, food, and all other items required by the department.

(b) This record shall be kept:

(i) in a form approved by the department; and ~~[shall be kept]~~

(ii) current for each three-month period.

(c) Each expenditure shall be supported by:

(i) delivery tickets[;];

(ii) invoices[;];

(iii) receipted bills[;];

(iv) canceled checks[;];

(v) petty cash vouchers[;]; or

(vi) other sustaining data or memoranda.

~~[(c)]~~ (d) In addition to a ledger or record required by Subsection (19)(a), each airport lounge liquor licensee shall maintain accounting and other records and documents as the department may require.

~~[(d)]~~ (e) Any airport lounge or person acting for the airport lounge, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the airport lounge required to be made, maintained, or preserved

by this title or the rules of the commission for the purpose of deceiving the commission or the department, or any of their officials or employees, is subject to:

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

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

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

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

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

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

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

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

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

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

- (a) a nonrefundable \$250 application fee;
- (b) an initial license fee of \$500, which is refundable if a license is not granted;
- (c) written consent of the local authority;
- (d) a copy of the applicant's current business license;
- (e) evidence of proximity to any public or private school, church, public library, public

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

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

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

(i) consumption areas; and

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

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

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

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

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

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

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

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

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

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

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

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

(b) [~~Persons~~] A person desiring to renew [~~their~~] that person's limited restaurant license shall submit:

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

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

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

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

(4) To ensure compliance with Subsection 32A-4-307[~~(27)~~](28), the commission may suspend or revoke a limited restaurant license if the limited restaurant licensee does not immediately notify the department of any change in:

(a) ownership of the restaurant;

(b) for a corporate owner, the:

(i) corporate officer or directors; or

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

(c) for a limited liability company:

(i) managers; or

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

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

32A-4-307. Operational restrictions.

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

(1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee except from state stores or package agencies.

(b) Wine and heavy beer purchased in accordance with Subsection (1)(a) may be transported by the licensee from the place of purchase to the licensed premises.

(c) Payment for wine and heavy beer shall be made in accordance with rules established by the commission.

(2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of spirituous liquor on the premises of the restaurant.

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

(i) as a flavoring on desserts; and

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

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

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

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

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

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

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

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

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

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

(A) in an open container; and

(B) on draft.

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

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

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

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

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

(i) limited restaurant license; and

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

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

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

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

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

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

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

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

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

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

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

(A) regular general election;

(B) regular primary election; or

(C) statewide special election;

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

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

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

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

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

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

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

(a) minor;

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

(c) known habitual drunkard; or

(d) known interdicted person.

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

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

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

the licensee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) is used primarily for drinking purposes; and
- (ii) contains any alcoholic beverage.

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

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

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

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

- (a) consume an alcoholic beverage; or
- (b) be intoxicated.

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

- (a) a service charge; or
- (b) a chilling fee.

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

- (a) the license that is issued by the department; and
- (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Nothing in Subsection (22)(a) precludes a local authority from being more restrictive

of acts or conduct of the type prohibited in Subsection (22)(a).

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

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

- (i) quarterly expenditures made separately for:
 - (A) wine;
 - (B) heavy beer;
 - (C) beer;
 - (D) food; and
 - (E) all other items required by the department; and
- (ii) sales made separately for:
 - (A) wine;
 - (B) heavy beer;
 - (C) beer;
 - (D) food; and
 - (E) all other items required by the department.
- (b) The record required by Subsection (24)(a) shall be kept:
 - (i) in a form approved by the department; and
 - (ii) current for each three-month period.
- (c) Each expenditure shall be supported by:
 - (i) delivery tickets;
 - (ii) invoices;
 - (iii) receipted bills;
 - (iv) canceled checks;
 - (v) petty cash vouchers; or
 - (vi) other sustaining data or memoranda.

(d) In addition to the ledger or record maintained under Subsections (24)(a) through (c), a limited restaurant licensee shall maintain accounting and other records and documents as the department may require.

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

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

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

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

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

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

(c) (i) Subject to Subsection (25)(c)(iii), the department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period an additional 30 days upon:

(A) written request of the limited restaurant licensee; and

(B) a showing of good cause.

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

(d) Any notice required by Subsection (25)(a) shall include:

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

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

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

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

(i) the license; and

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

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

(i) the license; and

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

(26) Each limited restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include service charges.

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

(28) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any other person whether for monetary gain or not.

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

(29) (a) Each server of wine, heavy beer, and beer in a limited restaurant licensee's establishment shall keep a written beverage tab for each table or group that orders or consumes alcoholic beverages on the premises.

(b) The beverage tab required by Subsection (29)(a) shall list the type and amount of alcoholic beverages ordered or consumed.

(30) A limited restaurant licensee may not make a person's willingness to serve alcoholic beverages a condition of employment as a server with the restaurant.

Section 10. Section **32A-4-401** is amended to read:

32A-4-401. Commission's power to grant licenses -- Limitations.

(1) (a) For purposes of this part:

(i) "Banquet" means an event:

(A) for which there is a contract:

(I) between any person and a person listed in Subsection (1)(a)(i)(B); and

(II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide alcoholic beverages at the event:

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

(I) hotel;

(II) resort facility;

(III) sports center; or

(IV) convention center; and

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

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

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

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

(v) "Room service" means service of alcoholic beverages to a guest room of a:

(A) hotel; or

(B) resort facility.

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

~~[(1)(a)]~~ (b) Beginning May 5, 2003, and ending June 30, 2005, the commission may issue an on-premise banquet license to any of the following persons for the purpose of allowing the storage, sale, service, and consumption of alcoholic beverages in connection with that person's banquet and room service activities:

(i) hotel;

(ii) resort facility;

(iii) sports center; or

(iv) convention center.

~~[(b)]~~ (c) This chapter is not intended to prohibit liquor on the premises of a person listed

in Subsection (1) to the extent otherwise permitted by this title.

(2) (a) Subject to this section, the total number of on-premise banquet licenses may not at any time aggregate more than that number determined by dividing the population of the state by 30,000.

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

- (i) the most recent United States decennial or special census; or
- (ii) any other population determination made by the United States or state governments.

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

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

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

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

- (a) a hosted bar; or
- (b) a cash bar.

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

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

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

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

- (i) with respect to the establishment of an on-premise banquet license within any location,

the commission may authorize a variance to reduce the proximity requirements of Subsection (6)(a) or (b) if:

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

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

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

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

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

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

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

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

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

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

(i) a nursery school;

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

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

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

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

- ~~[(a)]~~ (i) a nonrefundable \$250 application fee;
- ~~[(b)]~~ (ii) an initial license fee of \$500, which is refundable if a license is not granted;
- ~~[(c)]~~ (iii) written consent of the local authority;
- ~~[(d)]~~ (iv) a copy of the applicant's current business license;
- ~~[(e)]~~ (v) evidence of proximity to any public or private school, church, public library, public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of Subsections 32A-4-401~~[(7)]~~(6) and ~~[(8)]~~ (7), the application shall be processed in accordance with those subsections;
- ~~[(f)]~~ (vi) a bond as specified by Section 32A-4-405;
- ~~[(g)]~~ (vii) a description or floor plan and boundary map of the premises, where appropriate, of the on-premise banquet license applicant's location, designating:
 - ~~[(i)]~~ (A) the location at which the on-premise banquet license applicant proposes that alcoholic beverages be stored; and
 - ~~[(ii)]~~ (B) the designated locations on the premises of the applicant from which the on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and consumed;
- ~~[(h)]~~ (viii) evidence that the on-premise banquet license applicant is carrying public liability insurance in an amount and form satisfactory to the department;
- ~~[(i)]~~ (ix) evidence that the on-premise banquet license applicant is carrying dramshop insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;
- ~~[(j)]~~ (x) a signed consent form stating that the on-premise banquet license applicant will

permit any authorized representative of the commission, department, or any law enforcement officer unrestricted right to enter the ~~[restaurant]~~ on-premise banquet premises;

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

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

(b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv), and (vi) if the applicant is:

(i) a state agency; or

(ii) a political subdivision of the state including:

(A) a county; or

(B) a municipality.

(2) Additional locations in or on the premises of an on-premise banquet license applicant's business from which the on-premise banquet license applicant may propose that alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's original application may be approved by the department upon proper application, in accordance with guidelines approved by the commission.

(3) (a) All on-premise banquet licenses expire on October 31 of each year.

(b) (i) ~~[Persons]~~ Except as provided in Subsection (3)(b)(ii), a person desiring to renew ~~[their]~~ that person's on-premise banquet license shall submit a renewal fee of \$500 and a completed renewal application to the department no later than September 30.

(ii) A licensee is not required to submit the renewal fee if the licensee is:

(A) a state agency; or

(B) a political subdivision of the state including:

(I) a county; or

(II) a municipality.

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

the license effective on the date the existing license expires.

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

(4) To ensure compliance with Subsection 32A-4-406(26), the commission may suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to immediately notify the department of any change in:

(a) ownership of the licensee;

(b) for a corporate owner, the:

(i) corporate officers or directors; or

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

(c) for a limited liability company:

(i) managers; or

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

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

32A-4-406. Operational restrictions.

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

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

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

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

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

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

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

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

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

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

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

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

(C) the on-premise banquet licensee shall designate a location where flavorings are stored on the floor plan provided to the department; and

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

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

(A) as a flavoring on desserts; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Beer sold pursuant to Subsection (3)(d)(i) shall be in a size of container that does not exceed two liters, except that beer may not be sold to an individual attendee in a container size that exceeds one liter.

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

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

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

(c) Each attendee may have no more than two alcoholic beverages of any kind at a time

before the attendee.

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

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

- (i) at a banquet; or
- (ii) in connection with room service.

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

- (i) a regular general election;
- (ii) a regular primary election; or
- (iii) a statewide special election.

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

- (a) minor;
- (b) person actually, apparently, or obviously intoxicated;
- (c) known habitual drunkard; or
- (d) known interdicted person.

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

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

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

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

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

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

(f) An on-premise banquet licensee may not engage in a public promotion involving or offering free alcoholic beverages to the general public.

(10) Alcoholic beverages may not be purchased for an attendee by:

(a) the on-premise banquet licensee[;]; or

(b) any employee or agent of the on-premise banquet licensee[, ~~for an attendee~~].

(11) An attendee of a banquet may not bring any alcoholic beverage into or onto, or remove any alcoholic beverage from the premises of a banquet.

(12) (a) Except as otherwise provided in this title, the sale and service of alcoholic beverages by an on-premise banquet licensee at a banquet shall be made only for consumption at the location of the banquet.

(b) The host of a banquet, an attendee, or any other person other than the on-premise banquet licensee or its employees, may not remove any alcoholic beverage from the premises of the banquet.

(13) An on-premise banquet licensee employee shall remain at the banquet at all times when alcoholic beverages are being sold, served, or consumed at the banquet.

(14) (a) An on-premise banquet licensee may not leave any unsold alcoholic beverages at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, the on-premise banquet licensee or its employees, shall:

(i) destroy any opened and unused alcoholic beverages that are not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic beverage that is saleable; and

(B) unopened containers of alcoholic beverages.

(15) Except as provided in Subsection (14), any open or sealed container of alcoholic beverages not sold or consumed at a banquet:

(a) shall be stored by the on-premise banquet licensee in the licensee's approved locked storage area; and

(b) may be used at more than one banquet.

(16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense, or otherwise furnish alcoholic beverages in connection with the licensee's banquet and room service activities.

(17) An employee of an on-premise banquet licensee, while on duty, may not:

- (a) consume an alcoholic beverage; or
- (b) be intoxicated.

(18) An on-premise banquet licensee shall prominently display at each banquet at which alcoholic beverages are sold or served:

- (a) a copy of the licensee's on-premise banquet license; and
- (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(19) The following acts or conduct are considered contrary to the public welfare and morals, and are prohibited at and during the hours of a banquet:

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

(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (19)(a);

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

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

(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Subsection (19);

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

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

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

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

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

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

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

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

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

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

(a) hotel;

(b) resort facility;

(c) sports center; or

(d) convention center.

