

**ALCOHOLIC BEVERAGE LICENSEES AND
GAMBLING-LIKE ACTIVITIES**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address gambling-like activities on certain licensed premises.

Highlighted Provisions:

This bill:

- ▶ prohibits certain gambling-like activities at private clubs;
- ▶ prohibits certain gambling-like activities at on-premise beer retailers;
- ▶ provides for exceptions including charitable events; 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:



28 Section 1. Section **32A-5-107** is amended to read:

29 **32A-5-107. Operational restrictions.**

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

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

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

36 (b) holds regular meetings to:

37 (i) review membership applications; and

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

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

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

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

44 (b) (i) Admissions shall be recorded in the official minutes of a regular meeting of the
45 governing body.

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

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

52 (i) the applicant shall:

53 (A) submit a written application; and

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

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

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

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

- 61 (i) to the extent permitted by the bylaws or house rules of the private club; and
- 62 (ii) except to the extent restricted by this title.

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

- 65 (i) to the extent permitted by the bylaws or house rules of the private club; and
- 66 (ii) except to the extent restricted by this title.

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

- 69 (i) the date of application of each proposed member;
- 70 (ii) each member's address;
- 71 (iii) the date the governing body approved a member's admission;
- 72 (iv) the date initiation fees and dues were assessed and paid; and
- 73 (v) the serial number of the membership card issued to each member.

74 (b) A current record shall also be kept indicating when members are dropped or
75 resigned.

76 (4) (a) Each private club shall establish in the club bylaws or house rules application
77 fees and membership dues:

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

80 (b) An application fee:

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

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

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

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

- 90 (B) a holder of a current visitor card;
- 91 (ii) each guest must be known by the guest's host based on a preexisting bonafide
92 business or personal relationship with the host prior to the guest's admittance to the club;
- 93 (iii) each guest must be accompanied by the guest's host for the duration of the guest's
94 visit to the club;
- 95 (iv) each guest's host must remain on the club premises for the duration of the guest's
96 visit to the club;
- 97 (v) each guest's host is responsible for the cost of all services extended to the guest;
- 98 (vi) each guest enjoys only those privileges derived from the guest's host for the
99 duration of the guest's visit to the club;
- 100 (vii) an employee of the club, while on duty, may not act as a host for a guest;
- 101 (viii) an employee of the club, while on duty, may not attempt to locate a member or
102 current visitor card holder to serve as a host for a guest with whom the member or visitor card
103 holder has no acquaintance based on a preexisting bonafide business or personal relationship
104 prior to the guest's arrival at the club; and
- 105 (ix) a club and its employees may not enter into an agreement or arrangement with a
106 club member or holder of a current visitor card to indiscriminately host members of the general
107 public into the club as guests.
- 108 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:
- 109 (i) the licensee is a class B private club; and
- 110 (ii) the guest is a member of the same fraternal organization as the private club
111 licensee.
- 112 (6) Each private club may, in its discretion, issue visitor cards to allow individuals to
113 enter and use the club premises on a temporary basis under the following conditions:
- 114 (a) each visitor card shall be issued for a period not to exceed three weeks;
- 115 (b) a fee of not less than \$4 shall be assessed for each visitor card issued;
- 116 (c) a visitor card shall not be issued to a minor;
- 117 (d) a holder of a visitor card may not host more than seven guests at one time;
- 118 (e) each visitor card issued shall include:
- 119 (i) the visitor's full name and signature;
- 120 (ii) the date the card was issued;

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

152 ordinance.

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

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

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

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

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

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

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

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

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

169 (I) on the premises of a class D private club; or

170 (II) on the property that immediately adjoins the premises of and is operated by a class
171 D private club; and

172 (B) the commission has issued the class D private club a permit to operate a minor
173 dance or concert hall based on the criteria described in Subsection (8)(d)(iii).

174 (ii) If the dance or concert hall is located on the premises of a class D private club, a
175 minor must be properly hosted in accordance with Subsection (5) by:

176 (A) a member; or

177 (B) a holder of a current visitor card.

