

ALCOHOLIC BEVERAGE ENFORCEMENT

PROVISIONS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: _____

7	Cosponsors:	Kevin S. Garn	Michael E. Noel
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11	Julie Fisher	Christine A. Johnson	Kenneth W. Sumsion
12	Craig A. Frank	Michael T. Morley	Carl Wimmer
13	Gage Froerer		

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address enforcement actions.

Highlighted Provisions:

This bill:

- ▶ prohibits the Department of Alcoholic Beverage Control or its director, with some exceptions, from:
 - initiating a disciplinary proceeding;
 - conducting a hearing; or
 - having one of its employees be selected as a hearing officer;
- ▶ authorizes the attorney general to initiate a disciplinary proceeding under the same conditions that the department previously initiated a disciplinary proceeding;
- ▶ modifies the Alcoholic Beverage Control Commission's authority to appoint hearing examiners to prohibit the appointment of an employee of the department as a hearing examiner;



- 30 ▶ addresses altering documents in relation to the attorney general;
- 31 ▶ addresses false statements, obstruction, bribes, and forgery in relation to the
- 32 attorney general;
- 33 ▶ addresses interfering with suppliers by the attorney general;
- 34 ▶ addresses duties to enforce and authority to inspect in relation to the attorney
- 35 general;
- 36 ▶ addresses governmental immunity;
- 37 ▶ addresses nuisance actions; and
- 38 ▶ makes technical and conforming amendments.

39 **Monies Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 None

43 **Utah Code Sections Affected:**

44 AMENDS:

- 45 **32A-1-107**, as last amended by Laws of Utah 2006, Chapter 162
- 46 **32A-1-113**, as last amended by Laws of Utah 2003, Chapter 314
- 47 **32A-1-119**, as last amended by Laws of Utah 2007, Chapter 284
- 48 **32A-4-106**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 49 **32A-4-206**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 50 **32A-4-307**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 51 **32A-4-406**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 52 **32A-5-107**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 53 **32A-8-106**, as last amended by Laws of Utah 2007, Chapter 284
- 54 **32A-8-505**, as last amended by Laws of Utah 2007, Chapter 284
- 55 **32A-9-106**, as last amended by Laws of Utah 2003, Chapter 314
- 56 **32A-10-206**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 57 **32A-11-106**, as last amended by Laws of Utah 2004, Chapter 268
- 58 **32A-12-304**, as last amended by Laws of Utah 2000, Chapter 1
- 59 **32A-12-305**, as last amended by Laws of Utah 2003, Chapter 314
- 60 **32A-12-306**, as last amended by Laws of Utah 2003, Chapter 314

- 61 **32A-12-307**, as last amended by Laws of Utah 2003, Chapter 314
 62 **32A-12-308**, as last amended by Laws of Utah 2003, Chapter 314
 63 **32A-12-310**, as last amended by Laws of Utah 2000, Chapter 1
 64 **32A-13-108**, as last amended by Laws of Utah 1990, Chapter 118 and renumbered and
 65 amended by Laws of Utah 1990, Chapter 23
 66 **32A-13-109**, as last amended by Laws of Utah 2000, Chapter 1
 67 **32A-14a-104**, as renumbered and amended by Laws of Utah 2000, Chapter 197
 68 **32A-15a-102**, as last amended by Laws of Utah 2007, Chapter 341
 69 **32A-15a-202**, as enacted by Laws of Utah 2003, Chapter 314
 70 **32A-15a-203**, as enacted by Laws of Utah 2003, Chapter 314

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

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

74 **32A-1-107. Powers and duties of the commission.**

75 (1) The commission shall:

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

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

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

79 (i) granting, denying, suspending, or revoking [~~permits, licenses, certificates~~] a permit,

80 license, certificate of approval, [and] or package [agencies] agency;

81 (ii) controlling liquor merchandise inventory including:

82 (A) listing and delisting one or more products;

83 (B) the procedures for testing a new [products] product;

84 (C) purchasing policy;

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

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

87 (iii) determining the location of a state [stores] store, package [agencies, and outlets]

88 agency, or outlet;

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

91 (e) issue, grant, deny, suspend, revoke, or not renew the following permits, licenses,

92 certificates of approval, and package agencies for the purchase, sale, storage, service,
93 manufacture, distribution, and consumption of an alcoholic [~~products~~] product:

94 (i) package [~~agencies~~] agency;

95 (ii) restaurant [~~licenses~~] license;

96 (iii) airport lounge [~~licenses~~] license;

97 (iv) limited restaurant [~~licenses~~] license;

98 (v) on-premise banquet [~~licenses~~] license;

99 (vi) private club [~~licenses~~] license;

100 (vii) on-premise beer retailer [~~licenses~~] license;

101 (viii) temporary special event beer [~~permits~~] permit;

102 (ix) special use [~~permits~~] permit;

103 (x) single event [~~permits~~] permit;

104 (xi) manufacturing [~~licenses~~] license;

105 (xii) liquor warehousing [~~licenses~~] license;

106 (xiii) beer wholesaling [~~licenses~~] license; and

107 (xiv) out-of-state brewer [~~certificates~~] certificate of approval;

108 (f) fix prices at which [~~liquors are~~] liquor is sold that [~~are~~] is the same at all state
109 stores, package agencies, and outlets;

110 (g) issue and distribute price lists showing the price to be paid by [~~purchasers for each~~]
111 a purchaser for a class, variety, or brand of liquor kept for sale by the department;

112 (h) (i) require the director to follow sound management principles; and

113 (ii) require periodic reporting from the director to ensure that:

114 (A) sound management principles are being followed; and

115 (B) policies established by the commission are being observed;

116 (i) (i) receive, consider, and act in a timely manner upon [~~all reports, recommendations,~~
117 ~~and matters~~] a report, recommendation, or matter submitted by the director to the commission;

118 and

119 (ii) do all things necessary to support the department in properly performing the
120 department's [~~duties and~~] responsibilities;

121 (j) obtain temporarily and for special purposes the services of [~~experts and persons~~] an
122 expert or person engaged in the practice of a profession or who [~~possess any~~] possesses a

- 123 needed ~~[skills, talents, or abilities]~~ skill, talent, or ability if:
- 124 (i) considered expedient; and
- 125 (ii) approved by the governor;
- 126 (k) prescribe the duties of a departmental ~~[officials]~~ official authorized to assist the
- 127 commission in issuing ~~[permits, licenses, certificates]~~ a permit, license, certificate of approval,
- 128 ~~[and]~~ or package ~~[agencies]~~ agency under this title;
- 129 (l) prescribe, consistent with this title, the fees payable for:
- 130 (i) ~~[permits, licenses, certificates]~~ a permit, license, certificate of approval, ~~[and]~~ or
- 131 package ~~[agencies]~~ agency issued under this title; or
- 132 (ii) anything done or permitted to be done under this title;
- 133 (m) prescribe the conduct, management, and equipment of ~~[any]~~ premises upon which
- 134 an alcoholic ~~[beverages]~~ beverage may be sold, consumed, served, or stored;
- 135 (n) make rules governing the credit terms of beer sales to ~~[retailers]~~ a retailer within the
- 136 state;
- 137 (o) require that each of the following, where required in this title, display in a
- 138 prominent place a sign in large letters stating: "Warning: Driving under the influence of alcohol
- 139 or drugs is a serious crime that is prosecuted aggressively in Utah.":
- 140 (i) a state store;
- 141 (ii) a permittee;
- 142 (iii) a licensee; and
- 143 (iv) a package agency; ~~[and]~~
- 144 (p) subject to Subsection (4) and as provided in this title, impose fines against:
- 145 (i) a permittee, licensee, certificate holder, or package agent described in Subsection
- 146 (1)(e); or
- 147 (ii) ~~[any]~~ an officer, employee, or agent of a permittee, licensee, certificate holder, or
- 148 package agent described in Subsection (1)(p)(i)[-]; and
- 149 (q) do all things necessary to support the attorney general in properly performing the
- 150 attorney general's responsibility under this title.
- 151 (2) The power of the commission to do the following is plenary, except as otherwise
- 152 provided by this title, and not subject to review:
- 153 (a) establish a state ~~[stores]~~ store;

- 154 (b) create a package [agencies] agency;
- 155 (c) grant authority to operate a package [agencies] agency; and
- 156 (d) grant or deny [permits, licenses, and certificates] a permit, license, or certificate of
- 157 approval.

158 (3) The commission may appoint a qualified hearing [examiners] examiner to conduct

159 [any] a suspension or revocation [hearings] hearing required by law, except that a hearing

160 officer may not be an employee of the department.

161 (4) (a) In [any] the case where the commission is given the power to suspend [any] a

162 permit, license, certificate of approval, or package agency, the commission may impose a fine

163 in addition to or in lieu of suspension.

164 (b) [Fines] One or more fines imposed may not exceed \$25,000 in the aggregate for:

- 165 (i) [any] a single Notice of Agency Action; or
- 166 (ii) a single action against a package agency.

167 (c) The commission shall promulgate, by rule, a schedule setting forth a range of fines

168 for each violation.

169 Section 2. Section **32A-1-113** is amended to read:

170 **32A-1-113. Department expenditures and revenues -- Liquor Control Fund --**

171 **Exempt from Division of Finance -- Annual audits.**

172 (1) (a) [All money] (i) Money received by the department in the administration of this

173 title, except as otherwise provided, together with all property acquired, administered,

174 possessed, or received by the department, is the property of the state.

175 (ii) Money received in the administration of this title shall be paid to the department

176 and transferred into the state treasury to the credit of the Liquor Control Fund.

177 (b) All expenses, debts, and liabilities incurred by the department or the Office of the

178 Attorney General in connection with the administration of this title shall be paid from the

179 Liquor Control Fund.

180 (c) The fiscal officers of the department shall transfer annually from the Liquor Control

181 Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor

182 since the preceding transfer of funds. The transfer shall be made within 90 days of the end of

183 the department's fiscal year on June 30.

184 (2) (a) Deposits made by the department shall be made to banks designated as state

185 depositories and reported to the state treasurer at the end of each day.

186 (b) Any member of the commission and any employee of the department is not
187 personally liable for any loss caused by the default or failure of depositories.

188 (c) All funds deposited in any bank or trust company are entitled to the same priority of
189 payment as other public funds of the state.

190 (3) All expenditures necessary for the administration of this title, including the
191 payment of all salaries, premiums, if any, on bonds of the commissioners, the director, and the
192 department staff in all cases where bonds are required, and all other expenditures incurred in
193 establishing, operating, and maintaining state stores and package agencies and in the
194 administration of this title, shall be paid by warrants drawn on the state treasurer paid out of the
195 Liquor Control Fund.

196 (4) If the cash balance of the Liquor Control Fund is not adequate to cover the warrants
197 drawn against it by the state treasurer, the cash resources of the General Fund may be ~~[utilized]~~
198 used to the extent necessary. However, at no time may the fund equity of the Liquor Control
199 Fund fall below zero.

200 (5) (a) When ~~[any]~~ a check issued in payment of ~~[any fees or costs]~~ a fee or cost
201 authorized or required by this title is returned to the department as dishonored:

202 (i) the department may assess a service charge in an amount set by commission rule
203 against the person on whose behalf the check was tendered; and

204 (ii) if the check that is returned to the department is from a licensee, permittee, or
205 package agent, it is grounds for:

206 (A) the suspension or revocation of the license or permit; or

207 (B) the suspension or termination of the operation of the package agency.

208 (b) The revocation of a license or permit under this Subsection (5) is grounds for the
209 forfeiture of the bond of the:

210 (i) licensee; or

211 (ii) permittee.

212 (c) The termination of the operation of a package agency under this Subsection (5) is
213 grounds for the forfeiture of the bond of the package agency.

214 (6) The laws that govern the Division of Finance and prescribe the general powers and
215 duties of the Division of Finance are not applicable to the Department of Alcoholic Beverage

216 Control in the purchase and sale of alcoholic products.

217 (7) The accounts of the department shall be audited annually by the state auditor or by
218 any other person, firm, or corporation the state auditor appoints. The audit report shall be made
219 to the state auditor, and copies submitted to members of the Legislature not later than January 1
220 following the close of the fiscal year for which the report is made.

221 Section 3. Section **32A-1-119** is amended to read:

222 **32A-1-119. Disciplinary proceedings -- Procedure.**

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

225 (i) against:

226 (A) a permittee;

227 (B) a licensee;

228 (C) a manufacturer;

229 (D) a supplier;

230 (E) an importer;

231 (F) an out-of-state brewer holding a certificate of approval under Section 32A-8-101;

232 or

233 (G) an officer, employee, or agent of:

234 (I) a person listed in Subsections (1)(a)(i)(A) through (F); or

235 (II) a package agent; and

236 (ii) that is brought on the basis of a violation of this title.

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

239 (2) (a) The following may conduct an adjudicative [~~proceedings~~] proceeding to inquire
240 into [~~any~~] a matter necessary and proper for the administration of this title and rules adopted
241 under this title:

242 (i) the commission;

243 (ii) a hearing examiner appointed by the commission for the purposes provided in

244 Subsection 32A-1-107(3); and

245 (iii) the director~~[; and]~~, to the extent expressly provided for in another provision of this
246 title.

247 ~~[(iv) the department.]~~

248 (b) Except as provided in this section or Section 32A-3-106, the following shall
 249 comply with the procedures and requirements of Title 63, Chapter 46b, Administrative
 250 Procedures Act, in an adjudicative ~~[proceedings]~~ proceeding:

251 (i) the commission;

252 (ii) a hearing examiner appointed by the commission; and

253 (iii) the director~~[-and]~~.

254 ~~[(iv) the department.]~~

255 (c) Except where otherwise provided by law, ~~[a]~~ an adjudicative ~~[proceedings]~~
 256 proceeding before the commission or ~~[its appointed]~~ a hearing examiner appointed by the
 257 commission shall be:

258 (i) video or audio recorded; and

259 (ii) subject to Subsection (5)(e), conducted in accordance with Title 52, Chapter 4,
 260 Open and Public Meetings Act.

261 (d) ~~[All adjudicative proceedings]~~ A person shall conduct an adjudicative proceeding
 262 concerning departmental personnel ~~[shall be conducted]~~ in accordance with Title 67, Chapter
 263 19, Utah State Personnel Management Act.

264 (e) ~~[All hearings that are]~~ A hearing that is informational, fact gathering, and
 265 nonadversarial in nature shall be conducted in accordance with rules, policies, and procedures
 266 ~~[promulgated]~~ made by the commission, director, or department.

267 (3) (a) A disciplinary proceeding shall be conducted under the authority of the
 268 commission, which is responsible for rendering a final decision and order on ~~[any]~~ a
 269 disciplinary matter.

270 (b) (i) Nothing in this section precludes the commission from appointing a necessary
 271 ~~[officers]~~ officer, including a hearing ~~[examiners]~~ examiner, from ~~[within or]~~ without the
 272 department, to administer the disciplinary proceeding process.

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

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

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

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

278 (II) conclusions of law; and
279 (III) recommendations.

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

283 (4) (a) The [~~department~~] attorney general may initiate a disciplinary proceeding
284 described in Subsection (4)(b) [~~when~~] if the [~~department~~] attorney general receives:

285 (i) a report from [~~any~~] a government agency, peace officer, examiner, or investigator
286 alleging that [~~any~~] a person listed in Subsections (1)(a)(i)(A) through (G) has violated this title
287 or the rules of the commission;

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

290 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage
291 Liability, against [~~any~~] a person listed in Subsections (1)(a)(i)(A) through (G) based on an
292 alleged violation of this title.

293 (b) The [~~department~~] attorney general may initiate a disciplinary proceeding if the
294 [~~department~~] attorney general receives an item listed in Subsection (4)(a) to determine:

295 (i) whether [~~any~~] a person listed in Subsections (1)(a)(i)(A) through (G) violated this
296 title or rules of the commission; and

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

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

299 (i) if required by law;

300 (ii) before revoking or suspending [~~any~~] a permit, license, or certificate of approval
301 issued under this title; or

302 (iii) before imposing a fine against [~~any~~] a person listed in Subsections (1)(a)(i)(A)
303 through (G).

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

306 (c) The validity of a disciplinary proceeding is not affected by the failure of [~~any~~] a
307 person to attend or remain in attendance.

308 (d) [~~All disciplinary proceeding hearings shall be presided over by the~~] The

309 commission or an appointed hearing examiner shall preside over a disciplinary proceeding
310 hearing.

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

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

316 (A) administer oaths or affirmations;

317 (B) take evidence;

318 (C) take [~~depositions~~] a deposition within or without this state; and

319 (D) require by subpoena from [~~any~~] a place within this state:

320 (I) the testimony of [~~any~~] a person at a hearing; and

321 (II) the production of [~~any books, records, papers, contracts, agreements, documents~~] a
322 book, record, paper, contract, agreement, document, or other evidence considered relevant to
323 the inquiry.

324 (ii) A person subpoenaed in accordance with this Subsection (5)(f) shall testify and
325 produce [~~any books, papers, documents,~~] a book, paper, document, or tangible [~~things~~] thing as
326 required in the subpoena.

327 (iii) [~~Any~~] A witness subpoenaed or called to testify or produce evidence who claims a
328 privilege against self-incrimination may not be compelled to testify, but the commission or the
329 hearing examiner shall file a written report with the county attorney or district attorney in the
330 jurisdiction where the privilege [~~was~~] is claimed or where the witness resides setting forth the
331 circumstance of the claimed privilege.

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

333 (B) [~~Any~~] A district court within the judicial district in which a person alleged to be
334 guilty of willful contempt of court or refusal to obey a subpoena is found or resides, upon
335 application by the party issuing the subpoena, may issue an order requiring the person to:

336 (I) appear before the issuing party; and

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

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

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

340 (g) (i) In ~~[aH]~~ a disciplinary proceeding ~~[hearings]~~ hearing heard by a hearing
341 examiner, the hearing examiner shall prepare a report required by Subsection (3)(b)(ii) to the
342 commission.

