

EXEMPTION FOR ALCOHOLIC BEVERAGE

MANUFACTURING LICENSE

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine A. Johnson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address exemptions from manufacturing license requirements.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates an exemption from licensure for a fermented beverage manufactured in an individual's personal residence;
- ▶ allows storage and transportation; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32A-8-101, as last amended by Laws of Utah 2003, Chapter 314

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



28 Section 1. Section **32A-8-101** is amended to read:

29 **32A-8-101. Commission's power to grant licenses -- Limitations.**

30 (1) The commission may issue an alcoholic beverage manufacturing [~~licenses to~~
31 ~~manufacturers whose businesses are~~] license to a manufacturer whose business is located in
32 this state for the manufacture, storage, and sale of alcoholic beverages for each type of license
33 provided by this chapter.

34 (2) The type of manufacturing licenses issued under this chapter are known as a:

35 (a) winery [~~licenses~~] license;

36 (b) distillery [~~licenses~~] license; and

37 (c) brewery [~~licenses~~] license.

38 (3) (a) [~~A~~] Except as provided in Subsection (6), a person may not manufacture [any]
39 an alcoholic beverage unless an alcoholic beverage manufacturing license [~~has been~~] is issued
40 by the commission.

41 (b) A separate license is required for each place of manufacture, storage, and sale of an
42 alcoholic [~~beverages~~] beverage.

43 (c) Violation of this Subsection (3) is a class B misdemeanor.

44 (4) [~~Brewers~~] (a) A brewer located outside the state [~~are~~] is not required to be licensed
45 under this chapter. [~~However, they~~]

46 (b) A brewer described in Subsection (4)(a) must obtain a certificate of approval from
47 the department before selling or delivering:

48 (i) beer to a licensed beer [~~wholesalers~~] wholesaler in this state[;]; or

49 (ii) if a small brewer, beer to a licensed beer [~~wholesalers or retailers~~] wholesaler or
50 retailer in this state.

51 [~~(a)~~] (c) A brewer seeking a certificate of approval shall file a written application with
52 the department, in a form prescribed by the department. The application shall be accompanied
53 by:

54 (i) a nonrefundable \$50 application fee;

55 (ii) an initial certificate of approval fee of \$250 that is refundable if a certificate is not
56 granted;

57 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and
58 Firearms to brew beer and heavy beer products; and

59 (iv) any other information or documents the department may require.
 60 ~~[(b) Each]~~ (d) (i) An application shall be signed and verified by oath or affirmation by:
 61 (A) a partner if the brewer is a partnership[;]; or [by]
 62 (B) an executive officer, manager, or person specifically authorized by a corporation or
 63 limited liability company to sign the application ~~[to which shall be attached written evidence of~~
 64 ~~this authority].~~

65 (ii) The brewer filing an application shall attach to the application written evidence of
 66 the authority of the person described in Subsection (4)(d)(i) to sign the application.

67 ~~[(c)]~~ (e) (i) All certificates of approval expire on December 31 of each year.

68 (ii) ~~[Brewers]~~ A brewer desiring to renew ~~[their certificates]~~ its certificate shall submit
 69 a renewal fee of \$200, and a completed renewal application to the department no later than
 70 November 30 of the year the certificate expires.

71 (iii) Failure to meet the renewal requirements ~~[shall result]~~ results in an automatic
 72 forfeiture of the certificate effective on the date the existing certificate expires.

73 (iv) ~~[Renewal applications]~~ A renewal application shall be in a form prescribed by the
 74 department.

75 (5) The commission may prescribe by policy, directive, or rule, consistent with this
 76 title, the general operational requirements of licensees relating to:

- 77 (a) physical facilities;
- 78 (b) conditions of sale, storage, or manufacture of alcoholic beverages;
- 79 (c) storage and sales quantity limitations; and
- 80 (d) other matters considered appropriate by the commission.

81 (6) (a) As used in this Subsection (6), "fermented alcoholic beverage" means an
 82 alcoholic beverage that:

- 83 (i) contains at least .5% alcohol by volume; and
- 84 (ii) is obtained by fermentation.

85 (b) An individual may without being licensed under this chapter manufacture in the
 86 individual's personal residence a fermented alcoholic beverage if:

- 87 (i) the individual is 21 years of age or older;
- 88 (ii) the individual manufactures no more than 100 gallons of the fermented alcoholic
 89 beverage in a calendar year for each member of that individual's household that is 21 years of

90 age or older;

91 (iii) the fermented alcoholic beverage is manufactured and used for:

92 (A) personal consumption; or

93 (B) an organized event where fermented alcoholic beverages are judged as to taste and

94 quality; and

95 (iv) the fermented alcoholic beverage is not sold or offered for sale.

96 (c) An individual may store a fermented alcoholic beverage manufactured as provided

97 in Subsection (6)(b) in the individual's personal residence.

98 (d) An individual exempt from licensure under this Subsection (6) may transport the

99 alcoholic beverage manufactured in accordance with Subsection (6)(b) if:

100 (i) the fermented alcoholic beverage is being transported to and from an organized

101 event where the fermented alcoholic beverage is judged as to taste and quality; and

102 (ii) the individual transports the alcoholic beverage in compliance with Section

103 41-6a-526.

Legislative Review Note

as of 2-5-08 12:54 PM

Office of Legislative Research and General Counsel

H.B. 425 - Exemption for Alcoholic Beverage Manufacturing License

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Individuals may benefit from this change in statute.
