

ALCOHOLIC BEVERAGE CONTROL

AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: Scott L Wyatt

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

- ▶ provides for severability;
- ▶ modifies and adds definitions;
- ▶ addresses terms of commissioners;
- ▶ addresses appointment and removal of the director;
- ▶ adjusts markups by the department and diverts a portion of certain gross sales revenues to the school lunch program;
- ▶ repeals the wine and liquor tax;
- ▶ addresses purchases of alcoholic beverages by the department;
- ▶ addresses disciplinary proceedings and judicial review of those proceedings;
- ▶ addresses standards for attire, conduct, and entertainment on premises of licensees and permittees;
- ▶ addresses minors including:
 - addressing hiring minors;
 - addressing admitting minors onto premises; and
 - addressing unlawful acts by minors;



- 28 ▶ addresses operational restrictions of certain licensees and permittees including
- 29 on-premise beer retailer and those holding a permit for industrial or manufacturing
- 30 use;
- 31 ▶ addresses alcohol-related compliance check investigations;
- 32 ▶ provides for suspension of driving privileges;
- 33 ▶ addresses advertising;
- 34 ▶ removes redundant or out-of-date language; and
- 35 ▶ makes technical and conforming amendments.

36 **Monies Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 This bill has multiple effective dates.

40 **Utah Code Sections Affected:**

41 AMENDS:

- 42 **32A-1-102**, as last amended by Chapter 314, Laws of Utah 2003
- 43 **32A-1-105**, as last amended by Chapter 342, Laws of Utah 2006
- 44 **32A-1-106**, as last amended by Chapter 14, Laws of Utah 2006
- 45 **32A-1-108**, as last amended by Chapter 268, Laws of Utah 2004
- 46 **32A-1-116**, as last amended by Chapter 314, Laws of Utah 2003
- 47 **32A-1-119**, as last amended by Chapters 14 and 162, Laws of Utah 2006
- 48 **32A-1-120**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 49 **32A-1-122**, as last amended by Chapter 314, Laws of Utah 2003
- 50 **32A-1-401**, as last amended by Chapter 342, Laws of Utah 2006
- 51 **32A-4-102**, as last amended by Chapter 314, Laws of Utah 2003
- 52 **32A-4-106**, as last amended by Chapter 268, Laws of Utah 2004
- 53 **32A-4-206**, as last amended by Chapter 268, Laws of Utah 2004
- 54 **32A-4-303**, as last amended by Chapter 268, Laws of Utah 2004
- 55 **32A-4-307**, as last amended by Chapter 268, Laws of Utah 2004
- 56 **32A-4-401**, as last amended by Chapter 152, Laws of Utah 2005
- 57 **32A-4-402**, as last amended by Chapter 152, Laws of Utah 2005
- 58 **32A-4-406**, as last amended by Chapter 152, Laws of Utah 2005

- 59 **32A-5-102**, as last amended by Chapter 268, Laws of Utah 2004
- 60 **32A-5-107**, as last amended by Chapter 268, Laws of Utah 2004
- 61 **32A-6-301**, as last amended by Chapter 314, Laws of Utah 2003
- 62 **32A-6-302**, as renumbered and amended by Chapter 23, Laws of Utah 1990
- 63 **32A-7-106**, as last amended by Chapter 268, Laws of Utah 2004
- 64 **32A-8-102**, as last amended by Chapter 314, Laws of Utah 2003
- 65 **32A-8-106**, as last amended by Chapter 314, Laws of Utah 2003
- 66 **32A-8-505**, as last amended by Chapter 268, Laws of Utah 2004
- 67 **32A-10-101**, as last amended by Chapter 342, Laws of Utah 2006
- 68 **32A-10-102**, as last amended by Chapter 314, Laws of Utah 2003
- 69 **32A-10-103**, as enacted by Chapter 342, Laws of Utah 2006
- 70 **32A-10-202**, as last amended by Chapter 268, Laws of Utah 2004
- 71 **32A-10-206**, as last amended by Chapter 268, Laws of Utah 2004
- 72 **32A-10-306**, as last amended by Chapter 268, Laws of Utah 2004
- 73 **32A-12-209**, as last amended by Chapter 218, Laws of Utah 2004
- 74 **32A-12-213**, as last amended by Chapter 268, Laws of Utah 2004
- 75 **32A-12-401**, as last amended by Chapter 314, Laws of Utah 2003
- 76 **32A-14a-102**, as renumbered and amended by Chapter 197, Laws of Utah 2000
- 77 **53-3-219**, as last amended by Chapter 161, Laws of Utah 2004
- 78 **62A-15-401**, as last amended by Chapter 342, Laws of Utah 2006
- 79 **76-9-701**, as last amended by Chapter 365, Laws of Utah 1997
- 80 **78-3a-506**, as repealed and reenacted by Chapter 365, Laws of Utah 1997

81 ENACTS:

- 82 **32A-1-601**, Utah Code Annotated 1953
- 83 **32A-1-602**, Utah Code Annotated 1953
- 84 **32A-1-603**, Utah Code Annotated 1953
- 85 **32A-1-604**, Utah Code Annotated 1953
- 86 **32A-12-209.5**, Utah Code Annotated 1953

87 REPEALS:

- 88 **59-16-101**, as last amended by Chapter 2, Laws of Utah 1988
- 89 **59-16-102**, as last amended by Chapter 299, Laws of Utah 1998

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

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

32A-1-102. Application of title -- Severability.

(1) This title governs alcoholic beverage control in this state except where ~~local authorities are~~ a local authority is expressly granted regulatory control by this title.

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

(3) If any provision of this title or the application of any provision to any person or circumstance is held invalid, the remainder of this title shall be given effect without the invalid provision or application. The provisions of this title are severable.

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

32A-1-105. Definitions.

As used in this title:

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

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

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

(i) contain:

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

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

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

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

(i) extracts;

(ii) vinegars;

- 121 (iii) ciders;
- 122 (iv) essences;
- 123 (v) tinctures;
- 124 (vi) food preparations; or
- 125 (vii) over-the-counter drugs and medicines.
- 126 (4) "Bar" means a counter or similar structure:
- 127 (a) at which alcoholic beverages are:
- 128 (i) stored; or
- 129 (ii) dispensed; or
- 130 (b) from which alcoholic beverages are served.
- 131 (5) (a) "Beer" means any product that:
- 132 (i) contains 63/100 of 1% of alcohol by volume or 1/2 of 1% of alcohol by weight, but
- 133 not more than 4% of alcohol by volume or 3.2% by weight; and
- 134 (ii) is obtained by fermentation, infusion, or decoction of any malted grain.
- 135 (b) Beer may or may not contain hops or other vegetable products.
- 136 (c) Beer includes a product that:
- 137 (i) contains alcohol in the percentages described in Subsection (5)(a); and
- 138 (ii) is referred to as:
- 139 (A) malt liquor;
- 140 (B) malted beverages; or
- 141 (C) malt coolers.
- 142 (6) (a) "Beer retailer" means ~~[any]~~ a business ~~[establishment]~~ that is:
- 143 (i) engaged, primarily or incidentally, in the retail sale of beer to ~~[public]~~ patrons,
- 144 whether for consumption on or off the ~~[establishment's]~~ business premises; and
- 145 (ii) licensed to sell beer by:
- 146 (A) the commission;
- 147 (B) a local authority; or
- 148 (C) both the commission and a local authority.
- 149 (b) (i) "Off-premise beer retailer" means a ~~[general food store or similar]~~ business that
- 150 is engaged in the retail sale of beer to ~~[public]~~ patrons for consumption off the beer retailer's
- 151 premises.

152 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.
153 (c) [(†)] "On-premise beer retailer" means [~~any beer retailer engaged, primarily or~~
154 ~~incidentally,~~ a business that is engaged in the sale of beer to [public] patrons for consumption
155 on the beer retailer's premises, regardless of whether the business sells beer for consumption
156 off the beer retailer's premises.

157 ~~[(ii) "On-premise beer retailer" includes a tavern.]~~

158 (7) "Billboard" means any public display used to advertise including:

- 159 (a) a light device;
- 160 (b) a painting;
- 161 (c) a drawing;
- 162 (d) a poster;
- 163 (e) a sign;
- 164 (f) a signboard; or
- 165 (g) a scoreboard.

166 (8) "Brewer" means any person engaged in manufacturing beer.

167 (9) "Cash bar" means the service of alcoholic beverages:

- 168 (a) at:
 - 169 (i) a banquet; or
 - 170 (ii) a temporary event for which a permit is issued under this title; and
 - 171 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
172 beverage.

173 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
174 a bus company to a group of persons pursuant to a common purpose:

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

179 (11) "Church" means a building:

- 180 (a) set apart for the purpose of worship;
- 181 (b) in which religious services are held;
- 182 (c) with which clergy is associated; and

183 (d) which is tax exempt under the laws of this state.

184 (12) "Club" and "private club" means any of the following organized primarily for the
185 benefit of its members:

186 (a) a social club;

187 (b) a recreational association;

188 (c) a fraternal association;

189 (d) an athletic association; or

190 (e) a kindred association.

191 (13) "Commission" means the Alcoholic Beverage Control Commission.

192 (14) "Department" means the Department of Alcoholic Beverage Control.

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

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

197 [~~(17)~~ (16) "Guest" means a person accompanied by an active member or visitor of a
198 club who enjoys only those privileges derived from the host for the duration of the visit to the
199 club.

200 [~~(18)~~ (17) (a) "Heavy beer" means any product that:

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

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

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

204 [~~(19)~~ (18) "Hosted bar" means the service of alcoholic beverages:

205 (a) without charge; and

206 (b) at a:

207 (i) banquet; or

208 (ii) privately hosted event.

209 [~~(20)~~ (19) "Identification card" means the identification card issued under Title 53,
210 Chapter 3, Part 8, Identification Card Act.

211 [~~(21)~~ (20) "Interdicted person" means a person to whom the sale, gift, or provision of
212 an alcoholic beverage is prohibited by:

213 (a) law; or

214 (b) court order.

215 [~~(22)~~] (21) "Intoxicated" means that to a degree that is unlawful under Section

216 76-9-701 a person is under the influence of:

217 (a) an alcoholic beverage;

218 (b) a controlled substance;

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

220 (d) a combination of Subsections [~~(22)~~] (21)(a) through (c).

221 [~~(23)~~] (22) "Licensee" means any person issued a license by the commission to sell,

222 manufacture, store, or allow consumption of alcoholic beverages on premises owned or

223 controlled by the person.

224 [~~(24)~~] (23) "Limousine" means any motor vehicle licensed by the state or a local

225 authority, other than a bus or taxicab:

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

227 barrier; and

228 (b) that is provided by a company to an individual or individuals at a fixed charge in

229 accordance with the company's tariff for the purpose of giving the individual or individuals the

230 exclusive use of the limousine and a driver to travel to a specified destination or destinations.

231 [~~(25)~~] (24) (a) "Liquor" means alcohol, or any alcoholic, spirituous, vinous, fermented,

232 malt, or other liquid, or combination of liquids, a part of which is spirituous, vinous, or

233 fermented, and all other drinks, or drinkable liquids that contain more than 1/2 of 1% of

234 alcohol by volume and is suitable to use for beverage purposes.

235 (b) "Liquor" does not include any beverage defined as a beer, malt liquor, or malted

236 beverage that has an alcohol content of less than 4% alcohol by volume.

237 [~~(26)~~] (25) "Local authority" means:

238 (a) the governing body of the county if the premises are located in an unincorporated

239 area of a county; or

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

241 city or a town.

242 [~~(27)~~] (26) "Manufacture" means to distill, brew, rectify, mix, compound, process,

243 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to

244 others.

245 [~~(28)~~] (27) "Member" means a person who, after paying regular dues, has full
246 privileges of a club under this title.

247 [~~(29)~~] (28) (a) "Military installation" means a base, air field, camp, post, station, yard,
248 center, or homeport facility for any ship:

- 249 (i) (A) under the control of the United States Department of Defense; or
- 250 (B) of the National Guard;
- 251 (ii) that is located within the state; and
- 252 (iii) including any leased facility.

253 (b) "Military installation" does not include any facility used primarily for:

- 254 (i) civil works;
- 255 (ii) rivers and harbors projects; or
- 256 (iii) flood control projects.

257 [~~(30)~~] (29) "Minor" means any person under the age of 21 years.

258 (30) "Nude," "nudity," or "state of nudity" means:

259 (a) the appearance of:

- 260 (i) the nipple or areola of a female human breast;
- 261 (ii) a human genital;
- 262 (iii) a human pubic area; or

263 (iv) a human anus; or

264 (b) a state of dress that fails to opaquely cover:

- 265 (i) the nipple or areola of a female human breast;
- 266 (ii) a human genital;
- 267 (iii) a human pubic area; or

268 (iv) a human anus.

269 (31) "Outlet" means a location other than a state store or package agency where
270 alcoholic beverages are sold pursuant to a license issued by the commission.

271 (32) "Package" means any of the following containing liquor:

- 272 (a) a container;
- 273 (b) a bottle;
- 274 (c) a vessel; or
- 275 (d) other receptacle.

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

279 (34) "Package agent" means any person permitted by the commission to operate a
280 package agency pursuant to a contractual agreement with the department to sell liquor from
281 premises that the package agent shall provide and maintain.

282 (35) "Permittee" means any person issued a permit by the commission to perform acts
283 or exercise privileges as specifically granted in the permit.

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

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

291 (38) "Prescription" means a writing in legal form, signed by a physician or dentist and
292 given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

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

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

299 (40) "Proof of age" means:

300 (a) an identification card;

301 (b) an identification that:

302 (i) is substantially similar to an identification card;

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

305 (iii) includes date of birth; and

306 (iv) has a picture affixed;

- 307 (c) a valid driver license certificate that:
- 308 (i) includes date of birth;
- 309 (ii) has a picture affixed; and
- 310 (iii) is issued:
- 311 (A) under Title 53, Chapter 3, Uniform Driver License Act; or
- 312 (B) in accordance with the laws of the state in which it is issued;
- 313 (d) a military identification card that:
- 314 (i) includes date of birth; and
- 315 (ii) has a picture affixed; or
- 316 (e) a valid passport.
- 317 (41) (a) "Public building" means any building or permanent structure owned or leased
- 318 by the state, a county, or local government entity that is used for:
- 319 (i) public education;
- 320 (ii) transacting public business; or
- 321 (iii) regularly conducting government activities.
- 322 (b) "Public building" does not mean or refer to any building owned by the state or a
- 323 county or local government entity when the building is used by anyone, in whole or in part, for
- 324 proprietary functions.
- 325 (42) "Representative" means an individual who is compensated by salary, commission,
- 326 or any other means for representing and selling the alcoholic beverage products of a
- 327 manufacturer, supplier, or importer of liquor, wine, or heavy beer.
- 328 (43) "Residence" means the person's principal place of abode within Utah.
- 329 (44) "Restaurant" means any business establishment:
- 330 (a) where a variety of foods is prepared and complete meals are served to the general
- 331 public;
- 332 (b) located on a premises having adequate culinary fixtures for food preparation and
- 333 dining accommodations; and
- 334 (c) that is engaged primarily in serving meals to the general public.
- 335 (45) "Retailer" means any person engaged in the sale or distribution of alcoholic
- 336 beverages to the consumer.
- 337 (46) (a) "Sample" includes:

338 (i) a department sample; and

339 (ii) an industry representative sample.

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

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

346 (47) (a) "School" means any building used primarily for the general education of
347 minors.

348 (b) "School" does not include:

349 (i) a nursery school;

350 (ii) an infant day care center; or

351 (iii) a trade or technical school.

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

357 (49) "Seminude," "seminudity," or "state of seminudity" means a state of dress in
358 which opaque clothing covers no more than:

359 (a) the nipple and areola of the female human breast in a shape and color other than the
360 natural shape and color of the nipple and areola; and

361 (b) the human genitals, pubic area, and anus:

362 (i) with no less than the following at its widest point:

363 (A) four inches coverage width in the front of the human body; and

364 (B) five inches coverage width in the back of the human body; and

365 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

366 (50) "Sexually oriented entertainer" means a person who while in a state of seminudity
367 appears at or performs:

368 (a) for the entertainment of one or more patrons;

- 369 (b) on the premises of:
- 370 (i) a class D private club as defined in Subsection 32A-5-101(3); or
- 371 (ii) a tavern;
- 372 (c) on behalf of or at the request of the licensee described in Subsection (50)(b);
- 373 (d) on a contractual or voluntary basis; and
- 374 (e) whether or not the person is designated:
- 375 (i) an employee of the licensee described in Subsection (50)(b);
- 376 (ii) an independent contractor of the licensee described in Subsection (50)(b);
- 377 (iii) an agent of the licensee described in Subsection (50)(b); or
- 378 (iv) otherwise of the licensee described in Subsection (50)(b).
- 379 [~~49~~] (51) "Small brewer" means a brewer who manufactures less than 60,000 barrels
- 380 of beer and heavy beer per year.
- 381 [~~50~~] (52) (a) "Spirituous liquor" means liquor that is distilled.
- 382 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27
- 383 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.
- 384 [~~51~~] (53) (a) "State label" means the official label designated by the commission
- 385 affixed to all liquor containers sold in the state.
- 386 (b) "State label" includes the department identification mark and inventory control
- 387 number.
- 388 [~~52~~] (54) (a) "State store" means a facility for the sale of package liquor:
- 389 (i) located on premises owned or leased by the state; and
- 390 (ii) operated by state employees.
- 391 (b) "State store" does not apply to any:
- 392 (i) licensee;
- 393 (ii) permittee; or
- 394 (iii) package agency.
- 395 [~~53~~] (55) "Supplier" means any person selling alcoholic beverages to the department.
- 396 [~~54~~] (56) (a) "Tavern" means any business establishment that is:
- 397 (i) engaged primarily in the retail sale of beer to public patrons for consumption on the
- 398 establishment's premises; and
- 399 (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.

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

- 402 (i) a beer bar;
- 403 (ii) a parlor;
- 404 (iii) a lounge;
- 405 (iv) a cabaret; or
- 406 (v) a nightclub.

407 [~~55~~] (57) "Temporary domicile" means the principal place of abode within Utah of a
408 person who does not have a present intention to continue residency within Utah permanently or
409 indefinitely.

410 [~~56~~] (58) "Unsaleable liquor merchandise" means merchandise that:

411 (a) is unsaleable because the merchandise is:

- 412 (i) unlabeled;
- 413 (ii) leaky;
- 414 (iii) damaged;
- 415 (iv) difficult to open; or
- 416 (v) partly filled;

417 (b) is in a container:

- 418 (i) having faded labels or defective caps or corks;
- 419 (ii) in which the contents are:
 - 420 (A) cloudy;
 - 421 (B) spoiled; or
 - 422 (C) chemically determined to be impure; or
- 423 (iii) that contains:
 - 424 (A) sediment; or
 - 425 (B) any foreign substance; or

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

427 [~~57~~] (59) "Visitor" means an individual that in accordance with Section 32A-5-107
428 holds limited privileges in a private club by virtue of a visitor card.

429 [~~58~~] (60) "Warehouser" means any person, other than a licensed manufacturer,
430 engaged in the importation for sale, storage, or distribution of liquor regardless of amount.

431 ~~[(59)]~~ (61) "Wholesaler" means any person engaged in the importation for sale, or in
 432 the sale of beer in wholesale or jobbing quantities to retailers, other than a small brewer selling
 433 beer manufactured by that brewer.

434 ~~[(60)]~~ (62) (a) "Wine" means any alcoholic beverage obtained by the fermentation of
 435 the natural sugar content of fruits, plants, honey, or milk, or any other like substance, whether
 436 or not other ingredients are added.

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

439 Section 3. Section **32A-1-106** is amended to read:

440 **32A-1-106. Alcoholic Beverage Control Commission -- Membership -- Oaths and**
 441 **bond -- Per diem -- Offices -- Removal -- Meetings.**

442 (1) The Alcoholic Beverage Control Commission shall act as a governing board over
 443 the Department of Alcoholic Beverage Control.

444 (2) (a) The commission is composed of five part-time commissioners appointed by the
 445 governor with the consent of the Senate.

446 (b) No more than three commissioners may be of the same political party.

447 (3) (a) Except as required by Subsection (3)(b), as terms of current ~~[commission~~
 448 ~~members]~~ commissioners expire, the governor shall appoint each new ~~[member]~~ commissioner
 449 or reappointed ~~[member]~~ commissioner to a four-year term.

450 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
 451 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
 452 ~~[commission members are staggered so that approximately half of the commission is appointed~~
 453 ~~every two years]~~ no more than two commissioners expire in a fiscal year.

454 (4) When a vacancy occurs in the ~~[membership]~~ commission for any reason, the
 455 replacement shall be appointed for the unexpired term with the consent of the Senate.

456 (5) Each commissioner shall qualify by taking the oath of office and by giving bond to
 457 the state for faithful performance of duties in an amount determined by the Division of
 458 Finance, and in a form approved by the attorney general. The bond premium shall be paid by
 459 the state.

460 (6) (a) ~~[Members shall receive no]~~ A commissioner may not receive compensation or
 461 benefits for ~~[their]~~ the commissioner's services, but may receive per diem and expenses

462 incurred in the performance of the [~~member's~~] commissioner's official duties at the rates
463 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

464 (b) [~~Members~~] A commissioner may decline to receive per diem and expenses for
465 [~~their~~] the commissioner's service.

466 (7) (a) The commission shall elect one of its members to serve as chair, another to
467 serve as vice chair, and other commission officers as it considers advisable, all of whom shall
468 serve at the pleasure of the commission.

469 (b) All [~~members of~~] commissioners on the commission have equal voting rights on all
470 commission matters when in attendance at a commission meeting.

471 (c) Three [~~members~~] commissioners of the commission is a quorum for conducting
472 commission business.

473 (d) A majority vote of the quorum present is required for any action to be taken by the
474 commission.

475 (8) (a) (i) The governor may remove any commissioner from office for cause after a
476 public hearing conducted by the governor or by an impartial hearing examiner appointed by the
477 governor to conduct the hearing.

478 (ii) The commissioner shall receive written notice of the date, time, and place of the
479 hearing along with the alleged grounds for the removal at least ten days before the hearing.
480 The commissioner shall have the opportunity to attend the hearing, present witnesses and other
481 evidence, and confront and cross examine witnesses.

482 (b) Following the hearing, written findings of fact and conclusions of law shall be
483 prepared by the person conducting the hearing and a copy served upon the commissioner. If
484 the hearing is before a hearing examiner, the hearing examiner shall also issue a written
485 recommendation to the governor.

486 (c) The commissioner shall have five days to file written objections to the
487 recommendation before the governor issues a final order. The governor's order shall be in
488 writing and served upon the commissioner.

489 (9) (a) The commission shall meet at least monthly, but may hold other meetings at
490 times and places as scheduled by the commission, by the chair, or by any three commissioners
491 upon filing a written request for a meeting with the chair.

492 (b) Notice of the time and place of each commission meeting shall be given to each

493 commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public
 494 Meetings Act. All commission meetings shall be open to the public, except those meetings or
 495 portions of meetings that are closed by the commission as authorized by Sections 52-4-204 and
 496 52-4-205.

497 Section 4. Section **32A-1-108** is amended to read:

498 **32A-1-108. Director of alcoholic beverage control -- Qualifications -- Oath and**
 499 **bond -- Compensation -- Accountable to commission -- Removal from office.**

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

503 (b) The director serves at the pleasure of the commission, except that the director may
 504 only be removed from office by a vote of four commissioners.

505 [~~(b)~~] (c) The director may not be a member of the commission.

506 [~~(c)~~] (d) The director shall:

507 (i) be qualified in administration [~~and~~];

508 (ii) be knowledgeable by experience and training in the field of business management;
 509 and [~~shall~~]

510 (iii) possess any other qualifications prescribed by the commission.

511 [~~(2)(a) The director shall qualify by:~~]

512 [(i) taking the oath of office; and]

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

515 [~~(b) The bond premium for the bond required by Subsection (2)(a) shall be paid by the~~
 516 ~~state.]~~

517 [~~(3)~~] (2) The director's compensation shall be established by the governor within the
 518 salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

519 [~~(4)~~] (3) The director shall:

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

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

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

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

526 ~~[(b) The director shall receive written notice of:]~~

527 ~~[(i) the date, time, and place of the hearing; and]~~

528 ~~[(ii) the alleged grounds for removal at least ten days before the hearing;]~~

529 ~~[(c) The director shall be afforded the opportunity to:]~~

530 ~~[(i) attend the hearing;]~~

531 ~~[(ii) present witnesses and other evidence; and]~~

532 ~~[(iii) confront and cross examine witnesses;]~~

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

535 Section 5. Section **32A-1-116** is amended to read:

536 **32A-1-116. Purchase of liquor.**

537 (1) The department may not purchase or stock ~~[alcoholic beverages]~~ spirituous liquor
538 in containers smaller than 200 ~~[ml.]~~ milliliters except as otherwise allowed by the commission.

539 (2) (a) Each order by the department for the purchase of spirituous liquor, wine, or
540 heavy beer, or any cancellation by the department of an order for spirituous liquor, wine, or
541 heavy beer:

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

543 (ii) is not valid or binding unless executed in writing.

544 (b) A copy of each order or cancellation shall be kept on file by the department for at
545 least three years.

546 (c) An electronic record satisfies Subsections (2)(a) and (b) pursuant to Title 46,
547 Chapter 4, Uniform Electronic Transactions Act.

548 Section 6. Section **32A-1-119** is amended to read:

549 **32A-1-119. Disciplinary proceedings -- Procedure.**

550 (1) (a) As used in this section and Section 32A-1-120, "disciplinary proceeding" means
551 an adjudicative proceeding permitted under this title:

552 (i) against:

553 (A) a permittee;

554 (B) a licensee;

- 555 (C) a manufacturer;
- 556 (D) a supplier;
- 557 (E) an importer;
- 558 (F) an out-of-state brewer holding a certificate of approval under Section 32A-8-101;

559 or

- 560 (G) an officer, employee, or agent of;
- 561 (I) a person listed in Subsections (1)(a)(i)(A) through (F); [~~and~~] or
- 562 (II) a package agent; and
- 563 (ii) that is brought on the basis of a violation of this title.

564 (b) As used in Subsection (4), "final adjudication" means an adjudication for which a
565 final unappealable judgment or order has been issued.

566 (2) (a) The following may conduct adjudicative proceedings to inquire into any matter
567 necessary and proper for the administration of this title and rules adopted under this title:

- 568 (i) the commission;
- 569 (ii) a hearing examiner appointed by the commission for the purposes provided in
570 Subsection 32A-1-107(3);
- 571 (iii) the director; and
- 572 (iv) the department.

573 (b) Except as provided in this section or Section 32A-3-106, the following shall
574 comply with the procedures and requirements of Title 63, Chapter 46b, Administrative
575 Procedures Act, in adjudicative proceedings:

- 576 (i) the commission;
- 577 (ii) a hearing examiner appointed by the commission;
- 578 (iii) the director; and
- 579 (iv) the department.

580 (c) Except where otherwise provided by law, all adjudicative proceedings before the
581 commission or its appointed hearing examiner shall be:

- 582 (i) video or audio recorded; and
- 583 (ii) subject to Subsection (5)(e), conducted in accordance with Title 52, Chapter 4,
584 Open and Public Meetings Act.

585 (d) All adjudicative proceedings concerning departmental personnel shall be conducted

586 in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

587 (e) All hearings that are informational, fact gathering, and nonadversarial in nature
588 shall be conducted in accordance with rules, policies, and procedures promulgated by the
589 commission, director, or department.

590 (3) (a) A disciplinary proceeding shall be conducted under the authority of the
591 commission, which is responsible for rendering a final decision and order on any disciplinary
592 matter.

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

596 (ii) A hearing examiner appointed by the commission:

597 (A) may conduct a disciplinary proceeding hearing on behalf of the commission; and

598 (B) shall submit to the commission a report including:

599 (I) findings of fact determined on the basis of a preponderance of the evidence
600 presented at the hearing;

601 (II) conclusions of law; and

602 (III) recommendations.

603 (c) Nothing in this section precludes the commission, after [it] the commission has
604 rendered its final decision and order, from having the director prepare, issue, and cause to be
605 served on the parties the final written order on behalf of the commission.

606 (4) (a) The department may initiate a disciplinary proceeding described in Subsection
607 (4)(b) when the department receives:

608 (i) a report from any government agency, peace officer, examiner, or investigator
609 alleging that any person listed in Subsections (1)(a)(i)(A) through (G) has violated this title or
610 the rules of the commission;

611 (ii) a final adjudication of criminal liability against any person listed in Subsections
612 (1)(a)(i)(A) through (G) based on an alleged violation of this title; or

613 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage
614 Liability, against any person listed in Subsections (1)(a)(i)(A) through (G) based on an alleged
615 violation of this title.

616 (b) The department may initiate a disciplinary proceeding if the department receives an

617 item listed in Subsection (4)(a) to determine:

618 (i) whether any person listed in Subsections (1)(a)(i)(A) through (G) violated this title
619 or rules of the commission; and

620 (ii) if a violation is found, the appropriate sanction to be imposed.