343 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not
344 recommend a penalty more severe than that initially sought by the ~~[department]~~ attorney
345 general in the notice of agency action.

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

348 (iv) The respondent and the ~~[department]~~ attorney general shall be given reasonable
349 opportunity to file ~~[any]~~ a written ~~[objections]~~ objection to the report required by Subsection
350 (3)(b)(ii) and this Subsection (5)(g) before final commission action.

351 (h) In ~~[all-cases]~~ a case heard by the commission, it shall issue its final decision and
352 order in accordance with Subsection (3).

353 (6) (a) The commission shall:

354 (i) render a final decision and order on ~~[any]~~ a disciplinary action; and

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

356 (b) ~~[Any]~~ An order of the commission is considered final on the date the order
357 becomes effective.

358 (c) If the commission is satisfied that a person listed in Subsections (1)(a)(i)(A)
359 through (G) ~~[has committed a violation of]~~ violated this title or the commission's rules, in
360 accordance with Title 63, Chapter 46b, Administrative Procedures Act, the commission may:

361 (i) suspend or revoke the permit, license, or certificate of approval;

362 (ii) impose a fine against a person listed in Subsections (1)(a)(i)(A) through (G);

363 (iii) assess the administrative costs of ~~[any]~~ a disciplinary proceeding to the permittee,
364 the licensee, or certificate holder; or

365 (iv) ~~[any]~~ take a combination of actions described in Subsections (6)(c)(i) through (iii).

366 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections
367 32A-1-107(1)(p) and (4).

368 (e) (i) If a permit or license is suspended under this Subsection (6), the permittee or
369 licensee shall prominently post a sign provided by the department ~~[shall be prominently~~
370 ~~posted]~~:

- 371 (A) during the suspension; and
372 [~~(B) by the permittee or licensee; and~~]
373 [~~(C)~~] (B) at the entrance of the premises of the permittee or licensee.
- 374 (ii) The sign required by this Subsection (6)(e) shall:
375 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the
376 alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be
377 sold, served, furnished, or consumed on these premises during the period of suspension."; and
378 (B) include the dates of the suspension period.
- 379 (iii) A permittee or licensee may not remove, alter, obscure, or destroy a sign required
380 to be posted under this Subsection (6)(e) during the suspension period.
- 381 (f) If a permit or license is revoked, the commission may order the revocation of [~~any~~]
382 a compliance bond posted by the permittee or licensee.
- 383 (g) [~~Any~~] A permittee or licensee whose permit or license is revoked may not reapply
384 for a permit or license under this title for three years from the date on which the permit or
385 license is revoked.
- 386 (h) [~~All costs assessed by the~~] The commission shall [~~be transferred~~] transfer all costs
387 assessed into the General Fund in accordance with Section 32A-1-113.
- 388 (7) (a) In addition to any action taken against a permittee, licensee, or certificate holder
389 under this section, the [~~department~~] attorney general may initiate disciplinary action against an
390 officer, employee, or agent of a permittee, licensee, or certificate holder.
- 391 (b) If [~~any~~] an officer, employee, or agent is found to have violated this title, the
392 commission may prohibit the officer, employee, or agent from serving, selling, distributing,
393 manufacturing, wholesaling, warehousing, or handling an alcoholic [~~beverages~~] beverage in the
394 course of [~~employment~~] acting as an officer, employee, or agent with [~~any~~] a permittee,
395 licensee, or certificate holder under this title for a period determined by the commission.
- 396 (8) (a) The [~~department~~] attorney general may initiate a disciplinary proceeding for an
397 alleged violation of this title or the rules of the commission against:
- 398 (i) a manufacturer, supplier, or importer of an alcoholic [~~beverages~~] beverage; or
399 (ii) an officer, employee, agent, or representative of a person listed in Subsection
400 (8)(a)(i).
- 401 (b) (i) If the commission makes the finding described in Subsection (8)(b)(ii), the

402 commission may, in addition to other penalties prescribed by this title, order:

403 (A) the removal of the manufacturer's, supplier's, or importer's one or more products
404 from the department's sales list; and

405 (B) a suspension of the department's purchase of the one or more products described in
406 Subsection (8)(b)(i)(A) for a period determined by the commission.

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

408 (A) [~~any~~] a manufacturer, supplier, or importer of liquor, wine, or heavy beer or its
409 officer, employee, agent, or representative violates [~~any provision of~~] this title; and

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

411 (I) directly [~~committed~~] commits the violation; or

412 (II) [~~solicited, requested, commanded, encouraged, or intentionally aided~~] solicits,
413 requests, commands, encourages, or intentionally aids another to engage in the violation.

414 (9) (a) The [~~department~~] attorney general may initiate a disciplinary proceeding against
415 a brewer holding a certificate of approval under Section 32A-8-101 for an alleged violation of
416 this title or the rules of the commission.

417 (b) If the commission makes a finding that the brewer holding a certificate of approval
418 violates this title or rules of the commission, the commission may take [~~any~~] an action against
419 the brewer holding a certificate of approval that the commission could take against a licensee
420 including:

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

422 (ii) imposition of a fine.

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

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

428 (ii) the alleged violation involves:

429 (A) selling, serving, or otherwise furnishing an alcoholic [~~products~~] product to a minor;

430 (B) attire, conduct, or entertainment prohibited by Part 6, Attire, Conduct, and
431 Entertainment Act;

432 (C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf

433 of the respondent;

434 (D) interfering or refusing to cooperate with:

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

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

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

440 (F) unlawful importation of an alcoholic [~~products~~] product; or

441 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection
442 32A-12-601(2), to [~~any~~] a person other than the department or a military installation, except to
443 the extent permitted by this title; or

444 (iii) the [~~department~~] attorney general determines to seek in a disciplinary proceeding
445 hearing:

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

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

448 or

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

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

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

453 **32A-4-106. Operational restrictions.**

454 [~~Each~~] A person granted a restaurant liquor license and [~~the employees and~~] an
455 employee or an individual who is a part of management personnel of the restaurant shall
456 comply with the following conditions and requirements. Failure to comply may result in a
457 suspension or revocation of the restaurant liquor license or other disciplinary action taken
458 against an individual [~~employees or~~] employee or individual who is a part of management
459 personnel.

460 (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state
461 [~~stores~~] store or package [~~agencies~~] agency.

462 (b) Liquor purchased from a state store or package agency may be transported by the
463 restaurant liquor licensee from the place of purchase to the licensed premises.

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

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

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

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

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

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

478 (iv) ~~all~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled
479 "flavorings";

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

482 (i) as a flavoring on ~~desserts~~ a dessert; and

483 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or
484 dessert;

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

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

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

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

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

495 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters
496 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

497 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
498 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
499 persons.

500 (c) A wine service may be performed and a service charge assessed by [~~the~~] a
501 restaurant liquor licensee as authorized by commission rule for wine purchased at the
502 restaurant.

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

505 (b) A service charge may be assessed by [~~the~~] a restaurant liquor licensee as authorized
506 by commission rule for heavy beer purchased at the restaurant.

507 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant [~~licensed to sell~~] liquor licensee
508 may sell beer for on-premise consumption:

509 (A) in an open container; and

510 (B) on draft.

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

514 (b) A restaurant [~~licensed under this chapter~~] liquor licensee that sells beer pursuant to
515 Subsection (5)(a):

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

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

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

525 (i) state liquor license; and

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

527 (6) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be stored, served, or sold in
528 ~~[any]~~ a place other than as designated in the restaurant liquor licensee's application, unless the
529 restaurant liquor licensee first applies for and receives approval from the department for a
530 change of location within the restaurant.

531 (7) (a) (i) A patron may only make an alcoholic beverage ~~[purchases]~~ purchase in the
532 restaurant from and be served by a person employed, designated, and trained by the restaurant
533 liquor licensee to sell and serve an alcoholic ~~[beverages]~~ beverage.

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

538 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage shall be delivered by a server to the
539 patron.

540 (c) ~~[Any]~~ An alcoholic beverage may only be consumed at the patron's table or counter.

541 (d) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be served to or consumed by
542 a patron at a bar.

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

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

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

549 (i) until after the polls are closed on the day of ~~[any]~~ a:

550 (A) regular general election;

551 (B) regular primary election; or

552 (C) statewide special election;

553 (ii) until after the polls are closed on the day of ~~[any]~~ a municipal, local district, special
554 service district, or school election, but only:

555 (A) within the boundaries of the municipality, local district, special service district, or
556 school district; and

- 557 (B) if required by local ordinance; and
- 558 (iii) on ~~[any other]~~ another day after 12 midnight and before 12 noon.
- 559 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
- 560 Licenses, for on-premise beer licensees.
- 561 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold except in
- 562 connection with an order for food prepared, sold, and served at the restaurant.
- 563 (11) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or
- 564 otherwise furnished to ~~[any]~~ a:
- 565 (a) minor;
- 566 (b) person actually, apparently, or obviously intoxicated;
- 567 (c) known habitual drunkard; or
- 568 (d) known interdicted person.
- 569 (12) (a) (i) Liquor may be sold only at ~~[prices]~~ a price fixed by the commission.
- 570 (ii) Liquor may not be sold at a discount ~~[prices]~~ price on any date or at any time.
- 571 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
- 572 beverage to the restaurant liquor licensee.
- 573 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 574 over consumption or intoxication.
- 575 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 576 hours of ~~[the restaurant's]~~ a restaurant liquor licensee's business day such as a "happy hour."
- 577 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
- 578 served for the price of a single alcoholic beverage ~~[is prohibited]~~.
- 579 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages
- 580 during ~~[any]~~ a set period may not be sold or served for a fixed price ~~[is prohibited]~~.
- 581 (g) A restaurant liquor licensee may not engage in a public promotion involving or
- 582 offering free an alcoholic ~~[beverages]~~ beverage to the general public.
- 583 (13) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of
- 584 a restaurant by:
- 585 (a) the restaurant liquor licensee; or
- 586 (b) ~~[any]~~ an employee or agent of the restaurant liquor licensee.
- 587 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee ~~[any]~~

588 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the
589 discretion of the restaurant liquor licensee, bottled wine onto the premises of [~~any~~] a restaurant
590 liquor licensee for on-premise consumption.

591 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or [~~its~~
592 ~~officers, managers, employees, or agents~~] an officer, manager, employee, or agent of the
593 restaurant liquor licensee may not allow:

594 (i) a person to bring onto the restaurant premises [~~any~~] an alcoholic beverage for
595 on-premise consumption; or

596 (ii) consumption of [~~any such~~] an alcoholic beverage [~~on its~~] described in this
597 Subsection (14) on the restaurant liquor licensee's premises.

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

600 (d) A wine service may be performed and a service charge assessed by [~~the~~] a
601 restaurant liquor licensee as authorized by commission rule for wine carried in by a patron.

602 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee [~~and its~~
603 ~~employees~~] or an employee of the restaurant liquor licensee may not permit a restaurant patron
604 to carry from the restaurant premises an open container that:

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

606 (ii) contains [~~any~~] an alcoholic beverage.

607 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the
608 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought
609 onto the premises of the restaurant in accordance with Subsection (14), [~~provided~~] only if the
610 bottle [~~has been~~] is recorked or recapped before removal.

611 (16) (a) A restaurant liquor licensee may not employ a minor [~~may not be employed by~~
612 ~~a restaurant licensee~~] to sell or dispense an alcoholic [~~beverages~~] beverage.

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

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

616 (a) consume an alcoholic beverage; or

617 (b) be intoxicated.

618 (18) [~~Any~~] A charge or fee made in connection with the sale, service, or consumption

619 of liquor may be stated in food or alcoholic beverage menus including:

620 (a) a set-up charge;

621 (b) a service charge; or

622 (c) a chilling fee.

623 (19) [~~Each~~] A restaurant liquor licensee shall display in a prominent place in the
624 restaurant:

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

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

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

630 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor
631 licensee:

632 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
633 Chapter 10, Part 11, Gambling;

634 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
635 Part 11, Gambling; or

636 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
637 the risking of something of value for a return or for an outcome when the return or outcome is
638 based upon an element of chance, excluding the playing of an amusement device that confers
639 only an immediate and unrecorded right of replay not exchangeable for value.

640 (21) (a) [~~Each~~] A restaurant liquor licensee shall maintain an expense ledger or record
641 showing in detail:

642 (i) quarterly expenditures made separately for:

643 (A) malt or brewed beverages;

644 (B) set-ups;

645 (C) liquor;

646 (D) food; and

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

648 (ii) sales made separately for:

649 (A) malt or brewed beverages;

- 650 (B) set-ups;
- 651 (C) food; and
- 652 (D) all other items required by the department.
- 653 (b) ~~[The]~~ A restaurant liquor licensee shall keep a record required by Subsection
- 654 (21)(a) ~~[shall be kept]:~~
- 655 (i) in a form approved by the department; and
- 656 (ii) current for each three-month period.
- 657 (c) ~~[Each]~~ An expenditure shall be supported by:
- 658 (i) a delivery ~~[tickets]~~ ticket;
- 659 (ii) ~~[invoices]~~ an invoice;
- 660 (iii) a receipted ~~[bills]~~ bill;
- 661 (iv) a canceled ~~[checks]~~ check;
- 662 (v) a petty cash ~~[vouchers]~~ voucher; or
- 663 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.
- 664 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant
- 665 liquor licensee shall maintain accounting and other records and documents as the department
- 666 may require.
- 667 (e) ~~[Any]~~ A restaurant liquor licensee or person acting for the restaurant, who
- 668 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of~~
- 669 ~~the books]~~ an entry in a book of account or other ~~[documents]~~ document of the restaurant that
- 670 is required to be made, maintained, or preserved by this title or the rules of the commission for
- 671 the purpose of deceiving the commission ~~[or]~~, the department, ~~[or any of their officials or~~
- 672 ~~employees]~~ the attorney general, or an official or employee of the commission, department, or
- 673 attorney general, is subject to:
- 674 (i) the suspension or revocation of the restaurant's liquor license; and
- 675 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 676 (22) (a) A restaurant liquor licensee may not close or cease operation for a period
- 677 longer than 240 hours, unless:
- 678 (i) the restaurant liquor licensee notifies the department in writing at least seven days
- 679 before the ~~[closing]~~ day on which the restaurant liquor licensee closes or ceases operation; and
- 680 (ii) the closure or cessation of operation is first approved by the department.

681 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, [~~immediate~~
682 ~~notice of closure shall be made to~~] the restaurant liquor licensee shall immediately notify the
683 department by telephone.

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

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

687 (A) written request of the restaurant liquor licensee; and [~~upon~~]

688 (B) a showing of good cause.

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

691 (d) [~~Any~~] A notice shall include:

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

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

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

695 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department
696 authorization [~~prior to~~] before closure or cessation of operation [~~shall result~~] results in an
697 automatic forfeiture of:

698 (i) the license; and

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

701 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the
702 approved date [~~shall result~~] results in an automatic forfeiture of:

703 (i) the license; and

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

705 (23) [~~Each~~] A restaurant liquor licensee shall maintain at least 70% of its total
706 restaurant business from the sale of food, which does not include mix for an alcoholic
707 [~~beverages~~] beverage or service charges.

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

710 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,
711 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license

712 to ~~[any other]~~ another person whether for monetary gain or not.

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

715 (26) ~~[Each]~~ A server of an alcoholic ~~[beverages]~~ beverage in a restaurant liquor
716 licensee's establishment shall keep a written beverage tab for each table or group that orders or
717 consumes an alcoholic ~~[beverages]~~ beverage on the premises. The beverage tab shall list the
718 type and amount of an alcoholic ~~[beverages]~~ beverage ordered or consumed.

719 (27) A person's willingness to serve an alcoholic ~~[beverages]~~ beverage may not be
720 made a condition of employment as a server with a restaurant that has a restaurant liquor
721 license.

722 Section 5. Section **32A-4-206** is amended to read:

723 **32A-4-206. Operational restrictions.**

724 ~~[Each]~~ A person granted an airport lounge liquor license and ~~[the employees and]~~ an
725 employee or an individual who is a part of management personnel of the airport lounge shall
726 comply with the following conditions and requirements. Failure to comply may result in a
727 suspension or revocation of the airport lounge liquor license or other disciplinary action taken
728 against an individual ~~[employees or]~~ employee or individual who is a part of management
729 personnel.

730 (1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from a
731 state ~~[stores]~~ store or package ~~[agencies]~~ agency.

732 (b) Liquor purchased from a state store or package agency may be transported by the
733 airport lounge liquor licensee from the place of purchase to the licensed premises.

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

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

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

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

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

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

748 (iv) ~~all~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled
749 "flavorings";

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

752 (i) as a flavoring on ~~desserts~~ a dessert; and

753 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or
754 dessert; and

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

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

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

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

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

765 (ii) Wine may be sold and served in ~~containers~~ a container not exceeding 750
766 milliliters at ~~prices~~ a price fixed by the commission to ~~tables~~ a table of less than four
767 persons.

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

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

773 (b) A service charge may be assessed by the airport lounge liquor licensee as

774 authorized by commission rule for heavy beer purchased at the airport lounge.

775 (5) (a) (i) Subject to Subsection (5)(a)(ii), an airport lounge [~~licensed to sell~~] liquor
776 licensee may sell beer for on-premise consumption:

777 (A) in an open container; and

778 (B) on draft.

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

782 (b) An airport lounge liquor licensee that sells beer pursuant to Subsection (5)(a):

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

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

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

792 (i) state liquor license; and

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

794 (6) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in
795 [~~any~~] a place other than as designated in the airport lounge liquor licensee's application, unless
796 the airport lounge liquor licensee first applies for and receives approval from the department
797 for a change of location within the airport lounge.

