

YOUNG ARTIST PROVISIONS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Gregory H. Hughes

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address minors performing in certain licensed premises.

Highlighted Provisions:

This bill:

- ▶ permits a minor to perform at a private club in certain circumstances;
- ▶ permits a minor to perform at an on-premise beer establishment in certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32A-5-107, as last amended by Chapter 268, Laws of Utah 2004

32A-10-206, as last amended by Chapter 268, Laws of Utah 2004

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

Section 1. 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, subject to:

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

(ii) investigation, 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.

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

(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.

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

- 59 (i) to the extent permitted by the bylaws or house rules of the private club; and
60 (ii) except to the extent restricted by this title.
- 61 (e) The minor child of a member of a class A private club is entitled to all the rights
62 and privileges of the member:
- 63 (i) to the extent permitted by the bylaws or house rules of the private club; and
64 (ii) except to the extent restricted by this title.
- 65 (3) (a) Each private club shall maintain a current and complete membership record
66 showing:
- 67 (i) the date of application of each proposed member;
68 (ii) each member's address;
69 (iii) the date the governing body approved a member's admission;
70 (iv) the date initiation fees and dues were assessed and paid; and
71 (v) the serial number of the membership card issued to each member.
- 72 (b) A current record shall also be kept indicating when members are dropped or
73 resigned.
- 74 (4) (a) Each private club shall establish in the club bylaws or house rules application
75 fees and membership dues:
- 76 (i) as established by commission rules; and
77 (ii) which are collected from all members.
- 78 (b) An application fee:
- 79 (i) shall not be less than \$4;
80 (ii) shall be paid when the applicant applies for membership; and
81 (iii) at the discretion of the private club, may be credited toward membership dues if
82 the governing body approves the applicant as a member.
- 83 (5) (a) Each private club may, in its discretion, allow an individual to be admitted to or
84 use the club premises as a guest only under the following conditions:
- 85 (i) each guest must be previously authorized by one of the following who agrees to host
86 the guest into the club:
- 87 (A) an active member of the club; or
88 (B) a holder of a current visitor card;
- 89 (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

- 121 (v) the serial number of the card; and
- 122 (f) (i) the club shall maintain a current record of the issuance of each visitor card on the
- 123 club premises; and
- 124 (ii) the record described in Subsection (6)(f)(i) shall:
- 125 (A) be available for inspection by the department; and
- 126 (B) include:
- 127 (I) the name of the person to whom the card was issued;
- 128 (II) the date the card was issued;
- 129 (III) the date the card expires; and
- 130 (IV) the serial number of the card.
- 131 (7) A private club may not sell alcoholic beverages to or allow any patron to be
- 132 admitted to or use the club premises other than:
- 133 (a) a member;
- 134 (b) a visitor who holds a valid visitor card issued under Subsection (6); or
- 135 (c) a guest of:
- 136 (i) a member; or
- 137 (ii) a holder of a current visitor card.
- 138 (8) (a) A minor may not be:
- 139 (i) a member, officer, director, or trustee of a private club;
- 140 (ii) issued a visitor card;
- 141 (iii) admitted into, use, or be on the premises of a class D private club except to the
- 142 extent authorized under Subsections (8)(b) through (g) and (34)(e);
- 143 (iv) admitted into, use, or be on the premises of any lounge or bar area, as defined by
- 144 commission rule, of any private club except to the extent authorized under Subsection (8)(c)(ii)
- 145 or (34)(e); or
- 146 (v) admitted into, use, or be on the premises of any private club that:
- 147 (A) provides sexually oriented adult entertainment as defined by commission rule or by
- 148 local ordinance; or
- 149 (B) operates as a sexually oriented business as defined by commission rule or by local
- 150 ordinance.
- 151 (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[-]; or

(iii) when employed under Subsection (34)(e).

(d) (i) 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)(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.