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

(b) An on-premise banquet licensee or person acting for the on-premise banquet licensee,

who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the on-premise banquet licensee required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission or department, or any of their officials or employees, is subject to:

- (i) the suspension or revocation of the on-premise banquet license; and
- (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

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

- (a) mix for alcoholic beverages; and
- (b) charges in connection with the service of alcoholic beverages.

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

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

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

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

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

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

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

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

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

- (a) a nonrefundable \$250 application fee;
- (b) an initial license fee of \$2,500, which is refundable if a license is not granted;
- (c) written consent of the local authority;
- (d) a copy of the applicant's current business license;
- (e) evidence of proximity to any public or private school, church, public library, public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of Subsections 32A-5-101 (7) and (8), the application shall be processed in accordance with those subsections;
- (f) evidence that the applicant operates a club where a variety of food is prepared and served in connection with dining accommodations;
- (g) a bond as specified by Section 32A-5-106;
- (h) a floor plan of the club premises, including consumption areas and the area where the applicant proposes to keep and store liquor;
- (i) evidence that the club is carrying public liability insurance in an amount and form satisfactory to the department;
- (j) evidence that the club is carrying dramshop insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;
- (k) a copy of the club's bylaws or house rules, and any amendments to those documents, which shall be kept on file with the department at all times;
- (l) a signed consent form stating that the club and its management will permit any authorized representative of the commission, department, or any law enforcement officer unrestricted right to enter the club premises;
- (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B, C, or D private club licensee; and
 - (ii) evidence that the private club meets the requirements for the classification for which [it] the club is applying;
- (n) in the case of a partnership, corporation, or limited liability company applicant, proper verification evidencing that the person or persons signing the private club application are

authorized to so act on behalf of the partnership, corporation, or limited liability company; and

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

(2) (a) The commission may refuse to issue a license if the commission determines that any provisions of the club's bylaws or house rules, or amendments to those documents are not:

(i) reasonable; and

(ii) consistent with:

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

(B) the purposes of this chapter.

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

(i) standards of eligibility for members;

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

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

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

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

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

(b) ~~[Persons]~~ A person desiring to renew ~~[their]~~ that person's private club license shall submit by no later than May 31:

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

(ii) a renewal fee in the following amount:

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

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

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

(4) To ensure compliance with Subsection 32A-5-107(44), the commission may suspend

or revoke any private club license if the private club licensee does not immediately notify the department of any change in:

(a) ownership of the club;

(b) for a corporate owner, the:

(i) corporate officers or directors; or

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

(c) for a limited liability company:

(i) managers; or

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

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

32A-5-107. Operational restrictions.

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

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

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

(b) holds regular meetings to:

(i) review membership applications; and

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

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

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

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

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

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

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

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

(c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an applicant and immediately accord the applicant temporary privileges of a member until the governing body completes its investigation and votes on the application, subject to the following conditions:

(i) the applicant shall:

(A) submit a written application; and

(B) pay the application fee required by Subsection (4);

(ii) the governing body votes on the application at its next meeting which shall take place no later than 31 days following the day on which the application was submitted; and

(iii) the applicant's temporary membership privileges are terminated if the governing body disapproves the application.

(e) The spouse of a member of any class of private club is entitled to all the rights and privileges of the member:

(i) to the extent permitted by the bylaws or house rules of the private club; and

(ii) except to the extent restricted by this title.

(f) The minor child of a member of a class A private club is entitled to all the rights and privileges of the member:

(i) to the extent permitted by the bylaws or house rules of the private club; and

(ii) except to the extent restricted by this title.

(3) (a) Each private club shall maintain a current and complete membership record showing:

(i) the date of application of each proposed member;

- (ii) each member's address;
 - (iii) the date the governing body approved a member's admission;
 - (iv) the date initiation fees and dues were assessed and paid; and
 - (v) the serial number of the membership card issued to each member.
- (b) A current record shall also be kept indicating when members are dropped or resigned.
- (4) (a) Each private club shall establish in the club bylaws or house rules [~~initial~~]

application fees and [~~monthly~~] membership dues[;]:

- (i) as established by commission rules[;]; and
- (ii) which are collected from all members.

(b) An application fee:

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

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

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

- (A) an active member of the club; or
- (B) a holder of a current visitor card;

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

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

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

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

(vi) each guest enjoys only those privileges derived from the guest's host for the duration

of the guest's visit to the club;

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

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

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

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

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

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

(6) Each private club may, in its discretion, issue visitor cards to allow individuals to enter and use the club premises on a temporary basis under the following conditions:

(a) each visitor card shall be issued for a period not to exceed three weeks;

(b) a fee of not less than \$4 shall be assessed for each visitor card issued;

(c) a visitor card shall not be issued to a minor;

(d) a holder of a visitor card may not host more than seven guests at one time;

(e) each visitor card issued shall include:

(i) the visitor's full name and signature;

(ii) the date the card was issued;

(iii) the date the card expires;

(iv) the club's name; and

(v) the serial number of the card; and

(f) (i) the club shall maintain a current record of the issuance of each visitor card on the club premises; and

(ii) the record described in Subsection (6)(f)(i) shall:

(A) be available for inspection by the department; and

(B) include:

- (I) the name of the person to whom the card was issued;
- (II) the date the card was issued;
- (III) the date the card expires; and
- (IV) the serial number of the card.

(7) A private club may not sell alcoholic beverages to or allow any ~~[person]~~ patron to be admitted to or use the club premises other than:

- (a) a member;
- (b) a visitor who holds a valid visitor card issued under Subsection (6); or
- (c) a guest of:
 - (i) a member; or
 - (ii) a holder of a current visitor card.

(8) (a) A minor may not be:

- (i) a member, officer, director, or trustee of a private club;
- (ii) issued a visitor card;
- (iii) admitted into, use, or be on the premises of a class D private club except to the extent authorized under Subsections (8)(b) through (g);

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

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

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

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

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

- (i) during periods when no alcoholic beverages are sold, served, otherwise furnished, or

consumed on the premises, but in no event later than 1 p.m.;

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

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

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

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

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

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

(A) the dance or concert hall is located:

(I) on the premises of a class D private club; or

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

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

(ii) If the dance or concert hall is located on the premises of a class D private club, a minor must be properly hosted in accordance with Subsection (5) by:

(A) a member; or

(B) a holder of a current visitor card.

[~~(i)~~] (iii) The commission may issue a minor dance or concert hall permit if:

(A) the club's lounge, bar, and alcoholic beverage consumption area is:

(I) not accessible to minors;

(II) clearly defined; and

(III) separated from the dance or concert hall area by walls, multiple floor levels, or other substantial physical barriers;

(B) any bar or dispensing area is not visible to minors;

(C) no consumption of alcoholic beverages may occur in:

- (I) the dance or concert hall area; or
- (II) any area of the club accessible to a minor;

(D) the club maintains sufficient security personnel to prevent the passing of beverages from the club's lounge, bar, or alcoholic beverage consumption areas to:

- (I) the dance or concert hall area; or
- (II) any area of the club accessible to a minor;

(E) there are separate entrances, exits, and restroom facilities from the club's lounge, bar, and alcoholic beverage consumption areas than for:

- (I) the dance or concert hall area; or
- (II) any area accessible to a minor; and
- (F) the club complies with any other restrictions imposed by the commission by rule.

(e) A minor under 18 years of age who is accompanied at all times by a parent or legal guardian who is a member or holder of a current visitor card may be admitted into, use, or be on the premises of a concert hall described in Subsection (8)(d)(i) if:

- (i) all requirements of Subsection (8)(d) are met; and
- (ii) all signage, product, and dispensing equipment containing recognition of alcoholic beverages is not visible to the minor.

(f) A minor under 18 years of age but who is 14 years of age or older who is not accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of a concert hall described in Subsection (8)(d)(i) if:

- (i) all requirements of Subsections (8)(d) and (8)(e)(ii) are met; and
- (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the

class D private club.

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

- (i) the club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);
- (ii) the club sells, serves, or otherwise furnishes alcoholic beverages to a minor;

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

(A) the licensed premises; or

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

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

(A) the licensed premises; or

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

(v) there is more than one conviction:

(A) of:

(I) the licensee;

(II) an employee of the licensee;

(III) an entertainer contracted by the licensee; or

(IV) a patron of the private club; and

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

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

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

(vi) the commission finds acts or conduct contrary to the public welfare and morals involving lewd acts or lewd entertainment prohibited by this title that occurred on:

(A) the licensed premises; or

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

(h) Nothing in this Subsection (8) shall prohibit a class D private club from selling,

serving, or otherwise furnishing alcoholic beverages in a dance or concert area located on the club premises on days and times when the club does not allow minors into those areas.

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

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

(a) consume an alcoholic beverage;

(b) be intoxicated; or

(c) act as a host for a guest.

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

(i) malt or brewed beverages[;];

(ii) liquor[;];

(iii) food[;];

(iv) detailed payroll[;];

(v) entertainment[;];

(vi) rent[;];

(vii) utilities[;];

(viii) supplies[;]; and

(ix) all other expenditures.

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

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

(ii) balanced each month.

(c) Each expenditure shall be supported by:

(i) delivery tickets[;];

(ii) invoices[;];

(iii) receipted bills[;];

(iv) canceled checks[;];

(v) petty cash vouchers[;]; or

(vi) other sustaining data or memoranda.

(d) All invoices and receipted bills for the current calendar or fiscal year documenting purchases made by the club shall also be maintained.

(11) (a) Each private club shall maintain a minute book that is posted currently by the club. [~~This record~~]

(b) The minute book required by this Subsection (11) shall contain the minutes of all regular and special meetings of the governing body.

(c) Membership lists shall also be maintained.

(12) (a) Each private club shall maintain current copies of the club's current bylaws and current house rules.

(b) Changes in the bylaws or house rules:

(i) are not effective unless submitted to the department within ten days after adoption[;];
and

(ii) become effective 15 days after received by the department unless rejected by the department before the expiration of the 15-day period.

(13) Each private club shall maintain accounting and other records and documents as the department may require.

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

(a) the suspension or revocation of the club's license; and

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

(15) (a) Each private club shall maintain and keep all the records required by this section and all other books, records, receipts, and disbursements maintained or [~~utilized~~] used by the licensee, as the department requires, for a minimum period of three years.

(b) All records, books, receipts, and disbursements are subject to inspection by authorized

representatives of the commission and the department.

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

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

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

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

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

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

(a) the private club;

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

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

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

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

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

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

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

except that:

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

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

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

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

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

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

(i) as a flavoring on desserts; and

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

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

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

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

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

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

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

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

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

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

(24) (a) (i) ~~[A] Subject to Subsection (24)(a)(ii), a private club licensed to sell liquor may sell beer [in any size container not exceeding two liters, and on draft] for on-premise consumption [without obtaining a separate on-premise beer retailer license from the commission.]:~~

(A) in an open container; and

(B) on draft.

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

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

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

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

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

(A) state liquor license; and

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

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

(26) (a) A patron may only make alcoholic beverage purchases in the private club from

and be served by a person employed, designated, and trained by the licensee to sell, dispense, and serve alcoholic beverages.

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

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

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

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

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

(A) regular general election;

(B) regular primary election; or

(C) statewide special election;

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

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

(B) if required by local ordinance; and

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

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

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

(A) any single drink containing spirituous liquor;

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

- (C) a single serving of heavy beer; or
- (D) a single serving of beer not exceeding [~~25~~] 26 ounces.

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

- (A) after all patrons have vacated the premises; or
- (B) during an emergency.

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

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

- (a) minor;
- (b) person actually, apparently, or obviously intoxicated;
- (c) known habitual drunkard; or
- (d) known interdicted person.

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

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

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

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

(d) The price of a single serving of a primary spirituous liquor shall be the same whether served as a single drink or in conjunction with another alcoholic beverage.

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

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

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

(h) A private club licensee may not engage in a promotion involving or offering free alcoholic beverages to patrons of the club.