621 (5) (a) Unless waived by the respondent, a disciplinary proceeding shall be held:

622 (i) if required by law;

623 (ii) before revoking or suspending any permit, license, or certificate of approval issued
624 under this title; or

625 (iii) before imposing a fine against any person listed in Subsections (1)(a)(i)(A)
626 through (G).

627 (b) Inexcusable failure of a respondent to appear at a scheduled disciplinary proceeding
628 hearing after receiving proper notice is an admission of the charged violation.

629 (c) The validity of a disciplinary proceeding is not affected by the failure of any person
630 to attend or remain in attendance.

631 (d) All disciplinary proceeding hearings shall be presided over by the commission or an
632 appointed hearing examiner.

633 (e) A disciplinary proceeding hearing may be closed only after the commission or
634 hearing examiner makes a written finding that the public interest in an open hearing is clearly
635 outweighed by factors enumerated in the closure order.

636 (f) (i) The commission or its hearing examiner as part of a disciplinary proceeding
637 hearing may:

638 (A) administer oaths or affirmations;

639 (B) take evidence;

640 (C) take depositions within or without this state; and

641 (D) require by subpoena from any place within this state:

642 (I) the testimony of any person at a hearing; and

643 (II) the production of any books, records, papers, contracts, agreements, documents, or
644 other evidence considered relevant to the inquiry.

645 (ii) A person subpoenaed in accordance with this Subsection (5)(f) shall testify and
646 produce any books, papers, documents, or tangible things as required in the subpoena.

647 (iii) Any witness subpoenaed or called to testify or produce evidence who claims a

648 privilege against self-incrimination may not be compelled to testify, but the commission or the
649 hearing examiner shall file a written report with the county attorney or district attorney in the
650 jurisdiction where the privilege was claimed or where the witness resides setting forth the
651 circumstance of the claimed privilege.

652 (iv) (A) A person is not excused from obeying a subpoena without just cause.

653 (B) Any district court within the judicial district in which a person alleged to be guilty
654 of willful contempt of court or refusal to obey a subpoena is found or resides, upon application
655 by the party issuing the subpoena, may issue an order requiring the person to:

656 (I) appear before the issuing party; and

657 (II) (Aa) produce documentary evidence if so ordered; or

658 (Bb) give evidence regarding the matter in question.

659 (C) Failure to obey an order of the court may be punished by the court as contempt.

660 (g) (i) In all disciplinary proceeding hearings heard by a hearing examiner, the hearing
661 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.

662 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not
663 recommend a penalty more severe than that initially sought by the department in the notice of
664 agency action.

665 (iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
666 shall be served upon the respective parties.

667 (iv) The respondent and the department shall be given reasonable opportunity to file
668 any written objections to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)
669 before final commission action.

670 (h) In all cases heard by the commission, it shall issue its final decision and order in
671 accordance with Subsection (3).

672 (6) (a) The commission shall:

673 (i) render a final decision and order on any disciplinary action; and

674 (ii) cause its final order to be prepared in writing, issued, and served on all parties.

675 (b) Any order of the commission is considered final on the date the order becomes
676 effective.

677 (c) If the commission is satisfied that a person listed in Subsections (1)(a)(i)(A)
678 through (G) has committed a violation of this title or the commission's rules, in accordance

- 679 with Title 63, Chapter 46b, Administrative Procedures Act, the commission may:
- 680 (i) suspend or revoke the permit, license, or certificate of approval;
- 681 (ii) impose a fine against a person listed in Subsections (1)(a)(i)(A) through (G);
- 682 (iii) assess the administrative costs of any ~~hearing~~ disciplinary proceeding to the
- 683 permittee, the licensee, or certificate holder; or
- 684 (iv) any combination of Subsections (6)(c)(i) through (iii).
- 685 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections
- 686 32A-1-107(1)(p) and (4).
- 687 (e) (i) If a permit or license is suspended under this Subsection (6), a sign provided by
- 688 the department shall be prominently posted:
- 689 (A) during the suspension;
- 690 (B) by the permittee or licensee; and
- 691 (C) at the entrance of the premises of the permittee or licensee.
- 692 (ii) The sign required by this Subsection (6)(e) shall:
- 693 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the
- 694 alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be
- 695 sold, served, furnished, or consumed on these premises during the period of suspension."; and
- 696 (B) include the dates of the suspension period.
- 697 (iii) A permittee or licensee may not remove, alter, obscure, or destroy a sign required
- 698 to be posted under this Subsection (6)(e) during the suspension period.
- 699 (f) If a permit or license is revoked, the commission may order the revocation of any
- 700 compliance bond posted by the permittee or licensee.
- 701 (g) Any permittee or licensee whose permit or license is revoked may not reapply for a
- 702 permit or license under this title for three years from the date on which the permit or license is
- 703 revoked.
- 704 (h) All costs assessed by the commission shall be transferred into the General Fund in
- 705 accordance with Section 32A-1-113.
- 706 (7) (a) In addition to any action taken against a permittee, licensee, or certificate holder
- 707 under this section, the department may initiate disciplinary action against an officer, employee,
- 708 or agent of a permittee, licensee, or certificate holder.
- 709 (b) If any officer, employee, or agent is found to have violated this title, the

710 commission may prohibit the officer, employee, or agent from serving, selling, distributing,
711 manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of
712 employment with any permittee, licensee, or certificate holder under this title for a period
713 determined by the commission.

714 (8) (a) The department may initiate a disciplinary proceeding for an alleged violation of
715 this title or the rules of the commission against:

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

717 (ii) an officer, employee, agent, or representative of a person listed in Subsection
718 (8)(a)(i).

719 (b) (i) If the commission makes the finding described in Subsection (8)(b)(ii), the
720 commission may, in addition to other penalties prescribed by this title, order:

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

723 (B) a suspension of the department's purchase of the products described in Subsection
724 (8)(b)(i)(A) for a period determined by the commission.

725 (ii) The commission may take the action described in Subsection (8)(b)(i) if:

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

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

729 (I) directly committed the violation; or

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

732 (9) (a) The department may initiate a disciplinary proceeding against a brewer holding
733 a certificate of approval under Section 32A-8-101 for an alleged violation of this title or the
734 rules of the commission.

735 (b) If the commission makes a finding that the brewer holding a certificate of approval
736 violates this title or rules of the commission, the commission may take any action against the
737 brewer holding a certificate of approval that the commission could take against a licensee
738 including:

739 (i) suspension or revocation of the certificate of approval; and

740 (ii) imposition of a fine.

741 (10) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by
 742 the commission or a hearing examiner appointed by the commission shall proceed formally in
 743 accordance with Sections 63-46b-6 through 63-46b-11 in any case where:

744 (i) the alleged violation poses, or potentially poses, a grave risk to public safety, health,
 745 and welfare;

746 (ii) the alleged violation involves:

747 (A) selling, serving, or otherwise furnishing alcoholic products to a minor;

748 (B) attire, conduct, or entertainment prohibited by Part 6, Attire, Conduct, and

749 Entertainment Act;

750 (C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf
 751 of the respondent;

752 (D) interfering or refusing to cooperate with:

753 (I) an authorized official of the department or the state in the discharge of the official's
 754 duties in relation to the enforcement of this title; or

755 (II) a peace officer in the discharge of the peace officer's duties in relation to the
 756 enforcement of this title;

757 (E) an unlawful trade practice under Sections 32A-12-601 through 32A-12-606;

758 (F) unlawful importation of alcoholic products; or

759 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection
 760 32A-12-601(2), to any person other than the department or a military installation, except to the
 761 extent permitted by this title; or

762 (iii) the department determines to seek in a disciplinary proceeding hearing:

763 (A) an administrative fine exceeding \$3,000;

764 (B) a suspension of a license, permit, or certificate of approval of more than ten days;

765 or

766 (C) a revocation of a license, permit, or certificate of approval.

767 (b) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
 768 Administrative Rulemaking Act, to provide a procedure to implement this Subsection (10).

769 Section 7. Section **32A-1-120** is amended to read:

770 **32A-1-120. Judicial review -- Stay of commission order.**

771 (1) In a disciplinary proceeding, [~~any party named~~] as defined in Section 32A-1-119, a

772 respondent found in a final order of the commission to have violated this title or rules of the
773 commission made under this title may seek judicial review in a court of competent jurisdiction
774 pursuant to the judicial review provisions of Sections 63-46b-14 through 63-46b-18.

775 ~~[(2) (a) The findings of the commission on questions of fact are final and are not~~
776 ~~subject to review.]~~

777 ~~[(b) "Questions of fact" include ultimate facts and findings and conclusions of the~~
778 ~~commission on reasonableness and discretion.]~~

779 ~~[(3) After the hearing, the reviewing court shall enter judgment affirming or setting~~
780 ~~aside the order of the commission.]~~

781 ~~[(4) (a) The fact that a petition is pending in a reviewing court does not stay or suspend~~
782 ~~the operation of any order of the commission.]~~

783 ~~[(b) The reviewing court may order that the commission's order be stayed or suspended~~
784 ~~during the appeal.]~~

785 ~~[(c) Before issuing an order staying or suspending the commission's order, the~~
786 ~~reviewing court shall:]~~

787 ~~[(i) give three days' notice to the parties; and]~~

788 ~~[(ii) hold a hearing to receive argument and evidence on whether or not the~~
789 ~~commission's order should be stayed or suspended.]~~

790 ~~[(d) If the reviewing court decides to stay or suspend the commission's order, it shall~~
791 ~~make a written finding that:]~~

792 ~~[(i) great or irreparable damage would result to the petitioner absent the stay or~~
793 ~~suspension;]~~

794 ~~[(ii) specifies the nature of the damage; and]~~

795 ~~[(iii) is based upon evidence submitted to the court and identified by reference.]~~

796 (2) Notwithstanding Subsection 63-46b-16(4)(g), an appellate court may not grant
797 relief on the basis that a finding of fact by the commission in a formal disciplinary proceeding
798 is not supported, if the commission's finding of fact is supported by any evidence of substance
799 in the record of the formal disciplinary proceeding when viewed in light of the whole record
800 before the court.

801 (3) In addition to any other remedy provided by law, the commission may seek
802 enforcement of a commission order in a disciplinary proceeding by seeking civil enforcement

803 in a state district court in accordance with Section 63-46b-19.

804 Section 8. Section **32A-1-122** is amended to read:

805 **32A-1-122. Liquor prices.**

806 (1) For purposes of this section:

807 (a) "Landed case cost" means:

808 (i) the cost of the product; and

809 (ii) inbound shipping costs incurred by the department.

810 (b) "Landed case cost" does not include the outbound shipping cost from a warehouse

811 of the department to a state store.

812 ~~[(1)]~~ (2) (a) Except as provided in Subsections (2)(b) and [(3)] (c), all spirituous liquor
813 and wine sold by the department within the state shall be marked up in an amount not less than
814 ~~[64.5%]~~ 86% above the landed case cost to the department.

815 ~~[(2)]~~ (b) All spirituous liquor and wine sold by the department to military installations
816 in Utah shall be marked up in an amount not less than 15% above the landed case cost to the
817 department.

818 ~~[(3)]~~ (c) If a wine manufacturer producing less than 20,000 gallons of wine in any
819 calendar year, as verified by the department pursuant to federal or other verifiable production
820 reports, first applies to the department for a reduced markup, all wine [~~sold in Utah by the wine~~
821 manufacturer] produced by the wine manufacturer and sold to the department shall be marked
822 up by the department in an amount not less than [~~30%~~] 47% above the landed case cost to the
823 department.

824 (3) (a) Except as provided in Subsection (3)(b), all heavy beer sold by the department
825 within the state shall be marked up in an amount not less than 64.5% above the landed case
826 cost to the department.

827 (b) All heavy beer sold by the department to military installations in Utah shall be
828 marked up in an amount not less than 15% above the landed case cost to the department.

829 (4) Ten percent of the total gross revenue from sales of spiritous liquor, wine, and
830 heavy beer shall be deposited by the department with the state treasurer and credited to the
831 Uniform School Fund to be used to support the school lunch program administered by the State
832 Board of Education under Section 53A-19-201.

833 ~~[(4)]~~ (5) Nothing in this section prohibits the department from selling discontinued

834 [~~lines~~] items at a discount.

835 Section 9. Section **32A-1-401** is amended to read:

836 **32A-1-401. Alcohol training and education -- Revocation, suspension, or**
837 **nonrenewal of licenses.**

838 (1) The commission may suspend, revoke, or not renew the license of any licensee
839 licensed by the commission if any of the following individuals, as defined in Section
840 62A-15-401, fail to complete an alcohol training and education seminar required in Section
841 62A-15-401:

842 (a) an individual who manages operations at the premises of the licensee engaged in the
843 retail sale of alcoholic beverages for consumption on the premises of the licensee;

844 (b) an individual who supervises the serving of alcoholic beverages to a customer for
845 consumption on the premises of the licensee; or

846 (c) an individual who serves alcoholic beverages to a customer for consumption on the
847 premises of the licensee.

848 (2) A city, town, or county in which an establishment conducts its business may
849 suspend, revoke, or not renew the business license of the establishment if any individual
850 described in Subsection (1) fails to complete an alcohol training and education seminar
851 required in Section 62A-15-401.

852 (3) A local authority that issues an off-premise beer retailer license to a [~~general food~~
853 ~~store or similar~~] business that is engaged in the retail sale of beer for consumption off the beer
854 retailer's premises may immediately suspend the license if any of the following individuals fail
855 to complete an alcohol training and education seminar required in Sections 32A-10-103 and
856 62A-15-401, an individual who:

857 (a) directly supervises the sale of beer to a customer for consumption off the premises
858 of the off-premise beer retailer licensee; or

859 (b) sells beer to a customer for consumption off the premises of the off-premise beer
860 retailer licensee.

861 Section 10. Section **32A-1-601** is enacted to read:

862 **Part 6. Attire, Conduct, and Entertainment Act**

863 **32A-1-601. Title -- Purpose -- Application to other laws.**

864 (1) This part is known as the "Attire, Conduct, and Entertainment Act."

865 (2) This part establishes reasonable and uniform time, place, and manner of operation
866 restrictions relating to attire, conduct, and sexually oriented entertainers on a premises or at an
867 event at which alcoholic beverages are sold, served, or allowed to be consumed under a retail
868 license or permit issued by the commission so as to:

869 (a) reduce the adverse secondary effects that the attire, conduct, and sexually oriented
870 entertainers may have upon communities of this state; and

871 (b) protect the health, peace, safety, welfare, and morals of the residents of
872 communities of this state.

873 (3) Nothing in this part permits or allows the showing or display of any matter that is
874 contrary to:

875 (a) applicable federal or state statutes prohibiting obscenity; or

876 (b) state statutes relating to lewdness or indecent public displays.

877 (4) A local authority may be more restrictive of attire, conduct, or sexually oriented
878 entertainers of the type prohibited in this part.

879 Section 11. Section **32A-1-602** is enacted to read:

880 **32A-1-602. General restrictions on attire and conduct.**

881 The following attire and conduct on a premises or at an event regulated by the
882 commission under this title are considered contrary to the public health, peace, safety, welfare,
883 and morals, and are prohibited:

884 (1) employing or using a person in the sale or service of alcoholic beverages while the
885 person is in:

886 (a) a state of nudity;

887 (b) a state of seminudity; or

888 (c) attire, costume, or clothing that exposes to view any portion of:

889 (i) the female breast below the top of the areola; or

890 (ii) the cleft of the buttocks;

891 (2) employing or using the services of a person to mingle with patrons while the person
892 is in:

893 (a) a state of nudity;

894 (b) a state of seminudity; or

895 (c) attire, costume, or clothing that exposes to view any portion of:

- 896 (i) the female breast below the top of the areola; or
- 897 (ii) the cleft of the buttocks;
- 898 (3) encouraging or permitting a person to:
- 899 (a) engage in or simulate an act of:
- 900 (i) sexual intercourse;
- 901 (ii) masturbation;
- 902 (iii) sodomy;
- 903 (iv) bestiality;
- 904 (v) oral copulation;
- 905 (vi) flagellation; or
- 906 (vii) a sexual act that is prohibited by Utah law; or
- 907 (b) touch, caress, or fondle the breast, buttocks, anus, or genitals of any other person;
- 908 (4) permitting a person to wear or use a device or covering that:
- 909 (a) is exposed to view; and
- 910 (b) simulates all or any portion of the human genitals, anus, pubic area, or female
- 911 breast;
- 912 (5) permitting a person to use an artificial device or inanimate object to depict an act
- 913 prohibited by this section;
- 914 (6) permitting a person to remain on a premises or at an event who exposes to public
- 915 view any portion of that person's:
- 916 (a) genitals, pubic area, or anus; or
- 917 (b) in the case of a female, the areola and nipple of the breast; or
- 918 (7) showing a film, still picture, electronic reproduction, or other visual reproduction
- 919 depicting:
- 920 (a) an act or simulated act of:
- 921 (i) sexual intercourse;
- 922 (ii) masturbation;
- 923 (iii) sodomy;
- 924 (iv) bestiality;
- 925 (v) oral copulation;
- 926 (vi) flagellation; or

- 927 (vii) a sexual act that is prohibited by Utah law;
928 (b) a person being touched, caressed, or fondled on the breast, buttocks, anus, or
929 genitals;
930 (c) a scene wherein an artificial device or inanimate object is employed to depict, or a
931 drawing is employed to portray, an act prohibited by this section; or
932 (d) a scene wherein a person displays the genitals or anus.

933 Section 12. Section **32A-1-603** is enacted to read:

934 **32A-1-603. Sexually oriented entertainer.**

- 935 (1) Subject to the restrictions of this section, live entertainment is permitted on a
936 premises or at an event regulated by the commission.
937 (2) Notwithstanding Subsection (1), a licensee or permittee may not permit a person to:
938 (a) appear or perform in a state of nudity;
939 (b) perform or simulate an act of:
940 (i) sexual intercourse;
941 (ii) masturbation;
942 (iii) sodomy;
943 (iv) bestiality;
944 (v) oral copulation;
945 (vi) flagellation; or
946 (v) a sexual act that is prohibited by Utah law; or
947 (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.
948 (3) A sexually oriented entertainer may perform in a state of seminudity:
949 (a) only in a tavern or class D private club; and
950 (b) only if:
951 (i) all windows, doors, and other apertures to the premises are darkened or otherwise
952 constructed to prevent anyone outside the premises from seeing the performance; and
953 (ii) the outside entrance doors of the premises remain unlocked.
954 (4) A sexually oriented entertainer may perform only upon a stage or in a designated
955 performance area that is:
956 (a) approved by the commission in accordance with rules made by the commission in
957 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

- 958 (b) configured so as to preclude a patron from:
959 (i) touching the sexually oriented entertainer; or
960 (ii) placing any money or object on or within the costume or the person of the sexually
961 oriented entertainer; and
962 (c) configured so as to preclude the sexually oriented entertainer from touching a
963 patron.
- 964 (5) A sexually oriented entertainer may not touch a patron:
965 (a) during the sexually oriented entertainer's performance; or
966 (b) while the sexually oriented entertainer is dressed in performance attire or costume.
- 967 (6) A sexually oriented entertainer, while in the portion of the premises used by
968 patrons, must be dressed in opaque clothing which covers and conceals the sexually oriented
969 entertainer's performance attire or costume from the top of the breast to the knee.
- 970 (7) A patron may not be on the stage or in the performance area while a sexually
971 oriented entertainer is appearing or performing on the stage or in the performance area.
- 972 (8) A patron may not:
973 (a) touch a sexually oriented entertainer;
974 (i) during the sexually oriented entertainer's performance; or
975 (ii) while the sexually oriented entertainer is dressed in performance attire or costume;
976 or
977 (b) place money or any other object on or within the costume or the person of the
978 sexually oriented entertainer.
- 979 (9) A minor may not be on a premises described in Subsection (3) when a sexually
980 oriented entertainer is performing on the premises.
- 981 (10) A person who appears or performs for the entertainment of patrons on a premises
982 or at an event regulated by the commission that is not a tavern or class D private club:
983 (a) may not appear or perform in a state of nudity or a state of seminudity; and
984 (b) may appear or perform in opaque clothing that completely covers the person's
985 genitals, pubic area, and anus if the covering:
986 (i) is not less than the following at its widest point:
987 (A) four inches coverage width in the front of the human body; and
988 (B) five inches coverage width in the back of the human body;

- 989 (ii) does not taper to less than one inch wide at the narrowest point; and
- 990 (iii) if covering a female, completely covers the breast below the top of the areola.

991 Section 13. Section **32A-1-604** is enacted to read:

992 **32A-1-604. Compliance -- Disciplinary proceeding.**

993 (1) Each person granted a license or permit by the commission to sell, serve, or allow
994 consumption of alcoholic beverages on a premises or at an event and each officer, employee, or
995 agent of the licensee or permittee shall comply with the conditions and requirements of this
996 part.

997 (2) Failure to comply with this part may result in a disciplinary proceeding pursuant to
998 Section 32A-1-119 against:

- 999 (a) a licensee or permittee; and
- 1000 (b) an officer, employee, or agent of the licensee or permittee.

1001 Section 14. Section **32A-4-102** is amended to read:

1002 **32A-4-102. Application and renewal requirements.**

1003 (1) A person seeking a restaurant liquor license under this part shall file a written
1004 application with the department, in a form prescribed by the department. It shall be
1005 accompanied by:

- 1006 (a) a nonrefundable \$250 application fee;
- 1007 (b) an initial license fee of \$1,750, which is refundable if a license is not granted;
- 1008 (c) written consent of the local authority;
- 1009 (d) a copy of the applicant's current business license;
- 1010 (e) evidence of proximity to any public or private school, church, public library, public
1011 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
1012 Subsections 32A-4-101(4) and (5), the application shall be processed in accordance with those
1013 subsections;
- 1014 (f) a bond as specified by Section 32A-4-105;
- 1015 (g) a floor plan of the restaurant, including consumption areas and the area where the
1016 applicant proposes to keep, store, and sell liquor;
- 1017 (h) evidence that the restaurant is carrying public liability insurance in an amount and
1018 form satisfactory to the department;
- 1019 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least

1020 \$500,000 per occurrence and \$1,000,000 in the aggregate;

1021 (j) a signed consent form stating that the restaurant will permit any authorized
1022 representative of the commission, department, or any law enforcement officer unrestricted right
1023 to enter the restaurant;

1024 (k) in the case of an applicant that is a partnership, corporation, or limited liability
1025 company, proper verification evidencing that the person or persons signing the restaurant
1026 application are authorized to so act on behalf of the partnership, corporation, or limited liability
1027 company; and

1028 (l) any other information the commission or department may require.

1029 (2) (a) All restaurant liquor licenses expire on October 31 of each year.

1030 (b) Persons desiring to renew their restaurant liquor license shall by no later than
1031 September 30 submit:

1032 (i) a completed renewal application to the department; and

1033 (ii) a renewal fee in the following amount:

1034 Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
1035 under \$5,000	\$750
1036 equals or exceeds \$5,000 but less than \$10,000	\$900
1037 equals or exceeds \$10,000 but less than \$25,000	\$1,250
1038 equals or exceeds \$25,000	\$1,500[-]

1039 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1040 the license effective on the date the existing license expires.

1041 (d) Renewal applications shall be in a form as prescribed by the department.

1042 (3) To ensure compliance with Subsection 32A-4-106[~~(28)~~] (25), the commission may
1043 suspend or revoke any restaurant liquor license if the restaurant liquor licensee does not
1044 immediately notify the department of any change in:

1045 (a) ownership of the restaurant;

1046 (b) for a corporate owner, the:

1047 (i) corporate officers or directors; or

1048 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
1049 corporation; or

1050 (c) for a limited liability company:

- 1051 (i) managers; or
- 1052 (ii) members owning at least 20% of the limited liability company.

1053 Section 15. Section **32A-4-106** is amended to read:

1054 **32A-4-106. Operational restrictions.**

1055 Each person granted a restaurant liquor license and the employees and management
1056 personnel of the restaurant shall comply with the following conditions and requirements.
1057 Failure to comply may result in a suspension or revocation of the license or other disciplinary
1058 action taken against individual employees or management personnel.

1059 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from state
1060 stores or package agencies.

1061 (b) Liquor purchased may be transported by the restaurant liquor licensee from the
1062 place of purchase to the licensed premises.

1063 (c) Payment for liquor shall be made in accordance with rules established by the
1064 commission.

1065 (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in
1066 a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
1067 dispensing system approved by the department in accordance with commission rules adopted
1068 under this title, except that:

1069 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1070 system if used as a secondary flavoring ingredient in a beverage subject to the following
1071 restrictions:

1072 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1073 a primary spirituous liquor;

1074 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

1075 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored
1076 on the floor plan provided to the department; and

1077 (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

1078 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1079 system if used:

1080 (i) as a flavoring on desserts; and

1081 (ii) in the preparation of flaming food dishes, drinks, and desserts;

1082 (c) each restaurant patron may have no more than 2.75 ounces of spirituous liquor at a
1083 time; and

1084 (d) each restaurant patron may have no more than one spirituous liquor drink at a time
1085 before the patron.

1086 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to
1087 exceed five ounces per glass or individual portion.

1088 (ii) An individual portion of wine may be served to a patron in more than one glass as
1089 long as the total amount of wine does not exceed five ounces.

1090 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1091 Subsection (7)(e).

1092 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
1093 fixed by the commission to tables of four or more persons.

1094 (ii) Wine may be sold and served in containers not exceeding 750 [mf] milliliters at
1095 prices fixed by the commission to tables of less than four persons.

1096 (c) A wine service may be performed and a service charge assessed by the restaurant as
1097 authorized by commission rule for wine purchased at the restaurant.

1098 (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices
1099 fixed by the commission.

1100 (b) A service charge may be assessed by the restaurant as authorized by commission
1101 rule for heavy beer purchased at the restaurant.

1102 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant licensed to sell liquor may sell
1103 beer for on-premise consumption:

1104 (A) in an open container; and

1105 (B) on draft.

1106 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1107 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1108 container that exceeds one liter.

1109 (b) A restaurant licensed under this chapter that sells beer pursuant to Subsection
1110 (5)(a):

1111 (i) may do so without obtaining a separate on-premise beer retailer license from the
1112 commission; and

1113 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1114 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are
1115 inconsistent with or less restrictive than the operational restrictions under this part.

1116 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1117 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
1118 restaurant's:

1119 (i) state liquor license; and

1120 (ii) alcoholic beverage license issued by the local authority.

1121 (6) Alcoholic beverages may not be stored, served, or sold in any place other than as
1122 designated in the licensee's application, unless the licensee first applies for and receives
1123 approval from the department for a change of location within the restaurant.

1124 (7) (a) (i) A patron may only make alcoholic beverage purchases in the restaurant from
1125 and be served by a person employed, designated, and trained by the licensee to sell and serve
1126 alcoholic beverages.

1127 (ii) Notwithstanding Subsection (7)(a)(i), a patron who has purchased bottled wine
1128 from an employee of the restaurant or has carried bottled wine onto the premises of the
1129 restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the patron
1130 or others at the patron's table.

1131 (b) Alcoholic beverages shall be delivered by a server to the patron.

1132 (c) Any alcoholic beverage may only be consumed at the patron's table or counter.

1133 (d) Alcoholic beverages may not be served to or consumed by a patron at a bar.

1134 (e) Each restaurant patron may have no more than two alcoholic beverages of any kind
1135 at a time before the patron, subject to the limitation in Subsection (2)(d).

1136 (8) The liquor storage area shall remain locked at all times other than those hours and
1137 days when liquor sales are authorized by law.

1138 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
1139 restaurant during the following days or hours:

1140 (i) until after the polls are closed on the day of any:

1141 (A) regular general election;

1142 (B) regular primary election; or

1143 (C) statewide special election;

- 1144 (ii) until after the polls are closed on the day of any municipal, special district, or
- 1145 school election, but only:
 - 1146 (A) within the boundaries of the municipality, special district, or school district; and
 - 1147 (B) if required by local ordinance; and
- 1148 (iii) on any other day after 12 midnight and before 12 noon.
- 1149 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
- 1150 Licenses, for on-premise beer licensees.
- 1151 (10) Alcoholic beverages may not be sold except in connection with an order for food
- 1152 prepared, sold, and served at the restaurant.
- 1153 (11) Alcoholic beverages may not be sold, served, or otherwise furnished to any:
 - 1154 (a) minor;
 - 1155 (b) person actually, apparently, or obviously intoxicated;
 - 1156 (c) known habitual drunkard; or
 - 1157 (d) known interdicted person.
- 1158 (12) (a) (i) Liquor may be sold only at prices fixed by the commission.
- 1159 (ii) Liquor may not be sold at discount prices on any date or at any time.
- 1160 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
- 1161 beverage to the licensee.
- 1162 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 1163 over consumption or intoxication.
- 1164 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 1165 hours of the restaurant's business day such as a "happy hour."
- 1166 (e) The sale or service of more than one alcoholic beverage for the price of a single
- 1167 alcoholic beverage is prohibited.
- 1168 (f) The sale or service of an indefinite or unlimited number of alcoholic beverages
- 1169 during any set period for a fixed price is prohibited.
- 1170 (g) A restaurant licensee may not engage in a public promotion involving or offering
- 1171 free alcoholic beverages to the general public.
- 1172 (13) Alcoholic beverages may not be purchased for a patron of a restaurant by:
 - 1173 (a) the licensee; or
 - 1174 (b) any employee or agent of the licensee.

