

1                                   **ALCOHOLIC BEVERAGE CONTROL**

2                                                           **AMENDMENTS**

3                                                                                   2008 GENERAL SESSION

4                                                                                   STATE OF UTAH

5                                                                                   **Chief Sponsor: Curtis S. Bramble**

6                                                                                   House Sponsor: Stephen H. Urquhart

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8   **LONG TITLE**

9   **General Description:**

10           This bill modifies the Alcoholic Beverage Control Act.

11   **Highlighted Provisions:**

12           This bill:

- 13           ▶ modifies definition provisions;
- 14           ▶ addresses presentation of proof of age;
- 15           ▶ enacts the Malted Beverage Act, including:
  - 16               • providing for the treatment of a flavored malt beverage as a liquor;
  - 17               • addressing approval of the label and packaging of a malt beverage; and
  - 18               • providing transition protections;
- 19           ▶ enacts provisions related to criminal background checks;
- 20           ▶ addresses proximity restrictions;
- 21           ▶ addresses markups;
- 22           ▶ adjusts quota requirements for licenses;
- 23           ▶ addresses the dispensing of spirituous liquor;
- 24           ▶ addresses the amount of spirituous liquor that may be before a patron or attendee;
- 25           ▶ prohibits conduct related to controlled substances and drug paraphernalia;
- 26           ▶ modifies requirements related to price lists and private clubs;
- 27           ▶ establishes requirements related to the display of beer;
- 28           ▶ expands provisions prohibiting operation without a license or permit; and
- 29           ▶ makes technical and conforming amendments.

30 **Monies Appropriated in this Bill:**

31 This bill appropriates:

- 32 ▶ as an ongoing appropriation subject to future budget constraints, \$1,589,100 from
- 33 the Liquor Control Fund for fiscal year 2008-09 to the Division of Substance Abuse
- 34 and Mental Health within the Department of Human Services.

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **32A-1-105**, as last amended by Laws of Utah 2007, Chapter 284
- 40 **32A-1-116**, as last amended by Laws of Utah 2007, Chapter 284
- 41 **32A-1-119**, as last amended by Laws of Utah 2007, Chapter 284
- 42 **32A-1-122**, as last amended by Laws of Utah 2007, Chapter 284
- 43 **32A-1-302**, as last amended by Laws of Utah 2002, Chapter 161
- 44 **32A-1-304**, as last amended by Laws of Utah 2002, Chapter 161
- 45 **32A-2-101**, as last amended by Laws of Utah 2003, Chapters 292 and 314
- 46 **32A-3-101**, as last amended by Laws of Utah 2003, Chapters 292 and 314
- 47 **32A-3-102**, as last amended by Laws of Utah 2003, Chapter 314
- 48 **32A-4-101**, as last amended by Laws of Utah 2006, Chapter 162
- 49 **32A-4-102**, as last amended by Laws of Utah 2007, Chapter 284
- 50 **32A-4-104**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 51 **32A-4-106**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 52 **32A-4-206**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 53 **32A-4-302**, as last amended by Laws of Utah 2006, Chapter 162
- 54 **32A-4-303**, as last amended by Laws of Utah 2007, Chapter 284
- 55 **32A-4-305**, as enacted by Laws of Utah 2003, Chapter 314
- 56 **32A-4-307**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 57 **32A-4-401**, as last amended by Laws of Utah 2007, Chapter 284

- 58           **32A-4-402**, as last amended by Laws of Utah 2007, Chapter 284
- 59           **32A-4-406**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 60           **32A-5-101**, as last amended by Laws of Utah 2006, Chapter 162
- 61           **32A-5-102**, as last amended by Laws of Utah 2007, Chapter 284
- 62           **32A-5-104**, as last amended by Laws of Utah 2003, Chapter 314
- 63           **32A-5-107**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 64           **32A-7-101**, as last amended by Laws of Utah 2004, Chapter 268
- 65           **32A-7-106**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 66           **32A-8-101**, as last amended by Laws of Utah 2003, Chapter 314
- 67           **32A-8-401**, as last amended by Laws of Utah 2004, Chapter 268
- 68           **32A-8-501**, as last amended by Laws of Utah 2003, Chapter 314
- 69           **32A-8-503**, as last amended by Laws of Utah 2004, Chapter 268
- 70           **32A-8-505**, as last amended by Laws of Utah 2007, Chapter 284
- 71           **32A-10-101**, as last amended by Laws of Utah 2007, Chapter 284
- 72           **32A-10-102**, as last amended by Laws of Utah 2007, Chapter 284
- 73           **32A-10-201**, as last amended by Laws of Utah 2006, Chapter 162
- 74           **32A-10-202**, as last amended by Laws of Utah 2007, Chapter 284
- 75           **32A-10-204**, as last amended by Laws of Utah 1991, Chapter 5
- 76           **32A-10-206**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 77           **32A-10-306**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 78           **32A-11-106**, as last amended by Laws of Utah 2004, Chapter 268
- 79           **32A-12-212**, as last amended by Laws of Utah 2005, Chapter 152
- 80           **32A-12-222**, as last amended by Laws of Utah 2004, Chapter 268
- 81           **32A-12-301**, as last amended by Laws of Utah 2006, Chapter 162
- 82           **32A-12-307**, as last amended by Laws of Utah 2003, Chapter 314
- 83           **32A-12-603**, as last amended by Laws of Utah 2004, Chapter 268
- 84           **53-10-102**, as last amended by Laws of Utah 2000, Chapter 1
- 85           **76-5-113**, as last amended by Laws of Utah 2004, Chapter 280

86 ENACTS:

87 32A-1-701, Utah Code Annotated 1953

88 32A-1-702, Utah Code Annotated 1953

89 32A-1-703, Utah Code Annotated 1953

90 32A-1-704, Utah Code Annotated 1953

91 32A-1-801, Utah Code Annotated 1953

92 32A-1-802, Utah Code Annotated 1953

93 32A-1-803, Utah Code Annotated 1953

94 32A-1-804, Utah Code Annotated 1953

95 32A-1-805, Utah Code Annotated 1953

96 32A-1-806, Utah Code Annotated 1953

97 32A-1-807, Utah Code Annotated 1953

98 32A-1-808, Utah Code Annotated 1953

99 32A-1-809, Utah Code Annotated 1953



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

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

103 **32A-1-105. Definitions.**

104 As used in this title:

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

108 (2) "Alcoholic [~~beverages~~ means "beer" and "liquor"] beverage" means the following  
109 as the [~~terms are~~] term is defined in this section[-]:

110 (a) beer;

111 (b) flavored malt beverage; and

112 (c) liquor, which on or after October 1, 2008, includes a flavored malt beverage.

113 (3) (a) "Alcoholic [~~products~~] product" means [~~all products~~] a product that:

- 114 ~~[(i) contain:]~~
- 115 ~~[(A)]~~ (i) contains at least ~~[63/100 of 1%]~~ .5% of alcohol by volume; ~~[or]~~ and
- 116 ~~[(B) at least 1/2 of 1% by weight; and]~~
- 117 (ii) ~~[are]~~ is obtained by fermentation, infusion, decoction, brewing, distillation, or ~~[any]~~
- 118 other process that uses ~~[any]~~ liquid or combinations of liquids, whether drinkable or not, to
- 119 create alcohol in an amount greater than the amount prescribed in Subsection (3)(a)(i).
- 120 (b) "Alcoholic ~~[products]~~ product" does not include any of the following common items
- 121 that otherwise come within the definition of an alcoholic ~~[products]~~ product:
- 122 (i) ~~[extracts]~~ except as provided in Subsection (3)(c), extract;
- 123 (ii) ~~[vinegars]~~ vinegar;
- 124 (iii) ~~[ciders]~~ cider;
- 125 (iv) ~~[essences]~~ essence;
- 126 (v) ~~[tinctures]~~ tincture;
- 127 (vi) food ~~[preparations]~~ preparation; or
- 128 (vii) an over-the-counter ~~[drugs and medicines]~~ drug or medicine.
- 129 (c) An extract containing alcohol obtained by distillation is regulated as an alcoholic
- 130 product when it is used as a flavoring in the manufacturing of an alcoholic product.
- 131 (4) "Bar" means a counter or similar structure:
- 132 (a) at which an alcoholic ~~[beverages are]~~ beverage is:
- 133 (i) stored; or
- 134 (ii) dispensed; or
- 135 (b) from which an alcoholic ~~[beverages are]~~ beverage is served.
- 136 (5) (a) ~~["Beer"]~~ Subject to Subsection (5)(d), "beer" means ~~[any]~~ a product that:
- 137 (i) contains ~~[63/100 of 1%]~~ at least .5% of alcohol by volume ~~[or 1/2 of 1% of alcohol~~
- 138 ~~by weight]~~, but not more than 4% of alcohol by volume or 3.2% by weight; and
- 139 (ii) is obtained by fermentation, infusion, or decoction of ~~[any]~~ malted grain.
- 140 (b) Beer may or may not contain hops or other vegetable products.
- 141 (c) Beer includes a product that:

- 142 (i) contains alcohol in the percentages described in Subsection (5)(a); and
- 143 (ii) is referred to as:
  - 144 [~~(A) malt liquor;~~
  - 145 [~~(B) malted beverages; or~~
  - 146 [~~(C) malt coolers.~~
  - 147 (A) beer;
  - 148 (B) ale;
  - 149 (C) porter;
  - 150 (D) stout;
  - 151 (E) lager; or
  - 152 (F) a malt or malted beverage.
- 153 (d) On or after October 1, 2008, "beer" does not include a flavored malt beverage.
- 154 (6) (a) "Beer retailer" means a business that is:
  - 155 (i) engaged, primarily or incidentally, in the retail sale of beer to [~~patrons~~] a patron,
  - 156 whether for consumption on or off the business premises; and
  - 157 (ii) licensed to sell beer by:
    - 158 (A) the commission;
    - 159 (B) a local authority; or
    - 160 (C) both the commission and a local authority.
- 161 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
- 162 beer to [~~patrons~~] a patron for consumption off the beer retailer's premises.
- 163 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 164 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to
- 165 [~~patrons~~] a patron for consumption on the beer retailer's premises, regardless of whether the
- 166 business sells beer for consumption off the beer retailer's premises.
- 167 (7) "Billboard" means [~~any~~] a public display used to advertise including:
  - 168 (a) a light device;
  - 169 (b) a painting;

- 170 (c) a drawing;
- 171 (d) a poster;
- 172 (e) a sign;
- 173 (f) a signboard; or
- 174 (g) a scoreboard.
- 175 (8) "Brewer" means ~~[any]~~ a person engaged in manufacturing:
- 176 (a) beer[-];
- 177 (b) heavy beer; or
- 178 (c) a flavored malt beverage.
- 179 (9) "Cash bar" means the service of an alcoholic ~~[beverages]~~ beverage:
- 180 (a) at:
- 181 (i) a banquet; or
- 182 (ii) a temporary event for which a permit is issued under this title; and
- 183 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
- 184 beverage.
- 185 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 186 a bus company to a group of persons pursuant to a common purpose:
- 187 (a) under a single contract;
- 188 (b) at a fixed charge in accordance with the bus company's tariff; and
- 189 (c) for the purpose of giving the group of persons the exclusive use of the passenger
- 190 bus, coach, or other motor vehicle and a driver to travel together to ~~[a]~~ one or more specified
- 191 ~~[destination or]~~ destinations.
- 192 (11) "Church" means a building:
- 193 (a) set apart for the purpose of worship;
- 194 (b) in which religious services are held;
- 195 (c) with which clergy is associated; and
- 196 (d) which is tax exempt under the laws of this state.
- 197 (12) "Club" and "private club" means any of the following organized primarily for the

198 benefit of its members:

- 199 (a) a social club;
- 200 (b) a recreational association;
- 201 (c) a fraternal association;
- 202 (d) an athletic association; or
- 203 (e) a kindred association.

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

205 (14) "Community location" means:

- 206 (a) a public or private school;
- 207 (b) a church;
- 208 (c) a public library;
- 209 (d) a public playground; or
- 210 (e) a public park.

211 (15) "Community location governing authority" means:

- 212 (a) the governing body of the community location; or
- 213 (b) if the commission does not know who is the governing body of a community
- 214 location, a person who appears to the commission to have been given on behalf of the
- 215 community location authority to prohibit an activity at the community location.

216 [~~14~~] (16) "Department" means the Department of Alcoholic Beverage Control.

217 (17) "Director," unless the context requires otherwise, means the director appointed

218 under Section 32A-1-108.

219 [~~15~~] (18) "Distressed merchandise" means ~~[any]~~ an alcoholic beverage in the

220 possession of the department that is saleable, but for some reason is unappealing to the public.

221 (19) "Flavored malt beverage" means a beverage:

- 222 (a) that contains at least .5% alcohol by volume;
- 223 (b) that is treated by processing, filtration, or another method of manufacture that is not
- 224 generally recognized as a traditional process in the production of a beer as described in 27

225 C.F.R. Sec. 25.55;



226 (c) to which is added a flavor or other ingredient containing alcohol, except for a hop  
227 extract; and

228 (d) (i) for which the producer is required to file a formula for approval with the United  
229 States Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec. 25.55; or

230 (ii) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

231 ~~[(16)]~~ (20) "Guest" means a person accompanied by an active member or visitor of a  
232 club who enjoys only those privileges derived from the host for the duration of the visit to the  
233 club.

234 ~~[(17)]~~ (21) (a) "Heavy beer" means ~~[any]~~ a product that:

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

236 (ii) is obtained by fermentation, infusion, or decoction of ~~[any]~~ malted grain.

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

238 ~~[(18)]~~ (22) "Hosted bar" means the service of an alcoholic ~~[beverages]~~ beverage:

239 (a) without charge; and

240 (b) at a:

241 (i) banquet; or

242 (ii) privately hosted event.

243 ~~[(19)]~~ (23) "Identification card" means ~~[the]~~ an identification card issued under Title 53,  
244 Chapter 3, Part 8, Identification Card Act.

245 ~~[(20)]~~ (24) "Interdicted person" means a person to whom the sale, gift, or provision of  
246 an alcoholic beverage is prohibited by:

247 (a) law; or

248 (b) court order.

249 ~~[(21)]~~ (25) "Intoxicated" means that to a degree that is unlawful under Section  
250 76-9-701 a person is under the influence of:

251 (a) an alcoholic beverage;

252 (b) a controlled substance;

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

254 (d) a combination of Subsections ~~[(21)]~~ (25)(a) through (c).

255 ~~[(22)]~~ (26) "Licensee" means ~~[any]~~ a person issued a license by the commission to sell,  
256 manufacture, store, or allow consumption of an alcoholic ~~[beverages]~~ beverage on premises  
257 owned or controlled by the person.

258 ~~[(23)]~~ (27) "Limousine" means ~~[any]~~ a motor vehicle licensed by the state or a local  
259 authority, other than a bus or taxicab:

260 (a) in which the driver and ~~[passengers]~~ a passenger are separated by a partition, glass,  
261 or other barrier; and

262 (b) that is provided by a company to ~~[an individual or]~~ one or more individuals at a  
263 fixed charge in accordance with the company's tariff for the purpose of giving the ~~[individual or]~~  
264 one or more individuals the exclusive use of the limousine and a driver to travel to ~~[a]~~ one or  
265 more specified ~~[destination or]~~ destinations.

266 ~~[(24)]~~ (28) (a) (i) "Liquor" means alcohol, or ~~[any]~~ an alcoholic, spirituous, vinous,  
267 fermented, malt, or other liquid, or combination of liquids, a part of which is spirituous, vinous,  
268 or fermented, ~~[and all other drinks]~~ or other drink, or drinkable ~~[liquids]~~ liquid that ~~[contain~~  
269 more than 1/2 of 1% of]:

270 (A) contains at least .5% alcohol by volume; and

271 (B) is suitable to use for beverage purposes.

272 (ii) On or after October 1, 2008, "liquor" includes a flavored malt beverage.

273 (b) "Liquor" does not include ~~[any]~~ a beverage defined as a beer~~[- malt liquor, or malted~~  
274 beverage that has an alcohol content of less than 4% alcohol by volume].

275 ~~[(25)]~~ (29) "Local authority" means:

276 (a) the governing body of the county if the premises are located in an unincorporated  
277 area of a county; or

278 (b) the governing body of the city or town if the premises are located in an incorporated  
279 city or a town.

280 ~~[(26)]~~ (30) "Manufacture" means to distill, brew, rectify, mix, compound, process,  
281 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to

282 others.

283           ~~[(27)]~~ (31) "Member" means a person who, after paying regular dues, has full privileges  
284 of a club under this title.

285           ~~[(28)]~~ (32) (a) "Military installation" means a base, air field, camp, post, station, yard,  
286 center, or homeport facility for ~~[any]~~ a ship:

287           (i) (A) under the control of the United States Department of Defense; or

288           (B) of the National Guard;

289           (ii) that is located within the state; and

290           (iii) including ~~[any]~~ a leased facility.

291           (b) "Military installation" does not include ~~[any]~~ a facility used primarily for:

292           (i) civil works;

293           (ii) rivers and harbors projects; or

294           (iii) flood control projects.

295           ~~[(29)]~~ (33) "Minor" means ~~[any person]~~ an individual under the age of 21 years.

296           ~~[(30)]~~ (34) "Nude," "nudity," or "state of nudity" means:

297           (a) the appearance of:

298           (i) the nipple or areola of a female human breast;

299           (ii) a human genital;

300           (iii) a human pubic area; or

301           (iv) a human anus; or

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

303           (i) the nipple or areola of a female human breast;

304           (ii) a human genital;

305           (iii) a human pubic area; or

306           (iv) a human anus.

307           ~~[(31)]~~ (35) "Outlet" means a location other than a state store or package agency where  
308 an alcoholic beverage ~~[beverages are]~~ beverage is sold pursuant to a license issued by the commission.

309           ~~[(32)]~~ (36) "Package" means any of the following containing liquor:

310 (a) a container;

311 (b) a bottle;

312 (c) a vessel; or

313 (d) other receptacle.

314 ~~[(33)]~~ (37) "Package agency" means a retail liquor location operated:

315 (a) under a contractual agreement with the department~~[-]; and~~

316 (b) by a person:

317 (i) other than the state~~[-]; and~~

318 (ii) who is authorized by the commission to sell package liquor for consumption off the  
319 premises of the package agency.

320 ~~[(34)]~~ (38) "Package agent" means ~~[any]~~ a person permitted by the commission to  
321 operate a package agency pursuant to a contractual agreement with the department to sell  
322 liquor from premises that the package agent shall provide and maintain.

323 ~~[(35)]~~ (39) "Permittee" means ~~[any]~~ a person issued a permit by the commission to  
324 perform ~~[acts]~~ an act or exercise ~~[privileges]~~ a privilege as specifically granted in the permit.

325 ~~[(36)]~~ (40) "Person" means ~~[any]~~ an individual, partnership, firm, corporation, limited  
326 liability company, association, business trust, or other form of business enterprise, including a  
327 receiver or trustee, and the plural as well as the singular number, unless the intent to give a  
328 more limited meaning is disclosed by the context.

329 ~~[(37)]~~ (41) "Premises" means ~~[any]~~ a building, enclosure, room, or equipment used in  
330 connection with the sale, storage, service, manufacture, distribution, or consumption of an  
331 alcoholic ~~[products]~~ product, unless otherwise defined in this title or in the rules adopted by the  
332 commission.

333 ~~[(38)]~~ (42) "Prescription" means a writing in legal form, signed by a physician or dentist  
334 and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

335 ~~[(39)]~~ (43) (a) "Privately hosted event" or "private social function" means a specific  
336 social, business, or recreational event;

337 (i) for which an entire room, area, or hall ~~[has been]~~ is leased or rented~~[-]~~ in advance by

338 an identified group[;]; and [~~the event or function~~]

339 (ii) that is limited in attendance to people who [~~have been~~] are specifically designated  
340 and their guests.

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

343 [~~(40)~~] (44) "Proof of age" means:

344 (a) an identification card;

345 (b) an identification that:

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

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

349 (iii) includes date of birth; and

350 (iv) has a picture affixed;

351 (c) a valid driver license certificate that:

352 (i) includes date of birth;

353 (ii) has a picture affixed; and

354 (iii) is issued:

355 (A) under Title 53, Chapter 3, Uniform Driver License Act; or

356 (B) in accordance with the laws of the state in which it is issued;

357 (d) a military identification card that:

358 (i) includes date of birth; and

359 (ii) has a picture affixed; or

360 (e) a valid passport.

361 [~~(41)~~] (45) (a) "Public building" means [~~any~~] a building or permanent structure owned  
362 or leased by the state, a county, or local government entity that is used for:

363 (i) public education;

364 (ii) transacting public business; or

365 (iii) regularly conducting government activities.

366 (b) "Public building" does not mean or refer to ~~[any]~~ a building owned by the state or a  
367 county or local government entity when the building is used by ~~[anyone]~~ a person, in whole or  
368 in part, for a proprietary ~~[functions]~~ function.

369 ~~[(42)]~~ (46) "Representative" means an individual who is compensated by salary,  
370 commission, or ~~[any]~~ other means for representing and selling ~~[the]~~ an alcoholic beverage  
371 ~~[products]~~ product of a manufacturer, supplier, or importer of liquor~~;~~ including:

372 (a) wine~~[-or];~~

373 (b) heavy beer; or

374 (c) on or after October 1, 2008, a flavored malt beverage.

375 ~~[(43)]~~ (47) "Residence" means ~~[the]~~ a person's principal place of abode within Utah.

376 ~~[(44)]~~ (48) "Restaurant" means ~~[any]~~ a business establishment:

377 (a) where a variety of foods is prepared and complete meals are served to the general  
378 public;

379 (b) located on a premises having adequate culinary fixtures for food preparation and  
380 dining accommodations; and

381 (c) that is engaged primarily in serving meals to the general public.

382 ~~[(45)]~~ (49) "Retailer" means ~~[any]~~ a person engaged in the sale or distribution of an  
383 alcoholic ~~[beverages]~~ beverage to ~~[the]~~ a consumer.

384 ~~[(46)]~~ (50) (a) "Sample" includes:

385 (i) a department sample; and

386 (ii) an industry representative sample.

387 (b) "Department sample" means liquor~~[-wine, and heavy beer]~~ that ~~[has been]~~ is placed  
388 in the possession of the department for testing, analysis, and sampling including:

389 (i) wine;

390 (ii) heavy beer; or

391 (iii) on or after October 1, 2008, a flavored malt beverage.

392 (c) "Industry representative sample" means liquor~~[-wine, and heavy beer]~~ that ~~[has~~  
393 ~~been]~~ is placed in the possession of the department;

394 (i) for testing, analysis, and sampling by a local industry [~~representatives~~] representative  
395 on the premises of the department to educate the local industry [~~representatives~~] representative  
396 of the quality and characteristics of the product[-]; and

397 (ii) including:

398 (A) wine;

399 (B) heavy beer; or

400 (C) on or after October 1, 2008, a flavored malt beverage.

401 [~~(47)~~] (51) (a) "School" means [~~any~~] a building used primarily for the general education  
402 of minors.

403 (b) "School" does not include:

404 (i) a nursery school;

405 (ii) an infant day care center; or

406 (iii) a trade or technical school.

407 [~~(48)~~] (52) "Sell," "sale," and "to sell" means [~~any~~] a transaction, exchange, or barter  
408 whereby, for [~~any~~] consideration, an alcoholic beverage is either directly or indirectly  
409 transferred, solicited, ordered, delivered for value, or by [~~any~~] a means or under [~~any~~] a pretext  
410 is promised or obtained, whether done by a person as a principal, proprietor, or as an agent,  
411 servant, or employee, unless otherwise defined in this title or the rules made by the commission.

412 [~~(49)~~] (53) "Seminude," "seminudity," or "state of seminudity" means a state of dress in  
413 which opaque clothing covers no more than:

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

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

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

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

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

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

421 [~~(50)~~] (54) "Sexually oriented entertainer" means a person who while in a state of

422 seminudity appears at or performs:

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

424 (b) on the premises of:

425 (i) a class D private club as defined in Subsection 32A-5-101(3); or

426 (ii) a tavern;

427 (c) on behalf of or at the request of the licensee described in Subsection [~~(50)~~] (54)(b);

428 (d) on a contractual or voluntary basis; and

429 (e) whether or not the person is designated:

430 (i) an employee of the licensee described in Subsection [~~(50)~~] (54)(b);

431 (ii) an independent contractor of the licensee described in Subsection [~~(50)~~] (54)(b);

432 (iii) an agent of the licensee described in Subsection [~~(50)~~] (54)(b); or

433 (iv) otherwise of the licensee described in Subsection [~~(50)~~] (54)(b).

434 [~~(51)~~] (55) "Small brewer" means a brewer who manufactures less than 60,000 barrels  
435 of beer [~~and~~], heavy beer, and flavored malt beverages per year.

436 [~~(52)~~] (56) (a) "Spirituous liquor" means liquor that is distilled.

437 (b) "Spirituous liquor" includes an alcohol product defined as a "distilled spirit" by 27  
438 U.S.C. 211 and 27 C.F.R. Sections 5.11 through 5.23.

439 [~~(53)~~] (57) (a) "State label" means the official label designated by the commission  
440 affixed to [~~all~~] a liquor [~~containers~~] container sold in the state.

441 (b) "State label" includes the department identification mark and inventory control  
442 number.

443 [~~(54)~~] (58) (a) "State store" means a facility for the sale of package liquor:

444 (i) located on premises owned or leased by the state; and

445 (ii) operated by state employees.

446 (b) "State store" does not apply to [~~any~~] a:

447 (i) licensee;

448 (ii) permittee; or

449 (iii) package agency.



450            [~~(55)~~] (59) "Supplier" means [~~any~~] a person selling an alcoholic [~~beverages~~] beverage to  
451 the department.

452            [~~(56)~~] (60) (a) "Tavern" means [~~any~~] a business establishment that is:

453            (i) engaged primarily in the retail sale of beer to a public [~~patrons~~] patron for  
454 consumption on the establishment's premises; and

455            (ii) licensed to sell beer under Chapter 10, Part 2, On-Premise Beer Retailer Licenses.

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

458            (i) a beer bar;

459            (ii) a parlor;

460            (iii) a lounge;

461            (iv) a cabaret; or

462            (v) a nightclub.

463            [~~(57)~~] (61) "Temporary domicile" means the principal place of abode within Utah of a  
464 person who does not have a present intention to continue residency within Utah permanently or  
465 indefinitely.

466            [~~(58)~~] (62) "Unsaleable liquor merchandise" means merchandise that:

467            (a) is unsaleable because the merchandise is:

468            (i) unlabeled;

469            (ii) leaky;

470            (iii) damaged;

471            (iv) difficult to open; or

472            (v) partly filled;

473            (b) is in a container:

474            (i) having faded labels or defective caps or corks;

475            (ii) in which the contents are:

476            (A) cloudy;

477            (B) spoiled; or

478 (C) chemically determined to be impure; or

479 (iii) that contains:

480 (A) sediment; or

481 (B) [~~any~~] a foreign substance; or

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

483 [~~(59)~~] (63) "Visitor" means an individual that in accordance with Section 32A-5-107

484 holds limited privileges in a private club by virtue of a visitor card.

485 [~~(60)~~] (64) "Warehouser" means [~~any~~] a person, other than a licensed manufacturer,

486 engaged in the importation for sale, storage, or distribution of liquor regardless of amount.

487 [~~(61)~~] (65) (a) "Wholesaler" means [~~any~~] a person engaged in the importation for sale,

488 or in the sale of beer in wholesale or jobbing quantities to one or more retailers[~~, other than a~~].

489 (b) Notwithstanding Subsection (65)(a), "wholesaler" does not include a small brewer

490 selling beer manufactured by that brewer.

491 [~~(62)~~] (66) (a) "Wine" means [~~any~~] an alcoholic beverage obtained by the fermentation

492 of the natural sugar content of fruits, plants, honey, or milk, or [~~any~~] other like substance,

493 whether or not [~~other ingredients are~~] another ingredient is added.

494 (b) "Wine" is considered "liquor" for purposes of this title, except as otherwise

495 provided in this title.

496 Section 2. Section **32A-1-116** is amended to read:

497 **32A-1-116. Purchase of liquor.**

498 (1) The department may not purchase or stock spirituous liquor in [~~containers~~] a

499 container smaller than 200 milliliters except as otherwise allowed by the commission.

500 (2) (a) Each order by the department for the purchase of spirituous liquor, wine, [~~or~~]

501 heavy beer, or flavored malt beverage, or any cancellation by the department of an order for

502 spirituous liquor, wine, [~~or~~] heavy beer, or flavored malt beverage:

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

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

505 (b) A copy of each order or cancellation shall be kept on file by the department for at

506 least three years.

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

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

510 **32A-1-119. Disciplinary proceedings -- Procedure.**

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

513 (i) against:

514 (A) a permittee;

515 (B) a licensee;

516 (C) a manufacturer;

517 (D) a supplier;

518 (E) an importer;

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

520 or

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

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

523 (II) a package agent; and

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

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

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

529 (i) the commission;

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

531 Subsection 32A-1-107(3);

532 (iii) the director; and

533 (iv) the department.

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

- 537 (i) the commission;
- 538 (ii) a hearing examiner appointed by the commission;
- 539 (iii) the director; and
- 540 (iv) the department.

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

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

546 (d) ~~[All adjudicative proceedings]~~ An adjudicative proceeding concerning departmental  
547 personnel shall be conducted in accordance with Title 67, Chapter 19, Utah State Personnel  
548 Management Act.

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

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

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

- 558 (ii) A hearing examiner appointed by the commission:
  - 559 (A) may conduct a disciplinary proceeding hearing on behalf of the commission; and
  - 560 (B) shall submit to the commission a report including:
    - 561 (I) findings of fact determined on the basis of a preponderance of the evidence

562 presented at the hearing;

563 (II) conclusions of law; and

564 (III) recommendations.

565 (c) Nothing in this section precludes the commission, after the commission has rendered  
566 its final decision and order, from having the director prepare, issue, and cause to be served on  
567 the parties the final written order on behalf of the commission.

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

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

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

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

578 (b) The department may initiate a disciplinary proceeding if the department receives an  
579 item listed in Subsection (4)(a) to determine:

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

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

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

584 (i) if required by law;

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

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

589 (b) Inexcusable failure of a respondent to appear at a scheduled disciplinary proceeding

590 hearing after receiving proper notice is an admission of the charged violation.

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

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

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

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

600 (A) administer oaths or affirmations;

601 (B) take evidence;

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

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

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

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

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

609 (iii) Any witness subpoenaed or called to testify or produce evidence who claims a  
610 privilege against self-incrimination may not be compelled to testify, but the commission or the  
611 hearing examiner shall file a written report with the county attorney or district attorney in the  
612 jurisdiction where the privilege was claimed or where the witness resides setting forth the  
613 circumstance of the claimed privilege.

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

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

618 (I) appear before the issuing party; and  
619 (II) (Aa) produce documentary evidence if so ordered; or  
620 (Bb) give evidence regarding the matter in question.  
621 (C) Failure to obey an order of the court may be punished by the court as contempt.  
622 (g) (i) In all disciplinary proceeding hearings heard by a hearing examiner, the hearing  
623 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.  
624 (ii) The report required by Subsection (3)(b)(ii) and this Subsection (5)(g) may not  
625 recommend a penalty more severe than that initially sought by the department in the notice of  
626 agency action.  
627 (iii) A copy of the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)  
628 shall be served upon the respective parties.  
629 (iv) The respondent and the department shall be given reasonable opportunity to file any  
630 written objections to the report required by Subsection (3)(b)(ii) and this Subsection (5)(g)  
631 before final commission action.  
632 (h) In all cases heard by the commission, it shall issue its final decision and order in  
633 accordance with Subsection (3).  
634 (6) (a) The commission shall:  
635 (i) render a final decision and order on any disciplinary action; and  
636 (ii) cause its final order to be prepared in writing, issued, and served on all parties.  
637 (b) ~~Any~~ An order of the commission is considered final on the date the order becomes  
638 effective.  
639 (c) If the commission is satisfied that a person listed in Subsections (1)(a)(i)(A) through  
640 (G) has committed a violation of this title or the commission's rules, in accordance with Title 63,  
641 Chapter 46b, Administrative Procedures Act, the commission may:  
642 (i) suspend or revoke the permit, license, or certificate of approval;  
643 (ii) impose a fine against a person listed in Subsections (1)(a)(i)(A) through (G);  
644 (iii) assess the administrative costs of any disciplinary proceeding to the permittee, the  
645 licensee, or certificate holder; or

646 (iv) any combination of Subsections (6)(c)(i) through (iii).

647 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections  
648 32A-1-107(1)(p) and (4).

649 (e) (i) If a permit or license is suspended under this Subsection (6), a sign provided by  
650 the department shall be prominently posted:

651 (A) during the suspension;

652 (B) by the permittee or licensee; and

653 (C) at the entrance of the premises of the permittee or licensee.

654 (ii) The sign required by this Subsection (6)(e) shall:

655 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the  
656 alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be sold,  
657 served, furnished, or consumed on these premises during the period of suspension."; and

658 (B) include the dates of the suspension period.

659 (iii) A permittee or licensee may not remove, alter, obscure, or destroy a sign required  
660 to be posted under this Subsection (6)(e) during the suspension period.

661 (f) If a permit or license is revoked, the commission may order the revocation of any  
662 compliance bond posted by the permittee or licensee.

663 (g) Any permittee or licensee whose permit or license is revoked may not reapply for a  
664 permit or license under this title for three years from the date on which the permit or license is  
665 revoked.

666 (h) All costs assessed by the commission shall be transferred into the General Fund in  
667 accordance with Section 32A-1-113.

668 (7) (a) In addition to any action taken against a permittee, licensee, or certificate holder  
669 under this section, the department may initiate disciplinary action against an officer, employee,  
670 or agent of a permittee, licensee, or certificate holder.

671 (b) If any officer, employee, or agent is found to have violated this title, the commission  
672 may prohibit the officer, employee, or agent from serving, selling, distributing, manufacturing,  
673 wholesaling, warehousing, or handling alcoholic beverages in the course of employment with



674 any permittee, licensee, or certificate holder under this title for a period determined by the  
675 commission.

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

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

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

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

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

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

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

688 (A) any manufacturer, supplier, or importer of liquor, wine, [or] heavy beer, or a  
689 flavored malt beverage, or its officer, employee, agent, or representative violates any provision  
690 of this title; and

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

692 (I) directly committed the violation; or

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

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

698 (b) If the commission makes a finding that the brewer holding a certificate of approval  
699 violates this title or rules of the commission, the commission may take any action against the  
700 brewer holding a certificate of approval that the commission could take against a licensee  
701 including:

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

703 (ii) imposition of a fine.

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

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

709 (ii) the alleged violation involves:

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

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

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

715 (D) interfering or refusing to cooperate with:

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

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

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

721 (F) unlawful importation of alcoholic products; or

722 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection  
723 32A-12-601(2), to any person other than the department or a military installation, except to the  
724 extent permitted by this title; or

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

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

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

728 or

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

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

732 Section 4. Section **32A-1-122** is amended to read:

733 **32A-1-122. Liquor prices -- School lunch program.**

734 (1) For purposes of this section:

735 (a) "Landed case cost" means:

736 (i) the cost of the product; and

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

738 (b) "Landed case cost" does not include the outbound shipping cost from a warehouse  
739 of the department to a state store.

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

743 (b) ~~[All spirituous]~~ Spirituous liquor and wine sold by the department to a military  
744 ~~[installations]~~ installation in Utah shall be marked up in an amount not less than 15% above the  
745 landed case cost to the department.

746 (c) If a wine manufacturer producing less than 20,000 gallons of wine in any calendar  
747 year, as verified by the department pursuant to federal or other verifiable production reports,  
748 first applies to the department for a reduced markup, all wine produced by the wine  
749 manufacturer and sold to the department shall be marked up by the department in an amount not  
750 less than 47% above the landed case cost to the department.

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

754 (b) ~~[All heavy]~~ Heavy beer sold by the department to a military ~~[installations]~~  
755 installation in Utah shall be marked up in an amount not less than 15% above the landed case  
756 cost to the department.

757 (4) (a) Except as provided in Subsection (4)(b), a flavored malt beverage sold by the

758 department within the state shall be marked up in an amount not less than 86% above the landed  
759 case cost to the department.

760 (b) A flavored malt beverage sold by the department to a military installation in Utah  
761 shall be marked up in an amount not less than 15% above the landed case cost to the  
762 department.

763 [~~(4)~~] (5) Ten percent of the total gross revenue from sales of [~~spiritous~~] spirituous  
764 liquor, wine, [~~and~~] heavy beer, and flavored malt beverages shall be deposited by the  
765 department with the state treasurer and credited to the Uniform School Fund to be used to  
766 support the school lunch program administered by the State Board of Education under Section  
767 53A-19-201.

768 [~~(5)~~] (6) Nothing in this section prohibits the department from selling discontinued  
769 items at a discount.

770 Section 5. Section **32A-1-302** is amended to read:

771 **32A-1-302. Presentation of proof of age upon request.**

772 (1) To obtain one or more of the following, a person shall present proof of age at the  
773 request of a person listed in Subsection (2):

774 (a) an alcoholic beverage or alcoholic product; [~~or~~]

775 (b) admittance that under this title may not be obtained by a minor to a premises where  
776 an alcoholic beverage or alcoholic product is sold or consumed; or

777 [~~(b)~~] (c) employment that under this title may not be obtained by a minor.

778 (2) To determine whether the person described in Subsection (1) is 21 years of age, the  
779 following may request a person described in Subsection (1) to present proof of age:

780 (a) a person authorized by law to sell or otherwise handle an alcoholic [~~beverages or~~  
781 ~~products~~] beverage or alcoholic product;

782 (b) a peace officer;

783 (c) a representative of the State Bureau of Investigation of the Department of Public  
784 Safety, established in Section 53-10-301; or

785 (d) an authorized employee of the department.

786 Section 6. Section **32A-1-304** is amended to read:

787 **32A-1-304. Acceptance of identification -- Evidence.**

788 (1) A person authorized by law to sell or otherwise handle an alcoholic [beverages or  
789 products] beverage or alcoholic product may accept as evidence of the legal age of the person  
790 presenting the following:

- 791 (a) proof of age; or
- 792 (b) if a statement of age is required under Subsection 32A-1-303(1):
  - 793 (i) proof of age; and
  - 794 (ii) a statement of age obtained under Section 32A-1-303.

795 (2) A statement of age described in Section 32A-1-303, if properly completed, signed,  
796 and filed in accordance with Section 32A-1-303, may be offered as a defense in ~~[any]~~ a case  
797 where there is at issue the legality of:

- 798 (a) selling or otherwise furnishing an alcoholic beverage or product to the person who  
799 signed the statement of age; ~~[or]~~
- 800 (b) admitting a minor to a premises where an alcoholic beverage or alcoholic product is  
801 sold or consumed; or
- 802 ~~[(b)]~~ (c) allowing the person who signed the statement of age to be employed in any  
803 employment that under this title may not be obtained by a minor.

804 (3) A person may not be subject to a penalty for a violation of this part if it is proved to  
805 the commission or the court hearing the matter that the person charged with the violation acted  
806 in good faith.