(31) Alcoholic beverages may not be purchased for a patron of the private club by:

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

(b) any employee or agent of the licensee~~[-, for a patron of the private club]~~.

(32) (a) A person may not bring onto the premises of a private club licensee any alcoholic beverage for on-premise consumption, except a person may bring, subject to the discretion of the licensee, bottled wine onto the premises of any private club licensee for on-premise consumption.

(b) Except bottled wine under Subsection (32)(a), a private club or its officers, managers, employees, or agents may not allow:

(i) a person to bring onto the private club premises any alcoholic beverage for consumption on the private club premises; or

(ii) consumption of alcoholic beverages described in Subsection (32)(b)(i) on the premises of the private club.

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

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

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

(i) is used primarily for drinking purposes; and

(ii) contains any alcoholic beverage.

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

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

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

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

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

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

- (a) consume an alcoholic beverage; or
- (b) be intoxicated.

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

- (i) the charges are fixed in the house rules of the club; and
- (ii) a copy of the house rules is kept on the club premises and available at all times for examination by patrons of the club.

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

- (i) a set-up charge;
- (ii) a service charge; or
- (iii) a chilling fee.

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

- (a) the private club license that is issued by the department;
- (b) a list of the types and brand names of liquor being served through its calibrated metered dispensing system; and
- (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(38) The following acts or conduct in a private club licensed under this chapter are considered contrary to the public welfare and morals, and are prohibited upon the premises:

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

person is unclothed or in attire, costume, or clothing described in Subsection (38)(a);

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

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

(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Subsection (38);

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

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

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

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

(iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this Subsection (38); or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the license; and

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

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

(i) the license; and

(ii) the unused portion of the club's license fee for the remainder of the license year.

(43) A private club license may not be transferred from one location to another, without

prior written approval of the commission.

(44) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any other person, whether for monetary gain or not.

(b) A private club license has no monetary value for the purpose of any type of disposition.

Section 15. Section **32A-7-101** is amended to read:

32A-7-101. Commission's power to grant permits -- Limitations.

(1) The commission may issue a single event permit to any of the following that is conducting a convention, civic, or community enterprise, a bona fide:

(a) partnership[;];

(b) corporation[;];

(c) limited liability company[;];

(d) church[;];

(e) political organization[~~;~~or];

(f) incorporated association[~~;~~or to a];

(g) recognized subordinate lodge, chapter, or other local unit [thereof that is conducting a convention, civic, or community enterprise.] of an entity described in Subsections (1)(a) through (f);

(h) state agency; or

(i) political subdivision of the state including:

(i) a county; or

(ii) a municipality.

(2) The single event permit may authorize:

(a) for a period not to exceed 120 consecutive hours, the storage, sale, service, and consumption of liquor at an event at which the storage, sale, service, or consumption of liquor is otherwise prohibited by this title; and

(b) the storage, sale, service, and consumption of beer at the same event for the period

that the storage, sale, service, or consumption of liquor is authorized under Subsection (2)(a) for the permit.

(3) The commission may not issue more than four single event permits in any one calendar year to the same:

(a) partnership[;];

(b) corporation[;];

(c) limited liability company[;];

(d) church[;];

(e) political organization[~~;~~];

(f) incorporated association [~~or~~];

(g) recognized subordinate lodge, chapter, or other local unit [~~thereof.~~] of an entity described in Subsections (3)(a) through (f);

(h) state agency; or

(i) political subdivision of the state including:

(i) a county; or

(ii) a municipality.

(4) (a) The 600 foot and 200 foot proximity limitations to educational, religious, and recreational facilities that are applicable to state stores, package agencies, and licensees, do not apply to single event permits.

(b) Nothing in this section, however, prevents the commission from considering the proximity of any educational, religious, or recreational facility, or any other relevant factor in deciding whether to grant a single event permit.

Section 16. Section **32A-7-102** is amended to read:

32A-7-102. Application requirements.

(1) A qualified applicant for a single event permit shall file a written application with the department in a form as the department shall prescribe.

(2) The application shall be accompanied by:

(a) a single event permit fee of \$100, which is refundable if a permit is not granted and

shall be returned to the applicant with the application;

- (b) written consent of the local authority;
- (c) a bond as specified by Section 32A-7-105;
- (d) the times, dates, location, estimated attendance, nature, and purpose of the event;
- (e) a description or floor plan designating:
 - (i) the area in which the applicant proposes that alcoholic beverages be stored;
 - (ii) the site from which the applicant proposes that alcoholic beverages be sold or served;

and

(iii) the area in which the applicant proposes that alcoholic beverages be allowed to be consumed;

(f) a statement of the purpose of the:

(i) partnership[;];

(ii) corporation[;];

(iii) limited liability company[;];

(iv) church[;];

(v) political organization[, or];

(vi) incorporated association[;]; or

(vii) recognized subordinate lodge, chapter, or other local unit of an entity described in

Subsections (2)(f)(i) through (vi);

(g) a signed consent form stating that authorized representatives of the commission, department, or any law enforcement officers will have unrestricted right to enter the premises during the event;

(h) proper verification evidencing that the person signing the application is authorized to act on behalf of the:

(i) partnership[;];

(ii) corporation[;];

(iii) limited liability company[;];

(iv) church[;];

- (v) political organization[~~,-or~~];
- (vi) incorporated association[~~,-or~~];
- (vii) recognized subordinate lodge, chapter, or local unit [~~thereof~~] of an entity described in Subsections (2)(h)(i) through (vi); [~~and~~]
- (viii) state agency; or
- (ix) political subdivision of the state including:
 - (A) a county; or
 - (B) a municipality; and
 - (i) any other information as the commission or department may direct.
- (3) The applicant need not meet the requirements of Subsections (2)(a), (b), (c), and (f) if the applicant is:

- (a) a state agency; or
- (b) a political subdivision of the state including:
 - (i) a county; or
 - (ii) a municipality.

Section 17. Section **32A-7-106** is amended to read:

32A-7-106. Operational restrictions.

(1) (a) Any organization granted a single event permit and any person involved in the storage, sale, or service of alcoholic beverages at the event for which the permit is issued, shall abide by:

- (i) this title;
- (ii) the rules of the commission; and
- (iii) the special conditions and requirements provided in this section.
- (b) Failure to comply with Subsection (1)(a):
 - (i) may result in:
 - (A) an immediate revocation of the permit;
 - (B) forfeiture of the surety bond; and
 - (C) immediate seizure of all alcoholic beverages present at the event; and

(ii) disqualifies the organization from applying for a single event permit under this chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special Event Beer Permits, for a period of three years from the date of revocation of the permit.

(c) Any alcoholic beverages seized under this Subsection (1) shall be returned to the organization after the event if forfeiture proceedings are not instituted under Section 32A-13-103.

(2) Special conditions and requirements for single event permittees include the following:

(a) (i) All persons involved in the storage, sale, or service of alcoholic beverages at the event do so under the supervision and direction of the permittee.

(ii) All persons involved in the sale or service of alcoholic beverages at the event may not, while on duty:

(A) consume an alcoholic beverage; or

(B) be intoxicated.

(b) (i) All liquor stored, sold, served, and consumed at the event shall be purchased by the permittee from a state store or package agency.

(ii) All beer purchased by the permittee shall be purchased from:

(A) a licensed beer wholesaler; or

(B) a licensed beer retailer.

(iii) All alcoholic beverages are considered under the control of the permittee during the event.

(iv) Attendees of the event may not bring any alcoholic beverages onto the premises of the event.

(c) A permittee may not charge more than the maximum amount set forth in the permit for any alcoholic beverage.

(d) Each permittee shall post in a prominent place in the area in which alcoholic beverages are being sold, served, and consumed, a copy of the permit, together with a list of the operational restrictions and requirements of single event permittees set forth in this section.

(e) Alcoholic beverages purchased for the event may not be stored, sold, served, or consumed in any location other than that described in the application and designated on the permit

unless the permittee first applies for and receives approval from the commission for a change of location.

(f) (i) A single event permittee may sell or provide a primary spirituous liquor only in a quantity not to exceed one ounce per beverage except that additional spirituous liquor may be used in a beverage if:

- (A) used as a secondary flavoring ingredient;
- (B) used in conjunction with the primary spirituous liquor;
- (C) the secondary ingredient is not the only spirituous liquor in the beverage; and
- (D) each attendee may have no more than 2.75 ounces of spirituous liquor at a time

before the attendee.

(ii) Spirituous liquor need not be dispensed through a calibrated metered dispensing system.

(g) (i) (A) Wine may be sold and served by the glass or an individual portion that does not exceed five ounces per glass or individual portion.

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

(C) An individual portion of wine is considered to be one alcoholic beverage under Subsection (2)(p).

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

(iii) A wine service may be performed and a service charge assessed by the single event permittee as authorized by commission rule for wine purchased at the event.

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

(ii) A service charge may be assessed by the single event permittee as authorized by commission rule for heavy beer purchased at the event.

(i) (i) [~~Beer~~] Subject to Subsection (2)(i)(ii), beer may be sold for on-premise consumption:

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

(B) on draft.

(ii) Beer sold pursuant to Subsection (2)(i)(i) shall be in a size of container that does not exceed two liters, except that beer may not be sold to an individual attendee in a size of container that exceeds one liter.

(j) (i) Alcoholic beverages may not be sold, served, or consumed between the hours of 1 a.m. and 10 a.m.

(ii) This Subsection (2)(j) does not preclude a local authority from being more restrictive with respect to the hours of sale, service, or consumption of alcoholic beverages at a temporary single event.

(k) Alcoholic beverages may not be sold, served, or otherwise furnished until after the polls are closed on the day of any:

- (i) regular general election;
- (ii) regular primary election; or
- (iii) statewide special election.

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

- (i) minor;
- (ii) person actually, apparently, or obviously intoxicated;
- (iii) known habitual drunkard; or
- (iv) known interdicted person.

(m) (i) (A) Liquor may be sold only at prices fixed by the commission.

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

(ii) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage to the permittee.

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

(iv) An alcoholic beverage may not be sold at a special or reduced price for only certain hours of the day of the permitted event.

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

(vi) The permittee may not engage in a public promotion involving or offering free alcoholic beverages to the general public.

(n) A single event permittee and its employees may not permit an attendee to carry from the premises an open container that:

(i) is used primarily for drinking purposes; and

(ii) contains any alcoholic beverage.

(o) A minor may not sell, serve, dispense, or handle any alcoholic beverage at the event.

(p) Each attendee may have no more than one alcoholic beverage of any kind at a time before the patron.

(3) The following acts or conduct at an event for which a permit is issued under this chapter are considered contrary to the public welfare and morals, and are prohibited upon the premises:

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

(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);

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

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

(e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Subsection (3);

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

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

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

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

(iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this Subsection (3); or

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

(4) Nothing in Subsection (3) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (3).

(5) (a) Although live entertainment is permitted at the event for which a permit has been issued under this chapter, a permittee may not allow any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.

(b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (5)(a).

(6) The permittee shall maintain an expense and revenue ledger or record showing:

(a) expenditures made for liquor and beer, set-ups, and other ingredients and components of alcoholic beverages; and

(b) the revenue from sale of alcoholic beverages.

(7) A single event permit may not be transferred.

(8) A single event permittee may not engage in or allow any form of gambling, or have any video gaming device as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the premises serviced by the single event permittee.

Section 18. Section **32A-8-401** is amended to read:

32A-8-401. Authority and operational restrictions.