1175 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee any
1176 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1177 discretion of the licensee, bottled wine onto the premises of any restaurant liquor licensee for
1178 on-premise consumption.

1179 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or its
1180 officers, managers, employees, or agents may not allow:

1181 (i) a person to bring onto the restaurant premises any alcoholic beverage for on-premise
1182 consumption; or

1183 (ii) consumption of any such alcoholic beverage on its premises.

1184 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1185 or other representative of the licensee upon entering the restaurant.

1186 (d) A wine service may be performed and a service charge assessed by the restaurant as
1187 authorized by commission rule for wine carried in by a patron.

1188 (15) (a) Except as provided in Subsection (15)(b), a restaurant licensee and its
1189 employees may not permit a restaurant patron to carry from the restaurant premises an open
1190 container that:

1191 (i) is used primarily for drinking purposes; and

1192 (ii) contains any alcoholic beverage.

1193 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the
1194 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought
1195 onto the premises of the restaurant in accordance with Subsection (14), provided the bottle has
1196 been recorked or recapped before removal.

1197 (16) (a) A minor may not be employed by a restaurant licensee to sell or dispense
1198 alcoholic beverages.

1199 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
1200 employed to enter the sale at a cash register or other sales recording device.

1201 (17) An employee of a restaurant liquor licensee, while on duty, may not:

1202 (a) consume an alcoholic beverage; or

1203 (b) be intoxicated.

1204 (18) Any charge or fee made in connection with the sale, service, or consumption of
1205 liquor may be stated in food or alcoholic beverage menus including:

1206 (a) a set-up charge;

1207 (b) a service charge; or

1208 (c) a chilling fee.

1209 (19) Each restaurant liquor licensee shall display in a prominent place in the restaurant:

1210 (a) the liquor license that is issued by the department;

1211 (b) a list of the types and brand names of liquor being served through its calibrated
1212 metered dispensing system; and

1213 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1214 drugs is a serious crime that is prosecuted aggressively in Utah."

1215 ~~[(20) The following acts or conduct in a restaurant licensed under this chapter are
1216 considered contrary to the public welfare and morals, and are prohibited upon the premises:]~~

1217 ~~[(a) employing or using any person in the sale or service of alcoholic beverages while
1218 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
1219 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
1220 buttocks, vulva, or genitals;]~~

1221 ~~[(b) employing or using the services of any person to mingle with the patrons while the
1222 person is unclothed or in attire, costume, or clothing described in Subsection (20)(a);]~~

1223 ~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts,
1224 buttocks, anus, or genitals of any other person;]~~

1225 ~~[(d) permitting any employee or person to wear or use any device or covering, exposed
1226 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

1227 ~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of
1228 the prohibited activities described in this Subsection (20);]~~

1229 ~~[(f) permitting any person to remain in or upon the premises who exposes to public
1230 view any portion of that person's genitals or anus; or]~~

1231 ~~[(g) showing films, still pictures, electronic reproductions, or other visual
1232 reproductions depicting:]~~

1233 ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
1234 copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

1235 ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
1236 genitals;]~~

1237 ~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or~~
1238 ~~drawings are used to portray, any of the prohibited activities described in this Subsection (20);~~
1239 ~~or]~~

1240 ~~[(iv) scenes wherein a person displays the vulva or the anus or the genitals.]~~

1241 ~~[(21) Nothing in Subsection (20) precludes a local authority from being more~~
1242 ~~restrictive of acts or conduct of the type prohibited in Subsection (20).]~~

1243 ~~[(22) (a) Although live entertainment is permitted on the premises of a restaurant liquor~~
1244 ~~licensee, a licensee may not allow any person to perform or simulate sexual acts prohibited by~~
1245 ~~Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation,~~
1246 ~~flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the~~
1247 ~~displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon a~~
1248 ~~stage or at a designated area approved by the commission.]~~

1249 ~~[(b) Nothing in Subsection (22)(a) precludes a local authority from being more~~
1250 ~~restrictive of acts or conduct of the type prohibited in Subsection (22)(a).]~~

1251 ~~[(23)]~~ (20) A restaurant liquor licensee may not engage in or permit any form of
1252 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1253 Part 11, Gambling, on the premises of the restaurant liquor licensee.

1254 ~~[(24)]~~ (21) (a) Each restaurant liquor licensee shall maintain an expense ledger or
1255 record showing in detail:

1256 (i) quarterly expenditures made separately for:

1257 (A) malt or brewed beverages;

1258 (B) set-ups;

1259 (C) liquor;

1260 (D) food; and

1261 (E) all other items required by the department; and

1262 (ii) sales made separately for:

1263 (A) malt or brewed beverages;

1264 (B) set-ups;

1265 (C) food; and

1266 (D) all other items required by the department.

1267 (b) The record required by Subsection ~~[(24)]~~ (21)(a) shall be kept:

1268 (i) in a form approved by the department; and

1269 (ii) current for each three-month period.

1270 (c) Each expenditure shall be supported by:

1271 (i) delivery tickets;

1272 (ii) invoices;

1273 (iii) receipted bills;

1274 (iv) canceled checks;

1275 (v) petty cash vouchers; or

1276 (vi) other sustaining data or memoranda.

1277 (d) In addition to a ledger or record required under Subsection [~~(24)~~] (21)(a), a
1278 restaurant liquor licensee shall maintain accounting and other records and documents as the
1279 department may require.

1280 (e) Any restaurant or person acting for the restaurant, who knowingly forges, falsifies,
1281 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or
1282 other documents of the restaurant required to be made, maintained, or preserved by this title or
1283 the rules of the commission for the purpose of deceiving the commission or the department, or
1284 any of their officials or employees, is subject to:

1285 (i) the suspension or revocation of the restaurant's liquor license; and

1286 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1287 [~~(25)~~] (22) (a) A restaurant liquor licensee may not close or cease operation for a
1288 period longer than 240 hours, unless:

1289 (i) the restaurant liquor licensee notifies the department in writing at least seven days
1290 before the closing; and

1291 (ii) the closure or cessation of operation is first approved by the department.

1292 (b) Notwithstanding Subsection [~~(25)~~] (22)(a), in the case of emergency closure,
1293 immediate notice of closure shall be made to the department by telephone.

1294 (c) The department may authorize a closure or cessation of operation for a period not to
1295 exceed 60 days. The department may extend the initial period an additional 30 days upon
1296 written request of the restaurant licensee and upon a showing of good cause. A closure or
1297 cessation of operation may not exceed a total of 90 days without commission approval.

1298 (d) Any notice shall include:

- 1299 (i) the dates of closure or cessation of operation;
- 1300 (ii) the reason for the closure or cessation of operation; and
- 1301 (iii) the date on which the licensee will reopen or resume operation.
- 1302 (e) Failure of the licensee to provide notice and to obtain department authorization
- 1303 prior to closure or cessation of operation shall result in an automatic forfeiture of:
- 1304 (i) the license; and
- 1305 (ii) the unused portion of the license fee for the remainder of the license year effective
- 1306 immediately.

1307 (f) Failure of the licensee to reopen or resume operation by the approved date shall

1308 result in an automatic forfeiture of:

- 1309 (i) the license; and
 - 1310 (ii) the unused portion of the license fee for the remainder of the license year.
- 1311 ~~[(26)]~~ (23) Each restaurant liquor licensee shall maintain at least 70% of its total
- 1312 restaurant business from the sale of food, which does not include mix for alcoholic beverages
- 1313 or service charges.

1314 ~~[(27)]~~ (24) A restaurant liquor license may not be transferred from one location to

1315 another, without prior written approval of the commission.

1316 ~~[(28)]~~ (25) (a) A person, having been granted a restaurant liquor license may not sell,

1317 transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to any

1318 other person whether for monetary gain or not.

1319 (b) A restaurant liquor license has no monetary value for the purpose of any type of

1320 disposition.

1321 ~~[(29)]~~ (26) Each server of alcoholic beverages in a licensee's establishment shall keep a

1322 written beverage tab for each table or group that orders or consumes alcoholic beverages on the

1323 premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or

1324 consumed.

1325 ~~[(30)]~~ (27) A person's willingness to serve alcoholic beverages may not be made a

1326 condition of employment as a server with a restaurant that has a restaurant liquor license.

1327 Section 16. Section **32A-4-206** is amended to read:

1328 **32A-4-206. Operational restrictions.**

1329 Each person granted an airport lounge liquor license and the employees and

1330 management personnel of the airport lounge shall comply with the following conditions and
1331 requirements. Failure to comply may result in a suspension or revocation of the license or
1332 other disciplinary action taken against individual employees or management personnel.

1333 (1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from
1334 state stores or package agencies.

1335 (b) Liquor purchased may be transported by the licensee from the place of purchase to
1336 the licensed premises.

1337 (c) Payment for liquor shall be made in accordance with the rules established by the
1338 commission.

1339 (2) An airport lounge liquor licensee may sell or provide a primary spirituous liquor
1340 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
1341 dispensing system approved by the department in accordance with commission rules adopted
1342 under this title, except that:

1343 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1344 system if used as a secondary flavoring ingredient in a beverage subject to the following
1345 restrictions:

1346 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1347 a spirituous primary liquor;

1348 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

1349 (iii) the airport lounge liquor licensee shall designate a location where flavorings are
1350 stored on the floor plan provided to the department; and

1351 (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

1352 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1353 system if used:

1354 (i) as a flavoring on desserts; and

1355 (ii) in the preparation of flaming food dishes, drinks, and desserts; and

1356 (c) each airport lounge patron may have no more than 2.75 ounces of spirituous liquor
1357 at a time before the patron.

1358 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
1359 exceed five ounces per glass or individual portion.

1360 (ii) An individual portion may be served to a patron in more than one glass as long as

1361 the total amount of wine does not exceed five ounces.

1362 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1363 Subsection (7)(c).

1364 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
1365 fixed by the commission to tables of four or more persons.

1366 (ii) Wine may be sold and served in containers not exceeding 750 [mt] milliliters at
1367 prices fixed by the commission to tables of less than four persons.

1368 (c) A wine service may be performed and a service charge assessed by the airport
1369 lounge as authorized by commission rule for wine purchased at the airport lounge.

1370 (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices
1371 fixed by the commission.

1372 (b) A service charge may be assessed by the airport lounge as authorized by
1373 commission rule for heavy beer purchased at the airport lounge.

1374 (5) (a) (i) Subject to Subsection (5)(a)(ii), an airport lounge licensed to sell liquor may
1375 sell beer for on-premise consumption:

1376 (A) in an open container; and

1377 (B) on draft.

1378 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1379 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1380 container that exceeds one liter.

1381 (b) An airport lounge that sells beer pursuant to Subsection (5)(a):

1382 (i) may do so without obtaining a separate on-premise beer retailer license from the
1383 commission; and

1384 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1385 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are
1386 inconsistent with or less restrictive than the operational restrictions under this part.

1387 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1388 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the airport
1389 lounge's:

1390 (i) state liquor license; and

1391 (ii) alcoholic beverage license issued by the local authority.

1392 (6) Alcoholic beverages may not be stored, served, or sold in any place other than as
1393 designated in the licensee's application, unless the licensee first applies for and receives
1394 approval from the department for a change of location within the airport lounge.

1395 (7) (a) A patron may only make purchases in the airport lounge from and be served by
1396 a person employed, designated, and trained by the licensee to sell, dispense, and serve alcoholic
1397 beverages.

1398 (b) Notwithstanding Subsection (7)(a), a patron who has purchased bottled wine from
1399 an employee of the airport lounge may serve wine from the bottle to the patron or others at the
1400 patron's table.

1401 (c) Each airport lounge patron may have no more than two alcoholic beverages of any
1402 kind at a time before the patron.

1403 (8) The liquor storage area shall remain locked at all times other than those hours and
1404 days when liquor sales and service are authorized by law.

1405 (9) Alcoholic beverages may not be sold, offered for sale, served, or otherwise
1406 furnished at an airport lounge on any day after 12 midnight and before 8 a.m.

1407 (10) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

1408 (a) minor;

1409 (b) person actually, apparently, or obviously intoxicated;

1410 (c) known habitual drunkard; or

1411 (d) known interdicted person.

1412 (11) (a) (i) Liquor may be sold only at prices fixed by the commission.

1413 (ii) Liquor may not be sold at discount prices on any date or at any time.

1414 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
1415 to the licensee.

1416 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1417 over consumption or intoxication.

1418 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1419 hours of the airport lounge's business day such as a "happy hour."

1420 (e) The sale or service of more than one alcoholic beverage for the price of a single
1421 alcoholic beverage is prohibited.

1422 (f) The sale or service of an indefinite or unlimited number of alcoholic beverages

1423 during any set period for a fixed price is prohibited.

1424 (g) An airport lounge licensee may not engage in a public promotion involving or
1425 offering free alcoholic beverages to the general public.

1426 (12) Alcoholic beverages may not be purchased for a patron of an airport lounge by:

1427 (a) the licensee; or

1428 (b) any employee or agent of the licensee.

1429 (13) (a) A person may not bring onto the premises of an airport lounge licensee any
1430 alcoholic beverage for on-premise consumption.

1431 (b) An airport lounge or its officers, managers, employees, or agents may not allow a
1432 person to bring onto the airport lounge premises any alcoholic beverage for on-premise
1433 consumption or allow consumption of any such alcoholic beverage on its premises.

1434 (14) An airport lounge licensee and its employees may not permit a patron to remove
1435 any alcoholic beverages from the airport lounge premises.

1436 (15) (a) A minor may not be employed by an airport lounge licensee to sell or dispense
1437 alcoholic beverages.

1438 (b) Notwithstanding Subsection (15)(a), a minor who is at least 16 years of age may be
1439 employed to enter the sale at a cash register or other sales recording device.

1440 (16) An employee of an airport lounge licensee, while on duty, may not:

1441 (a) consume an alcoholic beverage; or

1442 (b) be intoxicated.

1443 (17) Any charge or fee made in connection with the sale, service, or consumption of
1444 liquor may be stated in a food or alcoholic beverage menu including:

1445 (a) a set-up charge;

1446 (b) a service charge; or

1447 (c) a chilling fee.

1448 (18) Each airport lounge liquor licensee shall display in a prominent place in the airport
1449 lounge:

1450 (a) the liquor license that is issued by the department;

1451 (b) a list of the types and brand names of liquor being served through its calibrated
1452 metered dispensing system; and

1453 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or

1454 drugs is a serious crime that is prosecuted aggressively in Utah."

1455 (19) (a) Each airport lounge liquor licensee shall maintain an expense ledger or record
1456 showing in detail:

1457 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all
1458 other items required by the department; and

1459 (ii) sales made separately for malt or brewed beverages, food, and all other items
1460 required by the department.

1461 (b) This record shall be kept:

1462 (i) in a form approved by the department; and

1463 (ii) current for each three-month period.

1464 (c) Each expenditure shall be supported by:

1465 (i) delivery tickets;

1466 (ii) invoices;

1467 (iii) receipted bills;

1468 (iv) canceled checks;

1469 (v) petty cash vouchers; or

1470 (vi) other sustaining data or memoranda.

1471 (d) In addition to a ledger or record required by Subsection (19)(a), each airport lounge
1472 liquor licensee shall maintain accounting and other records and documents as the department
1473 may require.

1474 (e) Any airport lounge or person acting for the airport lounge, who knowingly forges,
1475 falsifies, alters, cancels, destroys, conceals, or removes the entries in any of the books of
1476 account or other documents of the airport lounge required to be made, maintained, or preserved
1477 by this title or the rules of the commission for the purpose of deceiving the commission or the
1478 department, or any of their officials or employees, is subject to:

1479 (i) the immediate suspension or revocation of the airport lounge's liquor license; and

1480 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1481 (20) An airport lounge liquor license may not be transferred from one location to
1482 another, without prior written approval of the commission.

1483 (21) (a) An airport lounge liquor licensee may not sell, transfer, assign, exchange,
1484 barter, give, or attempt in any way to dispose of the license to any other person, whether for

1485 monetary gain or not.

1486 (b) An airport lounge liquor license has no monetary value for the purpose of any type
1487 of disposition.

1488 (22) Each server of alcoholic beverages in a licensee's establishment shall keep a
1489 written beverage tab for each table or group that orders or consumes alcoholic beverages on the
1490 premises. The beverage tab shall list the type and amount of alcoholic beverages ordered or
1491 consumed.

1492 (23) An airport lounge liquor licensee's premises may not be leased for private
1493 functions.

1494 (24) An airport lounge liquor licensee may not engage in or permit any form of
1495 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1496 Part 11, Gambling, on the premises of the airport lounge liquor licensee.

1497 Section 17. Section **32A-4-303** is amended to read:

1498 **32A-4-303. Application and renewal requirements.**

1499 (1) A person seeking a limited restaurant license under this part shall file a written
1500 application with the department, in a form prescribed by the department. The application shall
1501 be accompanied by:

1502 (a) a nonrefundable \$250 application fee;

1503 (b) an initial license fee of \$500, which is refundable if a license is not granted;

1504 (c) written consent of the local authority;

1505 (d) a copy of the applicant's current business license;

1506 (e) evidence of proximity to any public or private school, church, public library, public
1507 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
1508 Subsections 32A-4-302(4) and (5), the application shall be processed in accordance with those
1509 subsections;

1510 (f) a bond as specified by Section 32A-4-306;

1511 (g) a floor plan of the restaurant, including:

1512 (i) consumption areas; and

1513 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and
1514 beer;

1515 (h) evidence that the restaurant is carrying public liability insurance in an amount and

1516 form satisfactory to the department;

1517 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least
1518 \$500,000 per occurrence and \$1,000,000 in the aggregate;

1519 (j) a signed consent form stating that the restaurant will permit any authorized
1520 representative of the commission, department, or any law enforcement officer unrestricted right
1521 to enter the restaurant;

1522 (k) in the case of an applicant that is a partnership, corporation, or limited liability
1523 company, proper verification evidencing that the person or persons signing the restaurant
1524 application are authorized to so act on behalf of the partnership, corporation, or limited liability
1525 company; and

1526 (l) any other information the commission or department may require.

1527 [~~(2) A holder of a restaurant liquor license or a private club license on May 5, 2003,~~
1528 ~~may not be required to pay the application or initial license fees for a limited restaurant license~~
1529 ~~under this chapter if the licensee:]~~

1530 [~~(a) surrenders the restaurant liquor license or private club license before being granted~~
1531 ~~a limited restaurant license; and]~~

1532 [~~(b) applies for a limited restaurant license in calendar year 2003:]~~

1533 [~~(i) for the same premises for which the restaurant liquor license or private club license~~
1534 ~~was granted; and]~~

1535 [~~(ii) before the expiration of the restaurant liquor license or private club license.]~~

1536 [~~(3)~~] (2) (a) All limited restaurant licenses expire on October 31 of each year.

1537 (b) A person desiring to renew that person's limited restaurant license shall submit:

1538 (i) a renewal fee of \$300; and

1539 (ii) a renewal application to the department no later than September 30.

1540 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1541 the license effective on the date the existing license expires.

1542 (d) Renewal applications shall be in a form as prescribed by the department.

1543 [~~(4)~~] (3) To ensure compliance with Subsection 32A-4-307[~~(28)~~] (25), the commission
1544 may suspend or revoke a limited restaurant license if the limited restaurant licensee does not
1545 immediately notify the department of any change in:

1546 (a) ownership of the restaurant;

1547 (b) for a corporate owner, the:
1548 (i) corporate officer or directors; or
1549 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
1550 corporation; or

1551 (c) for a limited liability company:
1552 (i) managers; or
1553 (ii) members owning at least 20% of the limited liability company.

1554 Section 18. Section **32A-4-307** is amended to read:

1555 **32A-4-307. Operational restrictions.**

1556 Each person granted a limited restaurant license and the employees and management
1557 personnel of the restaurant shall comply with the following conditions and requirements.
1558 Failure to comply may result in a suspension or revocation of the license or other disciplinary
1559 action taken against individual employees or management personnel.

1560 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee
1561 except from state stores or package agencies.

1562 (b) Wine and heavy beer purchased in accordance with Subsection (1)(a) may be
1563 transported by the licensee from the place of purchase to the licensed premises.

1564 (c) Payment for wine and heavy beer shall be made in accordance with rules
1565 established by the commission.

1566 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of
1567 spirituous liquor on the premises of the restaurant.

1568 (b) Spirituous liquor may not be on the premises of the restaurant except for use:

1569 (i) as a flavoring on desserts; and

1570 (ii) in the preparation of flaming food dishes, drinks, and desserts.

1571 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
1572 exceed five ounces per glass or individual portion.

1573 (ii) An individual portion may be served to a patron in more than one glass as long as
1574 the total amount of wine does not exceed five ounces.

1575 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1576 Subsection (7)(e).

1577 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices

1578 fixed by the commission to tables of four or more persons.

1579 (ii) Wine may be sold and served in containers not exceeding 750 [ml] milliliters at
1580 prices fixed by the commission to tables of less than four persons.

1581 (c) A wine service may be performed and a service charge assessed by the limited
1582 restaurant as authorized by commission rule for wine purchased at the limited restaurant.

1583 (4) (a) Heavy beer may be served in original containers not exceeding one liter at prices
1584 fixed by the commission.

1585 (b) A service charge may be assessed by the limited restaurant as authorized by
1586 commission rule for heavy beer purchased at the restaurant.

1587 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for
1588 on-premise consumption:

1589 (A) in an open container; and

1590 (B) on draft.

1591 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
1592 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1593 container that exceeds one liter.

1594 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

1595 (i) may do so without obtaining a separate on-premise beer retailer license from the
1596 commission; and

1597 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1598 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are
1599 inconsistent with or less restrictive than the operational restrictions under this part.

1600 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1601 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the
1602 restaurant's:

1603 (i) limited restaurant license; and

1604 (ii) alcoholic beverage license issued by the local authority.

1605 (6) Wine, heavy beer, and beer may not be stored, served, or sold in any place other
1606 than as designated in the licensee's application, unless the licensee first applies for and receives
1607 approval from the department for a change of location within the restaurant.

1608 (7) (a) (i) A patron may only make alcoholic beverage purchases in the limited

1609 restaurant from and be served by a person employed, designated, and trained by the licensee to
1610 sell and serve alcoholic beverages.

1611 (ii) Notwithstanding Subsection (7)(a)(i), a patron who has purchased bottled wine
1612 from an employee of the restaurant or has carried bottled wine onto the premises of the
1613 restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle to the patron
1614 or others at the patron's table.

1615 (b) Alcoholic beverages shall be delivered by a server to the patron.

1616 (c) Any alcoholic beverage may only be consumed at the patron's table or counter.

1617 (d) Alcoholic beverages may not be served to or consumed by a patron at a bar.

1618 (e) Each restaurant patron may have no more than two alcoholic beverages of any kind
1619 at a time before the patron.

1620 (8) The alcoholic beverage storage area shall remain locked at all times other than
1621 those hours and days when alcoholic beverage sales are authorized by law.

1622 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise
1623 furnished at a limited restaurant during the following days or hours:

1624 (i) until after the polls are closed on the day of any:

1625 (A) regular general election;

1626 (B) regular primary election; or

1627 (C) statewide special election;

1628 (ii) until after the polls are closed on the day of any municipal, special district, or
1629 school election, but only:

1630 (A) within the boundaries of the municipality, special district, or school district; and

1631 (B) if required by local ordinance; and

1632 (iii) on any other day after 12 midnight and before 12 noon.

1633 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1634 Licenses, for on-premise beer licensees.

1635 (10) Alcoholic beverages may not be sold except in connection with an order of food
1636 prepared, sold, and served at the restaurant.

1637 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to any:

1638 (a) minor;

1639 (b) person actually, apparently, or obviously intoxicated;

1640 (c) known habitual drunkard; or

1641 (d) known interdicted person.

1642 (12) (a) (i) Wine and heavy beer may be sold only at prices fixed by the commission.

1643 (ii) Wine and heavy beer may not be sold at discount prices on any date or at any time.

1644 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverages
1645 to the licensee.

1646 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1647 over consumption or intoxication.

1648 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1649 hours of the limited restaurant's business day such as a "happy hour."

1650 (e) The sale or service of more than one alcoholic beverage for the price of a single
1651 alcoholic beverage is prohibited.

1652 (f) The sale or service of an indefinite or unlimited number of alcoholic beverages
1653 during any set period for a fixed price is prohibited.

1654 (g) A limited restaurant licensee may not engage in a public promotion involving or
1655 offering free alcoholic beverages to the general public.

1656 (13) Alcoholic beverages may not be purchased for a patron of the restaurant by:

1657 (a) the licensee; or

1658 (b) any employee or agent of the licensee.

1659 (14) (a) A person may not bring onto the premises of a limited restaurant licensee any
1660 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1661 discretion of the licensee, bottled wine onto the premises of any limited restaurant licensee for
1662 on-premise consumption.

1663 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee or its
1664 officers, managers, employees, or agents may not allow:

1665 (i) a person to bring onto the restaurant premises any alcoholic beverage for on-premise
1666 consumption; or

1667 (ii) consumption of any alcoholic beverage described in Subsection (14)(b)(i) on its
1668 premises.

1669 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1670 or other representative of the licensee upon entering the restaurant.

1671 (d) A wine service may be performed and a service charge assessed by the restaurant as
1672 authorized by commission rule for wine carried in by a patron.

1673 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee and its
1674 employees may not permit a restaurant patron to carry from the restaurant premises an open
1675 container that:

1676 (i) is used primarily for drinking purposes; and

1677 (ii) contains any alcoholic beverage.

1678 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
1679 contents of a bottle of wine if before removal the bottle has been recorked or recapped.

1680 (16) (a) A minor may not be employed by a limited restaurant licensee to sell or
1681 dispense alcoholic beverages.

1682 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
1683 employed to enter the sale at a cash register or other sales recording device.

1684 (17) An employee of a limited restaurant licensee, while on duty, may not:

1685 (a) consume an alcoholic beverage; or

1686 (b) be intoxicated.

1687 (18) A charge or fee made in connection with the sale, service, or consumption of wine
1688 or heavy beer may be stated in food or alcoholic beverage menus including:

1689 (a) a service charge; or

1690 (b) a chilling fee.

1691 (19) Each limited restaurant licensee shall display in a prominent place in the
1692 restaurant:

1693 (a) the license that is issued by the department; and

1694 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1695 drugs is a serious crime that is prosecuted aggressively in Utah."

1696 ~~[(20) The following acts or conduct in a restaurant licensed under this part are
1697 considered contrary to the public welfare and morals, and are prohibited upon the premises:]~~

1698 ~~[(a) employing or using any person in the sale or service of alcoholic beverages while
1699 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
1700 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
1701 buttocks, vulva, or genitals;]~~

1702 ~~[(b) employing or using the services of any person to mingle with the patrons while the~~
1703 ~~person is unclothed or in attire, costume, or clothing described in Subsection (20)(a);]~~

1704 ~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts,~~
1705 ~~buttocks, anus, or genitals of any other person;]~~

1706 ~~[(d) permitting any employee or person to wear or use any device or covering, exposed~~
1707 ~~to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

1708 ~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of~~
1709 ~~the prohibited activities described in this Subsection (20);]~~

1710 ~~[(f) permitting any person to remain in or upon the premises who exposes to public~~
1711 ~~view any portion of that person's genitals or anus; or]~~

1712 ~~[(g) showing films, still pictures, electronic reproductions, or other visual~~
1713 ~~reproductions depicting;]~~

1714 ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral~~
1715 ~~copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

1716 ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or~~
1717 ~~genitals;]~~

1718 ~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or~~
1719 ~~drawings are used to portray, any of the prohibited activities described in this Subsection (20);~~
1720 ~~or]~~

1721 ~~[(iv) scenes wherein a person displays the vulva, anus, or the genitals.]~~

1722 ~~[(21) Nothing in Subsection (20) precludes a local authority from being more~~
1723 ~~restrictive of acts or conduct of the type prohibited in Subsection (20).]~~

1724 ~~[(22) (a) Although live entertainment is permitted on the premises of a limited~~
1725 ~~restaurant licensee, a licensee may not allow any person to perform or simulate sexual acts~~
1726 ~~prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral~~
1727 ~~copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or~~
1728 ~~genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform~~
1729 ~~only upon a stage or at a designated area approved by the commission.]~~

1730 ~~[(b) Nothing in Subsection (22)(a) precludes a local authority from being more~~
1731 ~~restrictive of acts or conduct of the type prohibited in Subsection (22)(a).]~~

1732 ~~[(23)]~~ (20) A limited restaurant licensee may not engage in or permit any form of

1733 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1734 Part 11, Gambling, on the premises of the restaurant.

1735 ~~[(24)]~~ (21) (a) Each limited restaurant licensee shall maintain an expense ledger or
1736 record showing in detail:

1737 (i) quarterly expenditures made separately for:

1738 (A) wine;

1739 (B) heavy beer;

1740 (C) beer;

1741 (D) food; and

1742 (E) all other items required by the department; and

1743 (ii) sales made separately for:

1744 (A) wine;

1745 (B) heavy beer;

1746 (C) beer;

1747 (D) food; and

1748 (E) all other items required by the department.