807 Section 7. Section **32A-1-701** is enacted to read:

808 **Part 7. Criminal Background Check Act**

809 **32A-1-701. Title.**

810 This part is known as the "Criminal Background Check Act."

811 Section 8. Section **32A-1-702** is enacted to read:

812 **32A-1-702. Requirement for a criminal background check.**

813 (1) The department shall require an individual listed in Subsection (2) to, in accordance

814 with this part:

815 (a) submit a fingerprint card in a form acceptable to the department; and

816 (b) consent to a fingerprint criminal background check by:

817 (i) the Utah Bureau of Criminal Identification; and

818 (ii) the Federal Bureau of Investigation.

819 (2) The following shall comply with Subsection (1):

820 (a) an individual applying for employment with the department;

821 (b) an individual applying to the commission to operate a package agency;

822 (c) an individual applying to the commission for a license;

823 (d) an individual who with regard to an entity that is applying to the commission to

824 operate a package agency or for a license is:

825 (i) a partner;

826 (ii) a managing agent;

827 (iii) a manager;

828 (iv) an officer;

829 (v) a director;

830 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a

831 corporation;

832 (vii) a member who owns at least 20% of a limited liability company; or

833 (viii) an individual employed to act in a supervisory or managerial capacity; or

834 (e) an individual who becomes involved in an entity listed in Subsection (2)(b) or (c) in

835 a capacity listed in Subsection (2)(d) on or after the day on which the entity:

836 (i) is approved to operate a package agency; or

837 (ii) is licensed by the commission.

838 (3) The department shall require compliance with Subsection (2)(e) as a condition of an

839 entity's:

840 (a) continued operation of a package agency; or

841 (b) renewal of a license.

842           (4) The department may require as a condition of continued employment that an  
843 employee:

844           (a) submit a fingerprint card in a form acceptable to the department; and

845           (b) consent to a fingerprint criminal background check by:

846           (i) the Utah Bureau of Criminal Identification; and

847           (ii) the Federal Bureau of Investigation.

848           Section 9. Section **32A-1-703** is enacted to read:

849           **32A-1-703. Use of information from a criminal background check.**

850           The commission or department may use information obtained pursuant to Section  
851 32A-1-702 only for one or more of the following purposes:

852           (1) enforcing this title;

853           (2) determining whether or not an individual is convicted of any of the following  
854 offenses that disqualify the individual under this title from acting in a capacity described in  
855 Subsection 32A-1-702(2):

856           (a) a felony under federal or state law;

857           (b) a violation of a federal law, state law, or local ordinance concerning the sale,  
858 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic beverage;

859           (c) a crime involving moral turpitude; or

860           (d) on two or more occasions within the previous five years, driving under the influence  
861 of alcohol, a drug, or the combined influence of alcohol and a drug;

862           (3) determining whether or not an individual fails to accurately disclose the person's  
863 criminal history on an application or document filed with the department or commission;

864           (4) approving or denying an application for employment with the department;

865           (5) taking disciplinary action against an employee of the department, including possible  
866 termination of employment;

867           (6) granting or denying an application to operate a package agency;

868           (7) granting or denying an application for a license;

869           (8) granting or denying the renewal of a package agency contract;

- 870 (9) granting or denying the renewal of a license;
- 871 (10) suspending the operation of a package agency;
- 872 (11) terminating a package agency contract; or
- 873 (12) suspending or revoking a license.

874 Section 10. Section **32A-1-704** is enacted to read:

875 **32A-1-704. Criminal background check procedure.**

876 (1) (a) An individual described in Subsections 32A-1-702(2)(b) through (e) shall  
877 provide a fingerprint card at the expense of the individual.

878 (b) The department shall pay the expense of obtaining a fingerprint card required of:

- 879 (i) an applicant for employment with the department; or
- 880 (ii) an employee of the department.

881 (2) (a) The department shall obtain information from a criminal history record  
882 maintained by the Utah Bureau of Criminal Identification pursuant to Title 53, Chapter 10, Part  
883 2, Bureau of Criminal Identification, for a purpose outlined in Section 32A-1-703.

884 (b) An individual described in Subsections 32A-1-702(2)(b) through (e) shall pay to the  
885 department the expense of obtaining the criminal history record described in Subsection (2)(a).

886 (c) The department shall pay the expense of obtaining the criminal history record  
887 required for:

- 888 (i) an applicant for employment with the department; or
- 889 (ii) an employee of the department.

890 (3) (a) The department shall submit a fingerprint card obtained under Section  
891 32A-1-702 of an individual who has not resided in the state for at least two years before the day  
892 on which the fingerprint card is submitted to the Utah Bureau of Criminal Identification to be  
893 forwarded to the Federal Bureau of Investigation for a nationwide criminal history record  
894 check.

895 (b) An individual described in Subsections 32A-1-702(2)(b) through (e) shall pay to the  
896 department the expense of obtaining the criminal history record described in Subsection (3)(a).

897 (c) The department shall pay the expense of obtaining the criminal history record



898 required for:

899 (i) an applicant for employment with the department; or

900 (ii) an employee of the department.

901 (4) The department shall pay the Utah Bureau of Criminal Identification the costs

902 incurred in providing the department criminal background information.

903 (5) (a) The commission, the department, or an official or employee of the commission

904 or department may not disseminate a criminal history record obtained under this part to any

905 person except for a purpose described in Section 32A-1-703.

906 (b) (i) Notwithstanding Subsection (5)(a), a criminal history record obtained under this

907 part may be provided by the department to the individual who is the subject of the criminal

908 history record.

909 (ii) The department shall provide an individual who is the subject of a criminal history

910 record and who requests the criminal history record an opportunity to:

911 (A) review the criminal history record; and

912 (B) respond to information in the criminal history record.

913 (6) If an individual described in Subsection 32A-1-702(2) is determined to be

914 disqualified under Subsection 32A-1-703(2)(b), the department shall provide the individual

915 with:

916 (a) notice of the reason for the disqualification; and

917 (b) an opportunity to respond to the disqualification.

918 (7) The department shall maintain the following in one or more separate files so that

919 they may be accessed only for a purpose under Section 32A-1-703:

920 (a) a fingerprint card submitted under this part; and

921 (b) a criminal history record received from:

922 (i) the Utah Bureau of Criminal Identification; and

923 (ii) the Federal Bureau of Investigation.

924 Section 11. Section **32A-1-801** is enacted to read:

925 **Part 8. Malted Beverages Act**

926 **32A-1-801. Title.**

927 This part is known as the "Malted Beverages Act."

928 Section 12. Section **32A-1-802** is enacted to read:

929 **32A-1-802. Definitions.**

930 As used in this part:

931 (1) "Malted beverages" means:

932 (a) beer;

933 (b) a flavored malt beverage; and

934 (c) heavy beer.

935 (2) "Packaging" means the outer packaging that is visible to a consumer such as a  
936 carton, case, or other wrapper of a container.

937 Section 13. Section **32A-1-803** is enacted to read:

938 **32A-1-803. Power of the commission and department to classify flavored malt**  
939 **beverages.**

940 (1) The commission and department shall beginning on October 1, 2008, regulate a  
941 flavored malt beverage as liquor.

942 (2) (a) By no later than October 1, 2008, the department shall make available to the  
943 public on the Internet a list of all flavored malt beverages authorized to be sold in this state as  
944 liquor.

945 (b) The list described in Subsection (2)(a) shall be updated at least quarterly.

946 (3) (a) Beginning on August 1, 2008, a manufacturer shall file, under penalty of perjury,  
947 a report with the department listing each flavored malt beverage manufactured by the  
948 manufacturer that the manufacturer wants to distribute in this state on or after October 1, 2008,  
949 subject to the manufacturer holding:

950 (i) a brewery license under Chapter 8, Part 4, Brewery Licenses; or

951 (ii) a certificate of approval issued by the department under Subsection 32A-8-101(4).

952 (b) On or after October 1, 2008, a manufacturer may not distribute or sell in this state a  
953 flavored malt beverage if the manufacturer does not list the flavored malt beverage in a filing

954 with the department in accordance with this Subsection (3) before distributing or selling the  
955 flavored malt beverage.

956 (4) The department may require a manufacturer of a flavored malt beverage to provide  
957 the department with a copy of the following filed with the United States Alcohol and Tobacco  
958 Trade and Tax Bureau, pursuant to 27 C.F.R. Sec. 25.55:

959 (a) a statement of process; or

960 (b) a formula.

961 (5) (a) A manufacturer of an alcoholic product that the department is classifying or  
962 proposes to classify as a flavored malt beverage may submit evidence to the department that its  
963 alcoholic product should not be treated as liquor under this section because the alcoholic  
964 product:

965 (i) is obtained by fermentation, infusion, or decoction of a malted grain;

966 (ii) is produced by processing, filtration, or another method of manufacture that is  
967 generally recognized as a traditional process in the production of beer as described in 27 C.F.R.  
968 Sec. 25.55;

969 (iii) does not have added to it a flavor or other ingredient containing alcohol, except for  
970 a hop extract; and

971 (iv) (A) is not one for which the producer is required to file a formula for approval with  
972 the United States Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec.  
973 25.55; or

974 (B) is exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

975 (b) The department shall review the evidence submitted by the manufacturer under this  
976 Subsection (5).

977 (c) The department shall make available to the public on the Internet a list of all  
978 alcoholic beverages authorized under this Subsection (5) to be sold as beer in this state.

979 (d) A decision of the department under this Subsection (5) may be appealed to the  
980 commission.

981 Section 14. Section **32A-1-804** is enacted to read:

982           **32A-1-804. Requirements for labeling and packaging -- Authority of the**  
983 **commission and department.**

984           (1) On or after October 1, 2008, a manufacturer may not distribute or sell a malted  
985 beverage:

986           (a) unless the label and packaging of the malted beverage:

987           (i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; and

988           (ii) clearly gives notice to the public that the malted beverage is an alcoholic beverage;

989 and

990           (b) until the day on which the department in accordance with this title and rules of the  
991 commission approves the label and packaging of the malted beverage.

992           (2) The department shall review the label and packaging of a malted beverage to ensure  
993 that the label and packaging meet the requirements of Subsection (1)(a).

994           (3) A manufacturer may comply with the requirement of Subsection (1)(a)(ii) by  
995 including on a label and packaging for a malted beverage any of the following terms:

996           (a) beer;

997           (b) ale;

998           (c) porter;

999           (d) stout;

1000           (e) lager;

1001           (f) lager beer; or

1002           (g) another class or type designation commonly applied to a malted beverage that  
1003 conveys by a recognized term that the product contains alcohol.

1004           Section 15. Section **32A-1-805** is enacted to read:

1005           **32A-1-805. General procedure for approval.**

1006           (1) To obtain approval of the label and packaging of a malted beverage, the  
1007 manufacturer of the malted beverage shall submit an application to the department for approval.

1008           (2) The application described in Subsection (1) shall be on a form approved by the  
1009 department and include the following:

1010 (a) a copy of a federal certificate of label approval from the Department of Treasury,  
1011 Tax and Trade Bureau, for each brand and label for which the manufacturer is seeking approval;

1012 (b) a complete set of original labels for each size of container of the malted beverage;

1013 (c) a description of the size of the container on which a label will be placed;

1014 (d) a description of each type of container of the malted beverage; and

1015 (e) a description of any packaging for the malted beverage.

1016 (3) The department may assess a reasonable fee for reviewing a label and packaging for  
1017 approval.

1018 (4) (a) The department shall notify a manufacturer within 30 days after the day on  
1019 which the manufacturer submits an application whether the label and packaging is approved or  
1020 denied.

1021 (b) If the department determines that an unusual circumstance requires additional time,  
1022 the department may extend the time period described in Subsection (4)(a).

1023 (5) A manufacturer shall obtain the approval of the department of a revision of a  
1024 previously approved label and packaging before a malted beverage using the revised label and  
1025 packaging may be distributed or sold in this state.

1026 (6) (a) The department may revoke a label and packaging previously approved upon a  
1027 finding that the label and packaging is not in compliance with this title or rules of the  
1028 commission.

1029 (b) The department shall notify the person that applies for the approval of a label and  
1030 packaging at least five business days before the day on which a label and packaging approval is  
1031 considered revoked.

1032 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written  
1033 argument or evidence to the department on why the revocation should not occur.

1034 (7) A manufacturer that applies for approval of a label and packaging may appeal a  
1035 denial or revocation of a label and packaging approval to the commission.

1036 Section 16. Section **32A-1-806** is enacted to read:

1037 **32A-1-806. Special procedure for flavored malt beverages.**

1038 (1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a  
1039 label or package used for a nonalcoholic beverage, beginning October 1, 2008, a manufacturer  
1040 of the flavored malt beverage may not distribute or sell the flavored malt beverage in this state  
1041 until the day on which the manufacturer receives approval of the labeling and packaging from  
1042 the department in accordance with:

1043 (a) Sections 32A-1-804 and 32A-1-805; and

1044 (b) this section.

1045 (2) The department may not approve the labeling and packaging of a flavored malt  
1046 beverage described in Subsection (1) unless in addition to the requirements of Section  
1047 32A-1-804 the labeling and packaging complies with the following:

1048 (a) The label on the flavored malt beverage shall bear a prominently displayed label or a  
1049 firmly affixed sticker that provides the following information:

1050 (i) the statement:

1051 (A) "alcoholic beverage"; or

1052 (B) "contains alcohol"; and

1053 (ii) the alcohol content of the flavored malt beverage.

1054 (b) Any packaging of the flavored malt beverage shall prominently include, either  
1055 imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging, the  
1056 statement:

1057 (i) "alcoholic beverage"; or

1058 (ii) "contains alcohol".

1059 (c) A statement required by Subsection (2)(a) or (b) shall appear in a format required by  
1060 rule made by the commission in accordance with Title 63, Chapter 46a, Utah Administrative  
1061 Rulemaking Act.

1062 (d) A statement of alcohol content required by Subsection (2)(a)(ii):

1063 (i) shall state the alcohol content as a percentage of alcohol by volume or by weight;

1064 (ii) may not use an abbreviation, but shall use the complete words "alcohol," "volume,"  
1065 or "weight"; and

1066 (iii) shall be in a format required by rule made by the commission.  
1067 (3) The department may reject a label or packaging that appears designed to obscure  
1068 the information required by Subsection (2).  
1069 (4) To determine whether or not a flavored malt beverage is described in Subsection (1)  
1070 and subject to this section, the department may consider in addition to other factors one or more  
1071 of the following factors:  
1072 (a) whether the coloring, carbonation, and packaging of the flavored malt beverage:  
1073 (i) is similar to those of a nonalcoholic beverage or product; or  
1074 (ii) can be confused with a nonalcoholic beverage;  
1075 (b) whether the flavored malt beverage possesses a character and flavor distinctive from  
1076 a traditional malted beverage;  
1077 (c) whether the flavored malt beverage is:  
1078 (i) prepackaged;  
1079 (ii) contains high levels of caffeine and other additives; and  
1080 (iii) marketed as a beverage that is specifically designed to provide energy;  
1081 (d) whether the flavored malt beverage contains added sweetener or sugar substitutes;  
1082 or  
1083 (e) whether the flavored malt beverage contains an added fruit flavor or other flavor  
1084 that masks the taste of a traditional malted beverage.

1085 Section 17. Section **32A-1-807** is enacted to read:

1086 **32A-1-807. Rulemaking authority.**

1087 The commission may adopt rules necessary to implement this part.

1088 Section 18. Section **32A-1-808** is enacted to read:

1089 **32A-1-808. Disciplinary proceeding for violation.**

1090 A person who violates this part is subject to a disciplinary proceeding under Section  
1091 32A-1-119.

1092 Section 19. Section **32A-1-809** is enacted to read:

1093 **32A-1-809. Transition protections.**

1094 (1) Except as provided in Subsection (3), a manufacturer of a flavored malt beverage  
1095 may not be held liable under this title for distributing or selling a flavored malt beverage as a  
1096 beer if:

1097 (a) the flavored malt beverage is distributed or sold on or before September 30, 2008;

1098 and

1099 (b) the manufacturer when distributing or selling the flavored malt beverage complies  
1100 with the requirements of this title for distributing or selling a beer including holding:

1101 (i) a brewery license under Chapter 8, Part 4, Brewery Licenses; or

1102 (ii) a certificate of approval issued by the department under Subsection 32A-8-101(4).

1103 (2) Except as provided in Subsection (3), a licensee or permittee may not be held liable  
1104 for the sale, offering, or furnishing of a flavored malt beverage as a beer if:

1105 (a) the flavored malt beverage is sold, offered, or furnished on or before September 30,  
1106 2008; and

1107 (b) the licensee or permittee when selling, offering, or furnishing the flavored malt  
1108 beverage complies with the requirements of this title for selling, offering, or furnishing a beer  
1109 under the license or permit held by the licensee or permittee.

1110 (3) This section does not apply to liability under Chapter 14a, Alcoholic Beverage  
1111 Liability.

1112 Section 20. Section **32A-2-101** is amended to read:

1113 **32A-2-101. Commission's power to establish state stores -- Limitations.**

1114 (1) (a) The commission may establish state stores in numbers and at places, owned or  
1115 leased by the department, [it] the commission considers proper for the sale of liquor, by  
1116 employees of the state, in accordance with this title and the rules made under this title.

1117 (b) [~~Employees of state stores are~~] An employee of a state store is considered  
1118 [~~employees~~] an employee of the department and shall meet all qualification requirements for  
1119 employment [~~outlined~~] in Section 32A-1-111.

1120 (2) (a) The total number of state stores may not at any time aggregate more than that  
1121 number determined by dividing the population of the state by 48,000.



1122 (b) For purposes of this Subsection (2), population shall be determined by:

1123 (i) the most recent United States decennial or special census; or

1124 (ii) ~~[any other]~~ another population determination made by the United States or state

1125 governments.

1126 (3) (a) ~~[A]~~ Except as provided in Subsection (3)(b) or (c), a state store may not be

1127 established;

1128 (i) within 600 feet of ~~[any public or private school, church, public library, public~~

1129 ~~playground, or park]~~ a community location, as measured by the method in Subsection ~~[(4):]~~

1130 (3)(d); or

1131 ~~[(b) A state store may not be established]~~

1132 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~

1133 ~~playground, or park]~~ a community location, measured in a straight line from the nearest

1134 entrance of the proposed state store to the nearest property boundary of the ~~[public or private~~

1135 ~~school, church, public library, public playground, or park]~~ community location.

1136 ~~[(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the~~

1137 ~~following exceptions applies:]~~

1138 ~~[(i) with]~~ (b) With respect to the establishment of a state store ~~[within a city of the~~

1139 ~~third, fourth, or fifth class, a town, or the unincorporated area of a county],~~ the commission may

1140 authorize a variance that reduces the proximity ~~[requirements]~~ requirement of Subsection

1141 (3)(a)(i) ~~[or (b)]~~ if:

1142 ~~[(A)]~~ (i) the commission finds that alternative locations for establishing a state store in

1143 the community are limited;

1144 ~~[(B)]~~ (ii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where

1145 practical in the neighborhood concerned; ~~[and]~~

1146 ~~[(C)]~~ (iii) after giving full consideration to all of the attending circumstances and the

1147 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that

1148 establishing the state store would not be detrimental to the public health, peace, safety, and

1149 welfare of the community; ~~[or]~~ and

1150 ~~[(ii) with respect to the establishment of a state store in any location, the commission~~  
1151 ~~may authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) in~~  
1152 ~~relation to a church:]~~

1153 ~~[(A) if the local governing body of the church in question gives its written consent to the~~  
1154 ~~variance;]~~

1155 ~~[(B) following a public hearing in the county, and where practical in the neighborhood~~  
1156 ~~concerned; and]~~

1157 ~~[(C) after giving full consideration to all of the attending circumstances and the policies~~  
1158 ~~stated in Subsections 32A-1-104(3) and (4).]~~

1159 ~~[(4) With respect to any public or private school, church, public library, public~~  
1160 ~~playground, or park, the]~~

1161 (iv) (A) the community location governing authority gives its written consent to the  
1162 variance; or

1163 (B) when written consent is not given by the community location governing authority,  
1164 the commission finds that:

1165 (I) there is substantial unmet public demand to consume alcohol within the geographic  
1166 boundary of the local authority in which the state store is to be located;

1167 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1168 described in Subsection (3)(b)(iv)(B)(I) other than through the establishment of a state store;  
1169 and

1170 (III) there is no reasonably viable alternative location within the geographic boundary of  
1171 the local authority in which the state store is to be located for establishing a state store to satisfy  
1172 the unmet demand described in Subsection (3)(b)(iv)(B)(I).

1173 (c) With respect to the establishment of a state store, the commission may authorize a  
1174 variance that reduces the proximity requirement of Subsection (3)(a)(ii) if:

1175 (i) the community location at issue is:

1176 (A) a public library; or

1177 (B) a public park;

1178 (ii) the commission finds that alternative locations for establishing a state store in the  
1179 community are limited;

1180 (iii) a public hearing is held in the city, town, or county, and where practical in the  
1181 neighborhood concerned;

1182 (iv) after giving full consideration to all of the attending circumstances and the policies  
1183 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
1184 state store would not be detrimental to the public health, peace, safety, and welfare of the  
1185 community; and

1186 (v) (A) the community location governing authority gives its written consent to the  
1187 variance; or

1188 (B) when written consent is not given by the community location governing authority,  
1189 the commission finds that:

1190 (I) there is substantial unmet public demand to consume alcohol within the geographic  
1191 boundary of the local authority in which the state store is to be located;

1192 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1193 described in Subsection (3)(c)(v)(B)(I) other than through the establishment of a state store;  
1194 and

1195 (III) there is no reasonably viable alternative location within the geographic boundary of  
1196 the local authority in which the state store is to be located for establishing a state store to satisfy  
1197 the unmet demand described in Subsection (3)(c)(v)(B)(I).

1198 (d) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the  
1199 nearest entrance of the state store by following the shortest route of ordinary pedestrian travel  
1200 to the property boundary of the [~~public or private school, church, public library, public~~  
1201 playground, school playground, or park] community location.

1202 ~~[(5)]~~ (4) (a) Nothing in this section prevents the commission from considering the  
1203 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
1204 reaching a decision on a proposed location.

1205 (b) For purposes of this Subsection ~~[(5)]~~ (4), "educational facility" includes:

- 1206 (i) a nursery school;
- 1207 (ii) an infant day care center; and
- 1208 (iii) a trade and technical school.

1209 Section 21. Section **32A-3-101** is amended to read:

1210 **32A-3-101. Commission's power to establish package agencies -- Limitations.**

1211 (1) (a) The commission may, when [~~considered~~] it considers necessary, create a  
1212 package [~~agencies~~] agency by entering into a contractual [~~relationships with persons~~]  
1213 relationship with a person to sell liquor in sealed packages from premises other than those  
1214 owned or leased by the state.

1215 (b) The commission shall authorize a person to operate a package agency by issuing a  
1216 certificate from the commission that designates the person in charge of the agency as a "package  
1217 agent" as defined under Section 32A-1-105.

1218 (2) (a) Subject to this Subsection (2), the total number of package agencies may not at  
1219 any time aggregate more than that number determined by dividing the population of the state by  
1220 18,000.

1221 (b) For purposes of Subsection (2)(a), population shall be determined by:

- 1222 (i) the most recent United States decennial or special census; or
- 1223 (ii) [~~any other~~] another population determination made by the United States or state  
1224 governments.

1225 (c) (i) The commission may establish seasonal package agencies established in areas the  
1226 commission considers necessary.

1227 (ii) A seasonal package agency shall be for a period of six consecutive months.

1228 (iii) A package agency established for operation during a summer time period is known  
1229 as a "Seasonal A" package agency. The period of operation for a "Seasonal A" agency shall:

1230 (A) begin on May 1; and

1231 (B) end on October 31.

1232 (iv) A package agency established for operation during a winter time period is known as  
1233 a "Seasonal B" package agency. The period of operation for a "Seasonal B" agency shall:

- 1234 (A) begin on November 1; and
- 1235 (B) end on April 30.
- 1236 (v) In determining the number of package agencies that the commission may establish
- 1237 under this section:
- 1238 (A) a seasonal package agency is counted as 1/2 of one package agency; and
- 1239 (B) each "Seasonal A" agency shall be paired with a "Seasonal B" agency.
- 1240 (d) (i) If the location, design, and construction of a hotel may require more than one
- 1241 package agency sales location to serve the public convenience, the commission may authorize a
- 1242 single package agent to sell liquor at as many as three locations within the hotel under one
- 1243 package agency if:
- 1244 (A) the hotel has a minimum of 150 guest rooms; and
- 1245 (B) all locations under the agency are:
- 1246 (I) within the same hotel facility; and
- 1247 (II) on premises that are managed or operated and owned or leased by the package
- 1248 agent.
- 1249 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel may not have more than one sales
- 1250 location under a single package agency.
- 1251 (3) (a) ~~[As measured by the method in Subsection (4), the]~~ Except as provided in
- 1252 Subsection (3)(b), (c), or (d), the premises of a package agency may not be established:
- 1253 (i) within 600 feet of ~~[any public or private school, church, public library, public~~
- 1254 ~~playground, or park.]~~ a community location, as measured by the method described in Subsection
- 1255 (3)(e); or
- 1256 ~~[(b) The premises of a package agency may not be established]~~
- 1257 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~
- 1258 ~~playground, or park]~~ a community location, measured in a straight line from the nearest
- 1259 entrance of the proposed package agency to the nearest property boundary of the ~~[public or~~
- 1260 ~~private school, church, public library, public playground, or park]~~ community location.
- 1261 ~~[(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the~~

1262 following exemptions applies:]

1263 ~~[(i) with]~~ (b) With respect to the establishment of a package agency [~~within a city of~~  
1264 ~~the third, fourth, or fifth class, a town, or the unincorporated area of a county~~], the commission  
1265 may authorize a variance to reduce the proximity [~~requirements~~] requirement of Subsection  
1266 (3)(a)(i) [~~or (b)~~] if:

1267 ~~[(A)]~~ (i) the local [~~governing~~] authority [~~has granted~~] grants its written consent to the  
1268 variance;

1269 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a package  
1270 agency in the community are limited;

1271 ~~[(C)]~~ (iii) a public hearing [~~has been~~] is held in the city, town, or county, and where  
1272 practical in the neighborhood concerned; [~~and~~]

1273 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the  
1274 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
1275 establishing the package agency would not be detrimental to the public health, peace, safety,  
1276 and welfare of the community; and

1277 ~~[(i) with respect to the establishment of a package agency in any location, the~~  
1278 ~~commission may authorize a variance to reduce the proximity requirements of Subsection (3)(a)~~  
1279 ~~or (b) in relation to a church:]~~

1280 ~~[(A) if the local governing body of the church in question gives its written consent to~~  
1281 ~~the variance;]~~

1282 ~~[(B) following a public hearing in the city, town, or county and where practical in the~~  
1283 ~~neighborhood concerned; and]~~

1284 ~~[(C) after giving full consideration to all of the attending circumstances and the policies~~  
1285 ~~stated in Subsections 32A-1-104(3) and (4); or]~~

1286 (v) (A) the community location governing authority gives its written consent to the  
1287 variance; or

1288 (B) when written consent is not given by the community location governing authority,  
1289 the commission finds that the applicant has established that:

1290 (I) there is substantial unmet public demand to consume alcohol within the geographic  
1291 boundary of the local authority in which the package agency is to be located;  
1292 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1293 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of a package  
1294 agency; and  
1295 (III) there is no reasonably viable alternative location within the geographic boundary of  
1296 the local authority in which the package agency is to be located for establishing a package  
1297 agency to satisfy the unmet demand described in Subsection (3)(b)(v)(B)(I).  
1298 (c) With respect to the establishment of a package agency, the commission may  
1299 authorize a variance that reduces the proximity requirement of Subsection (3)(a)(ii) if:  
1300 (i) the community location at issue is:  
1301 (A) a public library; or  
1302 (B) a public park;  
1303 (ii) the local authority grants its written consent to the variance;  
1304 (iii) the commission finds that alternative locations for establishing a package agency in  
1305 the community are limited;  
1306 (iv) a public hearing is held in the city, town, or county, and where practical in the  
1307 neighborhood concerned;  
1308 (v) after giving full consideration to all of the attending circumstances and the policies  
1309 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
1310 package agency would not be detrimental to the public health, peace, safety, and welfare of the  
1311 community; and  
1312 (vi) (A) the community location governing authority gives its written consent to the  
1313 variance; or  
1314 (B) when written consent is not given by the community location governing authority,  
1315 the commission finds that the applicant has established that:  
1316 (I) there is substantial unmet public demand to consume alcohol within the geographic  
1317 boundary of the local authority in which the package agency is to be located;

1318 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
 1319 described in Subsection (3)(c)(vi)(B)(I) other than through the establishment of a package  
 1320 agency; and

1321 (III) there is no reasonably viable alternative location within the geographic boundary of  
 1322 the local authority in which the package agency is to be located for establishing a package  
 1323 agency to satisfy the unmet demand described in Subsection (3)(c)(vi)(B)(I).

1324 [~~(iii) with~~] (d) With respect to the premises of a package agency issued by the  
 1325 commission that undergoes a change of ownership, the commission may waive or vary the  
 1326 proximity requirements of Subsection (3)(a) [~~or (b)~~] in considering whether to grant a package  
 1327 agency to the new owner of the premises if:

1328 (i) (A) the premises previously received a variance reducing the proximity  
 1329 [~~requirements~~] requirement of Subsection (3)(a)(i) [~~or (b)~~]; or

1330 (B) the premises received a variance reducing the proximity requirement of Subsection  
 1331 (3)(a)(ii) on or before May 4, 2008; or

1332 [~~(B)~~] (ii) a variance from proximity [~~or distance~~] requirements was otherwise allowed  
 1333 under this title.

1334 [~~(4) With respect to any public or private school, church, public library, public~~  
 1335 ~~playground, or park, the~~]

1336 (e) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the  
 1337 nearest entrance of the package agency by following the shortest route of ordinary pedestrian  
 1338 travel to the property boundary of the [~~public or private school, church, public library, public~~  
 1339 playground, school playground, or park] community location.

1340 [~~(5)~~] (4) (a) Nothing in this section prevents the commission from considering the  
 1341 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
 1342 reaching a decision on a proposed location.

1343 (b) For purposes of Subsection [~~(5)~~] (4)(a), "educational facility" includes:

1344 (i) a nursery school;

1345 (ii) an infant day care center; and



1346 (iii) a trade and technical school.

1347 [~~(6)~~] (5) (a) The package agent, under the direction of the department, [~~shall be~~] is  
1348 responsible for implementing and enforcing this title and the rules adopted under this title to the  
1349 extent they relate to the conduct of the package agency and its sale of liquor.

1350 (b) A package agent may not be, or construed to be, a state employee nor be otherwise  
1351 entitled to any benefits of employment from the state.

1352 (c) A package agent, when selling liquor from a package agency, is considered an agent  
1353 of the state only to the extent specifically expressed in the package agency agreement.

1354 [~~(7)~~] (6) The commission may prescribe by policy, directive, or rule, consistent with this  
1355 title, general operational requirements of all package agencies relating to:

1356 (a) physical facilities;

1357 (b) conditions of operation;

1358 (c) hours of operation;

1359 (d) inventory levels;

1360 (e) payment schedules;

1361 (f) methods of payment;

1362 (g) premises security; and

1363 (h) any other matters considered appropriate by the commission.

1364 Section 22. Section **32A-3-102** is amended to read:

1365 **32A-3-102. Application requirements.**

1366 (1) A person seeking to operate a package agency as a package agent under this chapter  
1367 shall file a written application with the department in a form prescribed by the department.

1368 (2) The application shall be accompanied by:

1369 (a) a nonrefundable application fee of \$100;

1370 (b) written consent of the local authority;

1371 (c) evidence of proximity to any [~~public or private school, church, public library, public~~  
1372 ~~playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of~~  
1373 ~~Subsections 32A-3-101(3) and (4), the application shall be processed in accordance with those~~

1374 ~~subsections]~~ community location, with proximity requirements being governed by Section  
1375 32A-3-101;

1376 (d) a bond as specified by Section 32A-3-105;

1377 (e) a floor plan of the premises, including a description and highlighting of that part of  
1378 the premises in which the applicant proposes that the package agency be established;

1379 (f) evidence that the package agency is carrying public liability insurance in an amount  
1380 and form satisfactory to the department;

1381 (g) a signed consent form stating that the package agent will permit any authorized  
1382 representative of the commission, department, or any law enforcement officer to have  
1383 unrestricted right to enter the package agency;

1384 (h) in the case of an applicant that is a partnership, corporation, or limited liability  
1385 company, proper verification evidencing that the person or persons signing the package agency  
1386 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
1387 company; and

1388 (i) any other information as the commission or department may direct.

1389 Section 23. Section **32A-4-101** is amended to read:

1390 **32A-4-101. Commission's power to grant licenses -- Limitations.**

1391 (1) Before a restaurant may sell or allow the consumption of liquor on its premises, it  
1392 shall first obtain a license from the commission as provided in this part.

1393 (2) The commission may issue restaurant liquor licenses for the purpose of establishing  
1394 restaurant liquor outlets at places and in numbers it considers proper for the storage, sale, and  
1395 consumption of liquor on premises operated as public restaurants.

1396 (3) (a) Subject to the other provisions of this Subsection (3), the total number of  
1397 restaurant liquor licenses may not at any time aggregate more than that number determined by  
1398 dividing the population of the state by 5,200.

1399 (b) For purposes of this Subsection (3), population shall be determined by:

1400 (i) the most recent United States decennial or special census; or

1401 (ii) ~~[any other]~~ another population determination made by the United States or state

1402 governments.

1403 (c) (i) The commission may issue seasonal restaurant liquor licenses established in areas  
1404 the commission considers necessary.

1405 (ii) A seasonal restaurant liquor license shall be for a period of six consecutive months.

1406 (iii) A restaurant liquor license issued for operation during a summer time period is  
1407 known as a "Seasonal A" restaurant liquor license. The period of operation for a "Seasonal A"  
1408 restaurant liquor license shall:

1409 (A) begin on May 1; and

1410 (B) end on October 31.

1411 (iv) A restaurant liquor license issued for operation during a winter time period is  
1412 known as a "Seasonal B" restaurant liquor license. The period of operation for a "Seasonal B"  
1413 restaurant liquor license shall:

1414 (A) begin on November 1; and

1415 (B) end on April 30.

1416 (v) In determining the number of restaurant liquor licenses that the commission may  
1417 issue under this section:

1418 (A) a seasonal license is counted as 1/2 of one restaurant liquor license; and

1419 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

1420 (d) (i) If the location, design, and construction of a hotel may require more than one  
1421 restaurant liquor sales location within the hotel to serve the public convenience, the commission  
1422 may authorize the sale of liquor at as many as three restaurant locations within the hotel under  
1423 one license if:

1424 (A) the hotel has a minimum of 150 guest rooms; and

1425 (B) all locations under the license are:

1426 (I) within the same hotel facility; and

1427 (II) on premises that are managed or operated and owned or leased by the licensee.

1428 (ii) [~~Facilities~~] A facility other than [~~hotels~~] a hotel shall have a separate restaurant  
1429 liquor license for each restaurant where liquor is sold.

1430 (4) (a) ~~[The]~~ Except as provided in Subsection (4)(b), (c), or (d), the premises of a  
 1431 restaurant liquor license may not be established;

1432 (i) within 600 feet of ~~[any public or private school, church, public library, public~~  
 1433 ~~playground, or park,]~~ a community location, as measured by the method in Subsection ~~[(5).]~~  
 1434 ~~(4)(e);~~

1435 ~~[(b) The premises of a restaurant liquor license may not be established]~~

1436 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~  
 1437 ~~playground, or park]~~ a community location, measured in a straight line from the nearest  
 1438 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~  
 1439 ~~school, church, public library, public playground, or park]~~ community location.

1440 ~~[(c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the~~  
 1441 ~~following exemptions applies:]~~

1442 ~~[(i) with]~~ (b) With respect to the establishment of a restaurant liquor license ~~[in any~~  
 1443 ~~location]~~, the commission may authorize a variance to reduce the proximity ~~[requirements]~~  
 1444 requirement of Subsection (4)(a)(i) ~~[or (b)]~~ if:

1445 ~~[(A)]~~ (i) the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the  
 1446 variance;

1447 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a restaurant  
 1448 liquor license in the community are limited;

1449 ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where  
 1450 practical in the neighborhood concerned; ~~[and]~~

1451 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the  
 1452 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
 1453 establishing the restaurant liquor license would not be detrimental to the public health, peace,  
 1454 safety, and welfare of the community; ~~[or]~~ and

1455 (v) (A) the community location governing authority gives its written consent to the  
 1456 variance; or

1457 (B) when written consent is not given by the community location governing authority.

1458 the commission finds that the applicant has established that:

1459 (I) there is substantial unmet public demand to consume alcohol in a public setting  
1460 within the geographic boundary of the local authority in which the restaurant is to be located;

1461 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1462 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a restaurant  
1463 liquor license; and

1464 (III) there is no reasonably viable alternative location within the geographic boundary of  
1465 the local authority in which the restaurant is to be located for establishing a restaurant liquor  
1466 license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

1467 (c) With respect to the establishment of a restaurant liquor license, the commission may  
1468 authorize a variance that reduces the proximity requirement of Subsection (4)(a)(ii) if:

1469 (i) the community location at issue is:

1470 (A) a public library; or

1471 (B) a public park;

1472 (ii) the local authority grants its written consent to the variance;

1473 (iii) the commission finds that alternative locations for establishing a restaurant liquor  
1474 license in the community are limited;

1475 (iv) a public hearing is held in the city, town, or county, and where practical in the  
1476 neighborhood concerned;

1477 (v) after giving full consideration to all of the attending circumstances and the policies  
1478 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
1479 restaurant liquor license would not be detrimental to the public health, peace, safety, and  
1480 welfare of the community; and

1481 (vi) (A) the community location governing authority gives its written consent to the  
1482 variance; or

1483 (B) when written consent is not given by the community location governing authority,  
1484 the commission finds that the applicant has established that:

1485 (I) there is substantial unmet public demand to consume alcohol in a public setting

1486 within the geographic boundary of the local authority in which the restaurant is to be located;

1487 (II) there is no reasonably viable alternative for satisfying substantial unmet demand

1488 described in Subsection (4)(c)(vi)(B)(I) other than through the establishment of a restaurant

1489 liquor license; and

1490 (III) there is no reasonably viable alternative location within the geographic boundary of

1491 the local authority in which the restaurant is to be located for establishing a restaurant liquor

1492 license to satisfy the unmet demand described in Subsection (4)(c)(vi)(B)(I).

1493 ~~[(ii) with]~~ (d) With respect to the premises of a restaurant liquor license issued by the

1494 commission that undergoes a change of ownership, the commission may waive or vary the

1495 proximity requirements of Subsection (4)(a) ~~[or (b)]~~ in considering whether to grant a

1496 restaurant liquor license to the new owner of the premises if:

1497 (i) (A) the premises previously received a variance reducing the proximity

1498 ~~[requirements]~~ requirement of Subsection (4)(a)(i) ~~[or (b)]~~; or

1499 (B) the premises received a variance reducing the proximity requirement of Subsection

1500 (4)(a)(ii) on or before May 4, 2008; or

1501 ~~[(B)]~~ (ii) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed

1502 under this title.