(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;

183 (B) any bar or dispensing area is not visible to minors;
184 (C) no consumption of alcoholic beverages may occur in:
185 (I) the dance or concert hall area; or
186 (II) any area of the club accessible to a minor;
187 (D) the club maintains sufficient security personnel to prevent the passing of beverages
188 from the club's lounge, bar, or alcoholic beverage consumption areas to:
189 (I) the dance or concert hall area; or
190 (II) any area of the club accessible to a minor;
191 (E) there are separate entrances, exits, and restroom facilities from the club's lounge,
192 bar, and alcoholic beverage consumption areas than for:
193 (I) the dance or concert hall area; or
194 (II) any area accessible to a minor; and
195 (F) the club complies with any other restrictions imposed by the commission by rule.
196 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
197 guardian who is a member or holder of a current visitor card may be admitted into, use, or be
198 on the premises of a concert hall described in Subsection (8)(d)(i) if:
199 (i) all requirements of Subsection (8)(d) are met; and
200 (ii) all signage, product, and dispensing equipment containing recognition of alcoholic
201 beverages is not visible to the minor.
202 (f) A minor under 18 years of age but who is 14 years of age or older who is not
203 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
204 a concert hall described in Subsection (8)(d)(i) if:
205 (i) all requirements of Subsections (8)(d) and (8)(e)(ii) are met; and
206 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the
207 class D private club.
208 (g) The commission may suspend or revoke a minor dance or concert permit issued to
209 a class D private club and suspend or revoke the license of the class D private club if:
210 (i) the club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);
211 (ii) the club sells, serves, or otherwise furnishes alcoholic beverages to a minor;
212 (iii) the licensee or a supervisory or managerial level employee of the private club is
213 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:

(I) the licensed premises; or

(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.

- 245 (9) An employee of a club, while on duty, may not:
- 246 (a) consume an alcoholic beverage;
- 247 (b) be intoxicated; or
- 248 (c) act as a host for a guest.
- 249 (10) (a) Each private club shall maintain an expense ledger or record showing in detail
- 250 all expenditures separated by payments for:
- 251 (i) malt or brewed beverages;
- 252 (ii) liquor;
- 253 (iii) food;
- 254 (iv) detailed payroll;
- 255 (v) entertainment;
- 256 (vi) rent;
- 257 (vii) utilities;
- 258 (viii) supplies; and
- 259 (ix) all other expenditures.
- 260 (b) The record required by this Subsection (10) shall be:
- 261 (i) kept in a form approved by the department; and
- 262 (ii) balanced each month.
- 263 (c) Each expenditure shall be supported by:
- 264 (i) delivery tickets;
- 265 (ii) invoices;
- 266 (iii) receipted bills;
- 267 (iv) canceled checks;
- 268 (v) petty cash vouchers; or
- 269 (vi) other sustaining data or memoranda.
- 270 (d) All invoices and receipted bills for the current calendar or fiscal year documenting
- 271 purchases made by the club shall also be maintained.
- 272 (11) (a) Each private club shall maintain a minute book that is posted currently by the
- 273 club.
- 274 (b) The minute book required by this Subsection (11) shall contain the minutes of all
- 275 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 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 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) Subject to Subsection (24)(a)(ii), a private club licensed to sell liquor may sell beer for on-premise consumption:

(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 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:

(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 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

431 alcoholic beverage is prohibited.

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

434 (h) A private club licensee may not engage in a promotion involving or offering free
435 alcoholic beverages to patrons of the club.

436 (31) Alcoholic beverages may not be purchased for a patron of the private club by:

437 (a) the licensee; or

438 (b) any employee or agent of the licensee.

439 (32) (a) A person may not bring onto the premises of a private club licensee any
440 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
441 discretion of the licensee, bottled wine onto the premises of any private club licensee for
442 on-premise consumption.

443 (b) Except bottled wine under Subsection (32)(a), a private club or its officers,
444 managers, employees, or agents may not allow:

445 (i) a person to bring onto the private club premises any alcoholic beverage for
446 consumption on the private club premises; or

447 (ii) consumption of alcoholic beverages described in Subsection (32)(b)(i) on the
448 premises of the private club.

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

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

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

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

456 (ii) contains any alcoholic beverage.

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

459 (34) (a) A minor may not be employed by any class A, B, or C private club to sell,
460 dispense, or handle any alcoholic beverage.

461 (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 (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.