- (1) A brewery license allows the licensee to:
- (a) manufacture, brew, store, transport, or export beer and heavy beer;
 - (b) sell heavy beer to the department, to military installations, and to out-of-state customers;
 - (c) sell beer to licensed wholesalers;
 - (d) in the case of a small brewer, sell in accordance with Subsection (5) beer manufactured by the brewer to ~~[licensed retailers in accordance with Subsection (5); and]~~:
 - (i) a licensed retailer;
 - (ii) a holder of a single event permit issued by the commission pursuant to Chapter 7, Single Event Permits; and
 - (iii) a holder of a temporary retail beer permit issued by the commission for a temporary special event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits; and
 - (e) warehouse on its premises alcoholic beverages which it manufactures or purchases for manufacturing purposes.
- (2) If considered necessary, the commission or department may:
- (a) require certain alterations to the plant, equipment, or premises;
 - (b) require the alteration or removal of any unsuitable alcoholic beverage-making equipment or material;
 - (c) require the licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of any plant, premises, and equipment; or
 - (d) demand that all books, records, or data pertaining to the materials and ingredients used in the manufacture of alcoholic products are available to the commission or department upon request.
- (3) A brewery licensee may not sell heavy beer to any person within the state except the department and military installations.
- (4) A brewery licensee may not permit any beer to be consumed on its premises, except under the ~~[following]~~ circumstances[:] described in this Subsection (4).

S.B. 58

Enrolled Copy

(a) A brewer may allow its off-duty employees to consume beer on its premises without charge.

(b) A brewery licensee may allow any person who can lawfully buy beer or malted beverages for wholesale or retail distribution to consume bona fide samples of its product on the brewery premises.

(c) (i) A brewery licensee may operate on its manufacturing premises a retail facility allowing consumption on premises of beer in bottles or draft as long as food is also available.

(ii) Any retail facility located on the premises of a brewery licensee shall be operated or supervised by the brewer.

(iii) In operating an on-site retail facility, a brewery licensee shall comply with the requirements of Sections 32A-10-101 and 32A-10-102.

(5) (a) Every small brewer licensee located in this state, and every small brewer located outside this state that obtains a certificate of approval from the department to sell beer in this state under Subsection 32A-8-101(4), that sells beer manufactured by the small brewer directly to a retailer licensee or permittee shall own, lease, or maintain and control a warehouse facility located in this state for the storage of all beer to be sold to any retailer licensee or permittee.

(b) A small brewer may not sell beer to a retailer licensee or permittee unless the beer:

(i) was manufactured by the small brewer; and

(ii) has first been placed in the small brewer's warehouse facility in this state.

(c) (i) Each small brewer warehouse shall maintain complete beer importation, inventory, tax, distribution, sales records, and other documents as the department and State Tax Commission may require. [~~These~~]

(ii) The records and documents described in Subsection (5)(c)(i) are subject to inspection by:

(A) the department; and [by]

(B) the State Tax Commission.

(iii) Any small brewer or person acting for the small brewer, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the records or documents required to be

made, maintained, or preserved by this title or the rules of the commission, or State Tax Commission for the purpose of deceiving the commission, department, State Tax Commission, or any of their officials or employees, is subject to:

- (A) the immediate suspension or revocation of:
 - (I) the brewery license; or
 - (II) the certificate of approval; and
- (B) possible criminal prosecution under Chapter 12, Criminal Offenses.

Section 19. Section **32A-8-503** is amended to read:

32A-8-503. Qualifications.

(1) (a) The commission may not grant a local industry representative license to any person who has been convicted of:

- (i) a felony under any federal or state law;
- (ii) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, importing, warehousing, adulteration, or transportation of alcoholic beverages;
- (iii) any crime involving moral turpitude; or
- (iv) on two or more occasions within the five years before the day on which the license is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

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

- (i) a partner;
- (ii) a managing agent;
- (iii) a manager;
- (iv) an officer;
- (v) a director;
- (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the

applicant corporation; or

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

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

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

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

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

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

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

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

(3) The director may take emergency action by immediately suspending the operation of the local industry representative license according to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):

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

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

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

(4) (a) (i) The commission may not grant a local industry representative license to any

individual who has had any type of license, agency, or permit issued under this title revoked within the last three years.

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

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

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

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

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

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

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

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

(c) A person acting in an individual capacity may not be granted an industry representative license if that person was:

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

S.B. 58

Enrolled Copy

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

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

(5) (a) The commission may not grant a local industry representative license to a minor.

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

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

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

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

(6) ~~[The]~~ Except as otherwise provided, the commission may not grant a local industry representative license to:

(a) any holder of any retail license issued under this title~~[, to]~~ that sells spirituous liquor, wine, or heavy beer;

(b) any employee or agent of any retail license issued under this title~~;~~ that sells spirituous liquor, wine, or heavy beer; or ~~[to]~~

(c) any individual, partnership, corporation, or limited liability company who holds any interest in any retail license issued under this title ~~[except as otherwise provided]~~ that sells spirituous liquor, wine, or heavy beer.

(7) If any individual, partnership, corporation, or limited liability company to whom a local industry representative license has been issued under this part no longer possesses the qualifications required by this title for obtaining that license, the commission may suspend or revoke that license.

Section 20. Section **32A-8-505** is amended to read:

32A-8-505. Operational restrictions.

(1) (a) A local industry representative licensee, employee or agent of the licensee, or employee or agent of a manufacturer, supplier, or importer who is conducting business in the state, shall abide by the conditions and requirements set forth in this section.

(b) If any person listed in Subsection (1)(a) knowingly violates or fails to comply with the conditions and requirements set forth in this section[;];

(i) such violation or failure to comply may result in:

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

(B) other disciplinary action taken against individual employees or agents of the licensee[;]; and

(ii) the commission may order the removal of the manufacturer's, supplier's, or importer's products from the department's sales list and a suspension of the department's purchase of those products for a period determined by the commission if the manufacturer, supplier, or importer:

(A) directly committed the violation[;]; or

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

(2) A local industry representative licensee, employee or agent of the licensee, or employee or agent of a manufacturer, supplier, or importer who is conducting business in the state:

(a) only to the extent authorized by Chapter 12, Criminal Offenses, may:

(i) assist the department in:

(A) ordering, shipping, and delivering merchandise[;];

(B) providing new product notification[;];

(C) obtaining listing and delisting information[;];

(D) receiving price quotations[;];

(E) providing product sales analysis[;];

(F) conducting shelf management[;]; and

(G) conducting educational seminars[;]; and [~~may~~]

(ii) for the purpose of acquiring new listings[;];

(A) solicit orders from the department; and

(B) submit to the department price lists and samples of [their] the products~~[, but only to the extent authorized by Chapter 12, Criminal Offenses]~~ of the manufacturer, supplier, or importer;

(b) may not sell any liquor, wine, or heavy beer within the state except to the department and military installations;

(c) may not ship or transport, or cause to be shipped or transported, into this state or from one place to another within this state any liquor, wine, or heavy beer;

(d) may not sell or furnish any liquor, wine, or heavy beer to any person within this state other than to the department and military installations;

(e) except as otherwise provided, may not advertise products it represents in violation of this title or any other federal or state law;

(f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and

(g) may only provide samples of [their] products of the manufacturer, supplier, or importer for tasting and sampling purposes as provided in Section 32A-12-603 by the department.

(3) (a) A local industry representative licensee shall maintain on file with the department a current accounts list of the names and addresses of all manufacturers, suppliers, and importers the licensee represents.

(b) The licensee shall notify the department in writing of any changes to the accounts listed within 14 days from the date the licensee either acquired or lost the account of a particular manufacturer, supplier, or importer.

(4) A local industry representative licensee shall maintain accounting and other records and documents as the department may require for at least three years.

(5) Any local industry representative licensee or person acting for the licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the licensee required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission or the department, or any of their officials or employees, is subject to:

- (a) the immediate suspension or revocation of the industry representative's license; and
- (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

(6) A local industry representative licensee may, for the purpose of becoming educated as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee represents, taste and analyze industry representative samples under the ~~following~~ conditions~~:~~ listed in this Subsection (6).

(a) The licensee may not receive more than two industry representative samples of a particular type, vintage, and production lot of a particular branded product within a consecutive 120-day period.

(b) (i) Each sample of liquor may not exceed 1 liter.

(ii) Each sample of wine or heavy beer may not exceed 1.5 liters unless that exact product is only commercially packaged in a larger size, not to exceed 5 liters.

(c) Each industry representative sample may only be of a product not presently listed on the department's sales list.

(d) (i) Industry representative samples shall be shipped:

(A) prepaid by the manufacturer, supplier, or importer;

(B) by common carrier and not via United States mail; and

(C) directly to the department's central administrative warehouse office.

(ii) These samples may not be shipped to any other location within the state.

(e) Industry representative samples shall be accompanied by a letter from the manufacturer, supplier, or importer:

(i) clearly identifying the product as an "industry representative sample"; and

(ii) clearly stating:

(A) the FOB case price of the product; and

(B) the name of the local industry representative for who it is intended.

(f) The department shall assess a reasonable handling, labeling, and storage fee for each industry representative sample received.

(g) The department shall affix to each bottle or container a label clearly identifying the

product as an "industry representative sample".

(h) The department shall:

(i) account for and record each industry representative sample received;

(ii) account for the sample's disposition; and

(iii) maintain a record of the sample and its disposition for a two-year period.

(i) Industry representative samples may not leave the premises of the department's central administrative warehouse office.

(j) Licensed industry representatives and their employees and agents may, at regularly scheduled days and times established by the department, taste and analyze industry representative samples on the premises of the department's central administrative warehouse office.

(k) Any unused contents of an opened product remaining after the product has been sampled shall be destroyed by the department under controlled and audited conditions established by the department.

(l) Industry representative samples that are not tasted within 30 days of receipt by the department shall be disposed of at the discretion of the department in one of the following ways:

(i) contents destroyed under controlled and audited conditions established by the department; or

(ii) added to the inventory of the department for sale to the public.

(7) An employee or agent of a local industry representative licensee may not be:

(a) the holder of any retail license issued under this title that sells spirituous liquor, wine, or heavy beer; or

(b) an employee or agent of any retail licensee issued under this title that sells spirituous liquor, wine, or heavy beer.

(8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any other person, whether for monetary gain or not.

(b) A local industry representative license has no monetary value for the purpose of any type of disposition.

Section 21. Section **32A-10-202** is amended to read:

32A-10-202. Application and renewal requirements.

(1) A person seeking an on-premise beer retailer license under this chapter shall file a written application with the department, in a form prescribed by the department. The application shall be accompanied by:

- (a) a nonrefundable \$250 application fee;
- (b) an initial license fee that is refundable if a license is not granted in the following amount:
 - (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial license fee is \$150; or
 - (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is \$1,250;
- (c) written consent of the local authority or a license to sell beer at retail for on-premise consumption granted by the local authority under Section 32A-10-101;
- (d) a copy of the applicant's current business license;
- (e) evidence of proximity to any public or private school, church, public library, public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of Subsections 32A-10-201(3) and (4), the application shall be processed in accordance with those subsections;
- (f) a bond as specified by Section 32A-10-205;
- (g) a floor plan of the premises, including consumption areas and the area where the applicant proposes to keep, store, and sell beer;
- (h) evidence that the on-premise beer retailer licensee is carrying public liability insurance in an amount and form satisfactory to the department;
- (i) for those licensees that sell more than \$5,000 of beer annually, evidence that the on-premise beer retailer licensee is carrying dramshop insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;
- (j) a signed consent form stating that the on-premise beer retailer licensee will permit any

S.B. 58

Enrolled Copy

authorized representative of the commission, department, or any peace officer unrestricted right to enter the licensee premises;

(k) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the on-premise beer retailer licensee application are authorized to so act on the behalf of the partnership, corporation, or limited liability company; and

(l) any other information the department may require.

(2) (a) All on-premise beer retailer licenses expire on the last day of February of each year.

(b) (i) ~~Persons~~ Except as provided in Subsection (2)(b)(ii), a person desiring to renew ~~their~~ the person's on-premise beer retailer license shall submit by no later than January 31:

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

~~(ii)~~ (B) a renewal fee in the following amount:

~~(A)~~ (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee is \$200; or

~~(B)~~ (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is \$1,000.

(ii) A licensee is not required to submit a renewal fee if the licensee is:

(A) a state agency; or

(B) a political subdivision of the state including:

(I) a county; or

(II) a municipality.