1503 ~~[(5) With respect to any public or private school, church, public library, public~~

1504 ~~playground, or park, the]~~

1505 (e) The 600 foot limitation described in Subsection (4)(a)(i) is measured from the

1506 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the

1507 ~~[property boundary of the public or private school, church, public library, public playground,~~

1508 ~~school playground, or park]~~ community location.

1509 ~~[(6)]~~ (5) (a) Nothing in this section prevents the commission from considering the

1510 proximity of any educational, religious, and recreational facility, or any other relevant factor in

1511 reaching a decision on a proposed location.

1512 (b) For purposes of this Subsection ~~[(6)]~~ (5), "educational facility" includes:

1513 (i) a nursery school;

- 1514 (ii) an infant day care center; and
- 1515 (iii) a trade and technical school.

1516 Section 24. Section **32A-4-102** is amended to read:

1517 **32A-4-102. Application and renewal requirements.**

1518 (1) A person seeking a restaurant liquor license under this part shall file a written  
1519 application with the department, in a form prescribed by the department. It shall be  
1520 accompanied by:

- 1521 (a) a nonrefundable \$250 application fee;
- 1522 (b) an initial license fee of \$1,750, which is refundable if a license is not granted;
- 1523 (c) written consent of the local authority;
- 1524 (d) a copy of the applicant's current business license;
- 1525 (e) evidence of proximity to any [~~public or private school, church, public library, public~~  
1526 ~~playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~  
1527 ~~Subsections 32A-4-101(4) and (5), the application shall be processed in accordance with those~~  
1528 ~~subsections]~~ community location, with proximity requirements being governed by Section  
1529 32A-4-101;
- 1530 (f) a bond as specified by Section 32A-4-105;
- 1531 (g) a floor plan of the restaurant, including consumption areas and the area where the  
1532 applicant proposes to keep, store, and sell liquor;
- 1533 (h) evidence that the restaurant is carrying public liability insurance in an amount and  
1534 form satisfactory to the department;
- 1535 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least  
1536 \$500,000 per occurrence and \$1,000,000 in the aggregate;
- 1537 (j) a signed consent form stating that the restaurant will permit any authorized  
1538 representative of the commission, department, or any law enforcement officer unrestricted right  
1539 to enter the restaurant;
- 1540 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
1541 company, proper verification evidencing that the person or persons signing the restaurant

1542 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
1543 company; and

1544 (1) any other information the commission or department may require.

1545 (2) (a) All restaurant liquor licenses expire on October 31 of each year.

1546 (b) ~~[Persons]~~ A person desiring to renew ~~[their]~~ the person's restaurant liquor license  
1547 shall by no later than September 30 submit:

1548 (i) a completed renewal application to the department; and

1549 (ii) a renewal fee in the following amount:

Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
1550 under \$5,000	\$750
1551 equals or exceeds \$5,000 but less than \$10,000	\$900
1552 equals or exceeds \$10,000 but less than \$25,000	\$1,250
1553 equals or exceeds \$25,000	\$1,500

1554 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
1555 the license effective on the date the existing license expires.

1556 (d) ~~[Renewal applications]~~ A renewal application shall be in a form as prescribed by the  
1557 department.

1558 (3) To ensure compliance with Subsection 32A-4-106(25), the commission may  
1559 suspend or revoke ~~[any]~~ a restaurant liquor license if the restaurant liquor licensee does not  
1560 immediately notify the department of any change in:  
1561

1562 (a) ownership of the restaurant;

1563 (b) for a corporate owner, the:

1564 (i) corporate officers or directors; or

1565 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
1566 corporation; or

1567 (c) for a limited liability company:

1568 (i) managers; or

1569 (ii) members owning at least 20% of the limited liability company.



1570 Section 25. Section **32A-4-104** is amended to read:

1571 **32A-4-104. Commission and department duties before granting licenses.**

1572 (1) (a) Before a restaurant liquor license may be granted by the commission, the  
1573 department shall conduct an investigation and may hold public hearings for the purpose of  
1574 gathering information and making recommendations to the commission as to whether or not a  
1575 license should be granted. [~~This~~]

1576 (b) The department shall forward the information [shall be forwarded] and  
1577 recommendations described in Subsection (1)(a) to the commission to aid in [its] the  
1578 commission's determination.

1579 (2) Before issuing [~~any~~] a restaurant liquor license, the commission shall:

1580 (a) determine that:

1581 (i) the applicant has complied with all basic qualifications and requirements for making  
1582 application for a license as provided by Sections 32A-4-102 and 32A-4-103[;]; and [~~that~~]

1583 (ii) the application is complete;

1584 (b) consider the locality within which the proposed restaurant liquor outlet is located,  
1585 including [~~but not limited to~~]:

1586 (i) physical characteristics such as:

1587 (A) condition of the premises[;];

1588 (B) square footage[;]; and

1589 (C) parking availability; and

1590 (ii) operational factors such as:

1591 (A) tourist traffic[;];

1592 (B) proximity to and density of other state stores, package agencies, and outlets[;];

1593 (C) demographics[;];

1594 (D) population to be served[;]; and

1595 (E) the extent of and proximity to any [~~school, church, public library, public~~

1596 ~~playground, or park~~] community location;

1597 (c) consider the applicant's ability to manage and operate a restaurant liquor license,

1598 including ~~[but not limited to]~~;

1599       (i) management experience[;];

1600       (ii) past retail liquor experience[;]; and

1601       (iii) the type of management scheme employed by the restaurant;

1602       (d) consider the nature or type of restaurant operation of the proposed liquor licensee,

1603 including ~~[but not limited to]~~;

1604       (i) the type of menu items offered and emphasized[;];

1605       (ii) whether the restaurant emphasizes service to an adult clientele or to minors[;];

1606       (iii) the hours of operation[;];

1607       (iv) the seating capacity of the facility[;]; and

1608       (v) the gross sales of food items; and

1609       (e) consider any other factors or circumstances ~~[it]~~ the commission considers necessary.

1610       Section 26. Section **32A-4-106** is amended to read:

1611       **32A-4-106. Operational restrictions.**

1612       ~~[Each]~~ A person granted a restaurant liquor license and the employees and management

1613 personnel of the restaurant shall comply with the following conditions and requirements.

1614 Failure to comply may result in a suspension or revocation of the restaurant liquor license or

1615 other disciplinary action taken against individual employees or management personnel.

1616       (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state

1617 ~~[stores]~~ store or package ~~[agencies]~~ agency.

1618       (b) Liquor purchased from a state store or package agency may be transported by the

1619 restaurant liquor licensee from the place of purchase to the licensed premises.

1620       (c) Payment for liquor shall be made in accordance with rules established by the

1621 commission.

1622       (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in a

1623 quantity not to exceed ~~[one ounce]~~ 1.5 ounces per beverage dispensed through a calibrated

1624 metered dispensing system approved by the department in accordance with commission rules

1625 adopted under this title, except that:

1626 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
 1627 system if used as a secondary flavoring ingredient in a beverage subject to the following  
 1628 restrictions:

1629 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of a  
 1630 primary spirituous liquor;

1631 (ii) the secondary ingredient ~~[is]~~ may not be the only spirituous liquor in the beverage;

1632 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored  
 1633 on the floor plan provided to the department; and

1634 (iv) ~~[a]~~ a flavoring ~~[containers]~~ container shall be plainly and conspicuously labeled  
 1635 "flavorings";

1636 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
 1637 system if used:

1638 (i) as a flavoring on ~~[desserts]~~ a dessert; and

1639 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or  
 1640 dessert;

1641 (c) ~~[each]~~ a restaurant patron may have no more than ~~[2.75]~~ 2.5 ounces of spirituous  
 1642 liquor at a time; and

1643 (d) ~~[each]~~ a restaurant patron may have no more than one spirituous liquor drink at a  
 1644 time before the patron.

1645 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to  
 1646 exceed five ounces per glass or individual portion.

1647 (ii) An individual portion of wine may be served to a patron in more than one glass as  
 1648 long as the total amount of wine does not exceed five ounces.

1649 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
 1650 Subsection (7)(e).

1651 (b) (i) Wine may be sold and served in ~~[containers]~~ a container not exceeding 1.5 liters  
 1652 at ~~[prices]~~ a price fixed by the commission to ~~[tables]~~ a table of four or more persons.

1653 (ii) Wine may be sold and served in ~~[containers]~~ a container not exceeding 750

1654 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four persons.

1655 (c) A wine service may be performed and a service charge assessed by [~~the~~] a restaurant  
1656 liquor licensee as authorized by commission rule for wine purchased at the restaurant.

1657 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding  
1658 one liter at [~~prices~~] a price fixed by the commission.

1659 (b) A flavored malt beverage may be served in an original container not exceeding one  
1660 liter at a price fixed by the commission.

1661 [~~(b)~~] (c) A service charge may be assessed by [~~the~~] a restaurant liquor licensee as  
1662 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the  
1663 restaurant.

1664 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant [~~licensed to sell~~] liquor licensee  
1665 may sell beer for on-premise consumption:

1666 (A) in an open container; and

1667 (B) on draft.

1668 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
1669 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
1670 container that exceeds one liter.

1671 (b) A restaurant [~~licensed under this chapter~~] liquor licensee that sells beer pursuant to  
1672 Subsection (5)(a):

1673 (i) may do so without obtaining a separate on-premise beer retailer license from the  
1674 commission; and

1675 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
1676 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those  
1677 restrictions are inconsistent with or less restrictive than the operational restrictions under this  
1678 part.

1679 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
1680 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the  
1681 restaurant's:

- 1682 (i) state liquor license; and
- 1683 (ii) alcoholic beverage license issued by the local authority.
- 1684 (6) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be stored, served, or sold in
- 1685 ~~[any]~~ a place other than as designated in the restaurant liquor licensee's application, unless the
- 1686 restaurant liquor licensee first applies for and receives approval from the department for a
- 1687 change of location within the restaurant.
- 1688 (7) (a) (i) A patron may only make an alcoholic beverage ~~[purchases]~~ purchase in the
- 1689 restaurant from and be served by a person employed, designated, and trained by the restaurant
- 1690 liquor licensee to sell and serve an alcoholic ~~[beverages]~~ beverage.
- 1691 (ii) Notwithstanding Subsection (7)(a)(i), a patron who ~~[has purchased]~~ purchases
- 1692 bottled wine from an employee of the restaurant or ~~[has carried]~~ carries bottled wine onto the
- 1693 premises of the restaurant pursuant to Subsection (14) may thereafter serve wine from the bottle
- 1694 to the patron or others at the patron's table.
- 1695 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage shall be delivered by a server to the
- 1696 patron.
- 1697 (c) ~~[Any]~~ An alcoholic beverage may only be consumed at the patron's table or counter.
- 1698 (d) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be served to or consumed by
- 1699 a patron at a bar.
- 1700 (e) ~~[Each]~~ A restaurant patron may have no more than two alcoholic beverages of any
- 1701 kind at a time before the patron, subject to the limitation in Subsection (2)(d).
- 1702 (8) The liquor storage area shall remain locked at all times other than those hours and
- 1703 days when liquor sales are authorized by law.
- 1704 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
- 1705 restaurant of a restaurant liquor licensee during the following days or hours:
- 1706 (i) until after the polls are closed on the day of ~~[any]~~ a:
- 1707 (A) regular general election;
- 1708 (B) regular primary election; or
- 1709 (C) statewide special election;

1710 (ii) until after the polls are closed on the day of ~~[any]~~ a municipal, local district, special  
1711 service district, or school election, but only:

1712 (A) within the boundaries of the municipality, local district, special service district, or  
1713 school district; and

1714 (B) if required by local ordinance; and

1715 (iii) on any other day after 12 midnight and before 12 noon.

1716 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
1717 Licenses, for on-premise beer licensees.

1718 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold except in connection  
1719 with an order for food prepared, sold, and served at the restaurant.

1720 (11) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or otherwise  
1721 furnished to ~~[any]~~ a:

1722 (a) minor;

1723 (b) person actually, apparently, or obviously intoxicated;

1724 (c) known habitual drunkard; or

1725 (d) known interdicted person.

1726 (12) (a) (i) Liquor may be sold only at ~~[prices]~~ a price fixed by the commission.

1727 (ii) Liquor may not be sold at a discount ~~[prices]~~ price on any date or at any time.

1728 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic  
1729 beverage to the restaurant liquor licensee.

1730 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
1731 over consumption or intoxication.

1732 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
1733 hours of ~~[the restaurant's]~~ a restaurant liquor licensee's business day such as a "happy hour."

1734 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or  
1735 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

1736 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages  
1737 during ~~[any]~~ a set period may not be sold or served for a fixed price ~~[is prohibited]~~.

1738 (g) A restaurant liquor licensee may not engage in a public promotion involving or  
 1739 offering free an alcoholic beverage to the general public.

1740 (13) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of  
 1741 a restaurant by:

1742 (a) the restaurant liquor licensee; or

1743 (b) ~~[any]~~ an employee or agent of the restaurant liquor licensee.

1744 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee ~~[any]~~  
 1745 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the  
 1746 discretion of the restaurant liquor licensee, bottled wine onto the premises of ~~[any]~~ a restaurant  
 1747 liquor licensee for on-premise consumption.

1748 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or ~~[its~~  
 1749 ~~officers, managers, employees, or agents]~~ an officer, manager, employee, or agent of the  
 1750 restaurant liquor licensee may not allow:

1751 (i) a person to bring onto the restaurant premises ~~[any]~~ an alcoholic beverage for  
 1752 on-premise consumption; or

1753 (ii) consumption of ~~[any such]~~ an alcoholic beverage ~~[on its]~~ described in this  
 1754 Subsection (14) on the restaurant liquor licensee's premises.

1755 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
 1756 or other representative of the restaurant liquor licensee upon entering the restaurant.

1757 (d) A wine service may be performed and a service charge assessed by ~~[the]~~ a restaurant  
 1758 liquor licensee as authorized by commission rule for wine carried in by a patron.

1759 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee ~~[and its~~  
 1760 ~~employees]~~ or an employee of the restaurant liquor licensee may not permit a restaurant patron  
 1761 to carry from the restaurant premises an open container that:

1762 (i) is used primarily for drinking purposes; and

1763 (ii) contains ~~[any]~~ an alcoholic beverage.

1764 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the  
 1765 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought

1766 onto the premises of the restaurant in accordance with Subsection (14), [~~provided~~] only if the  
1767 bottle [~~has been~~] is recorked or recapped before removal.

1768 (16) (a) A restaurant liquor licensee may not employ a minor [~~may not be employed by~~  
1769 ~~a restaurant licensee~~] to sell or dispense an alcoholic [~~beverages~~] beverage.

1770 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be  
1771 employed to enter the sale at a cash register or other sales recording device.

1772 (17) An employee of a restaurant liquor licensee, while on duty, may not:

1773 (a) consume an alcoholic beverage; or

1774 (b) be intoxicated.

1775 (18) [~~Any~~] A charge or fee made in connection with the sale, service, or consumption  
1776 of liquor may be stated in food or alcoholic beverage menus including:

1777 (a) a set-up charge;

1778 (b) a service charge; or

1779 (c) a chilling fee.

1780 (19) [~~Each~~] A restaurant liquor licensee shall display in a prominent place in the  
1781 restaurant:

1782 (a) the liquor license that is issued by the department;

1783 (b) a list of the types and brand names of liquor being served through its calibrated  
1784 metered dispensing system; and

1785 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
1786 drugs is a serious crime that is prosecuted aggressively in Utah."

1787 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor  
1788 licensee:

1789 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
1790 Chapter 10, Part 11, Gambling;

1791 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
1792 Part 11, Gambling; or

1793 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires



1794 the risking of something of value for a return or for an outcome when the return or outcome is  
1795 based upon an element of chance, excluding the playing of an amusement device that confers  
1796 only an immediate and unrecorded right of replay not exchangeable for value.

1797 (21) (a) ~~Each~~ A restaurant liquor licensee shall maintain an expense ledger or record  
1798 showing in detail:

1799 (i) quarterly expenditures made separately for:

1800 (A) malt or brewed beverages;

1801 (B) set-ups;

1802 (C) liquor;

1803 (D) food; and

1804 (E) all other items required by the department; and

1805 (ii) sales made separately for:

1806 (A) malt or brewed beverages;

1807 (B) set-ups;

1808 (C) food; and

1809 (D) all other items required by the department.

1810 (b) ~~The~~ A restaurant liquor licensee shall keep a record required by Subsection (21)(a)

1811 ~~[shall be kept]:~~

1812 (i) in a form approved by the department; and

1813 (ii) current for each three-month period.

1814 (c) ~~Each~~ An expenditure shall be supported by:

1815 (i) a delivery ~~[tickets]~~ ticket;

1816 (ii) ~~[invoices]~~ an invoice;

1817 (iii) a receipted ~~[bills]~~ bill;

1818 (iv) a canceled ~~[checks]~~ check;

1819 (v) a petty cash ~~[vouchers]~~ voucher; or

1820 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.

1821 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant

1822 liquor licensee shall maintain accounting and other records and documents as the department  
1823 may require.

1824 (e) ~~[Any]~~ A restaurant liquor licensee or person acting for the restaurant, who  
1825 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of~~  
1826 ~~the books]~~ an entry in a book of account or other ~~[documents]~~ document of the restaurant that  
1827 is required to be made, maintained, or preserved by this title or the rules of the commission for  
1828 the purpose of deceiving the commission or the department, or ~~[any of their officials or~~  
1829 ~~employees]~~ an official or employee of the commission or department, is subject to:

1830 (i) the suspension or revocation of the restaurant's liquor license; and

1831 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1832 (22) (a) A restaurant liquor licensee may not close or cease operation for a period  
1833 longer than 240 hours, unless:

1834 (i) the restaurant liquor licensee notifies the department in writing at least seven days  
1835 before the ~~[closing]~~ day on which the restaurant liquor licensee closes or ceases operation; and

1836 (ii) the closure or cessation of operation is first approved by the department.

1837 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, ~~[immediate~~  
1838 ~~notice of closure shall be made to]~~ the restaurant liquor licensee shall immediately notify the  
1839 department by telephone.

1840 (c) (i) The department may authorize a closure or cessation of operation for a period  
1841 not to exceed 60 days.

1842 (ii) The department may extend the initial period an additional 30 days upon:

1843 (A) written request of the restaurant liquor licensee; and ~~[upon]~~

1844 (B) a showing of good cause.

1845 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
1846 commission approval.

1847 (d) ~~[Any]~~ A notice shall include:

1848 (i) the dates of closure or cessation of operation;

1849 (ii) the reason for the closure or cessation of operation; and

1850 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.

1851 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department  
1852 authorization [~~prior to~~] before closure or cessation of operation [~~shall result~~] results in an  
1853 automatic forfeiture of:

1854 (i) the license; and

1855 (ii) the unused portion of the license fee for the remainder of the license year effective  
1856 immediately.

1857 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the  
1858 approved date [~~shall result~~] results in an automatic forfeiture of:

1859 (i) the license; and

1860 (ii) the unused portion of the license fee for the remainder of the license year.

1861 (23) [~~Each~~] A restaurant liquor licensee shall maintain at least 70% of its total  
1862 restaurant business from the sale of food, which does not include mix for an alcoholic  
1863 [~~beverages~~] beverage or service charges.

1864 (24) A restaurant liquor license may not be transferred from one location to another,  
1865 without prior written approval of the commission.

1866 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,  
1867 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license  
1868 to [~~any other~~] another person whether for monetary gain or not.

1869 (b) A restaurant liquor license has no monetary value for the purpose of any type of  
1870 disposition.

1871 (26) [~~Each~~] A server of an alcoholic [~~beverages~~] beverage in a restaurant liquor  
1872 licensee's establishment shall keep a written beverage tab for each table or group that orders or  
1873 consumes an alcoholic [~~beverages~~] beverage on the premises. The beverage tab shall list the  
1874 type and amount of an alcoholic [~~beverages~~] beverage ordered or consumed.

1875 (27) A person's willingness to serve an alcoholic [~~beverages~~] beverage may not be made  
1876 a condition of employment as a server with a restaurant that has a restaurant liquor license.

1877 (28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may

1878 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
1879 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1880 (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2;

1881 or

1882 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
1883 Section 58-37a-3.

1884 Section 27. Section **32A-4-206** is amended to read:

1885 **32A-4-206. Operational restrictions.**

1886 [Each] A person granted an airport lounge liquor license and the employees and  
1887 management personnel of the airport lounge shall comply with the following conditions and  
1888 requirements. Failure to comply may result in a suspension or revocation of the airport lounge  
1889 liquor license or other disciplinary action taken against individual employees or management  
1890 personnel.

1891 (1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from a  
1892 state [stores] store or package [agencies] agency.

1893 (b) Liquor purchased from a state store or package agency may be transported by the  
1894 airport lounge liquor licensee from the place of purchase to the licensed premises.

1895 (c) Payment for liquor shall be made in accordance with the rules established by the  
1896 commission.

1897 (2) An airport lounge liquor licensee may sell or provide a primary spirituous liquor  
1898 only in a quantity not to exceed [~~one ounce~~] 1.5 ounces per beverage dispensed through a  
1899 calibrated metered dispensing system approved by the department in accordance with  
1900 commission rules adopted under this title, except that:

1901 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1902 system if used as a secondary flavoring ingredient in a beverage subject to the following  
1903 restrictions:

1904 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of a  
1905 spirituous primary liquor;

1906 (ii) the secondary ingredient [~~is~~] may not be the only spirituous liquor in the beverage;

1907 (iii) the airport lounge liquor licensee shall designate a location where flavorings are  
1908 stored on the floor plan provided to the department; and

1909 (iv) [~~all~~] a flavoring [~~containers~~] container shall be plainly and conspicuously labeled  
1910 "flavorings";

1911 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1912 system if used:

1913 (i) as a flavoring on [~~desserts~~] a dessert; and

1914 (ii) in the preparation of a flaming food [~~dishes, drinks, and desserts~~] dish, drink, or  
1915 dessert; [~~and~~]

1916 (c) [~~each~~] an airport lounge patron may have no more than [~~2.75~~] 2.5 ounces of  
1917 spirituous liquor at a time before the patron; and

1918 (d) an airport lounge patron may have no more than two spirituous liquor drinks at a  
1919 time before the patron, except that an airport lounge patron may not have two spirituous liquor  
1920 drinks before the airport lounge patron if one of the spirituous liquor drinks consists only of the  
1921 primary spirituous liquor for the other spirituous liquor drink.

1922 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to  
1923 exceed five ounces per glass or individual portion.

1924 (ii) An individual portion may be served to a patron in more than one glass as long as  
1925 the total amount of wine does not exceed five ounces.

1926 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
1927 Subsection (7)(c).

1928 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters  
1929 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

1930 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750  
1931 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four persons.

1932 (c) A wine service may be performed and a service charge assessed by the airport  
1933 lounge liquor licensee as authorized by commission rule for wine purchased at the airport

1934 lounge.

1935 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding  
1936 one liter at [~~prices~~] a price fixed by the commission.

1937 (b) A flavored malt beverage may be served in an original container not exceeding one  
1938 liter at a price fixed by the commission.

1939 [~~(b)~~] (c) A service charge may be assessed by the airport lounge liquor licensee as  
1940 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the  
1941 airport lounge.

1942 (5) (a) (i) Subject to Subsection (5)(a)(ii), an airport lounge [~~licensed to sell~~] liquor  
1943 licensee may sell beer for on-premise consumption:

1944 (A) in an open container; and

1945 (B) on draft.

1946 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
1947 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
1948 container that exceeds one liter.

1949 (b) An airport lounge liquor licensee that sells beer pursuant to Subsection (5)(a):

1950 (i) may do so without obtaining a separate on-premise beer retailer license from the  
1951 commission; and

1952 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
1953 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those  
1954 restrictions are inconsistent with or less restrictive than the operational restrictions under this  
1955 part.

1956 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
1957 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the airport  
1958 lounge's:

1959 (i) state liquor license; and

1960 (ii) alcoholic beverage license issued by the local authority.

1961 (6) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in

1962 [~~any~~] a place other than as designated in the airport lounge liquor licensee's application, unless  
1963 the airport lounge liquor licensee first applies for and receives approval from the department for  
1964 a change of location within the airport lounge.

1965 (7) (a) A patron may only make [~~purchases~~] a purchase in the airport lounge from and  
1966 be served by a person employed, designated, and trained by the airport lounge liquor licensee to  
1967 sell, dispense, and serve an alcoholic [~~beverages~~] beverage.

1968 (b) Notwithstanding Subsection (7)(a), a patron who [~~has purchased~~] purchases bottled  
1969 wine from an employee of the airport lounge may serve wine from the bottle to the patron or  
1970 others at the patron's table.

1971 (c) [~~Each~~] An airport lounge patron may have no more than two alcoholic beverages of  
1972 any kind at a time before the patron, subject to the limitation in Subsection (2)(d).

1973 (8) The liquor storage area shall remain locked at all times other than those hours and  
1974 days when liquor sales and service are authorized by law.

1975 (9) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, offered for sale,  
1976 served, or otherwise furnished at an airport lounge on any day after 12 midnight and before 8  
1977 a.m.

1978 (10) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise  
1979 furnished to [~~any~~] a:

1980 (a) minor;

1981 (b) person actually, apparently, or obviously intoxicated;

1982 (c) known habitual drunkard; or

1983 (d) known interdicted person.

1984 (11) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.

1985 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.

1986 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost of  
1987 the alcoholic beverage to the airport lounge liquor licensee.

1988 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
1989 over consumption or intoxication.

- 1990 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
1991 hours of the airport [~~lounge's~~] lounge liquor licensee's business day such as a "happy hour."
- 1992 (e) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or  
1993 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 1994 (f) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic beverages  
1995 during [~~any~~] a set period may not be sold or served for a fixed price [~~is prohibited~~].
- 1996 (g) An airport lounge liquor licensee may not engage in a public promotion involving or  
1997 offering free an alcoholic [~~beverages~~] beverage to the general public.
- 1998 (12) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for a patron of  
1999 an airport lounge by:
- 2000 (a) the airport lounge liquor licensee; or
- 2001 (b) [~~any~~] an employee or agent of the airport lounge liquor licensee.
- 2002 (13) (a) A person may not bring onto the premises of an airport lounge liquor licensee  
2003 [~~any~~] an alcoholic beverage for on-premise consumption.
- 2004 (b) An airport lounge [~~or its officers, managers, employees, or agents~~] liquor licensee or  
2005 an officer, manager, employee, or agent of the airport lounge liquor licensee may not allow a  
2006 person to bring onto the airport lounge premises [~~any~~] an alcoholic beverage for on-premise  
2007 consumption or allow consumption of [~~any such~~] the alcoholic beverage on [~~its~~] the airport  
2008 lounge liquor licensee's premises.
- 2009 (14) An airport lounge liquor licensee and [~~its employees~~] an employee of the airport  
2010 lounge liquor licensee may not permit a patron to remove [~~any~~] an alcoholic [~~beverages~~]  
2011 beverage from the airport lounge premises.
- 2012 (15) (a) [~~A minor may not be employed by an~~] An airport lounge liquor licensee may  
2013 not employ a minor to sell or dispense an alcoholic [~~beverages~~] beverage.
- 2014 (b) Notwithstanding Subsection (15)(a), a minor who is at least 16 years of age may be  
2015 employed to enter the sale at a cash register or other sales recording device.
- 2016 (16) An employee of an airport lounge liquor licensee, while on duty, may not:
- 2017 (a) consume an alcoholic beverage; or



- 2018 (b) be intoxicated.
- 2019 (17) ~~[Any]~~ A charge or fee made in connection with the sale, service, or consumption
- 2020 of liquor may be stated in a food or alcoholic beverage menu including:
- 2021 (a) a set-up charge;
- 2022 (b) a service charge; or
- 2023 (c) a chilling fee.
- 2024 (18) ~~[Each]~~ An airport lounge liquor licensee shall display in a prominent place in the
- 2025 airport lounge:
- 2026 (a) the liquor license that is issued by the department;
- 2027 (b) a list of the types and brand names of liquor being served through its calibrated
- 2028 metered dispensing system; and
- 2029 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 2030 drugs is a serious crime that is prosecuted aggressively in Utah."
- 2031 (19) (a) ~~[Each]~~ An airport lounge liquor licensee shall maintain an expense ledger or
- 2032 record showing in detail:
- 2033 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all
- 2034 other items required by the department; and
- 2035 (ii) sales made separately for malt or brewed beverages, food, and all other items
- 2036 required by the department.
- 2037 ~~[(b) This record shall be kept:]~~
- 2038 (b) An airport lounge liquor licensee shall keep a record required by Subsection (19)(a):
- 2039 (i) in a form approved by the department; and
- 2040 (ii) current for each three-month period.
- 2041 (c) ~~[Each]~~ An expenditure shall be supported by:
- 2042 (i) a delivery ~~[tickets]~~ ticket;
- 2043 (ii) ~~[invoices]~~ an invoice;
- 2044 (iii) a receipted ~~[bills]~~ bill;
- 2045 (iv) a canceled ~~[checks]~~ check;

2046 (v) a petty cash [~~vouchers~~] voucher; or

2047 (vi) other sustaining [~~data or memoranda~~] datum or memorandum.

2048 (d) In addition to a ledger or record required by Subsection (19)(a), [~~each~~] an airport  
2049 lounge liquor licensee shall maintain accounting and other records and documents as the  
2050 department may require.

2051 (e) [~~Any~~] An airport lounge liquor licensee or person acting for the airport lounge, who  
2052 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the entries in any of~~  
2053 ~~the books~~] an entry in a book of account or other [~~documents~~] document of the airport lounge  
2054 required to be made, maintained, or preserved by this title or the rules of the commission for the  
2055 purpose of deceiving the commission [~~or~~], the department, or [~~any of their officials or~~  
2056 ~~employees~~] an official or employee of the commission or department, is subject to:

- 2057 (i) the immediate suspension or revocation of the airport lounge's liquor license; and
- 2058 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2059 (20) An airport lounge liquor license may not be transferred from one location to  
2060 another, without prior written approval of the commission.

2061 (21) (a) An airport lounge liquor licensee may not sell, transfer, assign, exchange,  
2062 barter, give, or attempt in any way to dispose of the airport lounge liquor license to [~~any other~~]  
2063 another person, whether for monetary gain or not.

2064 (b) An airport lounge liquor license has no monetary value for the purpose of any type  
2065 of disposition.

2066 (22) [~~Each~~] A server of an alcoholic [~~beverages~~] beverage in [~~a~~] an airport lounge  
2067 liquor licensee's establishment shall keep a written beverage tab for each table or group that  
2068 orders or consumes an alcoholic [~~beverages~~] beverage on the premises. The beverage tab shall  
2069 list the type and amount of an alcoholic [~~beverages~~] beverage ordered or consumed.

2070 (23) An airport lounge liquor licensee's premises may not be leased for a private  
2071 [~~functions~~] function.

2072 (24) An airport lounge liquor licensee may not on the premises of the airport lounge  
2073 liquor licensee:

2074 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
2075 Chapter 10, Part 11, Gambling;

2076 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
2077 Part 11, Gambling; or

2078 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
2079 the risking of something of value for a return or for an outcome when the return or outcome is  
2080 based upon an element of chance, excluding the playing of an amusement device that confers  
2081 only an immediate and unrecorded right of replay not exchangeable for value.

2082 (25) An airport lounge liquor licensee or an employee of the airport lounge liquor  
2083 licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58,  
2084 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2085 (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2;  
2086 or

2087 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
2088 Section 58-37a-3.

2089 Section 28. Section **32A-4-302** is amended to read:

2090 **32A-4-302. Commission's power to grant licenses -- Limitations.**

2091 (1) A restaurant wanting to sell and allow the consumption of only wine, heavy beer,  
2092 and beer on its premises, but not spirituous liquor[;] or, on or after October 1, 2008, a flavored  
2093 malt beverage, shall obtain a limited restaurant license from the commission as provided in this  
2094 part before selling or allowing the consumption of wine, heavy beer, or beer on its premises.

2095 (2) (a) Subject to the other provisions of this section, the commission may issue limited  
2096 restaurant licenses for the purpose of establishing limited restaurant outlets at places and in  
2097 numbers the commission considers proper for the storage, sale, and consumption of wine, heavy  
2098 beer, and beer on premises operated as public restaurants.

2099 (b) The total number of limited restaurant licenses issued under this part may not at any  
2100 time aggregate more than that number determined by dividing the population of the state by  
2101 [~~11,000~~] 9,300.

- 2102 (c) For purposes of this Subsection (2), population shall be determined by:
- 2103 (i) the most recent United States decennial or special census; or
- 2104 (ii) [~~any other~~] another population determination made by the United States or state
- 2105 governments.
- 2106 (3) (a) (i) The commission may issue seasonal limited restaurant licenses established in
- 2107 areas the commission considers necessary.
- 2108 (ii) A seasonal limited restaurant license shall be for a period of six consecutive months.
- 2109 (b) (i) A limited restaurant license issued for operation during a summer time period is
- 2110 known as a "Seasonal A" limited restaurant license. The period of operation for a "Seasonal A"
- 2111 limited restaurant license shall:
- 2112 (A) begin on May 1; and
- 2113 (B) end on October 31.
- 2114 (ii) A limited restaurant license issued for operation during a winter time period is
- 2115 known as a "Seasonal B" limited restaurant license. The period of operation for a "Seasonal B"
- 2116 limited restaurant license shall:
- 2117 (A) begin on November 1; and
- 2118 (B) end on April 30.
- 2119 (iii) In determining the number of limited restaurant licenses that the commission may
- 2120 issue under this section:
- 2121 (A) a seasonal limited restaurant license is counted as 1/2 of one limited restaurant
- 2122 license; and
- 2123 (B) each "Seasonal A" limited restaurant license shall be paired with a "Seasonal B"
- 2124 limited restaurant license.
- 2125 (c) If the location, design, and construction of a hotel may require more than one
- 2126 limited restaurant sales location within the hotel to serve the public convenience, the
- 2127 commission may authorize the sale of wine, heavy beer, and beer at as many as three limited
- 2128 restaurant locations within the hotel under one license if:
- 2129 (i) the hotel has a minimum of 150 guest rooms; and

2130 (ii) all locations under the license are:

2131 (A) within the same hotel facility; and

2132 (B) on premises that are:

2133 (I) managed or operated by the licensee; and

2134 (II) owned or leased by the licensee.

2135 (d) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel shall have a separate limited  
2136 restaurant license for each restaurant where wine, heavy beer, and beer are sold.

2137 (4) (a) ~~[The]~~ Except as provided in Subsection (4)(b), (c), or (d), the premises of a  
2138 limited restaurant license may not be established:

2139 (i) within 600 feet of ~~[any public or private school, church, public library, public~~  
2140 ~~playground, or park]~~ a community location, as measured by the method in Subsection ~~[(5):~~  
2141 ~~(4)(e); or~~

2142 ~~[(b) The premises of a limited restaurant license may not be established]~~

2143 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~  
2144 ~~playground, or park]~~ a community location, measured in a straight line from the nearest  
2145 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~  
2146 ~~school, church, public library, public playground, or park]~~ community location.

2147 ~~[(c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the~~  
2148 ~~following exemptions applies:]~~

2149 ~~[(i) with]~~ (b) With respect to the establishment of a limited restaurant license ~~[in any~~  
2150 ~~location]~~, the commission may authorize a variance to reduce the proximity ~~[requirements]~~  
2151 requirement of Subsection (4)(a)(i) ~~[or (b)]~~ if:

2152 ~~[(A)]~~ (i) the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the  
2153 variance;

2154 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a limited  
2155 restaurant license in the community are limited;

2156 ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where  
2157 practical in the neighborhood concerned; ~~[and]~~

2158           ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the  
2159 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
2160 establishing the license would not be detrimental to the public health, peace, safety, and welfare  
2161 of the community; ~~[or]~~ and

2162           (v) (A) the community location governing authority gives its written consent to the  
2163 variance; or

2164           (B) when written consent is not given by the community location governing authority,  
2165 the commission finds that the applicant has established that:

2166           (I) there is substantial unmet public demand to consume alcohol in a public setting  
2167 within the geographic boundary of the local authority in which the limited restaurant licensee is  
2168 to be located;

2169           (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2170 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a limited  
2171 restaurant license; and

2172           (III) there is no reasonably viable alternative location within the geographic boundary of  
2173 the local authority in which the limited restaurant licensee is to be located for establishing a  
2174 limited restaurant license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

2175           (c) With respect to the establishment of a limited restaurant license, the commission  
2176 may authorize a variance that reduces the proximity requirement of Subsection (4)(a)(ii) if:

2177           (i) the community location at issue is:

2178           (A) a public library; or

2179           (B) a public park;

2180           (ii) the local authority grants its written consent to the variance;

2181           (iii) the commission finds that alternative locations for establishing a limited restaurant  
2182 license in the community are limited;

2183           (iv) a public hearing is held in the city, town, or county, and where practical in the  
2184 neighborhood concerned;

2185           (v) after giving full consideration to all of the attending circumstances and the policies

2186 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
2187 limited restaurant license would not be detrimental to the public health, peace, safety, and  
2188 welfare of the community; and

2189 (vi) (A) the community location governing authority gives its written consent to the  
2190 variance; or

2191 (B) when written consent is not given by the community location governing authority,  
2192 the commission finds that the applicant has established that:

2193 (I) there is substantial unmet public demand to consume alcohol in a public setting  
2194 within the geographic boundary of the local authority in which the limited restaurant licensee is  
2195 to be located;

2196 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2197 described in Subsection (4)(c)(vi)(B)(I) other than through the establishment of a limited  
2198 restaurant license; and

2199 (III) there is no reasonably viable alternative location within the geographic boundary of  
2200 the local authority in which the limited restaurant licensee is to be located for establishing a  
2201 limited restaurant license to satisfy the unmet demand described in Subsection (4)(c)(vi)(B)(I).

2202 ~~[(ii) with]~~ (d) With respect to the premises of ~~[any]~~ a limited restaurant license issued  
2203 by the commission that undergoes a change of ownership, the commission may waive or vary  
2204 the proximity requirements of ~~[Subsections]~~ Subsection (4)(a) ~~[and (b)]~~ in considering whether  
2205 to grant a limited restaurant license to the new owner of the premises if:

2206 (i) (A) the premises previously received a variance reducing the proximity  
2207 ~~[requirements]~~ requirement of Subsection (4)(a)(i) ~~[or (b)]~~; or

2208 (B) the premises received a variance reducing the proximity requirement of Subsection  
2209 (4)(a)(ii) on or before May 4, 2008; or

2210 ~~[(B)]~~ (ii) a variance from proximity ~~[or distance requirement]~~ requirements was  
2211 otherwise allowed under this title.

2212 ~~[(5) With respect to any public or private school, church, public library, public~~  
2213 ~~playground, or park, the]~~

2214 (e) The 600 foot limitation as described in Subsection (4)(a)(i) is measured from the  
2215 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
2216 property boundary of the [~~public or private school, church, public library, public playground,~~  
2217 ~~school playground, or park~~] community location.

2218 [(6)] (5) (a) Nothing in this section prevents the commission from considering the  
2219 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
2220 reaching a decision on a proposed location.

2221 (b) For purposes of this Subsection [(6)] (5), "educational facility" includes:

- 2222 (i) a nursery school;
- 2223 (ii) an infant day care center; and
- 2224 (iii) a trade and technical school.