1749 (b) The record required by Subsection ~~[(24)]~~ (21)(a) shall be kept:

1750 (i) in a form approved by the department; and

1751 (ii) current for each three-month period.

1752 (c) Each expenditure shall be supported by:

1753 (i) delivery tickets;

1754 (ii) invoices;

1755 (iii) receipted bills;

1756 (iv) canceled checks;

1757 (v) petty cash vouchers; or

1758 (vi) other sustaining data or memoranda.

1759 (d) In addition to the ledger or record maintained under Subsections ~~[(24)]~~ (21)(a)

1760 through (c), a limited restaurant licensee shall maintain accounting and other records and

1761 documents as the department may require.

1762 (e) Any restaurant or person acting for the restaurant, who knowingly forges, falsifies,

1763 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or

1764 other documents of the restaurant required to be made, maintained, or preserved by this title or
1765 the rules of the commission for the purpose of deceiving the commission or department, or any
1766 of their officials or employees, is subject to:

- 1767 (i) the suspension or revocation of the limited restaurant's license; and
- 1768 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1769 [~~(25)~~] (22) (a) A limited restaurant licensee may not close or cease operation for a
1770 period longer than 240 hours, unless:

- 1771 (i) the limited restaurant licensee notifies the department in writing at least seven days
1772 before the closing; and
- 1773 (ii) the closure or cessation of operation is first approved by the department.

1774 (b) Notwithstanding Subsection [~~(25)~~] (22)(a), in the case of emergency closure,
1775 immediate notice of closure shall be made to the department by telephone.

1776 (c) (i) Subject to Subsection [~~(25)~~] (22)(c)(iii), the department may authorize a closure
1777 or cessation of operation for a period not to exceed 60 days.

1778 (ii) The department may extend the initial period an additional 30 days upon:

- 1779 (A) written request of the limited restaurant licensee; and
- 1780 (B) a showing of good cause.

1781 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1782 commission approval.

1783 (d) Any notice required by Subsection [~~(25)~~] (22)(a) shall include:

- 1784 (i) the dates of closure or cessation of operation;
- 1785 (ii) the reason for the closure or cessation of operation; and
- 1786 (iii) the date on which the licensee will reopen or resume operation.

1787 (e) Failure of the licensee to provide notice and to obtain department authorization
1788 before closure or cessation of operation shall result in an automatic forfeiture of:

- 1789 (i) the license; and
- 1790 (ii) the unused portion of the license fee for the remainder of the license year effective
1791 immediately.

1792 (f) Failure of the licensee to reopen or resume operation by the approved date shall
1793 result in an automatic forfeiture of:

- 1794 (i) the license; and

1795 (ii) the unused portion of the license fee for the remainder of the license year.

1796 [~~(26)~~] (23) Each limited restaurant licensee shall maintain at least 70% of its total

1797 restaurant business from the sale of food, which does not include service charges.

1798 [~~(27)~~] (24) A limited restaurant license may not be transferred from one location to

1799 another, without prior written approval of the commission.

1800 [~~(28)~~] (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange,

1801 barter, give, or attempt in any way to dispose of the license to any other person whether for

1802 monetary gain or not.

1803 (b) A limited restaurant license has no monetary value for the purpose of any type of

1804 disposition.

1805 [~~(29)~~] (26) (a) Each server of wine, heavy beer, and beer in a limited restaurant

1806 licensee's establishment shall keep a written beverage tab for each table or group that orders or

1807 consumes alcoholic beverages on the premises.

1808 (b) The beverage tab required by Subsection [~~(29)~~] (26)(a) shall list the type and

1809 amount of alcoholic beverages ordered or consumed.

1810 [~~(30)~~] (27) A limited restaurant licensee may not make a person's willingness to serve

1811 alcoholic beverages a condition of employment as a server with the restaurant.

1812 Section 19. Section **32A-4-401** is amended to read:

1813 **32A-4-401. Commission's power to grant licenses -- Limitations.**

1814 (1) (a) For purposes of this part:

1815 (i) "Banquet" means an event:

1816 (A) for which there is a contract:

1817 (I) between any person and a person listed in Subsection (1)(a)(i)(B); and

1818 (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide

1819 alcoholic beverages at the event;

1820 (B) held at one or more designated locations approved by the commission in or on the

1821 premises of a:

1822 (I) hotel;

1823 (II) resort facility;

1824 (III) sports center; or

1825 (IV) convention center; and

- 1826 (C) at which food and alcoholic beverages may be sold and served.
- 1827 (ii) "Convention center" is as defined by the commission by rule.
- 1828 (iii) "Hotel" is as defined by the commission by rule.
- 1829 (iv) "Resort facility" is as defined by the commission by rule.
- 1830 (v) "Room service" means service of alcoholic beverages to a guest room of a:
- 1831 (A) hotel; or
- 1832 (B) resort facility.
- 1833 (vi) "Sports center" is as defined by the commission by rule.
- 1834 (b) The commission may issue an on-premise banquet license to any of the following
- 1835 persons for the purpose of allowing the storage, sale, service, and consumption of alcoholic
- 1836 beverages in connection with that person's banquet and room service activities:
- 1837 (i) hotel;
- 1838 (ii) resort facility;
- 1839 (iii) sports center; or
- 1840 (iv) convention center.
- 1841 (c) This chapter is not intended to prohibit [~~liquor~~] alcoholic beverages on the premises
- 1842 of a person listed in Subsection (1) to the extent otherwise permitted by this title.
- 1843 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not
- 1844 at any time aggregate more than that number determined by dividing the population of the state
- 1845 by 30,000.
- 1846 (b) For purposes of this Subsection (2), the population of the state shall be determined
- 1847 by:
- 1848 (i) the most recent United States decennial or special census; or
- 1849 (ii) any other population determination made by the United States or state
- 1850 governments.
- 1851 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet
- 1852 licensee:
- 1853 (a) the host of a contracted banquet may request an on-premise banquet licensee to
- 1854 provide alcoholic beverages served at a banquet; and
- 1855 (b) an on-premise banquet licensee may provide the alcoholic beverages served at a
- 1856 banquet.

1857 (4) At a banquet, an on-premise banquet licensee may provide:

1858 (a) a hosted bar; or

1859 (b) a cash bar.

1860 (5) Nothing in this section shall prohibit a qualified on-premise banquet license

1861 applicant from applying for a package agency.

1862 (6) (a) The premises of an on-premise banquet license may not be established within
1863 600 feet of any public or private school, church, public library, public playground, or park, as
1864 measured by the method in Subsection [~~(7)~~] (6)(d).

1865 (b) The premises of an on-premise banquet license may not be established within 200
1866 feet of any public or private school, church, public library, public playground, or park,
1867 measured in a straight line from the nearest entrance of the proposed outlet to the nearest
1868 property boundary of the public or private school, church, public library, public playground, or
1869 park.

1870 (c) The restrictions contained in Subsections (6)(a) and (b) govern unless one of the
1871 following exemptions applies:

1872 (i) with respect to the establishment of an on-premise banquet license within any
1873 location, the commission may authorize a variance to reduce the proximity requirements of
1874 Subsection (6)(a) or (b) if:

1875 (A) the local [~~governing~~] authority [~~has granted~~] grants its written consent to the
1876 variance;

1877 (B) alternative locations for establishing an on-premise banquet license in the
1878 community are limited;

1879 (C) the variance is authorized after a public hearing [~~has been~~] is held in the city, town,
1880 or county, and where practical in the neighborhood concerned; and

1881 (D) after giving full consideration to all of the attending circumstances and the policies
1882 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the
1883 license would not be detrimental to the public health, peace, safety, and welfare of the
1884 community; or

1885 (ii) with respect to the premises of any on-premise banquet license issued by the
1886 commission that undergoes a change of ownership, the commission may waive or vary the
1887 proximity requirements of Subsections (6)(a) and (b) in considering whether to grant an

1888 on-premise banquet license to the new owner of the premises if:

1889 (A) the premises previously received a variance reducing the proximity requirements of
1890 Subsection (6)(a) or (b); or

1891 (B) a variance from proximity or distance requirements was otherwise allowed under
1892 this title.

1893 ~~[(7)]~~ (d) With respect to any public or private school, church, public library, public
1894 playground, or park, the 600 foot limitation described in Subsection (6)(a) is measured from
1895 the nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to
1896 the property boundary of the public or private school, church, public library, public playground,
1897 school playground, or park.

1898 ~~[(8)]~~ (7) (a) Nothing in this section prevents the commission from considering the
1899 proximity of any educational, religious, and recreational facility, or any other relevant factor in
1900 reaching a decision on a proposed location.

1901 (b) For purposes of this Subsection ~~[(8)]~~ (7), "educational facility" includes:

- 1902 (i) a nursery school;
- 1903 (ii) an infant day care center; and
- 1904 (iii) a trade and technical school.

1905 Section 20. Section **32A-4-402** is amended to read:

1906 **32A-4-402. Application and renewal requirements.**

1907 (1) (a) A person seeking an on-premise banquet license under this part shall file a
1908 written application with the department, in a form prescribed by the department. The
1909 application shall be accompanied by:

- 1910 (i) a nonrefundable \$250 application fee;
- 1911 (ii) an initial license fee of \$500, which is refundable if a license is not granted;
- 1912 (iii) written consent of the local authority;
- 1913 (iv) a copy of the applicant's current business license;
- 1914 (v) evidence of proximity to any public or private school, church, public library, public
1915 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
1916 ~~[Subsections]~~ Subsection 32A-4-401(6) ~~[and (7)]~~, the application shall be processed in
1917 accordance with those subsections;

1918 (vi) a bond as specified by Section 32A-4-405;

- 1919 (vii) a description or floor plan and boundary map of the premises, where appropriate,
1920 of the on-premise banquet license applicant's location, designating:
- 1921 (A) the location at which the on-premise banquet license applicant proposes that
1922 alcoholic beverages be stored; and
- 1923 (B) the designated locations on the premises of the applicant from which the
1924 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and
1925 consumed;
- 1926 (viii) evidence that the on-premise banquet license applicant is carrying public liability
1927 insurance in an amount and form satisfactory to the department;
- 1928 (ix) evidence that the on-premise banquet license applicant is carrying dramshop
1929 insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;
- 1930 (x) a signed consent form stating that the on-premise banquet license applicant will
1931 permit any authorized representative of the commission, department, or any law enforcement
1932 officer unrestricted right to enter the on-premise banquet premises;
- 1933 (xi) in the case of an applicant that is a partnership, corporation, or limited liability
1934 company, proper verification evidencing that the person or persons signing the on-premise
1935 banquet license application are authorized to so act on behalf of the partnership, corporation, or
1936 limited liability company; and
- 1937 (xii) any other information the commission or department may require.
- 1938 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv),
1939 and (vi) if the applicant is:
- 1940 (i) a state agency; or
- 1941 (ii) a political subdivision of the state including:
- 1942 (A) a county; or
- 1943 (B) a municipality.
- 1944 (2) Additional locations in or on the premises of an on-premise banquet license
1945 applicant's business from which the on-premise banquet license applicant may propose that
1946 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's
1947 original application may be approved by the department upon proper application, in accordance
1948 with guidelines approved by the commission.
- 1949 (3) (a) All on-premise banquet licenses expire on October 31 of each year.

1950 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that
1951 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed
1952 renewal application to the department no later than September 30.

1953 (ii) A licensee is not required to submit the renewal fee if the licensee is:

1954 (A) a state agency; or

1955 (B) a political subdivision of the state including:

1956 (I) a county; or

1957 (II) a municipality.

1958 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
1959 the license effective on the date the existing license expires.

1960 (d) Renewal applications shall be in a form as prescribed by the department.

1961 (4) To ensure compliance with Subsection 32A-4-406[~~(27)~~] (24), the commission may
1962 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to
1963 immediately notify the department of any change in:

1964 (a) ownership of the licensee;

1965 (b) for a corporate owner, the:

1966 (i) corporate officers or directors; or

1967 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
1968 corporation; or

1969 (c) for a limited liability company:

1970 (i) managers; or

1971 (ii) members owning at least 20% of the limited liability company.

1972 Section 21. Section **32A-4-406** is amended to read:

1973 **32A-4-406. Operational restrictions.**

1974 Each person granted an on-premise banquet license and the employees and management
1975 personnel of the on-premise banquet licensee shall comply with this title, the rules of the
1976 commission, and the following conditions and requirements. Failure to comply may result in a
1977 suspension or revocation of the license or other disciplinary action taken against individual
1978 employees or management personnel.

1979 (1) A person involved in the sale or service of alcoholic beverages under the
1980 on-premise banquet license shall:

- 1981 (a) be under the supervision and direction of the on-premise banquet licensee; and
1982 (b) complete the seminar provided for in Section 62A-15-401.
- 1983 (2) (a) Liquor may not be purchased by the on-premise banquet licensee except from
1984 state stores or package agencies.
- 1985 (b) Liquor purchased in accordance with Subsection (2)(a) may be transported by the
1986 on-premise banquet licensee from the place of purchase to the licensed premises.
- 1987 (c) Payment for liquor shall be made in accordance with rules established by the
1988 commission.
- 1989 (3) Alcoholic beverages may be sold or provided at a banquet subject to the restrictions
1990 set forth in this Subsection (3).
- 1991 (a) An on-premise banquet licensee may sell or provide any primary spirituous liquor
1992 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
1993 dispensing system approved by the department in accordance with commission rules adopted
1994 under this title, except that:
- 1995 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing
1996 system if used as a secondary flavoring ingredient in a beverage subject to the following
1997 restrictions:
- 1998 (A) the secondary ingredient may be dispensed only in conjunction with the purchase
1999 of a primary spirituous liquor;
- 2000 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;
- 2001 (C) the on-premise banquet licensee shall designate a location where flavorings are
2002 stored on the floor plan provided to the department; and
- 2003 (D) all flavoring containers shall be plainly and conspicuously labeled "flavorings";
- 2004 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing
2005 system if used:
- 2006 (A) as a flavoring on desserts; and
- 2007 (B) in the preparation of flaming food dishes, drinks, and desserts;
- 2008 (iii) each attendee may have no more than 2.75 ounces of spirituous liquor at a time
2009 before the attendee; and
- 2010 (iv) each attendee may have no more than one spirituous liquor drink at a time before
2011 the attendee.

2012 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to
2013 exceed five ounces per glass or individual portion.

2014 (B) An individual portion may be served to an attendee in more than one glass as long
2015 as the total amount of wine does not exceed five ounces.

2016 (C) An individual portion of wine is considered to be one alcoholic beverage under
2017 Subsection (5)(c).

2018 (ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed
2019 by the commission.

2020 (iii) A wine service may be performed and a service charge assessed by the on-premise
2021 banquet licensee as authorized by commission rule for wine purchased on the banquet
2022 premises.

2023 (c) (i) Heavy beer may be served in original containers not exceeding one liter at prices
2024 fixed by the commission.

2025 (ii) A service charge may be assessed by the on-premise banquet licensee as authorized
2026 by commission rule for heavy beer purchased on the banquet premises.

2027 (d) (i) Except as provided in Subsection (3)(d)(ii), beer may be sold and served for
2028 on-premise consumption:

2029 (A) in an open container; and

2030 (B) on draft.

2031 (ii) Beer sold pursuant to Subsection (3)(d)(i) shall be in a size of container that does
2032 not exceed two liters, except that beer may not be sold to an individual attendee in a container
2033 size that exceeds one liter.

2034 (4) Alcoholic beverages may not be stored, served, or sold in any place other than as
2035 designated in the on-premise banquet licensee's application, except that additional locations in
2036 or on the premises of an on-premise banquet licensee may be approved in accordance with
2037 guidelines approved by the commission as provided in Subsection 32A-4-402(2).

2038 (5) (a) An attendee may only make alcoholic beverage purchases from and be served by
2039 a person employed, designated, and trained by the on-premise banquet licensee to sell and
2040 serve alcoholic beverages.

2041 (b) Notwithstanding Subsection (5)(a), an attendee who has purchased bottled wine
2042 from an employee of the on-premise banquet licensee may thereafter serve wine from the bottle

2043 to the attendee or others at the attendee's table.

2044 (c) Each attendee may have no more than two alcoholic beverages of any kind at a time
2045 before the attendee.

2046 (6) The alcoholic beverage storage area shall remain locked at all times other than
2047 those hours and days when alcoholic beverage sales are authorized by law.

2048 (7) (a) Except as provided in Subsection (7)(b), alcoholic beverages may be offered for
2049 sale, sold, served, or otherwise furnished from 10 a.m. to 1 a.m. seven days a week:

2050 (i) at a banquet; or

2051 (ii) in connection with room service.

2052 (b) Notwithstanding Subsection (7)(a), a sale or service of [~~alcoholic beverages~~] liquor
2053 may not occur at a banquet or in connection with room service until after the polls are closed
2054 on the day of:

2055 (i) a regular general election;

2056 (ii) a regular primary election; or

2057 (iii) a statewide special election.

2058 (8) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

2059 (a) minor;

2060 (b) person actually, apparently, or obviously intoxicated;

2061 (c) known habitual drunkard; or

2062 (d) known interdicted person.

2063 (9) (a) (i) Liquor may be sold only at prices fixed by the commission.

2064 (ii) Liquor may not be sold at discount prices on any date or at any time.

2065 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
2066 to the licensee.

2067 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
2068 over consumption or intoxication.

2069 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
2070 hours of the on-premise banquet licensee's business day such as a "happy hour."

2071 (e) The sale or service of more than one alcoholic beverage for the price of a single
2072 alcoholic beverage is prohibited.

2073 (f) An on-premise banquet licensee may not engage in a public promotion involving or

2074 offering free alcoholic beverages to the general public.

2075 (10) Alcoholic beverages may not be purchased for an attendee by:

2076 (a) the on-premise banquet licensee; or

2077 (b) any employee or agent of the on-premise banquet licensee.

2078 (11) An attendee of a banquet may not bring any alcoholic beverage into or onto, or
2079 remove any alcoholic beverage from the premises of a banquet.

2080 (12) (a) Except as otherwise provided in this title, the sale and service of alcoholic
2081 beverages by an on-premise banquet licensee at a banquet shall be made only for consumption
2082 at the location of the banquet.

2083 (b) The host of a banquet, an attendee, or any other person other than the on-premise
2084 banquet licensee or its employees, may not remove any alcoholic beverage from the premises
2085 of the banquet.

2086 (13) An on-premise banquet licensee employee shall remain at the banquet at all times
2087 when alcoholic beverages are being sold, served, or consumed at the banquet.

2088 (14) (a) An on-premise banquet licensee may not leave any unsold alcoholic beverages
2089 at the banquet following the conclusion of the banquet.

2090 (b) At the conclusion of a banquet, the on-premise banquet licensee or its employees,
2091 shall:

2092 (i) destroy any opened and unused alcoholic beverages that are not saleable, under
2093 conditions established by the department; and

2094 (ii) return to the on-premise banquet licensee's approved locked storage area any:

2095 (A) opened and unused alcoholic beverage that is saleable; and

2096 (B) unopened containers of alcoholic beverages.

2097 (15) Except as provided in Subsection (14), any open or sealed container of alcoholic
2098 beverages not sold or consumed at a banquet:

2099 (a) shall be stored by the on-premise banquet licensee in the licensee's approved locked
2100 storage area; and

2101 (b) may be used at more than one banquet.

2102 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense,
2103 or otherwise furnish alcoholic beverages in connection with the licensee's banquet and room
2104 service activities.

2105 (17) An employee of an on-premise banquet licensee, while on duty, may not:

2106 (a) consume an alcoholic beverage; or

2107 (b) be intoxicated.

2108 (18) An on-premise banquet licensee shall prominently display at each banquet at

2109 which alcoholic beverages are sold or served:

2110 (a) a copy of the licensee's on-premise banquet license; and

2111 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2112 drugs is a serious crime that is prosecuted aggressively in Utah."

2113 ~~[(19) The following acts or conduct are considered contrary to the public welfare and
2114 morals, and are prohibited at and during the hours of a banquet:]~~

2115 ~~[(a) employing or using any person in the sale or service of alcoholic beverages while
2116 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
2117 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
2118 buttocks, vulva, or genitals;]~~

2119 ~~[(b) employing or using the services of any person to mingle with the patrons while the
2120 person is unclothed or in attire, costume, or clothing described in Subsection (19)(a);]~~

2121 ~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts,
2122 buttocks, anus, or genitals of any other person;]~~

2123 ~~[(d) permitting any employee or person to wear or use any device or covering, exposed
2124 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

2125 ~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of
2126 the prohibited activities described in this Subsection (19);]~~

2127 ~~[(f) permitting any person to remain in or upon the premises who exposes to public
2128 view any portion of that person's genitals or anus; or]~~

2129 ~~[(g) showing films, still pictures, electronic reproductions, or other visual
2130 reproductions depicting:]~~

2131 ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
2132 copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

2133 ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
2134 genitals;]~~

2135 ~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or~~

2136 drawings are used to portray, any of the prohibited activities described in this Subsection (19);
2137 or]

2138 [(iv) scenes wherein a person displays the vulva, anus, or the genitals.]

2139 [(20) Nothing in Subsection (19) precludes a local authority from being more
2140 restrictive of acts or conduct of the type prohibited in Subsection (19).]

2141 [(21)(a) Although live entertainment is permitted at a banquet, an on-premise banquet
2142 licensee may not allow any person to perform or simulate sexual acts prohibited by Utah law,
2143 including sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, the
2144 touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or the displaying of
2145 the pubic hair, anus, vulva, or genitals.]

2146 [(b) Nothing in Subsection (21)(a) precludes a local authority from being more
2147 restrictive of acts or conduct of the type prohibited in Subsection (21)(a).]

2148 [(22)] (19) An on-premise banquet licensee may not engage in or permit any form of
2149 gambling, or have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
2150 Part 11, Gambling, on the premises of the:

- 2151 (a) hotel;
- 2152 (b) resort facility;
- 2153 (c) sports center; or
- 2154 (d) convention center.

2155 [(23)] (20) (a) An on-premise banquet licensee shall maintain accounting and such
2156 other records and documents as the commission or department may require.

2157 (b) An on-premise banquet licensee or person acting for the on-premise banquet
2158 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the
2159 entries in any of the books of account or other documents of the on-premise banquet licensee
2160 required to be made, maintained, or preserved by this title or the rules of the commission for
2161 the purpose of deceiving the commission or department, or any of their officials or employees,
2162 is subject to:

- 2163 (i) the suspension or revocation of the on-premise banquet license; and
- 2164 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2165 [(24)] (21) (a) For the purpose described in Subsection [(24)] (21)(b), an on-premise
2166 banquet licensee shall provide the department with advance notice of a scheduled banquet in

2167 accordance with rules made by the commission in accordance with Title 63, Chapter 46a, Utah
2168 Administrative Rulemaking Act.

2169 (b) The advance notice required by Subsection [~~(24)~~] (21)(a) is required to provide any
2170 of the following the opportunity to conduct a random inspection of a banquet:

- 2171 (i) an authorized representative of the commission or the department; or
- 2172 (ii) a law enforcement officer.

2173 [~~(25)~~] (22) An on-premise banquet licensee shall maintain at least 50% of its total
2174 annual banquet gross receipts from the sale of food, not including:

- 2175 (a) mix for alcoholic beverages; and
- 2176 (b) charges in connection with the service of alcoholic beverages.

2177 [~~(26)~~] (23) A person may not transfer an on-premise banquet license from one business
2178 location to another without prior written approval of the commission.

2179 [~~(27)~~] (24) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange,
2180 barter, give, or attempt in any way to dispose of the license to any other person, whether for
2181 monetary gain or not.

2182 (b) An on-premise banquet license has no monetary value for the purpose of any type
2183 of disposition.

2184 [~~(28)~~] (25) (a) Room service of alcoholic beverages to a guest room of a hotel or resort
2185 facility shall be provided in person by an on-premise banquet licensee employee only to an
2186 adult guest in the guest room.

2187 (b) Alcoholic beverages may not be left outside a guest room for retrieval by a guest.

2188 (c) An on-premise banquet licensee may only provide alcoholic beverages for room
2189 service in sealed containers.

2190 Section 22. Section **32A-5-102** is amended to read:

2191 **32A-5-102. Application and renewal requirements.**

2192 (1) A club seeking a class A, B, C, or D private club license under this chapter shall
2193 file a written application with the department in a form prescribed by the department. The
2194 application shall be accompanied by:

- 2195 (a) a nonrefundable \$250 application fee;
- 2196 (b) an initial license fee of \$2,500, which is refundable if a license is not granted;
- 2197 (c) written consent of the local authority;

- 2198 (d) a copy of the applicant's current business license;
- 2199 (e) evidence of proximity to any public or private school, church, public library, public
- 2200 playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of
- 2201 Subsections 32A-5-101(7) and (8), the application shall be processed in accordance with those
- 2202 subsections;
- 2203 (f) evidence that the applicant operates a club where a variety of food is prepared and
- 2204 served in connection with dining accommodations;
- 2205 (g) a bond as specified by Section 32A-5-106;
- 2206 (h) a floor plan of the club premises, including consumption areas and the area where
- 2207 the applicant proposes to keep and store liquor;
- 2208 (i) evidence that the club is carrying public liability insurance in an amount and form
- 2209 satisfactory to the department;
- 2210 (j) evidence that the club is carrying dramshop insurance coverage of at least \$500,000
- 2211 per occurrence and \$1,000,000 in the aggregate;
- 2212 (k) a copy of the club's bylaws or house rules, and any amendments to those
- 2213 documents, which shall be kept on file with the department at all times;
- 2214 (l) a signed consent form stating that the club and its management will permit any
- 2215 authorized representative of the commission, department, or any law enforcement officer
- 2216 unrestricted right to enter the club premises;
- 2217 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,
- 2218 C, or D private club licensee; and
- 2219 (ii) evidence that the private club meets the requirements for the classification for
- 2220 which the club is applying;
- 2221 (n) in the case of a partnership, corporation, or limited liability company applicant,
- 2222 proper verification evidencing that the person or persons signing the private club application
- 2223 are authorized to so act on behalf of the partnership, corporation, or limited liability company;
- 2224 and
- 2225 (o) any other information the commission or department may require.
- 2226 (2) (a) The commission may refuse to issue a license if the commission determines that
- 2227 any provisions of the club's bylaws or house rules, or amendments to those documents are not:
- 2228 (i) reasonable; and

- 2229 (ii) consistent with:
- 2230 (A) the declared nature and purpose of the applicant; and
- 2231 (B) the purposes of this chapter.
- 2232 (b) Club bylaws or house rules shall include provisions respecting the following:
- 2233 (i) standards of eligibility for members;
- 2234 (ii) limitation of members, consistent with the nature and purpose of the private club;
- 2235 (iii) the period for which dues are paid, and the date upon which the period expires;
- 2236 (iv) provisions for dropping members for the nonpayment of dues or other cause; and
- 2237 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor
- 2238 cards.

- 2239 (3) (a) All private club licenses expire on June 30 of each year.
- 2240 (b) A person desiring to renew that person's private club license shall submit by no later
- 2241 than May 31:

- 2242 (i) a completed renewal application to the department; and
- 2243 (ii) a renewal fee in the following amount:

Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
2244 under \$10,000	\$1,000
2245 equals or exceeds \$10,000 but less than \$25,000	\$1,250
2246 equals or exceeds \$25,000 but less than \$75,000	\$1,750
2247 equals or exceeds \$75,000	\$2,250[-]

- 2249 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
- 2250 the license effective on the date the existing license expires.

- 2251 (d) Renewal applications shall be in a form as prescribed by the department.

- 2252 (4) To ensure compliance with Subsection 32A-5-107[~~(44)~~] (40), the commission may
- 2253 suspend or revoke any private club license if the private club licensee does not immediately
- 2254 notify the department of any change in:

- 2255 (a) ownership of the club;
- 2256 (b) for a corporate owner, the:
 - 2257 (i) corporate officers or directors; or
 - 2258 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
 - 2259 corporation; or

- 2260 (c) for a limited liability company:
- 2261 (i) managers; or
- 2262 (ii) members owning at least 20% of the limited liability company.

2263 Section 23. Section **32A-5-107** is amended to read:

2264 **32A-5-107. Operational restrictions.**

2265 Each club granted a private club license and the employees, management personnel, and
2266 members of the club shall comply with the following conditions and requirements. Failure to
2267 comply may result in a suspension or revocation of the license or other disciplinary action
2268 taken against individual employees or management personnel.

2269 (1) Each private club shall have a governing body that:

2270 (a) consists of three or more members of the club; and

2271 (b) holds regular meetings to:

2272 (i) review membership applications; and

2273 (ii) conduct any other business as required by the bylaws or house rules of the private
2274 club.

2275 (2) (a) Each private club may admit an individual as a member only on written
2276 application signed by the applicant, subject to:

2277 (i) the applicant paying an application fee as required by Subsection (4); and

2278 (ii) investigation, vote, and approval of a quorum of the governing body.

2279 (b) (i) Admissions shall be recorded in the official minutes of a regular meeting of the
2280 governing body.

2281 (ii) An application, whether approved or disapproved, shall be filed as a part of the
2282 official records of the licensee.