178 (iii) The commission may issue a minor dance or concert hall permit if:

179 (A) the club's lounge, bar, and alcoholic beverage consumption area is:

180 (I) not accessible to minors;

181 (II) clearly defined; and

182 (III) separated from the dance or concert hall area by walls, multiple floor levels, or

183 other substantial physical barriers;

184 (B) any bar or dispensing area is not visible to minors;

185 (C) no consumption of alcoholic beverages may occur in:

186 (I) the dance or concert hall area; or

187 (II) any area of the club accessible to a minor;

188 (D) the club maintains sufficient security personnel to prevent the passing of beverages

189 from the club's lounge, bar, or alcoholic beverage consumption areas to:

190 (I) the dance or concert hall area; or

191 (II) any area of the club accessible to a minor;

192 (E) there are separate entrances, exits, and restroom facilities from the club's lounge,

193 bar, and alcoholic beverage consumption areas than for:

194 (I) the dance or concert hall area; or

195 (II) any area accessible to a minor; and

196 (F) the club complies with any other restrictions imposed by the commission by rule.

197 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal

198 guardian who is a member or holder of a current visitor card may be admitted into, use, or be

199 on the premises of a concert hall described in Subsection (8)(d)(i) if:

200 (i) all requirements of Subsection (8)(d) are met; and

201 (ii) all signage, product, and dispensing equipment containing recognition of alcoholic
202 beverages is not visible to the minor.

203 (f) A minor under 18 years of age but who is 14 years of age or older who is not

204 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of

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

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

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

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

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

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

213 (iii) the licensee or a supervisory or managerial level employee of the private club is

214 convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities
215 that occurred on:

216 (A) the licensed premises; or

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

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

221 (A) the licensed premises; or

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

224 (v) there is more than one conviction:

225 (A) of:

226 (I) the licensee;

227 (II) an employee of the licensee;

228 (III) an entertainer contracted by the licensee; or

229 (IV) a patron of the private club; and

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

232 (I) the licensed premises; or

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

235 (vi) the commission finds acts or conduct contrary to the public welfare and morals
236 involving lewd acts or lewd entertainment prohibited by this title that occurred on:

237 (A) the licensed premises; or

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

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

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

245 club.

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

247 (a) consume an alcoholic beverage;

248 (b) be intoxicated; or

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

250 (10) (a) Each private club shall maintain an expense ledger or record showing in detail

251 all expenditures separated by payments for:

252 (i) malt or brewed beverages;

253 (ii) liquor;

254 (iii) food;

255 (iv) detailed payroll;

256 (v) entertainment;

257 (vi) rent;

258 (vii) utilities;

259 (viii) supplies; and

260 (ix) all other expenditures.

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

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

263 (ii) balanced each month.

264 (c) Each expenditure shall be supported by:

265 (i) delivery tickets;

266 (ii) invoices;

267 (iii) receipted bills;

268 (iv) canceled checks;

269 (v) petty cash vouchers; or

270 (vi) other sustaining data or memoranda.

271 (d) All invoices and receipted bills for the current calendar or fiscal year documenting

272 purchases made by the club shall also be maintained.

273 (11) (a) Each private club shall maintain a minute book that is posted currently by the

274 club.

275 (b) The minute book required by this Subsection (11) shall contain the minutes of all

276 regular and special meetings of the governing body.

277 (c) Membership lists shall also be maintained.

278 (12) (a) Each private club shall maintain current copies of the club's current bylaws and
279 current house rules.

280 (b) Changes in the bylaws or house rules:

281 (i) are not effective unless submitted to the department within ten days after adoption;

282 and

283 (ii) become effective 15 days after received by the department unless rejected by the
284 department before the expiration of the 15-day period.

285 (13) Each private club shall maintain accounting and other records and documents as
286 the department may require.