2225 Section 29. Section **32A-4-303** is amended to read:

2226 **32A-4-303. Application and renewal requirements.**

2227 (1) A person seeking a limited restaurant license under this part shall file a written  
2228 application with the department, in a form prescribed by the department. The application shall  
2229 be accompanied by:

- 2230 (a) a nonrefundable \$250 application fee;
- 2231 (b) an initial license fee of \$500, which is refundable if a license is not granted;
- 2232 (c) written consent of the local authority;
- 2233 (d) a copy of the applicant's current business license;
- 2234 (e) evidence of proximity to any [~~public or private school, church, public library, public~~  
2235 ~~playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~  
2236 ~~Subsections 32A-4-302(4) and (5), the application shall be processed in accordance with those~~  
2237 ~~subsections~~] community location, with proximity requirements being governed by Section  
2238 32A-4-302;
- 2239 (f) a bond as specified by Section 32A-4-306;
- 2240 (g) a floor plan of the restaurant, including:
  - 2241 (i) consumption areas; and



2242 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and  
2243 beer;

2244 (h) evidence that the restaurant is carrying public liability insurance in an amount and  
2245 form satisfactory to the department;

2246 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least  
2247 \$500,000 per occurrence and \$1,000,000 in the aggregate;

2248 (j) a signed consent form stating that the restaurant will permit any authorized  
2249 representative of the commission, department, or any law enforcement officer unrestricted right  
2250 to enter the restaurant;

2251 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
2252 company, proper verification evidencing that the person or persons signing the restaurant  
2253 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
2254 company; and

2255 (l) any other information the commission or department may require.

2256 (2) (a) All limited restaurant licenses expire on October 31 of each year.

2257 (b) A person desiring to renew that person's limited restaurant license shall submit:

2258 (i) a renewal fee of \$300; and

2259 (ii) a renewal application to the department no later than September 30.

2260 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
2261 the license effective on the date the existing license expires.

2262 (d) [~~Renewal applications~~] A renewal application shall be in a form as prescribed by the  
2263 department.

2264 (3) To ensure compliance with Subsection 32A-4-307(25), the commission may  
2265 suspend or revoke a limited restaurant license if the limited restaurant licensee does not  
2266 immediately notify the department of any change in:

2267 (a) ownership of the restaurant;

2268 (b) for a corporate owner, the:

2269 (i) corporate officer or directors; or

2270 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
2271 corporation; or

2272 (c) for a limited liability company:

2273 (i) managers; or

2274 (ii) members owning at least 20% of the limited liability company.

2275 Section 30. Section **32A-4-305** is amended to read:

2276 **32A-4-305. Commission and department duties before granting licenses.**

2277 (1) (a) Before a limited restaurant license may be granted by the commission, the  
2278 department shall conduct an investigation and may hold public hearings for the purpose of  
2279 gathering information and making recommendations to the commission as to whether or not a  
2280 license should be granted.

2281 (b) The department shall forward the information and recommendations described in  
2282 Subsection (1)(a) to the commission to aid in the commission's determination.

2283 (2) Before issuing [~~any~~] a limited restaurant license, the commission shall:

2284 (a) determine that the applicant has complied with all basic qualifications and  
2285 requirements for making application for a license as provided by Sections 32A-4-302 and  
2286 32A-4-303;

2287 (b) determine that the application is complete;

2288 (c) consider the locality within which the proposed limited restaurant outlet is located,  
2289 including:

2290 (i) physical characteristics such as:

2291 (A) the condition of the premises;

2292 (B) square footage; and

2293 (C) parking availability; and

2294 (ii) operational factors such as:

2295 (A) tourist traffic;

2296 (B) proximity to and density of other state stores, package agencies, and outlets;

2297 (C) demographics;

- 2298 (D) population to be served; and
- 2299 (E) the extent of and proximity to any [~~school, church, public library, public~~
- 2300 ~~playground, or park~~] community location;
- 2301 (d) consider the applicant's ability to manage and operate a limited restaurant license,
- 2302 including:
- 2303 (i) management experience;
- 2304 (ii) past retail liquor experience; and
- 2305 (iii) the type of management scheme employed by the restaurant;
- 2306 (e) consider the nature or type of restaurant operation, including:
- 2307 (i) the type of menu items offered and emphasized;
- 2308 (ii) whether the restaurant emphasizes service to an adult clientele or to minors;
- 2309 (iii) the hours of operation;
- 2310 (iv) the seating capacity of the facility; and
- 2311 (v) the gross sales of food items; and
- 2312 (f) consider any other factors or circumstances the commission considers necessary.

2313 Section 31. Section **32A-4-307** is amended to read:

2314 **32A-4-307. Operational restrictions.**

2315 [~~Each~~] A person granted a limited restaurant license and the employees and management  
2316 personnel of the limited restaurant shall comply with the following conditions and requirements.  
2317 Failure to comply may result in a suspension or revocation of the license or other disciplinary  
2318 action taken against individual employees or management personnel.

2319 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee  
2320 except from a state [~~stores~~] store or package [~~agencies~~] agency.

2321 (b) Wine and heavy beer purchased [~~in accordance with Subsection (1)(a)]~~ from a state  
2322 store or package agency may be transported by the limited restaurant licensee from the place of  
2323 purchase to the licensed premises.

2324 (c) Payment for wine and heavy beer shall be made in accordance with rules established  
2325 by the commission.

2326 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of  
2327 [~~spirituous liquor~~] the products listed in Subsection (2)(c) on the premises of the limited  
2328 restaurant.

2329 (b) [~~Spirituous liquor~~] A product listed in Subsection (2)(c) may not be on the premises  
2330 of the limited restaurant except for use:

2331 (i) as a flavoring on [~~desserts~~] a dessert; and

2332 (ii) in the preparation of a flaming food [~~dishes, drinks, and desserts~~] dish, drink, or  
2333 dessert.

2334 (c) This Subsection (2) applies to:

2335 (i) spirituous liquor; and

2336 (ii) on or after October 1, 2008, a flavored malt beverage.

2337 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to  
2338 exceed five ounces per glass or individual portion.

2339 (ii) An individual portion may be served to a patron in more than one glass as long as  
2340 the total amount of wine does not exceed five ounces.

2341 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
2342 Subsection (7)(e).

2343 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters  
2344 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

2345 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750  
2346 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four persons.

2347 (c) A wine service may be performed and a service charge assessed by the limited  
2348 restaurant licensee as authorized by commission rule for wine purchased at the limited  
2349 restaurant.

2350 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding  
2351 one liter at [~~prices~~] a price fixed by the commission.

2352 (b) A service charge may be assessed by the limited restaurant licensee as authorized by  
2353 commission rule for heavy beer purchased at the limited restaurant.

2354 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for  
2355 on-premise consumption:

2356 (A) in an open container; and

2357 (B) on draft.

2358 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
2359 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
2360 container that exceeds one liter.

2361 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):

2362 (i) may do so without obtaining a separate on-premise beer retailer license from the  
2363 commission; and

2364 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
2365 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those  
2366 restrictions are inconsistent with or less restrictive than the operational restrictions under this  
2367 part.

2368 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
2369 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited  
2370 restaurant's:

2371 (i) limited restaurant license; and

2372 (ii) alcoholic beverage license issued by the local authority.

2373 (6) Wine, heavy beer, and beer may not be stored, served, or sold in [~~any~~] a place other  
2374 than as designated in the limited restaurant licensee's application, unless the limited restaurant  
2375 licensee first applies for and receives approval from the department for a change of location  
2376 within the limited restaurant.

2377 (7) (a) (i) A patron may only make an alcoholic beverage [~~purchases~~] purchase in [~~the~~]  
2378 a limited restaurant from and be served by a person employed, designated, and trained by the  
2379 limited restaurant licensee to sell and serve an alcoholic [~~beverages~~] beverage.

2380 (ii) Notwithstanding Subsection (7)(a)(i), a patron who [~~has purchased~~] purchases  
2381 bottled wine from an employee of the limited restaurant [~~or has carried~~] licensee or carries

2382 bottled wine onto the premises of the limited restaurant pursuant to Subsection (14) may  
2383 thereafter serve wine from the bottle to the patron or others at the patron's table.

2384 (b) [~~Alcoholic beverages~~] An alcoholic beverage shall be delivered by a server to the  
2385 patron.

2386 (c) [~~Any~~] An alcoholic beverage may only be consumed at the patron's table or counter.

2387 (d) [~~Alcoholic beverages~~] An alcoholic beverage may not be served to or consumed by  
2388 a patron at a bar.

2389 (e) [~~Each~~] A limited restaurant patron may have no more than two alcoholic beverages  
2390 of any kind at a time before the patron.

2391 (8) The alcoholic beverage storage area shall remain locked at all times other than those  
2392 hours and days when alcoholic beverage sales are authorized by law.

2393 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise  
2394 furnished at a limited restaurant during the following days or hours:

2395 (i) until after the polls are closed on the day of [~~any~~] a:

2396 (A) regular general election;

2397 (B) regular primary election; or

2398 (C) statewide special election;

2399 (ii) until after the polls are closed on the day of [~~any~~] a municipal, local district, special  
2400 service district, or school election, but only:

2401 (A) within the boundaries of the municipality, local district, special service district, or  
2402 school district; and

2403 (B) if required by local ordinance; and

2404 (iii) on any other day after 12 midnight and before 12 noon.

2405 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
2406 Licenses, for on-premise beer licensees.

2407 (10) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold except in connection  
2408 with an order of food prepared, sold, and served at the limited restaurant.

2409 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to

2410 ~~[any]~~ a:

2411 (a) minor;

2412 (b) person actually, apparently, or obviously intoxicated;

2413 (c) known habitual drunkard; or

2414 (d) known interdicted person.

2415 (12) (a) (i) Wine and heavy beer may be sold only at ~~[prices]~~ a price fixed by the

2416 commission.

2417 (ii) Wine and heavy beer may not be sold at a discount ~~[prices]~~ price on any date or at

2418 any time.

2419 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost of

2420 the alcoholic ~~[beverages]~~ beverage to the limited restaurant licensee.

2421 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages

2422 over consumption or intoxication.

2423 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain

2424 hours of the limited ~~[restaurant's]~~ restaurant licensee's business day such as a "happy hour."

2425 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or

2426 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

2427 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages

2428 during ~~[any]~~ a set period may not be sold or served for a fixed price ~~[is prohibited]~~.

2429 (g) A limited restaurant licensee may not engage in a public promotion involving or

2430 offering free alcoholic beverages to the general public.

2431 (13) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of

2432 the limited restaurant by:

2433 (a) the limited restaurant licensee; or

2434 (b) ~~[any]~~ an employee or agent of the limited restaurant licensee.

2435 (14) (a) A person may not bring onto the premises of a limited restaurant licensee ~~[any]~~

2436 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the

2437 discretion of the limited restaurant licensee, bottled wine onto the premises of ~~[any]~~ a limited

2438 restaurant licensee for on-premise consumption.

2439 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee [~~or its~~  
2440 ~~officers, managers, employees, or agents~~] or an officer, manager, employee, or agent of a  
2441 limited restaurant licensee may not allow:

2442 (i) a person to bring onto the limited restaurant premises [~~any~~] an alcoholic beverage for  
2443 on-premise consumption; or

2444 (ii) consumption of [~~any~~] an alcoholic beverage described in Subsection (14)(b)(i) on  
2445 [~~its~~] the limited restaurant licensee's premises.

2446 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
2447 or other representative of the limited restaurant licensee upon entering the limited restaurant.

2448 (d) A wine service may be performed and a service charge assessed by the limited  
2449 restaurant licensee as authorized by commission rule for wine carried in by a patron.

2450 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee [~~and its~~  
2451 ~~employees~~] and an employee of the limited restaurant licensee may not permit a restaurant  
2452 patron to carry from the limited restaurant premises an open container that:

2453 (i) is used primarily for drinking purposes; and

2454 (ii) contains [~~any~~] an alcoholic beverage.

2455 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed contents  
2456 of a bottle of wine if before removal, the bottle [~~has been~~] is recorked or recapped.

2457 (16) (a) A [~~minor may not be employed by a~~] limited restaurant licensee may not  
2458 employ a minor to sell or dispense an alcoholic [~~beverages~~] beverage.

2459 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be  
2460 employed to enter the sale at a cash register or other sales recording device.

2461 (17) An employee of a limited restaurant licensee, while on duty, may not:

2462 (a) consume an alcoholic beverage; or

2463 (b) be intoxicated.

2464 (18) A charge or fee made in connection with the sale, service, or consumption of wine  
2465 or heavy beer may be stated in food or alcoholic beverage menus including:



- 2466 (a) a service charge; or
- 2467 (b) a chilling fee.
- 2468 (19) [~~Each~~] A limited restaurant licensee shall display in a prominent place in the
- 2469 restaurant:
- 2470 (a) the limited restaurant license that is issued by the department; and
- 2471 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 2472 drugs is a serious crime that is prosecuted aggressively in Utah."
- 2473 (20) A limited restaurant licensee may not on the premises of the restaurant:
- 2474 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
- 2475 Chapter 10, Part 11, Gambling;
- 2476 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 2477 Part 11, Gambling; or
- 2478 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 2479 the risking of something of value for a return or for an outcome when the return or outcome is
- 2480 based upon an element of chance, excluding the playing of an amusement device that confers
- 2481 only an immediate and unrecorded right of replay not exchangeable for value.
- 2482 (21) (a) [~~Each~~] A limited restaurant licensee shall maintain an expense ledger or record
- 2483 showing in detail:
- 2484 (i) quarterly expenditures made separately for:
- 2485 (A) wine;
- 2486 (B) heavy beer;
- 2487 (C) beer;
- 2488 (D) food; and
- 2489 (E) all other items required by the department; and
- 2490 (ii) sales made separately for:
- 2491 (A) wine;
- 2492 (B) heavy beer;
- 2493 (C) beer;

2494 (D) food; and  
2495 (E) all other items required by the department.  
2496 (b) ~~[The]~~ A limited restaurant licensee shall keep a record required by Subsection  
2497 (21)(a) ~~[shall be kept]~~:  
2498 (i) in a form approved by the department; and  
2499 (ii) current for each three-month period.  
2500 (c) ~~[Each]~~ An expenditure shall be supported by:  
2501 (i) a delivery ~~[tickets]~~ ticket;  
2502 (ii) ~~[invoices]~~ an invoice;  
2503 (iii) a receipted ~~[bills]~~ bill;  
2504 (iv) a canceled ~~[checks]~~ check;  
2505 (v) a petty cash ~~[vouchers]~~ voucher; or  
2506 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.  
2507 (d) In addition to the ledger or record maintained under Subsections (21)(a) through  
2508 (c), a limited restaurant licensee shall maintain accounting and other records and documents as  
2509 the department may require.  
2510 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly  
2511 forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of the books]~~  
2512 an entry in a book of account or other ~~[documents]~~ document of the limited restaurant that is  
2513 required to be made, maintained, or preserved by this title or the rules of the commission for the  
2514 purpose of deceiving the commission ~~[or], the~~ department, or ~~[any of their officials or~~  
2515 ~~employees]~~ an official or employee of the commission or department, is subject to:  
2516 (i) the suspension or revocation of the limited restaurant's license; and  
2517 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.  
2518 (22) (a) A limited restaurant licensee may not close or cease operation for a period  
2519 longer than 240 hours, unless:  
2520 (i) the limited restaurant licensee notifies the department in writing at least seven days  
2521 before the ~~[closing]~~ day on which the limited restaurant licensee closes or ceases operation; and

- 2522 (ii) the closure or cessation of operation is first approved by the department.
- 2523 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, [~~immediate~~  
2524 ~~notice of closure shall be made to]~~ the limited restaurant licensee shall immediately notify the  
2525 department by telephone.
- 2526 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or  
2527 cessation of operation for a period not to exceed 60 days.
- 2528 (ii) The department may extend the initial period an additional 30 days upon:
- 2529 (A) written request of the limited restaurant licensee; and
- 2530 (B) a showing of good cause.
- 2531 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
2532 commission approval.
- 2533 (d) [~~Any~~] A notice required by Subsection (22)(a) shall include:
- 2534 (i) the dates of closure or cessation of operation;
- 2535 (ii) the reason for the closure or cessation of operation; and
- 2536 (iii) the date on which the limited restaurant licensee will reopen or resume operation.
- 2537 (e) Failure of the limited restaurant licensee to provide notice and to obtain department  
2538 authorization before closure or cessation of operation [~~shall result]~~ results in an automatic  
2539 forfeiture of:
- 2540 (i) the limited restaurant license; and
- 2541 (ii) the unused portion of the license fee for the remainder of the license year effective  
2542 immediately.
- 2543 (f) Failure of the limited restaurant licensee to reopen or resume operation by the  
2544 approved date [~~shall result]~~ results in an automatic forfeiture of:
- 2545 (i) the limited restaurant license; and
- 2546 (ii) the unused portion of the license fee for the remainder of the license year.
- 2547 (23) [~~Each~~] A limited restaurant licensee shall maintain at least 70% of its total  
2548 restaurant business from the sale of food, which does not include service charges.
- 2549 (24) A limited restaurant license may not be transferred from one location to another,

2550 without prior written approval of the commission.

2551 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,  
2552 give, or attempt in any way to dispose of the limited restaurant license to [~~any other~~] another  
2553 person whether for monetary gain or not.

2554 (b) A limited restaurant license has no monetary value for the purpose of any type of  
2555 disposition.

2556 (26) (a) [~~Each~~] A server of wine, heavy beer, and beer in a limited restaurant licensee's  
2557 establishment shall keep a written beverage tab for each table or group that orders or consumes  
2558 an alcoholic [~~beverages~~] beverage on the premises.

2559 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an  
2560 alcoholic [~~beverages~~] beverage ordered or consumed.

2561 (27) A limited restaurant licensee may not make a person's willingness to serve an  
2562 alcoholic [~~beverages~~] beverage a condition of employment as a server with the limited  
2563 restaurant.

2564 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may  
2565 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
2566 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2567 (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2;  
2568 or

2569 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
2570 Section 58-37a-3.

2571 Section 32. Section **32A-4-401** is amended to read:

2572 **32A-4-401. Definitions -- Commission's power to grant licenses -- Limitations.**

2573 (1) (a) For purposes of this part:

2574 (i) "Banquet" means an event:

2575 (A) for which there is a contract:

2576 (I) between any person and a person listed in Subsection (1)(a)(i)(B); and

2577 (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide

2578 alcoholic beverages at the event;

2579 (B) held at one or more designated locations approved by the commission in or on the

2580 premises of a:

2581 (I) hotel;

2582 (II) resort facility;

2583 (III) sports center; or

2584 (IV) convention center; and

2585 (C) at which food and alcoholic beverages may be sold and served.

2586 (ii) "Convention center" is as defined by the commission by rule.

2587 (iii) "Hotel" is as defined by the commission by rule.

2588 (iv) "Resort facility" is as defined by the commission by rule.

2589 (v) "Room service" means service of alcoholic beverages to a guest room of a:

2590 (A) hotel; or

2591 (B) resort facility.

2592 (vi) "Sports center" is as defined by the commission by rule.

2593 (b) The commission may issue an on-premise banquet license to any of the following

2594 persons for the purpose of allowing the storage, sale, service, and consumption of alcoholic

2595 beverages in connection with that person's banquet and room service activities:

2596 (i) hotel;

2597 (ii) resort facility;

2598 (iii) sports center; or

2599 (iv) convention center.

2600 (c) This chapter is not intended to prohibit alcoholic beverages on the premises of a

2601 person listed in Subsection (1) to the extent otherwise permitted by this title.

2602 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not

2603 at any time aggregate more than that number determined by dividing the population of the state

2604 by 30,000.

2605 (b) For purposes of this Subsection (2), the population of the state shall be determined

2606 by:

2607 (i) the most recent United States decennial or special census; or

2608 (ii) ~~[any other]~~ another population determination made by the United States or state  
2609 governments.

2610 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet  
2611 licensee:

2612 (a) the host of a contracted banquet may request an on-premise banquet licensee to  
2613 provide alcoholic beverages served at a banquet; and

2614 (b) an on-premise banquet licensee may provide the alcoholic beverages served at a  
2615 banquet.

2616 (4) At a banquet, an on-premise banquet licensee may provide:

2617 (a) a hosted bar; or

2618 (b) a cash bar.

2619 (5) Nothing in this section shall prohibit a qualified on-premise banquet license  
2620 applicant from applying for a package agency.

2621 (6) (a) ~~[The]~~ Except as provided in Subsection (6)(b), (c), or (d), the premises of an  
2622 on-premise banquet license may not be established:

2623 (i) within 600 feet of ~~[any public or private school, church, public library, public~~  
2624 ~~playground, or park]~~ a community location, as measured by the method in Subsection  
2625 (6)~~(d)~~(e); or

2626 ~~[(b) The premises of an on-premise banquet license may not be established]~~

2627 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~  
2628 ~~playground, or park]~~ a community location, measured in a straight line from the nearest  
2629 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~  
2630 ~~school, church, public library, public playground, or park]~~ community location.

2631 ~~[(c) The restrictions contained in Subsections (6)(a) and (b) govern unless one of the~~  
2632 ~~following exemptions applies:]~~

2633 ~~[(i) with]~~ (b) With respect to the establishment of an on-premise banquet license

2634 [~~within any location~~], the commission may authorize a variance to reduce the proximity  
2635 [~~requirements~~] requirement of Subsection (6)(a)(i) [~~or (b)~~] if:

2636 [~~(A)~~] (i) the local authority grants its written consent to the variance;

2637 [~~(B)~~] (ii) the commission finds that alternative locations for establishing an on-premise  
2638 banquet license in the community are limited;

2639 [~~(C)~~] (iii) the variance is authorized after a public hearing is held in the city, town, or  
2640 county, and where practical in the neighborhood concerned; [~~and~~]

2641 [~~(D)~~] (iv) after giving full consideration to all of the attending circumstances and the  
2642 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
2643 establishing the license would not be detrimental to the public health, peace, safety, and welfare  
2644 of the community; [~~or~~] and

2645 (v) (A) the community location governing authority gives its written consent to the  
2646 variance; or

2647 (B) when written consent is not given by the community location governing authority,  
2648 the commission finds that the applicant has established that:

2649 (I) there is substantial unmet public demand to consume alcohol in a public setting  
2650 within the geographic boundary of the local authority in which the on-premise banquet license  
2651 premises is to be located;

2652 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2653 described in Subsection (6)(b)(v)(B)(I) other than through the establishment of an on-premise  
2654 banquet license; and

2655 (III) there is no reasonably viable alternative location within the geographic boundary of  
2656 the local authority in which the on-premise banquet license premises is to be located for  
2657 establishing an on-premise banquet license to satisfy the unmet demand described in Subsection  
2658 (6)(b)(v)(B)(I).

2659 (c) With respect to the establishment of an on-premise banquet license, the commission  
2660 may authorize a variance that reduces the proximity requirement of Subsection (6)(a)(ii) if:

2661 (i) the community location at issue is:

2662           (A) a public library; or  
2663           (B) a public park;  
2664           (ii) the local authority grants its written consent to the variance;  
2665           (iii) the commission finds that alternative locations for establishing an on-premise  
2666 banquet license in the community are limited;  
2667           (iv) a public hearing is held in the city, town, or county, and where practical in the  
2668 neighborhood concerned;  
2669           (v) after giving full consideration to all of the attending circumstances and the policies  
2670 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
2671 on-premise banquet license would not be detrimental to the public health, peace, safety, and  
2672 welfare of the community; and  
2673           (vi) (A) the community location governing authority gives its written consent to the  
2674 variance; or  
2675           (B) when written consent is not given by the community location governing authority,  
2676 the commission finds that the applicant has established that:  
2677           (I) there is substantial unmet public demand to consume alcohol in a public setting  
2678 within the geographic boundary of the local authority in which the on-premise banquet license  
2679 premises is to be located;  
2680           (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2681 described in Subsection (6)(c)(vi)(B)(I) other than through the establishment of an on-premise  
2682 banquet license; and  
2683           (III) there is no reasonably viable alternative location within the geographic boundary of  
2684 the local authority in which the on-premise banquet license premises is to be located for  
2685 establishing an on-premise banquet license to satisfy the unmet demand described in Subsection  
2686 (6)(c)(vi)(B)(I).  
2687           ~~[(ii) with]~~ (d) With respect to the premises of any on-premise banquet license issued by  
2688 the commission that undergoes a change of ownership, the commission may waive or vary the  
2689 proximity requirements of ~~[Subsections]~~ Subsection (6)(a) ~~[and (b)]~~ in considering whether to



2690 grant an on-premise banquet license to the new owner of the premises if:

2691 (i) (A) the premises previously received a variance reducing the proximity

2692 [requirements] requirement of Subsection (6)(a)(i) [or (b)]; or

2693 (B) the premises received a variance reducing the proximity requirement of Subsection

2694 (6)(a)(ii) on or before May 4, 2008; or

2695 ~~[(B)]~~ (ii) a variance from proximity [or distance] requirements was otherwise allowed

2696 under this title.

2697 ~~[(d)]~~ (e) [With respect to any public or private school, church, public library, public

2698 ~~playground, or park, the] The 600 foot limitation described in Subsection (6)(a)(i) is measured~~

2699 from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian

2700 travel to the property boundary of the ~~[public or private school, church, public library, public~~

2701 ~~playground, school playground, or park] community location.~~

2702 (7) (a) Nothing in this section prevents the commission from considering the proximity

2703 of any educational, religious, and recreational facility, or any other relevant factor in reaching a

2704 decision on a proposed location.

2705 (b) For purposes of this Subsection (7), "educational facility" includes:

2706 (i) a nursery school;

2707 (ii) an infant day care center; and

2708 (iii) a trade and technical school.

2709 Section 33. Section **32A-4-402** is amended to read:

2710 **32A-4-402. Application and renewal requirements.**

2711 (1) (a) A person seeking an on-premise banquet license under this part shall file a

2712 written application with the department, in a form prescribed by the department. The

2713 application shall be accompanied by:

2714 (i) a nonrefundable \$250 application fee;

2715 (ii) an initial license fee of \$500, which is refundable if a license is not granted;

2716 (iii) written consent of the local authority;

2717 (iv) a copy of the applicant's current business license;

2718 (v) evidence of proximity to any [~~public or private school, church, public library, public~~  
2719 ~~playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~  
2720 ~~Subsection 32A-4-401(6), the application shall be processed in accordance with those~~  
2721 ~~subsections]~~ community location, with proximity requirements being governed by Section  
2722 32A-4-401;

2723 (vi) a bond as specified by Section 32A-4-405;

2724 (vii) a description or floor plan and boundary map of the premises, where appropriate,  
2725 of the on-premise banquet license applicant's location, designating:

2726 (A) the location at which the on-premise banquet license applicant proposes that  
2727 alcoholic beverages be stored; and

2728 (B) the designated locations on the premises of the applicant from which the on-premise  
2729 banquet license applicant proposes that alcoholic beverages be sold or served, and consumed;

2730 (viii) evidence that the on-premise banquet license applicant is carrying public liability  
2731 insurance in an amount and form satisfactory to the department;

2732 (ix) evidence that the on-premise banquet license applicant is carrying dramshop  
2733 insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

2734 (x) a signed consent form stating that the on-premise banquet license applicant will  
2735 permit any authorized representative of the commission, department, or any law enforcement  
2736 officer unrestricted right to enter the on-premise banquet premises;

2737 (xi) in the case of an applicant that is a partnership, corporation, or limited liability  
2738 company, proper verification evidencing that the person or persons signing the on-premise  
2739 banquet license application are authorized to so act on behalf of the partnership, corporation, or  
2740 limited liability company; and

2741 (xii) any other information the commission or department may require.

2742 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv),  
2743 and (vi) if the applicant is:

2744 (i) a state agency; or

2745 (ii) a political subdivision of the state including:

2746 (A) a county; or  
2747 (B) a municipality.

2748 (2) Additional locations in or on the premises of an on-premise banquet license  
2749 applicant's business from which the on-premise banquet license applicant may propose that  
2750 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's  
2751 original application may be approved by the department upon proper application, in accordance  
2752 with guidelines approved by the commission.

2753 (3) (a) All on-premise banquet licenses expire on October 31 of each year.

2754 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that  
2755 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed renewal  
2756 application to the department no later than September 30.

2757 (ii) A licensee is not required to submit the renewal fee if the licensee is:

2758 (A) a state agency; or  
2759 (B) a political subdivision of the state including:  
2760 (I) a county; or  
2761 (II) a municipality.

2762 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
2763 the license effective on the date the existing license expires.

2764 (d) [~~Renewal applications~~] A renewal application shall be in a form as prescribed by the  
2765 department.

2766 (4) To ensure compliance with Subsection 32A-4-406(24), the commission may  
2767 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to  
2768 immediately notify the department of any change in:

2769 (a) ownership of the licensee;  
2770 (b) for a corporate owner, the:  
2771 (i) corporate officers or directors; or  
2772 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
2773 corporation; or

2774 (c) for a limited liability company:

2775 (i) managers; or

2776 (ii) members owning at least 20% of the limited liability company.

2777 Section 34. Section **32A-4-406** is amended to read:

2778 **32A-4-406. Operational restrictions.**

2779 ~~[Each]~~ A person granted an on-premise banquet license and the employees and  
2780 management personnel of the on-premise banquet licensee shall comply with this title, the rules  
2781 of the commission, and the following conditions and requirements. Failure to comply may  
2782 result in a suspension or revocation of the on-premise banquet license or other disciplinary  
2783 action taken against individual employees or management personnel.

2784 (1) A person involved in the sale or service of an alcoholic ~~[beverages]~~ beverage under  
2785 the on-premise banquet license shall:

2786 (a) be under the supervision and direction of the on-premise banquet licensee; and

2787 (b) complete the seminar provided for in Section 62A-15-401.

2788 (2) (a) Liquor may not be purchased by ~~[the]~~ an on-premise banquet licensee except  
2789 from a state ~~[stores]~~ store or package ~~[agencies]~~ agency.

2790 (b) Liquor purchased ~~[in accordance with Subsection (2)(a)]~~ from a state store or  
2791 package agency may be transported by the on-premise banquet licensee from the place of  
2792 purchase to the licensed premises.

2793 (c) Payment for liquor shall be made in accordance with rules established by the  
2794 commission.

2795 (3) ~~[Alcoholic beverages]~~ An alcoholic beverage may be sold or provided at a banquet  
2796 by an on-premise banquet licensee subject to the restrictions set forth in this Subsection (3).

2797 (a) An on-premise banquet licensee may sell or provide ~~[any]~~ a primary spirituous liquor  
2798 only in a quantity not to exceed ~~[one ounce]~~ 1.5 ounces per beverage dispensed through a  
2799 calibrated metered dispensing system approved by the department in accordance with  
2800 commission rules adopted under this title, except that:

2801 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing

2802 system if used as a secondary flavoring ingredient in a beverage subject to the following  
2803 restrictions:

2804 (A) the secondary ingredient may be dispensed only in conjunction with the purchase of  
2805 a primary spirituous liquor;

2806 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;

2807 (C) the on-premise banquet licensee shall designate a location where flavorings are  
2808 stored on the floor plan provided to the department; and

2809 (D) ~~all~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled  
2810 "flavorings";

2811 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing  
2812 system if used:

2813 (A) as a flavoring on ~~desserts~~ a dessert; and

2814 (B) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or  
2815 dessert;

2816 (iii) ~~each~~ an attendee may have no more than ~~[2.75]~~ 2.5 ounces of spirituous liquor at  
2817 a time before the attendee; and

2818 (iv) ~~each~~ an attendee may have no more than one spirituous liquor drink at a time  
2819 before the attendee.

2820 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to  
2821 exceed five ounces per glass or individual portion.

2822 (B) An individual portion may be served to an attendee in more than one glass as long  
2823 as the total amount of wine does not exceed five ounces.

2824 (C) An individual portion of wine is considered to be one alcoholic beverage under  
2825 Subsection (5)(c).

2826 (ii) Wine may be sold and served in ~~containers~~ a container not exceeding 1.5 liters at  
2827 ~~prices~~ a price fixed by the commission.

2828 (iii) A wine service may be performed and a service charge assessed by the on-premise  
2829 banquet licensee as authorized by commission rule for wine purchased on the banquet premises.

2830 (c) (i) Heavy beer may be served in an original [~~containers~~] container not exceeding one  
2831 liter at [~~prices~~] a price fixed by the commission.

2832 (ii) A flavored malt beverage may be served in an original container not exceeding one  
2833 liter at a price fixed by the commission.

2834 [~~(ii)~~] (iii) A service charge may be assessed by the on-premise banquet licensee as  
2835 authorized by commission rule for heavy beer or a flavored malt beverage purchased on the  
2836 banquet premises.

2837 (d) (i) Except as provided in Subsection (3)(d)(ii), beer may be sold and served for  
2838 on-premise consumption:

2839 (A) in an open container; and

2840 (B) on draft.

2841 (ii) Beer sold pursuant to Subsection (3)(d)(i) shall be in a size of container that does  
2842 not exceed two liters, except that beer may not be sold to an individual attendee in a container  
2843 size that exceeds one liter.

2844 (4) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in  
2845 any place other than as designated in the on-premise banquet licensee's application, except that  
2846 additional locations in or on the premises of an on-premise banquet licensee may be approved in  
2847 accordance with guidelines approved by the commission as provided in Subsection  
2848 32A-4-402(2).

2849 (5) (a) An attendee may only make an alcoholic beverage [~~purchases~~] purchase from  
2850 and be served by a person employed, designated, and trained by the on-premise banquet licensee  
2851 to sell and serve an alcoholic [~~beverages~~] beverage.

2852 (b) Notwithstanding Subsection (5)(a), an attendee who [~~has purchased~~] purchases  
2853 bottled wine from an employee of the on-premise banquet licensee may thereafter serve wine  
2854 from the bottle to the attendee or others at the attendee's table.

2855 (c) [~~Each~~] An attendee may have no more than two alcoholic beverages of any kind at a  
2856 time before the attendee, subject to the limitation of Subsection (3)(a)(iv).

2857 (6) The alcoholic beverage storage area shall remain locked at all times other than those

2858 hours and days when alcoholic beverage sales are authorized by law.

2859 (7) (a) Except as provided in Subsection (7)(b), ~~an alcoholic [beverages]~~ beverage may  
 2860 be offered for sale, sold, served, or otherwise furnished by an on-premise banquet licensee from  
 2861 10 a.m. to 1 a.m. seven days a week:

- 2862 (i) at a banquet; or
- 2863 (ii) in connection with room service.

2864 (b) Notwithstanding Subsection (7)(a), a sale or service of liquor may not occur at a  
 2865 banquet or in connection with room service until after the polls are closed on the day of:

- 2866 (i) a regular general election;
- 2867 (ii) a regular primary election; or
- 2868 (iii) a statewide special election.

2869 (8) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or otherwise  
 2870 furnished to ~~[any]~~ a:

- 2871 (a) minor;
- 2872 (b) person actually, apparently, or obviously intoxicated;
- 2873 (c) known habitual drunkard; or
- 2874 (d) known interdicted person.

2875 (9) (a) (i) Liquor may be sold only at ~~[prices]~~ a price fixed by the commission.

2876 (ii) Liquor may not be sold at a discount ~~[prices]~~ price on any date or at any time.

2877 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost of  
 2878 the alcoholic beverage to the on-premise banquet licensee.

2879 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
 2880 over consumption or intoxication.

2881 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
 2882 hours of the on-premise banquet licensee's business day such as a "happy hour."

2883 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or  
 2884 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

2885 (f) An on-premise banquet licensee may not engage in a public promotion involving or

2886 offering free alcoholic beverages to the general public.

2887 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for an attendee  
2888 by:

2889 (a) the on-premise banquet licensee; or

2890 (b) ~~[any]~~ an employee or agent of the on-premise banquet licensee.

2891 (11) An attendee of a banquet may not bring ~~[any]~~ an alcoholic beverage into or onto,  
2892 or remove ~~[any]~~ an alcoholic beverage from the premises of a banquet.

2893 (12) (a) Except as otherwise provided in this title, the sale and service of an alcoholic  
2894 ~~[beverages]~~ beverage by an on-premise banquet licensee at a banquet shall be made only for  
2895 consumption at the location of the banquet.

2896 (b) The host of a banquet, an attendee, or ~~[any other]~~ a person other than the  
2897 on-premise banquet licensee or ~~[its employees]~~ an employee of the on-premise banquet licensee,  
2898 may not remove ~~[any]~~ an alcoholic beverage from the premises of the banquet.

2899 (13) An on-premise banquet licensee employee shall remain at the banquet at all times  
2900 when an alcoholic ~~[beverages are being]~~ beverage is sold, served, or consumed at the banquet.

2901 (14) (a) An on-premise banquet licensee may not leave ~~[any]~~ an unsold alcoholic  
2902 ~~[beverages]~~ beverage at the banquet following the conclusion of the banquet.

2903 (b) At the conclusion of a banquet, the on-premise banquet licensee or ~~[its employees]~~  
2904 an employee of the on-premise banquet licensee, shall:

2905 (i) destroy ~~[any]~~ an opened and unused alcoholic ~~[beverages]~~ beverage that ~~[are]~~ is not  
2906 saleable, under conditions established by the department; and

2907 (ii) return to the on-premise banquet licensee's approved locked storage area any:

2908 (A) opened and unused alcoholic beverage that is saleable; and

2909 (B) unopened ~~[containers]~~ container of an alcoholic ~~[beverages]~~ beverage.

2910 (15) Except as provided in Subsection (14), ~~[any]~~ an open or sealed container of an  
2911 alcoholic ~~[beverages]~~ beverage not sold or consumed at a banquet:

2912 (a) shall be stored by the on-premise banquet licensee in the on-premise banquet  
2913 licensee's approved locked storage area; and



- 2914 (b) may be used at more than one banquet.
- 2915 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense, or  
2916 otherwise furnish an alcoholic [~~beverages~~] beverage in connection with the on-premise banquet  
2917 licensee's banquet and room service activities.
- 2918 (17) An employee of an on-premise banquet licensee, while on duty, may not:
- 2919 (a) consume an alcoholic beverage; or
- 2920 (b) be intoxicated.
- 2921 (18) An on-premise banquet licensee shall prominently display at [~~each~~] a banquet at  
2922 which an alcoholic [~~beverages are~~] beverage is sold or served:
- 2923 (a) a copy of the licensee's on-premise banquet license; and
- 2924 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
2925 drugs is a serious crime that is prosecuted aggressively in Utah."
- 2926 (19) An on-premise banquet licensee may not on the premises of the hotel, resort  
2927 facility, sports center, or convention center:
- 2928 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
2929 Chapter 10, Part 11, Gambling;
- 2930 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
2931 Part 11, Gambling; or
- 2932 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
2933 the risking of something of value for a return or for an outcome when the return or outcome is  
2934 based upon an element of chance, excluding the playing of an amusement device that confers  
2935 only an immediate and unrecorded right of replay not exchangeable for value.
- 2936 (20) (a) An on-premise banquet licensee shall maintain accounting and such other  
2937 records and documents as the commission or department may require.
- 2938 (b) An on-premise banquet licensee or person acting for the on-premise banquet  
2939 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the~~  
2940 ~~entries in any of the books~~] an entry in a book of account or other [~~documents~~] document of the  
2941 on-premise banquet licensee required to be made, maintained, or preserved by this title or the

2942 rules of the commission for the purpose of deceiving the commission [~~or~~], the department, or  
2943 [~~any of their officials or employees~~] an official or employee of the commission or department, is  
2944 subject to:

- 2945 (i) the suspension or revocation of the on-premise banquet license; and
- 2946 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2947 (21) (a) For the purpose described in Subsection (21)(b), an on-premise banquet  
2948 licensee shall provide the department with advance notice of a scheduled banquet in accordance  
2949 with rules made by the commission in accordance with Title 63, Chapter 46a, Utah  
2950 Administrative Rulemaking Act.