2283 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an
2284 applicant and immediately accord the applicant temporary privileges of a member until the
2285 governing body completes its investigation and votes on the application, subject to the
2286 following conditions:

2287 (i) the applicant shall:

2288 (A) submit a written application; and

2289 (B) pay the application fee required by Subsection (4);

2290 (ii) the governing body votes on the application at its next meeting which shall take

2291 place no later than 31 days following the day on which the application was submitted; and

2292 (iii) the applicant's temporary membership privileges are terminated if the governing
2293 body disapproves the application.

2294 (d) The spouse of a member of any class of private club is entitled to all the rights and
2295 privileges of the member:

2296 (i) to the extent permitted by the bylaws or house rules of the private club; and

2297 (ii) except to the extent restricted by this title.

2298 (e) The minor child of a member of a class A private club is entitled to all the rights
2299 and privileges of the member:

2300 (i) to the extent permitted by the bylaws or house rules of the private club; and

2301 (ii) except to the extent restricted by this title.

2302 (3) (a) Each private club shall maintain a current and complete membership record
2303 showing:

2304 (i) the date of application of each proposed member;

2305 (ii) each member's address;

2306 (iii) the date the governing body approved a member's admission;

2307 (iv) the date initiation fees and dues were assessed and paid; and

2308 (v) the serial number of the membership card issued to each member.

2309 (b) A current record shall also be kept indicating when members are dropped or
2310 resigned.

2311 (4) (a) Each private club shall establish in the club bylaws or house rules application
2312 fees and membership dues:

2313 (i) as established by commission rules; and

2314 (ii) which are collected from all members.

2315 (b) An application fee:

2316 (i) shall not be less than \$4;

2317 (ii) shall be paid when the applicant applies for membership; and

2318 (iii) at the discretion of the private club, may be credited toward membership dues if
2319 the governing body approves the applicant as a member.

2320 (5) (a) Each private club may, in its discretion, allow an individual to be admitted to or
2321 use the club premises as a guest only under the following conditions:

2322 (i) each guest must be previously authorized by one of the following who agrees to host
2323 the guest into the club:

2324 (A) an active member of the club; or

2325 (B) a holder of a current visitor card;

2326 (ii) each guest must be known by the guest's host based on a preexisting bonafide
2327 business or personal relationship with the host prior to the guest's admittance to the club;

2328 (iii) each guest must be accompanied by the guest's host for the duration of the guest's
2329 visit to the club;

2330 (iv) each guest's host must remain on the club premises for the duration of the guest's
2331 visit to the club;

2332 (v) each guest's host is responsible for the cost of all services extended to the guest;

2333 (vi) each guest enjoys only those privileges derived from the guest's host for the
2334 duration of the guest's visit to the club;

2335 (vii) an employee of the club, while on duty, may not act as a host for a guest;

2336 (viii) an employee of the club, while on duty, may not attempt to locate a member or
2337 current visitor card holder to serve as a host for a guest with whom the member or visitor card
2338 holder has no acquaintance based on a preexisting bonafide business or personal relationship
2339 prior to the guest's arrival at the club; and

2340 (ix) a club and its employees may not enter into an agreement or arrangement with a
2341 club member or holder of a current visitor card to indiscriminately host members of the general
2342 public into the club as guests.

2343 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

2344 (i) the licensee is a class B private club; and

2345 (ii) the guest is a member of the same fraternal organization as the private club
2346 licensee.

2347 (6) Each private club may, in its discretion, issue visitor cards to allow individuals to
2348 enter and use the club premises on a temporary basis under the following conditions:

2349 (a) each visitor card shall be issued for a period not to exceed three weeks;

2350 (b) a fee of not less than \$4 shall be assessed for each visitor card issued;

2351 (c) a visitor card shall not be issued to a minor;

2352 (d) a holder of a visitor card may not host more than seven guests at one time;

- 2353 (e) each visitor card issued shall include:
- 2354 (i) the visitor's full name and signature;
- 2355 (ii) the date the card was issued;
- 2356 (iii) the date the card expires;
- 2357 (iv) the club's name; and
- 2358 (v) the serial number of the card; and
- 2359 (f) (i) the club shall maintain a current record of the issuance of each visitor card on the
- 2360 club premises; and
- 2361 (ii) the record described in Subsection (6)(f)(i) shall:
- 2362 (A) be available for inspection by the department; and
- 2363 (B) include:
- 2364 (I) the name of the person to whom the card was issued;
- 2365 (II) the date the card was issued;
- 2366 (III) the date the card expires; and
- 2367 (IV) the serial number of the card.
- 2368 (7) A private club may not sell alcoholic beverages to or allow any patron to be
- 2369 admitted to or use the club premises other than:
- 2370 (a) a member;
- 2371 (b) a visitor who holds a valid visitor card issued under Subsection (6); or
- 2372 (c) a guest of:
- 2373 (i) a member; or
- 2374 (ii) a holder of a current visitor card.
- 2375 (8) (a) A minor may not be:
- 2376 (i) a member, officer, director, or trustee of a private club;
- 2377 (ii) issued a visitor card;
- 2378 [~~(iii) admitted into, use, or be on the premises of a class D private club except to the~~
- 2379 ~~extent authorized under Subsections (8)(b) through (g);]~~
- 2380 [~~(iv)~~] (iii) admitted into, use, or be on the premises of any lounge or bar area, as
- 2381 defined by commission rule, of any private club except to the extent authorized under
- 2382 Subsection (8)(c)(ii); [~~or~~]
- 2383 [~~(v)~~] (iv) admitted into, use, or be on the premises of any class D private club [~~that~~]:

2384 ~~[(A) provides sexually oriented adult entertainment as defined by commission rule or~~
2385 ~~by local ordinance; or]~~

2386 ~~[(B)] (A) that operates as a sexually oriented business as defined [by commission rule~~
2387 ~~or] by local ordinance[-]; or~~

2388 (B) when a sexually oriented entertainer is performing on the premises; or

2389 (v) admitted into, use, or be on the premises of a class D private club except to the
2390 extent authorized under Subsections (8)(b) through (g).

2391 (b) ~~[At]~~ Except as provided in Subsection (8)(a)(iv), at the discretion of a class D
2392 private club, a minor may be admitted into, use, or be on the premises of a class D private club
2393 under the following circumstances:

2394 (i) during periods when no alcoholic beverages are sold, served, otherwise furnished,
2395 or consumed on the premises, but in no event later than 1 p.m.;

2396 (ii) when accompanied at all times by a member or holder of a current visitor card who
2397 is the minor's parent, legal guardian, or spouse; and

2398 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food
2399 service provider.

2400 (c) A minor may be employed by a class D private club on the premises of the club if:

2401 (i) the parent or legal guardian of the minor owns or operates the class D private club;
2402 or

2403 (ii) the minor performs maintenance and cleaning services during the hours when the
2404 club is not open for business.

2405 (d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be
2406 admitted into, use, or be on the premises of a dance or concert hall if:

2407 (A) the dance or concert hall is located:

2408 (I) on the premises of a class D private club; or

2409 (II) on the property that immediately adjoins the premises of and is operated by a class
2410 D private club; and

2411 (B) the commission has issued the class D private club a permit to operate a minor
2412 dance or concert hall based on the criteria described in Subsection (8)(d)(iii).

2413 (ii) If the dance or concert hall is located on the premises of a class D private club, a
2414 minor must be properly hosted in accordance with Subsection (5) by:

- 2415 (A) a member; or
- 2416 (B) a holder of a current visitor card.
- 2417 (iii) The commission may issue a minor dance or concert hall permit if:
- 2418 (A) the club's lounge, bar, and alcoholic beverage consumption area is:
- 2419 (I) not accessible to minors;
- 2420 (II) clearly defined; and
- 2421 (III) separated from the dance or concert hall area by walls, multiple floor levels, or
- 2422 other substantial physical barriers;
- 2423 (B) any bar or dispensing area is not visible to minors;
- 2424 (C) no consumption of alcoholic beverages may occur in:
- 2425 (I) the dance or concert hall area; or
- 2426 (II) any area of the club accessible to a minor;
- 2427 (D) the club maintains sufficient security personnel to prevent the passing of beverages
- 2428 from the club's lounge, bar, or alcoholic beverage consumption areas to:
- 2429 (I) the dance or concert hall area; or
- 2430 (II) any area of the club accessible to a minor;
- 2431 (E) there are separate entrances, exits, and restroom facilities from the club's lounge,
- 2432 bar, and alcoholic beverage consumption areas than for:
- 2433 (I) the dance or concert hall area; or
- 2434 (II) any area accessible to a minor; and
- 2435 (F) the club complies with any other restrictions imposed by the commission by rule.
- 2436 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
- 2437 guardian who is a member or holder of a current visitor card may be admitted into, use, or be
- 2438 on the premises of a concert hall described in Subsection (8)(d)(i) if:
- 2439 (i) all requirements of Subsection (8)(d) are met; and
- 2440 (ii) all signage, product, and dispensing equipment containing recognition of alcoholic
- 2441 beverages is not visible to the minor.
- 2442 (f) A minor under 18 years of age but who is 14 years of age or older who is not
- 2443 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
- 2444 a concert hall described in Subsection (8)(d)(i) if:
- 2445 (i) all requirements of Subsections (8)(d) and (8)(e)(ii) are met; and

2446 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the
2447 class D private club.

2448 (g) The commission may suspend or revoke a minor dance or concert permit issued to
2449 a class D private club and suspend or revoke the license of the class D private club if:

2450 (i) the club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);

2451 (ii) the club sells, serves, or otherwise furnishes alcoholic beverages to a minor;

2452 (iii) the licensee or a supervisory or managerial level employee of the private club is
2453 convicted under Title 58, Chapter 37, Utah Controlled Substances Act, on the basis of activities
2454 that occurred on:

2455 (A) the licensed premises; or

2456 (B) the dance or concert hall that is located on property that immediately adjoins the
2457 premises of and is operated by the class D private club;

2458 (iv) there are three or more convictions of patrons of the private club under Title 58,
2459 Chapter 37, Utah Controlled Substances Act, based on activities that occurred on:

2460 (A) the licensed premises; or

2461 (B) the dance or concert hall that is located on property that immediately adjoins the
2462 premises of and is operated by the class D private club;

2463 (v) there is more than one conviction:

2464 (A) of:

2465 (I) the licensee;

2466 (II) an employee of the licensee;

2467 (III) an entertainer contracted by the licensee; or

2468 (IV) a patron of the private club; and

2469 (B) made on the basis of lewd acts or lewd entertainment prohibited by this title that
2470 occurred on:

2471 (I) the licensed premises; or

2472 (II) the dance or concert hall that is located on property that immediately adjoins the
2473 premises of and is operated by the class D private club; or

2474 (vi) the commission finds acts or conduct contrary to the public welfare and morals
2475 involving lewd acts or lewd entertainment prohibited by this title that occurred on:

2476 (A) the licensed premises; or

2477 (B) the dance or concert hall that is located on property that immediately adjoins the
2478 premises of and is operated by the class D private club.

2479 (h) Nothing in this Subsection (8) shall prohibit a class D private club from selling,
2480 serving, or otherwise furnishing alcoholic beverages in a dance or concert area located on the
2481 club premises on days and times when the club does not allow minors into those areas.

2482 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being
2483 more restrictive of a minor's admittance to, use of, or presence on the premises of any private
2484 club.

2485 [~~(9) An employee of a club, while on duty, may not:~~]

2486 [~~(a) consume an alcoholic beverage;~~]

2487 [~~(b) be intoxicated; or~~]

2488 [~~(c) act as a host for a guest.~~]

2489 [~~(10)~~] (9) (a) Each private club shall maintain an expense ledger or record showing in
2490 detail all expenditures separated by payments for:

2491 (i) malt or brewed beverages;

2492 (ii) liquor;

2493 (iii) food;

2494 (iv) detailed payroll;

2495 (v) entertainment;

2496 (vi) rent;

2497 (vii) utilities;

2498 (viii) supplies; and

2499 (ix) all other expenditures.

2500 (b) The record required by this Subsection [~~(10)~~] (9) shall be:

2501 (i) kept in a form approved by the department; and

2502 (ii) balanced each month.

2503 (c) Each expenditure shall be supported by:

2504 (i) delivery tickets;

2505 (ii) invoices;

2506 (iii) receipted bills;

2507 (iv) canceled checks;

2508 (v) petty cash vouchers; or
2509 (vi) other sustaining data or memoranda.
2510 (d) All invoices and receipted bills for the current calendar or fiscal year documenting
2511 purchases made by the club shall also be maintained.

2512 [~~(11)~~] (10) (a) Each private club shall maintain a minute book that is posted currently
2513 by the club.

2514 (b) The minute book required by this Subsection [~~(11)~~] (10) shall contain the minutes
2515 of all regular and special meetings of the governing body.

2516 (c) Membership lists shall also be maintained.

2517 [~~(12)~~] (11) (a) Each private club shall maintain current copies of the club's current
2518 bylaws and current house rules.

2519 (b) Changes in the bylaws or house rules:

2520 (i) are not effective unless submitted to the department within ten days after adoption;
2521 and

2522 (ii) become effective 15 days after received by the department unless rejected by the
2523 department before the expiration of the 15-day period.

2524 [~~(13)~~] (12) Each private club shall maintain accounting and other records and
2525 documents as the department may require.

2526 [~~(14)~~] (13) Any club or person acting for the club, who knowingly forges, falsifies,
2527 alters, cancels, destroys, conceals, or removes the entries in any of the books of account or
2528 other documents of the club required to be made, maintained, or preserved by this title or the
2529 rules of the commission for the purpose of deceiving the commission or the department, or any
2530 of their officials or employees, is subject to:

2531 (a) the suspension or revocation of the club's license; and

2532 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

2533 [~~(15)~~] (14) (a) Each private club shall maintain and keep all the records required by this
2534 section and all other books, records, receipts, and disbursements maintained or used by the
2535 licensee, as the department requires, for a minimum period of three years.

2536 (b) All records, books, receipts, and disbursements are subject to inspection by
2537 authorized representatives of the commission and the department.

2538 (c) The club shall allow the department, through its auditors or examiners, to audit all

2539 records of the club at times the department considers advisable.

2540 (d) The department shall audit the records of the licensee at least once annually.

2541 ~~[(16)]~~ (15) Each private club shall own or lease premises suitable for the club's
2542 activities.

2543 ~~[(17)]~~ (16) (a) A private club may not maintain facilities in any manner that barricades
2544 or conceals the club operation.

2545 (b) Any member of the commission, authorized department personnel, or any peace
2546 officer shall, upon presentation of credentials, be admitted immediately to the club and
2547 permitted without hindrance or delay to inspect completely the entire club premises and all
2548 books and records of the licensee, at any time during which the same are open for the
2549 transaction of business to its members.

2550 ~~[(18)]~~ (17) Any public advertising related to a private club by the following shall
2551 clearly identify a club as being "a private club for members":

2552 (a) the private club;

2553 (b) the employees or agents of the private club; or

2554 (c) any person under a contract or agreement with the club.

2555 ~~[(19)]~~ (18) A private club must have food available at all times when alcoholic
2556 beverages are sold, served, or consumed on the premises.

2557 ~~[(20)]~~ (19) (a) Liquor may not be purchased by a private club licensee except from
2558 state stores or package agencies.

2559 (b) Liquor purchased in accordance with Subsection ~~[(20)]~~ (19)(a) may be transported
2560 by the licensee from the place of purchase to the licensed premises.

2561 (c) Payment for liquor shall be made in accordance with rules established by the
2562 commission.

2563 ~~[(21)]~~ (20) A private club licensee may sell or provide any primary spirituous liquor
2564 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
2565 dispensing system approved by the department in accordance with commission rules adopted
2566 under this title, except that:

2567 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
2568 system if used as a secondary flavoring ingredient in a beverage subject to the following
2569 restrictions:

2570 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
2571 a primary spirituous liquor;

2572 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

2573 (iii) the private club licensee shall designate a location where flavorings are stored on
2574 the floor plan provided to the department; and

2575 (iv) all flavoring containers shall be plainly and conspicuously labeled "flavorings";

2576 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
2577 system if used:

2578 (i) as a flavoring on desserts; and

2579 (ii) in the preparation of flaming food dishes, drinks, and desserts; and

2580 (c) each club patron may have no more than 2.75 ounces of spirituous liquor at a time
2581 before the patron.

2582 [~~(22)~~] (21) (a) (i) Wine may be sold and served by the glass or an individual portion
2583 not to exceed five ounces per glass or individual portion.

2584 (ii) An individual portion may be served to a patron in more than one glass as long as
2585 the total amount of wine does not exceed five ounces.

2586 (iii) An individual portion of wine is considered to be one alcoholic beverage under
2587 Subsection [~~(26)~~] (25)(c).

2588 (b) (i) Wine may be sold and served in containers not exceeding 1.5 liters at prices
2589 fixed by the commission to tables of four or more persons.

2590 (ii) Wine may be sold and served in containers not exceeding 750 [~~ml~~] milliliters at
2591 prices fixed by the commission to tables of less than four persons.

2592 (c) A wine service may be performed and a service charge assessed by the private club
2593 as authorized by commission rule for wine purchased at the private club.

2594 [~~(23)~~] (22) (a) (i) Heavy beer may be served in original containers not exceeding one liter
2595 at prices fixed by the commission.

2596 (b) A service charge may be assessed by the private club for heavy beer purchased at
2597 the private club.

2598 [~~(24)~~] (23) (a) (i) Subject to Subsection [~~(24)~~] (23)(a)(ii), a private club licensed to sell
2599 liquor may sell beer for on-premise consumption:

2600 (A) in an open container; and

2601 (B) on draft.

2602 (ii) Beer sold pursuant to Subsection [~~(24)~~] (23)(a)(i) shall be in a size of container that
2603 does not exceed two liters, except that beer may not be sold to an individual patron in a size of
2604 container that exceeds one liter.

2605 (b) (i) A private club licensed under this chapter that sells beer pursuant to Subsection
2606 [~~(24)~~] (23)(a):

2607 (A) may do so without obtaining a separate on-premise beer retailer license from the
2608 commission; and

2609 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
2610 Retailer Licenses, that apply to on-premise beer retailers except when those restrictions are
2611 inconsistent with or less restrictive than the operational restrictions under this chapter.

2612 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
2613 Licenses, required by Subsection [~~(24)~~] (23)(b)(i) may result in a suspension or revocation of
2614 the private club's:

2615 (A) state liquor license; and

2616 (B) alcoholic beverage license issued by the local authority.

2617 [~~(25)~~] (24) Alcoholic beverages may not be stored, served, or sold in any place other
2618 than as designated in the licensee's application, unless the licensee first applies for and receives
2619 approval from the department for a change of location within the private club.

2620 [~~(26)~~] (25) (a) A patron may only make alcoholic beverage purchases in the private
2621 club from and be served by a person employed, designated, and trained by the licensee to sell,
2622 dispense, and serve alcoholic beverages.

2623 (b) Notwithstanding Subsection [~~(26)~~] (25)(a), a patron who has purchased bottled
2624 wine from an employee of the private club or has carried bottled wine onto the premises of the
2625 private club pursuant to Subsection [~~(32)~~] (31) may thereafter serve wine from the bottle to the
2626 patron or others at the patron's table.

2627 (c) Each club patron may have no more than two alcoholic beverages of any kind at a
2628 time before the patron.

2629 [~~(27)~~] (26) The liquor storage area shall remain locked at all times other than those
2630 hours and days when liquor sales and service are authorized by law.

2631 [~~(28)~~] (27) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished

2632 at a private club during the following days or hours:

2633 (i) until after the polls are closed on the day of any:

2634 (A) regular general election;

2635 (B) regular primary election; or

2636 (C) statewide special election;

2637 (ii) until after the polls are closed on the day of any municipal, special district, or

2638 school election, but only:

2639 (A) within the boundaries of the municipality, special district, or school district; and

2640 (B) if required by local ordinance; and

2641 (iii) on any other day after 1 a.m. and before 10 a.m.

2642 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
2643 Licenses, for on-premise beer licenses.

2644 (c) (i) Notwithstanding Subsections [~~(28)~~] (27)(a) and (b), a private club shall remain
2645 open for one hour after the private club ceases the sale and service of alcoholic beverages
2646 during which time a patron of the club may finish consuming:

2647 (A) any single drink containing spirituous liquor;

2648 (B) a single serving of wine not exceeding five ounces;

2649 (C) a single serving of heavy beer; or

2650 (D) a single serving of beer not exceeding 26 ounces.

2651 (ii) A club is not required to remain open:

2652 (A) after all patrons have vacated the premises; or

2653 (B) during an emergency.

2654 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club may not allow a
2655 patron to remain on the premises to consume alcoholic beverages on the premises.

2656 [~~(29)~~] (28) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

2657 (a) minor;

2658 (b) person actually, apparently, or obviously intoxicated;

2659 (c) known habitual drunkard; or

2660 (d) known interdicted person.

2661 [~~(30)~~] (29) (a) (i) Liquor may be sold only at prices fixed by the commission.

2662 (ii) Liquor may not be sold at discount prices on any date or at any time.

2663 (b) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
2664 to the licensee.

2665 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
2666 over consumption or intoxication.

2667 (d) The price of a single serving of a primary spirituous liquor shall be the same
2668 whether served as a single drink or in conjunction with another alcoholic beverage.

2669 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
2670 hours of the private club's business day such as a "happy hour."

2671 (f) The sale or service of more than one alcoholic beverage for the price of a single
2672 alcoholic beverage is prohibited.

2673 (g) The sale or service of an indefinite or unlimited number of alcoholic beverages
2674 during any set period for a fixed price is prohibited.

2675 (h) A private club licensee may not engage in a promotion involving or offering free
2676 alcoholic beverages to patrons of the club.

2677 [~~(31)~~] (30) Alcoholic beverages may not be purchased for a patron of the private club
2678 by:

2679 (a) the licensee; or

2680 (b) any employee or agent of the licensee.

2681 [~~(32)~~] (31) (a) A person may not bring onto the premises of a private club licensee any
2682 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
2683 discretion of the licensee, bottled wine onto the premises of any private club licensee for
2684 on-premise consumption.

2685 (b) Except bottled wine under Subsection [~~(32)~~] (31)(a), a private club or its officers,
2686 managers, employees, or agents may not allow:

2687 (i) a person to bring onto the private club premises any alcoholic beverage for
2688 consumption on the private club premises; or

2689 (ii) consumption of alcoholic beverages described in Subsection [~~(32)~~] (31)(b)(i) on the
2690 premises of the private club.

2691 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
2692 or other representative of the licensee upon entering the private club.

2693 (d) A wine service may be performed and a service charge assessed by the private club

2694 as authorized by commission rule for wine carried in by a patron.

2695 ~~[(33)]~~ (32) (a) Except as provided in Subsection ~~[(33)]~~ (32)(b), a private club and its
2696 employees may not permit a patron of the club to carry from the club premises an open
2697 container that:

- 2698 (i) is used primarily for drinking purposes; and
- 2699 (ii) contains any alcoholic beverage.

2700 (b) A patron may remove the unconsumed contents of a bottle of wine if before
2701 removal the bottle has been recorked or recapped.

2702 ~~[(34)]~~ (33) (a) A minor may not be employed by any class A, B, or C private club to
2703 sell, dispense, or handle any alcoholic beverage.

2704 (b) Notwithstanding Subsection ~~[(34)]~~ (33)(a), a minor who is at least 16 years of age
2705 may be employed by a class A or C private club to enter the sale at a cash register or other sales
2706 recording device.

2707 (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed
2708 by or be on the premises of any class D private club.

2709 (d) A minor may not be employed to work in any lounge or bar area of any class A, B,
2710 or C private club.

2711 ~~[(35)]~~ (34) An employee of a private club, while on duty, may not:

- 2712 (a) consume an alcoholic beverage; or
- 2713 (b) be intoxicated.

2714 ~~[(36)]~~ (35) (a) A private club may not charge for the service or supply of glasses, ice,
2715 or mixers unless:

- 2716 (i) the charges are fixed in the house rules of the club; and
- 2717 (ii) a copy of the house rules is kept on the club premises and available at all times for
2718 examination by patrons of the club.

2719 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
2720 may be stated in food or alcoholic beverage menus including:

- 2721 (i) a set-up charge;
- 2722 (ii) a service charge; or
- 2723 (iii) a chilling fee.

2724 ~~[(37)]~~ (36) Each private club licensee shall display in a prominent place in the private

2725 club:

2726 (a) the private club license that is issued by the department;

2727 (b) a list of the types and brand names of liquor being served through its calibrated
2728 metered dispensing system; and

2729 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2730 drugs is a serious crime that is prosecuted aggressively in Utah."

2731 ~~[(38) The following acts or conduct in a private club licensed under this chapter are
2732 considered contrary to the public welfare and morals, and are prohibited upon the premises:]~~

2733 ~~[(a) employing or using any person in the sale or service of alcoholic beverages while
2734 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
2735 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the
2736 buttocks, vulva, or genitals;]~~

2737 ~~[(b) employing or using the services of any person to mingle with the patrons while the
2738 person is unclothed or in attire, costume, or clothing described in Subsection (38)(a);]~~

2739 ~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts,
2740 buttocks, anus, or genitals of any other person;]~~

2741 ~~[(d) permitting any employee or person to wear or use any device or covering, exposed
2742 to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

2743 ~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of
2744 the prohibited activities described in this Subsection (38);]~~

2745 ~~[(f) permitting any person to remain in or upon the premises who exposes to public
2746 view any portion of his or her genitals or anus; or]~~

2747 ~~[(g) showing films, still pictures, electronic reproductions, or other visual
2748 reproductions depicting:]~~

2749 ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral
2750 copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

2751 ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or
2752 genitals;]~~

2753 ~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or
2754 drawings are used to portray, any of the prohibited activities described in this Subsection (38);
2755 or]~~

2756 [~~(iv) scenes wherein a person displays the vulva or the anus or the genitals.~~]

2757 [~~(39) Nothing in Subsection (38) precludes a local authority from being more~~

2758 restrictive of acts or conduct of the type prohibited in Subsection (38).]

2759 [~~(40) (a) Although live entertainment is permitted on the premises of a club liquor~~

2760 licensee, a licensee may not allow any person to perform or simulate sexual acts prohibited by

2761 Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral copulation,

2762 flagellation, or the touching, caressing, or fondling of the breast, buttocks, anus, or genitals, or

2763 the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform only upon

2764 a stage or at a designated area approved by the commission.]

2765 [~~(b) Nothing in Subsection (40)(a) precludes a local authority from being more~~

2766 restrictive of acts or conduct of the type prohibited in Subsection (40)(a).]

2767 [~~(41)~~ (37)] A private club may not engage in or permit any form of gambling, or have

2768 any video gaming device, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling,

2769 on the premises of the private club.

2770 [~~(42)~~ (38)] (a) A private club may not close or cease operation for a period longer than

2771 240 hours, unless:

2772 (i) the private club licensee notifies the department in writing at least seven days before

2773 the closing; and

2774 (ii) the closure or cessation of operation is first approved by the department.

2775 (b) Notwithstanding Subsection [~~(42)~~ (38)](a), in the case of emergency closure,

2776 immediate notice of closure shall be made to the department by telephone.

2777 (c) The department may authorize a closure or cessation of operation for a period not to

2778 exceed 60 days. The department may extend the initial period an additional 30 days upon

2779 written request of the private club and upon a showing of good cause. A closure or cessation of

2780 operation may not exceed a total of 90 days without commission approval.

2781 (d) The notice required by Subsection [~~(42)~~ (38)](a) shall include:

2782 (i) the dates of closure or cessation of operation;

2783 (ii) the reason for the closure or cessation of operation; and

2784 (iii) the date on which the licensee will reopen or resume operation.

2785 (e) Failure of the licensee to provide notice and to obtain department authorization

2786 prior to closure or cessation of operation shall result in an automatic forfeiture of:

2787 (i) the license; and
2788 (ii) the unused portion of the license fee for the remainder of the license year effective
2789 immediately.

2790 (f) Failure of the licensee to reopen or resume operation by the approved date shall
2791 result in an automatic forfeiture of:

2792 (i) the license; and
2793 (ii) the unused portion of the club's license fee for the remainder of the license year.

2794 [~~43~~] (39) A private club license may not be transferred from one location to another,
2795 without prior written approval of the commission.

2796 [~~44~~] (40) (a) A private club licensee, may not sell, transfer, assign, exchange, barter,
2797 give, or attempt in any way to dispose of the license to any other person, whether for monetary
2798 gain or not.

2799 (b) A private club license has no monetary value for the purpose of any type of
2800 disposition.

2801 Section 24. Section **32A-6-301** is amended to read:

2802 **32A-6-301. Application requirements.**

2803 (1) Each application for an industrial or manufacturing use permit shall, in addition to
2804 the requirements of Section 32A-6-102, include:

- 2805 (a) a nonrefundable \$50 application fee;
- 2806 (b) a \$200 one-time special use permit fee;
- 2807 (c) a cash or corporate surety bond in the penal sum of \$1,000 payable to the
2808 department, which the permittee has procured and must maintain for so long as the permittee
2809 continues to operate as a special use permittee;

2810 (d) written consent of the local authority; and

2811 (e) a floor plan of the immediate area within the premises in which the applicant
2812 proposes that alcoholic products be stored, used, mixed, sold, or consumed.

2813 (2) (a) The bond required under Subsection (1) shall be:

- 2814 (i) in a form approved by the attorney general; and
- 2815 (ii) conditioned upon the permittee's faithful compliance with this title and the rules of
2816 the commission.