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

292 (a) the suspension or revocation of the club's license; and

293 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

294 (15) (a) Each private club shall maintain and keep all the records required by this
295 section and all other books, records, receipts, and disbursements maintained or used by the
296 licensee, as the department requires, for a minimum period of three years.

297 (b) All records, books, receipts, and disbursements are subject to inspection by
298 authorized representatives of the commission and the department.

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

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

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

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

305 (b) Any member of the commission, authorized department personnel, or any peace
306 officer shall, upon presentation of credentials, be admitted immediately to the club and

307 permitted without hindrance or delay to inspect completely the entire club premises and all
308 books and records of the licensee, at any time during which the same are open for the
309 transaction of business to its members.

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

- 312 (a) the private club;
- 313 (b) the employees or agents of the private club; or
- 314 (c) any person under a contract or agreement with the club.

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

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

319 (b) Liquor purchased in accordance with Subsection (20)(a) may be transported by the
320 licensee from the place of purchase to the licensed premises.

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

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

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

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

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

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

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

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

338 (i) as a flavoring on desserts; and
339 (ii) in the preparation of flaming food dishes, drinks, and desserts; and
340 (c) each club patron may have no more than 2.75 ounces of spirituous liquor at a time
341 before the patron.

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

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

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

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

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

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

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

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

358 (24) (a) (i) Subject to Subsection (24)(a)(ii), a private club licensed to sell liquor may
359 sell beer for on-premise consumption:

360 (A) in an open container; and

361 (B) on draft.

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

365 (b) (i) A private club licensed under this chapter that sells beer pursuant to Subsection
366 (24)(a):

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

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

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

375 (A) state liquor license; and

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

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

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

383 (b) Notwithstanding Subsection (26)(a), a patron who has purchased bottled wine from
384 an employee of the private club or has carried bottled wine onto the premises of the private
385 club pursuant to Subsection (32) may thereafter serve wine from the bottle to the patron or
386 others at the patron's table.

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

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

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

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

394 (A) regular general election;

395 (B) regular primary election; or

396 (C) statewide special election;

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

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

400 (B) if required by local ordinance; and
401 (iii) on any other day after 1 a.m. and before 10 a.m.
402 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
403 Licenses, for on-premise beer licenses.
404 (c) (i) Notwithstanding Subsections (28)(a) and (b), a private club shall remain open
405 for one hour after the private club ceases the sale and service of alcoholic beverages during
406 which time a patron of the club may finish consuming:
407 (A) any single drink containing spirituous liquor;
408 (B) a single serving of wine not exceeding five ounces;
409 (C) a single serving of heavy beer; or
410 (D) a single serving of beer not exceeding 26 ounces.
411 (ii) A club is not required to remain open:
412 (A) after all patrons have vacated the premises; or
413 (B) during an emergency.
414 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club may not allow a
415 patron to remain on the premises to consume alcoholic beverages on the premises.
416 (29) Alcoholic beverages may not be sold, served, or otherwise furnished to any:
417 (a) minor;
418 (b) person actually, apparently, or obviously intoxicated;
419 (c) known habitual drunkard; or
420 (d) known interdicted person.
421 (30) (a) (i) Liquor may be sold only at prices fixed by the commission.
422 (ii) Liquor may not be sold at discount prices on any date or at any time.
423 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
424 to the licensee.
425 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
426 over consumption or intoxication.
427 (d) The price of a single serving of a primary spirituous liquor shall be the same
428 whether served as a single drink or in conjunction with another alcoholic beverage.
429 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
430 hours of the private club's business day such as a "happy hour."

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

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

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

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

438 (a) the licensee; or

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

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

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

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

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

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

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

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

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

457 (ii) contains any alcoholic beverage.

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

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

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

464 (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed
465 by or be on the premises of any class D private club.

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

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

469 (a) consume an alcoholic beverage; or

470 (b) be intoxicated.