798 (7) (a) A patron may only make [~~purchases~~] a purchase in the airport lounge from and
799 be served by a person employed, designated, and trained by the airport lounge liquor licensee to
800 sell, dispense, and serve an alcoholic [~~beverages~~] beverage.

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

804 (c) [~~Each~~] An airport lounge patron may have no more than two alcoholic beverages of

805 any kind at a time before the patron.

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

808 (9) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, offered for sale,
809 served, or otherwise furnished at an airport lounge on any day after 12 midnight and before 8
810 a.m.

811 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or
812 otherwise furnished to ~~[any]~~ a:

813 (a) minor;

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

815 (c) known habitual drunkard; or

816 (d) known interdicted person.

817 (11) (a) (i) Liquor may be sold only at ~~[prices]~~ a price fixed by the commission.

818 (ii) Liquor may not be sold at a discount ~~[prices]~~ price on any date or at any time.

819 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost
820 of the alcoholic beverage to the airport lounge liquor licensee.

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

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

825 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
826 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

827 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages
828 during ~~[any]~~ a set period may not be sold or served for a fixed price ~~[is prohibited]~~.

829 (g) An airport lounge liquor licensee may not engage in a public promotion involving
830 or offering free an alcoholic ~~[beverages]~~ beverage to the general public.

831 (12) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of
832 an airport lounge by:

833 (a) the airport lounge liquor licensee; or

834 (b) ~~[any]~~ an employee or agent of the airport lounge liquor licensee.

835 (13) (a) A person may not bring onto the premises of an airport lounge liquor licensee

836 [~~any~~] an alcoholic beverage for on-premise consumption.

837 (b) An airport lounge [~~or its officers, managers, employees, or agents~~] liquor licensee
838 or an officer, manager, employee, or agent of the airport lounge liquor licensee may not allow a
839 person to bring onto the airport lounge premises [~~any~~] an alcoholic beverage for on-premise
840 consumption or allow consumption of [~~any such~~] the alcoholic beverage on [~~its~~] the airport
841 lounge liquor licensee's premises.

842 (14) An airport lounge liquor licensee and [~~its employees~~] an employee of the airport
843 lounge liquor licensee may not permit a patron to remove [~~any~~] an alcoholic [~~beverages~~]
844 beverage from the airport lounge premises.

845 (15) (a) [~~A minor may not be employed by an~~] An airport lounge liquor licensee may
846 not employ a minor to sell or dispense an alcoholic [~~beverages~~] beverage.

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

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

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

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

- 854 (a) a set-up charge;
- 855 (b) a service charge; or
- 856 (c) a chilling fee.

857 (18) [~~Each~~] An airport lounge liquor licensee shall display in a prominent place in the
858 airport lounge:

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

864 (19) (a) [~~Each~~] An airport lounge liquor licensee shall maintain an expense ledger or
865 record showing in detail:

- 866 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all

867 other items required by the department; and

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

870 [~~(b) This record shall be kept:~~]

871 (b) An airport lounge liquor licensee shall keep a record required by Subsection
872 (19)(a):

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

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

875 (c) [~~Each~~] An expenditure shall be supported by:

876 (i) a delivery [~~tickets~~] ticket;

877 (ii) [~~invoices~~] an invoice;

878 (iii) a receipted [~~bills~~] bill;

879 (iv) a canceled [~~checks~~] check;

880 (v) a petty cash [~~vouchers~~] voucher; or

881 (vi) other sustaining [~~data or memoranda~~] datum or memorandum.

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

885 (e) [~~Any~~] An airport lounge liquor licensee or person acting for the airport lounge, who
886 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the entries in any of~~
887 ~~the books~~] an entry in a book of account or other [~~documents~~] document of the airport lounge
888 required to be made, maintained, or preserved by this title or the rules of the commission for
889 the purpose of deceiving the commission [~~or~~], the department, [~~or any of their officials or~~
890 ~~employees~~] the attorney general, or an official or employee of the commission, department, or
891 attorney general, is subject to:

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

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

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

896 (21) (a) An airport lounge liquor licensee may not sell, transfer, assign, exchange,
897 barter, give, or attempt in any way to dispose of the airport lounge liquor license to [~~any other~~]

898 another person, whether for monetary gain or not.

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

901 (22) ~~[Each]~~ A server of an alcoholic ~~[beverages]~~ beverage in ~~[a]~~ an airport lounge
902 liquor licensee's establishment shall keep a written beverage tab for each table or group that
903 orders or consumes an alcoholic ~~[beverages]~~ beverage on the premises. The beverage tab shall
904 list the type and amount of an alcoholic ~~[beverages]~~ beverage ordered or consumed.

905 (23) An airport lounge liquor licensee's premises may not be leased for a private
906 ~~[functions]~~ function.

907 (24) An airport lounge liquor licensee may not on the premises of the airport lounge
908 liquor licensee:

909 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
910 Chapter 10, Part 11, Gambling;

911 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
912 Part 11, Gambling; or

913 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
914 the risking of something of value for a return or for an outcome when the return or outcome is
915 based upon an element of chance, excluding the playing of an amusement device that confers
916 only an immediate and unrecorded right of replay not exchangeable for value.

917 Section 6. Section **32A-4-307** is amended to read:

918 **32A-4-307. Operational restrictions.**

919 ~~[Each]~~ A person granted a limited restaurant license and ~~[the employees and]~~ an
920 employee or individual who is a part of management personnel of the limited restaurant shall
921 comply with the following conditions and requirements. Failure to comply may result in a
922 suspension or revocation of the license or other disciplinary action taken against an individual
923 ~~[employees or]~~ employee or individual who is a part of management personnel.

924 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee
925 except from a state ~~[stores]~~ store or package ~~[agencies]~~ agency.

926 (b) Wine and heavy beer purchased ~~[in accordance with Subsection (1)(a)]~~ from a state
927 store or package agency may be transported by the limited restaurant licensee from the place of
928 purchase to the licensed premises.

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

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

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

935 (i) as a flavoring on [~~desserts~~] a dessert; and

936 (ii) in the preparation of a flaming food [~~dishes, drinks, and desserts~~] dish, drink, or
937 dessert.

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

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

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

944 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters
945 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

946 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
947 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
948 persons.

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

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

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

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

958 (A) in an open container; and

959 (B) on draft.

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

963 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):
964 (i) may do so without obtaining a separate on-premise beer retailer license from the
965 commission; and

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

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

973 (i) limited restaurant license; and
974 (ii) alcoholic beverage license issued by the local authority.

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

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

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

986 (b) [~~Alcoholic beverages~~] An alcoholic beverage shall be delivered by a server to the
987 patron.

988 (c) [~~Any~~] An alcoholic beverage may only be consumed at the patron's table or counter.

989 (d) [~~Alcoholic beverages~~] An alcoholic beverage may not be served to or consumed by
990 a patron at a bar.

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

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

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

997 (i) until after the polls are closed on the day of ~~[any]~~ a:

998 (A) regular general election;

999 (B) regular primary election; or

1000 (C) statewide special election;

1001 (ii) until after the polls are closed on the day of ~~[any]~~ a municipal, local district, special
1002 service district, or school election, but only:

1003 (A) within the boundaries of the municipality, local district, special service district, or
1004 school district; and

1005 (B) if required by local ordinance; and

1006 (iii) on ~~[any other]~~ another day after 12 midnight and before 12 noon.

1007 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1008 Licenses, for on-premise beer licensees.

1009 ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold except in
1010 connection with an order of food prepared, sold, and served at the limited restaurant.

1011 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to
1012 ~~[any]~~ a:

1013 (a) minor;

1014 (b) person actually, apparently, or obviously intoxicated;

1015 (c) known habitual drunkard; or

1016 (d) known interdicted person.

1017 (12) (a) (i) Wine and heavy beer may be sold only at ~~[prices]~~ a price fixed by the
1018 commission.

1019 (ii) Wine and heavy beer may not be sold at a discount ~~[prices]~~ price on any date or at
1020 any time.

1021 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost

1022 of the alcoholic [~~beverages~~] beverage to the limited restaurant licensee.

1023 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1024 over consumption or intoxication.

1025 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1026 hours of the limited [~~restaurant's~~] restaurant licensee's business day such as a "happy hour."

1027 (e) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
1028 served for the price of a single alcoholic beverage [~~is prohibited~~].

1029 (f) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic beverages
1030 during [~~any~~] a set period may not be sold or service for a fixed price [~~is prohibited~~].

1031 (g) A limited restaurant licensee may not engage in a public promotion involving or
1032 offering free alcoholic beverages to the general public.

1033 (13) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for a patron of
1034 the limited restaurant by:

1035 (a) the limited restaurant licensee; or

1036 (b) [~~any~~] an employee or agent of the limited restaurant licensee.

1037 (14) (a) A person may not bring onto the premises of a limited restaurant licensee [~~any~~]
1038 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1039 discretion of the limited restaurant licensee, bottled wine onto the premises of [~~any~~] a limited
1040 restaurant licensee for on-premise consumption.

1041 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee [~~or its~~
1042 ~~officers, managers, employees, or agents~~] or an officer, manager, employee, or agent of a
1043 limited restaurant licensee may not allow:

1044 (i) a person to bring onto the limited restaurant premises [~~any~~] an alcoholic beverage
1045 for on-premise consumption; or

1046 (ii) consumption of [~~any~~] an alcoholic beverage described in Subsection (14)(b)(i) on
1047 [~~its~~] the limited restaurant licensee's premises.

1048 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1049 or other representative of the limited restaurant licensee upon entering the limited restaurant.

1050 (d) A wine service may be performed and a service charge assessed by the limited
1051 restaurant licensee as authorized by commission rule for wine carried in by a patron.

1052 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee [~~and its~~

1053 ~~employees]~~ and an employee of the limited restaurant licensee may not permit a restaurant
1054 patron to carry from the limited restaurant premises an open container that:

1055 (i) is used primarily for drinking purposes; and

1056 (ii) contains ~~[any]~~ an alcoholic beverage.

1057 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed
1058 contents of a bottle of wine if before removal the bottle ~~[has been]~~ is recorked or recapped.

1059 (16) (a) A ~~[minor may not be employed by a]~~ limited restaurant licensee may not
1060 employ a minor to sell or dispense an alcoholic ~~[beverages]~~ beverage.

1061 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be
1062 employed to enter the sale at a cash register or other sales recording device.

1063 (17) An employee of a limited restaurant licensee, while on duty, may not:

1064 (a) consume an alcoholic beverage; or

1065 (b) be intoxicated.

1066 (18) A charge or fee made in connection with the sale, service, or consumption of wine
1067 or heavy beer may be stated in food or alcoholic beverage menus including:

1068 (a) a service charge; or

1069 (b) a chilling fee.

1070 (19) ~~[Each]~~ A limited restaurant licensee shall display in a prominent place in the
1071 restaurant:

1072 (a) the limited restaurant license that is issued by the department; and

1073 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1074 drugs is a serious crime that is prosecuted aggressively in Utah."

1075 (20) A limited restaurant licensee may not on the premises of the restaurant:

1076 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1077 Chapter 10, Part 11, Gambling;

1078 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1079 Part 11, Gambling; or

1080 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1081 the risking of something of value for a return or for an outcome when the return or outcome is
1082 based upon an element of chance, excluding the playing of an amusement device that confers
1083 only an immediate and unrecorded right of replay not exchangeable for value.

1084 (21) (a) ~~Each~~ A limited restaurant licensee shall maintain an expense ledger or record
1085 showing in detail:

1086 (i) quarterly expenditures made separately for:

1087 (A) wine;

1088 (B) heavy beer;

1089 (C) beer;

1090 (D) food; and

1091 (E) all other items required by the department; and

1092 (ii) sales made separately for:

1093 (A) wine;

1094 (B) heavy beer;

1095 (C) beer;

1096 (D) food; and

1097 (E) all other items required by the department.

1098 (b) ~~The~~ A limited restaurant licensee shall keep a record required by Subsection
1099 (21)(a) ~~shall be kept~~:

1100 (i) in a form approved by the department; and

1101 (ii) current for each three-month period.

1102 (c) ~~Each~~ An expenditure shall be supported by:

1103 (i) a delivery ~~[tickets]~~ ticket;

1104 (ii) ~~[invoices]~~ an invoice;

1105 (iii) a receipted ~~[bills]~~ bill;

1106 (iv) a canceled ~~[checks]~~ check;

1107 (v) a petty cash ~~[vouchers]~~ voucher; or

1108 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.

1109 (d) In addition to the ledger or record maintained under Subsections (21)(a) through
1110 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
1111 the department may require.

1112 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly
1113 forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of the books]~~
1114 an entry in a book of account or other ~~[documents]~~ document of the limited restaurant that is

1115 required to be made, maintained, or preserved by this title or the rules of the commission for
1116 the purpose of deceiving the commission [~~or~~], the department, [~~or any of their officials or~~
1117 ~~employees~~] the attorney general, or an official or employee of the commission, department, or
1118 attorney general, is subject to:

- 1119 (i) the suspension or revocation of the limited restaurant's license; and
- 1120 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1121 (22) (a) A limited restaurant licensee may not close or cease operation for a period
1122 longer than 240 hours, unless:

1123 (i) the limited restaurant licensee notifies the department in writing at least seven days
1124 before the [~~closing~~] day on which the limited restaurant licensee closes or ceases operation; and

1125 (ii) the closure or cessation of operation is first approved by the department.

1126 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, [~~immediate~~
1127 ~~notice of closure shall be made to~~] the limited restaurant licensee shall immediately notify the
1128 department by telephone.

1129 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or
1130 cessation of operation for a period not to exceed 60 days.

1131 (ii) The department may extend the initial period an additional 30 days upon:

1132 (A) written request of the limited restaurant licensee; and

1133 (B) a showing of good cause.

1134 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1135 commission approval.

1136 (d) [~~Any~~] A notice required by Subsection (22)(a) shall include:

1137 (i) the dates of closure or cessation of operation;

1138 (ii) the reason for the closure or cessation of operation; and

1139 (iii) the date on which the limited restaurant licensee will reopen or resume operation.

1140 (e) Failure of the limited restaurant licensee to provide notice and to obtain department
1141 authorization before closure or cessation of operation [~~shall result~~] results in an automatic
1142 forfeiture of:

1143 (i) the limited restaurant license; and

1144 (ii) the unused portion of the license fee for the remainder of the license year effective
1145 immediately.

1146 (f) Failure of the limited restaurant licensee to reopen or resume operation by the
1147 approved date [~~shall result~~] results in an automatic forfeiture of:

1148 (i) the limited restaurant license; and

1149 (ii) the unused portion of the license fee for the remainder of the license year.

1150 (23) [~~Each~~] A limited restaurant licensee shall maintain at least 70% of its total
1151 restaurant business from the sale of food, which does not include service charges.

1152 (24) A limited restaurant license may not be transferred from one location to another,
1153 without prior written approval of the commission.

1154 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,
1155 give, or attempt in any way to dispose of the limited restaurant license to [~~any other~~] another
1156 person whether for monetary gain or not.

1157 (b) A limited restaurant license has no monetary value for the purpose of any type of
1158 disposition.

1159 (26) (a) [~~Each~~] A server of wine, heavy beer, and beer in a limited restaurant licensee's
1160 establishment shall keep a written beverage tab for each table or group that orders or consumes
1161 an alcoholic [~~beverages~~] beverage on the premises.

1162 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an
1163 alcoholic [~~beverages~~] beverage ordered or consumed.

1164 (27) A limited restaurant licensee may not make a person's willingness to serve an
1165 alcoholic [~~beverages~~] beverage a condition of employment as a server with the limited
1166 restaurant.

1167 Section 7. Section **32A-4-406** is amended to read:

1168 **32A-4-406. Operational restrictions.**

1169 [~~Each~~] A person granted an on-premise banquet license and [~~the employees and~~] an
1170 employee or individual who is a part of management personnel of the on-premise banquet
1171 licensee shall comply with this title, the rules of the commission, and the following conditions
1172 and requirements. Failure to comply may result in a suspension or revocation of the
1173 on-premise banquet license or other disciplinary action taken against an individual [~~employees~~
1174 ~~or~~] employee or individual who is a part of management personnel.

1175 (1) A person involved in the sale or service of an alcoholic [~~beverages~~] beverage under
1176 the on-premise banquet license shall:

1177 (a) be under the supervision and direction of the on-premise banquet licensee; and

1178 (b) complete the seminar provided for in Section 62A-15-401.

1179 (2) (a) Liquor may not be purchased by ~~the~~ an on-premise banquet licensee except
1180 from a state ~~stores~~ store or package ~~agencies~~ agency.

1181 (b) Liquor purchased ~~[in accordance with Subsection (2)(a)]~~ from a state store or
1182 package agency may be transported by the on-premise banquet licensee from the place of
1183 purchase to the licensed premises.

1184 (c) Payment for liquor shall be made in accordance with rules established by the
1185 commission.

1186 (3) ~~[Alcoholic beverages]~~ An alcoholic beverage may be sold or provided at a banquet
1187 by an on-premise banquet licensee subject to the restrictions set forth in this Subsection (3).

1188 (a) An on-premise banquet licensee may sell or provide ~~[any]~~ a primary spirituous
1189 liquor only in a quantity not to exceed one ounce per beverage dispensed through a calibrated
1190 metered dispensing system approved by the department in accordance with commission rules
1191 adopted under this title, except that:

1192 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing
1193 system if used as a secondary flavoring ingredient in a beverage subject to the following
1194 restrictions:

1195 (A) the secondary ingredient may be dispensed only in conjunction with the purchase
1196 of a primary spirituous liquor;

1197 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;

1198 (C) the on-premise banquet licensee shall designate a location where flavorings are
1199 stored on the floor plan provided to the department; and

1200 (D) ~~[a]~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled
1201 "flavorings";

1202 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing
1203 system if used:

1204 (A) as a flavoring on ~~[desserts]~~ a dessert; and

1205 (B) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or
1206 dessert;

1207 (iii) ~~[each]~~ an attendee may have no more than 2.75 ounces of spirituous liquor at a

1208 time before the attendee; and

1209 (iv) [~~each~~] an attendee may have no more than one spirituous liquor drink at a time
1210 before the attendee.