2951 (b) The advance notice required by Subsection (21)(a) is required to provide any of the  
2952 following the opportunity to conduct a random inspection of a banquet:

- 2953 (i) an authorized representative of the commission or the department; or
- 2954 (ii) a law enforcement officer.

2955 (22) An on-premise banquet licensee shall maintain at least 50% of its total annual  
2956 banquet gross receipts from the sale of food, not including:

- 2957 (a) mix for an alcoholic [~~beverages~~] beverage; and
- 2958 (b) [~~charges~~] a charge in connection with the service of an alcoholic [~~beverages~~]  
2959 beverage.

2960 (23) A person may not transfer an on-premise banquet license from one business  
2961 location to another without prior written approval of the commission.

2962 (24) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange, barter,  
2963 give, or attempt in any way to dispose of the license to [~~any other~~] another person, whether for  
2964 monetary gain or not.

2965 (b) An on-premise banquet license has no monetary value for the purpose of any type of  
2966 disposition.

2967 (25) (a) Room service of an alcoholic [~~beverages~~] beverage to a guest room of a hotel  
2968 or resort facility shall be provided in person by an on-premise banquet licensee employee only to  
2969 an adult guest in the guest room.

2970 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be left outside a guest room  
2971 for retrieval by a guest.

2972 (c) An on-premise banquet licensee may only provide an alcoholic [~~beverages~~] beverage  
2973 for room service in a sealed [~~containers~~] container.

2974 (26) An on-premise banquet licensee or an employee of the on-premise banquet licensee  
2975 may not knowingly allow a person on a banquet location of a hotel, resort facility, sports center,  
2976 or convention center to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act,  
2977 or Chapter 37a, Utah Drug Paraphernalia Act:

2978 (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2;  
2979 or

2980 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
2981 Section 58-37a-3.

2982 Section 35. Section **32A-5-101** is amended to read:

2983 **32A-5-101. Commission's power to license private clubs -- Limitations.**

2984 (1) Before a private club may sell or allow the consumption of alcoholic beverages on  
2985 its premises, the private club shall first obtain a license from the commission as provided in this  
2986 chapter.

2987 (2) The commission may grant private club licenses to social clubs, recreational,  
2988 athletic, or kindred associations that desire to maintain premises upon which alcoholic  
2989 beverages may be stored, sold, served, and consumed.

2990 (3) At the time the commission grants a private club license the commission shall  
2991 designate whether the private club license qualifies as a class A, B, C, or D license as defined in  
2992 Subsections (3)(a) through (d).

2993 (a) A "class A licensee" is a private club licensee that:

2994 (i) meets the requirements of this chapter;

2995 (ii) owns, maintains, or operates a substantial recreational facility in conjunction with a  
2996 club house such as:

2997 (A) a golf course; or

- 2998 (B) a tennis facility;
- 2999 (iii) has at least 50% of the total membership having:
- 3000 (A) full voting rights; and
- 3001 (B) an equal share of the equity of the club; and
- 3002 (iv) if there is more than one class of membership, has at least one class of membership
- 3003 that entitles each member in that class to:
- 3004 (A) full voting rights; and
- 3005 (B) an equal share of the equity of the club.
- 3006 (b) A "class B licensee" is a private club licensee that:
- 3007 (i) meets the requirements of this chapter;
- 3008 (ii) has no capital stock;
- 3009 (iii) exists solely for:
- 3010 (A) the benefit of its members and their beneficiaries; and
- 3011 (B) [~~any~~] a lawful social, intellectual, educational, charitable, benevolent, moral,
- 3012 fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on
- 3013 through voluntary activity of its members in their local lodges;
- 3014 (iv) has a representative form of government; and
- 3015 (v) has a lodge system in which:
- 3016 (A) there is a supreme governing body;
- 3017 (B) subordinate to the supreme governing body are local lodges, however designated,
- 3018 into which individuals are admitted as members in accordance with the laws of the fraternal;
- 3019 (C) the local lodges are required by the laws of the fraternal to hold regular meetings at
- 3020 least monthly; and
- 3021 (D) the local lodges regularly engage in one or more programs involving member
- 3022 participation to implement the purposes of Subsection (3)(b)(iii).
- 3023 (c) A "class C licensee" is a private club licensee that:
- 3024 (i) meets the requirements of this chapter;
- 3025 (ii) is a dining club, as determined by the commission in accordance with Subsection

3026 (4); and  
3027 (iii) maintains at least 50% of its total private club business from the sale of food, not  
3028 including:  
3029 (A) mix for alcoholic beverages; or  
3030 (B) service charges.  
3031 (d) A "class D licensee" is a private club licensee that:  
3032 (i) meets the requirements of this chapter; and  
3033 (ii) (A) does not meet the requirements of a class A, B, or C license; or  
3034 (B) seeks to qualify as a class D licensee.  
3035 (4) In determining whether an applicant is a dining club under Subsection (3)(c), the  
3036 commission:  
3037 (a) shall determine whether the applicant maintains at least 50% of its total private club  
3038 business from the sale of food, not including:  
3039 (i) mix for alcoholic beverages;  
3040 (ii) service charges; or  
3041 (iii) membership and visitor card fees; and  
3042 (b) may consider:  
3043 (i) the square footage and seating capacity of the applicant;  
3044 (ii) what portion of the square footage and seating capacity will be used for a dining  
3045 area in comparison to the portion that will be used as a bar area;  
3046 (iii) whether full meals including appetizers, main courses, and desserts are served;  
3047 (iv) whether the applicant will maintain adequate on-premise culinary facilities to  
3048 prepare full meals, except an applicant that is located on the premise of a hotel or resort facility  
3049 may use the culinary facilities of the hotel or resort facility;  
3050 (v) whether the entertainment provided at the club is suitable for minors; and  
3051 (vi) the club management's ability to manage and operate a dining club including:  
3052 (A) management experience;  
3053 (B) past dining club or restaurant management experience; and

3054 (C) the type of management scheme employed by the private club.

3055 (5) (a) A private club or any officer, director, managing agent, or employee of a private  
3056 club may not store, sell, serve, or permit consumption of alcoholic beverages upon the premises  
3057 of the club, under a permit issued by local authority or otherwise, unless a private club license  
3058 [~~has been~~] is first issued by the commission.

3059 (b) Violation of this Subsection (5) is a class B misdemeanor.

3060 (6) (a) Subject to the other provisions of this Subsection (6), the commission may issue  
3061 private club licenses at places and in numbers as [~~it~~] the commission considers necessary.

3062 (b) The total number of private club licenses may not at any time aggregate more than  
3063 that number determined by dividing the population of the state by [~~7,300~~] 7,850.

3064 (c) For purposes of this Subsection (6), population shall be determined by:

3065 (i) the most recent United States decennial or special census; or

3066 (ii) [~~any other~~] another population determination made by the United States or state  
3067 governments.

3068 (d) (i) The commission may issue seasonal private club licenses to be established in  
3069 areas the commission considers necessary.

3070 (ii) A seasonal private club license shall be for a period of six consecutive months.

3071 (iii) A private club license issued for operation during a summer time period is known  
3072 as a "Seasonal A" private club license. The period of operation for a "Seasonal A" club license  
3073 shall:

3074 (A) begin on May 1; and

3075 (B) end on October 31.

3076 (iv) A private club license issued for operation during a winter time period is known as  
3077 a "Seasonal B" private club license. The period of operation for a "Seasonal B" club license  
3078 shall:

3079 (A) begin on November 1; and

3080 (B) end on April 30.

3081 (v) In determining the number of private club licenses that the commission may issue

3082 under this section:

3083 (A) a seasonal private club license is counted as 1/2 of one private club license; and

3084 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

3085 (e) (i) If the location, design, and construction of a hotel may require more than one

3086 private club location within the hotel to serve the public convenience, the commission may

3087 authorize as many as three private club locations within the hotel under one license if:

3088 (A) the hotel has a minimum of 150 guest rooms; and

3089 (B) all locations under the license are:

3090 (I) within the same hotel facility; and

3091 (II) on premises which are managed or operated and owned or leased by the licensee.

3092 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel may not have more than one private

3093 club location under a single private club license.

3094 (7) (a) ~~[The]~~ Except as provided in Subsection (7)(b), (c), or (d), the premises of a

3095 private club license may not be established:

3096 (i) within 600 feet of ~~[any public or private school, church, public library, public~~  
3097 ~~playground, or park]~~ a community location, as measured by the method in Subsection ~~[(8):]~~

3098 (7)(e); or

3099 ~~[(b) The premises of a private club license may not be established]~~

3100 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~  
3101 ~~playground, or park]~~ a community location, measured in a straight line from the nearest

3102 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~

3103 ~~school, church, public library, public playground, or park]~~ community location.

3104 ~~[(c) The restrictions contained in Subsections (7)(a) and (b) govern unless one of the~~  
3105 ~~following exemptions applies:]~~

3106 ~~[(i) with]~~ (b) With respect to the establishment of a private club license ~~[within a city~~  
3107 ~~of the third, fourth, or fifth class, a town, or the unincorporated area of a county]~~, the

3108 commission may authorize a variance to reduce the proximity ~~[requirements]~~ requirement of

3109 Subsection (7)(a)(i) ~~[or (b)]~~ if:

3110           ~~[(A)]~~ (i) the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the  
3111 variance;

3112           ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a private club  
3113 license in the community are limited;

3114           ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where  
3115 practical in the neighborhood concerned; ~~[and]~~

3116           ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the  
3117 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
3118 establishing the license would not be detrimental to the public health, peace, safety, and welfare  
3119 of the community; and

3120           ~~[(ii) with respect to the establishment of a private club license in any location, the~~  
3121 ~~commission may authorize a variance to reduce the proximity requirements of Subsection (7)(a)~~  
3122 ~~or (b) in relation to a church:]~~

3123           ~~[(A) if the local governing body of the church in question gives its written consent to~~  
3124 ~~the variance;]~~

3125           ~~[(B) following a public hearing in the city, town, or county and where practical in the~~  
3126 ~~neighborhood concerned; and]~~

3127           ~~[(C) after giving full consideration to all of the attending circumstances and the policies~~  
3128 ~~stated in Subsections 32A-1-104(3) and (4); or]~~

3129           (v) (A) the community location governing authority gives its written consent to the  
3130 variance; or

3131           (B) when written consent is not given by the community location governing authority,  
3132 the commission finds that the applicant has established that:

3133           (I) there is substantial unmet public demand to consume alcohol in a public setting  
3134 within the geographic boundary of the local authority in which the private club licensee is to be  
3135 located;

3136           (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
3137 described in Subsection (7)(b)(v)(B)(I) other than through the establishment of a private club



3138 licensee; and  
3139 (III) there is no reasonably viable alternative location within the geographic boundary of  
3140 the local authority in which the private club licensee is to be located for establishing a private  
3141 club license to satisfy the unmet demand described in Subsection (7)(b)(v)(B)(I).  
3142 (c) With respect to the establishment of a private club license, the commission may  
3143 authorize a variance that reduces the proximity requirement of Subsection (7)(a)(ii) if:  
3144 (i) the community location at issue is:  
3145 (A) a public library; or  
3146 (B) a public park;  
3147 (ii) the local authority grants its written consent to the variance;  
3148 (iii) the commission finds that alternative locations for establishing a private club license  
3149 in the community are limited;  
3150 (iv) a public hearing is held in the city, town, or county, and where practical in the  
3151 neighborhood concerned;  
3152 (v) after giving full consideration to all of the attending circumstances and the policies  
3153 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
3154 private club license would not be detrimental to the public health, peace, safety, and welfare of  
3155 the community; and  
3156 (vi) (A) the community location governing authority gives its written consent to the  
3157 variance; or  
3158 (B) when written consent is not given by the community location governing authority,  
3159 the commission finds that the applicant has established that:  
3160 (I) there is substantial unmet public demand to consume alcohol in a public setting  
3161 within the geographic boundary of the local authority in which the private club licensee is to be  
3162 located;  
3163 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
3164 described in Subsection (7)(c)(vi)(B)(I) other than through the establishment of a private club  
3165 license; and

3166 (III) there is no reasonably viable alternative location within the geographic boundary of  
 3167 the local authority in which the private club licensee is to be located for establishing a private  
 3168 club license to satisfy the unmet demand described in Subsection (7)(c)(vi)(B)(I).

3169 ~~[(iii) with]~~ (d) With respect to the premises of a private club license issued by the  
 3170 commission that undergoes a change of ownership, the commission may waive or vary the  
 3171 proximity requirements of Subsection (7)(a) ~~[or (b)]~~ in considering whether to grant a private  
 3172 club license to the new owner of the premises if:

3173 (i) (A) the premises previously received a variance reducing the proximity  
 3174 ~~[requirements]~~ requirement of Subsection (7)(a)(i) ~~[or (b)]~~; or

3175 (B) the premises received a variance reducing the proximity requirement of Subsection  
 3176 (7)(a)(ii) on or before May 4, 2008; or

3177 ~~[(B)]~~ (ii) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed  
 3178 under this title.

3179 ~~[(8) With respect to any public or private school, church, public library, public~~  
 3180 ~~playground, or park, the]~~

3181 (e) The 600 foot limitation described in Subsection (7)(a)(i) is measured from the  
 3182 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
 3183 property boundary of the [public or private school, church, public library, public playground, or  
 3184 park] community location.

3185 ~~[(9)]~~ (8) (a) Nothing in this section prevents the commission from considering the  
 3186 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
 3187 reaching a decision on whether to issue a private club license.

3188 (b) For purposes of this Subsection ~~[(9)]~~ (8), "educational facility" includes:

3189 (i) a nursery school;

3190 (ii) infant day care center; and

3191 (iii) a trade and technical school.

3192 ~~[(10)]~~ (9) If requested by a private club licensee, the commission may approve a change  
 3193 in the class of private club license in accordance with rules made by the commission.

3194 Section 36. Section **32A-5-102** is amended to read:

3195 **32A-5-102. Application and renewal requirements.**

3196 (1) A club seeking a class A, B, C, or D private club license under this chapter shall file  
3197 a written application with the department in a form prescribed by the department. The  
3198 application shall be accompanied by:

3199 (a) a nonrefundable \$250 application fee;

3200 (b) an initial license fee of \$2,500, which is refundable if a license is not granted;

3201 (c) written consent of the local authority;

3202 (d) a copy of the applicant's current business license;

3203 (e) evidence of proximity to any [~~public or private school, church, public library, public~~  
3204 ~~playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of~~  
3205 ~~Subsections 32A-5-101(7) and (8), the application shall be processed in accordance with those~~  
3206 ~~subsections]~~ community location, with proximity requirements being governed by Section  
3207 32A-5-101;

3208 (f) evidence that the applicant operates a club where a variety of food is prepared and  
3209 served in connection with dining accommodations;

3210 (g) a bond as specified by Section 32A-5-106;

3211 (h) a floor plan of the club premises, including consumption areas and the area where  
3212 the applicant proposes to keep and store liquor;

3213 (i) evidence that the club is carrying public liability insurance in an amount and form  
3214 satisfactory to the department;

3215 (j) evidence that the club is carrying dramshop insurance coverage of at least \$500,000  
3216 per occurrence and \$1,000,000 in the aggregate;

3217 (k) a copy of the club's bylaws or house rules, and any amendments to those  
3218 documents, which shall be kept on file with the department at all times;

3219 (l) a signed consent form stating that the club and its management will permit any  
3220 authorized representative of the commission, department, or any law enforcement officer  
3221 unrestricted right to enter the club premises;

3222 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,  
3223 C, or D private club licensee; and

3224 (ii) evidence that the private club meets the requirements for the classification for which  
3225 the club is applying;

3226 (n) in the case of a partnership, corporation, or limited liability company applicant,  
3227 proper verification evidencing that the person or persons signing the private club application are  
3228 authorized to so act on behalf of the partnership, corporation, or limited liability company; and

3229 (o) any other information the commission or department may require.

3230 (2) (a) The commission may refuse to issue a license if the commission determines that  
3231 any provisions of the club's bylaws or house rules, or amendments to those documents are not:

3232 (i) reasonable; and

3233 (ii) consistent with:

3234 (A) the declared nature and purpose of the applicant; and

3235 (B) the purposes of this chapter.

3236 (b) Club bylaws or house rules shall include provisions respecting the following:

3237 (i) standards of eligibility for members;

3238 (ii) limitation of members, consistent with the nature and purpose of the private club;

3239 (iii) the period for which dues are paid, and the date upon which the period expires;

3240 (iv) provisions for dropping members for the nonpayment of dues or other cause; and

3241 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor cards.

3242 (3) (a) All private club licenses expire on June 30 of each year.

3243 (b) A person desiring to renew that person's private club license shall submit by no later  
3244 than May 31:

3245 (i) a completed renewal application to the department; and

3246 (ii) a renewal fee in the following amount:

Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
under \$10,000	\$1,000
equals or exceeds \$10,000 but less than \$25,000	\$1,250

3250 equals or exceeds \$25,000 but less than \$75,000 \$1,750

3251 equals or exceeds \$75,000 \$2,250

3252 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
3253 the license effective on the date the existing license expires.

3254 (d) [~~Renewal applications~~] A renewal application shall be in a form as prescribed by the  
3255 department.

3256 (4) To ensure compliance with Subsection 32A-5-107(40), the commission may  
3257 suspend or revoke any private club license if the private club licensee does not immediately  
3258 notify the department of any change in:

3259 (a) ownership of the club;

3260 (b) for a corporate owner, the:

3261 (i) corporate officers or directors; or

3262 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
3263 corporation; or

3264 (c) for a limited liability company:

3265 (i) managers; or

3266 (ii) members owning at least 20% of the limited liability company.

3267 Section 37. Section **32A-5-104** is amended to read:

3268 **32A-5-104. Commission and department duties before granting licenses.**

3269 (1) (a) Before a private club license may be granted by the commission, the department  
3270 shall conduct an investigation and may hold public hearings for the purpose of gathering  
3271 information and making recommendations to the commission as to whether or not a license  
3272 should be granted.

3273 (b) The department shall forward the information and recommendations described in  
3274 Subsection (1)(a) to the commission to aid in the commission's determination.

3275 (2) Before issuing [~~any~~] a private club license, the commission shall:

3276 (a) determine that:

3277 (i) the applicant has complied with all basic qualifications and requirements for making

3278 application for a license as provided by Sections 32A-5-102 and 32A-5-103[;]; and [that]  
3279 (ii) the application is complete;  
3280 (b) determine whether the applicant qualifies as a class A, B, C, or D private club  
3281 licensee;  
3282 (c) consider the locality within which the proposed private club outlet is located  
3283 including:  
3284 (i) physical characteristics such as:  
3285 (A) condition of the premises;  
3286 (B) square footage; and  
3287 (C) parking availability; and  
3288 (ii) operational factors such as:  
3289 (A) tourist traffic;  
3290 (B) proximity to and density of other state stores, package agencies, and licensed  
3291 outlets;  
3292 (C) demographics;  
3293 (D) population to be served; and  
3294 (E) the extent of and proximity to any [~~school, church, public library, public~~  
3295 ~~playground, or park~~] community location;  
3296 (d) consider the club management's ability to manage and operate a private club license,  
3297 including:  
3298 (i) management experience[;];  
3299 (ii) past retail liquor experience[;]; and  
3300 (iii) the type of management scheme employed by the private club;  
3301 (e) consider the nature or type of private club operation of the proposed liquor licensee,  
3302 including:  
3303 (i) the type of menu items offered and emphasized[;];  
3304 (ii) the hours of operation[;];  
3305 (iii) the seating capacity of the facility[;]; and

3306 (iv) the gross sales of food items; and  
3307 (f) consider any other factor or circumstance the commission considers necessary.  
3308 Section 38. Section **32A-5-107** is amended to read:

3309 **32A-5-107. Operational restrictions.**

3310 [Each] A club granted a private club license and the employees, management personnel,  
3311 and members of the club shall comply with the following conditions and requirements. Failure  
3312 to comply may result in a suspension or revocation of the private club license or other  
3313 disciplinary action taken against individual employees or management personnel.

3314 (1) [Each] A private club shall have a governing body that:

3315 (a) consists of three or more members of the private club; and

3316 (b) holds regular meetings to:

3317 (i) review membership applications; and

3318 (ii) conduct [~~any~~] other business as required by the bylaws or house rules of the private  
3319 club.

3320 (2) (a) [Each] A private club may admit an individual as a member only on written  
3321 application signed by the applicant, subject to:

3322 (i) the applicant paying an application fee as required by Subsection (4); and

3323 (ii) investigation, vote, and approval of a quorum of the governing body.

3324 (b) (i) [~~Admissions~~] An admission of a member shall be recorded in the official minutes  
3325 of a regular meeting of the governing body.

3326 (ii) An application, whether approved or disapproved, shall be filed as a part of the  
3327 official records of the private club licensee.

3328 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an  
3329 applicant and immediately accord the applicant temporary privileges of a member until the  
3330 governing body completes its investigation and votes on the application, subject to the following  
3331 conditions:

3332 (i) the applicant shall:

3333 (A) submit a written application; and

- 3334 (B) pay the application fee required by Subsection (4);
- 3335 (ii) the governing body votes on the application at its next meeting, which shall take
- 3336 place no later than 31 days following the day on which the application [~~was~~] is submitted; and
- 3337 (iii) the applicant's temporary membership privileges [~~are terminated~~] terminate if the
- 3338 governing body disapproves the application.
- 3339 (d) The spouse of a member of any class of private club [~~is entitled to all~~] has the rights
- 3340 and privileges of the member:
- 3341 (i) to the extent permitted by the bylaws or house rules of the private club; and
- 3342 (ii) except to the extent restricted by this title.
- 3343 (e) The minor child of a member of a class A private club [~~is entitled to all~~] has the
- 3344 rights and privileges of the member:
- 3345 (i) to the extent permitted by the bylaws or house rules of the private club; and
- 3346 (ii) except to the extent restricted by this title.
- 3347 (3) (a) [~~Each~~] A private club shall maintain a current and complete membership record
- 3348 showing:
- 3349 (i) the date of application of [~~each~~] a proposed member;
- 3350 (ii) [~~each~~] a member's address;
- 3351 (iii) the date the governing body approved a member's admission;
- 3352 (iv) the date initiation fees and dues [~~were~~] are assessed and paid; and
- 3353 (v) the serial number of the membership card issued to [~~each~~] a member.
- 3354 (b) A current record shall [~~also~~] be kept indicating when [~~members are dropped or~~
- 3355 resigned] a member is dropped or resigns.
- 3356 (4) (a) [~~Each~~] A private club shall establish in the private club bylaws or house rules
- 3357 application fees and membership dues:
- 3358 (i) as established by commission rules; and
- 3359 (ii) [~~which~~] that are collected from all members.
- 3360 (b) An application fee:
- 3361 (i) [~~shall~~] may not be less than \$4;



3362 (ii) shall be paid when the applicant applies for membership; and  
3363 (iii) at the discretion of the private club, may be credited toward membership dues if the  
3364 governing body approves the applicant as a member.

3365 (5) (a) [~~Each~~] A private club may, in its discretion, allow an individual to be admitted to  
3366 or use the private club premises as a guest only under the following conditions:

3367 (i) [~~each~~] a guest must be previously authorized by one of the following who agrees to  
3368 host the guest into the private club:

3369 (A) an active member of the private club; or  
3370 (B) a holder of a current visitor card;

3371 (ii) [~~each~~] a guest must be known by the guest's host based on a preexisting bonafide  
3372 business or personal relationship with the host [~~prior to~~] before the guest's admittance to the  
3373 private club;

3374 (iii) [~~each~~] a guest must be accompanied by the guest's host for the duration of the  
3375 guest's visit to the private club;

3376 (iv) [~~each~~] a guest's host must remain on the private club premises for the duration of  
3377 the guest's visit to the private club;

3378 (v) [~~each~~] a guest's host is responsible for the cost of [~~all~~] services extended to the  
3379 guest;

3380 (vi) [~~each~~] a guest [~~enjoys~~] has only those privileges derived from the guest's host for  
3381 the duration of the guest's visit to the private club;

3382 (vii) an employee of the private club, while on duty, may not act as a host for a guest;

3383 (viii) an employee of the private club, while on duty, may not attempt to locate a  
3384 member or current visitor card holder to serve as a host for a guest with whom the member or  
3385 visitor card holder has no acquaintance based on a preexisting bonafide business or personal  
3386 relationship prior to the guest's arrival at the private club; and

3387 (ix) a private club [~~and its employees~~] or an employee of the private club may not enter  
3388 into an agreement or arrangement with a club member or holder of a current visitor card to  
3389 indiscriminately host [~~members~~] a member of the general public into the private club as [~~guests~~]

3390 a guest.

3391 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

3392 (i) the private club licensee is a class B private club; and

3393 (ii) the guest is a member of the same fraternal organization as the private club licensee.

3394 (6) [~~Each~~] A private club may, in its discretion, issue a visitor [~~cards~~] card to allow

3395 [~~individuals~~] an individual to enter and use the private club premises on a temporary basis under

3396 the following conditions:

3397 (a) [~~each~~] a visitor card shall be issued for a period not to exceed three weeks;

3398 (b) a fee of not less than \$4 shall be assessed for [~~each~~] a visitor card that is issued;

3399 (c) a visitor card [~~shall~~] may not be issued to a minor;

3400 (d) a holder of a visitor card may not host more than seven guests at one time;

3401 (e) [~~each~~] a visitor card issued shall include:

3402 (i) the visitor's full name and signature;

3403 (ii) the date the visitor card [~~was~~] is issued;

3404 (iii) the date the visitor card expires;

3405 (iv) the club's name; and

3406 (v) the serial number of the visitor card; and

3407 (f) (i) the private club shall maintain a current record of the issuance of [~~each~~] a visitor

3408 card on the private club premises; and

3409 (ii) the record described in Subsection (6)(f)(i) shall:

3410 (A) be available for inspection by the department; and

3411 (B) include:

3412 (I) the name of the person to whom the visitor card [~~was~~] is issued;

3413 (II) the date the visitor card [~~was~~] is issued;

3414 (III) the date the visitor card expires; and

3415 (IV) the serial number of the visitor card.

3416 (7) A private club may not sell an alcoholic [~~beverages~~] beverage to or allow [~~any~~] a

3417 patron to be admitted to or use the private club premises other than:

- 3418 (a) a member;
- 3419 (b) a visitor who holds a valid visitor card issued under Subsection (6); or
- 3420 (c) a guest of:
  - 3421 (i) a member; or
  - 3422 (ii) a holder of a ~~current~~ valid visitor card.
- 3423 (8) (a) A minor may not be:
  - 3424 (i) a member, officer, director, or trustee of a private club;
  - 3425 (ii) issued a visitor card;
  - 3426 (iii) admitted into, use, or be on the premises of ~~any~~ a lounge or bar area, as defined
  - 3427 by commission rule, of ~~any~~ a private club except to the extent authorized under Subsection
  - 3428 (8)(c)(ii);
  - 3429 (iv) admitted into, use, or be on the premises of ~~any~~ a class D private club:
    - 3430 (A) that operates as a sexually oriented business as defined by local ordinance; or
    - 3431 (B) when a sexually oriented entertainer is performing on the premises; or
  - 3432 (v) admitted into, use, or be on the premises of a class D private club except to the
  - 3433 extent authorized under Subsections (8)(b) through (g).
- 3434 (b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private
- 3435 club, a minor may be admitted into, use, or be on the premises of a class D private club under
- 3436 the following circumstances:
  - 3437 (i) during ~~periods~~ a period when no alcoholic beverages are sold, served, otherwise
  - 3438 furnished, or consumed on the premises, but in no event later than 1 p.m.;
  - 3439 (ii) when accompanied at all times by a member or holder of a current visitor card who
  - 3440 is the minor's parent, legal guardian, or spouse; and
  - 3441 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food
  - 3442 service provider.
- 3443 (c) A ~~minor may be employed by a~~ class D private club may employ a minor on the
- 3444 premises of the private club if:
  - 3445 (i) the parent or legal guardian of the minor owns or operates the class D private club;

3446 or

3447 (ii) the minor performs maintenance and cleaning services during the hours when the  
3448 private club is not open for business.

3449 (d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be  
3450 admitted into, use, or be on the premises of a dance or concert hall if:

3451 (A) the dance or concert hall is located:

3452 (I) on the premises of a class D private club; or

3453 (II) on the property that immediately adjoins the premises of and is operated by a class  
3454 D private club; and

3455 (B) the commission [~~has issued~~] issues the class D private club a permit to operate a  
3456 minor dance or concert hall based on the criteria described in Subsection (8)(d)(iii).

3457 (ii) If the dance or concert hall is located on the premises of a class D private club, a  
3458 minor must be properly hosted in accordance with Subsection (5) by:

3459 (A) a member; or

3460 (B) a holder of a current visitor card.

3461 (iii) The commission may issue a minor dance or concert hall permit if:

3462 (A) the private club's lounge, bar, and alcoholic beverage consumption area is:

3463 (I) not accessible to [~~minors~~] a minor;

3464 (II) clearly defined; and

3465 (III) separated from the dance or concert hall area by one or more walls, multiple floor  
3466 levels, or other substantial physical barriers;

3467 (B) [~~any~~] a bar or dispensing area is not visible to [~~minors~~] a minor;

3468 (C) [~~no~~] consumption of an alcoholic [~~beverages~~] beverage may not occur in:

3469 (I) the dance or concert hall area; or

3470 (II) [~~any~~] an area of the private club accessible to a minor;

3471 (D) the private club maintains sufficient security personnel to prevent the passing of  
3472 beverages from the private club's lounge, bar, or an alcoholic beverage consumption [~~areas~~] area  
3473 to:

- 3474 (I) the dance or concert hall area; or
- 3475 (II) [~~any~~] an area of the private club accessible to a minor;
- 3476 (E) there are one or more separate entrances, exits, and restroom facilities from the
- 3477 private club's lounge, bar, and alcoholic beverage consumption areas than for:
- 3478 (I) the dance or concert hall area; or
- 3479 (II) [~~any~~] an area accessible to a minor; and
- 3480 (F) the private club complies with any other restrictions imposed by the commission by
- 3481 rule.
- 3482 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
- 3483 guardian who is a member or holder of a current visitor card may be admitted into, use, or be on
- 3484 the premises of a concert hall described in Subsection (8)(d)(i) if:
- 3485 (i) [~~all~~] the requirements of Subsection (8)(d) are met; and
- 3486 (ii) [~~all~~] signage, product, and dispensing equipment containing recognition of an
- 3487 alcoholic [~~beverages~~] beverage is not visible to the minor.
- 3488 (f) A minor under 18 years of age but who is 14 years of age or older who is not
- 3489 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of a
- 3490 concert hall described in Subsection (8)(d)(i) if:
- 3491 (i) [~~all~~] the requirements of Subsections (8)(d) and (8)(e)(ii) are met; and
- 3492 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the
- 3493 class D private club.
- 3494 (g) The commission may suspend or revoke a minor dance or concert permit issued to a
- 3495 class D private club and suspend or revoke the license of the class D private club if:
- 3496 (i) the private club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);
- 3497 (ii) the private club sells, serves, or otherwise furnishes an alcoholic [~~beverages~~]
- 3498 beverage to a minor;
- 3499 (iii) the private club licensee or a supervisory or managerial level employee of the
- 3500 private club licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act,
- 3501 on the basis of [~~activities~~] an activity that [~~occurred~~] occurs on:

3502 (A) the licensed premises; or  
3503 (B) the dance or concert hall that is located on property that immediately adjoins the  
3504 premises of and is operated by the class D private club;  
3505 (iv) there are three or more convictions of patrons of the private club under Title 58,  
3506 Chapter 37, Utah Controlled Substances Act, based on activities that [~~occurred~~] occur on:  
3507 (A) the licensed premises; or  
3508 (B) the dance or concert hall that is located on property that immediately adjoins the  
3509 premises of and is operated by the class D private club;  
3510 (v) there is more than one conviction:  
3511 (A) of:  
3512 (I) the private club licensee;  
3513 (II) an employee of the private club licensee;  
3514 (III) an entertainer contracted by the private club licensee; or  
3515 (IV) a patron of the private club licensee; and  
3516 (B) made on the basis of a lewd [~~acts~~] act or lewd entertainment prohibited by this title  
3517 that [~~occurred~~] occurs on:  
3518 (I) the licensed premises; or  
3519 (II) the dance or concert hall that is located on property that immediately adjoins the  
3520 premises of and is operated by the class D private club; or  
3521 (vi) the commission finds acts or conduct contrary to the public welfare and morals  
3522 involving lewd acts or lewd entertainment prohibited by this title that [~~occurred~~] occurs on:  
3523 (A) the licensed premises; or  
3524 (B) the dance or concert hall that is located on property that immediately adjoins the  
3525 premises of and is operated by the class D private club.  
3526 (h) Nothing in this Subsection (8) [~~shall prohibit~~] prohibits a class D private club from  
3527 selling, serving, or otherwise furnishing an alcoholic [~~beverages~~] beverage in a dance or concert  
3528 area located on the private club premises on days and times when the private club does not  
3529 allow [~~minors~~] a minor into those areas.

3530 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being  
 3531 more restrictive of a minor's admittance to, use of, or presence on the premises of ~~[any]~~ a  
 3532 private club.

3533 (9) (a) ~~[Each]~~ A private club shall maintain an expense ledger or record showing in  
 3534 detail all expenditures separated by payments for:

3535 (i) malt or brewed beverages;

3536 (ii) liquor;

3537 (iii) food;

3538 (iv) detailed payroll;

3539 (v) entertainment;

3540 (vi) rent;

3541 (vii) utilities;

3542 (viii) supplies; and

3543 (ix) ~~[all]~~ other expenditures.

3544 (b) ~~[The]~~ A private club shall keep a record required by this Subsection (9) ~~[shall be]~~:

3545 (i) ~~[kept]~~ in a form approved by the department; and

3546 (ii) balanced each month.

3547 (c) ~~[Each]~~ An expenditure shall be supported by:

3548 (i) a delivery ~~[tickets]~~ ticket;

3549 (ii) ~~[invoices]~~ an invoice;

3550 (iii) a receipted ~~[bills]~~ bill;

3551 (iv) a canceled ~~[checks]~~ check;

3552 (v) a petty cash ~~[vouchers]~~ voucher; or

3553 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.

3554 (d) ~~[All invoices and receipted bills]~~ An invoice or receipted bill for the current calendar  
 3555 or fiscal year documenting ~~[purchases]~~ a purchase made by the private club shall ~~[also]~~ be  
 3556 maintained.

3557 (10) (a) ~~[Each]~~ A private club shall maintain a minute book that is posted currently by

3558 the private club.

3559 (b) The minute book required by this Subsection (10) shall contain the minutes of ~~[a] a~~  
3560 regular ~~[and]~~ or special ~~[meetings]~~ meeting of the governing body.

3561 ~~[(c) Membership lists shall also be maintained.]~~

3562 (c) A private club shall maintain a membership list.

3563 (11) (a) ~~[Each]~~ A private club shall maintain a current ~~[copies]~~ copy of the private  
3564 club's current bylaws and current house rules.

3565 (b) ~~[Changes]~~ A change in the bylaws or house rules:

3566 (i) ~~[are]~~ is not effective unless submitted to the department within ten days after  
3567 adoption; and

3568 (ii) ~~[become]~~ becomes effective 15 days after received by the department unless rejected  
3569 by the department before the expiration of the 15-day period.

3570 (12) ~~[Each]~~ A private club shall maintain accounting and other records and documents  
3571 as the department may require.

3572 (13) ~~[Any]~~ A private club or person acting for the private club, who knowingly forges,  
3573 falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of the books]~~ an entry  
3574 in a book of account or other ~~[documents]~~ document of the private club licensee required to be  
3575 made, maintained, or preserved by this title or the rules of the commission for the purpose of  
3576 deceiving the commission ~~[or]~~, the department, or ~~[any of their officials or employees]~~ an  
3577 official or employee of the commission or department, is subject to:

3578 (a) the suspension or revocation of the private club's license; and

3579 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

3580 (14) (a) ~~[Each]~~ A private club licensee shall maintain and keep ~~[all the records]~~ a record  
3581 required by this section and ~~[all other books, records, receipts, and disbursements]~~ a book,  
3582 record, receipt, or disbursement maintained or used by the licensee, as the department requires,  
3583 for a minimum period of three years.

3584 (b) ~~[All records, books, receipts, and disbursements are]~~ A record, book, receipt, or  
3585 disbursement is subject to inspection by an authorized ~~[representatives]~~ representative of the



3586 commission and the department.

3587 (c) ~~[The]~~ A private club licensee shall allow the department, through ~~[its auditors or~~  
3588 ~~examiners]~~ an auditor or examiner of the department, to audit ~~[all]~~ the records of the private  
3589 club licensee at times the department considers advisable.

3590 (d) The department shall audit the records of the private club licensee at least once  
3591 annually.

3592 (15) ~~[Each]~~ A private club licensee shall own or lease premises suitable for the private  
3593 club's activities.

3594 (16) (a) A private club licensee may not maintain facilities in ~~[any]~~ a manner that  
3595 barricades or conceals the private club licensee's operation.

3596 (b) ~~[Any]~~ A member of the commission, authorized department personnel, or ~~[any]~~ a  
3597 peace officer shall, upon presentation of credentials, be admitted immediately to the private club  
3598 and permitted without hindrance or delay to inspect completely the entire private club premises  
3599 and ~~[all]~~ the books and records of the private club licensee, at any time during which ~~[the same~~  
3600 ~~are open]~~ the private club licensee is open for the transaction of business to its members.

3601 (17) ~~[Any public]~~ Public advertising related to a private club licensee by the following  
3602 shall clearly identify a private club as being "a private club for members":

3603 (a) the private club licensee;

3604 (b) ~~[the employees or agents]~~ an employee or agent of the private club licensee; or

3605 (c) ~~[any]~~ a person under a contract or agreement with the private club licensee.

3606 (18) A private club licensee must have food available at all times when an alcoholic  
3607 ~~[beverages are]~~ beverage is sold, served, or consumed on the premises.

3608 (19) (a) Liquor may not be purchased by a private club licensee except from a state  
3609 ~~[stores]~~ store or package ~~[agencies]~~ agency.

3610 (b) Liquor purchased ~~[in accordance with Subsection (19)(a)]~~ from a state store or  
3611 package agency may be transported by the private club licensee from the place of purchase to  
3612 the licensed premises.

3613 (c) Payment for liquor shall be made in accordance with rules established by the

3614 commission.