2817 (b) If the surety bond is cancelled due to the permittee's negligence, a \$300

2818 reinstatement fee may be assessed.

2819 (c) No part of any cash or corporate bond [sø] posted under this section may be
2820 withdrawn during the period the permit is in effect.

2821 (d) A bond filed by a permittee may be forfeited if the permit is finally revoked.

2822 (3) Any person desiring a special use permit to produce gasohol or any alcoholic
2823 product shall provide evidence to the department that an approved Notice of Registration of
2824 Distilled Spirits Plant and the appropriate permit from the Federal Alcohol and Tobacco Tax
2825 and Trade Bureau [of Alcohol, Tobacco and Firearms] has been obtained by the person.

2826 Section 25. Section **32A-6-302** is amended to read:

2827 **32A-6-302. Operational restrictions.**

2828 [~~A permittee may not denature alcohol for the purpose of experimentation, testing, or~~
2829 ~~fuel use, except and unless done]~~ In addition to the restrictions, conditions, and requirements of
2830 Section 32A-6-105, each industrial or manufacturing use permit is subject to the following
2831 operating restrictions:

2832 (1) An industrial or manufacturer permittee may produce for lawful use and sale the
2833 following:

2834 (a) vinegar;

2835 (b) preserved nonintoxicating cider;

2836 (c) food preparations;

2837 (d) a United States Pharmacopoeia or national formulary preparation in conformity
2838 with Title 58, Chapters 17b, 37, 37a, 37b, and 37c, if the preparation:

2839 (i) conforms to standards established by:

2840 (A) the Department of Agriculture and Food; and

2841 (B) the Department of Health; and

2842 (ii) contains no more alcohol than is necessary to preserve or extract the medicinal,
2843 flavoring, or perfumed properties of the treated substances; and

2844 (e) wood and denatured alcohol if manufactured in compliance with the formulas and
2845 regulations under Title 27, Code of Federal Regulations, [Sections 212.10 through 212.38]
2846 Parts 19, 20, and 21.

2847 (2) (a) An industrial or manufacturer permittee that produces patent or proprietary
2848 medicines containing alcohol may sell the medicines in the original and unbroken package if

2849 the medicine contains sufficient medication to prevent its use as an alcoholic beverage.

2850 (b) An industrial or manufacturer permittee described in this Subsection (2) shall, upon
2851 request by the department, provide a sufficient sample of the medicine to enable the department
2852 to have the medicine analyzed for purposes of this section.

2853 Section 26. Section **32A-7-106** is amended to read:

2854 **32A-7-106. Operational restrictions.**

2855 (1) (a) Any organization granted a single event permit and any person involved in the
2856 storage, sale, or service of alcoholic beverages at the event for which the permit is issued, shall
2857 abide by:

2858 (i) this title;

2859 (ii) the rules of the commission; and

2860 (iii) the special conditions and requirements provided in this section.

2861 (b) Failure to comply with Subsection (1)(a):

2862 (i) may result in:

2863 (A) an immediate revocation of the permit;

2864 (B) forfeiture of the surety bond; and

2865 (C) immediate seizure of all alcoholic beverages present at the event; and

2866 (ii) disqualifies the organization from applying for a single event permit under this
2867 chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special
2868 Event Beer Permits, for a period of three years from the date of revocation of the permit.

2869 (c) Any alcoholic beverages seized under this Subsection (1) shall be returned to the
2870 organization after the event if forfeiture proceedings are not instituted under Section
2871 32A-13-103.

2872 (2) Special conditions and requirements for single event permittees include the
2873 following:

2874 (a) (i) All persons involved in the storage, sale, or service of alcoholic beverages at the
2875 event do so under the supervision and direction of the permittee.

2876 (ii) All persons involved in the sale or service of alcoholic beverages at the event may
2877 not, while on duty:

2878 (A) consume an alcoholic beverage; or

2879 (B) be intoxicated.

2880 (b) (i) All liquor stored, sold, served, and consumed at the event shall be purchased by
2881 the permittee from a state store or package agency.

2882 (ii) All beer purchased by the permittee shall be purchased from:

2883 (A) a licensed beer wholesaler; or

2884 (B) a licensed beer retailer.

2885 (iii) All alcoholic beverages are considered under the control of the permittee during
2886 the event.

2887 (iv) Attendees of the event may not bring any alcoholic beverages onto the premises of
2888 the event.

2889 (c) A permittee may not charge more than the maximum amount set forth in the permit
2890 for any alcoholic beverage.

2891 (d) Each permittee shall post in a prominent place in the area in which alcoholic
2892 beverages are being sold, served, and consumed, a copy of the permit, together with a list of the
2893 operational restrictions and requirements of single event permittees set forth in this section.

2894 (e) Alcoholic beverages purchased for the event may not be stored, sold, served, or
2895 consumed in any location other than that described in the application and designated on the
2896 permit unless the permittee first applies for and receives approval from the commission for a
2897 change of location.

2898 (f) (i) A single event permittee may sell or provide a primary spirituous liquor only in a
2899 quantity not to exceed one ounce per beverage except that additional spirituous liquor may be
2900 used in a beverage if:

2901 (A) used as a secondary flavoring ingredient;

2902 (B) used in conjunction with the primary spirituous liquor;

2903 (C) the secondary ingredient is not the only spirituous liquor in the beverage; and

2904 (D) each attendee may have no more than 2.75 ounces of spirituous liquor at a time
2905 before the attendee.

2906 (ii) Spirituous liquor need not be dispensed through a calibrated metered dispensing
2907 system.

2908 (g) (i) (A) Wine may be sold and served by the glass or an individual portion that does
2909 not exceed five ounces per glass or individual portion.

2910 (B) An individual portion may be served to an attendee in more than one glass as long

2911 as the total amount of wine does not exceed five ounces.

2912 (C) An individual portion of wine is considered to be one alcoholic beverage under
2913 Subsection (2)(p).

2914 (ii) Wine may be sold and served in containers not exceeding 1.5 liters at prices fixed
2915 by the commission.

2916 (iii) A wine service may be performed and a service charge assessed by the single event
2917 permittee as authorized by commission rule for wine purchased at the event.

2918 (h) (i) Heavy beer may be served in original containers not exceeding one liter at prices
2919 fixed by the commission.

2920 (ii) A service charge may be assessed by the single event permittee as authorized by
2921 commission rule for heavy beer purchased at the event.

2922 (i) (i) Subject to Subsection (2)(i)(ii), beer may be sold for on-premise consumption:

2923 (A) in an open container; and

2924 (B) on draft.

2925 (ii) Beer sold pursuant to Subsection (2)(i)(i) shall be in a size of container that does
2926 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
2927 container that exceeds one liter.

2928 (j) (i) Alcoholic beverages may not be sold, served, or consumed between the hours of
2929 1 a.m. and 10 a.m.

2930 (ii) This Subsection (2)(j) does not preclude a local authority from being more
2931 restrictive with respect to the hours of sale, service, or consumption of alcoholic beverages at a
2932 temporary single event.

2933 (k) Alcoholic beverages may not be sold, served, or otherwise furnished until after the
2934 polls are closed on the day of any:

2935 (i) regular general election;

2936 (ii) regular primary election; or

2937 (iii) statewide special election.

2938 (l) Alcoholic beverages may not be sold, served, or otherwise furnished to any:

2939 (i) minor;

2940 (ii) person actually, apparently, or obviously intoxicated;

2941 (iii) known habitual drunkard; or

- 2942 (iv) known interdicted person.
- 2943 (m) (i) (A) Liquor may be sold only at prices fixed by the commission.
- 2944 (B) Liquor may not be sold at discount prices on any date or at any time.
- 2945 (ii) Alcoholic beverages may not be sold at less than the cost of the alcoholic beverage
- 2946 to the permittee.
- 2947 (iii) An alcoholic beverage may not be sold at a price that encourages over
- 2948 consumption or intoxication.
- 2949 (iv) An alcoholic beverage may not be sold at a special or reduced price for only
- 2950 certain hours of the day of the permitted event.
- 2951 (v) The sale or service of more than one alcoholic beverage for the price of a single
- 2952 alcoholic beverage is prohibited.
- 2953 (vi) The permittee may not engage in a public promotion involving or offering free
- 2954 alcoholic beverages to the general public.
- 2955 (n) A single event permittee and its employees may not permit an attendee to carry
- 2956 from the premises an open container that:
- 2957 (i) is used primarily for drinking purposes; and
- 2958 (ii) contains any alcoholic beverage.
- 2959 (o) A minor may not sell, serve, dispense, or handle any alcoholic beverage at the
- 2960 event.
- 2961 (p) Each attendee may have no more than one alcoholic beverage of any kind at a time
- 2962 before the patron.
- 2963 ~~[(3) The following acts or conduct at an event for which a permit is issued under this~~
- 2964 ~~chapter are considered contrary to the public welfare and morals, and are prohibited upon the~~
- 2965 ~~premises:]~~
- 2966 ~~[(a) employing or using any person in the sale or service of alcoholic beverages while~~
- 2967 ~~the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the~~
- 2968 ~~female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the~~
- 2969 ~~buttocks, vulva, or genitals;]~~
- 2970 ~~[(b) employing or using the services of any person to mingle with the patrons while the~~
- 2971 ~~person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);]~~
- 2972 ~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts;~~

2973 buttocks, anus, or genitals of any other person;]

2974 ~~[(d) permitting any employee or person to wear or use any device or covering, exposed~~
2975 ~~to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

2976 ~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of~~
2977 ~~the prohibited activities described in this Subsection (3);]~~

2978 ~~[(f) permitting any person to remain in or upon the premises who exposes to public~~
2979 ~~view any portion of his or her genitals or anus;]~~

2980 ~~[(g) showing films, still pictures, electronic reproductions, or other visual~~
2981 ~~reproductions depicting;]~~

2982 ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral~~
2983 ~~copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

2984 ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or~~
2985 ~~genitals;]~~

2986 ~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or~~
2987 ~~drawings are used to portray, any of the prohibited activities described in this Subsection (3);~~
2988 ~~or]~~

2989 ~~[(iv) scenes wherein a person displays the vulva or the anus or the genitals.]~~

2990 ~~[(4) Nothing in Subsection (3) precludes a local authority from being more restrictive~~
2991 ~~of acts or conduct of the type prohibited in Subsection (3).]~~

2992 ~~[(5) (a) Although live entertainment is permitted at the event for which a permit has~~
2993 ~~been issued under this chapter, a permittee may not allow any person to perform or simulate~~
2994 ~~sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy,~~
2995 ~~bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast,~~
2996 ~~buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.~~
2997 ~~Entertainers shall perform only upon a stage or at a designated area approved by the~~
2998 ~~commission.]~~

2999 ~~[(b) Nothing in Subsection (5)(a) precludes a local authority from being more~~
3000 ~~restrictive of acts or conduct of the type prohibited in Subsection (5)(a).]~~

3001 ~~[(6)] (3) The permittee shall maintain an expense and revenue ledger or record~~
3002 ~~showing:~~

3003 (a) expenditures made for liquor and beer, set-ups, and other ingredients and

3004 components of alcoholic beverages; and

3005 (b) the revenue from sale of alcoholic beverages.

3006 [~~7~~] (4) A single event permit may not be transferred.

3007 [~~8~~] (5) A single event permittee may not engage in or allow any form of gambling, or
3008 have any video gaming device as defined and proscribed by Title 76, Chapter 10, Part 11,
3009 Gambling, on the premises serviced by the single event permittee.

3010 Section 27. Section **32A-8-102** is amended to read:

3011 **32A-8-102. Application and renewal requirements.**

3012 (1) Each person seeking an alcoholic beverage manufacturing license of any kind under
3013 this chapter shall file a written application with the department, in a form prescribed by the
3014 department. The application shall be accompanied by:

3015 (a) a nonrefundable application fee of \$250;

3016 (b) an initial license fee of \$3,250 unless otherwise provided in this chapter, which is
3017 refundable if a license is not granted;

3018 (c) a statement of the purpose for which the applicant has applied for the alcoholic
3019 beverage manufacturing license;

3020 (d) written consent of the local authority;

3021 (e) a bond as specified by Section 32A-8-105;

3022 (f) evidence that the applicant is carrying public liability insurance in an amount and
3023 form satisfactory to the department;

3024 (g) evidence that the applicant is authorized by the United States to manufacture
3025 alcoholic beverages;

3026 (h) a signed consent form stating that the licensee will permit any authorized
3027 representative of the commission, department, or any law enforcement officer to have
3028 unrestricted right to enter the premises;

3029 (i) in the case of an applicant that is a partnership, corporation, or limited liability
3030 company, proper verification evidencing that the person or persons signing the application are
3031 authorized to so act on behalf of the partnership, corporation, or limited liability company; and

3032 (j) any other documents and evidence the department may require by rule or policy to
3033 allow complete evaluation of the application.

3034 (2) (a) All alcoholic beverage manufacturing licenses expire on December 31 of each

3035 year.

3036 (b) Persons desiring to renew their license shall submit by no later than November 30
3037 of the year the license expires:

3038 (i) a completed renewal application to the department; and

3039 (ii) a renewal fee in the following amount:

3040 (A) \$2,500, except for an alcoholic beverage manufacturing license described in
3041 Subsection (2)(b)(ii)(B); or

3042 (B) \$1,200 for a winery license if the winery licensee produced less than 20,000
3043 gallons of wine in the calendar year preceding the year in which the licensee seeks renewal.

3044 (c) Failure to meet the renewal requirements results in an automatic forfeiture of the
3045 license effective on the date the existing license expires. Renewal applications shall be in a
3046 form prescribed by the department.

3047 (3) To ensure compliance with Subsection 32A-8-106~~[(+)(f)]~~ (6), the commission may
3048 suspend or revoke an alcoholic beverage manufacturing license if the manufacturing licensee
3049 does not immediately notify the department of any change in:

3050 (a) ownership of the licensee;

3051 (b) for a corporate owner, the:

3052 (i) corporate officers or directors; or

3053 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
3054 corporation; or

3055 (c) for a limited liability company:

3056 (i) managers; or

3057 (ii) members owning at least 20% of the limited liability company.

3058 Section 28. Section **32A-8-106** is amended to read:

3059 **32A-8-106. Operational restrictions.**

3060 ~~[(+)]~~ Each person granted an alcoholic beverage manufacturing license and the
3061 employees and management of the licensee shall abide by the following conditions and
3062 requirements, and any special conditions and restrictions otherwise provided in this chapter.
3063 Failure to comply may result in a suspension or revocation of the license or other disciplinary
3064 action taken against individual employees or management personnel~~[+]~~.

3065 ~~[(a)]~~ (1) A licensee may not sell any liquor within the state except to the department

3066 and to military installations.

3067 ~~[(b)]~~ (2) Each license issued under this chapter shall be conspicuously displayed on the
3068 licensed premises.

3069 ~~[(c)]~~ (3) A licensee may not advertise its product in violation of this title or any other
3070 federal or state law, except that nothing in this title prohibits the advertising or solicitation of
3071 orders for industrial alcohol from holders of special permits.

3072 ~~[(d)]~~ (4) (a) Each alcoholic beverage manufacturing licensee shall maintain accounting
3073 and other records and documents as the department may require. ~~[Any]~~

3074 (b) A manufacturing licensee or person acting for the manufacturing licensee, who
3075 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of
3076 the books of account or other documents of the licensee required to be made, maintained, or
3077 preserved by this title or the rules of the commission for the purpose of deceiving the
3078 commission, or the department, or any of their officials or employees, is subject to:

3079 (i) the immediate suspension or revocation of the manufacturing license; and

3080 (ii) criminal prosecution under Chapter 12, Criminal Offenses.

3081 ~~[(e)]~~ (5) An alcoholic beverage manufacturing license may not be transferred from one
3082 location to another, without prior written approval of the commission.

3083 ~~[(f)]~~ (6) (a) A manufacturing licensee may not sell, transfer, assign, exchange,
3084 barter, give, or attempt in any way to dispose of the license to any other person or entity,
3085 whether for monetary gain or not.

3086 ~~[(h)]~~ (b) A manufacturing license has no monetary value for the purpose of any type of
3087 disposition.

3088 ~~[(g)]~~ (7) Each licensee shall from time to time, on request of the department, furnish
3089 for analytical purposes samples of the alcoholic products that it has for sale or that it has in the
3090 course of manufacture for sale in this state.

3091 ~~[(2) Nothing in this chapter prevents any manufacturer of, or dealer in, patent or
3092 proprietary medicines containing alcohol from selling the medicines in the original and
3093 unbroken package if the medicine contains sufficient medication to prevent its use as an
3094 alcoholic beverage. Each manufacturer or dealer who keeps patent or proprietary medicines for
3095 sale shall, upon request by the department, provide a sufficient sample of the medicine to
3096 enable the department to have the medicine analyzed.]~~

3097 ~~[(3) (a) Nothing in this chapter prevents any person from manufacturing vinegar or~~
3098 ~~preserved nonintoxicating cider for use or sale, or the manufacture or sale for lawful purposes~~
3099 ~~of any food preparation, or any United States Pharmacopocia or national formulary preparation~~
3100 ~~in conformity with the Utah pharmacy laws, if the preparation conforms to standards~~
3101 ~~established by the state departments of agriculture and health, and contains no more alcohol~~
3102 ~~than is absolutely necessary to preserve or extract the medicinal, flavoring, or perfumed~~
3103 ~~properties of the treated substances.]~~

3104 ~~[(b) Nothing in this chapter prevents the manufacture or sale of wood or denatured~~
3105 ~~alcohol under rules established by the department and in compliance with the formulas and~~
3106 ~~rules established by the United States.]~~

3107 Section 29. Section **32A-8-505** is amended to read:

3108 **32A-8-505. Operational restrictions.**

3109 (1) (a) A local industry representative licensee, employee or agent of the licensee, or
3110 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
3111 state, shall abide by the conditions and requirements set forth in this section.

3112 (b) If any person listed in Subsection (1)(a) knowingly violates or fails to comply with
3113 the conditions and requirements set forth in this section:

3114 (i) such violation or failure to comply may result in:

3115 (A) a suspension or revocation of the license; or

3116 (B) other disciplinary action taken against individual employees or agents of the
3117 licensee; and

3118 (ii) the commission may order the removal of the manufacturer's, supplier's, or
3119 importer's products from the department's sales list and a suspension of the department's
3120 purchase of those products for a period determined by the commission if the manufacturer,
3121 supplier, or importer:

3122 (A) directly committed the violation; or

3123 (B) solicited, requested, commanded, encouraged, or intentionally aided another to
3124 engage in the violation.

3125 (2) A local industry representative licensee, employee or agent of the licensee, or
3126 employee or agent of a manufacturer, supplier, or importer who is conducting business in the
3127 state:

- 3128 (a) only to the extent authorized by Chapter 12, Criminal Offenses, may:
- 3129 (i) assist the department in:
- 3130 (A) ordering, shipping, and delivering merchandise;
- 3131 (B) providing new product notification;
- 3132 (C) obtaining listing and delisting information;
- 3133 (D) receiving price quotations;
- 3134 (E) providing product sales analysis;
- 3135 (F) conducting shelf management; and
- 3136 (G) conducting educational seminars; and
- 3137 (ii) for the purpose of acquiring new listings:
- 3138 (A) solicit orders from the department; and
- 3139 (B) submit to the department price lists and samples of the products of the
- 3140 manufacturer, supplier, or importer;
- 3141 (b) may not sell any liquor, wine, or heavy beer within the state except to the
- 3142 department and military installations;
- 3143 (c) may not ship or transport, or cause to be shipped or transported, into this state or
- 3144 from one place to another within this state any liquor, wine, or heavy beer;
- 3145 (d) may not sell or furnish any liquor, wine, or heavy beer to any person within this
- 3146 state other than to the department and military installations;
- 3147 (e) except as otherwise provided, may not advertise products it represents in violation
- 3148 of this title or any other federal or state law;
- 3149 (f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and
- 3150 (g) may only provide samples of products of the manufacturer, supplier, or importer for
- 3151 tasting and sampling purposes as provided in Section 32A-12-603 by the department.
- 3152 (3) (a) A local industry representative licensee shall maintain on file with the
- 3153 department a current accounts list of the names and addresses of all manufacturers, suppliers,
- 3154 and importers the licensee represents.
- 3155 (b) The licensee shall notify the department in writing of any changes to the accounts
- 3156 listed within 14 days from the date the licensee either acquired or lost the account of a
- 3157 particular manufacturer, supplier, or importer.
- 3158 (4) A local industry representative licensee shall maintain accounting and other records

3159 and documents as the department may require for at least three years.

3160 (5) Any local industry representative licensee or person acting for the licensee, who
3161 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of
3162 the books of account or other documents of the licensee required to be made, maintained, or
3163 preserved by this title or the rules of the commission for the purpose of deceiving the
3164 commission or the department, or any of their officials or employees, is subject to:

3165 (a) the immediate suspension or revocation of the industry representative's license; and

3166 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

3167 (6) A local industry representative licensee may, for the purpose of becoming educated
3168 as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee
3169 represents, taste and analyze industry representative samples under the conditions listed in this
3170 Subsection (6).

3171 (a) The licensee may not receive more than two industry representative samples of a
3172 particular type, vintage, and production lot of a particular branded product within a consecutive
3173 120-day period.

3174 (b) (i) Each sample of liquor may not exceed 1 liter.

3175 (ii) Each sample of wine or heavy beer may not exceed 1.5 liters unless that exact
3176 product is only commercially packaged in a larger size, not to exceed 5 liters.

3177 (c) Each industry representative sample may only be of a product not presently listed
3178 on the department's sales list.

3179 (d) (i) Industry representative samples shall be shipped:

3180 (A) prepaid by the manufacturer, supplier, or importer;

3181 (B) by common carrier and not via United States mail; and

3182 (C) directly to the department's central administrative warehouse office.

3183 (ii) These samples may not be shipped to any other location within the state.

3184 (e) Industry representative samples shall be accompanied by a letter from the
3185 manufacturer, supplier, or importer:

3186 (i) clearly identifying the product as an "industry representative sample"; and

3187 (ii) clearly stating:

3188 (A) the FOB case price of the product; and

3189 (B) the name of the local industry representative for who it is intended.

3190 (f) The department shall assess a reasonable handling, labeling, and storage fee for
3191 each industry representative sample received.

3192 (g) The department shall affix to each bottle or container a label clearly identifying the
3193 product as an "industry representative sample".

3194 (h) The department shall:

3195 (i) account for and record each industry representative sample received;

3196 (ii) account for the sample's disposition; and

3197 (iii) maintain a record of the sample and its disposition for a two-year period.

3198 (i) Industry representative samples may not leave the premises of the department's
3199 central administrative warehouse office.

3200 (j) Licensed industry representatives and their employees and agents may, at regularly
3201 scheduled days and times established by the department, taste and analyze industry
3202 representative samples on the premises of the department's central administrative warehouse
3203 office.

3204 (k) Any unused contents of an opened product remaining after the product has been
3205 sampled shall be destroyed by the department under controlled and audited conditions
3206 established by the department.

3207 (l) Industry representative samples that are not tasted within 30 days of receipt by the
3208 department shall be disposed of at the discretion of the department in one of the following
3209 ways:

3210 (i) contents destroyed under controlled and audited conditions established by the
3211 department; or

3212 (ii) added to the inventory of the department for sale to the public.

3213 (7) An employee or agent of a local industry representative licensee may not be:

3214 (a) the holder of any retail license issued under this title that sells spirituous liquor,
3215 wine, or heavy beer; [or]

3216 (b) an employee or agent of any retail licensee issued under this title that sells
3217 spirituous liquor, wine, or heavy beer[-]; or

3218 (c) a minor.

3219 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
3220 give, or attempt in any way to dispose of the license to any other person, whether for monetary

3221 gain or not.

3222 (b) A local industry representative license has no monetary value for the purpose of any
3223 type of disposition.

3224 Section 30. Section **32A-10-101** is amended to read:

3225 **32A-10-101. State and local licensing -- Limitations.**

3226 (1) Any local authority may:

3227 (a) tax or prohibit any retail sale of beer;

3228 (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise

3229 consumption;

3230 (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise

3231 consumption at temporary special events that do not last longer than 30 days;

3232 (d) issue, suspend, and revoke licenses to [~~general food stores and other~~

3233 ~~establishments~~] businesses to sell beer at retail for off-premise consumption;

3234 (e) establish proximity restrictions for establishing premises where beer is sold at retail

3235 for off-premise consumption in relation to any public or private school, church, public library,

3236 public playground, or park; and

3237 (f) otherwise regulate the retail sale of beer for off-premise consumption subject to the

3238 requirements of Sections 32A-10-102 and 32A-10-103.

3239 (2) The commission shall issue licenses to sell beer at retail for on-premise

3240 consumption as provided in Part 2, On-Premise Beer Retailer Licenses.

3241 (3) Each licensee issued a license for on-premise consumption, by the commission

3242 under Subsection (2) or by the local authority under Subsection (1), is subject to the operational

3243 restrictions provided in Section 32A-10-206, except as otherwise provided.

3244 (4) Suspension or revocation of an on-premise beer retailer license issued by the

3245 commission under Subsection (2) or an on-premise beer retailer license issued by a local

3246 authority under Subsection (1) prohibits the establishment whose license is suspended or

3247 revoked from continuing to operate under the other state or local license it may have.

3248 (5) The commission shall issue temporary permits to sell beer at retail for on-premise

3249 consumption at temporary special events that do not last longer than 30 days as provided in

3250 Part 3, Temporary Special Event Beer Permits.

3251 (6) Each permittee issued a temporary permit by the commission under Subsection (5)

3252 or by the local authority under Subsection (1), is subject to the operational restrictions provided
3253 in Section 32A-10-306, except as otherwise provided.

3254 (7) Suspension or revocation of a temporary permit issued by the commission under
3255 Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose
3256 permit is suspended or revoked from continuing to operate under the other state or local permit
3257 the permittee may have.

3258 Section 31. Section **32A-10-102** is amended to read:

3259 **32A-10-102. General restrictions.**

3260 (1) (a) (i) A beer retailer licensed under this part or Part 2, On-Premise Beer Retailer
3261 Licenses, may not purchase, acquire, possess for the purpose of resale, or sell any beer except
3262 that which has been lawfully purchased from a wholesaler licensed under this title or from a
3263 small brewer that manufactured the beer.

3264 (ii) Violation of Subsection (1)(a) is a class A misdemeanor.

3265 (b) (i) All purchases made of beer by any beer retailer from a licensed wholesaler shall
3266 be from that wholesaler who is authorized by the commission to sell beer in the geographical
3267 area in which the beer retailer is located, unless an alternate wholesaler is authorized by the
3268 department to sell to the beer retailer as provided in Section 32A-11-106.

3269 (ii) Violation of Subsection (1)(b) is a class B misdemeanor.

3270 (2) (a) Beer may not be sold, provided, or possessed for off-premise consumption in
3271 containers larger than two liters.

3272 (b) For a special event that does not last longer than 30 days:

3273 (i) an on-premise beer retailer license issued by the commission as provided in this part
3274 is not required for the sale of beer at the special event; and

3275 (ii) a temporary beer permit must be obtained from the commission as provided in Part
3276 3, Temporary Special Event Beer Permits.

3277 (3) (a) A minor may not be granted a beer retailer license.

3278 (b) The commission may not grant a beer retailer license to an applicant that is a
3279 partnership, corporation, or limited liability company if any of the following is a minor:

3280 (i) a partner or managing agent of the applicant partnership;

3281 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the
3282 total issued and outstanding stock of the applicant corporation; or

3283 (iii) a manager or member who owns at least 20% of the applicant limited liability
3284 company.

3285 (4) A minor may not sell beer on the premises of a beer retailer for off-premise
3286 consumption [~~except~~] unless:

3287 (a) the sale is done under the supervision of a person 21 years of age or older who is on
3288 the premises; and

3289 (b) the minor is at least 16 years of age.

3290 (5) (a) If malt beverage coolers or malt liquor is sold by a beer retailer for off-premise
3291 consumption, the beer retailer shall display a sign at the location on the premises where malt
3292 beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please read the
3293 label."

3294 (b) A violation of this Subsection (5) is an infraction.

3295 Section 32. Section **32A-10-103** is amended to read:

3296 **32A-10-103. Alcohol training and education for off-premise consumption --**
3297 **Requirements on off-premise beer retailer licensees -- Penalties related to sales to minors**
3298 **-- Hearings -- Tracking.**

3299 (1) (a) A local authority that issues an off-premise beer retailer license to a [~~general~~
3300 ~~food store or similar~~] business to sell beer at retail for off-premise consumption shall require
3301 the following to have a valid certificate that the individual completed an alcohol training and
3302 education seminar required by Section 62A-15-401 in the time frames required by Subsection
3303 (1)(b), any individual who:

3304 (i) directly supervises the sale of beer to a customer for consumption off the premises
3305 of the off-premise beer retailer licensee; or

3306 (ii) sells beer to a customer for consumption off the premises of the off-premise beer
3307 retailer licensee.