1211 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to
1212 exceed five ounces per glass or individual portion.

1213 (B) An individual portion may be served to an attendee in more than one glass as long
1214 as the total amount of wine does not exceed five ounces.

1215 (C) An individual portion of wine is considered to be one alcoholic beverage under
1216 Subsection (5)(c).

1217 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters at
1218 [~~prices~~] a price fixed by the commission.

1219 (iii) A wine service may be performed and a service charge assessed by the on-premise
1220 banquet licensee as authorized by commission rule for wine purchased on the banquet
1221 premises.

1222 (c) (i) Heavy beer may be served in original containers not exceeding one liter at prices
1223 fixed by the commission.

1224 (ii) A service charge may be assessed by the on-premise banquet licensee as authorized
1225 by commission rule for heavy beer purchased on the banquet premises.

1226 (d) (i) Except as provided in Subsection (3)(d)(ii), beer may be sold and served for
1227 on-premise consumption:

1228 (A) in an open container; and

1229 (B) on draft.

1230 (ii) Beer sold pursuant to Subsection (3)(d)(i) shall be in a size of container that does
1231 not exceed two liters, except that beer may not be sold to an individual attendee in a container
1232 size that exceeds one liter.

1233 (4) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in
1234 any place other than as designated in the on-premise banquet licensee's application, except that
1235 additional locations in or on the premises of an on-premise banquet licensee may be approved
1236 in accordance with guidelines approved by the commission as provided in Subsection
1237 32A-4-402(2).

1238 (5) (a) An attendee may only make an alcoholic beverage [~~purchases~~] purchase from

1239 and be served by a person employed, designated, and trained by the on-premise banquet
1240 licensee to sell and serve an alcoholic [beverages] beverage.

1241 (b) Notwithstanding Subsection (5)(a), an attendee who ~~[has purchased]~~ purchases
1242 bottled wine from an employee of the on-premise banquet licensee may thereafter serve wine
1243 from the bottle to the attendee or others at the attendee's table.

1244 (c) ~~[Each]~~ An attendee may have no more than two alcoholic beverages of any kind at a
1245 time before the attendee.

1246 (6) The alcoholic beverage storage area shall remain locked at all times other than
1247 those hours and days when alcoholic beverage sales are authorized by law.

1248 (7) (a) Except as provided in Subsection (7)(b), an alcoholic [beverages] beverage may
1249 be offered for sale, sold, served, or otherwise furnished by an on-premise banquet licensee
1250 from 10 a.m. to 1 a.m. seven days a week:

- 1251 (i) at a banquet; or
1252 (ii) in connection with room service.

1253 (b) Notwithstanding Subsection (7)(a), a sale or service of liquor may not occur at a
1254 banquet or in connection with room service until after the polls are closed on the day of:

- 1255 (i) a regular general election;
1256 (ii) a regular primary election; or
1257 (iii) a statewide special election.

1258 (8) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or otherwise
1259 furnished to ~~[any]~~ a:

- 1260 (a) minor;
1261 (b) person actually, apparently, or obviously intoxicated;
1262 (c) known habitual drunkard; or
1263 (d) known interdicted person.

1264 (9) (a) (i) Liquor may be sold only at ~~[prices]~~ a price fixed by the commission.

1265 (ii) Liquor may not be sold at a discount ~~[prices]~~ price on any date or at any time.

1266 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost
1267 of the alcoholic beverage to the on-premise banquet licensee.

1268 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1269 over consumption or intoxication.

1270 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain
1271 hours of the on-premise banquet licensee's business day such as a "happy hour."

1272 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
1273 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

1274 (f) An on-premise banquet licensee may not engage in a public promotion involving or
1275 offering free alcoholic beverages to the general public.

1276 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for an
1277 attendee by:

1278 (a) the on-premise banquet licensee; or

1279 (b) ~~[any]~~ an employee or agent of the on-premise banquet licensee.

1280 (11) An attendee of a banquet may not bring ~~[any]~~ an alcoholic beverage into or onto,
1281 or remove ~~[any]~~ an alcoholic beverage from the premises of a banquet.

1282 (12) (a) Except as otherwise provided in this title, the sale and service of an alcoholic
1283 ~~[beverages]~~ beverage by an on-premise banquet licensee at a banquet shall be made only for
1284 consumption at the location of the banquet.

1285 (b) The host of a banquet, an attendee, or ~~[any other]~~ a person other than the
1286 on-premise banquet licensee or ~~[its employees]~~ an employee of the on-premise banquet
1287 licensee, may not remove ~~[any]~~ an alcoholic beverage from the premises of the banquet.

1288 (13) An on-premise banquet licensee employee shall remain at the banquet at all times
1289 when an alcoholic ~~[beverages are being]~~ beverage is sold, served, or consumed at the banquet.

1290 (14) (a) An on-premise banquet licensee may not leave ~~[any]~~ an unsold alcoholic
1291 ~~[beverages]~~ beverage at the banquet following the conclusion of the banquet.

1292 (b) At the conclusion of a banquet, the on-premise banquet licensee or ~~[its employees]~~
1293 an employee of the on-premise banquet licensee, shall:

1294 (i) destroy ~~[any]~~ an opened and unused alcoholic ~~[beverages]~~ beverage that ~~[are]~~ is not
1295 saleable, under conditions established by the department; and

1296 (ii) return to the on-premise banquet licensee's approved locked storage area ~~[any]~~ an:

1297 (A) opened and unused alcoholic beverage that is saleable; and

1298 (B) unopened ~~[containers]~~ container of an alcoholic ~~[beverages]~~ beverage.

1299 (15) Except as provided in Subsection (14), ~~[any]~~ an open or sealed container of an
1300 alcoholic ~~[beverages]~~ beverage not sold or consumed at a banquet:

1301 (a) shall be stored by the on-premise banquet licensee in the on-premise banquet
1302 licensee's approved locked storage area; and

1303 (b) may be used at more than one banquet.

1304 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense,
1305 or otherwise furnish an alcoholic [~~beverages~~] beverage in connection with the on-premise
1306 banquet licensee's banquet and room service activities.

1307 (17) An employee of an on-premise banquet licensee, while on duty, may not:

1308 (a) consume an alcoholic beverage; or

1309 (b) be intoxicated.

1310 (18) An on-premise banquet licensee shall prominently display at [~~each~~] a banquet at
1311 which an alcoholic [~~beverages are~~] beverage is sold or served:

1312 (a) a copy of the licensee's on-premise banquet license; and

1313 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1314 drugs is a serious crime that is prosecuted aggressively in Utah."

1315 (19) An on-premise banquet licensee may not on the premises of the hotel, resort
1316 facility, sports center, or convention center:

1317 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1318 Chapter 10, Part 11, Gambling;

1319 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
1320 Part 11, Gambling; or

1321 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1322 the risking of something of value for a return or for an outcome when the return or outcome is
1323 based upon an element of chance, excluding the playing of an amusement device that confers
1324 only an immediate and unrecorded right of replay not exchangeable for value.

1325 (20) (a) An on-premise banquet licensee shall maintain accounting and such other
1326 records and documents as the commission or department may require.

1327 (b) An on-premise banquet licensee or person acting for the on-premise banquet
1328 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the~~
1329 ~~entries in any of the books~~] an entry in a book of account or other [~~documents~~] document of the
1330 on-premise banquet licensee required to be made, maintained, or preserved by this title or the
1331 rules of the commission for the purpose of deceiving the commission [~~or~~], the department, [~~or~~

1332 ~~any of their officials or employees]~~ the attorney general, or an official or employee of the
1333 commission, department, or attorney general, is subject to:

1334 (i) the suspension or revocation of the on-premise banquet license; and
1335 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1336 (21) (a) For the purpose described in Subsection (21)(b), an on-premise banquet
1337 licensee shall provide the department with advance notice of a scheduled banquet in
1338 accordance with rules made by the commission in accordance with Title 63, Chapter 46a, Utah
1339 Administrative Rulemaking Act.

1340 (b) The advance notice required by Subsection (21)(a) is required to provide ~~[any of]~~
1341 the following the opportunity to conduct a random inspection of a banquet:

1342 (i) an authorized representative of the commission or the department; or
1343 (ii) a law enforcement officer.

1344 (22) An on-premise banquet licensee shall maintain at least 50% of its total annual
1345 banquet gross receipts from the sale of food, not including:

1346 (a) mix for an alcoholic ~~[beverages]~~ beverage; and
1347 (b) ~~[charges]~~ a charge in connection with the service of an alcoholic ~~[beverages]~~
1348 beverage.

1349 (23) A person may not transfer an on-premise banquet license from one business
1350 location to another without prior written approval of the commission.

1351 (24) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange,
1352 barter, give, or attempt in any way to dispose of the license to ~~[any other]~~ another person,
1353 whether for monetary gain or not.

1354 (b) An on-premise banquet license has no monetary value for the purpose of any type
1355 of disposition.

1356 (25) (a) Room service of an alcoholic ~~[beverages]~~ beverage to a guest room of a hotel
1357 or resort facility shall be provided in person by an on-premise banquet licensee employee only
1358 to an adult guest in the guest room.

1359 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be left outside a guest room
1360 for retrieval by a guest.

1361 (c) An on-premise banquet licensee may only provide an alcoholic ~~[beverages]~~
1362 beverage for room service in a sealed ~~[containers]~~ container.

1363 Section 8. Section **32A-5-107** is amended to read:

1364 **32A-5-107. Operational restrictions.**

1365 [~~Each~~] A club granted a private club license [and the employees], an employee, an
1366 individual who is a part of management personnel, [~~and members~~] or a member of the club
1367 shall comply with the following conditions and requirements. Failure to comply may result in
1368 a suspension or revocation of the private club license or other disciplinary action taken against
1369 an individual [employees or] employee or individual who is a part of management personnel.

1370 (1) [~~Each~~] A private club shall have a governing body that:

1371 (a) consists of three or more members of the private club; and

1372 (b) holds regular meetings to:

1373 (i) review membership applications; and

1374 (ii) conduct [~~any~~] other business as required by the bylaws or house rules of the private
1375 club.

1376 (2) (a) [~~Each~~] A private club may admit an individual as a member only on written
1377 application signed by the applicant, subject to:

1378 (i) the applicant paying an application fee as required by Subsection (4); and

1379 (ii) investigation, vote, and approval of a quorum of the governing body.

1380 (b) (i) [~~Admissions~~] An admission shall be recorded in the official minutes of a regular
1381 meeting of the governing body.

1382 (ii) An application, whether approved or disapproved, shall be filed as a part of the
1383 official records of the private club licensee.

1384 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an
1385 applicant and immediately accord the applicant temporary privileges of a member until the
1386 governing body completes its investigation and votes on the application, subject to the
1387 following conditions:

1388 (i) the applicant shall:

1389 (A) submit a written application; and

1390 (B) pay the application fee required by Subsection (4);

1391 (ii) the governing body votes on the application at its next meeting, which shall take
1392 place no later than 31 days following the day on which the application [~~was~~] is submitted; and

1393 (iii) the applicant's temporary membership privileges [~~are terminated~~] terminate if the

1394 governing body disapproves the application.

1395 (d) The spouse of a member of any class of private club [~~is entitled to all~~] has the rights
1396 and privileges of the member:

1397 (i) to the extent permitted by the bylaws or house rules of the private club; and

1398 (ii) except to the extent restricted by this title.

1399 (e) The minor child of a member of a class A private club [~~is entitled to all~~] has the
1400 rights and privileges of the member:

1401 (i) to the extent permitted by the bylaws or house rules of the private club; and

1402 (ii) except to the extent restricted by this title.

1403 (3) (a) [~~Each~~] A private club shall maintain a current and complete membership record
1404 showing:

1405 (i) the date of application of [~~each~~] a proposed member;

1406 (ii) [~~each~~] a member's address;

1407 (iii) the date the governing body approved a member's admission;

1408 (iv) the date initiation fees and dues [~~were~~] are assessed and paid; and

1409 (v) the serial number of the membership card issued to [~~each~~] a member.

1410 (b) A current record shall [~~also~~] be kept indicating when [~~members are dropped or~~
1411 ~~resigned~~] a member is dropped or resigns.

1412 (4) (a) [~~Each~~] A private club shall establish in the private club bylaws or house rules
1413 application fees and membership dues:

1414 (i) as established by commission rules; and

1415 (ii) [~~which~~] that are collected from all members.

1416 (b) An application fee:

1417 (i) [~~shall~~] may not be less than \$4;

1418 (ii) shall be paid when the applicant applies for membership; and

1419 (iii) at the discretion of the private club, may be credited toward membership dues if
1420 the governing body approves the applicant as a member.

1421 (5) (a) [~~Each~~] A private club may, in its discretion, allow an individual to be admitted
1422 to or use the private club premises as a guest only under the following conditions:

1423 (i) [~~each~~] a guest must be previously authorized by one of the following who agrees to
1424 host the guest into the private club:

- 1425 (A) an active member of the private club; or
- 1426 (B) a holder of a current visitor card;
- 1427 (ii) ~~[each]~~ a guest must be known by the guest's host based on a preexisting bonafide
- 1428 business or personal relationship with the host ~~[prior to]~~ before the guest's admittance to the
- 1429 private club;
- 1430 (iii) ~~[each]~~ a guest must be accompanied by the guest's host for the duration of the
- 1431 guest's visit to the private club;
- 1432 (iv) ~~[each]~~ a guest's host must remain on the private club premises for the duration of
- 1433 the guest's visit to the private club;
- 1434 (v) ~~[each]~~ a guest's host is responsible for the cost of ~~[all]~~ services extended to the
- 1435 guest;
- 1436 (vi) ~~[each]~~ a guest ~~[enjoys]~~ has only those privileges derived from the guest's host for
- 1437 the duration of the guest's visit to the private club;
- 1438 (vii) an employee of the private club, while on duty, may not act as a host for a guest;
- 1439 (viii) an employee of the private club, while on duty, may not attempt to locate a
- 1440 member or current visitor card holder to serve as a host for a guest with whom the member or
- 1441 visitor card holder has no acquaintance based on a preexisting bonafide business or personal
- 1442 relationship prior to the guest's arrival at the private club; and
- 1443 (ix) a private club ~~[and its employees]~~ or an employee of the private club may not enter
- 1444 into an agreement or arrangement with a club member or holder of a current visitor card to
- 1445 indiscriminately host ~~[members]~~ a member of the general public into the club as ~~[guests]~~ a
- 1446 guest.
- 1447 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:
- 1448 (i) the private club licensee is a class B private club; and
- 1449 (ii) the guest is a member of the same fraternal organization as the private club
- 1450 licensee.
- 1451 (6) ~~[Each]~~ A private club may, in its discretion, issue a visitor ~~[cards]~~ card to allow
- 1452 ~~[individuals]~~ an individual to enter and use the private club premises on a temporary basis
- 1453 under the following conditions:
- 1454 (a) ~~[each]~~ a visitor card shall be issued for a period not to exceed three weeks;
- 1455 (b) a fee of not less than \$4 shall be assessed for ~~[each]~~ a visitor card that is issued;

- 1456 (c) a visitor card [~~shall~~] may not be issued to a minor;
- 1457 (d) a holder of a visitor card may not host more than seven guests at one time;
- 1458 (e) [~~each~~] a visitor card issued shall include:
 - 1459 (i) the visitor's full name and signature;
 - 1460 (ii) the date the visitor card [~~was~~] is issued;
 - 1461 (iii) the date the visitor card expires;
 - 1462 (iv) the club's name; and
 - 1463 (v) the serial number of the visitor card; and
- 1464 (f) (i) the private club shall maintain a current record of the issuance of [~~each~~] a visitor
1465 card on the private club premises; and
 - 1466 (ii) the record described in Subsection (6)(f)(i) shall:
 - 1467 (A) be available for inspection by the department; and
 - 1468 (B) include:
 - 1469 (I) the name of the person to whom the visitor card [~~was~~] is issued;
 - 1470 (II) the date the visitor card [~~was~~] is issued;
 - 1471 (III) the date the visitor card expires; and
 - 1472 (IV) the serial number of the visitor card.
 - 1473 (7) A private club may not sell an alcoholic [~~beverages~~] beverage to or allow [~~any~~] a
1474 patron to be admitted to or use the private club premises other than:
 - 1475 (a) a member;
 - 1476 (b) a visitor who holds a valid visitor card issued under Subsection (6); or
 - 1477 (c) a guest of:
 - 1478 (i) a member; or
 - 1479 (ii) a holder of a [~~current~~] valid visitor card.
 - 1480 (8) (a) A minor may not be:
 - 1481 (i) a member, officer, director, or trustee of a private club;
 - 1482 (ii) issued a visitor card;
 - 1483 (iii) admitted into, use, or be on the premises of [~~any~~] a lounge or bar area, as defined
1484 by commission rule, of [~~any~~] a private club except to the extent authorized under Subsection
1485 (8)(c)(ii);
 - 1486 (iv) admitted into, use, or be on the premises of [~~any~~] a class D private club;

1487 (A) that operates as a sexually oriented business as defined by local ordinance; or

1488 (B) when a sexually oriented entertainer is performing on the premises; or

1489 (v) admitted into, use, or be on the premises of a class D private club except to the
1490 extent authorized under Subsections (8)(b) through (g).