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

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

(3) To ensure compliance with Subsection 32A-10-206(18), the commission may suspend or revoke a beer retailer license if any beer retailer licensee does not immediately notify the department of any change in:

(a) ownership of the beer retailer;
(b) for a corporate owner, the:
(i) corporate officers or directors; and
(ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(c) for a limited liability company:

(i) managers; or

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

(4) ~~[If the applicant is a county, municipality, or other political subdivision, it]~~ An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and (f)[:] if the applicant is:

(a) a state agency; or

(b) a political subdivision of the state including:

(i) a county; or

(ii) a municipality.

(5) (a) [Only] Except as provided in Subsection (5)(c), only one state on-premise beer retailer license is required for each building or resort facility owned or leased by the same applicant. [Separate]

(b) Except as provided in Subsection (5)(c), separate licenses are not required for each retail beer dispensing outlet located in the same building or on the same resort premises owned or operated by the same applicant.

(c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets in the building or resort facility operate in the same manner.

(ii) If the condition described in Subsection (5)(c)(i) is not met:

(A) one state on-premise beer retailer tavern license is required for all outlets in the same building or on the same resort premises that operate as a tavern; and

(B) one state on-premise beer retailer license is required for all outlets in the same building or on the same resort premises that do not operate as a tavern.

Section 22. Section **32A-10-206** is amended to read:

32A-10-206. Operational restrictions.

Each person granted an on-premise beer retailer license and the employees and management personnel of the on-premise beer retailer licensee shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the license or other disciplinary action taken against individual employees or management personnel.

(1) (a) ~~[On-premise]~~ Subject to Subsection (1)(b), a beer retailer [licensees] licensee may sell beer for on-premise consumption:

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

(ii) on draft.

(b) Beer sold pursuant to Subsection (1)(a) shall be in a size of container that does not exceed two liters, except that beer may not be sold to an individual patron in a size of container that exceeds one liter.

(2) Liquor may not be stored or sold on the premises of any on-premise beer retailer licensee.

(3) A patron of the on-premise beer retailer may only make purchases from and be served by a person employed, designated, and trained by the licensee to sell and serve beer.

(4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at any on-premise beer retailer establishment after 1 a.m. and before 10 a.m.

(b) Beer may not be sold, served, or otherwise furnished to any:

(i) minor;

(ii) person actually, apparently, or obviously intoxicated;

(iii) known habitual drunkard; or

(iv) known interdicted person.

(c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall remain open for one hour after the tavern ceases the sale and service of alcoholic beverages during which time a patron of the tavern may finish consuming a single serving of beer not exceeding ~~[25]~~ 26 ounces.

(ii) A tavern is not required to remain open:

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

(B) during an emergency.

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

(5) (a) Beer may not be sold at less than the cost of the beer to the licensee.

(b) Beer may not be sold at a special or reduced price that encourages over consumption or intoxication.

(c) Beer may not be sold at a special or reduced price for only certain hours of the beer retailer's business day such as a "happy hour."

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

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

(f) An on-premise beer licensee may not engage in a public promotion involving or offering free alcoholic beverages to the general public.

(6) Beer sold in sealed containers by the on-premise beer retailer licensee may be removed from the on-premise beer retailer premises.

(7) (a) A person may not bring onto the premises of an on-premise beer retailer licensee any alcoholic beverage for on-premise consumption.

(b) An on-premise beer retailer licensee or its officers, managers, employees, or agents may not:

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

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

(8) An on-premise beer retailer licensee and its employees may not permit a patron to carry from the premises an open container that:

(a) is used primarily for drinking purposes; and

(b) contains any alcoholic beverage.

(9) (a) Except as provided in Subsection (9)(b), a minor may not be:

(i) employed by or be on the premises of an on-premise beer retailer licensee to sell, dispense, or otherwise furnish beer; or

(ii) on the premises of any tavern.

(b) Notwithstanding Subsection (9)(a), a minor may be employed to enter the sale at a cash register or other sales recording device on the premises of an on-premise beer retailer that is not a tavern.

(10) An employee of a licensee, while on duty, may not:

(a) consume an alcoholic beverage; or

(b) be intoxicated.

(11) Each on-premise beer retailer licensee shall display in a prominent place in the on-premise beer retailer licensee:

(a) the on-premise beer retailer license that is issued by the department; and

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

(12) The following acts or conduct in an on-premise beer retailer outlet licensed under this part are considered contrary to the public welfare and morals, and are prohibited upon the premises:

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

(b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing as described in Subsection (12)(a);

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

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

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

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

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

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

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

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

(iii) scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described in this section; or

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

(13) Nothing in Subsection (12) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (12).

(14) (a) Although live entertainment is permitted on the premises of an on-premise beer retailer licensee, a licensee may not permit any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.

(b) Nothing in Subsection (14)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (14)(a).

(15) An on-premise beer retailer licensee may not engage in or permit any form of gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling, on the premises of the on-premise beer retailer licensee.

(16) (a) Each on-premise beer retailer licensee shall maintain accounting and other

records and documents as the department may require.

(b) Any on-premise beer retailer licensee or person acting for the on-premise beer retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the on-premise beer retailer licensee required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission or the department, or any of their officials or employees, is subject to:

- (i) the immediate suspension or revocation of the on-premise beer retailer license; and
- (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

(17) An on-premise beer retailer license may not be transferred from one location to another, without prior written approval of the commission.

(18) (a) An on-premise beer retailer licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any person, whether for monetary gain or not.

(b) An on-premise beer retailer license has no monetary value for the purpose of any type of disposition.

Section 23. Section **32A-10-302** is amended to read:

32A-10-302. Application requirements.

(1) (a) A person seeking a temporary special event beer permit shall file a written application with the department in a form prescribed by the department.

(b) The application required by this section shall be accompanied by:

- (i) a permit fee of \$75, which:
 - (A) is refundable if a permit is not granted; and
 - (B) shall be returned to the applicant with the application if the permit is not granted;
- (ii) (A) written consent of the local authority; or
- (B) a temporary permit granted by the local authority under Section 32A-10-101;
- (iii) a bond as specified by Section 32A-10-305;
- (iv) the times, dates, location, estimated attendance, nature, and purpose of the temporary

special event;

(v) a description or floor plan designating:

(A) the area in which the applicant proposes that beer be stored;

(B) the site from which the applicant proposes that beer be sold or served; and

(C) the area in which the applicant proposes that beer be allowed to be consumed;

(vi) a statement of the purpose of the temporary special event;

(vii) a signed consent form stating that authorized representatives of the commission, department, or any law enforcement officers will have unrestricted right to enter the premises during the temporary special event;

(viii) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and

(ix) any other information the commission or department may require.

(2) ~~[If the applicant is a county, municipality, or other political subdivision, it]~~ An applicant need not meet the requirements of Subsection (1)(b)(i), (ii), or (iii)[-] if the applicant is:

(a) a state agency; or

(b) a political subdivision of the state including:

(i) a county; or

(ii) a municipality.

Section 24. Section **32A-10-306** is amended to read:

32A-10-306. Operational restrictions.

(1) (a) Any person granted a temporary special event beer permit and any person involved in the storage, sale, or service of beer at the event for which a temporary special event the permit is issued, shall abide by this title, the rules of the commission, and the special conditions and requirements provided in this section.

(b) Failure to comply as provided in Subsection (1)(a):

(i) may result in:

(A) an immediate revocation of the permit;

(B) forfeiture of the surety bond; and
(C) immediate seizure of all beer present at the event; and
(ii) disqualifies the organization from applying for a temporary special event beer permit under this part or a single event permit under Chapter 7, Single Event Permits, for a period of three years from the date of revocation of the temporary special event permit.

(c) Any beer seized under this Subsection (1) shall be returned to the organization after the event if forfeiture proceedings are not instituted under Section 32A-13-103.

(2) Special conditions and requirements for temporary special event beer permittees include the following:

(a) (i) All persons involved in the storage, sale, or service of beer at the temporary special event do so under the supervision and direction of the permittee.

(ii) All persons involved in the sale or service of beer at the temporary special event may not, while on duty:

(A) consume an alcoholic beverage; or

(B) be intoxicated.

(b) (i) All beer stored, sold, served, and consumed at the temporary special event shall be purchased by the permittee from a licensed beer wholesaler or retailer.

(ii) All beer is considered under the control of the permittee during the temporary special event.

(iii) An attendee of the temporary special event may not bring any alcoholic beverages onto the premises of the temporary special event.

(c) Each permittee shall post in a prominent place in the area in which beer is being sold, served, and consumed:

(i) a copy of the permit; and

(ii) a list of the operational restrictions and requirements of temporary special event beer permittees set forth in this section.

(d) Beer purchased for a temporary special event may not be stored, sold, served, or consumed in any location other than that described in the application and designated on the

temporary special event permit unless the permittee first applies for and receives approval from the commission for a change of location.

(e) (i) ~~[Beer]~~ Subject to Subsection (2)(e)(ii), beer may be sold for on-premise consumption:

(A) in ~~[any size]~~ an open container ~~[not exceeding two liters]~~; and

(B) on draft.

(ii) Beer sold pursuant to Subsection (2)(e)(i) shall be in a size of container that does not exceed two liters, except that beer may not be sold to an individual attendee in a size of container that exceeds one liter.

(f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed between the hours of 1 a.m. and 10 a.m.

(ii) This Subsection (2)(f) does not preclude a local authority from being more restrictive with respect to the hours of sale, service, or consumption of beer at a temporary special event.

(g) Beer may not be sold, served, or otherwise furnished to any:

(i) minor;

(ii) person actually, apparently, or obviously intoxicated;

(iii) known habitual drunkard; or

(iv) known interdicted person.

(h) (i) Beer may not be sold at less than the cost of the beer to the permittee.

(ii) Beer may not be sold at a price that encourages over consumption or intoxication.

(iii) Beer may not be sold at a special or reduced price for only certain hours of the day of the permitted event.

(iv) The sale or service of more than one beer beverage for the price of a single beer beverage is prohibited.

(v) The permittee may not engage in a public promotion involving or offering free beer to the general public.

(i) The permittee and its employees may not permit an attendee to carry from the premises an open container that:

- (i) is used for drinking purposes; and
- (ii) contains any alcoholic beverage.
- (j) A minor may not sell, serve, dispense, or handle any beer at a temporary special event.
- (3) The following acts or conduct at an event for which a permit is issued under this part are considered contrary to the public welfare and morals, and are prohibited upon the premises:
 - (a) employing or using any person in the sale or service of alcoholic beverages while the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals;
 - (b) employing or using the services of any person to mingle with the patrons while the person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);
 - (c) encouraging or permitting any person to touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person;
 - (d) permitting any employee or person to wear or use any device or covering, exposed to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;
 - (e) permitting any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Subsection (3);
 - (f) permitting any person to remain in or upon the premises who exposes to public view any portion of his or her genitals or anus; or
 - (g) showing films, still pictures, electronic reproductions, or other visual reproductions depicting:
 - (i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts prohibited by Utah law;
 - (ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitals;
 - (iii) scenes wherein artificial devices or inanimate objects are used to depict, or drawings are used to portray, any of the prohibited activities described in this Subsection (3); or
 - (iv) scenes wherein a person displays the vulva, anus, or the genitals.

(4) Nothing in Subsection (3) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (3).

(5) (a) Although live entertainment is permitted at the event for which a permit has been issued under this chapter, a permittee may not allow any person to perform or simulate sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a stage or at a designated area approved by the commission.

(b) Nothing in Subsection (5)(a) precludes a local authority from being more restrictive of acts or conduct of the type prohibited in Subsection (5)(a).

(6) The permittee shall maintain an expense and revenue ledger or record showing:

- (a) expenditures made for beer; and
- (b) the revenue from sale of beer.

(7) A temporary special event beer permit may not be transferred.

(8) A temporary special event beer permittee may not engage in or allow any form of gambling, or have any video gaming device as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling, on the premises serviced by the permittee.