3615 (20) A private club licensee may sell or provide ~~[any]~~ a primary spirituous liquor only in  
3616 a quantity not to exceed ~~[one ounce]~~ 1.5 ounces per beverage dispensed through a calibrated  
3617 metered dispensing system approved by the department in accordance with commission rules  
3618 adopted under this title, except that:

3619 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
3620 system if used as a secondary flavoring ingredient in a beverage subject to the following  
3621 restrictions:

3622 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of a  
3623 primary spirituous liquor;

3624 (ii) the secondary ingredient ~~[is]~~ may not be the only spirituous liquor in the beverage;

3625 (iii) the private club licensee shall designate a location where flavorings are stored on  
3626 the floor plan provided to the department; and

3627 (iv) ~~[all]~~ a flavoring ~~[containers]~~ container shall be plainly and conspicuously labeled  
3628 "flavorings";

3629 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
3630 system if used:

3631 (i) as a flavoring on ~~[desserts]~~ a dessert; and

3632 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or  
3633 dessert; ~~[and]~~

3634 (c) ~~[each]~~ a private club patron may have no more than ~~[2.75]~~ 2.5 ounces of spirituous  
3635 liquor at a time before the private club patron.

3636 (d) a private club patron may have no more than two spirituous liquor drinks at a time  
3637 before the private club patron, except that a private club patron may not have two spirituous  
3638 liquor drinks before the private club patron if one of the spirituous liquor drinks consists only of  
3639 the primary spirituous liquor for the other spirituous liquor drink.

3640 (21) (a) (i) Wine may be sold and served by the glass or an individual portion not to  
3641 exceed five ounces per glass or individual portion.

3642 (ii) An individual portion may be served to a patron in more than one glass as long as  
3643 the total amount of wine does not exceed five ounces.

3644 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
3645 Subsection (25)(c).

3646 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters  
3647 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.

3648 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750  
3649 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four persons.

3650 (c) A wine service may be performed and a service charge assessed by the private club  
3651 licensee as authorized by commission rule for wine purchased at the private club.

3652 (22) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding  
3653 one liter at [~~prices~~] a price fixed by the commission.

3654 (b) A flavored malt beverage may be served in an original container not exceeding one  
3655 liter at a price fixed by the commission.

3656 [~~(b)~~] (c) A service charge may be assessed by the private club licensee for heavy beer or  
3657 a flavored malt beverage purchased at the private club.

3658 (23) (a) (i) Subject to Subsection (23)(a)(ii), a private club [~~licensed to sell liquor~~]  
3659 licensee may sell beer for on-premise consumption:

3660 (A) in an open container; and

3661 (B) on draft.

3662 (ii) Beer sold pursuant to Subsection (23)(a)(i) shall be in a size of container that does  
3663 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
3664 container that exceeds one liter.

3665 (b) (i) A private club [~~licensed under this chapter~~] licensee that sells beer pursuant to  
3666 Subsection (23)(a):

3667 (A) may do so without obtaining a separate on-premise beer retailer license from the  
3668 commission; and

3669 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer

3670 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those  
3671 restrictions are inconsistent with or less restrictive than the operational restrictions under this  
3672 chapter.

3673 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
3674 Licenses, required by Subsection (23)(b)(i) may result in a suspension or revocation of the  
3675 private club's:

3676 (A) state liquor license; and

3677 (B) alcoholic beverage license issued by the local authority.

3678 (24) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in  
3679 [~~any~~] a place other than as designated in the private club licensee's application, unless the  
3680 private club licensee first applies for and receives approval from the department for a change of  
3681 location within the private club.

3682 (25) (a) A patron may only make an alcoholic beverage [~~purchases~~] purchase in the  
3683 private club from and be served by a person employed, designated, and trained by the private  
3684 club licensee to sell, dispense, and serve an alcoholic [~~beverages~~] beverage.

3685 (b) Notwithstanding Subsection (25)(a), a patron who [~~has purchased~~] purchases  
3686 bottled wine from an employee of the private club [~~or has carried~~] licensee or carries bottled  
3687 wine onto the premises of the private club pursuant to Subsection (31) may thereafter serve  
3688 wine from the bottle to the patron or others at the patron's table.

3689 (c) [~~Each~~] A private club patron may have no more than two alcoholic beverages of any  
3690 kind at a time before the private club patron, subject to the limitation of Subsection (20)(d).

3691 (26) The liquor storage area shall remain locked at all times other than those hours and  
3692 days when liquor sales and service are authorized by law.

3693 (27) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a  
3694 private club during the following days or hours:

3695 (i) until after the polls are closed on the day of [~~any~~] a:

3696 (A) regular general election;

3697 (B) regular primary election; or

- 3698 (C) statewide special election;
- 3699 (ii) until after the polls are closed on the day of [~~any~~] a municipal, local district, special
- 3700 service district, or school election, but only:
  - 3701 (A) within the boundaries of the municipality, local district, special service district, or
  - 3702 school district; and
  - 3703 (B) if required by local ordinance; and
  - 3704 (iii) on any other day after 1 a.m. and before 10 a.m.
- 3705 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
- 3706 Licenses, for on-premise beer licenses.
  - 3707 (c) (i) Notwithstanding Subsections (27)(a) and (b), a private club shall remain open for
  - 3708 one hour after the private club ceases the sale and service of an alcoholic [~~beverages~~] beverage
  - 3709 during which time a patron of the private club may finish consuming:
    - 3710 (A) [~~any~~] a single drink containing spirituous liquor;
    - 3711 (B) a single serving of wine not exceeding five ounces;
    - 3712 (C) a single serving of heavy beer; [~~or~~]
    - 3713 (D) a single serving of beer not exceeding 26 ounces[~~;~~]; or
    - 3714 (E) a single serving of a flavored malt beverage.
  - 3715 (ii) A private club is not required to remain open:
    - 3716 (A) after all patrons have vacated the premises; or
    - 3717 (B) during an emergency.
  - 3718 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club licensee may not
  - 3719 allow a patron to remain on the premises of the private club to consume an alcoholic
  - 3720 [~~beverages~~] beverage on the premises.
- 3721 (28) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise
- 3722 furnished to [~~any~~] a:
  - 3723 (a) minor;
  - 3724 (b) person actually, apparently, or obviously intoxicated;
  - 3725 (c) known habitual drunkard; or

- 3726 (d) known interdicted person.
- 3727 (29) (a) (i) Liquor may be sold only at ~~[prices]~~ a price fixed by the commission.
- 3728 (ii) Liquor may not be sold at a discount ~~[prices]~~ price on any date or at any time.
- 3729 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost of
- 3730 the alcoholic beverage to the private club licensee.
- 3731 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 3732 over consumption or intoxication.
- 3733 (d) The price of a single serving of a primary spirituous liquor shall be the same whether
- 3734 served as a single drink or in conjunction with another alcoholic beverage.
- 3735 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 3736 hours of the private club's business day such as a "happy hour."
- 3737 (f) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or
- 3738 served for the price of a single alcoholic beverage ~~[is prohibited]~~.
- 3739 (g) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages
- 3740 may not be sold or served during ~~[any]~~ a set period for a fixed price ~~[is prohibited]~~.
- 3741 (h) A private club licensee may not engage in a promotion involving or offering free
- 3742 alcoholic beverages to patrons of the private club.
- 3743 (30) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of
- 3744 the private club licensee by:
- 3745 (a) the private club licensee; or
- 3746 (b) ~~[any]~~ an employee or agent of the private club licensee.
- 3747 (31) (a) A person may not bring onto the premises of a private club licensee ~~[any]~~ an
- 3748 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
- 3749 discretion of the licensee, bottled wine onto the premises of ~~[any]~~ a private club licensee for
- 3750 on-premise consumption.
- 3751 (b) Except bottled wine under Subsection (31)(a), a private club ~~[or its officers,~~
- 3752 ~~managers, employees, or agents]~~ licensee or an officer, manager, employee, or agent of a
- 3753 private club licensee may not allow:

3754 (i) a person to bring onto the private club premises [~~any~~] an alcoholic beverage for  
 3755 consumption on the private club premises; or  
 3756 (ii) consumption of an alcoholic [~~beverages~~] beverage described in Subsection (31)(b)(i)  
 3757 on the premises of the private club.  
 3758 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
 3759 or other representative of the private club licensee upon entering the private club.  
 3760 (d) A wine service may be performed and a service charge assessed by the private club  
 3761 licensee as authorized by commission rule for wine carried in by a patron.  
 3762 (32) (a) Except as provided in Subsection (32)(b), a private club [~~and its employees~~]  
 3763 licensee or an employee of the private club licensee may not permit a patron of the private club  
 3764 to carry from the private club premises an open container that:  
 3765 (i) is used primarily for drinking purposes; and  
 3766 (ii) contains [~~any~~] an alcoholic beverage.  
 3767 (b) A patron may remove the unconsumed contents of a bottle of wine if before  
 3768 removal, the bottle [~~has been~~] is recorked or recapped.  
 3769 (33) (a) A minor may not be employed by [~~any~~] a class A, B, or C private club licensee  
 3770 to sell, dispense, or handle [~~any~~] an alcoholic beverage.  
 3771 (b) Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may be  
 3772 employed by a class A or C private club licensee to enter the sale at a cash register or other  
 3773 sales recording device.  
 3774 (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed  
 3775 by or be on the premises of [~~any~~] a class D private club.  
 3776 (d) A minor may not be employed to work in [~~any~~] a lounge or bar area of [~~any~~] a class  
 3777 A, B, or C private club licensee.  
 3778 (34) An employee of a private club licensee, while on duty, may not:  
 3779 (a) consume an alcoholic beverage; or  
 3780 (b) be intoxicated.  
 3781 [~~(35) (a) A private club may not charge for the service or supply of glasses, ice, or~~]

3782 ~~mixers unless:]~~

3783 ~~[(i) the charges are fixed in the house rules of the club; and]~~

3784 ~~[(ii) a copy of the house rules is kept on the club premises and available at all times for~~  
3785 ~~examination by patrons of the club.]~~

3786 ~~[(b) A charge or fee made in connection with the sale, service, or consumption of liquor~~  
3787 ~~may be stated in food or alcoholic beverage menus including:]~~

3788 (35) A private club licensee shall have available on the premises for a patron to review  
3789 at the time that the customer requests it, a written alcoholic beverage price list or a menu  
3790 containing the price of an alcoholic beverage sold or served by the private club licensee  
3791 including:

3792 ~~[(i)]~~ (a) a set-up charge;

3793 ~~[(ii)]~~ (b) a service charge; or

3794 ~~[(iii)]~~ (c) a chilling fee.

3795 (36) ~~[Each]~~ A private club licensee shall display in a prominent place in the private club:

3796 (a) the private club license that is issued by the department;

3797 (b) a list of the types and brand names of liquor being served through its calibrated  
3798 metered dispensing system; and

3799 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
3800 drugs is a serious crime that is prosecuted aggressively in Utah."

3801 (37) A private club licensee may not on the premises of the private club:

3802 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
3803 Chapter 10, Part 11, Gambling;

3804 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,  
3805 Part 11, Gambling; or

3806 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
3807 the risking of something of value for a return or for an outcome when the return or outcome is  
3808 based upon an element of chance, excluding the playing of an amusement device that confers  
3809 only an immediate and unrecorded right of replay not exchangeable for value.



3810 (38) (a) A private club licensee may not close or cease operation for a period longer  
 3811 than 240 hours, unless:

3812 (i) the private club licensee notifies the department in writing at least seven days before  
 3813 the [~~closing~~] day on which the private club licensee closes or ceases operation; and

3814 (ii) the closure or cessation of operation is first approved by the department.

3815 (b) Notwithstanding Subsection (38)(a), in the case of emergency closure, [~~immediate~~  
 3816 ~~notice of closure shall be made to~~] the private club licensee shall immediately notify the  
 3817 department by telephone.

3818 (c) (i) The department may authorize a closure or cessation of operation for a period  
 3819 not to exceed 60 days.

3820 (ii) The department may extend the initial period an additional 30 days upon:

3821 (A) written request of the private club; and [~~upon~~]

3822 (B) a showing of good cause.

3823 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
 3824 commission approval.

3825 (d) The notice required by Subsection (38)(a) shall include:

3826 (i) the dates of closure or cessation of operation;

3827 (ii) the reason for the closure or cessation of operation; and

3828 (iii) the date on which the private club licensee will reopen or resume operation.

3829 (e) Failure of the private club licensee to provide notice and to obtain department  
 3830 authorization [~~prior to~~] before closure or cessation of operation [~~shall result~~] results in an  
 3831 automatic forfeiture of:

3832 (i) the private club license; and

3833 (ii) the unused portion of the private club license fee for the remainder of the license  
 3834 year effective immediately.

3835 (f) Failure of the private club licensee to reopen or resume operation by the approved  
 3836 date [~~shall result~~] results in an automatic forfeiture of:

3837 (i) the private club license; and

3838 (ii) the unused portion of the [~~club's~~] private club license fee for the remainder of the  
3839 license year.

3840 (39) A private club license may not be transferred from one location to another person,  
3841 without prior written approval of the commission.

3842 (40) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give, or  
3843 attempt in any way to dispose of the private club license to [~~any other~~] another person, whether  
3844 for monetary gain or not.

3845 (b) A private club license has no monetary value for the purpose of any type of  
3846 disposition.

3847 (41) A private club licensee or an employee of the private club licensee may not  
3848 knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah  
3849 Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3850 (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2;  
3851 or

3852 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
3853 Section 58-37a-3.

3854 Section 39. Section **32A-7-101** is amended to read:

3855 **32A-7-101. Issuance of single event permits -- Limitations.**

3856 (1) The commission may issue a single event permit to any of the following that is  
3857 conducting a convention, civic, or community enterprise, a bona fide:

3858 (a) partnership;

3859 (b) corporation;

3860 (c) limited liability company;

3861 (d) church;

3862 (e) political organization;

3863 (f) incorporated association;

3864 (g) recognized subordinate lodge, chapter, or other local unit of an entity described in  
3865 Subsections (1)(a) through (f);

3866 (h) state agency; or  
3867 (i) political subdivision of the state including:  
3868 (i) a county; or  
3869 (ii) a municipality.  
3870 (2) ~~[The]~~ A single event permit may authorize:  
3871 (a) for a period not to exceed 120 consecutive hours, the storage, sale, service, and  
3872 consumption of liquor at an event at which the storage, sale, service, or consumption of liquor  
3873 is otherwise prohibited by this title; and  
3874 (b) the storage, sale, service, and consumption of beer at the same event for the period  
3875 that the storage, sale, service, or consumption of liquor is authorized under Subsection (2)(a)  
3876 for the single event permit.  
3877 (3) The commission may not issue more than four single event permits in any one  
3878 calendar year to the same:  
3879 (a) partnership;  
3880 (b) corporation;  
3881 (c) limited liability company;  
3882 (d) church;  
3883 (e) political organization;  
3884 (f) incorporated association;  
3885 (g) recognized subordinate lodge, chapter, or other local unit of an entity described in  
3886 Subsections (3)(a) through (f);  
3887 (h) state agency; or  
3888 (i) political subdivision of the state including:  
3889 (i) a county; or  
3890 (ii) a municipality.  
3891 (4) (a) The 600 foot and 200 foot proximity ~~[limitations to educational, religious, and~~  
3892 ~~recreational facilities]~~ requirements in relation to a community location that are applicable to a  
3893 state ~~[stores]~~ store, package ~~[agencies]~~ agency, ~~[and licensees]~~ or licensee, do not apply to a

3894 single event ~~[permits]~~ permit.

3895 (b) ~~[Nothing]~~ Notwithstanding Subsection (4)(a), nothing in this section~~[-however,]~~  
3896 prevents the commission from considering the proximity of ~~[any]~~ an educational, religious, or  
3897 recreational facility, or any other relevant factor in deciding whether to ~~[grant]~~ issue a single  
3898 event permit.

3899 Section 40. Section **32A-7-106** is amended to read:

3900 **32A-7-106. Operational restrictions.**

3901 (1) (a) ~~[Any]~~ An organization granted a single event permit and ~~[any]~~ a person involved  
3902 in the storage, sale, or service of an alcoholic ~~[beverages]~~ beverage at the event for which the  
3903 permit is issued, shall abide by:

- 3904 (i) this title;
- 3905 (ii) the rules of the commission; and
- 3906 (iii) the special conditions and requirements provided in this section.

3907 (b) Failure to comply with Subsection (1)(a) by an organization or person described in  
3908 Subsection (1)(a):

- 3909 (i) may result in:
  - 3910 (A) an immediate revocation of the single event permit;
  - 3911 (B) forfeiture of the surety bond; and
  - 3912 (C) immediate seizure of ~~[all]~~ an alcoholic ~~[beverages]~~ beverage present at the event;

3913 and

3914 (ii) disqualifies the organization from applying ~~[for a single event permit under this~~  
3915 ~~chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special~~  
3916 ~~Event Beer Permits,]~~ for a period of three years from the date of revocation of the permit~~[-]~~ for:

- 3917 (A) a single event permit under this chapter; or
- 3918 (B) a temporary special event beer permit under Chapter 10, Part 3, Temporary Special  
3919 Event Beer Permits.

3920 (c) ~~[Any]~~ An alcoholic ~~[beverages]~~ beverage seized under this Subsection (1) shall be  
3921 returned to the organization after the event if forfeiture proceedings are not instituted under

3922 Section 32A-13-103.

3923 (2) Special conditions and requirements for a single event [~~permittees~~] permittee include  
3924 the following:

3925 (a) (i) [~~All persons~~] A person involved in the storage, sale, or service of an alcoholic  
3926 [~~beverages~~] beverage at the event must do so under the supervision and direction of the  
3927 permittee.

3928 (ii) [~~All persons~~] A person involved in the sale or service of an alcoholic [~~beverages~~]  
3929 beverage at the event may not, while on duty:

3930 (A) consume an alcoholic beverage; or

3931 (B) be intoxicated.

3932 (b) (i) [~~All~~] A permittee shall purchase liquor stored, sold, served, and consumed at the  
3933 event [~~shall be purchased by the permittee~~] from a state store or package agency.

3934 [~~(ii) All beer purchased by the permittee shall be purchased from:~~]

3935 (ii) The permittee shall purchase beer from:

3936 (A) a licensed beer wholesaler; or

3937 (B) a licensed beer retailer.

3938 (iii) [~~All~~] An alcoholic [~~beverages are~~] beverage is considered under the control of the  
3939 permittee during the event.

3940 (iv) [~~Attendees~~] An attendee of the event may not bring [~~any~~] an alcoholic [~~beverages~~]  
3941 beverage onto the premises of the event.

3942 (c) A permittee may not charge more than the maximum amount set forth in the permit  
3943 for [~~any~~] an alcoholic beverage.

3944 (d) [~~Each~~] A permittee shall post in a prominent place in the area in which an alcoholic  
3945 [~~beverages are being~~] beverage is sold, served, and consumed, a copy of the permit, together  
3946 with a list of the operational restrictions and requirements of a single event [~~permittees~~]  
3947 permittee set forth in this section.

3948 (e) [~~Alcoholic beverages~~] An alcoholic beverage purchased for the event may not be  
3949 stored, sold, served, or consumed in [~~any~~] a location other than that described in the application

3950 and designated on the permit unless the permittee first applies for and receives approval from  
3951 the commission for a change of location.

3952 (f) (i) A single event permittee may sell or provide a primary spirituous liquor only in a  
3953 quantity not to exceed [~~one ounce~~] 1.5 ounces per beverage except that additional spirituous  
3954 liquor may be used in a beverage if:

3955 (A) used as a secondary flavoring ingredient;

3956 (B) used in conjunction with the primary spirituous liquor;

3957 (C) the secondary ingredient is not the only spirituous liquor in the beverage; [~~and~~]

3958 (D) [~~each~~] an attendee [~~may have~~] has no more than [~~2.75~~] 2.5 ounces of spirituous  
3959 liquor at a time before the attendee; and

3960 (E) an attendee has no more than one spirituous liquor drink at a time before the  
3961 attendee.

3962 (ii) Spirituous liquor need not be dispensed through a calibrated metered dispensing  
3963 system.

3964 (g) (i) (A) Wine may be sold and served by the glass or an individual portion that does  
3965 not exceed five ounces per glass or individual portion.

3966 (B) An individual portion may be served to an attendee in more than one glass as long  
3967 as the total amount of wine does not exceed five ounces.

3968 (C) An individual portion of wine is considered to be one alcoholic beverage under  
3969 Subsection (2)(p).

3970 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters at  
3971 [~~prices~~] a price fixed by the commission.

3972 (iii) A wine service may be performed and a service charge assessed by the single event  
3973 permittee as authorized by commission rule for wine purchased at the event.

3974 (h) (i) Heavy beer may be served in an original [~~containers~~] container not exceeding one  
3975 liter at [~~prices~~] a price fixed by the commission.

3976 (ii) A flavored malt beverage may be served in an original container not exceeding one  
3977 liter at a price fixed by the commission.

3978           ~~(ii)~~ (iii) A service charge may be assessed by ~~the~~ a single event permittee as  
 3979 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the  
 3980 event.

3981           (i) (i) Subject to Subsection (2)(i)(ii), beer may be sold for on-premise consumption:  
 3982           (A) in an open container; and  
 3983           (B) on draft.

3984           (ii) Beer sold pursuant to Subsection (2)(i)(i) shall be in a size of container that does  
 3985 not exceed two liters, except that beer may not be sold to an individual attendee in a size of  
 3986 container that exceeds one liter.

3987           (j) (i) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or  
 3988 consumed between the hours of 1 a.m. and 10 a.m.

3989           (ii) This Subsection (2)(j) does not preclude a local authority from being more  
 3990 restrictive with respect to the hours of sale, service, or consumption of an alcoholic ~~[beverages]~~  
 3991 beverage at a temporary single event.

3992           (k) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or otherwise  
 3993 furnished until after the polls are closed on the day of ~~[any]~~ a:  
 3994           (i) regular general election;  
 3995           (ii) regular primary election; or  
 3996           (iii) statewide special election.

3997           (l) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or otherwise  
 3998 furnished to ~~[any]~~ a:  
 3999           (i) minor;  
 4000           (ii) person actually, apparently, or obviously intoxicated;  
 4001           (iii) known habitual drunkard; or  
 4002           (iv) known interdicted person.

4003           (m) (i) (A) Liquor may be sold only at ~~[prices]~~ a price fixed by the commission.  
 4004           (B) Liquor may not be sold at a discount ~~[prices]~~ price on any date or at any time.  
 4005           (ii) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost of

4006 the alcoholic beverage to the permittee.

4007 (iii) An alcoholic beverage may not be sold at a price that encourages over consumption  
4008 or intoxication.

4009 (iv) An alcoholic beverage may not be sold at a special or reduced price for only certain  
4010 hours of the day of the permitted event.

4011 (v) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or  
4012 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

4013 (vi) The permittee may not engage in a public promotion involving or offering free  
4014 alcoholic beverages to the general public.

4015 (n) A single event permittee and its employees may not permit an attendee to carry from  
4016 the premises an open container that:

4017 (i) is used primarily for drinking purposes; and

4018 (ii) contains ~~[any]~~ an alcoholic beverage.

4019 (o) A minor may not sell, serve, dispense, or handle ~~[any]~~ an alcoholic beverage at the  
4020 event.

4021 (p) ~~[Each]~~ An attendee may have no more than one alcoholic beverage of any kind at a  
4022 time before the patron, subject to the limitation in Subsection (2)(f)(i)(E).

4023 (3) The permittee shall maintain an expense and revenue ledger or record showing:

4024 (a) expenditures made for liquor and beer, set-ups, and other ingredients and  
4025 components of an alcoholic ~~[beverages]~~ beverage; and

4026 (b) the revenue from the sale of an alcoholic ~~[beverages]~~ beverage.

4027 (4) A single event permit may not be transferred.

4028 (5) A single event permittee may not on the premises serviced by the single event  
4029 permittee:

4030 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,  
4031 Chapter 10, Part 11, Gambling;

4032 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
4033 Part 11, Gambling; or



4034 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
 4035 the risking of something of value for a return or for an outcome when the return or outcome is  
 4036 based upon an element of chance, excluding the playing of an amusement device that confers  
 4037 only an immediate and unrecorded right of replay not exchangeable for value.

4038 (6) A single event permittee or an employee of the single event permittee may not  
 4039 knowingly allow a person at an event to, in violation of Title 58, Chapter 37, Utah Controlled  
 4040 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

4041 (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2;

4042 or

4043 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
 4044 Section 58-37a-3.

4045 Section 41. Section **32A-8-101** is amended to read:

4046 **32A-8-101. Commission's power to grant licenses -- Limitations.**

4047 (1) The commission may issue an alcoholic beverage manufacturing [~~licenses to~~  
 4048 ~~manufacturers whose businesses are] license to a manufacturer whose business in this state is  
 4049 located in this state for the manufacture, storage, and sale of alcoholic beverages for each type  
 4050 of license provided by this chapter.~~

4051 (2) The type of manufacturing licenses issued under this chapter are known as a:

4052 (a) winery [~~licenses]~~ license;

4053 (b) distillery [~~licenses]~~ license; and

4054 (c) brewery [~~licenses]~~ license.

4055 (3) (a) A person may not manufacture [~~any~~] an alcoholic beverage unless an alcoholic  
 4056 beverage manufacturing license [~~has been]~~ is issued by the commission.

4057 (b) A separate license is required for each place of manufacture, storage, and sale of an  
 4058 alcoholic [~~beverages]~~ beverage.

4059 (c) Violation of this Subsection (3) is a class B misdemeanor.

4060 (4) [~~Brewers~~] (a) A brewer located outside the state [~~are]~~ is not required to be licensed  
 4061 under this chapter. [~~However, they]~~

4062 (b) A brewer described in Subsection (4)(a) must obtain a certificate of approval from  
 4063 the department before selling or delivering:

4064 (i) beer to a licensed beer [~~wholesalers~~] wholesaler in this state[~~, or~~];

4065 (ii) on or after October 1, 2008, a flavored malt beverage to the department or a  
 4066 military installation; or

4067 (iii) if a small brewer, beer to a licensed beer [~~wholesalers or retailers~~] wholesaler or  
 4068 retailer in this state.

4069 ~~[(a)]~~ (c) A brewer seeking a certificate of approval shall file a written application with  
 4070 the department, in a form prescribed by the department. The application shall be accompanied  
 4071 by:

4072 (i) a nonrefundable \$50 application fee;

4073 (ii) an initial certificate of approval fee of \$250 that is refundable if a certificate is not  
 4074 granted;

4075 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and  
 4076 Firearms to brew beer [~~and~~], heavy beer [~~products~~], or a flavored malt beverage; and

4077 (iv) any other information or documents the department may require.

4078 ~~[(b) Each]~~ (d) (i) An application shall be signed and verified by oath or affirmation by:

4079 (A) a partner if the brewer is a partnership[~~;~~]; or [~~by~~]

4080 (B) an executive officer, manager, or person specifically authorized by a corporation or  
 4081 limited liability company to sign the application [~~to which shall be attached written evidence of~~  
 4082 this authority].

4083 (ii) The brewer filing an application shall attach to the application written evidence of  
 4084 the authority of the person described in Subsection (4)(d)(i) to sign the application.

4085 ~~[(e)]~~ (e) (i) All certificates of approval expire on December 31 of each year.

4086 (ii) [~~Brewers~~] A brewer desiring to renew [~~their certificates~~] its certificate shall submit a  
 4087 renewal fee of \$200, and a completed renewal application to the department no later than  
 4088 November 30 of the year the certificate expires.

4089 (iii) Failure to meet the renewal requirements [~~shall result~~] results in an automatic

4090 forfeiture of the certificate effective on the date the existing certificate expires.

4091 (iv) ~~[Renewal applications]~~ A renewal application shall be in a form prescribed by the  
 4092 department.

4093 (5) The commission may prescribe by policy, directive, or rule, consistent with this title,  
 4094 the general operational requirements of licensees relating to:

- 4095 (a) physical facilities;
- 4096 (b) conditions of sale, storage, or manufacture of alcoholic beverages;
- 4097 (c) storage and sales quantity limitations; and
- 4098 (d) other matters considered appropriate by the commission.

4099 Section 42. Section **32A-8-401** is amended to read:

4100 **32A-8-401. Authority and operational restrictions.**

4101 (1) A brewery license allows the licensee to:

4102 (a) manufacture, brew, store, transport, or export beer ~~[and]~~, heavy beer, and flavored  
 4103 malt beverages;

4104 (b) sell heavy beer ~~[to]~~ and, on or after October 1, 2008, a flavored malt beverage to:

- 4105 (i) the department~~[-to]~~;
- 4106 (ii) a military [installations,] installation; and ~~[to]~~
- 4107 (iii) an out-of-state [customers] customer;

4108 (c) sell beer to a licensed ~~[wholesalers]~~ wholesaler;

4109 (d) in the case of a small brewer, sell in accordance with Subsection (5), beer  
 4110 manufactured by the brewer to:

- 4111 (i) a licensed retailer;
- 4112 (ii) a holder of a single event permit issued by the commission pursuant to Chapter 7,  
 4113 Single Event Permits; and

4114 (iii) a holder of a temporary retail beer permit issued by the commission for a temporary  
 4115 special event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits; and

4116 (e) warehouse on its premises an alcoholic ~~[beverages which]~~ beverage that it  
 4117 manufactures or purchases for manufacturing purposes.

4118 (2) If considered necessary, the commission or department may:  
4119 (a) require certain alterations to the plant, equipment, or premises;  
4120 (b) require the alteration or removal of any unsuitable alcoholic beverage-making  
4121 equipment or material;  
4122 (c) require the licensee to clean, disinfect, ventilate, or otherwise improve the sanitary  
4123 and working conditions of any plant, premises, and equipment; or  
4124 (d) demand that all books, records, or data pertaining to the materials and ingredients  
4125 used in the manufacture of alcoholic products are available to the commission or department  
4126 upon request.

4127 (3) A brewery licensee may not sell [~~heavy beer~~] the following to any person within the  
4128 state except the department [~~and~~] or a military [installations:] installation:  
4129 (a) heavy beer; or  
4130 (b) on or after October 1, 2008, a flavored malt beverage.

4131 (4) A brewery licensee may not permit any beer, heavy beer, or flavored malt beverage  
4132 to be consumed on its premises, except under the circumstances described in this Subsection  
4133 (4).

4134 (a) A brewer may allow its off-duty employees to consume beer, heavy beer, or a  
4135 flavored malt beverage on its premises without charge.

4136 (b) A brewery licensee may allow any person who can lawfully buy [~~beer or malted~~  
4137 ~~beverages~~] the following for wholesale or retail distribution to consume bona fide samples of its  
4138 product on the brewery premises[-]:

4139 (i) beer;  
4140 (ii) heavy beer; or  
4141 (iii) on or after October 1, 2008, a flavored malt beverage.

4142 (c) (i) A brewery licensee may operate on its manufacturing premises a retail facility  
4143 allowing consumption on premises of beer in bottles or draft as long as food is also available.  
4144 (ii) [~~Any~~] A retail facility located on the premises of a brewery licensee shall be  
4145 operated or supervised by the brewer.

4146 (iii) In operating an on-site retail facility, a brewery licensee shall comply with the  
 4147 requirements of Sections 32A-10-101 and 32A-10-102.

4148 (5) (a) ~~Every~~ A small brewer licensee located in this state, and ~~every~~ a small brewer  
 4149 located outside this state that obtains a certificate of approval from the department to sell beer  
 4150 in this state under Subsection 32A-8-101(4), that sells beer manufactured by the small brewer  
 4151 directly to a retailer licensee or permittee shall own, lease, or maintain and control a warehouse  
 4152 facility located in this state for the storage of all beer to be sold to any retailer licensee or  
 4153 permittee.

4154 (b) A small brewer may not sell beer to a retailer licensee or permittee unless the beer:

4155 (i) ~~was~~ is manufactured by the small brewer; and

4156 (ii) ~~has first been~~ is first placed in the small brewer's warehouse facility in this state.

4157 (c) (i) ~~Each~~ A small brewer warehouse shall maintain complete beer importation,  
 4158 inventory, tax, distribution, sales records, and other documents as the department and State Tax  
 4159 Commission may require.

4160 (ii) The records and documents described in Subsection (5)(c)(i) are subject to  
 4161 inspection by:

4162 (A) the department; and

4163 (B) the State Tax Commission.

4164 (iii) ~~Any~~ A small brewer or person acting for the small brewer, who knowingly forges,  
 4165 falsifies, alters, cancels, destroys, conceals, or removes ~~[the records or documents]~~ a record or  
 4166 document required to be made, maintained, or preserved by this title or the rules of the  
 4167 commission, or State Tax Commission for the purpose of deceiving the commission,  
 4168 department, State Tax Commission, or any of their officials or employees, is subject to:

4169 (A) the immediate suspension or revocation of:

4170 (I) the brewery license; or

4171 (II) the certificate of approval; and

4172 (B) possible criminal prosecution under Chapter 12, Criminal Offenses.

4173 Section 43. Section **32A-8-501** is amended to read:

4174 **32A-8-501. Commission's power to grant licenses.**

4175 (1) The commission may issue a local industry representative [~~licenses~~] license to an  
4176 individual [~~residents~~] resident of Utah, Utah [~~partnerships~~] partnership, Utah [~~corporations~~]  
4177 corporation, [~~and~~] or Utah limited liability [~~companies~~] company who [~~are~~] is employed by a  
4178 manufacturer, supplier, or importer, whether compensated by salary, commission, or [~~any other~~]  
4179 another means, to represent liquor[~~, wine, or heavy beer~~] products with the department,  
4180 package agencies, licensees, and permittees under this title[-] including:

4181 (a) wine;

4182 (b) heavy beer; or

4183 (c) on or after October 1, 2008, a flavored malt beverage.

4184 (2) (a) Before [~~any Utah resident, Utah partnership, Utah corporation, or Utah limited~~  
4185 ~~liability company~~] a person described in Subsection (1) may represent [~~a liquor, wine, or heavy~~  
4186 ~~beer~~] an alcoholic product of a manufacturer, supplier, or importer, the [~~resident, partnership, or~~  
4187 ~~corporation~~] person shall [~~first~~] obtain a local industry representative license from the  
4188 commission as provided in this part.

4189 (b) A violation of this Subsection (2) is a class B misdemeanor.

4190 (3) [~~Individual employees or agents~~] An individual employee or agent of a local industry  
4191 representative [~~licensees are~~] licensee is not required to be separately licensed.

4192 (4) A local industry representative may represent more than one manufacturer, supplier,  
4193 or importer at a time.

4194 (5) (a) A manufacturer, supplier, or importer is not required to use a local industry  
4195 representative to represent its products with the department, package agencies, licensees, or  
4196 permittees.

4197 (b) [~~Any~~] An employee or agent of the manufacturer, supplier, or importer who is not a  
4198 local industry representative while in the state shall first register with the department, on forms  
4199 provided by the department, before representing alcoholic beverage products with the  
4200 department, package agencies, licensees, and permittees of the department.

4201 (c) A manufacturer, supplier, or importer described in Subsection (5)(b) and [~~their~~] its

4202 employees and agents are subject to the same operational restrictions of this part and Chapter  
4203 12, Criminal Offenses.

4204 Section 44. Section **32A-8-503** is amended to read:

4205 **32A-8-503. Qualifications.**

4206 (1) (a) The commission may not grant a local industry representative license to [any] a  
4207 person who has been convicted of:

4208 (i) a felony under any federal or state law;

4209 (ii) any violation of any federal or state law or local ordinance concerning the sale,  
4210 manufacture, distribution, importing, warehousing, adulteration, or transportation of alcoholic  
4211 beverages;

4212 (iii) any crime involving moral turpitude; or

4213 (iv) on two or more occasions within the five years before the day on which the license  
4214 is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol  
4215 and any drug.

4216 (b) In the case of a partnership, corporation, or limited liability company the  
4217 proscription under Subsection (1)(a) applies if any of the following has been convicted of any  
4218 offense described in Subsection (1)(a):

4219 (i) a partner;

4220 (ii) a managing agent;

4221 (iii) a manager;

4222 (iv) an officer;

4223 (v) a director;

4224 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of  
4225 the applicant corporation; or

4226 (vii) a member who owns at least 20% of the applicant limited liability company.

4227 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a  
4228 supervisory or managerial capacity for the local industry representative has been convicted of  
4229 any offense described in Subsection (1)(a).

4230 (2) The commission may immediately suspend or revoke the local industry  
4231 representative license if after the day on which the local industry representative license is  
4232 granted, a person described in Subsection (1)(a), (b), or (c):

4233 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior  
4234 to the license being granted; or

4235 (b) on or after the day on which the license is granted:

4236 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

4237 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined  
4238 influence of alcohol and any drug; and

4239 (B) was convicted of driving under the influence of alcohol, any drug, or the combined  
4240 influence of alcohol and any drug within five years before the day on which the person is  
4241 convicted of the offense described in Subsection (2)(b)(ii)(A).

4242 (3) The director may take emergency action by immediately suspending the operation of  
4243 the local industry representative license according to the procedures and requirements of Title  
4244 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal  
4245 matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):

4246 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

4247 or

4248 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,  
4249 any drug, or the combined influence of alcohol and any drug; and

4250 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined  
4251 influence of alcohol and any drug within five years before the day on which the person is  
4252 arrested on a charge described in Subsection (3)(b)(i).

4253 (4) (a) (i) The commission may not grant a local industry representative license to [any]  
4254 an individual who has had any type of license, agency, or permit issued under this title revoked  
4255 within the last three years.

4256 (ii) The commission may not grant a local industry representative license to an applicant  
4257 that is a partnership, corporation, or limited liability company if any partner, managing agent,



4258 manager, officer, director, stockholder who holds at least 20% of the total issued and  
4259 outstanding stock of an applicant corporation, or member who owns at least 20% of an  
4260 applicant limited liability company is or was:

4261 (A) a partner or managing agent of any partnership that had any type of license, agency,  
4262 or permit issued under this title revoked within the last three years;

4263 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%  
4264 of the total issued and outstanding stock of any corporation that had any type of license,  
4265 agency, or permit issued under this title revoked within the last three years; or

4266 (C) a manager or member who owns or owned at least 20% of any limited liability  
4267 company that had any type of license, agency, or permit issued under this title revoked within  
4268 the last three years.

4269 (b) An applicant that is a partnership, corporation, or limited liability company may not  
4270 be granted a local industry representative license if any of the following had any type of license,  
4271 agency, or permit issued under this title revoked while acting in that person's individual capacity  
4272 within the last three years:

4273 (i) ~~any~~ a partner or managing agent of the applicant partnership;

4274 (ii) ~~any~~ a managing agent, officer, director, or stockholder who holds at least 20% of  
4275 the total issued and outstanding stock of the applicant corporation; or

4276 (iii) ~~any~~ a manager or member who owns at least 20% of the applicant limited liability  
4277 company.

4278 (c) A person acting in an individual capacity may not be granted an industry  
4279 representative license if that person was:

4280 (i) a partner or managing agent of a partnership that had any type of license, agency, or  
4281 permit issued under this title revoked within the last three years;

4282 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the  
4283 total issued and outstanding stock of a corporation that had any type of license, agency, or  
4284 permit issued under this title revoked within the last three years; or

4285 (iii) a manager or member who owned at least 20% of a limited liability company that

4286 had any type of license, agency, or permit issued under this title revoked within the last three  
4287 years.

4288 (5) (a) The commission may not grant a local industry representative license to a minor.