1491 (b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private
1492 club, a minor may be admitted into, use, or be on the premises of a class D private club under
1493 the following circumstances:

1494 (i) during [~~periods~~] a period when no alcoholic beverages are sold, served, otherwise
1495 furnished, or consumed on the premises, but in no event later than 1 p.m.;

1496 (ii) when accompanied at all times by a member or holder of a current visitor card who
1497 is the minor's parent, legal guardian, or spouse; and

1498 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food
1499 service provider.

1500 (c) A [~~minor may be employed by a~~] class D private club may employ a minor on the
1501 premises of the private club if:

1502 (i) the parent or legal guardian of the minor owns or operates the class D private club;

1503 or

1504 (ii) the minor performs maintenance and cleaning services during the hours when the
1505 private club is not open for business.

1506 (d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be
1507 admitted into, use, or be on the premises of a dance or concert hall if:

1508 (A) the dance or concert hall is located:

1509 (I) on the premises of a class D private club; or

1510 (II) on the property that immediately adjoins the premises of and is operated by a class
1511 D private club; and

1512 (B) the commission [~~has issued~~] issues the class D private club a permit to operate a
1513 minor dance or concert hall based on the criteria described in Subsection (8)(d)(iii).

1514 (ii) If the dance or concert hall is located on the premises of a class D private club, a
1515 minor must be properly hosted in accordance with Subsection (5) by:

1516 (A) a member; or

1517 (B) a holder of a current visitor card.

- 1518 (iii) The commission may issue a minor dance or concert hall permit if:
- 1519 (A) the private club's lounge, bar, and alcoholic beverage consumption area is:
- 1520 (I) not accessible to [~~minors~~] a minor;
- 1521 (II) clearly defined; and
- 1522 (III) separated from the dance or concert hall area by one or more walls, multiple floor
- 1523 levels, or other substantial physical barriers;
- 1524 (B) [~~any~~] a bar or dispensing area is not visible to [~~minors~~] a minor;
- 1525 (C) [~~no~~] consumption of an alcoholic [~~beverages~~] beverage may not occur in:
- 1526 (I) the dance or concert hall area; or
- 1527 (II) [~~any~~] an area of the private club accessible to a minor;
- 1528 (D) the private club maintains sufficient security personnel to prevent the passing of
- 1529 beverages from the private club's lounge, bar, or an alcoholic beverage consumption [~~areas~~]
- 1530 area to:
- 1531 (I) the dance or concert hall area; or
- 1532 (II) [~~any~~] an area of the private club accessible to a minor;
- 1533 (E) there are one or more separate entrances, exits, and restroom facilities from the
- 1534 private club's lounge, bar, and alcoholic beverage consumption areas than for:
- 1535 (I) the dance or concert hall area; or
- 1536 (II) [~~any~~] an area accessible to a minor; and
- 1537 (F) the private club complies with any other restrictions imposed by the commission by
- 1538 rule.
- 1539 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
- 1540 guardian who is a member or holder of a current visitor card may be admitted into, use, or be
- 1541 on the premises of a concert hall described in Subsection (8)(d)(i) if:
- 1542 (i) [~~all~~] the requirements of Subsection (8)(d) are met; and
- 1543 (ii) [~~all~~] signage, product, and dispensing equipment containing recognition of an
- 1544 alcoholic [~~beverages~~] beverage is not visible to the minor.
- 1545 (f) A minor under 18 years of age but who is 14 years of age or older who is not
- 1546 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
- 1547 a concert hall described in Subsection (8)(d)(i) if:
- 1548 (i) [~~all~~] the requirements of Subsections (8)(d) and (8)(e)(ii) are met; and

1549 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the
1550 class D private club.

1551 (g) The commission may suspend or revoke a minor dance or concert permit issued to
1552 a class D private club and suspend or revoke the license of the class D private club if:

1553 (i) the private club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);

1554 (ii) the private club sells, serves, or otherwise furnishes an alcoholic [~~beverages~~]
1555 beverage to a minor;

1556 (iii) the private club licensee or a supervisory or managerial level employee of the
1557 private club licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act,
1558 on the basis of [~~activities~~] an activity that [~~occurred~~] occurs on:

1559 (A) the licensed premises; or

1560 (B) the dance or concert hall that is located on property that immediately adjoins the
1561 premises of and is operated by the class D private club;

1562 (iv) there are three or more convictions of patrons of the private club under Title 58,
1563 Chapter 37, Utah Controlled Substances Act, based on activities that [~~occurred~~] occur on:

1564 (A) the licensed premises; or

1565 (B) the dance or concert hall that is located on property that immediately adjoins the
1566 premises of and is operated by the class D private club;

1567 (v) there is more than one conviction:

1568 (A) of:

1569 (I) the private club licensee;

1570 (II) an employee of the private club licensee;

1571 (III) an entertainer contracted by the private club licensee; or

1572 (IV) a patron of the private club licensee; and

1573 (B) made on the basis of a lewd [~~acts~~] act or lewd entertainment prohibited by this title
1574 that [~~occurred~~] occurs on:

1575 (I) the licensed premises; or

1576 (II) the dance or concert hall that is located on property that immediately adjoins the
1577 premises of and is operated by the class D private club; or

1578 (vi) the commission finds acts or conduct contrary to the public welfare and morals
1579 involving lewd acts or lewd entertainment prohibited by this title that [~~occurred~~] occurs on:

1580 (A) the licensed premises; or

1581 (B) the dance or concert hall that is located on property that immediately adjoins the
1582 premises of and is operated by the class D private club.

1583 (h) Nothing in this Subsection (8) [~~shall prohibit~~] prohibits a class D private club from
1584 selling, serving, or otherwise furnishing an alcoholic [~~beverages~~] beverage in a dance or
1585 concert area located on the private club premises on days and times when the private club does
1586 not allow [~~minors~~] a minor into those areas.

1587 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being
1588 more restrictive of a minor's admittance to, use of, or presence on the premises of [~~any~~] a
1589 private club.

1590 (9) (a) [~~Each~~] A private club shall maintain an expense ledger or record showing in
1591 detail all expenditures separated by payments for:

1592 (i) malt or brewed beverages;

1593 (ii) liquor;

1594 (iii) food;

1595 (iv) detailed payroll;

1596 (v) entertainment;

1597 (vi) rent;

1598 (vii) utilities;

1599 (viii) supplies; and

1600 (ix) [~~all~~] other expenditures.

1601 (b) [~~The~~] A private club shall keep a record required by this Subsection (9) [~~shall be~~]:

1602 (i) [~~kept~~] in a form approved by the department; and

1603 (ii) balanced each month.

1604 (c) [~~Each~~] An expenditure shall be supported by:

1605 (i) a delivery [~~tickets~~] ticket;

1606 (ii) [~~invoices~~] an invoice;

1607 (iii) a receipted [~~bills~~] bill;

1608 (iv) a canceled [~~checks~~] check;

1609 (v) a petty cash [~~vouchers~~] voucher; or

1610 (vi) other sustaining [~~data or memoranda~~] datum or memorandum.

1611 (d) ~~[All invoices and receipted bills]~~ An invoice or receipted bill for the current
1612 calendar or fiscal year documenting ~~[purchases]~~ a purchase made by the private club shall
1613 ~~[also]~~ be maintained.

1614 (10) (a) ~~[Each]~~ A private club shall maintain a minute book that is posted currently by
1615 the private club.

1616 (b) The minute book required by this Subsection (10) shall contain the minutes of ~~[all]~~
1617 a regular ~~[and]~~ or special ~~[meetings]~~ meeting of the governing body.

1618 ~~[(c) Membership lists shall also be maintained.]~~

1619 (c) A private club shall maintain a membership list.

1620 (11) (a) ~~[Each]~~ A private club shall maintain a current ~~[copies]~~ copy of the private
1621 club's current bylaws and current house rules.

1622 (b) ~~[Changes]~~ A change in the bylaws or house rules:

1623 (i) ~~[are]~~ is not effective unless submitted to the department within ten days after
1624 adoption; and

1625 (ii) ~~[become]~~ becomes effective 15 days after received by the department unless
1626 rejected by the department before the expiration of the 15-day period.

1627 (12) ~~[Each]~~ A private club shall maintain accounting and other records and documents
1628 as the department may require.

1629 (13) ~~[Any]~~ A private club or person acting for the private club, who knowingly forges,
1630 falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of the books]~~ an
1631 entry in a book of account or other ~~[documents]~~ document of the private club licensee required
1632 to be made, maintained, or preserved by this title or the rules of the commission for the purpose
1633 of deceiving the commission ~~[or]~~, the department, ~~[or any of their officials or employees]~~ the
1634 attorney general, or an official or employee of the commission, department, or attorney general,
1635 is subject to:

1636 (a) the suspension or revocation of the private club's license; and

1637 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

1638 (14) (a) ~~[Each]~~ A private club licensee shall maintain and keep ~~[all the records]~~ a
1639 record required by this section and ~~[all other books, records, receipts, and disbursements]~~ a
1640 book, record, receipt, or disbursement maintained or used by the licensee, as the department
1641 requires, for a minimum period of three years.

1642 (b) ~~[All records, books, receipts, and disbursements are]~~ A record, book, receipt, or
1643 disbursement is subject to inspection by an authorized [representatives] representative of the
1644 commission and the department.

1645 (c) ~~[The]~~ A private club licensee shall allow the department, through ~~[its auditors or~~
1646 ~~examiners]~~ an auditor or examiner of the department, to audit ~~[all]~~ the records of the private
1647 club licensee at times the department considers advisable.

1648 (d) The department shall audit the records of the private club licensee at least once
1649 annually.

1650 (15) ~~[Each]~~ A private club licensee shall own or lease premises suitable for the private
1651 club's activities.

1652 (16) (a) A private club licensee may not maintain facilities in ~~[any]~~ a manner that
1653 barricades or conceals the private club licensee's operation.

1654 (b) ~~[Any]~~ A member of the commission, authorized department personnel, or ~~[any]~~ a
1655 peace officer shall, upon presentation of credentials, be admitted immediately to the private
1656 club and permitted without hindrance or delay to inspect completely the entire private club
1657 premises and ~~[all]~~ the books and records of the private club licensee, at any time during which
1658 ~~[the same are open]~~ the private club licensee is open for the transaction of business to its
1659 members.

1660 (17) ~~[Any public]~~ Public advertising related to a private club licensee by the following
1661 shall clearly identify a private club as being "a private club for members":

1662 (a) the private club licensee;

1663 (b) ~~[the employees or agents]~~ an employee or agent of the private club licensee; or

1664 (c) ~~[any]~~ a person under a contract or agreement with the private club licensee.

1665 (18) A private club licensee must have food available at all times when an alcoholic
1666 ~~[beverages are]~~ beverage is sold, served, or consumed on the premises.

1667 (19) (a) Liquor may not be purchased by a private club licensee except from a state
1668 ~~[stores]~~ store or package ~~[agencies]~~ agency.

1669 (b) Liquor purchased ~~[in accordance with Subsection (19)(a)]~~ from a state store or
1670 package agency may be transported by the private club licensee from the place of purchase to
1671 the licensed premises.

1672 (c) Payment for liquor shall be made in accordance with rules established by the

1673 commission.

1674 (20) A private club licensee may sell or provide ~~[any]~~ a primary spirituous liquor only
1675 in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered
1676 dispensing system approved by the department in accordance with commission rules adopted
1677 under this title, except that:

1678 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
1679 system if used as a secondary flavoring ingredient in a beverage subject to the following
1680 restrictions:

1681 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
1682 a primary spirituous liquor;

1683 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

1684 (iii) the private club licensee shall designate a location where flavorings are stored on
1685 the floor plan provided to the department; and

1686 (iv) ~~[all]~~ a flavoring ~~[containers]~~ container shall be plainly and conspicuously labeled
1687 "flavorings";

1688 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
1689 system if used:

1690 (i) as a flavoring on ~~[desserts]~~ a dessert; and

1691 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or
1692 dessert; and

1693 (c) ~~[each]~~ a private club patron may have no more than 2.75 ounces of spirituous liquor
1694 at a time before the private club patron.

1695 (21) (a) (i) Wine may be sold and served by the glass or an individual portion not to
1696 exceed five ounces per glass or individual portion.

1697 (ii) An individual portion may be served to a patron in more than one glass as long as
1698 the total amount of wine does not exceed five ounces.

1699 (iii) An individual portion of wine is considered to be one alcoholic beverage under
1700 Subsection (25)(c).

1701 (b) (i) Wine may be sold and served in ~~[containers]~~ a container not exceeding 1.5 liters
1702 at ~~[prices]~~ a price fixed by the commission to ~~[tables]~~ a table of four or more persons.

1703 (ii) Wine may be sold and served in ~~[containers]~~ a container not exceeding 750

1704 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
1705 persons.

1706 (c) A wine service may be performed and a service charge assessed by the private club
1707 licensee as authorized by commission rule for wine purchased at the private club.

1708 (22) (a) Heavy beer may be served in original containers not exceeding one liter at
1709 prices fixed by the commission.

1710 (b) A service charge may be assessed by the private club licensee for heavy beer
1711 purchased at the private club.

1712 (23) (a) (i) Subject to Subsection (23)(a)(ii), a private club [~~licensed to sell liquor~~]
1713 licensee may sell beer for on-premise consumption:

1714 (A) in an open container; and

1715 (B) on draft.

1716 (ii) Beer sold pursuant to Subsection (23)(a)(i) shall be in a size of container that does
1717 not exceed two liters, except that beer may not be sold to an individual patron in a size of
1718 container that exceeds one liter.

1719 (b) (i) A private club [~~licensed under this chapter~~] licensee that sells beer pursuant to
1720 Subsection (23)(a):

1721 (A) may do so without obtaining a separate on-premise beer retailer license from the
1722 commission; and

1723 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
1724 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those
1725 restrictions are inconsistent with or less restrictive than the operational restrictions under this
1726 chapter.

1727 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
1728 Licenses, required by Subsection (23)(b)(i) may result in a suspension or revocation of the
1729 private club's:

1730 (A) state liquor license; and

1731 (B) alcoholic beverage license issued by the local authority.

1732 (24) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in
1733 [~~any~~] a place other than as designated in the private club licensee's application, unless the
1734 private club licensee first applies for and receives approval from the department for a change of

1735 location within the private club.

1736 (25) (a) A patron may only make an alcoholic beverage [~~purchases~~] purchase in the
1737 private club from and be served by a person employed, designated, and trained by the private
1738 club licensee to sell, dispense, and serve an alcoholic [~~beverages~~] beverage.

1739 (b) Notwithstanding Subsection (25)(a), a patron who [~~has purchased~~] purchases
1740 bottled wine from an employee of the private club [~~or has carried~~] licensee or carries bottled
1741 wine onto the premises of the private club pursuant to Subsection (31) may thereafter serve
1742 wine from the bottle to the patron or others at the patron's table.

1743 (c) [~~Each~~] A private club patron may have no more than two alcoholic beverages of
1744 any kind at a time before the private club patron.

1745 (26) The liquor storage area shall remain locked at all times other than those hours and
1746 days when liquor sales and service are authorized by law.

1747 (27) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
1748 private club during the following days or hours:

1749 (i) until after the polls are closed on the day of [~~any~~] a:

1750 (A) regular general election;

1751 (B) regular primary election; or

1752 (C) statewide special election;

1753 (ii) until after the polls are closed on the day of [~~any~~] a municipal, local district, special
1754 service district, or school election, but only:

1755 (A) within the boundaries of the municipality, local district, special service district, or
1756 school district; and

1757 (B) if required by local ordinance; and

1758 (iii) on [~~any other~~] another day after 1 a.m. and before 10 a.m.

1759 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
1760 Licenses, for on-premise beer licenses.

1761 (c) (i) Notwithstanding Subsections (27)(a) and (b), a private club shall remain open
1762 for one hour after the private club ceases the sale and service of an alcoholic [~~beverages~~]
1763 beverage during which time a patron of the private club may finish consuming:

1764 (A) [~~any~~] a single drink containing spirituous liquor;

1765 (B) a single serving of wine not exceeding five ounces;

- 1766 (C) a single serving of heavy beer; or
1767 (D) a single serving of beer not exceeding 26 ounces.
- 1768 (ii) A private club is not required to remain open:
1769 (A) after all patrons have vacated the premises; or
1770 (B) during an emergency.
- 1771 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club licensee may not
1772 allow a patron to remain on the premises of the private club to consume an alcoholic
1773 [~~beverages~~] beverage on the premises.
- 1774 (28) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or
1775 otherwise furnished to [~~any~~] a:
- 1776 (a) minor;
1777 (b) person actually, apparently, or obviously intoxicated;
1778 (c) known habitual drunkard; or
1779 (d) known interdicted person.
- 1780 (29) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.
1781 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.
- 1782 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost
1783 of the alcoholic beverage to the private club licensee.
- 1784 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
1785 over consumption or intoxication.
- 1786 (d) The price of a single serving of a primary spirituous liquor shall be the same
1787 whether served as a single drink or in conjunction with another alcoholic beverage.
- 1788 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
1789 hours of the private club's business day such as a "happy hour."
- 1790 (f) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
1791 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 1792 (g) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic
1793 beverages may not be sold or served during [~~any~~] a set period for a fixed price [~~is prohibited~~].
- 1794 (h) A private club licensee may not engage in a promotion involving or offering free
1795 alcoholic beverages to patrons of the private club.
- 1796 (30) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for a patron of

1797 the private club licensee by:

1798 (a) the private club licensee; or

1799 (b) [~~any~~] an employee or agent of the private club licensee.

1800 (31) (a) A person may not bring onto the premises of a private club licensee [~~any~~] an
1801 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
1802 discretion of the licensee, bottled wine onto the premises of [~~any~~] a private club licensee for
1803 on-premise consumption.