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

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

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

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

478 (i) a set-up charge;

479 (ii) a service charge; or

480 (iii) a chilling fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

523 (41) A private club may not on the premises of the private club:

524 (a) engage in or permit any form of gambling~~[, or]~~ as defined and proscribed in Title
525 76, Chapter 10, Part 11, Gambling;

526 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
527 Part 11, Gambling~~[, on the premises of the private club.]; or~~

528 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
529 or simulates the risking of something for a return or for an outcome when the return or outcome
530 is based upon an element of chance:

531 (i) regardless of whether a person risks something of value for the return or outcome;

532 and

533 (ii) excluding:

534 (A) the playing of an amusement device that confers only an immediate and
535 unrecorded right of replay not exchangeable for value; and

536 (B) an event on the premises that:

537 (I) occurs no more frequently than once every two months;

538 (II) from which at least 50% of all gross revenues from the event are received by a
539 charitable organization as defined in Section 13-22-2, for a charitable purpose as defined in
540 Section 13-22-2; and

541 (III) with the calculation of the gross revenues from the event not including a purchase
542 of food, but including any monies received from:

543 (Aa) an application fee paid for a membership during the event;

544 (Bb) a fee for a visitor card paid for during the event;

545 (Cc) a donation made by a person participating in the event;

546 (Dd) a purchase of nonalcoholic beverages; and

547 (Ee) a purchase of alcoholic beverages.

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

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

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

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

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

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

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

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

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

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

565 (i) the license; and

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

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

570 (i) the license; and

571 (ii) the unused portion of the club's license fee for the remainder of the license year.

572 (43) A private club license may not be transferred from one location to another,
573 without prior written approval of the commission.

574 (44) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give, or
575 attempt in any way to dispose of the license to any other person, whether for monetary gain or
576 not.

577 (b) A private club license has no monetary value for the purpose of any type of
578 disposition.

579 Section 2. Section **32A-10-206** is amended to read:

580 **32A-10-206. Operational restrictions.**

581 Each person granted an on-premise beer retailer license and the employees and
582 management personnel of the on-premise beer retailer licensee shall comply with the following
583 conditions and requirements. Failure to comply may result in a suspension or revocation of the
584 license or other disciplinary action taken against individual employees or management
585 personnel.

586 (1) (a) Subject to Subsection (1)(b), a beer retailer licensee may sell beer for
587 on-premise consumption:
588 (i) in an open container; and
589 (ii) on draft.
590 (b) Beer sold pursuant to Subsection (1)(a) shall be in a size of container that does not
591 exceed two liters, except that beer may not be sold to an individual patron in a size of container
592 that exceeds one liter.
593 (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer
594 licensee.
595 (3) A patron of the on-premise beer retailer may only make purchases from and be
596 served by a person employed, designated, and trained by the licensee to sell and serve beer.
597 (4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at any
598 on-premise beer retailer establishment after 1 a.m. and before 10 a.m.
599 (b) Beer may not be sold, served, or otherwise furnished to any:
600 (i) minor;
601 (ii) person actually, apparently, or obviously intoxicated;
602 (iii) known habitual drunkard; or
603 (iv) known interdicted person.
604 (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall
605 remain open for one hour after the tavern ceases the sale and service of alcoholic beverages
606 during which time a patron of the tavern may finish consuming a single serving of beer not
607 exceeding 26 ounces.
608 (ii) A tavern is not required to remain open:
609 (A) after all patrons have vacated the premises; or
610 (B) during an emergency.
611 (d) Between the hours of 2 a.m. and 10 a.m. on any day a tavern may not allow a patron
612 to remain on the premises to consume alcoholic beverages on the premises.
613 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.
614 (b) Beer may not be sold at a special or reduced price that encourages over
615 consumption or intoxication.
616 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer

617 retailer's business day such as a "happy hour."

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

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

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

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

626 (7) (a) A person may not bring onto the premises of an on-premise beer retailer
627 licensee any alcoholic beverage for on-premise consumption.