3308 (b) (i) An individual shall complete an alcohol training and education seminar required
3309 by Section 62A-15-401 within 30 days of the day on which the individual is employed by an
3310 off-premise beer retailer licensee if the individual:

3311 (A) is employed on or after September 1, 2006; and

3312 (B) on the date of employment, does not have a valid certificate that the individual has
3313 completed an alcohol training and education seminar for purposes of this section.

3314 (ii) An individual shall complete an alcohol training and education seminar by not later
3315 than October 1, 2006 if the individual:

3316 (A) is employed before September 1, 2006; and

3317 (B) on September 1, 2006, does not have a valid certificate that the individual has
3318 completed an alcohol training and education seminar for purposes of this section.

3319 (iii) The validity of a certificate that an individual has completed an alcohol training
3320 and education seminar required by this section is governed by Section 62A-15-401.

3321 (2) In accordance with Section 32A-1-401, a local authority may immediately suspend
3322 the license of an off-premise beer retailer that allows an employee to directly supervise the sale
3323 of beer or to sell beer to a customer without having a valid certificate that the individual
3324 completed an alcohol training and education seminar in accordance with Subsection (1).

3325 (3) (a) Each employee of a licensed off-premise beer retailer who directly supervises
3326 the sale of beer or who sells beer to a customer for consumption off the premises of the
3327 off-premise beer retailer shall wear a unique identification badge:

3328 (i) on the front of the employee's clothing;

3329 (ii) visible above the waist;

3330 (iii) bearing the employee's:

3331 (A) first or last name;

3332 (B) initials; or

3333 (C) unique identification in letters or numbers; and

3334 (iv) with the number or letters on the unique identification badge being sufficiently
3335 large to be clearly visible and identifiable while engaging in or directly supervising the retail
3336 sale of beer.

3337 (b) (i) An off-premise beer retailer licensee shall maintain a record of all current
3338 employee unique identification badges assigned by the off-premise beer retailer licensee.

3339 (ii) The record required to be maintained under Subsection (3)(b)(i) shall:

3340 (A) be available for immediate inspection by:

3341 (I) any peace officer; or

3342 (II) a representative of the local licensing authority; and

3343 (B) include the employee's:

3344 (I) full name;

3345 (II) address; and
3346 (III) (Aa) driver license number; or
3347 (Bb) similar identification number.
3348 (c) A local authority may impose a fine of up to \$250 against any off-premise beer
3349 retailer that does not comply or require its employees to comply with this Subsection (3).
3350 (4) (a) In addition to any criminal penalties that may be imposed, an individual is
3351 subject to the administrative penalties imposed by a local authority described in Subsection
3352 (4)(b) if:
3353 (i) that individual:
3354 (A) completes an alcohol training and education seminar required by Subsection (1);
3355 and
3356 (B) after completing the alcohol training and education seminar required by Subsection
3357 (1), is found in violation of any law involving the sale of an alcoholic beverage to a minor;
3358 (ii) the violation described in Subsection (4)(a)(i)(B) is based on conduct that occurs
3359 while the individual is on duty as an employee of an off-premise beer retailer licensee; and
3360 (iii) the local authority brings an adjudicative proceeding against the individual.
3361 (b) If the conditions of Subsection (4)(a) are met, a local authority shall impose the
3362 following administrative penalties:
3363 (i) upon a first violation, the individual may not sell or directly supervise the sale of
3364 beer to a customer for consumption off the premises of the off-premise beer retailer licensee
3365 until the individual retakes and completes an alcohol training and education seminar described
3366 in Section 62A-15-401;
3367 (ii) upon a second violation, the individual may not sell or directly supervise the sale of
3368 beer to a customer for consumption off the premises of the off-premise beer retailer licensee
3369 until the later of:
3370 (A) 90 days from the day on which the administrative penalty is imposed; and
3371 (B) the day on which the individual:
3372 (I) retakes and completes the alcohol training and education seminar described in
3373 Section 62A-15-401; and
3374 (II) completes any additional training that the local authority may require; and
3375 (iii) upon a third or subsequent violation, the individual may not sell or directly

3376 supervise the sale of beer to a customer for consumption off the premises of the off-premise
3377 beer retailer licensee until the later of:

3378 (A) one year from the day on which the administrative penalty is imposed; and

3379 (B) the day on which the individual:

3380 (I) retakes and completes an alcohol training and education seminar described in
3381 Section 62A-15-401; and

3382 (II) completes any additional training that the local authority may require.

3383 (c) (i) During the period of time an individual is prohibited from selling or directly
3384 supervising the sale of beer under Subsection (4)(b), an off-premise beer retailer licensee may
3385 not allow that individual to:

3386 (A) directly supervise the sale of beer for the off-premise beer retailer licensee; or

3387 (B) sell beer for the off-premise beer retailer licensee.

3388 (ii) A violation of this Subsection (4)(c) is grounds for the immediate suspension of the
3389 off-premise beer retailer's license.

3390 (5) (a) In addition to any criminal penalties that may be imposed, an off-premise beer
3391 retailer licensee is subject to the administrative penalties imposed by a local authority described
3392 in Subsection (5)(b) if:

3393 (i) an employee of the off-premise beer retailer licensee is found in violation of any law
3394 involving the sale of alcoholic beverage to a minor;

3395 (ii) the violation described in Subsection (5)(a)(i) occurs while the employee is on duty
3396 for the off-premise beer retailer licensee; and

3397 (iii) the local authority brings an adjudicative proceeding against the off-premise beer
3398 retailer licensee.

3399 (b) If the conditions of Subsection (5)(a) are met, a local authority shall impose the
3400 following administrative penalties:

3401 (i) upon a first violation, the off-premise beer retailer licensee shall be issued a written
3402 warning;

3403 (ii) upon a second violation, the off-premise beer retailer licensee shall pay a civil fine
3404 of \$250;

3405 (iii) upon a third violation, the off-premise beer retailer licensee shall pay a civil fine of
3406 \$500;

3407 (iv) upon a fourth or subsequent violation, the off-premise beer retailer licensee shall:

3408 (A) pay a civil fine of \$500;

3409 (B) have its license to sell beer suspended for a period of 30 consecutive days from the
3410 date on which the administrative penalty is imposed; and

3411 (C) be placed on probation for a period of one year from the date on which the
3412 administrative penalty is imposed; and

3413 (v) upon any violation by the off-premise beer retailer licensee or any on-duty
3414 employee of the off-premise beer retailer licensee during the period of probation specified in
3415 Subsection (5)(b)(iv)(C):

3416 (A) the off-premise beer retailer licensee's license to sell beer shall be revoked; and

3417 (B) the off-premise beer retailer licensee is not eligible to reapply for a new license for
3418 at least six months from the date of revocation.

3419 (c) (i) An off-premise beer retailer licensee's failure to pay a fine imposed under this
3420 Subsection (5) within 30 days of the day on which the fine is imposed is grounds for the
3421 immediate suspension of the off-premise beer retailer licensee's license to sell beer until
3422 payment is made.

3423 (ii) An off-premise beer retailer licensee's failure to pay the fine described in
3424 Subsection (5)(c)(i) within 30 days of the day on which the license is suspended under
3425 Subsection (5)(c)(i) is grounds for revocation of the licensee's license to sell beer.

3426 (6) (a) Any local authority that adjudicates an administrative penalty for a violation of
3427 any law involving the sale of an alcoholic beverage to any minor pursuant to Subsection (4) or
3428 (5), shall:

3429 (i) maintain a record of the adjudicated violation until the record is expunged under
3430 Subsection (6)(c);

3431 (ii) include in the record described in Subsection (6)(a)(i):

3432 (A) the name of the individual who committed the violation;

3433 (B) the name of the off-premise beer retailer licensee for whom the individual was
3434 employed at the time of the violation; and

3435 (C) the date of the adjudication of the violation; and

3436 (iii) provide the Highway Safety Office of the Department of Public Safety within 30
3437 days of the date on which a violation is adjudicated the information described in Subsection

3438 (6)(a)(ii).

3439 (b) (i) The Highway Safety Office shall develop and operate a system to collect,
3440 analyze, maintain, track, and disseminate the violation history information received under
3441 Subsection (6)(a).

3442 (ii) The system described in Subsection (6)(b)(i) shall be made available to:

3443 (A) assist a local authority in assessing administrative penalties under Subsection (4);

3444 and

3445 (B) inform an off-premise beer retailer licensee of an individual who has an
3446 administrative violation history under Subsection (4).

3447 (iii) The Highway Safety Office shall maintain a record of violation history information
3448 received pursuant to Subsection (6)(a) until the record is expunged under Subsection (6)(c).

3449 (c) (i) A local authority and the Highway Safety Office shall expunge from the records
3450 maintained under this Subsection (6) an administrative penalty imposed under Subsection (4)
3451 for purposes of determining future administrative penalties under Subsection (4) if the
3452 individual has not been found in violation of any law involving the sale of an alcoholic
3453 beverage to a minor for a period of 36 consecutive months from the day on which the
3454 individual is last adjudicated as violating a law involving the sale of an alcoholic beverage to a
3455 minor.

3456 (ii) A local authority shall expunge from the records maintained by the local authority
3457 an administrative penalty imposed under Subsection (5) against an off-premise beer retailer
3458 licensee for purposes of determining future administrative penalties under Subsection (5) if the
3459 off-premise beer retailer licensee or any employee of that off-premise beer retailer licensee has
3460 not been found in violation of any law involving the sale of an alcoholic beverage to a minor
3461 for a period of 36 consecutive months from the day on which the off-premise beer retailer
3462 licensee or its employee is last adjudicated as violating a law involving the sale of an alcoholic
3463 beverage to a minor.

3464 (7) (a) A local authority shall conduct a hearing if an off-premise beer retailer licensee
3465 or individual identified in Subsection (1) requests a hearing before the local authority.

3466 (b) A local authority conducting a hearing under this Subsection (7) shall provide the
3467 person requesting the hearing:

3468 (i) notice of the hearing; and

3469 (ii) an opportunity to be heard at the hearing.

3470 (8) The Highway Safety Office of the Department of Public Safety shall administer a
3471 program to:

3472 (a) reimburse a municipal or county law enforcement agency:

3473 (i) for the actual costs of an alcohol-related compliance check investigation conducted
3474 pursuant to Section 77-39-101 on the premises of an off-premise beer retailer;

3475 (ii) for any administrative costs associated with reporting the compliance check
3476 investigation described in Subsection (8)(a)(i);

3477 (iii) if the municipal or county law enforcement agency completes and submits to the
3478 Highway Safety Office a report within 90 days of the compliance check investigation described
3479 in Subsection (8)(a)(i) in a format required by the Highway Safety Office; and

3480 (iv) in the order that the municipal or county law enforcement agency submits the
3481 report required by Subsection (8)(a)(iii) until the amount allocated by the Highway Safety
3482 Office to reimburse a municipal or county law enforcement agency is spent;

3483 (b) develop and operate a system to collect, analyze, maintain, track, and disseminate
3484 violation history information pursuant to Subsection (6); and

3485 (c) have the Highway Safety Office report to the Utah Substance Abuse and
3486 Anti-Violence Coordinating Council by no later than October 1 following a fiscal year on the
3487 following funded during the prior fiscal year:

3488 (i) all compliance check investigations reimbursed under Subsection (8)(a); and

3489 (ii) the collection, analysis, maintenance, tracking, and dissemination of violation
3490 history information provided in Subsection (8)(b).

3491 Section 33. Section **32A-10-202** is amended to read:

3492 **32A-10-202. Application and renewal requirements.**

3493 (1) A person seeking an on-premise beer retailer license under this chapter shall file a
3494 written application with the department, in a form prescribed by the department. The
3495 application shall be accompanied by:

3496 (a) a nonrefundable \$250 application fee;

3497 (b) an initial license fee that is refundable if a license is not granted in the following
3498 amount:

3499 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial

3500 license fee is \$150; or

3501 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is
3502 \$1,250;

3503 (c) written consent of the local authority or a license to sell beer at retail for on-premise
3504 consumption granted by the local authority under Section 32A-10-101;

3505 (d) a copy of the applicant's current business license;

3506 (e) evidence of proximity to any public or private school, church, public library, public
3507 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of
3508 Subsections 32A-10-201(3) and (4), the application shall be processed in accordance with
3509 those subsections;

3510 (f) a bond as specified by Section 32A-10-205;

3511 (g) a floor plan of the premises, including consumption areas and the area where the
3512 applicant proposes to keep, store, and sell beer;

3513 (h) evidence that the on-premise beer retailer licensee is carrying public liability
3514 insurance in an amount and form satisfactory to the department;

3515 (i) for those licensees that sell more than \$5,000 of beer annually, evidence that the
3516 on-premise beer retailer licensee is carrying dramshop insurance coverage of at least \$500,000
3517 per occurrence and \$1,000,000 in the aggregate;

3518 (j) a signed consent form stating that the on-premise beer retailer licensee will permit
3519 any authorized representative of the commission, department, or any peace officer unrestricted
3520 right to enter the licensee premises;

3521 (k) in the case of an applicant that is a partnership, corporation, or limited liability
3522 company, proper verification evidencing that the person or persons signing the on-premise beer
3523 retailer licensee application are authorized to so act on the behalf of the partnership,
3524 corporation, or limited liability company; and

3525 (l) any other information the department may require.

3526 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each
3527 year.

3528 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the
3529 person's on-premise beer retailer license shall submit by no later than January 31:

3530 (A) a completed renewal application to the department; and

- 3531 (B) a renewal fee in the following amount:
- 3532 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee
- 3533 is \$200; or
- 3534 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
- 3535 \$1,000.
- 3536 (ii) A licensee is not required to submit a renewal fee if the licensee is:
- 3537 (A) a state agency; or
- 3538 (B) a political subdivision of the state including:
- 3539 (I) a county; or
- 3540 (II) a municipality.
- 3541 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
- 3542 the license, effective on the date the existing license expires.
- 3543 (d) Renewal applications shall be in a form as prescribed by the department.
- 3544 (3) To ensure compliance with Subsection 32A-10-206~~(18)~~ (17), the commission
- 3545 may suspend or revoke a beer retailer license if any beer retailer licensee does not immediately
- 3546 notify the department of any change in:
- 3547 (a) ownership of the beer retailer;
- 3548 (b) for a corporate owner, the:
- 3549 (i) corporate officers or directors; and
- 3550 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
- 3551 corporation; or
- 3552 (c) for a limited liability company:
- 3553 (i) managers; or
- 3554 (ii) members owning at least 20% of the limited liability company.
- 3555 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and
- 3556 (f) if the applicant is:
- 3557 (a) a state agency; or
- 3558 (b) a political subdivision of the state including:
- 3559 (i) a county; or
- 3560 (ii) a municipality.
- 3561 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer

3562 license is required for each building or resort facility owned or leased by the same applicant.

3563 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each
3564 retail beer dispensing outlet located in the same building or on the same resort premises owned
3565 or operated by the same applicant.

3566 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets
3567 in the building or resort facility operate in the same manner.

3568 (ii) If the condition described in Subsection (5)(c)(i) is not met:

3569 (A) one state on-premise beer retailer tavern license is required for all outlets in the
3570 same building or on the same resort premises that operate as a tavern; and

3571 (B) one state on-premise beer retailer license is required for all outlets in the same
3572 building or on the same resort premises that do not operate as a tavern.

3573 Section 34. Section **32A-10-206** is amended to read:

3574 **32A-10-206. Operational restrictions.**

3575 Each person granted an on-premise beer retailer license and the employees and
3576 management personnel of the on-premise beer retailer licensee shall comply with the following
3577 conditions and requirements. Failure to comply may result in a suspension or revocation of the
3578 license or other disciplinary action taken against individual employees or management
3579 personnel.

3580 (1) (a) Subject to Subsection (1)(b), a beer retailer licensee may sell beer for
3581 on-premise consumption:

3582 (i) in an open container; and

3583 (ii) on draft.

3584 (b) Beer sold pursuant to Subsection (1)(a) shall be in a size of container that does not
3585 exceed two liters, except that beer may not be sold to an individual patron in a size of container
3586 that exceeds one liter.

3587 (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer
3588 licensee.

3589 (3) A patron of the on-premise beer retailer may only make purchases from and be
3590 served by a person employed, designated, and trained by the licensee to sell and serve beer.

3591 (4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at any
3592 on-premise beer retailer establishment after 1 a.m. and before 10 a.m.

- 3593 (b) Beer may not be sold, served, or otherwise furnished to any:
3594 (i) minor;
3595 (ii) person actually, apparently, or obviously intoxicated;
3596 (iii) known habitual drunkard; or
3597 (iv) known interdicted person.
- 3598 (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall
3599 remain open for one hour after the tavern ceases the sale and service of alcoholic beverages
3600 during which time a patron of the tavern may finish consuming a single serving of beer not
3601 exceeding 26 ounces.
- 3602 (ii) A tavern is not required to remain open:
3603 (A) after all patrons have vacated the premises; or
3604 (B) during an emergency.
- 3605 (d) Between the hours of 2 a.m. and 10 a.m. on any day a tavern may not allow a patron
3606 to remain on the premises to consume alcoholic beverages on the premises.
- 3607 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.
3608 (b) Beer may not be sold at a special or reduced price that encourages over
3609 consumption or intoxication.
- 3610 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer
3611 retailer's business day such as a "happy hour."
- 3612 (d) The sale or service of more than one alcoholic beverage for the price of a single
3613 alcoholic beverage is prohibited.
- 3614 (e) The sale or service of an indefinite or unlimited number of alcoholic beverages
3615 during any set period for a fixed price is prohibited.
- 3616 (f) An on-premise beer licensee may not engage in a public promotion involving or
3617 offering free alcoholic beverages to the general public.
- 3618 (6) Beer may not be purchased for a patron of the on-premise beer establishment by:
3619 (a) the licensee; or
3620 (b) an employee or agent of the licensee.
- 3621 [~~(6)~~] (7) Beer sold in sealed containers by the on-premise beer retailer licensee may be
3622 removed from the on-premise beer retailer premises.
- 3623 [~~(7)~~] (8) (a) A person may not bring onto the premises of an on-premise beer retailer

3624 licensee any alcoholic beverage for on-premise consumption.

3625 (b) An on-premise beer retailer licensee or its officers, managers, employees, or agents
3626 may not:

3627 (i) allow a person to bring onto the on-premise beer retailer licensee premises any
3628 alcoholic beverage for on-premise consumption; or

3629 (ii) allow consumption of any such alcoholic beverage on its premises.

3630 ~~[(8)]~~ (9) An on-premise beer retailer licensee and its employees may not permit a
3631 patron to carry from the premises an open container that:

3632 (a) is used primarily for drinking purposes; and

3633 (b) contains any alcoholic beverage.

3634 ~~[(9)]~~ (10) (a) Except as provided in Subsection ~~[(9)]~~ (10)(b), a minor may not be:

3635 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell,
3636 dispense, or otherwise furnish beer; or

3637 (ii) on the premises of any tavern.

3638 (b) Notwithstanding Subsection ~~[(9)]~~ (10)(a), a minor who is at least 16 years of age
3639 may be employed to enter the sale at a cash register or other sales recording device on the
3640 premises of an on-premise beer retailer that is not a tavern.

3641 ~~[(10)]~~ (11) An employee of a licensee, while on duty, may not:

3642 (a) consume an alcoholic beverage; or

3643 (b) be intoxicated.

3644 ~~[(11)]~~ (12) Each on-premise beer retailer licensee shall display in a prominent place in
3645 the on-premise beer retailer licensee:

3646 (a) the on-premise beer retailer license that is issued by the department; and

3647 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
3648 drugs is a serious crime that is prosecuted aggressively in Utah."

3649 ~~[(12) The following acts or conduct in an on-premise beer retailer outlet licensed under
3650 this part are considered contrary to the public welfare and morals, and are prohibited upon the
3651 premises:]~~

3652 ~~[(a) employing or using any person in the sale or service of alcoholic beverages while
3653 the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the
3654 female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the~~

3655 buttocks, vulva, or genitals;]

3656 ~~[(b) employing or using the services of any person to mingle with the patrons while the~~
3657 ~~person is unclothed or in attire, costume, or clothing as described in Subsection (12)(a);]~~

3658 ~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts,~~
3659 ~~buttocks, anus, or genitals of any other person;]~~

3660 ~~[(d) permitting any employee or person to wear or use any device or covering, exposed~~
3661 ~~to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

3662 ~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of~~
3663 ~~the prohibited activities described in this section;]~~

3664 ~~[(f) permitting any person to remain in or upon the premises who exposes to public~~
3665 ~~view any portion of his or her genitals or anus; or]~~

3666 ~~[(g) showing films, still pictures, electronic reproductions, or other visual~~
3667 ~~reproductions depicting;]~~

3668 ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral~~
3669 ~~copulation, flagellation, or any sexual acts that are prohibited by Utah law;]~~

3670 ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or~~
3671 ~~genitals;]~~

3672 ~~[(iii) scenes wherein artificial devices or inanimate objects are employed to depict, or~~
3673 ~~drawings are employed to portray, any of the prohibited activities described in this section; or]~~

3674 ~~[(iv) scenes wherein a person displays the vulva or the anus or the genitals;]~~

3675 ~~[(13) Nothing in Subsection (12) precludes a local authority from being more~~
3676 ~~restrictive of acts or conduct of the type prohibited in Subsection (12).]~~

3677 ~~[(14) (a) Although live entertainment is permitted on the premises of an on-premise~~
3678 ~~beer retailer licensee, a licensee may not permit any person to perform or simulate sexual acts~~
3679 ~~prohibited by Utah law, including sexual intercourse, masturbation, sodomy, bestiality, oral~~
3680 ~~copulation, flagellation, the touching, caressing, or fondling of the breast, buttocks, anus, or~~
3681 ~~genitals, or the displaying of the pubic hair, anus, vulva, or genitals. Entertainers shall perform~~
3682 ~~only upon a stage or at a designated area approved by the commission.]]~~

3683 ~~[(b) Nothing in Subsection (14)(a) precludes a local authority from being more~~
3684 ~~restrictive of acts or conduct of the type prohibited in Subsection (14)(a).]~~

3685 ~~[(15)]~~ (13) An on-premise beer retailer licensee may not engage in or permit any form

3686 of gambling, or have any video gaming device, as defined and proscribed in Title 76, Chapter
3687 10, Part 11, Gambling, on the premises of the on-premise beer retailer licensee.

3688 ~~[(16)]~~ (14) (a) Each on-premise beer retailer licensee shall maintain accounting and
3689 other records and documents as the department may require.

3690 (b) Any on-premise beer retailer licensee or person acting for the on-premise beer
3691 retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes
3692 the entries in any of the books of account or other documents of the on-premise beer retailer
3693 licensee required to be made, maintained, or preserved by this title or the rules of the
3694 commission for the purpose of deceiving the commission or the department, or any of their
3695 officials or employees, is subject to:

- 3696 (i) the immediate suspension or revocation of the on-premise beer retailer license; and
- 3697 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

3698 (15) (a) A tavern licensed under this chapter may not close or cease operation for a
3699 period longer than 240 hours, unless:

3700 (i) the tavern licensee notifies the department in writing at least seven days before the
3701 closing; and

3702 (ii) the closure or cessation of operation is first approved by the department.

3703 (b) Notwithstanding Subsection (15)(a), in the case of emergency closure, immediate
3704 notice of closure shall be made to the department by telephone.

3705 (c) (i) The department may authorize a closure or cessation of operation for a period
3706 not to exceed 60 days.

3707 (ii) The department may extend the initial period an additional 30 days upon:

3708 (A) written request of the tavern licensee; and

3709 (B) a showing of good cause.

3710 (iii) A closure or cessation of operation may not exceed a total of 90 days without
3711 commission approval.

3712 (d) A notice of closure or cessation by a tavern licensee shall include:

3713 (i) the date of closure or cessation of operation;

3714 (ii) the reason for the closure or cessation of operation; and

3715 (iii) the dates on which the tavern licensee will reopen or resume operation.

3716 (e) Failure of the tavern licensee to provide notice and to obtain department

3717 authorization before closure or cessation of operation shall result effective immediately in an
 3718 automatic forfeiture of:

3719 (i) the license; and

3720 (ii) the unused portion of the license fee for the remainder of the license year.

3721 (f) Failure of the tavern licensee to reopen or resume operation by the approved date
 3722 shall result in an automatic forfeiture of:

3723 (i) the license; and

3724 (ii) the unused portion of the license fee for the remainder of the license year.

3725 [~~17~~] (16) An on-premise beer retailer license may not be transferred from one
 3726 location to another, without prior written approval of the commission.

3727 [~~18~~] (17) (a) An on-premise beer retailer licensee may not sell, transfer, assign,
 3728 exchange, barter, give, or attempt in any way to dispose of the license to any person, whether
 3729 for monetary gain or not.

3730 (b) An on-premise beer retailer license has no monetary value for the purpose of any
 3731 type of disposition.

3732 Section 35. Section **32A-10-306** is amended to read:

3733 **32A-10-306. Operational restrictions.**

3734 (1) (a) Any person granted a temporary special event beer permit and any person
 3735 involved in the storage, sale, or service of beer at the event for which a temporary special event
 3736 the permit is issued, shall abide by this title, the rules of the commission, and the special
 3737 conditions and requirements provided in this section.

3738 (b) Failure to comply as provided in Subsection (1)(a):

3739 (i) may result in:

3740 (A) an immediate revocation of the permit;

3741 (B) forfeiture of the surety bond; and

3742 (C) immediate seizure of all beer present at the event; and

3743 (ii) disqualifies the organization from applying for a temporary special event beer
 3744 permit under this part or a single event permit under Chapter 7, Single Event Permits, for a
 3745 period of three years from the date of revocation of the temporary special event permit.

3746 (c) Any beer seized under this Subsection (1) shall be returned to the organization after
 3747 the event if forfeiture proceedings are not instituted under Section 32A-13-103.

3748 (2) Special conditions and requirements for temporary special event beer permittees
3749 include the following:

3750 (a) (i) All persons involved in the storage, sale, or service of beer at the temporary
3751 special event do so under the supervision and direction of the permittee.

3752 (ii) All persons involved in the sale or service of beer at the temporary special event
3753 may not, while on duty:

3754 (A) consume an alcoholic beverage; or

3755 (B) be intoxicated.

3756 (b) (i) All beer stored, sold, served, and consumed at the temporary special event shall
3757 be purchased by the permittee from a licensed beer wholesaler or retailer.

3758 (ii) All beer is considered under the control of the permittee during the temporary
3759 special event.

3760 (iii) An attendee of the temporary special event may not bring any alcoholic beverages
3761 onto the premises of the temporary special event.

3762 (c) Each permittee shall post in a prominent place in the area in which beer is being
3763 sold, served, and consumed:

3764 (i) a copy of the permit; and

3765 (ii) a list of the operational restrictions and requirements of temporary special event
3766 beer permittees set forth in this section.

3767 (d) Beer purchased for a temporary special event may not be stored, sold, served, or
3768 consumed in any location other than that described in the application and designated on the
3769 temporary special event permit unless the permittee first applies for and receives approval from
3770 the commission for a change of location.

3771 (e) (i) Subject to Subsection (2)(e)(ii), beer may be sold for on-premise consumption:

3772 (A) in an open container; and

3773 (B) on draft.

3774 (ii) Beer sold pursuant to Subsection (2)(e)(i) shall be in a size of container that does
3775 not exceed two liters, except that beer may not be sold to an individual attendee in a size of
3776 container that exceeds one liter.

3777 (f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed
3778 between the hours of 1 a.m. and 10 a.m.

3779 (ii) This Subsection (2)(f) does not preclude a local authority from being more
3780 restrictive with respect to the hours of sale, service, or consumption of beer at a temporary
3781 special event.

3782 (g) Beer may not be sold, served, or otherwise furnished to any:

3783 (i) minor;

3784 (ii) person actually, apparently, or obviously intoxicated;

3785 (iii) known habitual drunkard; or

3786 (iv) known interdicted person.

3787 (h) (i) Beer may not be sold at less than the cost of the beer to the permittee.

3788 (ii) Beer may not be sold at a price that encourages over consumption or intoxication.

3789 (iii) Beer may not be sold at a special or reduced price for only certain hours of the day
3790 of the permitted event.

3791 (iv) The sale or service of more than one beer beverage for the price of a single beer
3792 beverage is prohibited.

3793 (v) The permittee may not engage in a public promotion involving or offering free beer
3794 to the general public.

3795 (i) The permittee and its employees may not permit an attendee to carry from the
3796 premises an open container that:

3797 (i) is used for drinking purposes; and

3798 (ii) contains any alcoholic beverage.

3799 (j) A minor may not sell, serve, dispense, or handle any beer at a temporary special
3800 event.