1804 (b) Except bottled wine under Subsection (31)(a), a private club [~~or its officers,~~
1805 ~~managers, employees, or agents~~] licensee or an officer, manager, employee, or agent of a
1806 private club licensee may not allow:

1807 (i) a person to bring onto the private club premises [~~any~~] an alcoholic beverage for
1808 consumption on the private club premises; or

1809 (ii) consumption of an alcoholic [~~beverages~~] beverage described in Subsection
1810 (31)(b)(i) on the premises of the private club.

1811 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
1812 or other representative of the private club licensee upon entering the private club.

1813 (d) A wine service may be performed and a service charge assessed by the private club
1814 licensee as authorized by commission rule for wine carried in by a patron.

1815 (32) (a) Except as provided in Subsection (32)(b), a private club [~~and its employees~~]
1816 licensee or an employee of the private club licensee may not permit a patron of the private club
1817 to carry from the private club premises an open container that:

1818 (i) is used primarily for drinking purposes; and

1819 (ii) contains [~~any~~] an alcoholic beverage.

1820 (b) A patron may remove the unconsumed contents of a bottle of wine if before
1821 removal the bottle [~~has been~~] is recorked or recapped.

1822 (33) (a) A minor may not be employed by [~~any~~] a class A, B, or C private club licensee
1823 to sell, dispense, or handle [~~any~~] an alcoholic beverage.

1824 (b) Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may be
1825 employed by a class A or C private club licensee to enter the sale at a cash register or other
1826 sales recording device.

1827 (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed

1828 by or be on the premises of ~~[any]~~ a class D private club.

1829 (d) A minor may not be employed to work in ~~[any]~~ a lounge or bar area of ~~[any]~~ a class
1830 A, B, or C private club licensee.

1831 (34) An employee of a private club licensee, while on duty, may not:

1832 (a) consume an alcoholic beverage; or

1833 (b) be intoxicated.

1834 (35) (a) A private club licensee may not charge for the service or supply of ~~[glasses,~~
1835 ~~ice, or mixers]~~ a glass, ice, or mixer unless:

1836 (i) the ~~[charges are]~~ charge is fixed in the house rules of the private club licensee; and

1837 (ii) a copy of the house rules is kept on the private club premises and available at all
1838 times for examination by ~~[patrons]~~ a patron of the private club.

1839 (b) A charge or fee made in connection with the sale, service, or consumption of liquor
1840 may be stated in food or alcoholic beverage menus including:

1841 (i) a set-up charge;

1842 (ii) a service charge; or

1843 (iii) a chilling fee.

1844 (36) ~~[Each]~~ A private club licensee shall display in a prominent place in the private
1845 club:

1846 (a) the private club license that is issued by the department;

1847 (b) a list of the types and brand names of liquor being served through its calibrated
1848 metered dispensing system; and

1849 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
1850 drugs is a serious crime that is prosecuted aggressively in Utah."

1851 (37) A private club licensee may not on the premises of the private club:

1852 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
1853 Chapter 10, Part 11, Gambling;

1854 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
1855 Part 11, Gambling; or

1856 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
1857 the risking of something of value for a return or for an outcome when the return or outcome is
1858 based upon an element of chance, excluding the playing of an amusement device that confers

1859 only an immediate and unrecorded right of replay not exchangeable for value.

1860 (38) (a) A private club licensee may not close or cease operation for a period longer
1861 than 240 hours, unless:

1862 (i) the private club licensee notifies the department in writing at least seven days before
1863 the ~~[closing]~~ day on which the private club licensee closes or ceases operation; and

1864 (ii) the closure or cessation of operation is first approved by the department.

1865 (b) Notwithstanding Subsection (38)(a), in the case of emergency closure, ~~[immediate~~
1866 ~~notice of closure shall be made to]~~ the private club licensee shall immediately notify the
1867 department by telephone.

1868 (c) (i) The department may authorize a closure or cessation of operation for a period
1869 not to exceed 60 days.

1870 (ii) The department may extend the initial period an additional 30 days upon:

1871 (A) written request of the private club; and ~~[upon]~~

1872 (B) a showing of good cause.

1873 (iii) A closure or cessation of operation may not exceed a total of 90 days without
1874 commission approval.

1875 (d) The notice required by Subsection (38)(a) shall include:

1876 (i) the dates of closure or cessation of operation;

1877 (ii) the reason for the closure or cessation of operation; and

1878 (iii) the date on which the private club licensee will reopen or resume operation.

1879 (e) Failure of the private club licensee to provide notice and to obtain department
1880 authorization ~~[prior to]~~ before closure or cessation of operation ~~[shall result]~~ results in an
1881 automatic forfeiture of:

1882 (i) the private club license; and

1883 (ii) the unused portion of the private club license fee for the remainder of the license
1884 year effective immediately.

1885 (f) Failure of the private club licensee to reopen or resume operation by the approved
1886 date ~~[shall result]~~ results in an automatic forfeiture of:

1887 (i) the private club license; and

1888 (ii) the unused portion of the ~~[club's]~~ private club license fee for the remainder of the
1889 license year.

1890 (39) A private club license may not be transferred from one location to another person,
1891 without prior written approval of the commission.

1892 (40) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give, or
1893 attempt in any way to dispose of the private club license to [~~any other~~] another person, whether
1894 for monetary gain or not.

1895 (b) A private club license has no monetary value for the purpose of any type of
1896 disposition.

1897 Section 9. Section **32A-8-106** is amended to read:

1898 **32A-8-106. Operational restrictions.**

1899 [~~Each~~] A person granted an alcoholic beverage manufacturing license and [~~the~~
1900 ~~employees and~~] an employee or individual who is part of the management of the licensee shall
1901 abide by the following conditions and requirements, and any special conditions and restrictions
1902 otherwise provided in this chapter. Failure to comply may result in a suspension or revocation
1903 of the license or other disciplinary action taken against [~~individual employees or~~] an individual
1904 employee or individual who is part of management personnel.

1905 (1) A licensee may not sell [~~any~~] liquor within the state except to the department and to
1906 a military [~~installations~~] installation.

1907 (2) [~~Each~~] A license issued under this chapter shall be conspicuously displayed on the
1908 licensed premises.

1909 (3) A licensee may not advertise its product in violation of this title or [~~any other~~]
1910 another federal or state law, except that nothing in this title prohibits the advertising or
1911 solicitation of [~~orders~~] an order for industrial alcohol from [~~holders of special permits~~] a holder
1912 of a special permit.

1913 (4) (a) [~~Each~~] An alcoholic beverage manufacturing licensee shall maintain accounting
1914 and other records and documents as the department may require.

1915 (b) A manufacturing licensee or person acting for the manufacturing licensee, who
1916 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the entries in any of~~
1917 ~~the books~~] an entry in a book of account or other [~~documents~~] document of the licensee
1918 required to be made, maintained, or preserved by this title or the rules of the commission for
1919 the purpose of deceiving the commission, [~~or~~] the department, [~~or any of their officials or~~
1920 ~~employees~~] the attorney general, or an official or employee of the commission, department, or

1921 attorney general, is subject to:

1922 (i) the immediate suspension or revocation of the manufacturing license; and

1923 (ii) criminal prosecution under Chapter 12, Criminal Offenses.

1924 (5) An alcoholic beverage manufacturing license may not be transferred from one

1925 location to another, without prior written approval of the commission.

1926 (6) (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give,

1927 or attempt in any way to dispose of the license to [~~any other~~] another person or entity, whether

1928 for monetary gain or not.

1929 (b) A manufacturing license has no monetary value for the purpose of any type of

1930 disposition.

1931 (7) [~~Each~~] A licensee shall from time to time, on request of the department, furnish for

1932 analytical purposes one or more samples of [~~the~~] an alcoholic [~~products~~] product that it has for

1933 sale or that it has in the course of manufacture for sale in this state.

1934 Section 10. Section **32A-8-505** is amended to read:

1935 **32A-8-505. Operational restrictions.**

1936 (1) (a) A local industry representative licensee, employee or agent of the local industry

1937 representative licensee, or employee or agent of a manufacturer, supplier, or importer who is

1938 conducting business in the state, shall abide by the conditions and requirements set forth in this

1939 section.

1940 (b) If any person listed in Subsection (1)(a) knowingly violates or fails to comply with

1941 the conditions and requirements set forth in this section:

1942 (i) [~~such~~] the violation or failure to comply may result in:

1943 (A) a suspension or revocation of the license local industry representative; or

1944 (B) other disciplinary action taken against an individual [~~employees or agents~~]

1945 employee or agent of the local industry representative licensee; and

1946 (ii) the commission may order the removal of [~~the manufacturer's, supplier's, or~~

1947 ~~importer's products~~] a product of the manufacturer, supplier, or importer from the department's

1948 sales list and a suspension of the department's purchase of [~~those products~~] the product for a

1949 period determined by the commission if the manufacturer, supplier, or importer:

1950 (A) directly [~~committed~~] commits the violation; or

1951 (B) solicited, requested, commanded, encouraged, or intentionally aided another person

1952 to engage in the violation.

1953 (2) A local industry representative licensee, employee or agent of the local industry
 1954 representative licensee, or employee or agent of a manufacturer, supplier, or importer who is
 1955 conducting business in the state:

1956 (a) only to the extent authorized by Chapter 12, Criminal Offenses, may:

1957 (i) assist the department in:

1958 (A) ordering, shipping, and delivering merchandise;

1959 (B) providing new product notification;

1960 (C) obtaining listing and delisting information;

1961 (D) receiving a price [~~quotations~~] quotation;

1962 (E) providing product sales analysis;

1963 (F) conducting shelf management; and

1964 (G) conducting an educational [~~seminars~~] seminar; and

1965 (ii) for the purpose of acquiring a new [~~listings~~] listing:

1966 (A) solicit [~~orders~~] an order from the department; and

1967 (B) submit to the department a price [~~lists and samples of the products~~] list and sample
 1968 of a product of the manufacturer, supplier, or importer;

1969 (b) may not sell any liquor, wine, or heavy beer within the state except to:

1970 (i) the department; and

1971 (ii) a military [~~installations;~~] installation;

1972 (c) may not ship or transport, or cause to be shipped or transported, into this state or
 1973 from one place to another within this state [~~any~~] liquor, wine, or heavy beer;

1974 (d) may not sell or furnish [~~any~~] liquor, wine, or heavy beer to [~~any~~] a person within
 1975 this state other than to:

1976 (i) the department; and

1977 (ii) a military [~~installations;~~] installation;

1978 (e) except as otherwise provided, may not advertise [~~products it~~] a product the local
 1979 industry representative licensee represents in violation of this title or [~~any other~~] another

1980 federal or state law;

1981 (f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and

1982 (g) may only provide [~~samples of products~~] a sample of a product of the manufacturer,

1983 supplier, or importer for tasting and sampling purposes as provided in Section 32A-12-603 by
 1984 the department.

1985 (3) (a) A local industry representative licensee shall maintain on file with the
 1986 department a current accounts list of the ~~[names and addresses of all manufacturers, suppliers,
 1987 and importers]~~ name and address of a manufacturer, supplier, or importer that the licensee
 1988 represents.

1989 (b) The licensee shall notify the department in writing of ~~[any changes to the accounts
 1990 listed]~~ a change to an account listed in accordance with Subsection (3)(a) within 14 days from
 1991 the [date the licensee either acquired or lost] day on which the local industry representative
 1992 licensee:

1993 (i) acquires the account of a ~~[particular]~~ manufacturer, supplier, or importer[-]; or

1994 (ii) loses the account of a manufacturer, supplier, or importer.

1995 (4) A local industry representative licensee shall maintain accounting and other records
 1996 and documents as the department may require for at least three years.

1997 (5) ~~[Any]~~ A local industry representative licensee or person acting for the local
 1998 industry representative licensee, who knowingly forges, falsifies, alters, cancels, destroys,
 1999 conceals, or removes [the entries in any of the books] an entry in a book of account or other
 2000 ~~[documents]~~ document of the local industry representative licensee required to be made,
 2001 maintained, or preserved by this title or the rules of the commission for the purpose of
 2002 deceiving the commission ~~[or]~~, the department, ~~[or any of their officials or employees;]~~ the
 2003 attorney general, or an official or employee of the commission, department, or attorney general
 2004 is subject to:

2005 (a) the immediate suspension or revocation of the industry representative's license; and

2006 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

2007 (6) A local industry representative licensee may, for the purpose of becoming educated
 2008 as to the quality and characteristics of a liquor, wine, or heavy beer product ~~[which]~~ that the
 2009 local industry representative licensee represents, taste and analyze an industry representative
 2010 ~~[samples]~~ sample under the conditions listed in this Subsection (6).

2011 (a) ~~[The]~~ A local industry representative licensee may not receive more than two
 2012 industry representative samples of a particular type, vintage, and production lot of a particular
 2013 branded product within a consecutive 120-day period.

2014 (b) (i) [~~Each~~] Except as provided in Subsection (6)(b)(ii), a sample of liquor may not
2015 exceed 1 liter.

2016 (ii) [~~Each~~] A sample of wine or heavy beer may not exceed 1.5 liters unless that exact
2017 product is only commercially packaged in a larger size, not to exceed 5 liters.

2018 (c) [~~Each~~] An industry representative sample may only be of a product not presently
2019 listed on the department's sales list.

2020 (d) (i) [~~Industry~~] An industry representative [~~samples~~] sample shall be shipped:

2021 (A) prepaid by the manufacturer, supplier, or importer;

2022 (B) by common carrier and not via United States mail; and

2023 (C) directly to the department's central administrative warehouse office.

2024 (ii) [~~These samples~~] An industry representative sample may not be shipped to [~~any~~
2025 other] a location within the state other than the department's central administrative warehouse
2026 office.

2027 (e) [~~Industry~~] An industry representative [~~samples~~] sample shall be accompanied by a
2028 letter from the manufacturer, supplier, or importer:

2029 (i) clearly identifying the product as an "industry representative sample"; and

2030 (ii) clearly stating:

2031 (A) the FOB case price of the product; and

2032 (B) the name of the local industry representative for [~~who~~] whom it is intended.

2033 (f) The department shall assess a reasonable handling, labeling, and storage fee for
2034 [~~each~~] an industry representative sample received.

2035 (g) The department shall affix to [~~each~~] a bottle or container that is an industry
2036 representative sample a label clearly identifying the product as an "industry representative
2037 sample."

2038 (h) The department shall:

2039 (i) account for and record [~~each~~] an industry representative sample received by the
2040 department;

2041 (ii) account for the [~~sample's~~] disposition of an industry representative sample; and

2042 (iii) maintain a record of [~~the~~] an industry representative sample and its disposition for
2043 a two-year period.

2044 (i) [~~Industry~~] An industry representative [~~samples~~] sample may not leave the premises

2045 of the department's central administrative warehouse office.

2046 (j) ~~[Licensed industry representatives and their employees and agents]~~ A local industry
2047 representative licensee or an employee or agency of the local industry representative licensee
2048 may, at a regularly scheduled ~~[days and times]~~ day or time established by the department, taste
2049 and analyze an industry representative ~~[samples]~~ sample on the premises of the department's
2050 central administrative warehouse office.

2051 (k) ~~[Any]~~ The department shall destroy the unused contents of an opened product
2052 remaining after the product ~~[has been]~~ is sampled ~~[shall be destroyed by the department]~~ under
2053 controlled and audited conditions established by the department.

2054 (l) ~~[Industry]~~ An industry representative ~~[samples that are]~~ sample that is not tasted
2055 within 30 days of receipt by the department shall be disposed of at the discretion of the
2056 department in one of the following ways:

2057 (i) contents destroyed under controlled and audited conditions established by the
2058 department; or

2059 (ii) added to the inventory of the department for sale to the public.

2060 (7) An employee or agent of a local industry representative licensee may not be:

2061 (a) the holder of ~~[any]~~ a retail license issued under this title that sells spirituous liquor,
2062 wine, or heavy beer;

2063 (b) an employee or agent of ~~[any]~~ a retail licensee issued under this title that sells
2064 spirituous liquor, wine, or heavy beer; or

2065 (c) a minor.

2066 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,
2067 give, or attempt in any way to dispose of the license to ~~[any other]~~ another person, whether for
2068 monetary gain or not.

2069 (b) A local industry representative license has no monetary value for the purpose of any
2070 type of disposition.

2071 Section 11. Section **32A-9-106** is amended to read:

2072 **32A-9-106. Operational restrictions.**

2073 ~~[Each]~~ A person granted a warehousing license and ~~[the employees and]~~ an employee or
2074 individual who is part of the management of the licensee shall abide by the following
2075 conditions and requirements. Failure to comply may result in a suspension or revocation of the

2076 license, or other disciplinary action taken against [~~individual employees or~~] an individual
2077 employee or individual who is part of management personnel:

2078 (1) [~~All liquor~~] Liquor warehoused in this state and sold to an out-of-state [~~consignees~~]
2079 consignee, shall be transported out of the state only by a motor carrier regulated under Title 72,
2080 Chapter 9, Motor Carrier Safety Act.

2081 (2) [~~All liquor~~] Liquor warehoused in this state and sold to the department shall be
2082 transported by motor carriers approved by the department.

2083 (3) [~~All liquor~~] Liquor transported to or from the licensee's premises shall be carried in
2084 a sealed [conveyances] conveyance that [~~are~~] is made available for inspection by the
2085 department while en route within the state.

2086 (4) A licensee may not ship, convey, distribute, or remove liquor from [~~any~~] a
2087 warehouse in less than full case lots.

2088 (5) A licensee may not ship, convey, distribute, or remove [~~any~~] liquor from a
2089 warehouse to [~~any~~] a consignee outside the state that is not licensed as a liquor wholesaler or
2090 retailer by the state in which the consignee is domiciled.

2091 (6) A licensee may not receive, warehouse, ship, distribute, or convey [~~any~~] liquor that
2092 the commission has not authorized the licensee to handle through its warehouse.