4289 (b) The commission may not grant a local industry representative license to an applicant  
4290 that is a partnership, corporation, or limited liability company if any of the following is a minor:

4291 (i) a partner or managing agent of the applicant partnership;

4292 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
4293 total issued and outstanding stock of the applicant corporation; or

4294 (iii) a manager or member who owns at least 20% of the applicant limited liability  
4295 company.

4296 (6) Except as otherwise provided, the commission may not grant a local industry  
4297 representative license to:

4298 (a) ~~any~~ a holder of any retail license issued under this title that sells:

4299 (i) spirituous liquor~~;~~;

4300 (ii) wine~~;~~~~or~~;

4301 (iii) heavy beer; or

4302 (iv) on or after October 1, 2008, a flavored malt beverage;

4303 (b) ~~any~~ an employee or agent of any retail license issued under this title that sells:

4304 (i) spirituous liquor~~;~~;

4305 (ii) wine~~;~~~~or~~;

4306 (iii) heavy beer; or

4307 (iv) on or after October 1, 2008, a flavored malt beverage; or

4308 (c) ~~any~~ an individual, partnership, corporation, or limited liability company who holds  
4309 any interest in any retail license issued under this title that sells:

4310 (i) spirituous liquor~~;~~;

4311 (ii) wine~~;~~~~or~~;

4312 (iii) heavy beer; or

4313 (iv) on or after October 1, 2008, a flavored malt beverage.

4314 (7) If [~~any~~] an individual, partnership, corporation, or limited liability company to whom  
4315 a local industry representative license has been issued under this part no longer possesses the  
4316 qualifications required by this title for obtaining that license, the commission may suspend or  
4317 revoke that license.

4318 Section 45. Section **32A-8-505** is amended to read:

4319 **32A-8-505. Operational restrictions.**

4320 (1) (a) A local industry representative licensee, employee or agent of the licensee, or  
4321 employee or agent of a manufacturer, supplier, or importer who is conducting business in the  
4322 state, shall abide by the conditions and requirements set forth in this section.

4323 (b) If [~~any~~] a person listed in Subsection (1)(a) knowingly violates or fails to comply  
4324 with the conditions and requirements set forth in this section:

4325 (i) [~~such~~] the violation or failure to comply may result in:

4326 (A) a suspension or revocation of the license; or

4327 (B) other disciplinary action taken against individual employees or agents of the  
4328 licensee; and

4329 (ii) the commission may order the removal of the manufacturer's, supplier's, or  
4330 importer's products from the department's sales list and a suspension of the department's  
4331 purchase of those products for a period determined by the commission if the manufacturer,  
4332 supplier, or importer:

4333 (A) directly committed the violation; or

4334 (B) solicited, requested, commanded, encouraged, or intentionally aided another to  
4335 engage in the violation.

4336 (2) A local industry representative licensee, employee or agent of the licensee, or  
4337 employee or agent of a manufacturer, supplier, or importer who is conducting business in the  
4338 state:

4339 (a) only to the extent authorized by Chapter 12, Criminal Offenses, may:

4340 (i) assist the department in:

4341 (A) ordering, shipping, and delivering merchandise;

- 4342 (B) providing new product notification;
- 4343 (C) obtaining listing and delisting information;
- 4344 (D) receiving price quotations;
- 4345 (E) providing product sales analysis;
- 4346 (F) conducting shelf management; and
- 4347 (G) conducting educational seminars; and
- 4348 (ii) for the purpose of acquiring new listings:
  - 4349 (A) solicit orders from the department; and
  - 4350 (B) submit to the department price lists and samples of the products of the
  - 4351 manufacturer, supplier, or importer;
- 4352 (b) may not sell any liquor[~~-, wine, or heavy beer~~] within the state except to the
- 4353 department and military installations[;] including:
  - 4354 (i) wine;
  - 4355 (ii) heavy beer; or
  - 4356 (iii) on or after October 1, 2008, a flavored malt beverage;
- 4357 (c) may not ship or transport, or cause to be shipped or transported, into this state or
- 4358 from one place to another within this state any liquor[;] including:
  - 4359 (i) wine[~~-or~~];
  - 4360 (ii) heavy beer; or
  - 4361 (iii) on or after October 1, 2008, a flavored malt beverage;
- 4362 (d) may not sell or furnish any liquor[~~-, wine, or heavy beer~~] to any person within this
- 4363 state other than to the department and military installations[;] including:
  - 4364 (i) wine;
  - 4365 (ii) heavy beer; or
  - 4366 (iii) on or after October 1, 2008, a flavored malt beverage;
- 4367 (e) except as otherwise provided, may not advertise products it represents in violation
- 4368 of this title or any other federal or state law;
- 4369 (f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and

4370 (g) may only provide samples of products of the manufacturer, supplier, or importer for  
4371 tasting and sampling purposes as provided in Section 32A-12-603 by the department.

4372 (3) (a) A local industry representative licensee shall maintain on file with the department  
4373 a current accounts list of the names and addresses of all manufacturers, suppliers, and importers  
4374 the licensee represents.

4375 (b) The licensee shall notify the department in writing of any changes to the accounts  
4376 listed within 14 days from the date the licensee either acquired or lost the account of a particular  
4377 manufacturer, supplier, or importer.

4378 (4) A local industry representative licensee shall maintain accounting and other records  
4379 and documents as the department may require for at least three years.

4380 (5) ~~[Any]~~ A local industry representative licensee or person acting for the licensee, who  
4381 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of  
4382 the books of account or other documents of the licensee required to be made, maintained, or  
4383 preserved by this title or the rules of the commission for the purpose of deceiving the  
4384 commission or the department, or any of their officials or employees, is subject to:

4385 (a) the immediate suspension or revocation of the industry representative's license; and

4386 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

4387 (6) A local industry representative licensee may, for the purpose of becoming educated  
4388 as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee  
4389 represents, taste and analyze industry representative samples under the conditions listed in this  
4390 Subsection (6).

4391 (a) The licensee may not receive more than two industry representative samples of a  
4392 particular type, vintage, and production lot of a particular branded product within a consecutive  
4393 120-day period.

4394 (b) (i) ~~[Each]~~ A sample of liquor may not exceed 1 liter.

4395 (ii) ~~[Each]~~ Notwithstanding Subsection (6)(b)(i), a sample of [wine or heavy beer] the  
4396 following may not exceed 1.5 liters unless that exact product is only commercially packaged in a  
4397 larger size, not to exceed 5 liters[-];

- 4398            (A) wine;
- 4399            (B) heavy beer; or
- 4400            (C) on or after October 1, 2008, a flavored malt beverage.
- 4401            (c) [~~Each~~] An industry representative sample may only be of a product not presently
- 4402 listed on the department's sales list.
- 4403            (d) (i) [~~Industry~~] An industry representative [~~samples~~] sample shall be shipped:
- 4404                (A) prepaid by the manufacturer, supplier, or importer;
- 4405                (B) by common carrier and not via United States mail; and
- 4406                (C) directly to the department's central administrative warehouse office.
- 4407            (ii) [~~These samples~~] An industry representative sample may not be shipped to any other
- 4408 location within the state.
- 4409            (e) [~~Industry~~] An industry representative [~~samples~~] sample shall be accompanied by a
- 4410 letter from the manufacturer, supplier, or importer:
- 4411                (i) clearly identifying the product as an "industry representative sample"; and
- 4412                (ii) clearly stating:
- 4413                    (A) the FOB case price of the product; and
- 4414                    (B) the name of the local industry representative for who it is intended.
- 4415            (f) The department shall assess a reasonable handling, labeling, and storage fee for each
- 4416 industry representative sample received.
- 4417            (g) The department shall affix to [~~each~~] a bottle or container a label clearly identifying
- 4418 the product as an "industry representative sample."
- 4419            (h) The department shall:
- 4420                (i) account for and record each industry representative sample received;
- 4421                (ii) account for the sample's disposition; and
- 4422                (iii) maintain a record of the sample and its disposition for a two-year period.
- 4423            (i) [~~Industry~~] An industry representative [~~samples~~] sample may not leave the premises
- 4424 of the department's central administrative warehouse office.
- 4425            (j) [~~Licensed~~] A licensed industry [~~representatives~~] representative and [~~their~~] the

4426 industry representative's employees and agents may, at regularly scheduled days and times  
4427 established by the department, taste and analyze one or more industry representative samples on  
4428 the premises of the department's central administrative warehouse office.

4429 (k) Any unused contents of an opened product remaining after the product [~~has been~~] is  
4430 sampled shall be destroyed by the department under controlled and audited conditions  
4431 established by the department.

4432 (l) [~~Industry representative samples~~] An industry representative sample that [~~are~~] is not  
4433 tasted within 30 days of receipt by the department shall be disposed of at the discretion of the  
4434 department in one of the following ways:

4435 (i) contents destroyed under controlled and audited conditions established by the  
4436 department; or

4437 (ii) added to the inventory of the department for sale to the public.

4438 (7) An employee or agent of a local industry representative licensee may not be:

4439 (a) the holder of any retail license issued under this title that sells:

4440 (i) spirituous liquor[;];

4441 (ii) wine[~~, or~~];

4442 (iii) heavy beer; or

4443 (iv) on or after October 1, 2008, a flavored malt beverage;

4444 (b) an employee or agent of any retail licensee issued under this title that sells:

4445 (i) spirituous liquor[;];

4446 (ii) wine[~~, or~~];

4447 (iii) heavy beer; or

4448 (iv) on or after October 1, 2008, a flavored malt beverage; or

4449 (c) a minor.

4450 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,  
4451 give, or attempt in any way to dispose of the license to any other person, whether for monetary  
4452 gain or not.

4453 (b) A local industry representative license has no monetary value for the purpose of any

4454 type of disposition.

4455 Section 46. Section **32A-10-101** is amended to read:

4456 **32A-10-101. State and local licensing -- Limitations.**

4457 (1) [~~Any~~] A local authority may:

4458 (a) tax or prohibit any retail sale of beer;

4459 (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise consumption;

4460 (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise  
4461 consumption at temporary special events that do not last longer than 30 days;

4462 (d) issue, suspend, and revoke licenses to businesses to sell beer at retail for off-premise  
4463 consumption;

4464 (e) establish proximity restrictions for establishing premises where beer is sold at retail  
4465 for off-premise consumption in relation to any [~~public or private school, church, public library,~~  
4466 ~~public playground, or park~~] community location; and

4467 (f) otherwise regulate the retail sale of beer for off-premise consumption subject to the  
4468 requirements of Sections 32A-10-102 and 32A-10-103.

4469 (2) The commission shall issue [~~licenses~~] a license to sell beer at retail for on-premise  
4470 consumption as provided in Part 2, On-Premise Beer Retailer Licenses.

4471 (3) [~~Each~~] A licensee issued a license for on-premise consumption, by the commission  
4472 under Subsection (2) or by the local authority under Subsection (1), is subject to the operational  
4473 restrictions provided in Section 32A-10-206, except as otherwise provided.

4474 (4) Suspension or revocation of an on-premise beer retailer license issued by the  
4475 commission under Subsection (2) or an on-premise beer retailer license issued by a local  
4476 authority under Subsection (1) prohibits the establishment whose license is suspended or  
4477 revoked from continuing to operate under the other state or local license it may have.

4478 (5) The commission shall issue temporary permits to sell beer at retail for on-premise  
4479 consumption at temporary special events that do not last longer than 30 days as provided in Part  
4480 3, Temporary Special Event Beer Permits.

4481 (6) [~~Each~~] A permittee issued a temporary permit by the commission under Subsection



4482 (5) or by the local authority under Subsection (1), is subject to the operational restrictions  
4483 provided in Section 32A-10-306, except as otherwise provided.

4484 (7) Suspension or revocation of a temporary permit issued by the commission under  
4485 Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose permit  
4486 is suspended or revoked from continuing to operate under the other state or local permit the  
4487 permittee may have.

4488 Section 47. Section **32A-10-102** is amended to read:

4489 **32A-10-102. General restrictions.**

4490 (1) (a) (i) A beer retailer licensed under this part or Part 2, On-Premise Beer Retailer  
4491 Licenses, may not purchase, acquire, possess for the purpose of resale, or sell ~~[any]~~ beer except  
4492 that which ~~[has been]~~ is lawfully purchased from:

4493 (A) a wholesaler licensed under this title; or ~~[from]~~

4494 (B) a small brewer that ~~[manufactured]~~ manufactures the beer.

4495 (ii) Violation of Subsection (1)(a) is a class A misdemeanor.

4496 (b) (i) ~~[All purchases made of beer by any]~~ A beer retailer shall purchase beer only from  
4497 a licensed wholesaler ~~[shall be from that wholesaler]~~ who is authorized by the commission to  
4498 sell beer in the geographical area in which the beer retailer is located, unless an alternate  
4499 wholesaler is authorized by the department to sell to the beer retailer as provided in Section  
4500 32A-11-106.

4501 (ii) Violation of Subsection (1)(b) is a class B misdemeanor.

4502 (2) (a) Beer may not be sold, provided, or possessed for off-premise consumption in  
4503 ~~[containers]~~ a container larger than two liters.

4504 (b) For a special event that does not last longer than 30 days:

4505 (i) an on-premise beer retailer license issued by the commission as provided in this part  
4506 is not required for the sale of beer at the special event; and

4507 (ii) a temporary beer permit must be obtained from the commission as provided in Part  
4508 3, Temporary Special Event Beer Permits.

4509 (3) (a) A minor may not be granted a beer retailer license.

4510 (b) The commission may not grant a beer retailer license to an applicant that is a  
4511 partnership, corporation, or limited liability company if any of the following is a minor:

4512 (i) a partner or managing agent of the applicant partnership;

4513 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
4514 total issued and outstanding stock of the applicant corporation; or

4515 (iii) a manager or member who owns at least 20% of the applicant limited liability  
4516 company.

4517 (4) A minor may not sell beer on the premises of a beer retailer for off-premise  
4518 consumption unless:

4519 (a) the sale is done under the supervision of a person 21 years of age or older who is on  
4520 the premises; and

4521 (b) the minor is at least 16 years of age.

4522 (5) (a) ~~[If malt beverage coolers or malt liquor is sold by a beer retailer for off-premise~~  
4523 ~~consumption, the]~~ Subject to the other provisions of this Subsection (5), a beer retailer shall  
4524 [display a sign at the location on the premises where malt beverages or malt liquor is sold  
4525 stating: "Many malt beverages contain alcohol. Please read the label."];

4526 (i) display a beer sold by the retailer in an area that is visibly separate and distinct from  
4527 the area where a nonalcoholic beverage is displayed; and

4528 (ii) post a sign in the area described in Subsection (5)(a)(i) that:

4529 (A) is prominent;

4530 (B) is easily readable by a consumer;

4531 (C) meets the requirements for format made by the commission by rule made in  
4532 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act; and

4533 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain  
4534 alcohol. Please read the label carefully."

4535 (b) Notwithstanding Subsection (5)(a), a nonalcoholic beverage may be displayed with  
4536 beer if the nonalcoholic beverage is labeled, packaged, or advertised as a nonalcoholic beer.

4537 (c) The requirements of this Subsection (5) apply to a beer notwithstanding that it is

4538 labeled, packaged, or advertised as:

4539 (i) a malt cooler; or

4540 (ii) a beverage that may provide energy.

4541 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
4542 commission shall define by rule what constitutes an "area that is visibly separate and distinct  
4543 from the area where a nonalcoholic beverage is displayed."

4544 ~~[(b)]~~ (e) A violation of this Subsection (5) is an infraction.

4545 Section 48. Section **32A-10-201** is amended to read:

4546 **32A-10-201. Commission's power to grant licenses -- Limitations.**

4547 (1) Before ~~[any]~~ an establishment may sell beer at retail for on-premise consumption, it  
4548 shall first obtain:

4549 (a) an on-premise beer retailer license from the commission as provided in this part; and

4550 (b) (i) a license issued by the local authority, as provided in Section 32A-10-101, to sell  
4551 beer at retail for on-premise consumption; or

4552 (ii) other written consent of the local authority to sell beer at retail for on-premise  
4553 consumption.

4554 (2) (a) Subject to the requirements of this section, the commission may issue on-premise  
4555 beer retailer licenses for the purpose of establishing on-premise beer retailer outlets at places  
4556 and in numbers as it considers proper for the storage, sale, and consumption of beer on premises  
4557 operated as on-premise beer retailer outlets.

4558 (b) Notwithstanding Subsection (2)(a), the total number of on-premise beer retailer  
4559 licenses that are taverns may not at any time aggregate more than that number determined by  
4560 dividing the population of the state by ~~[25,000]~~ 30,500.

4561 (c) For purposes of this Subsection (2), the population of the state shall be determined  
4562 by:

4563 (i) the most recent United States decennial special census; or

4564 (ii) ~~[any other]~~ another population determination made by the United States or state  
4565 governments.

4566 (d) (i) The commission may issue seasonal licenses for taverns established in areas the  
4567 commission considers necessary.

4568 (ii) A seasonal license for taverns shall be for a period of six consecutive months.

4569 (iii) An on-premise beer retailer license for a tavern issued for operation during a  
4570 summer time period is known as a "Seasonal A" on-premise beer retailer license for a tavern.  
4571 The period of operation for a "Seasonal A" on-premise beer retailer license for a tavern shall:

4572 (A) begin on May 1; and

4573 (B) end on October 31.

4574 (iv) An on-premise beer retailer license for a tavern issued for operation during a winter  
4575 time period is known as a "Seasonal B" on-premise beer retailer license for a tavern. The period  
4576 of operation for a "Seasonal B" on-premise beer retailer license for a tavern shall:

4577 (A) begin on November 1; and

4578 (B) end on April 30.

4579 (v) In determining the number of tavern licenses that the commission may issue under  
4580 this section:

4581 (A) a seasonal on-premise beer retailer license for a tavern is counted as 1/2 of one  
4582 on-premise beer retailer license for a tavern; and

4583 (B) each "Seasonal A" on-premise beer retailer license for a tavern shall be paired with  
4584 a "Seasonal B" on-premise beer retailer license for a tavern.

4585 (3) (a) ~~[The]~~ Except as provided in Subsection (3)(b), (c), or (d), the premises of an  
4586 on-premise beer retailer license may not be established;

4587 (i) within 600 feet of [any public or private school, church, public library, public  
4588 playground, or park] a community location, as measured by the method in Subsection [(4):]  
4589 (3)(e); or

4590 ~~[(b) The premises of an on-premise beer retailer license may not be established]~~

4591 (ii) within 200 feet of [any public or private school, church, public library, public  
4592 playground, or park] a community location, measured in a straight line from the nearest  
4593 entrance of the proposed outlet to the nearest property boundary of the [public or private

4594 school, church, public library, public playground, or park] community location.

4595 ~~[(c) The restrictions of Subsections (3)(a) and (b) govern unless one of the following~~  
4596 ~~exemptions applies:]~~

4597 ~~[(i) with] (b) With~~ respect to the establishment of an on-premise beer retailer license  
4598 ~~[that operates as a tavern within a city of the third, fourth, or fifth class, a town, or the~~  
4599 ~~unincorporated area of a county]~~, the commission may authorize a variance to reduce the  
4600 proximity ~~[requirements]~~ requirement of Subsection (3)(a)(i) ~~[or (b)]~~ if:

4601 ~~[(A)] (i)~~ the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the  
4602 variance;

4603 ~~[(B)] (ii)~~ the commission finds that alternative locations for establishing an on-premise  
4604 beer retailer ~~[tavern]~~ license in the community are limited;

4605 ~~[(C)] (iii)~~ a public hearing ~~[has been]~~ is held in the city, town, or county, and where  
4606 practical, in the neighborhood concerned; ~~[and]~~

4607 ~~[(D)] (iv)~~ after giving full consideration to all of the attending circumstances and the  
4608 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
4609 establishing the license would not be detrimental to the public health, peace, safety, and welfare  
4610 of the community; and

4611 ~~[(i) with respect to the establishment of an on-premise beer retailer license that~~  
4612 ~~operates as a tavern in any location, the commission may authorize a variance to reduce the~~  
4613 ~~proximity requirements of Subsection (3)(a) or (b) in relation to a church:]~~

4614 ~~[(A) if the local governing body of the church in question gives its written consent to~~  
4615 ~~the variance;]~~

4616 ~~[(B) following a public hearing in the city, town, or county and where practical in the~~  
4617 ~~neighborhood concerned; and]~~

4618 ~~[(C) after giving full consideration to all of the attending circumstances and the policies~~  
4619 ~~stated in Subsections 32A-1-104(3) and (4);]~~

4620 ~~[(iii) with respect to the establishment of an on-premise beer retailer license that does~~  
4621 ~~not operate as a tavern in any location, the commission may authorize a variance that reduces~~

4622 the proximity requirements of Subsection (3)(a) or (b) if:]

4623 [~~(A) the local governing authority has granted its written consent to the variance;]~~

4624 [~~(B) alternative locations for establishing an on-premise beer retailer license that does~~  
4625 ~~not operate as a tavern in the community are limited;]~~

4626 [~~(C) a public hearing has been held in the city, town, or county, and where practical in~~  
4627 ~~the neighborhood concerned; and]~~

4628 [~~(D) after giving full consideration to all of the attending circumstances and the policies~~  
4629 ~~stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing a~~  
4630 ~~license would not be detrimental to the public health, peace, safety, and welfare of the~~  
4631 ~~community;]~~

4632 (v) (A) the community location governing authority gives its written consent to the  
4633 variance; or

4634 (B) when written consent is not given by the community location governing authority,  
4635 the commission finds that the applicant has established that:

4636 (I) there is substantial unmet public demand to consume alcohol in a public setting  
4637 within the geographic boundary of the local authority in which the on-premise beer retailer  
4638 licensee is to be located;

4639 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
4640 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of an on-premise  
4641 beer retailer license; and

4642 (III) there is no reasonably viable alternative location within the geographic boundary of  
4643 the local authority in which the on-premise beer retailer licensee is to be located for establishing  
4644 an on-premise beer retailer license to satisfy the unmet demand described in Subsection  
4645 (3)(b)(v)(B)(I).

4646 (c) With respect to the establishment of an on-premise beer retailer license, the  
4647 commission may authorize a variance that reduces the proximity requirement of Subsection  
4648 (3)(a)(ii) if:

4649 (i) the community location at issue is:

4650           (A) a public library; or  
4651           (B) a public park;  
4652           (ii) the local authority grants its written consent to the variance;  
4653           (iii) the commission finds that alternative locations for establishing an on-premise beer  
4654 retailer license in the community are limited;  
4655           (iv) a public hearing is held in the city, town, or county, and where practical in the  
4656 neighborhood concerned;  
4657           (v) after giving full consideration to all of the attending circumstances and the policies  
4658 stated in Subsections 32A-1-104(3) and (4), the commission determines that establishing the  
4659 on-premise beer retailer license would not be detrimental to the public health, peace, safety, and  
4660 welfare of the community; and  
4661           (vi) (A) the community location governing authority gives its written consent to the  
4662 variance; or  
4663           (B) when written consent is not given by the community location governing authority,  
4664 the commission finds that the applicant has established that:  
4665           (I) there is substantial unmet public demand to consume alcohol in a public setting  
4666 within the geographic boundary of the local authority in which the on-premise beer retailer  
4667 licensee is to be located;  
4668           (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
4669 described in Subsection (3)(c)(vi)(B)(I) other than through the establishment of an on-premise  
4670 beer retailer license; and  
4671           (III) there is no reasonably viable alternative location within the geographic boundary of  
4672 the local authority in which the on-premise beer retailer licensee is to be located for establishing  
4673 an on-premise beer retailer license to satisfy the unmet demand described in Subsection  
4674 (3)(c)(vi)(B)(I).  
4675           ~~[(iv) with]~~ (d) (i) With respect to ~~[any]~~ an on-premise beer retailer license issued by the  
4676 commission before July 1, 1991, to an establishment that undergoes a change in ownership after  
4677 that date, the commission may waive or vary the proximity requirements of this Subsection (3)

4678 in considering whether to grant an on-premise retailer beer license to the new owner~~[; and]~~.

4679 ~~[(v) with]~~ (ii) With respect to the premises of an on-premise beer retailer license issued  
4680 by the commission that undergoes a change of ownership, the commission may waive or vary  
4681 the proximity requirements of Subsection (3)(a) ~~[or (b)]~~ in considering whether to grant an  
4682 on-premise beer retailer license to the new owner of the premises if:

4683 (A) (I) the premises previously received a variance from the proximity ~~[requirements]~~  
4684 requirement of Subsection (3)(a)(i) ~~[or (b)]~~; or

4685 (II) the premises received a variance from the proximity requirement of Subsection  
4686 (3)(a)(ii) on or before May 4, 2008; or

4687 (B) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed under  
4688 this title.

4689 ~~[(4) With respect to any public or private school, church, public library, public~~  
4690 ~~playground, or park, the]~~

4691 (e) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the  
4692 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
4693 property boundary of the ~~[public or private school, church, public library, public playground,~~  
4694 ~~school playground or park]~~ community location.

4695 ~~[(5)]~~ (4) (a) Nothing in this section prevents the commission from considering the  
4696 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
4697 reaching a decision on a proposed location.

4698 (b) For purposes of this Subsection ~~[(5)]~~ (4), "educational facility" includes:

4699 (i) a nursery school;

4700 (ii) an infant day care center; and

4701 (iii) a trade and technical school.

4702 Section 49. Section **32A-10-202** is amended to read:

4703 **32A-10-202. Application and renewal requirements.**

4704 (1) A person seeking an on-premise beer retailer license under this chapter shall file a  
4705 written application with the department, in a form prescribed by the department. The



4706 application shall be accompanied by:

4707 (a) a nonrefundable \$250 application fee;

4708 (b) an initial license fee that is refundable if a license is not granted in the following  
4709 amount:

4710 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial license  
4711 fee is \$150; or

4712 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is  
4713 \$1,250;

4714 (c) written consent of the local authority or a license to sell beer at retail for on-premise  
4715 consumption granted by the local authority under Section 32A-10-101;

4716 (d) a copy of the applicant's current business license;

4717 (e) evidence of proximity to any [~~public or private school, church, public library, public  
4718 playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~

4719 ~~Subsections 32A-10-201(3) and (4), the application shall be processed in accordance with those  
4720 subsections]~~ community location, with proximity requirements being governed by Section

4721 32A-10-201;

4722 (f) a bond as specified by Section 32A-10-205;

4723 (g) a floor plan of the premises, including consumption areas and the area where the  
4724 applicant proposes to keep, store, and sell beer;

4725 (h) evidence that the on-premise beer retailer licensee is carrying public liability  
4726 insurance in an amount and form satisfactory to the department;

4727 (i) for [~~those licensees that sell]~~ a licensee that sells more than \$5,000 of beer annually,  
4728 evidence that the on-premise beer retailer licensee is carrying dramshop insurance coverage of  
4729 at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

4730 (j) a signed consent form stating that the on-premise beer retailer licensee will permit  
4731 any authorized representative of the commission, department, or any peace officer unrestricted  
4732 right to enter the licensee premises;

4733 (k) in the case of an applicant that is a partnership, corporation, or limited liability

4734 company, proper verification evidencing that the person or persons signing the on-premise beer  
4735 retailer licensee application are authorized to so act on the behalf of the partnership,  
4736 corporation, or limited liability company; and

4737 (1) any other information the department may require.

4738 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each  
4739 year.

4740 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the  
4741 person's on-premise beer retailer license shall submit by no later than January 31:

4742 (A) a completed renewal application to the department; and

4743 (B) a renewal fee in the following amount:

4744 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee  
4745 is \$200; or

4746 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is  
4747 \$1,000.

4748 (ii) A licensee is not required to submit a renewal fee if the licensee is:

4749 (A) a state agency; or

4750 (B) a political subdivision of the state including:

4751 (I) a county; or

4752 (II) a municipality.

4753 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
4754 the license, effective on the date the existing license expires.

4755 (d) [~~Renewal applications~~] A renewal statement shall be in a form as prescribed by the  
4756 department.

4757 (3) To ensure compliance with Subsection 32A-10-206(17), the commission may  
4758 suspend or revoke a beer retailer license if ~~[any]~~ a beer retailer licensee does not immediately  
4759 notify the department of any change in:

4760 (a) ownership of the beer retailer;

4761 (b) for a corporate owner, the:

- 4762 (i) corporate officers or directors; and
- 4763 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
- 4764 corporation; or
- 4765 (c) for a limited liability company:
- 4766 (i) managers; or
- 4767 (ii) members owning at least 20% of the limited liability company.
- 4768 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and
- 4769 (f) if the applicant is:
  - 4770 (a) a state agency; or
  - 4771 (b) a political subdivision of the state including:
    - 4772 (i) a county; or
    - 4773 (ii) a municipality.
  - 4774 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer
  - 4775 license is required for each building or resort facility owned or leased by the same applicant.
  - 4776 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each
  - 4777 retail beer dispensing outlet located in the same building or on the same resort premises owned
  - 4778 or operated by the same applicant.
  - 4779 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets
  - 4780 in the building or resort facility operate in the same manner.
  - 4781 (ii) If the condition described in Subsection (5)(c)(i) is not met:
    - 4782 (A) one state on-premise beer retailer tavern license is required for all outlets in the
    - 4783 same building or on the same resort premises that operate as a tavern; and
    - 4784 (B) one state on-premise beer retailer license is required for all outlets in the same
    - 4785 building or on the same resort premises that do not operate as a tavern.

4786 Section 50. Section **32A-10-204** is amended to read:

4787 **32A-10-204. Commission and department duties before granting licenses.**

- 4788 (1) (a) Before an on-premise beer retailer license may be granted by the commission the
- 4789 department shall conduct an investigation and may hold public hearings for the purpose of

4790 gathering information and making recommendations to the commission as to whether or not a  
 4791 license should be granted. [~~This~~]

4792 (b) The department shall forward the information [shall be forwarded] and  
 4793 recommendations described in Subsection (1)(a) to the commission to aid in [its] the  
 4794 commission's determination.

4795 (2) Before issuing an on-premise beer retailer license, the commission shall:

4796 (a) determine that:

4797 (i) the applicant has complied with all basic qualifications and requirements for making  
 4798 application for a license as provided by Sections 32A-10-202 and 32A-10-203[;]; and [that]

4799 (ii) the application is complete;

4800 (b) consider the locality within which the proposed on-premise beer retailer outlet is  
 4801 located including[~~, but not limited to~~]:

4802 (i) physical characteristics such as:

4803 (A) the condition of the premises[;];

4804 (B) square footage[;]; and

4805 (C) parking availability; and

4806 (ii) operational factors such as:

4807 (A) tourist traffic[;];

4808 (B) proximity to and density of other state stores, package agencies, and licensed  
 4809 outlets[;];

4810 (C) demographics[;];

4811 (D) population served[;]; and

4812 (E) the extent of and proximity to any [school, church, public library, public  
 4813 playground, or park] community location;

4814 (c) consider the applicant's ability to manage and operate an on-premise beer retailer  
 4815 license including[~~, but not limited to~~];

4816 (i) management experience[;];

4817 (ii) past beer retailer experience[;]; and

- 4818 (iii) the type of management scheme employed by the outlet;
- 4819 (d) consider the nature or type of beer retailer operation of the proposed licensee; and
- 4820 (e) consider any other factors or circumstances [it] the commission considers necessary.

4821 Section 51. Section **32A-10-206** is amended to read:

4822 **32A-10-206. Operational restrictions.**

4823 [Each] A person granted an on-premise beer retailer license and the employees and  
4824 management personnel of the on-premise beer retailer licensee shall comply with the following  
4825 conditions and requirements. Failure to comply may result in a suspension or revocation of the  
4826 license or other disciplinary action taken against individual employees or management  
4827 personnel.

4828 (1) (a) Subject to Subsection (1)(b), a beer retailer licensee may sell beer for on-premise  
4829 consumption:

- 4830 (i) in an open container; and
- 4831 (ii) on draft.

4832 (b) Beer sold pursuant to Subsection (1)(a) shall be in a size of container that does not  
4833 exceed two liters, except that beer may not be sold to an individual patron in a size of container  
4834 that exceeds one liter.

4835 (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer  
4836 licensee.

4837 (3) A patron of the on-premise beer retailer may only make [~~purchases~~] a purchase from  
4838 and be served by a person employed, designated, and trained by the licensee to sell and serve  
4839 beer.

4840 (4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at [~~any~~] an  
4841 on-premise beer retailer establishment after 1 a.m. and before 10 a.m.

4842 (b) Beer may not be sold, served, or otherwise furnished to [~~any~~] a:

- 4843 (i) minor;
- 4844 (ii) person actually, apparently, or obviously intoxicated;
- 4845 (iii) known habitual drunkard; or

- 4846 (iv) known interdicted person.
- 4847 (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall  
4848 remain open for one hour after the tavern ceases the sale and service of alcoholic beverages  
4849 during which time a patron of the tavern may finish consuming a single serving of beer not  
4850 exceeding 26 ounces.
- 4851 (ii) A tavern is not required to remain open:
- 4852 (A) after all patrons have vacated the premises; or  
4853 (B) during an emergency.
- 4854 (d) Between the hours of 2 a.m. and 10 a.m. on any day a tavern may not allow a  
4855 patron to remain on the premises to consume alcoholic beverages on the premises.
- 4856 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.
- 4857 (b) Beer may not be sold at a special or reduced price that encourages over  
4858 consumption or intoxication.
- 4859 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer  
4860 retailer's business day such as a "happy hour."
- 4861 (d) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or  
4862 served for the price of a single alcoholic beverage ~~[is prohibited]~~.
- 4863 (e) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages  
4864 may not be sold or served during ~~[any]~~ a set period for a fixed price ~~[is prohibited]~~.
- 4865 (f) An on-premise beer licensee may not engage in a public promotion involving or  
4866 offering free alcoholic beverages to the general public.
- 4867 (6) Beer may not be purchased for a patron of the on-premise beer establishment by:
- 4868 (a) the on-premise beer licensee; or  
4869 (b) an employee or agent of the on-premise beer licensee.
- 4870 (7) Beer sold in a sealed ~~[containers]~~ container by the on-premise beer retailer licensee  
4871 may be removed from the on-premise beer retailer premises.
- 4872 (8) (a) A person may not bring onto the premises of an on-premise beer retailer licensee  
4873 ~~[any]~~ an alcoholic beverage for on-premise consumption.

4874 (b) An on-premise beer retailer licensee or [~~its officers, managers, employees, or~~  
4875 ~~agents~~] an officer, manager, employee, or agent of the licensee may not:

4876 (i) allow a person to bring onto the on-premise beer retailer licensee premises [~~any~~] an  
4877 alcoholic beverage for on-premise consumption; or

4878 (ii) allow consumption of [~~any such~~] an alcoholic beverage described in this Subsection  
4879 (8) on its premises.

4880 (9) An on-premise beer retailer licensee and [~~its employees~~] an employee or the licensee  
4881 may not permit a patron to carry from the premises an open container that:

4882 (a) is used primarily for drinking purposes; and

4883 (b) contains [~~any~~] an alcoholic beverage.

4884 (10) (a) Except as provided in Subsection (10)(b), a minor may not be:

4885 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell,  
4886 dispense, or otherwise furnish beer; or

4887 (ii) on the premises of [~~any~~] a tavern.

4888 (b) Notwithstanding Subsection (10)(a), a minor who is at least 16 years of age may be  
4889 employed to enter the sale at a cash register or other sales recording device on the premises of  
4890 an on-premise beer retailer that is not a tavern.

4891 (11) An employee of a licensee, while on duty, may not:

4892 (a) consume an alcoholic beverage; or

4893 (b) be intoxicated.

4894 (12) [~~Each~~] An on-premise beer retailer licensee shall display in a prominent place in the  
4895 on-premise beer retailer licensee:

4896 (a) the on-premise beer retailer license that is issued by the department; and

4897 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
4898 drugs is a serious crime that is prosecuted aggressively in Utah."

4899 (13) An on-premise beer retailer licensee may not on the premises of the on-premise  
4900 beer retailer licensee:

4901 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,

4902 Chapter 10, Part 11, Gambling;

4903 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,  
4904 Part 11, Gambling; or

4905 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
4906 the risking of something of value for a return or for an outcome when the return or outcome is  
4907 based upon an element of chance, excluding the playing of an amusement device that confers  
4908 only an immediate and unrecorded right of replay not exchangeable for value.

4909 (14) (a) Each on-premise beer retailer licensee shall maintain accounting and other  
4910 records and documents as the department may require.

4911 (b) Any on-premise beer retailer licensee or person acting for the on-premise beer  
4912 retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes  
4913 ~~[the entries in any of the books]~~ an entry in a book of account or other ~~[documents]~~ document  
4914 of the on-premise beer retailer licensee required to be made, maintained, or preserved by this  
4915 title or the rules of the commission for the purpose of deceiving the commission ~~[or]~~, the  
4916 department, or any of their officials or employees, is subject to:

4917 (i) the immediate suspension or revocation of the on-premise beer retailer license; and

4918 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

4919 (15) (a) A tavern licensed under this chapter may not close or cease operation for a  
4920 period longer than 240 hours, unless:

4921 (i) the tavern licensee notifies the department in writing at least seven days before the  
4922 closing; and

4923 (ii) the closure or cessation of operation is first approved by the department.

4924 (b) Notwithstanding Subsection (15)(a), in the case of emergency ~~[closure, immediate~~  
4925 ~~notice of closure shall be made to]~~, a tavern licensee shall immediately notify the department by  
4926 telephone.

4927 (c) (i) The department may authorize a closure or cessation of operation for a period  
4928 not to exceed 60 days.

4929 (ii) The department may extend the initial period an additional 30 days upon:



- 4930 (A) written request of the tavern licensee; and
- 4931 (B) a showing of good cause.
- 4932 (iii) A closure or cessation of operation may not exceed a total of 90 days without
- 4933 commission approval.
- 4934 (d) A notice of closure or cessation by a tavern licensee shall include:
- 4935 (i) the date of closure or cessation of operation;
- 4936 (ii) the reason for the closure or cessation of operation; and
- 4937 (iii) the dates on which the tavern licensee will reopen or resume operation.
- 4938 (e) Failure of the tavern licensee to provide notice and to obtain department
- 4939 authorization before closure or cessation of operation [~~shall result~~] results effective immediately
- 4940 in an automatic forfeiture of:
- 4941 (i) the license; and
- 4942 (ii) the unused portion of the license fee for the remainder of the license year.
- 4943 (f) Failure of the tavern licensee to reopen or resume operation by the approved date
- 4944 [~~shall result~~] results in an automatic forfeiture of:
- 4945 (i) the license; and
- 4946 (ii) the unused portion of the license fee for the remainder of the license year.
- 4947 (16) An on-premise beer retailer license may not be transferred from one location to
- 4948 another, without prior written approval of the commission.
- 4949 (17) (a) An on-premise beer retailer licensee may not sell, transfer, assign, exchange,
- 4950 barter, give, or attempt in any way to dispose of the license to any person, whether for monetary
- 4951 gain or not.
- 4952 (b) An on-premise beer retailer license has no monetary value for the purpose of any
- 4953 type of disposition.
- 4954 (18) An on-premise beer retailer or an employee of the on-premise beer retailer may not
- 4955 knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah
- 4956 Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:
- 4957 (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2;

4958 or

4959 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
4960 Section 58-37a-3.