(e) Notwithstanding the other provisions of this section, a minor may perform live entertainment on the premises of a class A, B, C, or D private club if:

(i) the private club employs or contracts with the minor to perform live entertainment;

(ii) the minor is on the premises of the private club only when performing the live entertainment;

(iii) the minor is at least 16 years of age;

(iv) a parent or legal guardian of the minor accompanies the minor at all times; and

(v) the private club does not:

(A) provide sexually oriented entertainment as defined by commission rule or by local ordinance; or

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

(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:

493 (a) the private club license that is issued by the department;

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

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

498 (38) The following acts or conduct in a private club licensed under this chapter are
499 considered contrary to the public welfare and morals, and are prohibited upon the premises:

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

504 (b) employing or using the services of any person to mingle with the patrons while the
505 person is unclothed or in attire, costume, or clothing described in Subsection (38)(a);

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

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

510 (e) permitting any person to use artificial devices or inanimate objects to depict any of
511 the prohibited activities described in this Subsection (38);

512 (f) permitting any person to remain in or upon the premises who exposes to public
513 view any portion of his or her genitals or anus; or

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

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

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

520 (iii) scenes wherein artificial devices or inanimate objects are used to depict, or
521 drawings are used to portray, any of the prohibited activities described in this Subsection (38);
522 or

523 (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 2. 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) Subject to Subsection (1)(b), a beer retailer licensee may sell beer for on-premise consumption:

(i) in an open 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.

586 (4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at any
587 on-premise beer retailer establishment after 1 a.m. and before 10 a.m.

588 (b) Beer may not be sold, served, or otherwise furnished to any:

589 (i) minor;

590 (ii) person actually, apparently, or obviously intoxicated;

591 (iii) known habitual drunkard; or

592 (iv) known interdicted person.

593 (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall
594 remain open for one hour after the tavern ceases the sale and service of alcoholic beverages
595 during which time a patron of the tavern may finish consuming a single serving of beer not
596 exceeding 26 ounces.

597 (ii) A tavern is not required to remain open:

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

599 (B) during an emergency.

600 (d) Between the hours of 2 a.m. and 10 a.m. on any day a tavern may not allow a patron
601 to remain on the premises to consume alcoholic beverages on the premises.

602 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.

603 (b) Beer may not be sold at a special or reduced price that encourages over
604 consumption or intoxication.

605 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer
606 retailer's business day such as a "happy hour."

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

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

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

613 (6) Beer sold in sealed containers by the on-premise beer retailer licensee may be
614 removed from the on-premise beer retailer premises.

615 (7) (a) A person may not bring onto the premises of an on-premise beer retailer
616 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) or (c), 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 licensee that is not a tavern.

(c) Notwithstanding the other provisions of this section, a minor may perform live entertainment on the premises of an on-premise beer retailer licensee if:

(i) the on-premise beer retailer licensee employs or contracts with the minor to perform live entertainment;

(ii) the minor is on the premises of the on-premise beer retailer licensee only when performing the live entertainment;

(iii) the minor is at least 16 years of age;

(iv) a parent or legal guardian of the minor accompanies the minor at all times; and

(v) the on-premise beer retailer licensee does not:

(A) provide sexually oriented entertainment as defined by commission rule or by local ordinance; or

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

(10) An employee of a licensee, while on duty, may not:

(a) consume an alcoholic beverage; or

648 (b) be intoxicated.

649 (11) Each on-premise beer retailer licensee shall display in a prominent place in the
650 on-premise beer retailer licensee:

651 (a) the on-premise beer retailer license that is issued by the department; and

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

654 (12) The following acts or conduct in an on-premise beer retailer outlet licensed under
655 this part are considered contrary to the public welfare and morals, and are prohibited upon the
656 premises:

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

661 (b) employing or using the services of any person to mingle with the patrons while the
662 person is unclothed or in attire, costume, or clothing as described in Subsection (12)(a);

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

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

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

669 (f) permitting any person to remain in or upon the premises who exposes to public
670 view any portion of his or her genitals or anus; or

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

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

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

677 (iii) scenes wherein artificial devices or inanimate objects are employed to depict, or
678 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.

Legislative Review Note
as of 2-10-05 1:39 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0379

Young Artist Provisions

14-Feb-05
1:53 PM

State Impact
No fiscal impact.

Individual and Business Impact
No fiscal impact.

Office of the Legislative Fiscal Analyst