2093 (7) [~~Each~~] (a) A licensee shall maintain accounting and other records and documents
2094 as the department may require. [~~Any~~]

2095 (b) A licensee or person acting for the licensee, who knowingly forges, falsifies, alters,
2096 cancels, destroys, conceals, or removes [~~the entries in any of the books~~] an entry in a book of
2097 account or other [~~documents~~] document of the licensee required to be made, maintained, or
2098 preserved by this title or the rules of the commission for the purpose of deceiving the
2099 commission [~~or~~], the department, [~~or any of their officials or employees~~] the attorney general,
2100 or an official or employee of the commission, department, or attorney general, is subject to:

2101 (i) the immediate suspension or revocation of the license; and

2102 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2103 (8) A liquor warehousing license may not be transferred from one location to another,
2104 without prior written approval of the commission.

2105 (9) (a) A liquor warehousing licensee may not sell, transfer, assign, exchange, barter,
2106 give, or attempt in any way to dispose of the license to [~~any other~~] another person, whether for

2107 monetary gain or not.

2108 (b) A liquor warehousing license has no monetary value for the purpose of any type of
2109 disposition.

2110 Section 12. Section **32A-10-206** is amended to read:

2111 **32A-10-206. Operational restrictions.**

2112 [~~Each~~] A person granted an on-premise beer retailer license and [the employees and] an
2113 employee or individual who is part of management personnel of the on-premise beer retailer
2114 licensee shall comply with the following conditions and requirements. Failure to comply may
2115 result in a suspension or revocation of the license or other disciplinary action taken against
2116 [~~individual employees or~~] an individual employee or individual who is part of management
2117 personnel.

2118 (1) (a) Subject to Subsection (1)(b), a beer retailer licensee may sell beer for
2119 on-premise consumption:

2120 (i) in an open container; and

2121 (ii) on draft.

2122 (b) Beer sold pursuant to Subsection (1)(a) shall be in a size of container that does not
2123 exceed two liters, except that beer may not be sold to an individual patron in a size of container
2124 that exceeds one liter.

2125 (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer
2126 licensee.

2127 (3) A patron of the on-premise beer retailer may only make [~~purchases~~] a purchase
2128 from and be served by a person employed, designated, and trained by the licensee to sell and
2129 serve beer.

2130 (4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at any
2131 on-premise beer retailer establishment after 1 a.m. and before 10 a.m.

2132 (b) Beer may not be sold, served, or otherwise furnished to [~~any~~] a:

2133 (i) minor;

2134 (ii) person actually, apparently, or obviously intoxicated;

2135 (iii) known habitual drunkard; or

2136 (iv) known interdicted person.

2137 (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall

- 2138 remain open for one hour after the tavern ceases the sale and service of an alcoholic
2139 [~~beverages~~] beverage during which time a patron of the tavern may finish consuming a single
2140 serving of beer not exceeding 26 ounces.
- 2141 (ii) A tavern is not required to remain open:
2142 (A) after all patrons have vacated the premises; or
2143 (B) during an emergency.
- 2144 (d) Between the hours of 2 a.m. and 10 a.m. on any day a tavern may not allow a patron
2145 to remain on the premises to consume alcoholic beverages on the premises.
- 2146 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.
2147 (b) Beer may not be sold at a special or reduced price that encourages over
2148 consumption or intoxication.
- 2149 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer
2150 retailer's business day such as a "happy hour."
- 2151 (d) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or
2152 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 2153 (e) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic
2154 beverages may not be sold or served during [~~any~~] a set period for a fixed price [~~is prohibited~~].
- 2155 (f) An on-premise beer licensee may not engage in a public promotion involving or
2156 offering free alcoholic beverages to the general public.
- 2157 (6) Beer may not be purchased for a patron of the on-premise beer establishment by:
2158 (a) the licensee; or
2159 (b) an employee or agent of the licensee.
- 2160 (7) Beer sold in a sealed [~~containers~~] container by the on-premise beer retailer licensee
2161 may be removed from the on-premise beer retailer premises.
- 2162 (8) (a) A person may not bring onto the premises of an on-premise beer retailer
2163 licensee [~~any~~] an alcoholic beverage for on-premise consumption.
- 2164 (b) An on-premise beer retailer licensee or its officers, managers, employees, or agents
2165 may not:
2166 (i) allow a person to bring onto the on-premise beer retailer licensee premises [~~any~~] an
2167 alcoholic beverage for on-premise consumption; or
2168 (ii) allow consumption of [~~any such~~] an alcoholic beverage described in Subsection

2169 (8)(b)(i) on its premises.

2170 (9) An on-premise beer retailer licensee and its employees may not permit a patron to
2171 carry from the premises an open container that:

2172 (a) is used primarily for drinking purposes; and

2173 (b) contains [~~any~~] an alcoholic beverage.

2174 (10) (a) Except as provided in Subsection (10)(b), a minor may not be:

2175 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell,
2176 dispense, or otherwise furnish beer; or

2177 (ii) on the premises of [~~any~~] a tavern.

2178 (b) Notwithstanding Subsection (10)(a), a minor who is at least 16 years of age may be
2179 employed to enter the sale at a cash register or other sales recording device on the premises of
2180 an on-premise beer retailer that is not a tavern.

2181 (11) An employee of a licensee, while on duty, may not:

2182 (a) consume an alcoholic beverage; or

2183 (b) be intoxicated.

2184 (12) [~~Each~~] An on-premise beer retailer licensee shall display in a prominent place in
2185 the on-premise beer retailer licensee:

2186 (a) the on-premise beer retailer license that is issued by the department; and

2187 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
2188 drugs is a serious crime that is prosecuted aggressively in Utah."

2189 (13) An on-premise beer retailer licensee may not on the premises of the on-premise
2190 beer retailer licensee:

2191 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
2192 Chapter 10, Part 11, Gambling;

2193 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
2194 Part 11, Gambling; or

2195 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
2196 the risking of something of value for a return or for an outcome when the return or outcome is
2197 based upon an element of chance, excluding the playing of an amusement device that confers
2198 only an immediate and unrecorded right of replay not exchangeable for value.

2199 (14) (a) [~~Each~~] An on-premise beer retailer licensee shall maintain accounting and

2200 other records and documents as the department may require.

2201 (b) ~~[Any]~~ An on-premise beer retailer licensee or person acting for the on-premise beer
2202 retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes
2203 ~~[the entries in any of the books]~~ an entry in a book of account or other ~~[documents]~~ document
2204 of the on-premise beer retailer licensee required to be made, maintained, or preserved by this
2205 title or the rules of the commission for the purpose of deceiving the commission ~~[or]~~, the
2206 department, ~~[or any of their officials or employees]~~ the attorney general, or an official or
2207 employee of the commission, department, or attorney general, is subject to:

2208 (i) the immediate suspension or revocation of the on-premise beer retailer license; and
2209 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2210 (15) (a) A tavern licensed under this chapter may not close or cease operation for a
2211 period longer than 240 hours, unless:

2212 (i) the tavern licensee notifies the department in writing at least seven days before the
2213 closing; and

2214 (ii) the closure or cessation of operation is first approved by the department.

2215 (b) Notwithstanding Subsection (15)(a), in the case of emergency closure, ~~[immediate~~
2216 ~~notice of closure shall be made to]~~ the tavern shall immediately notify the department by
2217 telephone.

2218 (c) (i) The department may authorize a closure or cessation of operation for a period
2219 not to exceed 60 days.

2220 (ii) The department may extend the initial period an additional 30 days upon:

2221 (A) written request of the tavern licensee; and

2222 (B) a showing of good cause.

2223 (iii) A closure or cessation of operation may not exceed a total of 90 days without
2224 commission approval.

2225 (d) A notice of closure or cessation by a tavern licensee shall include:

2226 (i) the date of closure or cessation of operation;

2227 (ii) the reason for the closure or cessation of operation; and

2228 (iii) the dates on which the tavern licensee will reopen or resume operation.

2229 (e) Failure of the tavern licensee to provide notice and to obtain department
2230 authorization before closure or cessation of operation ~~[shall result]~~ results effective

2231 immediately in an automatic forfeiture of:

2232 (i) the license; and

2233 (ii) the unused portion of the license fee for the remainder of the license year.

2234 (f) Failure of the tavern licensee to reopen or resume operation by the approved date

2235 [~~shall result~~] results in an automatic forfeiture of:

2236 (i) the license; and

2237 (ii) the unused portion of the license fee for the remainder of the license year.

2238 (16) An on-premise beer retailer license may not be transferred from one location to

2239 another, without prior written approval of the commission.

2240 (17) (a) An on-premise beer retailer licensee may not sell, transfer, assign, exchange,

2241 barter, give, or attempt in any way to dispose of the license to any person, whether for

2242 monetary gain or not.

2243 (b) An on-premise beer retailer license has no monetary value for the purpose of any

2244 type of disposition.

2245 Section 13. Section **32A-11-106** is amended to read:

2246 **32A-11-106. Operational restrictions.**

2247 [~~Each~~] A person granted a beer wholesaling license, and [~~the employees and~~] an

2248 employee or individual who is part of the management personnel of the licensee, shall comply

2249 with the following conditions and requirements. Failure to comply may result in a suspension

2250 or revocation of the beer wholesaling license or other disciplinary action taken against

2251 [~~individual employees or~~] an individual employee or individual who is part of management

2252 personnel of the licensee.

2253 (1) A licensee may not wholesale any beer manufactured within the state by a brewer

2254 who is not licensed by the commission as a manufacturing licensee.

2255 (2) A licensee may not wholesale any beer manufactured out of state by a brewer who

2256 has not obtained a certificate of approval from the department.

2257 (3) (a) A licensee may not sell or distribute beer to [~~any~~] a person within the state

2258 except:

2259 (i) a licensed beer retailer;

2260 (ii) a holder of a single event permit issued by the commission pursuant to Chapter 7,

2261 Single Event Permits; or

2262 (iii) a holder of a temporary retail beer permit issued by the commission for a
2263 temporary special event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits.

2264 (b) A violation of this Subsection (3) is a class A misdemeanor.

2265 (4) (a) A licensee may not sell or distribute [~~any~~] beer to [~~any~~] a retailer outside of the
2266 geographic area designated on its application, except that if a licensee is temporarily unable to
2267 supply retail dealers within its authorized geographical area, the department may grant
2268 temporary authority to another licensed wholesaler who distributes the same brand in another
2269 area to supply retailers.

2270 (b) A violation of this Subsection (4) is a class B misdemeanor.

2271 (5) (a) [~~Every~~] A licensee shall own, lease, or otherwise control and maintain a
2272 warehouse facility located in this state for the receipt, storage, and further distribution of [~~all~~]
2273 beer sold by the licensee to any person within the state.

2274 (b) A licensee may not sell beer to [~~any~~] a person in this state, other than the
2275 department, unless the beer has first been:

2276 (i) physically removed from the vehicle used to transport the beer from the supplier to
2277 the licensee; and

2278 (ii) delivered into the actual possession and control of the licensee in its warehouse or
2279 other facility.

2280 (6) (a) [~~Each~~] A beer wholesaling licensee shall maintain accounting and other records
2281 and documents as the department may require.

2282 (b) [~~Any~~] A licensee or person acting for the licensee, who knowingly forges, falsifies,
2283 alters, cancels, destroys, conceals, or removes [~~the entries in any of the books~~] an entry in a
2284 book of account or other [~~documents~~] document of the licensee required to be made,
2285 maintained, or preserved by this title or the rules of the commission for the purpose of
2286 deceiving the commission [~~or~~], the department, [~~or any of their officials or employees~~] the
2287 attorney general, or an official or employee of the commission, department, or attorney general,
2288 is subject to:

2289 (i) the immediate suspension or revocation of the beer wholesaling license; and

2290 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2291 (7) A licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any
2292 way to dispose of the beer wholesaling license to any person, whether for monetary gain or not,

2293 unless it is done:

2294 (a) in accordance with the commission rules; and

2295 (b) after written consent has been given by the commission.

2296 (8) A licensee may not sell or distribute any alcoholic beverage that is not clearly
2297 labeled in a manner reasonably calculated to put the public on notice that the beverage is an
2298 alcoholic beverage. The beverage shall bear the label "alcoholic beverage" or a manufacturer's
2299 label which in common usage apprises the general public that the beverage contains alcohol.

2300 Section 14. Section **32A-12-304** is amended to read:

2301 **32A-12-304. Making false statements.**

2302 (1) (a) ~~[Any]~~ A person who makes ~~[any]~~ a false material statement under oath or
2303 affirmation in ~~[any]~~ an official proceeding before the commission or ~~[the department]~~ a hearing
2304 examiner appointed by the commission is guilty of a second degree felony.

2305 (b) As used in Subsection (1)(a), "material" statement is as defined in Section
2306 76-8-501.

2307 (2) A person is guilty of a class B misdemeanor if that person knowingly:

2308 (a) makes a false statement under oath or affirmation in ~~[any]~~ an official proceeding
2309 before the commission or ~~[the department]~~ a hearing examiner appointed by the commission;

2310 (b) makes a false statement with a purpose to mislead a public servant in performing
2311 that public servant's official functions under this title;

2312 (c) makes a false statement and the statement is required by this title to be sworn or
2313 affirmed before a notary or other person authorized to administer ~~[oaths]~~ an oath;

2314 (d) makes a false written statement on or pursuant to ~~[any]~~ an application, form,
2315 affidavit, or document required by this title;

2316 (e) creates a false impression in a written application, form, affidavit, or document
2317 required by this title by omitting information necessary to prevent ~~[statements in them]~~ a
2318 statement in the application, form affidavit, or document from being misleading;

2319 (f) makes a false written statement with intent to deceive a public servant in the
2320 performance of that public servant's official functions under this title; or

2321 (g) submits or invites reliance on ~~[any]~~ a writing or document required under this title
2322 ~~[which he knows to be lacking in]~~ that the person knows lacks authenticity.

2323 (3) A person is not guilty under Subsection (2) if that person retracts the falsification

2324 before it becomes apparent that the falsification [~~was~~] is or would be exposed.

2325 Section 15. Section **32A-12-305** is amended to read:

2326 **32A-12-305. Obstructing an officer making a search or an official proceeding or**
2327 **investigation.**

2328 (1) A person in or having charge of [~~any~~] a premises may not refuse or fail to admit to
2329 the premises or obstruct the entry of [~~any~~]:

2330 (a) a member of the commission[;];

2331 (b) an authorized representative of the commission or department[~~;~~or ~~any~~];

2332 (c) a law enforcement officer who demands entry when acting under this title[;]; or

2333 (d) an authorized representative of the attorney general who demands entry when
2334 acting under this title.

2335 (2) A person in or having charge of [~~any~~] a premises may not interfere with any of the
2336 following who is conducting an investigation under this title at the premises:

2337 (a) a member of the commission;

2338 (b) an authorized representative of the commission or department; [~~or~~]

2339 (c) any law enforcement officer[;]; or

2340 (d) an authorized representative of the attorney general.

2341 (3) A person is guilty of a second degree felony if, believing that an official proceeding
2342 or investigation is pending or about to be instituted under this title, that person:

2343 (a) alters, destroys, conceals, or removes [~~any~~] a writing or record with a purpose to
2344 impair its verity or availability in the proceeding or investigation; or

2345 (b) makes, presents, or uses anything that the person knows to be false with a purpose
2346 to deceive [~~any~~]:

2347 (i) a commissioner[;];

2348 (ii) a department official or employee[;];

2349 (iii) a law enforcement official[~~;~~or ~~other~~];

2350 (iv) the attorney general; or

2351 (v) another person who may be engaged in a proceeding or investigation under this
2352 title.

2353 Section 16. Section **32A-12-306** is amended to read:

2354 **32A-12-306. Conflicting interests.**

2355 (1) A member of the commission, the department director, [~~or any~~] an employee of the
 2356 department, or a representative of the attorney general who regularly acts under this title, may
 2357 not be directly or indirectly interested or engaged in [~~any other~~] another business or
 2358 undertaking dealing in an alcoholic [~~products,~~] product:

2359 (a) whether as:

2360 (i) owner[;];

2361 (ii) part owner[;];

2362 (iii) partner[;];

2363 (iv) member of syndicate[;];

2364 (v) shareholder[;];

2365 (vi) agent[;]; or

2366 (vii) employee; and

2367 (b) whether for the member's own benefit or in a fiduciary capacity for some other
 2368 person [~~or entity~~].

2369 (2) A member of the commission, the department director, [~~or any~~] an employee of the
 2370 department, or a representative of the attorney general who regularly acts under this title, may
 2371 not enter into or participate in [~~any~~] a business transaction as a partner, co-owner, joint
 2372 venturer, or shareholder with [~~any~~] an agent, representative, employee, or officer of [~~any~~] a
 2373 supplier of an alcoholic [~~products~~] product to the department.

2374 (3) The following are governed by Title 67, Chapter 16, Utah Public Officers' and
 2375 Employees' Ethics Act:

2376 (a) a member of the commission;

2377 (b) the department director; [~~or~~]

2378 (c) [~~any~~] an employee of the department[;]; or

2379 (d) a representative of the attorney general who regularly acts under this title.

2380 (4) This section does not prevent the purchase of an alcoholic [~~products by any~~]
 2381 product as authorized by this title by:

2382 (a) a commission member[;];

2383 (b) the department director[; ~~or any~~];

2384 (c) an employee of the department [~~as authorized by this title~~.]; or

2385 (d) a representative of the attorney general.