Section 25. Section **32A-11-101** is amended to read:

32A-11-101. Commission's power to issue licenses.

(1) (a) The commission may issue beer wholesaling licenses for the import, purchase, storage, sale, and distribution of beer.

(b) The license entitles the licensee to:

- (i) purchase and import beer into the state;
- (ii) store beer in approved warehouses; and
- (iii) sell and distribute beer directly to:

(A) a licensed beer [retailers; and] retailer;

(B) a holder of a single event permit issued by the commission pursuant to Chapter 7.

Single Event Permits; and

~~[(B) holders]~~ (C) a holder of a temporary retail beer ~~[permits]~~ permit issued by the commission for a temporary special ~~[events]~~ event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits.

(2) (a) A person may not import, purchase, store, sell, or distribute beer to retailers or act in any way as a beer wholesaler unless the person has been issued a beer wholesaler's license by the commission.

(b) Nothing in this section precludes a small brewer from selling beer it has manufactured directly to a licensed beer retailer.

(c) Violation of this subsection is a class A misdemeanor.

(3) The commission may prescribe by policy, directive, or rule, consistent with this title, the general operational requirements of wholesaling licensees relating to physical facilities, conditions of purchase, storage, sale, importation, distribution, or transportation of beer within the state.

Section 26. Section **32A-11-102** is amended to read:

32A-11-102. Application and renewal requirements.

(1) A person seeking a beer wholesaling license under this chapter shall file a written application with the department, in a form prescribed by the department. The application shall be accompanied by:

- (a) a nonrefundable \$250 application fee;
- (b) an initial license fee of \$2,000, which is refundable if a license is not granted;
- (c) written consent of the local authority;
- (d) a copy of the applicant's current business license;
- (e) a bond as specified in Section 32A-11-105;
- (f) evidence that the applicant is carrying public liability insurance in an amount and form satisfactory to the department;
- (g) a signed consent form stating that the licensee will permit any authorized representative of the commission, department, or any peace officer unrestricted right to enter the licensed premises;

(h) a statement of the brands of beer the applicant is authorized to sell and distribute;

(i) a statement of all geographical areas in which the applicant is authorized to sell and distribute beer;

(j) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the beer wholesaling license application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and

(k) any other documents and evidence as the department may direct.

(2) (a) (i) All beer wholesaling licenses expire on December 31 of each year.

(ii) ~~[Persons]~~ A person desiring to renew ~~[their]~~ that person's beer wholesaling license shall submit by no later than November 30 of the year the license expires:

(A) a completed renewal application to the department; and

(B) a renewal fee in the following amount:

Case Sales in Previous License Year for the Licensee	Renewal Fee
under 500,000 cases	\$1,000
equals or exceeds 500,000 cases but less than 1,000,000 cases	\$2,000
equals or exceeds 1,000,000 cases	\$3,000.

(iii) Failure to meet the renewal requirements results in an automatic forfeiture of the license effective on the date the existing license expires.

(iv) Renewal applications shall be in a form prescribed by the department.

(b) The annual renewal fee prescribed in this Subsection (2) is independent of any like license fee which may be assessed by the local authority of the city or county in which the wholesaler's warehouse is located. Any local fees may not exceed \$300. Payment of local fees shall be made directly to the local authority assessing ~~[them]~~ the local fees.

(3) To ensure compliance with Subsection 32A-11-106~~[(1)(g)]~~ (7), the commission may suspend or revoke a beer wholesaling license if a beer wholesaling licensee does not immediately notify the department of any change in:

(a) ownership of the licensee;

- (b) for a corporate owner, the:
 - (i) corporate officers or directors; or
 - (ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or
- (c) for a limited liability company:
 - (i) managers; or
 - (ii) members owning at least 20% of the limited liability company.

Section 27. Section **32A-11-106** is amended to read:

32A-11-106. Operational restrictions.

Each person granted a beer wholesaling license, and the employees and management personnel of the licensee, shall comply with the following conditions and requirements. Failure to comply may result in a suspension or revocation of the beer wholesaling license or other disciplinary action taken against individual employees or management personnel of the licensee.

(1) A licensee may not wholesale any beer manufactured within the state by a brewer who is not licensed by the commission as a manufacturing licensee.

(2) A licensee may not wholesale any beer manufactured out of state by a brewer who has not obtained a certificate of approval from the department.

(3) (a) A licensee may not sell or distribute beer to any person within the state except:

(i) a licensed beer [~~retailers or holders~~] retailer;

(ii) a holder of a single event permit issued by the commission pursuant to Chapter 7,

Single Event Permits; or

(iii) a holder of a temporary retail beer [~~permits~~] permit issued by the commission for a temporary special [~~events~~] event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits.

(b) A violation of this Subsection (3) is a class A misdemeanor.

(4) (a) A licensee may not sell or distribute any beer to any retailer outside of the geographic area designated on its application, except that if a licensee is temporarily unable to supply retail dealers within its authorized geographical area, the department may grant temporary

authority to another licensed wholesaler who distributes the same brand in another area to supply retailers.

(b) A violation of this Subsection (4) is a class B misdemeanor.

(5) (a) Every licensee shall own, lease, or otherwise control and maintain a warehouse facility located in this state for the receipt, storage, and further distribution of all beer sold by the licensee to any person within the state.

(b) A licensee may not sell beer to any person in this state, other than the department, unless the beer has first been:

(i) physically removed from the vehicle used to transport the beer from the supplier to the licensee; and

(ii) delivered into the actual possession and control of the licensee in its warehouse or other facility.

(6) (a) Each beer wholesaling licensee shall maintain accounting and other records and documents as the department may require.

(b) Any licensee or person acting for the licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of account or other documents of the licensee required to be made, maintained, or preserved by this title or the rules of the commission for the purpose of deceiving the commission or the department, or any of their officials or employees, is subject to:

(i) the immediate suspension or revocation of the beer wholesaling license; and

(ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

(7) A licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the beer wholesaling license to any person, whether for monetary gain or not, unless it is done:

(a) in accordance with the commission rules; and

(b) after written consent has been given by the commission.

(8) A licensee may not sell or distribute any alcoholic beverage that is not clearly labeled in a manner reasonably calculated to put the public on notice that the beverage is an alcoholic

beverage. The beverage shall bear the label "alcoholic beverage" or a manufacturer's label which in common usage apprises the general public that the beverage contains alcohol.

Section 28. Section **32A-11a-107** is amended to read:

32A-11a-107. Sale or transfer of business assets or ownership.

(1) Without the prior written approval of a sale or transfer by the supplier:

(a) a wholesaler may not sell or transfer its business, or any portion of its business, including the distributorship agreement to a successor in interest; and

(b) the owner of an interest in a wholesaler may not sell or transfer all or part of the owner's interest in the wholesaler to a successor in interest.

(2) A supplier may not unreasonably withhold or delay its approval of a sale or transfer, including the wholesaler's rights and obligations under the terms of the distributorship agreement, if the person to be substituted meets reasonable standards that are imposed:

(a) by the supplier pursuant to the distributorship agreement; and

(b) on other wholesalers of that supplier of the same general class, taking into account the size and location of the sales territory and market to be served.

(3) Notwithstanding Subsection (1), a wholesaler may not assign or transfer its license in violation of Subsection 32A-11-106~~(f)(g)~~(7).

Section 29. Section **32A-12-102** is amended to read:

32A-12-102. Special burdens of proof -- Inferences and presumptions.

(1) In any prosecution of an offense defined in this title or in any proceeding brought to enforce this title:

(a) it is not necessary that the state or commission establish the precise description or quantity of the alcoholic beverages or products or the precise consideration, if any, given or received for the alcoholic beverages or products;

(b) there is an inference, absent proof to the contrary, that the alcoholic beverage or product in question is ~~[intoxicating]~~ an alcoholic beverage or product if the witness describes it ~~[as intoxicating or]~~:

(i) as an alcoholic beverage or product;

(ii) by a name that is commonly applied to an [~~intoxicating~~] alcoholic beverage or product; or

(iii) as intoxicating;

(c) if it is alleged that an association or corporation has violated this title, the fact of the incorporation of the association or corporation is presumed absent proof to the contrary;

(d) a certificate or report signed or purporting to be signed by any state chemist, assistant state chemist, or state crime laboratory chemist, as to the analysis or ingredients of any alcoholic beverage or product is:

(i) prima facie evidence;

(A) of the facts stated in that certificate or report; and

(B) of the authority of the person giving or making the report[;]; and [~~is~~]

(ii) admissible in evidence without any proof of appointment or signature absent proof to the contrary; and

(e) a copy of entries made in the records of the United States internal revenue collector, certified by the collector or a qualified notary public, showing the payment of the United States internal revenue special tax for the manufacture or sale of alcoholic beverages or products is prima facie evidence of the manufacture or sale by the party named in the entry within the period set forth in the record.

(2) (a) In proving the unlawful sale, disposal, gift, or purchase, gratuitous or otherwise, or consumption of alcoholic beverages or products, it is not necessary that the state or commission establish that any money or other consideration actually passed or that an alcoholic beverage or product was actually consumed if the court or trier of fact is satisfied that:

(i) a transaction in the nature of a sale, disposal, gift, or purchase actually occurred; or
[~~that~~]

(ii) any consumption of alcoholic beverages or products was about to occur.

(b) Proof of consumption or intended consumption of an alcoholic beverage or product on premises on which consumption is prohibited, by some person not authorized to consume alcoholic beverages or products on those premises, is evidence that an alcoholic beverage or

product was sold or given to or purchased by the person consuming, about to consume, or carrying away the alcoholic beverage or product as against the occupant of the premises.

Section 30. Section **32A-12-201** is amended to read:

32A-12-201. Unlawful sale or furnishing.

(1) It is unlawful for any person in the business of selling liquor, or any manufacturer, supplier, or importer of liquor, or their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold, shipped, or transported any liquor from an out-of-state location directly or indirectly into this state except to the extent authorized by this title to:

- (a) the department;
- (b) a military installation;
- (c) a holder of a special use permit to the extent authorized by the commission in the permit; or
- (d) a bonded liquor warehouse licensed by the commission to distribute and transport liquor to:
 - (i) the department; or
 - (ii) an out-of-state wholesaler or retailer.

(2) (a) It is unlawful for any person in the business of selling beer, or any manufacturer, supplier, or importer of beer, or their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold, shipped, or transported any beer from an out-of-state location directly or indirectly into this state except to the extent authorized by this title to:

- (i) a licensed beer wholesaler;
- (ii) a military installation; or
- (iii) a holder of a special use permit to the extent authorized by the commission in the permit.

(b) Subsection (2)(a) does not preclude a small brewer that holds a certificate of approval under Subsection 32A-8-101(4) from selling, shipping, or transporting beer directly to a licensed beer retailer to the extent authorized by Subsection 32A-8-401(5).

(3) (a) It is unlawful for any manufacturer, supplier, or importer of liquor in this state, or

their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold, shipped, or transported any liquor directly or indirectly to any person in this state except to the extent authorized by this title to:

- (i) the department;
- (ii) a military installation;
- (iii) a holder of a special use permit to the extent authorized by the commission in the

permit; or

(iv) a bonded liquor warehouse licensed by the commission to distribute and transport liquor to:

- (A) the department; or
- (B) an out-of-state wholesaler or retailer.

(b) Subsection (3)(a) does not preclude a winery licensed under this title and located in this state from selling wine to persons on its winery premises:

- (i) to the extent authorized by Subsection 32A-8-201(4)(c); or
- (ii) under a package agency established by the commission on the winery premises.

(4) (a) It is unlawful for any manufacturer, supplier, or importer of beer in this state, or their officers, managers, employees, or agents to sell, ship, transport, or cause to be sold, shipped, or transported any beer directly or indirectly to any person in this state except to the extent authorized by this title to:

- (i) a licensed beer wholesaler;
- (ii) a military installation; or
- (iii) a holder of a special use permit to the extent authorized by the commission in the

permit.