3801 ~~[(3) The following acts or conduct at an event for which a permit is issued under this~~
3802 ~~part are considered contrary to the public welfare and morals, and are prohibited upon the~~
3803 ~~premises:]~~

3804 ~~[(a) employing or using any person in the sale or service of alcoholic beverages while~~
3805 ~~the person is unclothed or in attire, costume, or clothing that exposes to view any portion of the~~
3806 ~~female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the~~
3807 ~~buttocks, vulva, or genitals;]~~

3808 ~~[(b) employing or using the services of any person to mingle with the patrons while the~~
3809 ~~person is unclothed or in attire, costume, or clothing described in Subsection (3)(a);]~~

3810 ~~[(c) encouraging or permitting any person to touch, caress, or fondle the breasts,~~
3811 ~~buttocks, anus, or genitals of any other person;]~~

3812 ~~[(d) permitting any employee or person to wear or use any device or covering, exposed~~
3813 ~~to view, that simulates the breast, genitals, anus, pubic hair, or any portion of these;]~~

3814 ~~[(e) permitting any person to use artificial devices or inanimate objects to depict any of~~
3815 ~~the prohibited activities described in this Subsection (3);]~~

3816 ~~[(f) permitting any person to remain in or upon the premises who exposes to public~~
3817 ~~view any portion of his or her genitals or anus; or]~~

3818 ~~[(g) showing films, still pictures, electronic reproductions, or other visual~~
3819 ~~reproductions depicting;]~~

3820 ~~[(i) acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral~~
3821 ~~copulation, flagellation, or any sexual acts prohibited by Utah law;]~~

3822 ~~[(ii) any person being touched, caressed, or fondled on the breast, buttocks, anus, or~~
3823 ~~genitals;]~~

3824 ~~[(iii) scenes wherein artificial devices or inanimate objects are used to depict, or~~
3825 ~~drawings are used to portray, any of the prohibited activities described in this Subsection (3);~~
3826 ~~or]~~

3827 ~~[(iv) scenes wherein a person displays the vulva, anus, or the genitals.];]~~

3828 ~~[(4) Nothing in Subsection (3) precludes a local authority from being more restrictive~~
3829 ~~of acts or conduct of the type prohibited in Subsection (3).]~~

3830 ~~[(5) (a) Although live entertainment is permitted at the event for which a permit has~~
3831 ~~been issued under this chapter, a permittee may not allow any person to perform or simulate~~
3832 ~~sexual acts prohibited by Utah law, including sexual intercourse, masturbation, sodomy,~~
3833 ~~bestiality, oral copulation, flagellation, the touching, caressing, or fondling of the breast,~~
3834 ~~buttocks, anus, or genitals, or the displaying of the pubic hair, anus, vulva, or genitals.~~
3835 ~~Entertainers shall perform only upon a stage or at a designated area approved by the~~
3836 ~~commission.];]~~

3837 ~~[(b) Nothing in Subsection (5)(a) precludes a local authority from being more~~
3838 ~~restrictive of acts or conduct of the type prohibited in Subsection (5)(a).];]~~

3839 ~~[(6)] (3) The permittee shall maintain an expense and revenue ledger or record~~
3840 ~~showing:~~

3841 (a) expenditures made for beer; and

3842 (b) the revenue from sale of beer.

3843 [~~7~~] (4) A temporary special event beer permit may not be transferred.

3844 [~~8~~] (5) A temporary special event beer permittee may not engage in or allow any form
3845 of gambling, or have any video gaming device as defined and proscribed by Title 76, Chapter
3846 10, Part 11, Gambling, on the premises serviced by the permittee.

3847 Section 36. Section **32A-12-209** is amended to read:

3848 **32A-12-209. Unlawful purchase, possession, consumption by minors --**

3849 **Measurable amounts in body.**

3850 (1) Unless specifically authorized by this title, it is unlawful for any minor to:

3851 (a) purchase any alcoholic beverage or product;

3852 (b) attempt to purchase any alcoholic beverage or product;

3853 (c) solicit another person to purchase any alcoholic beverage or product;

3854 (d) possess any alcoholic beverage or product;

3855 (e) consume any alcoholic beverage or product; or

3856 (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.

3857 (2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic
3858 beverage or product for a minor for:

3859 (a) any minor to misrepresent the minor's age; or

3860 (b) any other person to misrepresent the age of a minor.

3861 (3) It is unlawful for a minor to possess or consume any alcoholic beverage while
3862 riding in a limousine or chartered bus.

3863 (4) When a minor who is at least 18 years old, but younger than 21 years old, is found
3864 by a court to have violated this section:

3865 (a) if the violation is the minor's first violation of this section, the court may suspend
3866 the minor's driving privileges; or

3867 (b) if the violation is the minor's second or subsequent violation of this section, the
3868 court shall suspend the minor's driving privileges.

3869 [~~4~~] (5) When a [~~person~~] minor who is at least 13 years old, but younger than 18 years
3870 old, is found by the court to have violated this section, the provisions regarding suspension of
3871 the driver's license under Section 78-3a-506 apply to the violation.

3872 ~~[(5)]~~ (6) When the court ~~[has issued]~~ issues an order suspending a person's driving
3873 privileges for a violation of this section, the Driver License Division shall suspend the person's
3874 license under ~~[the provisions of]~~ Section 53-3-219.

3875 ~~[(6)]~~ (7) When the Department of Public Safety receives the arrest or conviction record
3876 of a person for a driving offense committed while the person's license is suspended pursuant to
3877 this section, the department shall extend the suspension for an additional like period of time.

3878 ~~[(7)]~~ (8) This section does not apply to a minor's consumption of an alcoholic beverage
3879 or product in accordance with this title:

3880 (a) for medicinal purposes if the alcoholic beverage or product is furnished by:

3881 (i) the parent or guardian of the minor; or

3882 (ii) the minor's physician or dentist; or

3883 (b) as part of a church's or religious organization's religious services.

3884 Section 37. Section **32A-12-209.5** is enacted to read:

3885 **32A-12-209.5. Unlawful admittance or attempt to gain admittance by minor.**

3886 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
3887 premises of:

3888 (a) a tavern; or

3889 (b) a class D private club, except to the extent authorized by Subsection 32A-5-107(8).

3890 (2) A minor who violates this section is guilty of a class C misdemeanor.

3891 (3) When a minor who is at least 18 years old, but younger than 21 years old, is found
3892 by a court to have violated this section:

3893 (a) if the violation is the minor's first violation of this section, the court may suspend
3894 the minor's driving privileges; or

3895 (b) if the violation is the minor's second or subsequent violation of this section, the
3896 court shall suspend the minor's driving privileges.

3897 (4) When a minor who is at least 13 years old, but younger than 18 years old, is found
3898 by a court to have violated this section, the provisions regarding suspension of the driver's
3899 license under Section 78-3a-506 apply to the violation.

3900 (5) When the court issues an order suspending a person's driving privileges for a
3901 violation of this section, the Driver License Division shall suspend the person's license under
3902 Section 53-3-219.

3903 (6) When the Department of Public Safety receives the arrest or conviction record of a
3904 person for a driving offense committed while the person's license is suspended pursuant to this
3905 section, the department shall extend the suspension for an additional like period of time.

3906 Section 38. Section **32A-12-213** is amended to read:

3907 **32A-12-213. Unlawful bringing onto premises for consumption.**

3908 (1) Except as provided in Subsection (3), a person may not bring for on-premise
3909 consumption any alcoholic beverage onto the premises of any:

3910 (a) licensed or unlicensed restaurant;

3911 (b) licensed or unlicensed private club;

3912 (c) airport lounge licensee;

3913 (d) on-premise banquet licensee;

3914 (e) on-premise beer retailer licensee;

3915 (f) event where alcoholic beverages are sold or served under a single event permit or
3916 temporary special event beer permit issued under this title; or

3917 (g) any establishment open to the general public.

3918 (2) Except as provided in Subsection (3), a licensed or unlicensed restaurant or private
3919 club, airport lounge licensee, on-premise banquet licensee, on-premise beer retailer licensee, or
3920 holder of a single event permit or temporary special event beer permit issued under this title, or
3921 its officers, managers, employees, or agents may not allow a person to bring onto its premises
3922 any alcoholic beverage for on-premise consumption or allow consumption of any such
3923 alcoholic beverage in violation of this section.

3924 (3) (a) A person may bring bottled wine onto the premises of any restaurant liquor
3925 licensee, limited restaurant licensee, or private club licensee and consume the wine pursuant to
3926 the applicable restrictions contained in Subsection 32A-4-106(14), 32A-4-307(14), or
3927 32A-5-107[~~(32)~~] (31);

3928 (b) a passenger of a limousine may bring onto, have, and consume any alcoholic
3929 beverage on the limousine if:

3930 (i) the travel of the limousine begins and ends at:

3931 (A) the residence of the passenger;

3932 (B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

3933 (C) the temporary domicile of the passenger; and

3934 (ii) the driver of the limousine is separated from the passengers by partition or other
3935 means approved by the department;

3936 (c) a passenger of a chartered bus may bring onto, have, and consume any alcoholic
3937 beverage on the chartered bus:

3938 (i) (A) but may consume only during travel to a specified destination of the chartered
3939 bus and not during travel back to the place where the travel begins; or

3940 (B) if the travel of the chartered bus begins and ends at:

3941 (I) the residence of the passenger;

3942 (II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

3943 (III) the temporary domicile of the passenger; and

3944 (ii) the chartered bus has a nondrinking designee other than the driver traveling on the
3945 chartered bus to monitor consumption; and

3946 (d) a person may bring onto any premises, have, and consume any alcoholic beverage
3947 at a privately hosted event that is not open to the general public.

3948 (4) Except as provided in Subsection (3)(c)(i)(A), the consumption of alcoholic
3949 beverages in limousines and chartered buses is not allowed if the limousine or chartered bus
3950 drops off passengers at locations from which they depart in private vehicles.

3951 Section 39. Section **32A-12-401** is amended to read:

3952 **32A-12-401. Advertising prohibited -- Exceptions.**

3953 (1) (a) The advertising of liquor by the department is prohibited, except:

3954 ~~[(a)]~~ (i) the department may provide for an appropriate sign in the window or on the
3955 front of a state store or package agency denoting that it is a state authorized liquor outlet;

3956 ~~[(b)]~~ (ii) the department or a package agency may provide printed price lists to the
3957 public; ~~[and]~~

3958 ~~[(c)]~~ (iii) the department may authorize the use of price posting and floor stacking of
3959 liquor within state stores[-];

3960 (iv) subject to Subsection (1)(b), the department may provide a listing of the address
3961 and telephone number of a state store in one or more printed or electronic directories available
3962 to the general public; and

3963 (v) subject to Subsection (1)(b), a package agency may provide a listing of its address
3964 and telephone number in one or more printed or electronic directories available to the general

3965 public.

3966 (b) Any listing under Subsection (1)(a)(iv) or (v) in the business or yellow pages of a
3967 telephone directory may not be displayed in an advertisement or other promotional format.

3968 (2) (a) The department may not advertise alcoholic beverages on billboards.

3969 (b) A package agency may not advertise alcoholic beverages on billboards except to the
3970 extent allowed by the commission by rule.

3971 (3) (a) The department may not display liquor or price lists in windows or showcases
3972 visible to passersby.

3973 (b) A package agency may not display liquor or price lists in windows or showcases
3974 visible to passersby except to the extent allowed by the commission by rule.

3975 (4) Except to the extent prohibited by this title, the advertising of alcoholic beverages
3976 is allowed under guidelines established by the commission by rule.

3977 (5) The advertising or use of any means or media to offer alcoholic beverages to the
3978 general public without charge is prohibited.

3979 Section 40. Section **32A-14a-102** is amended to read:

3980 **32A-14a-102. Liability for injuries and damage resulting from distribution of**
3981 **alcoholic beverages -- Causes of action -- Statute of limitations -- Employee protections.**

3982 (1) (a) Except as provided in Section 32A-14a-103, a person described in Subsection
3983 (1)(b) is liable for:

3984 (i) any and all injury and damage, except punitive damages to:

3985 (A) any third person; or

3986 (B) the heir, as defined in Section 78-11-6.5, of that third person; or

3987 (ii) for the death of a third person.

3988 (b) A person is liable under Subsection (1)(a) if:

3989 (i) the person directly gives, sells, or otherwise provides an alcoholic beverage:

3990 (A) to a person described in Subsection (1)(b)(ii); and

3991 (B) as part of the commercial sale, storage, service, manufacture, distribution, or
3992 consumption of alcoholic products;

3993 (ii) those actions cause the intoxication of:

3994 (A) any individual under the age of 21 years;

3995 (B) any individual who is apparently under the influence of intoxicating alcoholic

3996 products or drugs;

3997 (C) any individual whom the person furnishing the alcoholic beverage knew or should
3998 have known from the circumstances was under the influence of intoxicating alcoholic
3999 beverages or products or drugs; or

4000 (D) any individual who is a known interdicted person; and

4001 (iii) the injury or death described in Subsection (1)(a) results from the intoxication of
4002 the individual who is provided the alcoholic beverage.

4003 (2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable
4004 for:

4005 (i) any and all injury and damage, except punitive damages to:

4006 (A) any third person; or

4007 (B) the heir, as defined in Section 78-11-6.5, of that third person; or

4008 (ii) for the death of the third person.

4009 (b) A person is liable under Subsection (2)(a) if:

4010 (i) that person directly gives or otherwise provides an alcoholic beverage to an
4011 individual who the person knows or should have known is under the age of 21 years;

4012 (ii) those actions caused the intoxication of the individual provided the alcoholic
4013 beverage;

4014 (iii) the injury or death described in Subsection (2)(a) results from the intoxication of
4015 the individual who is provided the alcoholic beverage; and

4016 (iv) the person is not liable under Subsection (1), because the person did not directly
4017 give or provide the alcoholic beverage as part of the commercial sale, storage, service,
4018 manufacture, distribution, or consumption of alcoholic products.

4019 (3) Except for a violation of Subsection (2), an employer is liable for the actions of its
4020 employees in violation of this chapter.

4021 (4) A person who suffers an injury under Subsection (1) or (2) has a cause of action
4022 against the person who provided the alcoholic beverage in violation of Subsection (1) or (2).

4023 (5) If a person having rights or liabilities under this chapter dies, the rights or liabilities
4024 provided by this chapter survive to or against that person's estate.

4025 (6) The total amount that may be awarded to any person pursuant to a cause of action
4026 for injury and damage under this chapter that arises after January 1, 1998, is limited to

4027 \$500,000 and the aggregate amount which may be awarded to all persons injured as a result of
4028 one occurrence is limited to \$1,000,000.

4029 (7) An action based upon a cause of action under this chapter shall be commenced
4030 within two years after the date of the injury and damage.

4031 (8) (a) Nothing in this chapter precludes any cause of action or additional recovery
4032 against the person causing the injury.

4033 (b) Any cause of action or additional recovery against the person causing the injury and
4034 damage, which action is not brought under this chapter, is exempt from the damage cap in
4035 Subsection (6).

4036 (c) Any cause of action brought under this chapter is exempt from Sections 78-27-37
4037 through 78-27-43.

4038 (9) This section does not apply to a [~~general food store or other establishment~~] business
4039 licensed under Chapter 10, Part 1, General Provisions, to sell beer at retail only for off-premise
4040 consumption.

4041 Section 41. Section **53-3-219** is amended to read:

4042 **53-3-219. Suspension of minor's driving privileges.**

4043 (1) The division shall immediately suspend all driving privileges of any person upon
4044 receipt of an order suspending driving privileges under Section 32A-12-209, Section
4045 32A-12-209.5, Subsection 76-9-701(1), or Section 78-3a-506.

4046 (a) Upon receipt of the first order suspending a person's driving privileges, the division
4047 shall impose a suspension for 90 days or, if the person is under the age of eligibility for a driver
4048 license, the suspension shall begin on the date of conviction and continue for the first 90 days
4049 following the date of eligibility.

4050 (b) Upon receipt of a second order suspending a person's driving privileges, the
4051 division shall impose a suspension for six months or, if the person is under the age of eligibility
4052 for a driver license, the suspension shall begin on the date of conviction and continue for the
4053 first six months following the date of eligibility.

4054 (c) Upon receipt of a third or subsequent order suspending a person's driving
4055 privileges, the division shall impose a suspension for one year or, if the person is under the age
4056 of eligibility for a driver license, the suspension shall begin on the date of conviction and
4057 continue for one year beginning on the date of eligibility.

4058 (2) After reinstatement of the license under Subsection (1)(a), a report authorized under
4059 Section 53-3-104 may not contain evidence of the suspension of a minor's license under this
4060 section if the minor has not been convicted of any other offense for which the suspension under
4061 Subsection (1)(a) may be extended.

4062 Section 42. Section **62A-15-401** is amended to read:

4063 **62A-15-401. Alcohol training and education seminar.**

4064 (1) As used in this part:

4065 [~~(a)~~] "~~general food store~~" is as defined in Section 32A-1-105[;]

4066 [~~(b)~~] (a) "Instructor" means a person that directly provides the instruction during an
4067 alcohol training and education seminar for a seminar provider[;].

4068 [~~(c)~~] (b) "Licensee" means a person who is:

4069 (i) (A) a new or renewing licensee under Title 32A, Alcoholic Beverage Control Act;
4070 and

4071 (B) engaged in the retail sale of alcoholic beverages for consumption on the premises
4072 of the licensee; or

4073 (ii) a [~~general food store or similar~~] business that is:

4074 (A) a new or renewing licensee licensed by a city, town, or county; and

4075 (B) engaged in the retail sale of beer for consumption off the premises of the
4076 licensee[;].

4077 [~~(d)~~] (c) "Off-premise beer retailer" is as defined in Section 32A-1-105[; ~~and~~].

4078 [~~(e)~~] (d) "Seminar provider" means a person other than the division who provides an
4079 alcohol training and education seminar meeting the requirements of this section.

4080 (2) (a) This section applies to an individual who, as defined by the board by rule:

4081 (i) manages operations at the premises of a licensee engaged in the retail sale of
4082 alcoholic beverages for consumption on the premises of the licensee;

4083 (ii) supervises the serving of alcoholic beverages to a customer for consumption on the
4084 premises of a licensee;

4085 (iii) serves alcoholic beverages to a customer for consumption on the premises of a
4086 licensee;

4087 (iv) directly supervises the sale of beer to a customer for consumption off the premises
4088 of an off-premise beer retailer licensee; or

4089 (v) sells beer to a customer for consumption off the premises of an off-premise beer
4090 retailer licensee.

4091 (b) If the individual does not have a valid certificate that the individual has completed
4092 an alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

4093 (i) (A) complete an alcohol training and education seminar within 30 days of the
4094 following if the individual is described in Subsections (2)(a)(i) through (iii):

4095 (I) if the individual is an employee, the day the individual begins employment;

4096 (II) if the individual is an independent contractor, the day the individual is first hired;

4097 or

4098 (III) if the individual holds an ownership interest in the licensee, the day that the
4099 individual first engages in an activity that would result in that individual being required to
4100 complete an alcohol training and education seminar; or

4101 (B) complete an alcohol training and education seminar within the time periods
4102 specified in Subsection 32A-10-103(1) if the individual is described in Subsections (2)(a)(iv)
4103 and (v); and

4104 (ii) pay a fee:

4105 (A) to the seminar provider; and

4106 (B) that is equal to or greater than the amount established under Subsection (4)(h).

4107 (c) An individual shall have a valid certificate that the individual completed an alcohol
4108 training and education seminar within the time period provided in this Subsection (2) to engage
4109 in an activity described in Subsection (2)(a).

4110 (d) A certificate that an individual has completed an alcohol training and education
4111 seminar is valid for:

4112 (i) three years from the day on which the certificate is issued for an individual
4113 described in Subsection (2)(a)(i), (ii), or (iii); and

4114 (ii) five years from the day on which the certificate is issued for an individual described
4115 in Subsection (2)(a)(iv) or (v).

4116 (3) (a) A licensee may not permit an individual who is not in compliance with
4117 Subsection (2) to:

4118 (i) serve or supervise the serving of alcoholic beverages to a customer for consumption
4119 on the premises of the licensee;

4120 (ii) engage in any activity that would constitute managing operations at the premises of
4121 a licensee that engages in the retail sale of alcoholic beverages for consumption on the
4122 premises of the licensee;

4123 (iii) directly supervise the sale of beer to a customer for consumption off the premises
4124 of an off-premise beer retailer licensee; or

4125 (iv) sell beer to a customer for consumption off the premises of an off-premise beer
4126 retailer licensee.

4127 (b) A licensee that violates Subsection (3)(a) is subject to Section 32A-1-401.

4128 (4) The division shall:

4129 (a) (i) provide alcohol training and education seminars; or

4130 (ii) certify one or more seminar providers;

4131 (b) establish the curriculum for an alcohol training and education seminar that includes
4132 the following subjects:

4133 (i) (A) alcohol as a drug; and

4134 (B) alcohol's effect on the body and behavior;

4135 (ii) recognizing the problem drinker or signs of intoxication;

4136 (iii) an overview of state alcohol laws related to responsible beverage sale or service,
4137 as determined in consultation with the Department of Alcoholic Beverage Control;

4138 (iv) dealing with the problem customer, including ways to terminate sale or service;
4139 and

4140 (v) for those supervising or engaging in the retail sale of alcoholic beverages for
4141 consumption on the premises of a licensee, alternative means of transportation to get the
4142 customer safely home;

4143 (c) recertify each seminar provider every three years;

4144 (d) monitor compliance with the curriculum described in Subsection (4)(b);

4145 (e) maintain for at least five years a record of every person who has completed an
4146 alcohol training and education seminar;

4147 (f) provide the information described in Subsection (4)(e) on request to:

4148 (i) the Department of Alcoholic Beverage Control;

4149 (ii) law enforcement; or

4150 (iii) a person licensed by the state or a local government to sell alcoholic beverages;

- 4151 (g) provide the Department of Alcoholic Beverage Control on request a list of any
- 4152 seminar provider certified by the division; and
- 4153 (h) establish a fee amount for each person attending an alcohol training and education
- 4154 seminar that is sufficient to offset the division's cost of administering this section.
- 4155 (5) The board shall by rule made in accordance with Title 63, Chapter 46a, Utah
- 4156 Administrative Rulemaking Act:
- 4157 (a) define what constitutes under this section an individual who:
- 4158 (i) manages operations at the premises of a licensee engaged in the retail sale of
- 4159 alcoholic beverages for consumption on the premises of the licensee;
- 4160 (ii) supervises the serving of alcoholic beverages to a customer for consumption on the
- 4161 premises of a licensee;
- 4162 (iii) serves alcoholic beverages to a customer for consumption on the premises of a
- 4163 licensee;
- 4164 (iv) directly supervises the sale of beer to a customer for consumption off the premises
- 4165 of an off-premise retailer beer licensee; or
- 4166 (v) sells beer to a customer for consumption off the premises of an off-premise beer
- 4167 retailer licensee;
- 4168 (b) establish criteria for certifying and recertifying a seminar provider; and
- 4169 (c) establish guidelines for the manner in which an instructor provides an alcohol
- 4170 education and training seminar.
- 4171 (6) A seminar provider shall:
- 4172 (a) obtain recertification by the division every three years;
- 4173 (b) ensure that an instructor used by the seminar provider:
- 4174 (i) follows the curriculum established under this section; and
- 4175 (ii) conducts an alcohol training and education seminar in accordance with the
- 4176 guidelines established by rule;
- 4177 (c) ensure that any information provided by the seminar provider or instructor of a
- 4178 seminar provider is consistent with:
- 4179 (i) the curriculum established under this section; and
- 4180 (ii) this section;
- 4181 (d) provide the division with the names of all persons who complete an alcohol training

4182 and education seminar provided by the seminar provider;

4183 (e) (i) collect a fee for each person attending an alcohol training and education seminar
4184 in accordance with Subsection (2); and

4185 (ii) forward to the division the portion of the fee that is equal to the amount described
4186 in Subsection (4)(h); and

4187 (f) issue a certificate to an individual that completes an alcohol training and education
4188 seminar provided by the seminar provider.

4189 (7) (a) If after a hearing conducted in accordance with Title 63, Chapter 46b,
4190 Administrative Procedures Act, the division finds that a seminar provider violates this section
4191 or that an instructor of the seminar provider violates this section, the division may:

4192 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;

4193 (ii) revoke the certification of the seminar provider;

4194 (iii) require the seminar provider to take corrective action regarding an instructor; or

4195 (iv) prohibit the seminar provider from using an instructor until such time that the
4196 seminar provider establishes to the satisfaction of the division that the instructor is in
4197 compliance with Subsection (6)(b).

4198 (b) The division may certify a seminar provider whose certification is revoked:

4199 (i) no sooner than 90 days from the date the certification is revoked; and

4200 (ii) if the seminar provider establishes to the satisfaction of the division that the
4201 seminar provider will comply with this section.

4202 Section 43. Section **76-9-701** is amended to read:

4203 **76-9-701. Intoxication -- Release of arrested person or placement in detoxification**
4204 **center.**

4205 (1) A person is guilty of intoxication if [~~he~~] the person is under the influence of
4206 alcohol, a controlled substance, or any substance having the property of releasing toxic vapors,
4207 to a degree that the person may endanger [~~himself~~] the person or another, in a public place or in
4208 a private place where [~~he~~] the person unreasonably disturbs other persons.

4209 (2) (a) A peace officer or a magistrate may release from custody [~~an individual~~] a
4210 person arrested under this section if [~~he~~] the peace officer or magistrate believes imprisonment
4211 is unnecessary for the protection of the [~~individual~~] person or another[~~;~~ or a].

4212 (b) A peace officer may take the arrested person to a detoxification center or other

4213 special facility as an alternative to incarceration or release from custody.

4214 (3) When a person who is at least 18 years old, but younger than 21 years old, is found
4215 by a court to have violated this section:

4216 (a) if the violation is the person's first violation of this section, the court may suspend
4217 the person's driving privileges; or

4218 (b) if the violation is the person's second or subsequent violation of this section, the
4219 court shall suspend the person's driving privileges.

4220 [~~3~~] (4) When a person who is at least 13 years old, but younger than 18 years old, is
4221 found by a court to have violated this section, the provisions regarding suspension of the
4222 driver's license under Section 78-3a-506 apply to the violation.

4223 [~~4~~] (5) When the court [has issued] issues an order suspending a person's driving
4224 privileges for a violation of this section, the person's driver license shall be suspended under
4225 Section 53-3-219.

4226 [~~5~~] (6) An offense under this section is a class C misdemeanor.

4227 Section 44. Section **78-3a-506** is amended to read:

4228 **78-3a-506. Suspension of license for certain offenses.**

4229 (1) This section applies to minors who are at least 13 years of age when found by the
4230 court to be within its jurisdiction by the commission of any offense under:

4231 (a) Section 58-37-8 [or];

4232 (b) Section 32A-12-209[.];

4233 (c) Section 32A-12-209.5;

4234 (d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act[.];

4235 (e) Title 58, Chapter 37b, Imitation Controlled Substances[.]; or

4236 (f) Subsection 76-9-701(1).

4237 (2) If the court hearing the case determines that the minor committed an offense under
4238 Section 58-37-8 or Title 58, Chapter 37a or 37b, the court shall prepare and send to the Driver
4239 License Division of the Department of Public Safety an order to suspend that minor's driving
4240 privileges.

4241 (3) If the court hearing the case determines that the minor violated Section
4242 32A-12-209, Section 32A-12-209.5, or Subsection 76-9-701(1), and the violation is the
4243 minor's:

- 4244 (a) first violation, the court may suspend the minor's driving privileges; or
- 4245 (b) second or subsequent violation, the court shall suspend the minor's driving
- 4246 privileges.
- 4247 (4) [~~When~~] A minor's license shall be suspended under Section 53-3-219 when a court
- 4248 [~~has issued~~] issues an order suspending [a] the minor's driving privileges for a violation of:
- 4249 (a) Section 32A-12-209 [~~or~~];
- 4250 (b) Section 32A-12-209.5;
- 4251 (c) Section 58-37-8[;];
- 4252 (d) Title 58, Chapter 37a or 37b[;]; or
- 4253 (e) Subsection 76-9-701(1)[~~, the minor's license shall be suspended under Section~~
- 4254 ~~53-3-219~~].
- 4255 (5) When the Department of Public Safety receives the arrest or conviction record of a
- 4256 person for a driving offense committed while his license is suspended under this section, the
- 4257 department shall extend the suspension for a like period of time.
- 4258 **Section 45. Repealer.**
- 4259 This bill repeals:
- 4260 **Section 59-16-101, Tax basis -- 13% rate -- Collection -- Disposition of revenues.**
- 4261 **Section 59-16-102, Action for collection of tax -- Limit for refund or credit of tax.**
- 4262 **Section 46. Effective date.**
- 4263 This bill takes effect on April 30, 2007, except that:
- 4264 (1) the amendments to Section 32A-1-122 in this bill take effect on July 1, 2007; and
- 4265 (2) the repeal of the following take effect on July 1, 2007:
- 4266 (a) Section 59-16-101; and
- 4267 (b) Section 59-16-102.

Legislative Review Note
as of 2-8-07 9:33 AM

Office of Legislative Research and General Counsel

S.B. 205 - Alcoholic Beverage Control Amendments

Fiscal Note

2007 General Session
State of Utah

State Impact

If enacted, the bill would replace school lunch tax with a 10% tax on gross alcoholic beverage sales, a revenue neutral change. (The FY 2008 projection for either is \$23,525,500). The bill's restrictions on minors are expected to increase costs for the Department of Public Safety by \$54,900 (including \$8,000 in one-time set-up costs) from the Transportation Fund DPS Restricted Account and for Courts by \$8,300 in General Fund.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$8,300	\$8,300	\$0	\$0	\$0
Transportation Fund Restricted	\$0	\$54,900	\$46,900	\$0	\$71,800	\$71,800
Total	\$0	\$63,200	\$55,200	\$0	\$71,800	\$71,800

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.