628 (b) An on-premise beer retailer licensee or its officers, managers, employees, or agents
629 may not:

630 (i) allow a person to bring onto the on-premise beer retailer licensee premises any
631 alcoholic beverage for on-premise consumption; or

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

633 (8) An on-premise beer retailer licensee and its employees may not permit a patron to
634 carry from the premises an open container that:

635 (a) is used primarily for drinking purposes; and

636 (b) contains any alcoholic beverage.

637 (9) (a) Except as provided in Subsection (9)(b), a minor may not be:

638 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell,
639 dispense, or otherwise furnish beer; or

640 (ii) on the premises of any tavern.

641 (b) Notwithstanding Subsection (9)(a), a minor may be employed to enter the sale at a
642 cash register or other sales recording device on the premises of an on-premise beer retailer that
643 is not a tavern.

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

645 (a) consume an alcoholic beverage; or

646 (b) be intoxicated.

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

648 on-premise beer retailer licensee:

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

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

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

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

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

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

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

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

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

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

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

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

675 (iii) scenes wherein artificial devices or inanimate objects are employed to depict, or
676 drawings are employed to portray, any of the prohibited activities described in this section; or

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

678 (13) Nothing in Subsection (12) precludes a local authority from being more restrictive

679 of acts or conduct of the type prohibited in Subsection (12).

680 (14) (a) Although live entertainment is permitted on the premises of an on-premise
681 beer retailer licensee, a licensee may not permit any person to perform or simulate sexual acts
682 prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral
683 copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or
684 genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform
685 only upon a stage or at a designated area approved by the commission.

686 (b) Nothing in Subsection (14)(a) precludes a local authority from being more
687 restrictive of acts or conduct of the type prohibited in Subsection (14)(a).

688 (15) An on-premise beer retailer licensee may not on the premises of the on-premise
689 beer retailer licensee:

690 (a) engage in or permit any form of gambling~~[, or]~~ as defined and proscribed in Title
691 76, Chapter 10, Part 11, Gambling;

692 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
693 Part 11, Gambling~~[, on the premises of the on-premise beer retailer licensee.];~~ or

694 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
695 or simulates the risking of something for a return or for an outcome when the return or outcome
696 is based upon an element of chance:

697 (i) regardless of whether a person risks something of value for the return or outcome;
698 and

699 (ii) excluding:

700 (A) the playing of an amusement device that confers only an immediate and
701 unrecorded right of replay not exchangeable for value; and

702 (B) an event on the premises that:

703 (I) occurs no more frequently than once every two months;

704 (II) from which at least 50% of all gross revenues from the event are received by a
705 charitable organization as defined in Section 13-22-2, for a charitable purpose as defined in
706 Section 13-22-2; and

707 (III) with the calculation of the gross revenues from the event not including a purchase
708 of food, but including any monies received from:

709 (Aa) a donation made by a person participating in the event;

710 (Bb) a purchase of nonalcoholic beverages; and

711 (Cc) a purchase of beer.

712 (16) (a) Each on-premise beer retailer licensee shall maintain accounting and other
713 records and documents as the department may require.

714 (b) Any on-premise beer retailer licensee or person acting for the on-premise beer
715 retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes
716 the entries in any of the books of account or other documents of the on-premise beer retailer
717 licensee required to be made, maintained, or preserved by this title or the rules of the
718 commission for the purpose of deceiving the commission or the department, or any of their
719 officials or employees, is subject to:

720 (i) the immediate suspension or revocation of the on-premise beer retailer license; and

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

722 (17) An on-premise beer retailer license may not be transferred from one location to
723 another, without prior written approval of the commission.

724 (18) (a) An on-premise beer retailer licensee may not sell, transfer, assign, exchange,
725 barter, give, or attempt in any way to dispose of the license to any person, whether for
726 monetary gain or not.

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

Legislative Review Note
as of 1-9-07 10:39 AM

Office of Legislative Research and General Counsel

H.B. 104 - Alcoholic Beverage Licensees and Gambling-like Activities

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/19/2007, 1:58:03 PM, Lead Analyst: Eckersley, S.

Office of the Legislative Fiscal Analyst