2386 Section 17. Section **32A-12-307** is amended to read:

2387 **32A-12-307. Interfering with suppliers.**

2388 A member of the commission, the department director, ~~[or]~~ an employee of the
2389 department, or a representative of the attorney general who regularly acts under this title, may
2390 not directly or indirectly participate in any manner, by recommendation or otherwise, in the
2391 appointment, employment, or termination of appointment or employment of any agent,
2392 representative, employee, or officer of ~~[any]~~ a manufacturer, supplier, or importer of liquor,
2393 wine, or heavy beer to the department except:

2394 (1) to determine ~~[qualifications]~~ a qualification for licensing under Chapter 8, Part 5,
2395 Local Industry Representative Licenses~~[-, and]; or~~

2396 (2) to enforce compliance with this title.

2397 Section 18. Section **32A-12-308** is amended to read:

2398 **32A-12-308. Offering or soliciting bribes or gifts.**

2399 (1) A person having sold, selling, or offering ~~[any]~~ an alcoholic product for sale to the
2400 commission or department may not offer, make, tender, or in any way deliver or transfer ~~[any]~~
2401 a bribe, gift as defined in Section 67-16-5, or a share of profits to:

2402 (a) ~~[any]~~ a commissioner;

2403 (b) the department director;

2404 (c) ~~[any]~~ a department employee; ~~[or]~~

2405 (d) ~~[any]~~ a law enforcement officer responsible for the enforcement of this title~~[-]; or~~

2406 (e) a representative of the attorney general responsible for the enforcement of this title.

2407 (2) A commissioner, the department director, ~~[any]~~ a department employee, ~~[or any]~~ a
2408 law enforcement officer responsible for the enforcement of this title, or a representative of the
2409 attorney general, may not knowingly solicit, receive, accept, take, or seek, directly or

2410 indirectly~~[-any];~~

2411 (a) (i) a commission~~[-];~~

2412 (ii) compensation as defined in Section 67-16-3~~[-];~~

2413 (iii) a gift as defined in Section 67-16-5~~[-];~~ or

2414 (iv) a loan ~~[whatsoever]; and~~

2415 (b) an item listed in Subsection (2)(a) from ~~[any]~~ a person, association, or corporation
2416 having sold, selling, or offering any alcoholic product for sale.

2417 (3) A violation of this section is punishable under ~~[the provisions of]~~ Section 67-16-12.
 2418 Section 19. Section **32A-12-310** is amended to read:

2419 **32A-12-310. Forgery.**

2420 (1) (a) ~~[Any]~~ A person, with a purpose to defraud the commission ~~[or]~~, the department,
 2421 or the attorney general or with knowledge that ~~[he]~~ the person is facilitating a fraud to be
 2422 perpetrated by anyone, who forges ~~[any]~~ a writing required under this title, is guilty of forgery
 2423 as provided under Section 76-6-501.

2424 (b) A violation of Subsection (1)(a) is a second degree felony.

2425 (2) ~~[Any]~~ A person, with intent to defraud the commission ~~[or]~~, the department, or the
 2426 attorney general who knowingly possesses ~~[any]~~ a writing that is a forgery as defined in Section
 2427 76-6-501, is guilty of a third degree felony.

2428 Section 20. Section **32A-13-108** is amended to read:

2429 **32A-13-108. Duties to enforce this title.**

2430 (1) It is the duty of the following to diligently enforce this title in their respective
 2431 capacities:

2432 (a) the governor~~[, the commissioners,];~~

2433 (b) a commissioner;

2434 (c) the director ~~[and all officials, inspectors, and employees]~~ of the department;

2435 (d) an official, inspector, or employee of the department~~[, all];~~

2436 (e) the attorney general;

2437 (f) a prosecuting ~~[officials]~~ official of the state ~~[and its political subdivisions and of~~
 2438 counties, cities, and towns, all peace officers, sheriffs, deputy sheriffs, constables, marshals,] or
 2439 a political subdivision;

2440 (g) a county, city, or town;

2441 (h) a peace officer, sheriff, deputy sheriff, constable, marshal, or law enforcement
 2442 ~~[officials,]~~ official;

2443 (i) a state health ~~[officials,]~~ official; and ~~[all clerks]~~

2444 (j) a clerk of the courts ~~[to diligently enforce this title in their respective capacities].~~

2445 (2) Immediately upon conviction of ~~[any]~~ a person for violation of this title or
 2446 commission rules, or for violation of ~~[any]~~ a local ordinance relating to an alcoholic ~~[products]~~
 2447 product, it is the duty of the clerk of the court to notify the department and the attorney general

2448 of the conviction in writing on forms supplied by the department.

2449 Section 21. Section **32A-13-109** is amended to read:

2450 **32A-13-109. Authority to inspect.**

2451 (1) (a) For purposes of enforcing this title and commission rules, [~~all members of the~~
2452 ~~commission, authorized representatives of the commission or department, or any law~~
2453 ~~enforcement or peace officer] the following shall be accorded access, ingress, and egress to and
2454 from all premises or conveyances used in the manufacture, storage, transportation, service, or
2455 sale of [~~any~~] an alcoholic product[~~. They also may open any~~]:~~

2456 (i) a member of the commission;

2457 (ii) an authorized representative of the commission or department;

2458 (iii) an authorized representative of the attorney general; or

2459 (iv) a law enforcement or peace officer.

2460 (b) A person described in Subsections (1)(a)(i) through (iv) may:

2461 (i) open a package containing, or supposed to contain, [~~any~~] an article manufactured,
2462 sold, or exposed for sale, or held in possession with intent to sell in violation of this title or
2463 commission rules[~~, and may inspect its contents and~~];

2464 (ii) inspect the contents of a package described in this Subsection (1)(b); and

2465 (iii) take samples of the contents of a package described in this Subsection (1)(b) for
2466 analysis.

2467 (2) [~~All dealers, clerks, bookkeepers, express agents, railroad and airline officials,~~
2468 ~~common and other carriers, and their employees] A dealer, clerk, bookkeeper, express agent,
2469 railroad or airline official, common and other carrier, or an employee shall assist, when so
2470 requested by [~~any~~] an authorized person specified in Subsection (1), in tracing, finding, or
2471 discovering the presence of [~~any~~] an article prohibited by this title or commission rules to the
2472 extent assistance would not infringe upon the person's federal and state constitutional rights.~~

2473 Section 22. Section **32A-14a-104** is amended to read:

2474 **32A-14a-104. Governmental immunity.**

2475 No provision of this title creates any civil liability on the part of the state or its agencies
2476 and employees, the commission, the department, the attorney general, or any political
2477 subdivision arising out of their activities in regulating, controlling, authorizing, or otherwise
2478 being involved in the sale or other distribution of alcoholic beverages.

- 2479 Section 23. Section **32A-15a-102** is amended to read:
- 2480 **32A-15a-102. Definitions.**
- 2481 (1) As used in this chapter:
- 2482 (a) "Objecting governmental entity" means:
- 2483 (i) a local government entity;
- 2484 (ii) a prosecutor's office; or
- 2485 (iii) a law enforcement agency.
- 2486 (b) "Nuisance activity" means:
- 2487 (i) a judicial finding that a licensed establishment is a common public nuisance under
- 2488 Section 32A-13-106;
- 2489 (ii) a single felony conviction within the last two years of:
- 2490 (A) a retail licensee; or
- 2491 (B) any supervisory or managerial level employee of the licensee;
- 2492 (iii) a single conviction under Title 58, Chapter 37, Utah Controlled Substances Act:
- 2493 (A) (I) of a retail licensee; or
- 2494 (II) an employee of the licensee;
- 2495 (B) within the last two years; and
- 2496 (C) made on the basis of activities that occurred on the licensed premises;
- 2497 (iv) three or more convictions of patrons of a retail licensee under Title 58, Chapter 37,
- 2498 Utah Controlled Substances Act, if:
- 2499 (A) the convictions are made on the basis of activities that occurred on the licensed
- 2500 premises; and
- 2501 (B) there is evidence that the licensee knew or should have known of the illegal
- 2502 activity;
- 2503 (v) a single conviction within the last two years of a retail licensee or any employee of
- 2504 the licensee that is made on the basis of:
- 2505 (A) pornographic and harmful materials:
- 2506 (I) that are in violation of Title 76, Chapter 10, Part 12, Pornographic and Harmful
- 2507 Materials and Performances; and
- 2508 (II) if the violation occurs on the licensed premises;
- 2509 (B) prostitution;

2510 (C) engaging in or permitting gambling, as defined and proscribed in Title 76, Chapter
2511 10, Part 11, Gambling, on the licensed premises;

2512 (D) having any video gaming device, as defined and proscribed by Title 76, Chapter
2513 10, Part 11, Gambling, on the licensed premises;

2514 (E) on the licensed premises engaging in or permitting a contest, game, gaming
2515 scheme, or gaming device that requires the risking of something of value for a return or for an
2516 outcome when the return or outcome is based upon an element of chance, excluding the playing
2517 of an amusement device that confers only an immediate and unrecorded right of replay not
2518 exchangeable for value;

2519 (F) a disturbance of the peace that occurs on the licensed premises; or

2520 (G) disorderly conduct that occurs on the licensed premises; or

2521 (vi) three or more adjudicated violations of this title within the last two years by a retail
2522 licensee or by the retail licensee's employees that result in a criminal citation or an
2523 administrative referral to the department or attorney general relating to:

2524 (A) the sale, service, or furnishing of alcohol to a minor;

2525 (B) the sale, service, or furnishing of alcohol to a person actually, apparently, or
2526 obviously intoxicated;

2527 (C) the sale or service of alcohol after lawful sales or service hours; or

2528 (D) acts or conduct on the licensed premises contrary to the public welfare and morals
2529 involving lewd acts or lewd entertainment prohibited by this title.

2530 (2) For purposes of Subsection (1)(b), "retail licensee" means:

2531 (a) a person to whom a retail license [~~has been~~] is issued by the commission; and

2532 (b) in the case of a licensee that is a partnership, corporation, or limited liability
2533 company any of the following that is convicted of [~~any~~] an offense described in Subsection
2534 (1)(b):

2535 (i) a partner;

2536 (ii) a managing agent;

2537 (iii) a manager;

2538 (iv) an officer;

2539 (v) a director;

2540 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a

2541 corporate licensee; or

2542 (vii) a member who owns at least 20% of a limited liability company licensee.

2543 Section 24. Section **32A-15a-202** is amended to read:

2544 **32A-15a-202. Formal objections to renewal.**

2545 (1) The department shall notify governmental entities that in accordance with this part
2546 an objecting governmental entity may file with the commission an objection to the renewal of a
2547 retail licensee's alcoholic beverage license in the objecting governmental entity's community.

2548 (2) The department, the attorney general, or an objecting governmental entity may file
2549 with the commission a formal objection to any license being renewed by the commission if the
2550 formal objection:

2551 (a) is filed on the basis of nuisance activity;

2552 (b) is filed no later than 60 days before the expiration date of the retail licensee's
2553 license; and

2554 (c) states with particularity all relevant facts and circumstances relating to the nuisance
2555 activity that forms the basis for the formal objection.

2556 Section 25. Section **32A-15a-203** is amended to read:

2557 **32A-15a-203. Hearing on formal objections to renewal.**

2558 (1) Upon receipt of a formal objection that meets the requirements of Section
2559 32A-15a-202, the [~~department~~] attorney general shall:

2560 (a) issue a notice of agency action; and

2561 (b) serve on the retail licensee no later than 30 days before the expiration of the retail
2562 licensee's license:

2563 (i) the notice of agency action; and

2564 (ii) a copy of the formal objection.

2565 (2) (a) A retail licensee against whom a notice of agency action is served under
2566 Subsection (1) may request a hearing.

2567 (b) The request for hearing described in Subsection (2)(a) shall be:

2568 (i) in writing; and

2569 (ii) filed with the commission within ten days of the day on which the notice of agency
2570 action is served on the retail licensee.

2571 (c) If a retail licensee fails to file a request for hearing in accordance with this

2572 Subsection (2), the commission may not renew the license of the retail licensee.

2573 (3) (a) Upon receipt of a request for hearing meeting the requirements of Subsection
2574 (2), the department shall immediately schedule a hearing that shall be:

2575 (i) held no later than ten days before the expiration date of the retail licensee's license;
2576 and

2577 (ii) electronically recorded by the department.

2578 (b) The retail licensee or an objecting governmental entity, at its own expense, may
2579 have a reporter approved by the department prepare a transcript from the department's record of
2580 the hearing.

2581 (c) (i) The ~~[department]~~ attorney general shall present information at the hearing that
2582 supports a finding that nuisance activities occurred.

2583 (ii) The information described in Subsection (3)(c)(i) shall be made a part of the record
2584 of the hearing.

2585 (d) The retail licensee shall:

2586 (i) have the opportunity to challenge or explain whether any of the nuisance activities
2587 that form the basis for the formal objection occurred; and

2588 (ii) be permitted to:

2589 (A) testify;

2590 (B) present evidence; and

2591 (C) comment on the issues at the hearing.

2592 (4) (a) ~~[Any]~~ A hearing held under this chapter shall be conducted under the authority
2593 of the commission.

2594 (b) The commission is responsible for rendering a final order on whether a retail
2595 licensee's license shall be renewed.

2596 (c) Notwithstanding Subsections (4)(a) and (b), the commission may appoint a
2597 necessary hearing ~~[examiners]~~ examiner to administer the hearing process.

2598 (d) The commission or the hearing examiner appointed by the commission shall serve
2599 as the presiding officer at a hearing held under this section.

2600 (e) The presiding officer at a hearing held under this section:

2601 (i) shall evaluate:

2602 (A) the information presented at the hearing in support of the formal objection; and

- 2603 (B) any explanation and evidence offered by the retail licensee; and
- 2604 (ii) may consider such factors as:
 - 2605 (A) the length of time the retail licensee has operated the licensed premises;
 - 2606 (B) the condition of the premises;
 - 2607 (C) whether the retail licensee knew or should have known of the nuisance activities in
 - 2608 question;
 - 2609 (D) whether the retail licensee failed to:
 - 2610 (I) make a substantial effort to correct the nuisance activities; and
 - 2611 (II) work with law enforcement to curtail the nuisance activity;
 - 2612 (E) whether the nuisance activities have been ongoing or temporary;
 - 2613 (F) whether the retail licensee or the licensee's employees:
 - 2614 (I) initiated contact with the law enforcement agency on the nuisance activities; and
 - 2615 (II) cooperated with the law enforcement agency's investigation; and
 - 2616 (G) whether prior efforts to stop the nuisance activities by the community or the retail
 - 2617 licensee have been unsuccessful.
 - 2618 (5) An order issued under this section shall:
 - 2619 (a) be based on the evidence presented at the hearing; and
 - 2620 (b) state whether:
 - 2621 (i) the continued operation of the licensed establishment will endanger the public
 - 2622 health, peace, safety, welfare, or morals of the community; and
 - 2623 (ii) the license should or should not be renewed.
 - 2624 (6) (a) If the presiding officer is a hearing examiner appointed by the commission, the
 - 2625 hearing officer shall issue a signed order in writing that:
 - 2626 (i) complies with Subsection (5);
 - 2627 (ii) recommends to the commission whether the license should or should not be
 - 2628 renewed;
 - 2629 (iii) states the reasons for the hearing officer's decision; and
 - 2630 (iv) notifies the retail licensee and the objecting governmental entity that the hearing
 - 2631 examiner's order will be considered by the commission at the next regularly scheduled meeting
 - 2632 of the commission.
 - 2633 (b) The department shall promptly mail a copy of the hearing examiner's order to:

2634 (i) the retail licensee; and
2635 (ii) any objecting governmental entity.
2636 (c) The commission at its next regularly scheduled meeting after receipt of a hearing
2637 examiner's order, shall decide whether to renew or not renew the license on the basis of:
2638 (i) the record and evidence presented at the hearing; and
2639 (ii) the hearing examiner's recommendation.
2640 (7) (a) As an alternative to ordering in accordance with this section that a retail license
2641 not be renewed, the commission may conditionally renew a retail license by requiring that:
2642 (i) the licensee and the licensed premises be closely monitored during the licensing
2643 year by:
2644 (A) the department;
2645 (B) local government officials; and
2646 (C) law enforcement; and
2647 (ii) the matter be reviewed prior to the next renewal period.
2648 (b) The commission may conditionally renew a retail license contingent on any person
2649 listed in Subsection (7)(b)(ii) divesting all interest in the retail licensed business if:
2650 (i) the retail licensee is a partnership, corporation, or limited liability company; and
2651 (ii) the formal objection filed under this section if filed solely on the basis of a felony
2652 conviction:
2653 (A) of:
2654 (I) a partner;
2655 (II) a managing agent;
2656 (III) a manager;
2657 (IV) an officer;
2658 (V) a director;
2659 (VI) a stockholder who holds at least 20% of the total issued and outstanding stock of a
2660 corporate licensee; or
2661 (VII) a member who owns at least 20% of a limited liability company licensee; and
2662 (B) for illegal activity that occurred off of the licensed premises.
2663 (8) (a) In accordance with this section, the commission shall issue a written order
2664 setting forth the commission's decision and the reason for the commission's decision.

2665 (b) The order described in Subsection (8)(a) is considered final on the date the order
2666 becomes effective.

2667 (c) The department shall serve a copy of the order on the retail licensee.

2668 (9) A licensee whose license has not been renewed by order of the commission may
2669 seek judicial review under the procedures provided in Section 32A-1-120.

2670 (10) A licensee whose license is not renewed may not reapply for a license under this
2671 title for three years from the date the license is not renewed.

Legislative Review Note
as of 1-24-08 6:09 PM

Office of Legislative Research and General Counsel

H.B. 344 - Alcoholic Beverage Enforcement Provisions

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will require an appropriation from the Liquor Control Fund of \$88,800 to fund the Attorney General's Office for increased enforcement costs. This will also reduce General Fund revenue by \$88,800.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$88,800)	(\$88,800)
Liquor Control Fund	\$0	\$88,800	\$88,800	\$0	\$0	\$0
Total	\$0	\$88,800	\$88,800	\$0	(\$88,800)	(\$88,800)

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.