(b) Subsection (4)(a) does not preclude:

(i) a small brewer licensed under this title and located in this state from selling, shipping, and transporting beer directly to a licensed beer retailer in this state to the extent authorized by Subsection 32A-8-401(5); or

- (ii) a [~~brewery~~] brewer licensed under this title from selling beer to persons on its

manufacturing premises under Subsection 32A-8-401(4)(c).

(5) It is unlawful for any person other than a person described in Subsection (1) or (2) to sell, ship, transport, or cause to be sold, shipped, or transported any alcoholic beverage or product from an out-of-state location directly or indirectly into this state, except as otherwise provided by this title.

(6) It is unlawful for any person in this state other than a person described in Subsection (3) or (4) to sell, ship, transport, or cause to be sold, shipped, or transported any alcoholic beverage or product directly or indirectly to any other person in this state, except as otherwise provided by this title.

(7) It is unlawful for any retail licensee or permittee in this state, or their officers, managers, employees, or agents to keep for sale, or to directly or indirectly, sell, offer to sell, or otherwise furnish to another, any alcoholic beverage or product, except as otherwise provided by this title.

(8) (a) A violation of Subsection (1), (2), (3), or (4) is a third degree felony.

(b) A violation of Subsection (5) or (6) is a class B misdemeanor.

(c) A violation of Subsection (7) is a class B misdemeanor, except where otherwise provided by this title.

Section 31. Section **32A-12-213** is amended to read:

32A-12-213. Unlawful bringing onto premises for consumption.

(1) Except as provided in Subsection (3), a person may not bring for on-premise consumption any alcoholic beverage onto the premises of any:

(a) licensed or unlicensed restaurant;

(b) licensed or unlicensed private club;

(c) airport lounge licensee;

(d) on-premise banquet licensee;

(e) on-premise beer retailer licensee;

(f) event where alcoholic beverages are sold or served under a single event permit or temporary special event beer permit issued under this title; or

(g) any establishment open to the general public.

(2) Except as provided in Subsection (3), a licensed or unlicensed restaurant or private club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer licensee, or holder of a single event permit or temporary special event beer permit issued under this title, or its officers, managers, employees, or agents may not allow a person to bring onto its premises any alcoholic beverage for on-premise consumption or allow consumption of any such alcoholic beverage in violation of this section.

(3) (a) A person may bring bottled wine onto the premises of any restaurant liquor licensee, limited restaurant licensee, or private club licensee and consume the wine pursuant to the applicable restrictions contained in Subsection 32A-4-106(14), 32A-4-307[(13)](14), or 32A-5-107(32);

(b) a passenger of a limousine may bring onto, have, and consume any alcoholic beverage on the limousine if:

(i) the travel of the limousine begins and ends at:

(A) the residence of the passenger;

(B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(C) the temporary domicile of the passenger; and

(ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department;

(c) a passenger of a chartered bus may bring onto, have, and consume any alcoholic beverage on the chartered bus:

(i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or

(B) if the travel of the chartered bus begins and ends at:

(I) the residence of the passenger;

(II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(III) the temporary domicile of the passenger; and

(ii) the chartered bus has a nondrinking designee other than the driver traveling on the

chartered bus to monitor consumption; and

(d) a person may bring onto any premises, have, and consume any alcoholic beverage at a privately hosted event that is not open to the general public.

(4) Except as provided in Subsection (3)(c)(i)(A), the consumption of alcoholic beverages in limousines and chartered buses is not allowed if the limousine or chartered bus drops off passengers at locations from which they depart in private vehicles.

Section 32. Section **32A-12-222** is amended to read:

32A-12-222. Unlawful dispensing.

(1) For purposes of this section:

(a) "primary spirituous liquor" means the main distilled spirit in a beverage; and

(b) "primary spirituous liquor" does not include any secondary alcoholic product used as flavorings in conjunction with the primary distilled spirit in the beverage.

(2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous liquor for consumption on the licensed premises, or any officer, manager, employee, or agent of the licensee may not:

(a) sell, serve, dispense, or otherwise furnish any primary spirituous liquor to any person on the licensed premises except in a quantity that does not exceed one ounce per beverage dispensed through a calibrated metered dispensing system approved by the department;

(b) sell, serve, dispense, or otherwise furnish more than a total of [~~1.75~~] 2.75 ounces of spirituous [~~liquors as secondary flavoring ingredients~~] liquor per beverage;

(c) allow any person on the licensed premises to have more than two alcoholic beverages containing spirituous liquor at a time; or

(d) allow any person on the licensed premises to have more than a total of 2.75 ounces of spirituous liquor at a time.

(3) Any of the following or an officer, manager, employee, or agent of the following may not allow any person on the premises of the following to have more than one spirituous liquor beverage at a time:

(a) a restaurant liquor licensee;

- (b) limited restaurant licensee;
 - (c) an on-premise banquet licensee; or
 - (d) a single event permittee.
- (4) A violation of this section is a class C misdemeanor.

Section 33. Section **32A-12-501** is amended to read:

32A-12-501. Disposition of liquor items shipped to the department.

(1) ~~[A] Any~~ Any liquor ~~[items]~~ item received by the department from ~~[suppliers]~~ a supplier as a sample or as an item not specifically listed on a department purchase order shall be handled in accordance with and subject to Subsection 32A-12-603(4)(c)(ix) ~~[, except for:]~~.

~~[(a) a sample; or]~~

~~[(b) an item not specifically listed on a department purchase order.]~~

(2) Funds of the department may not be used to pay freight or charges on ~~[samples]~~ a sample or any liquor ~~[items]~~ item:

- (a) shipped to the department by suppliers; and
- (b) not listed on ~~[its]~~ a department purchase [orders] order.

Section 34. Section **32A-12-601** is amended to read:

32A-12-601. Definitions.

As used in this part:

(1) (a) For purposes of Section 32A-12-602, "exclusion" is as defined in 27 C.F.R.

Sections 8.51 through 8.54.

(b) For purposes of Section 32A-12-603, "exclusion" is as defined in 27 C.F.R. Sections ~~[8.151 through 8.153]~~ 6.151 through 6.153.

- (2) (a) "Industry member" means:
- (i) an alcoholic beverage manufacturer[;];
 - (ii) a producer[;];
 - (iii) a supplier[;];
 - (iv) an importer[;];
 - (v) a wholesaler[;];

(vi) a bottler~~[-or]~~;

(vii) a warehouser and bottler~~[-]~~; or

(viii) for a person described in Subsections (2)(a)(i) through (vii), any of its:

(A) affiliates~~[-]~~;

(B) subsidiaries~~[-]~~;

(C) officers~~[-]~~;

(D) directors~~[-]~~;

(E) partners~~[-]~~;

(F) agents~~[-]~~;

(G) employees~~[-]~~; or

(H) representatives.

(b) "Industry member" does not include:

(i) the commission ~~[or]~~;

(ii) the department; or

(iii) any of ~~[its]~~ the commission's or department's officers or employees.

(3) "Retailer" means:

(a) the holder of an alcoholic beverage license or permit issued by the commission or by local authority to allow the holder to engage in the sale of alcoholic beverages to consumers whether for consumption on or off the premises; or

(b) any of the holder's, agents, officers, directors, shareholders, partners, or employees.

Section 35. Section **32A-12-603** is amended to read:

32A-12-603. Tied house -- Prohibitions.

(1) (a) It is unlawful for any industry member, directly or indirectly or through an affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or from the department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons by acquiring or holding any interest in any license with respect to the premises of a retailer, except where the license is held by a retailer that is completely owned by the industry member.

(b) Interest in any retail license includes any interest acquired by a corporate official, partner, employee, or other representative of the industry member.

(c) Any interest in a retail license acquired by a separate corporation in which the industry member or the industry member's officials hold ownership or are otherwise affiliated is an interest in a retail license.

(d) Less than complete ownership of a retail business by an industry member constitutes an interest in a retail license within the meaning of Subsection (1)(a).

(2) (a) It is unlawful for any industry member, directly or indirectly or through an affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or from the department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons by acquiring any interest in real or personal property owned, occupied, or used by the retailer in the conduct of the retailer's business.

(b) For purposes of Subsection (2)(a):

(i) "interest" does not include complete ownership of a retail business by an industry member;

(ii) interest in retail property includes any interest acquired by a corporate official, partner, employee, or other representative of the industry member;

(iii) any interest in a retail license acquired by a separate corporation in which the industry member or its officials hold ownership or are otherwise affiliated is an interest in the retailer's property;

(iv) less than complete ownership of a retail business by an industry member constitutes an interest in retail property;

(v) the acquisition of a mortgage on a retailer's real or personal property by an industry member constitutes an interest in the retailer's property; and

(vi) the renting of display space by an industry member at a retail establishment constitutes an interest in the retailer's property.

(3) (a) It is unlawful for any industry member, directly or indirectly or through an affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or from the

department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons by furnishing, giving, renting, lending, or selling to the retailer any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to the exceptions enumerated in Subsection (4).

(b) (i) For purposes of this Subsection (3), indirect inducement includes:

(A) furnishing things of value to a third party where the benefits resulting from the things of value flow to individual retailers; and

(B) making payments for advertising to a retailer association or a display company where the resulting benefits flow to individual retailers.

(ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

(A) the thing of value was furnished to a retailer by the third party without the knowledge or intent of the industry member; or

(B) the industry member did not reasonably foresee that the thing of value would have been furnished to a retailer.

(iii) Anything that may lawfully be furnished, given, rented, lent, or sold by industry members to retailers under Subsection (4) may be furnished directly by a third party to a retailer.

(c) (i) A transaction in which equipment is sold to a retailer by an industry member, except as provided in Subsection (4), is the selling of equipment within the meaning of Subsection (3)(a) regardless of how the equipment is sold.

(ii) The negotiation by an industry member of a special price to a retailer for equipment from an equipment company is the furnishing of a thing of value within the meaning of Subsection (3)(a).

(d) The furnishing of free warehousing by delaying delivery of alcoholic beverages beyond the time that payment for the product is received, or if a retailer is purchasing on credit, delaying final delivery of products beyond the close of the period of time for which credit is lawfully extended, is the furnishing of a service or thing of value within the meaning of Subsection (3)(a).

(e) Any financial, legal, administrative, or influential assistance given a retailer by an industry member in the retailer's acquisition of the retailer's license is the furnishing of a service or

thing of value within the meaning of Subsection (3)(a).

(4) (a) Notwithstanding Subsection (3), things of value may be furnished by industry members to retailers under the conditions and within the limitations prescribed in:

- (i) this Subsection (4); and
- (ii) the applicable federal laws cited in this Subsection (4).
- (b) (i) The following may be furnished by an industry member:
 - (A) a product display as provided in 27 C.F.R. Sec. 6.83;
 - (B) point of sale advertising materials and consumer advertising specialties as provided in 27 C.F.R. Sec. 6.84;
 - (C) things of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;
 - (D) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;
 - (E) combination packaging as provided in 27 C.F.R. Sec. 6.93;
 - (F) educational seminars as provided in 27 C.F.R. Sec. 6.94;
 - (G) consumer promotions as provided in 27 C.F.R. Sec. 6.96;
 - (H) advertising service as provided in 27 C.F.R. Sec. 6.98;
 - (I) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;
 - (J) merchandise as provided in 27 C.F.R. Sec. 6.101; and
 - (K) outside signs as provided in 27 C.F.R. Sec. 6.102.
- (ii) The following exceptions provided in federal law are not adopted:
 - (A) the exception for samples provided in 27 C.F.R. Sec. 6.91;
 - (B) the exception for consumer tasting or sampling at retail establishments provided in 27 C.F.R. Sec. 6.95; and
 - (C) the exception for participation in retailer association activities provided in 27 C.F.R. Sec. 6.100.
- (iii) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall keep and maintain a record:
 - (A) of all items furnished to a retailer;
 - (B) on premises of the industry member; and

(C) for a three-year period.

(c) Samples of liquor, wine, and heavy beer may be provided to the department under the conditions listed in this Subsection (4)(c).

(i) With the department's permission, an industry member may submit department samples to the department for product testing, analysis, and sampling.

(ii) No more than two department samples of a particular type, vintage, and production lot of a particular branded product may be submitted to the department for department testing, analysis, and sampling within a consecutive 120-day period.

(iii) (A) Each sample of liquor may not exceed 1 liter.

(B) Each sample of wine and heavy beer may not exceed 1.5 liters unless that exact product is only commercially packaged in a larger size, not to exceed 5 liters.

(iv) (A) Department samples submitted to the department:

(I) shall be shipped prepaid by the industry member by common carrier; and

(II) may not be shipped by United States mail directly to the department's central administrative warehouse office.

(B) Department samples may not be shipped to any other location within the state.

(v) Department samples submitted to the department shall be accompanied by a letter from the industry member:

(A) clearly identifying the product as a "department sample"; and

(B) clearly stating the FOB case price of the product.

(vi) (A) The department may transfer listed items from current stock for use as comparison control samples or to verify product spoilage as deemed appropriate.

(B) Each sample transferred under Subsection (4)(c)(vi)(A) shall be [~~billed back, debited,~~ charged back] to the respective industry [~~members~~] member.

(vii) The department shall:

(A) account for, label, and record all department samples received or transferred;

(B) account for the department sample's disposition; and

(C) maintain a record:

(I) of the samples and their disposition; and

(II) for a two-year period.

(viii) The department shall affix to each bottle or container a label clearly identifying the product as a "department sample".

(ix) Each department sample delivered to the department or transferred from the department's current stock shall be disposed of at the discretion of the department in one of the following ways:

(A) tested and analyzed with the remaining contents destroyed under controlled and audited conditions established by the department;

(B) entire contents destroyed under controlled and audited conditions established by the department; or

(C) added to the inventory of the department for sale to the public.

(x) Persons other than authorized department officials may not be in possession of department samples except as otherwise provided.

(d) Samples of beer may be provided by a beer industry member to a retailer under the conditions listed in this Subsection (4)(d).

(i) Samples of beer may be provided by an industry member only to a retailer who has not purchased the brand of beer from that industry member within the last 12 months.

(ii) For each retailer, the industry member may give not more than three gallons of any brand of beer, except that if a particular product is not available in a size within the quantity limitation an industry member may furnish the next largest size.

(e) Educational seminars may involve an industry member under the conditions listed in this Subsection (4)(e).

(i) An industry member may provide or participate in educational seminars:

(A) involving:

(I) the department;

(II) retailers;

(III) holders of educational or scientific special use permits;

- (IV) other industry members; or
- (V) employees of the persons listed in Subsections (4)(e)(i)(A)(I) through (IV); and
- (B) regarding such topics as:
 - (I) merchandising and product knowledge;
 - (II) use of equipment; and
 - (III) tours of alcoholic beverage manufacturing facilities.
- (ii) An industry member may not pay a department employee's, retailer's, or permittee's expenses or compensate them for attending a seminar or tour described in Subsection (4)(e)(i).
- (iii) (A) A liquor, wine, and heavy beer industry member may conduct tastings of the industry member's products:
 - (I) for the department, at the department's request; and
 - (II) for licensed industry representatives, but only at the department's central administrative warehouse office.
- (B) The industry member may only use department or industry representative samples when conducting any tasting of the industry member's products.
- (iv) A beer industry member may conduct tastings of beer products for a licensed beer retailer either at:
 - (A) the industry member's premises; or
 - (B) a retail establishment.
- (v) Except to the extent authorized by commission rule, an alcoholic beverage industry member may not conduct tasting or sampling activities with:
 - (A) a retailer; or
 - (B) a member of the general public.
- (f) A beer industry member may participate in beer retailer association activities to the extent authorized by 27 C.F.R. Sec. 6.100.
- (g) (i) An industry member may contribute to charitable, civic, religious, fraternal, educational, or community activities.
- (ii) A contribution described in Subsection (4)(g)(i) may not be given to influence a

retailer in the selection of the alcoholic beverage products that may be sold at these activities and events.

(iii) An industry member or retailer violates this section if:

(A) the industry member's contribution described in Subsection (4)(g)(i) influences, directly or indirectly, the retailer in the selection of alcoholic beverage products; and

(B) a competitor's alcoholic beverage products are excluded in whole or in part from sale at the activity or event.

(h) (i) An industry member may lease or furnish equipment listed in Subsection (4)(h)(ii) to a retailer if:

(A) the equipment is leased or furnished for a special event;

(B) a reasonable rental or service fee is charged for the equipment; and

(C) the period for which the equipment is leased or furnished does not exceed 30 days.

(ii) This Subsection (4)(h) applies to the following equipment:

(A) a picnic pump;

(B) a cold plate;

(C) a tub;

(D) a keg box;

(E) a refrigerated trailer;

(F) a refrigerated van; or

(G) a refrigerated draft system.

(i) (i) A liquor, wine, and heavy beer industry member may assist the department in:

(A) ordering, shipping, and delivering merchandise;

(B) new product notification;

(C) listing and delisting information;

(D) price quotations;

(E) product sales analysis;

(F) shelf management; and

(G) educational seminars.

(ii) (A) Subject to Subsection (4)(i)(ii)(B), a liquor, wine, and heavy beer industry member may, for the purpose of acquiring new listings[;]:

(I) solicit orders from the department; and

(II) submit to the department samples of their products under Subsection (4)(c) and price lists.

(B) An industry member may not solicit either in person, by mail, or otherwise, any state store personnel for the purpose or with the intent of furthering the sale of a particular brand or brands of alcoholic beverage product as against another brand or brands.

(iii) (A) Any visitations to a state store or package agency by an industry member shall be confined to the customer areas of the store unless otherwise approved.

(B) Calls on the state warehouse by industry members are to be confined to the office area only unless otherwise approved.

(iv) A beer industry member may assist licensed retailers in:

(A) ordering, shipping, and delivering beer merchandise;

(B) new product notification;

(C) listing and delisting information;

(D) price quotations;

(E) product sales analysis;

(F) shelf management; and

(G) educational seminars.

(v) A beer industry member may, for the purpose of acquiring new listings:

(A) solicit orders from licensed retailers; and

(B) submit to licensed retailers samples of their beer products under Subsection (4)(c) and price lists.

(5) It is unlawful for any industry member, directly or indirectly or through an affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or from the department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons by paying or crediting the retailer for any advertising, display, or distribution

service:

- (a) as defined in and to the extent restricted by 27 C.F.R. Sections 6.51 through 6.56; and
- (b) subject to the exceptions:
 - (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and
 - (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

(6) It is unlawful for any industry member, directly or indirectly or through an affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or from the department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons by guaranteeing any loan or the repayment of any financial obligation of the retailer.

(7) (a) It is unlawful for any industry member, directly or indirectly or through an affiliate, to induce any retailer to purchase any beer from the industry member to the exclusion in whole or in part of any beer products sold or offered for sale by other persons by extending to any retailer credit for a period in excess of 15 days from the date of delivery to the date of full legal discharge of the retailer through the payment of cash or its equivalent, from all indebtedness arising from the transaction, so long as that beer purchased or delivered during the first 15 days of any month is paid for in cash or its equivalent on or before the 25th day of the same month, and beer purchased or delivered after the 15th day of any month is paid for in cash or its equivalent on or before the 10th day of the next succeeding month.

- (b) First party in-state checks are considered cash payment if the checks:
 - (i) are honored on presentment; and
 - (ii) received under the terms prescribed in Subsection (7)(a).

(c) An extension of credit for product purchased by an industry member to a retailer whose account is in arrears does not constitute a violation of Subsection (7)(a) if the retailer pays in advance or on delivery an amount equal to or greater than the value of each order, regardless of the manner in which the industry member applies the payment in its records.

(8) (a) It is unlawful for any industry member, directly or indirectly or through an affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or from the

department to the exclusion in whole or in part of any of those products sold or offered for sale by other persons by requiring:

- (i) the department to take and dispose of a certain quota of any alcoholic products; or
- (ii) a beer retailer to take and dispose of a certain quota of any beer products.

(b) (i) It is an unlawful means to induce to require:

- (A) the department to purchase one product in order to purchase another; or
- (B) a beer retailer to purchase one beer product in order to purchase another.

(ii) This Subsection (8)(b) includes:

(A) the requirement to take a minimum quantity of a product in standard packaging in order to obtain the same product in some type of premium package such as:

(I) a distinctive decanter; or

(II) a wooden or tin box; or

(B) combination sales if one or more products may be purchased only in combination with other products and not individually.

(c) This Subsection (8) does not preclude the selling, at a special combination price, two or more kinds or brands of products so long as the department or beer retailer:

(i) has the option of purchasing either product at the usual price; and

(ii) is not required to purchase any product the department or beer retailer does not want.

(d) An industry member may package and distribute alcoholic beverages in combination with other nonalcoholic items or products.

(e) The combination package shall be designed to be delivered intact to the consumer and the additional cost incurred by the industry member shall be included in the cost to the department or beer retailer.

Section 36. Section **41-6-44.20** is amended to read:

41-6-44.20. Drinking alcoholic beverage and open containers in motor vehicle prohibited -- Definitions -- Exceptions.

(1) A person may not drink any alcoholic beverage while operating a motor vehicle or while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any

highway.

(2) A person may not keep, carry, possess, transport, or allow another to keep, carry, possess, or transport in the passenger compartment of a motor vehicle, when the vehicle is on any highway, any container which contains any alcoholic beverage if the container has been opened, its seal broken, or the contents of the container partially consumed.

(3) In this section:

(a) "Alcoholic beverage" has the meaning given in Section 32A-1-105.

(b) "Chartered bus" has the meaning given in Section 32A-1-105.

(c) "Limousine" has the meaning given in Section 32A-1-105.

(d) "Passenger compartment" means the area of the vehicle normally occupied by the operator and passengers and includes areas accessible to them while traveling, such as a utility or glove compartment, but does not include a separate front or rear trunk compartment or other area of the vehicle not accessible to the operator or passengers while inside the vehicle.

(4) Subsections (1) and (2) do not apply to passengers in the living quarters of a motor home or camper.

(5) Subsection (2) does not apply to passengers traveling in any licensed taxicab or bus.

(6) Subsections (1) and (2) do not apply to passengers who have carried their own alcoholic beverage onto a limousine or chartered bus that is in compliance with Subsections 32A-12-213~~(1)~~ (3)(b) and (c).

(7) Subsections (1) and (2) do not apply to a passenger in a motorboat on the waters of this state as these terms are defined in Section 73-18-2.

Section 37. Section **76-10-1506** is amended to read:

76-10-1506. Threatening breach of peace -- Disorderly conduct -- Foul language -- Refusing requests -- Use of controlled substance, liquor, or tobacco -- Ejection of passenger.

(1) A person is guilty of a class C misdemeanor, if he:

(a) threatens a breach of the peace, is disorderly, or uses obscene, profane, or vulgar language on a bus;

(b) is in or upon any bus while unlawfully under the influence of a controlled substance as

defined in Section 58-37-2;

(c) fails to obey a reasonable request or order of a bus driver, bus company representative, a nondrinking designee other than the driver as provided in Subsection 32A-12-213~~(1)~~ (3)(c)(ii), or other person in charge or control of a bus or terminal;

(d) ingests any controlled substance, unless prescribed by a physician or medical facility, in or upon any bus, or drinks intoxicating liquor in or upon any bus, except a chartered bus as defined and provided in Sections 32A-1-105 and 41-6-44.20; or

(e) smokes tobacco or other products in or upon any bus, except a chartered bus.

(2) If any person violates Subsection (1), the driver of the bus or person in charge thereof may stop at the place where the offense is committed or at the next regular or convenient stopping place and remove such person, using only such force as may be necessary to accomplish the removal, and the driver or person in charge may request the assistance of passengers to assist in the removal. The driver or person in charge may cause the person so removed to be detained and delivered to the proper authorities.