4961 Section 52. Section **32A-10-306** is amended to read:

4962 **32A-10-306. Operational restrictions.**

4963 (1) (a) [~~Any~~] A person granted a temporary special event beer permit and any person  
4964 involved in the storage, sale, or service of beer at the event for which a temporary special event  
4965 the permit is issued, shall abide by this title, the rules of the commission, and the special  
4966 conditions and requirements provided in this section.

4967 (b) Failure to comply as provided in Subsection (1)(a):

4968 (i) may result in:

4969 (A) an immediate revocation of the permit;

4970 (B) forfeiture of the surety bond; and

4971 (C) immediate seizure of all beer present at the event; and

4972 (ii) disqualifies the organization from applying for a temporary special event beer permit  
4973 under this part or a single event permit under Chapter 7, Single Event Permits, for a period of  
4974 three years from the date of revocation of the temporary special event permit.

4975 (c) [~~Any beer~~] Beer seized under this Subsection (1) shall be returned to the  
4976 organization after the event if forfeiture proceedings are not instituted under Section  
4977 32A-13-103.

4978 (2) Special conditions and requirements for temporary special event beer permittees  
4979 include the following:

4980 (a) (i) [~~All persons~~] A person involved in the storage, sale, or service of beer at the  
4981 temporary special event [~~do so~~] is considered to be under the supervision and direction of the  
4982 permittee.

4983 (ii) [~~All persons~~] A person involved in the sale or service of beer at the temporary  
4984 special event may not, while on duty:

4985 (A) consume an alcoholic beverage; or

4986 (B) be intoxicated.

4987 (b) (i) ~~[All beer]~~ A permittee shall purchase beer stored, sold, served, and consumed at  
4988 the temporary special event ~~[shall be purchased by the permittee]~~ from a licensed beer  
4989 wholesaler or retailer.

4990 (ii) ~~[All beer]~~ Beer is considered under the control of the permittee during the  
4991 temporary special event.

4992 (iii) An attendee of the temporary special event may not bring ~~[any]~~ an alcoholic  
4993 ~~[beverages]~~ beverage onto the premises of the temporary special event.

4994 (c) ~~[Each]~~ A permittee shall post in a prominent place in the area in which beer is being  
4995 sold, served, and consumed:

4996 (i) a copy of the permit; and

4997 (ii) a list of the operational restrictions and requirements of temporary special event  
4998 beer permittees set forth in this section.

4999 (d) Beer purchased for a temporary special event may not be stored, sold, served, or  
5000 consumed in ~~[any]~~ a location other than that described in the application and designated on the  
5001 temporary special event permit unless the permittee first applies for and receives approval from  
5002 the commission for a change of location.

5003 (e) (i) Subject to Subsection (2)(e)(ii), beer may be sold for on-premise consumption:

5004 (A) in an open container; and

5005 (B) on draft.

5006 (ii) Beer sold pursuant to Subsection (2)(e)(i) shall be in a size of container that does  
5007 not exceed two liters, except that beer may not be sold to an individual attendee in a size of  
5008 container that exceeds one liter.

5009 (f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed  
5010 between the hours of 1 a.m. and 10 a.m.

5011 (ii) This Subsection (2)(f) does not preclude a local authority from being more  
5012 restrictive with respect to the hours of sale, service, or consumption of beer at a temporary  
5013 special event.

- 5014 (g) Beer may not be sold, served, or otherwise furnished to ~~any~~ a:
- 5015 (i) minor;
- 5016 (ii) person actually, apparently, or obviously intoxicated;
- 5017 (iii) known habitual drunkard; or
- 5018 (iv) known interdicted person.
- 5019 (h) (i) Beer may not be sold at less than the cost of the beer to the permittee.
- 5020 (ii) Beer may not be sold at a price that encourages over consumption or intoxication.
- 5021 (iii) Beer may not be sold at a special or reduced price for only certain hours of the day
- 5022 of the permitted event.
- 5023 (iv) ~~[The sale or service of more]~~ More than one beer beverage may not be sold or
- 5024 served for the price of a single beer beverage ~~[is prohibited]~~.
- 5025 (v) The permittee may not engage in a public promotion involving or offering free beer
- 5026 to the general public.
- 5027 (i) The permittee and its employees may not permit an attendee to carry from the
- 5028 premises an open container that:
- 5029 (i) is used for drinking purposes; and
- 5030 (ii) contains ~~any~~ an alcoholic beverage.
- 5031 (j) A minor may not sell, serve, dispense, or handle any beer at a temporary special
- 5032 event.
- 5033 (3) The permittee shall maintain an expense and revenue ledger or record showing:
- 5034 (a) expenditures made for beer; and
- 5035 (b) the revenue from sale of beer.
- 5036 (4) A temporary special event beer permit may not be transferred.
- 5037 (5) A temporary special event beer permittee may not on the premises serviced by the
- 5038 permittee:
- 5039 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
- 5040 Chapter 10, Part 11, Gambling;
- 5041 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,

5042 Part 11, Gambling; or

5043 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
5044 the risking of something of value for a return or for an outcome when the return or outcome is  
5045 based upon an element of chance, excluding the playing of an amusement device that confers  
5046 only an immediate and unrecorded right of replay not exchangeable for value.

5047 (6) A temporary special event beer permittee or an employee of the temporary special  
5048 event beer permittee may not knowingly allow a person at an event to, in violation of Title 58,  
5049 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

5050 (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2;

5051 or

5052 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
5053 Section 58-37a-3.

5054 Section 53. Section **32A-11-106** is amended to read:

5055 **32A-11-106. Operational restrictions.**

5056 ~~[Each]~~ A person granted a beer wholesaling license, and the employees and management  
5057 personnel of the beer wholesaling licensee, shall comply with the following conditions and  
5058 requirements. Failure to comply may result in a suspension or revocation of the beer  
5059 wholesaling license or other disciplinary action taken against individual employees or  
5060 management personnel of the licensee.

5061 (1) A licensee may not wholesale ~~[any]~~ a beer manufactured within the state by a  
5062 brewer who is not licensed by the commission as a manufacturing licensee.

5063 (2) A licensee may not wholesale ~~[any]~~ a beer manufactured out of state by a brewer  
5064 who has not obtained a certificate of approval from the department.

5065 (3) (a) A licensee may not sell or distribute beer to ~~[any]~~ a person within the state  
5066 except:

5067 (i) a licensed beer retailer;

5068 (ii) a holder of a single event permit issued ~~[by the commission]~~ pursuant to Chapter 7,  
5069 Single Event Permits; or

5070 (iii) a holder of a temporary [~~retail~~] special event beer permit issued [~~by the~~  
5071 ~~commission~~] for a temporary special event pursuant to Chapter 10, Part 3, Temporary Special  
5072 Event Beer Permits.

5073 (b) A violation of this Subsection (3) is a class A misdemeanor.

5074 (4) (a) A licensee may not sell or distribute [~~any~~] a beer to [~~any~~] a retailer outside of the  
5075 geographic area designated on its application, except that if a licensee is temporarily unable to  
5076 supply retail dealers within its authorized geographical area, the department may grant  
5077 temporary authority to another licensed wholesaler who distributes the same brand in another  
5078 area to supply retailers.

5079 (b) A violation of this Subsection (4) is a class B misdemeanor.

5080 (5) (a) [~~Every~~] A licensee shall own, lease, or otherwise control and maintain a  
5081 warehouse facility located in this state for the receipt, storage, and further distribution of all  
5082 beer sold by the licensee to [~~any~~] a person within the state.

5083 (b) A licensee may not sell beer to [~~any~~] a person in this state, other than the  
5084 department, unless the beer [~~has~~] is first [~~been~~]:

5085 (i) physically removed from the vehicle used to transport the beer from the supplier to  
5086 the licensee; and

5087 (ii) delivered into the actual possession and control of the licensee in its warehouse or  
5088 other facility.

5089 (6) (a) [~~Each~~] A beer wholesaling licensee shall maintain accounting and other records  
5090 and documents as the department may require.

5091 (b) [~~Any~~] A licensee or person acting for the licensee, who knowingly forges, falsifies,  
5092 alters, cancels, destroys, conceals, or removes the entries in [~~any of the books~~] a book of  
5093 account or other [~~documents~~] document of the licensee required to be made, maintained, or  
5094 preserved by this title or the rules of the commission for the purpose of deceiving the  
5095 commission [~~or~~], the department, or [~~any of their officials or employees~~] an official or employee  
5096 of the commission or department, is subject to:

5097 (i) the immediate suspension or revocation of the beer wholesaling license; and

5098 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

5099 (7) A licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any  
 5100 way to dispose of the beer wholesaling license to ~~[any]~~ a person, whether for monetary gain or  
 5101 not, unless it is done:

5102 (a) in accordance with the commission rules; and

5103 (b) after written consent ~~[has been]~~ is given by the commission.

5104 (8) A licensee may not sell or distribute ~~[any]~~ an alcoholic beverage that ~~[is not clearly~~  
 5105 ~~labeled in a manner reasonably calculated to put the public on notice that the beverage is an~~  
 5106 ~~alcoholic beverage. The beverage shall bear the label "alcoholic beverage" or a manufacturer's~~  
 5107 ~~label which in common usage apprises the general public that the beverage contains alcohol]~~ has  
 5108 not had its label and packaging approved by the department under Chapter 1, Part 8, Malted  
 5109 Beverages Act.

5110 Section 54. Section **32A-12-212** is amended to read:

5111 **32A-12-212. Unlawful possession -- Exceptions.**

5112 (1) A person may not have or possess within this state any liquor unless authorized by  
 5113 this title or the rules of the commission, except that:

5114 (a) a person who clears United States Customs when entering this country may have or  
 5115 possess for personal consumption and not for sale or resale, a maximum of two liters of liquor  
 5116 purchased from without the United States;

5117 (b) a person who moves the person's residence to this state from outside of this state  
 5118 may have or possess for personal consumption and not for sale or resale, ~~[any]~~ liquor previously  
 5119 purchased outside the state and brought into this state during the move, if:

5120 (i) the person first obtains department approval ~~[prior to]~~ before moving the liquor into  
 5121 the state;

5122 (ii) the department affixes the official state label to the liquor; and

5123 (iii) the person pays the department a reasonable administrative handling fee as  
 5124 determined by the commission;

5125 (c) a person who as a beneficiary inherits as part of an estate liquor that is located

5126 outside the state, may have or possess the liquor and transport or cause the liquor to be  
5127 transported into the state if:

5128 (i) the person first obtains department approval [~~prior to~~] before moving the liquor into  
5129 the state;

5130 (ii) the person provides sufficient documentation to the department to establish the  
5131 person's legal right to the liquor as a beneficiary;

5132 (iii) the department affixes the official state label to the liquor; and  
5133 (iv) the person pays the department a reasonable administrative handling fee as  
5134 determined by the commission; or

5135 (d) a person may transport, have, or possess liquor if:

5136 (i) the person transports, has, or possesses the liquor:

5137 (A) for personal household use and consumption; and  
5138 (B) not for:

5139 (I) sale;  
5140 (II) resale;  
5141 (III) gifting to another; or  
5142 (IV) consumption on a premise licensed by the commission;

5143 (ii) the liquor is purchased from a store or outlet on a military installation; and  
5144 (iii) the maximum amount the person transports, has, or possesses under this Subsection  
5145 (1)(d) is:

5146 (A) two liters of:

5147 (I) spirituous liquor;  
5148 (II) wine; or  
5149 (III) a combination of spirituous liquor and wine; and  
5150 (B) (I) one case of heavy beer that does not exceed 288 ounces[-]; or  
5151 (II) on or after October 1, 2008, one case of a flavored malt beverage that does not  
5152 exceed 288 ounces.

5153 (2) (a) Approval under Subsection (1)(b) may be obtained by a person who:



- 5154 (i) is transferring the person's permanent residence to this state; or
- 5155 (ii) maintains separate residences both in and out of this state.
- 5156 (b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more
- 5157 than once.

5158 Section 55. Section ~~32A-12-222~~ is amended to read:

5159 **32A-12-222. Unlawful dispensing.**

5160 (1) For purposes of this section:

5161 (a) "primary spirituous liquor" means the main distilled spirit in a beverage; and

5162 (b) "primary spirituous liquor" does not include ~~[any]~~ a secondary alcoholic product  
5163 used as ~~[flavorings]~~ a flavoring in conjunction with the primary distilled spirit in the beverage.

5164 (2) A licensee licensed under this title to sell, serve, or otherwise furnish spirituous  
5165 liquor for consumption on the licensed premises, or ~~[any]~~ an officer, manager, employee, or  
5166 agent of the licensee may not:

5167 (a) sell, serve, dispense, or otherwise furnish ~~[any]~~ a primary spirituous liquor to ~~[any]~~ a  
5168 person on the licensed premises except in a quantity that does not exceed ~~[one ounce]~~ 1.5  
5169 ounces per beverage dispensed through a calibrated metered dispensing system approved by the  
5170 department;

5171 (b) sell, serve, dispense, or otherwise furnish more than a total of ~~[2.75]~~ 2.5 ounces of  
5172 spirituous liquor per beverage;

5173 ~~[(c) allow any person on the licensed premises to have more than two alcoholic~~  
5174 ~~beverages containing spirituous liquor at a time; or]~~

5175 ~~[(d)]~~ (c) allow any person on the licensed premises to have more than a total of ~~[2.75]~~  
5176 2.5 ounces of spirituous liquor at a time[-];

5177 ~~[(3) Any of the following or an officer, manager, employee, or agent of the following~~  
5178 ~~may not]~~

5179 (d) allow any person on the premises of the following to have more than one spirituous  
5180 liquor beverage at a time:

5181 ~~[(a)]~~ (i) a restaurant liquor licensee;

5182 ~~[(b) limited restaurant licensee;]~~  
5183 ~~[(c)]~~ (ii) an on-premise banquet licensee; or  
5184 ~~[(d)]~~ (iii) a single event permittee~~[-];~~ or  
5185 (e) allow any person to have more than two spirituous liquor beverages at a time in  
5186 violation of:  
5187 (i) Subsection 32A-4-206(2)(d); or  
5188 (ii) Subsection 32A-5-107(20)(d).  
5189 ~~[(4)]~~ (3) A violation of this section is a class C misdemeanor.  
5190 Section 56. Section **32A-12-301** is amended to read:  
5191 **32A-12-301. Operating without a license or permit.**  
5192 (1) ~~[Except as provided by this title or the rules of the commission, a]~~ A person may not  
5193 operate the following ~~[if that establishment allows patrons, customers, members, guests,~~  
5194 ~~visitors, or other persons]~~ businesses without first obtaining a license under this title if the  
5195 business allows a patron, customer, member, guest, visitor, or other person to purchase or  
5196 consume an alcoholic ~~[beverages]~~ beverage on the premises of the business:  
5197 (a) a restaurant;  
5198 (b) an airport lounge;  
5199 (c) a private club;  
5200 (d) an on-premise beer retailer outlet;  
5201 (e) on-premise banquet premises; or  
5202 (f) ~~[an establishment]~~ a business similar to one listed in Subsections (1)(a) through (e).  
5203 (2) A person conducting an event or function that is open to the general public may not  
5204 directly or indirectly sell, offer to sell, or otherwise furnish an alcoholic ~~[beverages to persons]~~  
5205 beverage to a person attending the event or function without first obtaining a permit under this  
5206 title.  
5207 (3) A person conducting a privately hosted event or private social function may not  
5208 directly or indirectly sell or offer to sell an alcoholic ~~[beverages to persons]~~ beverage to a  
5209 person attending the privately hosted event or private social function without first obtaining a

5210 permit under this title.

5211 (4) A person may not operate the following businesses without first obtaining a license  
5212 under this title:

5213 (a) a winery manufacturer;

5214 (b) a distillery manufacturer;

5215 (c) a brewery manufacturer;

5216 (d) a local industry representative of:

5217 (i) a manufacturer of an alcoholic beverage;

5218 (ii) a supplier of an alcoholic beverage; or

5219 (iii) an importer of an alcoholic beverage;

5220 (e) a liquor warehouse; or

5221 (f) a beer wholesaler.

5222 (5) A person may not operate a public conveyance in this state without first obtaining a  
5223 public service permit under this title if that public conveyance allows a person to purchase or  
5224 consume an alcoholic beverage or alcoholic product:

5225 (a) on the public conveyance; or

5226 (b) on the premises of a hospitality room located with a depot, terminal, or similar  
5227 facility at which a service is provided to a patron of the public conveyance.

5228 Section 57. Section **32A-12-307** is amended to read:

5229 **32A-12-307. Interfering with suppliers.**

5230 ~~[A]~~ (1) Except as provided in Subsection (2), a member of the commission, the  
5231 [department] director, or an employee of the department may not directly or indirectly  
5232 participate in any manner, by recommendation or otherwise, in the appointment, employment,  
5233 or termination of appointment or employment of [any] an agent, representative, employee, or  
5234 officer of [any] a manufacturer, supplier, or importer of liquor[, wine, or heavy beer] to the  
5235 department [except to] including a manufacturer, supplier, or importer of:

5236 (a) wine;

5237 (b) heavy beer; or

5238           (c) on or after October 1, 2008, a flavored malt beverage.

5239           (2) A person described in Subsection (1) may participate in the appointment,  
5240 employment, or termination of appointment or employment to determine qualifications for  
5241 licensing under Chapter 8, Part 5, Local Industry Representative Licenses, and to enforce  
5242 compliance with this title.

5243           Section 58. Section **32A-12-603** is amended to read:

5244           **32A-12-603. Tied house -- Prohibitions.**

5245           (1) (a) It is unlawful for [~~any~~] an industry member, directly or indirectly or through an  
5246 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or  
5247 from the department to the exclusion in whole or in part of any of those products sold or  
5248 offered for sale by other persons by acquiring or holding any interest in any license with respect  
5249 to the premises of a retailer, except where the license is held by a retailer that is completely  
5250 owned by the industry member.

5251           (b) Interest in any retail license includes any interest acquired by a corporate official,  
5252 partner, employee, or other representative of the industry member.

5253           (c) Any interest in a retail license acquired by a separate corporation in which the  
5254 industry member or the industry member's officials hold ownership or are otherwise affiliated is  
5255 an interest in a retail license.

5256           (d) Less than complete ownership of a retail business by an industry member constitutes  
5257 an interest in a retail license within the meaning of Subsection (1)(a).

5258           (2) (a) It is unlawful for any industry member, directly or indirectly or through an  
5259 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or  
5260 from the department to the exclusion in whole or in part of any of those products sold or  
5261 offered for sale by other persons by acquiring any interest in real or personal property owned,  
5262 occupied, or used by the retailer in the conduct of the retailer's business.

5263           (b) For purposes of Subsection (2)(a):

5264           (i) "interest" does not include complete ownership of a retail business by an industry  
5265 member;

5266 (ii) interest in retail property includes any interest acquired by a corporate official,  
5267 partner, employee, or other representative of the industry member;

5268 (iii) any interest in a retail license acquired by a separate corporation in which the  
5269 industry member or its officials hold ownership or are otherwise affiliated is an interest in the  
5270 retailer's property;

5271 (iv) less than complete ownership of a retail business by an industry member constitutes  
5272 an interest in retail property;

5273 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry  
5274 member constitutes an interest in the retailer's property; and

5275 (vi) the renting of display space by an industry member at a retail establishment  
5276 constitutes an interest in the retailer's property.

5277 (3) (a) It is unlawful for any industry member, directly or indirectly or through an  
5278 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or  
5279 from the department to the exclusion in whole or in part of any of those products sold or  
5280 offered for sale by other persons by furnishing, giving, renting, lending, or selling to the retailer  
5281 any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to the  
5282 exceptions enumerated in Subsection (4).

5283 (b) (i) For purposes of this Subsection (3), indirect inducement includes:

5284 (A) furnishing things of value to a third party where the benefits resulting from the  
5285 things of value flow to individual retailers; and

5286 (B) making payments for advertising to a retailer association or a display company  
5287 where the resulting benefits flow to individual retailers.

5288 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

5289 (A) the thing of value was furnished to a retailer by the third party without the  
5290 knowledge or intent of the industry member; or

5291 (B) the industry member did not reasonably foresee that the thing of value would have  
5292 been furnished to a retailer.

5293 (iii) Anything that may lawfully be furnished, given, rented, lent, or sold by industry

5294 members to retailers under Subsection (4) may be furnished directly by a third party to a  
5295 retailer.

5296 (c) (i) A transaction in which equipment is sold to a retailer by an industry member,  
5297 except as provided in Subsection (4), is the selling of equipment within the meaning of  
5298 Subsection (3)(a) regardless of how the equipment is sold.

5299 (ii) The negotiation by an industry member of a special price to a retailer for equipment  
5300 from an equipment company is the furnishing of a thing of value within the meaning of  
5301 Subsection (3)(a).

5302 (d) The furnishing of free warehousing by delaying delivery of alcoholic beverages  
5303 beyond the time that payment for the product is received, or if a retailer is purchasing on credit,  
5304 delaying final delivery of products beyond the close of the period of time for which credit is  
5305 lawfully extended, is the furnishing of a service or thing of value within the meaning of  
5306 Subsection (3)(a).

5307 (e) Any financial, legal, administrative, or influential assistance given a retailer by an  
5308 industry member in the retailer's acquisition of the retailer's license is the furnishing of a service  
5309 or thing of value within the meaning of Subsection (3)(a).

5310 (4) (a) Notwithstanding Subsection (3), things of value may be furnished by industry  
5311 members to retailers under the conditions and within the limitations prescribed in:

5312 (i) this Subsection (4); and

5313 (ii) the applicable federal laws cited in this Subsection (4).

5314 (b) (i) The following may be furnished by an industry member:

5315 (A) a product display as provided in 27 C.F.R. Sec. 6.83;

5316 (B) point of sale advertising materials and consumer advertising specialties as provided  
5317 in 27 C.F.R. Sec. 6.84;

5318 (C) things of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;

5319 (D) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;

5320 (E) combination packaging as provided in 27 C.F.R. Sec. 6.93;

5321 (F) educational seminars as provided in 27 C.F.R. Sec. 6.94;

- 5322 (G) consumer promotions as provided in 27 C.F.R. Sec. 6.96;
- 5323 (H) advertising service as provided in 27 C.F.R. Sec. 6.98;
- 5324 (I) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;
- 5325 (J) merchandise as provided in 27 C.F.R. Sec. 6.101; and
- 5326 (K) outside signs as provided in 27 C.F.R. Sec. 6.102.
- 5327 (ii) The following exceptions provided in federal law are not adopted:
- 5328 (A) the exception for samples provided in 27 C.F.R. Sec. 6.91;
- 5329 (B) the exception for consumer tasting or sampling at retail establishments provided in
- 5330 27 C.F.R. Sec. 6.95; and
- 5331 (C) the exception for participation in retailer association activities provided in 27 C.F.R.
- 5332 Sec. 6.100.
- 5333 (iii) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall keep
- 5334 and maintain a record:
- 5335 (A) of all items furnished to a retailer;
- 5336 (B) on premises of the industry member; and
- 5337 (C) for a three-year period.
- 5338 (c) [~~Samples of liquor, wine, and heavy beer~~] A sample of liquor may be provided to the
- 5339 department under the following conditions [~~listed in this Subsection (4)(c)~~]:
- 5340 (i) This Subsection (4)(c) includes a sample of:
- 5341 (A) wine;
- 5342 (B) heavy beer; or
- 5343 (C) on or after October 1, 2008, a flavored malt beverage.
- 5344 ~~(i)~~ (ii) With the department's permission, an industry member may submit department
- 5345 samples to the department for product testing, analysis, and sampling.
- 5346 ~~(ii)~~ (iii) No more than two department samples of a particular type, vintage, and
- 5347 production lot of a particular branded product may be submitted to the department for
- 5348 department testing, analysis, and sampling within a consecutive 120-day period.
- 5349 ~~(iii)~~ (iv) (A) [~~Each~~] A sample of liquor may not exceed 1 liter.

5350 (B) ~~[Each]~~ Notwithstanding Subsection (4)(c)(iv)(A), a sample of ~~[wine and heavy~~  
5351 ~~beer]~~ the following may not exceed 1.5 liters unless that exact product is only commercially  
5352 packaged in a larger size, not to exceed 5 liters~~[-]~~:

5353 (I) wine;

5354 (II) heavy beer; or

5355 (III) on or after October 1, 2008, a flavored malt beverage.

5356 ~~[(iv)]~~ (v) (A) ~~[Department samples]~~ A department sample submitted to the department:

5357 (I) shall be shipped prepaid by the industry member by common carrier; and

5358 (II) may not be shipped by United States mail directly to the department's central  
5359 administrative warehouse office.

5360 (B) ~~[Department samples]~~ A department sample may not be shipped to any other  
5361 location within the state.

5362 ~~[(v) Department samples]~~ (vi) A department sample submitted to the department shall  
5363 be accompanied by a letter from the industry member:

5364 (A) clearly identifying the product as a "department sample"; and

5365 (B) clearly stating the FOB case price of the product.

5366 ~~[(vi)]~~ (vii) (A) The department may transfer listed items from current stock for use as  
5367 comparison control samples or to verify product spoilage as ~~[deemed]~~ considered appropriate.

5368 (B) Each sample transferred under Subsection (4)(c)(vi)(A) shall be charged back to the  
5369 respective industry member.

5370 ~~[(vii)]~~ (viii) The department shall:

5371 (A) account for, label, and record all department samples received or transferred;

5372 (B) account for the department sample's disposition; and

5373 (C) maintain a record:

5374 (I) of the samples and their disposition; and

5375 (II) for a two-year period.

5376 ~~[(viii)]~~ (ix) The department shall affix to each bottle or container a label clearly  
5377 identifying the product as a "department sample".



5378            ~~[(ix) Each]~~ (x) A department sample delivered to the department or transferred from  
5379 the department's current stock shall be disposed of at the discretion of the department in one of  
5380 the following ways:

5381            (A) tested and analyzed with the remaining contents destroyed under controlled and  
5382 audited conditions established by the department;

5383            (B) entire contents destroyed under controlled and audited conditions established by the  
5384 department; or

5385            (C) added to the inventory of the department for sale to the public.

5386            ~~[(x)]~~ (xi) Persons other than authorized department officials may not be in possession of  
5387 department samples except as otherwise provided.

5388            (d) Samples of beer may be provided by a beer industry member to a retailer under the  
5389 conditions listed in this Subsection (4)(d).

5390            (i) Samples of beer may be provided by an industry member only to a retailer who has  
5391 not purchased the brand of beer from that industry member within the last 12 months.

5392            (ii) For each retailer, the industry member may give not more than three gallons of any  
5393 brand of beer, except that if a particular product is not available in a size within the quantity  
5394 limitation an industry member may furnish the next largest size.

5395            (e) Educational seminars may involve an industry member under the conditions listed in  
5396 this Subsection (4)(e).

5397            (i) An industry member may provide or participate in educational seminars:

5398            (A) involving:

5399            (I) the department;

5400            (II) retailers;

5401            (III) holders of educational or scientific special use permits;

5402            (IV) other industry members; or

5403            (V) employees of the persons listed in Subsections (4)(e)(i)(A)(I) through (IV); and

5404            (B) regarding such topics as:

5405            (I) merchandising and product knowledge;

5406 (II) use of equipment; and  
5407 (III) tours of alcoholic beverage manufacturing facilities.  
5408 (ii) An industry member may not pay a department employee's, retailer's, or permittee's  
5409 expenses or compensate them for attending a seminar or tour described in Subsection (4)(e)(i).  
5410 (iii) (A) A liquor industry member for purposes of this Subsection (4)(e)(iii) includes an  
5411 industry member for:  
5412 (I) wine;  
5413 (II) heavy beer; and  
5414 (III) on or after October 1, 2008, a flavored malt beverage.  
5415 ~~[(iii)-(A)]~~ (B) A liquor~~[, wine, and heavy beer]~~ industry member may conduct ~~[tastings]~~  
5416 a tasting of the industry member's liquor products:  
5417 (I) for the department, at the department's request; and  
5418 (II) for licensed industry representatives, but only at the department's central  
5419 administrative warehouse office.  
5420 ~~[(B)]~~ (C) The industry member may only use department or industry representative  
5421 samples when conducting any tasting of the industry member's products.  
5422 (iv) A beer industry member may conduct tastings of beer products for a licensed beer  
5423 retailer either at:  
5424 (A) the industry member's premises; or  
5425 (B) a retail establishment.  
5426 (v) Except to the extent authorized by commission rule, an alcoholic beverage industry  
5427 member may not conduct tasting or sampling activities with:  
5428 (A) a retailer; or  
5429 (B) a member of the general public.  
5430 (f) A beer industry member may participate in beer retailer association activities to the  
5431 extent authorized by 27 C.F.R. Sec. 6.100.  
5432 (g) (i) An industry member may contribute to charitable, civic, religious, fraternal,  
5433 educational, or community activities.

5434 (ii) A contribution described in Subsection (4)(g)(i) may not be given to influence a  
5435 retailer in the selection of the alcoholic beverage products that may be sold at these activities  
5436 and events.

5437 (iii) An industry member or retailer violates this section if:

5438 (A) the industry member's contribution described in Subsection (4)(g)(i) influences,  
5439 directly or indirectly, the retailer in the selection of alcoholic beverage products; and

5440 (B) a competitor's alcoholic beverage products are excluded in whole or in part from  
5441 sale at the activity or event.

5442 (h) (i) An industry member may lease or furnish equipment listed in Subsection  
5443 (4)(h)(ii) to a retailer if:

5444 (A) the equipment is leased or furnished for a special event;

5445 (B) a reasonable rental or service fee is charged for the equipment; and

5446 (C) the period for which the equipment is leased or furnished does not exceed 30 days.

5447 (ii) This Subsection (4)(h) applies to the following equipment:

5448 (A) a picnic pump;

5449 (B) a cold plate;

5450 (C) a tub;

5451 (D) a keg box;

5452 (E) a refrigerated trailer;

5453 (F) a refrigerated van; or

5454 (G) a refrigerated draft system.

5455 (i) (i) A liquor industry member for purposes of this Subsection (4)(i) includes an  
5456 industry member for:

5457 (A) wine;

5458 (B) heavy beer; or

5459 (C) on or after October 1, 2008, a flavored malt beverage.

5460 ~~(i)~~ (ii) A liquor[, wine, and heavy beer] industry member may assist the department in:

5461 (A) ordering, shipping, and delivering merchandise;

5462 (B) new product notification;

5463 (C) listing and delisting information;

5464 (D) price quotations;

5465 (E) product sales analysis;

5466 (F) shelf management; and

5467 (G) educational seminars.

5468 ~~[(ii)]~~ (iii) (A) Subject to Subsection (4)(i)~~[(ii)]~~(iii)(B), a liquor~~[, wine, and heavy beer]~~

5469 industry member may, for the purpose of acquiring new listings:

5470 (I) solicit orders from the department; and

5471 (II) submit to the department samples of their products under Subsection (4)(c) and  
5472 price lists.

5473 (B) An industry member may not solicit either in person, by mail, or otherwise, any  
5474 state store personnel for the purpose or with the intent of furthering the sale of a particular  
5475 brand or brands of alcoholic beverage product as against another brand or brands.

5476 ~~[(iii)]~~ (iv) (A) Any visitations to a state store or package agency by an industry member  
5477 shall be confined to the customer areas of the store unless otherwise approved.

5478 (B) Calls on the state warehouse by industry members are to be confined to the office  
5479 area only unless otherwise approved.

5480 ~~[(iv)]~~ (v) A beer industry member may assist licensed retailers in:

5481 (A) ordering, shipping, and delivering beer merchandise;

5482 (B) new product notification;

5483 (C) listing and delisting information;

5484 (D) price quotations;

5485 (E) product sales analysis;

5486 (F) shelf management; and

5487 (G) educational seminars.

5488 ~~[(v)]~~ (vi) A beer industry member may, for the purpose of acquiring new listings:

5489 (A) solicit orders from licensed retailers; and

5490 (B) submit to licensed retailers samples of their beer products under Subsection (4)(c)  
5491 and price lists.

5492 (5) It is unlawful for any industry member, directly or indirectly or through an affiliate,  
5493 to induce any retailer to purchase any alcoholic beverages from the industry member or from the  
5494 department to the exclusion in whole or in part of any of those products sold or offered for sale  
5495 by other persons by paying or crediting the retailer for any advertising, display, or distribution  
5496 service:

5497 (a) as defined in and to the extent restricted by 27 C.F.R. Sections 6.51 through 6.56;  
5498 and

5499 (b) subject to the exceptions:

5500 (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

5501 (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

5502 (6) It is unlawful for any industry member, directly or indirectly or through an affiliate,  
5503 to induce any retailer to purchase any alcoholic beverages from the industry member or from  
5504 the department to the exclusion in whole or in part of any of those products sold or offered for  
5505 sale by other persons by guaranteeing any loan or the repayment of any financial obligation of  
5506 the retailer.

5507 (7) (a) It is unlawful for any industry member, directly or indirectly or through an  
5508 affiliate, to induce any retailer to purchase any beer from the industry member to the exclusion  
5509 in whole or in part of any beer products sold or offered for sale by other persons by extending  
5510 to any retailer credit for a period in excess of 15 days from the date of delivery to the date of  
5511 full legal discharge of the retailer through the payment of cash or its equivalent, from all  
5512 indebtedness arising from the transaction, so long as that beer purchased or delivered during the  
5513 first 15 days of any month is paid for in cash or its equivalent on or before the 25th day of the  
5514 same month, and beer purchased or delivered after the 15th day of any month is paid for in cash  
5515 or its equivalent on or before the 10th day of the next succeeding month.

5516 (b) First party in-state checks are considered cash payment if the checks:

5517 (i) are honored on presentment; and

5518 (ii) received under the terms prescribed in Subsection (7)(a).

5519 (c) An extension of credit for product purchased by an industry member to a retailer  
5520 whose account is in arrears does not constitute a violation of Subsection (7)(a) if the retailer  
5521 pays in advance or on delivery an amount equal to or greater than the value of each order,  
5522 regardless of the manner in which the industry member applies the payment in its records.

5523 (8) (a) It is unlawful for any industry member, directly or indirectly or through an  
5524 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member or  
5525 from the department to the exclusion in whole or in part of any of those products sold or  
5526 offered for sale by other persons by requiring:

5527 (i) the department to take and dispose of a certain quota of any alcoholic products; or

5528 (ii) a beer retailer to take and dispose of a certain quota of any beer products.

5529 (b) (i) It is an unlawful means to induce to require:

5530 (A) the department to purchase one product in order to purchase another; or

5531 (B) a beer retailer to purchase one beer product in order to purchase another.

5532 (ii) This Subsection (8)(b) includes:

5533 (A) the requirement to take a minimum quantity of a product in standard packaging in  
5534 order to obtain the same product in some type of premium package such as:

5535 (I) a distinctive decanter; or

5536 (II) a wooden or tin box; or

5537 (B) combination sales if one or more products may be purchased only in combination  
5538 with other products and not individually.

5539 (c) This Subsection (8) does not preclude the selling, at a special combination price,  
5540 two or more kinds or brands of products so long as the department or beer retailer:

5541 (i) has the option of purchasing either product at the usual price; and

5542 (ii) is not required to purchase any product the department or beer retailer does not  
5543 want.

5544 (d) An industry member may package and distribute alcoholic beverages in combination  
5545 with other nonalcoholic items or products.

5546 (e) The combination package shall be designed to be delivered intact to the consumer  
5547 and the additional cost incurred by the industry member shall be included in the cost to the  
5548 department or beer retailer.

5549 Section 59. Section **53-10-102** is amended to read:

5550 **53-10-102. Definitions.**

5551 As used in this chapter:

5552 (1) "Administration of criminal justice" means performance of any of the following:  
5553 detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication,  
5554 correctional supervision, or rehabilitation of accused persons or criminal offenders.

5555 (2) "Alcoholic [~~beverages~~] beverage" has the same meaning as provided in Section  
5556 32A-1-105.

5557 (3) "Alcoholic [~~products~~] product" has the same meaning as provided in Section  
5558 32A-1-105.

5559 (4) "Commission" means the Alcoholic Beverage Control Commission.

5560 (5) "Communications services" means the technology of reception, relay, and  
5561 transmission of information required by public safety agencies in the performance of their duty.

5562 (6) "Conviction record" means criminal history information indicating a record of a  
5563 criminal charge which has led to a declaration of guilt of an offense.

5564 (7) "Criminal history record information" means information on individuals consisting of  
5565 identifiable descriptions and notations of:

5566 (a) arrests, detentions, indictments, informations, or other formal criminal charges, and  
5567 any disposition arising from any of them; and

5568 (b) sentencing, correctional supervision, and release.

5569 (8) "Criminalist" means the scientific discipline directed to the recognition,  
5570 identification, individualization, and evaluation of physical evidence by application of the natural  
5571 sciences in law-science matters.

5572 (9) "Criminal justice agency" means courts or a government agency or subdivision of a  
5573 government agency that administers criminal justice under a statute, executive order, or local

5574 ordinance and that allocates greater than 50% of its annual budget to the administration of  
5575 criminal justice.

5576 (10) "Department" means the Department of Public Safety.

5577 (11) "Director" means the division director appointed under Section 53-10-103.

5578 (12) "Division" means the Criminal Investigations and Technical Services Division  
5579 created in Section 53-10-103.

5580 (13) "Executive order" means an order of the president of the United States or the chief  
5581 executive of a state that has the force of law and that is published in a manner permitting regular  
5582 public access to it.

5583 (14) "Forensic" means dealing with the application of scientific knowledge relating to  
5584 criminal evidence.

5585 (15) "Missing child" means any person under the age of 18 years who is missing from  
5586 his or her home environment or a temporary placement facility for any reason and whose  
5587 location cannot be determined by the person responsible for the child's care.

5588 (16) "Missing person" has the same meaning as provided in Section 26-2-27.

5589 (17) "Pathogens" means disease-causing agents.

5590 (18) "Physical evidence" means something submitted to the bureau to determine the  
5591 truth of a matter using scientific methods of analysis.

5592 (19) "Qualifying entity" means a business, organization, or a governmental entity which  
5593 employs persons who deal with:

5594 (a) national security interests;

5595 (b) care, custody, or control of children;

5596 (c) fiduciary trust over money; or

5597 (d) health care to children or vulnerable adults.

5598 Section 60. Section **76-5-113** is amended to read:

5599 **76-5-113. Surreptitious administration of certain substances -- Definitions --**

5600 **Penalties -- Defenses.**

5601 (1) As used in this section:



5602 (a) "Administer" means the introduction of a substance into the body by injection,  
5603 inhalation, ingestion, or by any other means.

5604 (b) "Alcoholic beverage" has the same meaning as "alcoholic [~~beverages~~] beverage" in  
5605 Section 32A-1-105.

5606 (c) "Bodily injury" has the same definition as in Section 76-1-601.

5607 (d) "Controlled substance" has the same definition as in Section 58-37-2.

5608 (e) "Deleterious substance" means a substance which, if administered, would likely  
5609 cause bodily injury.

5610 (f) "Poisonous" means a substance which, if administered, would likely cause serious  
5611 bodily injury or death.

5612 (g) "Prescription drug" has the same definition as in Section 58-17b-102.

5613 (h) "Serious bodily injury" has the same definition as in Section 19-2-115.

5614 (i) "Substance" means a controlled substance, poisonous substance, or deleterious  
5615 substance as defined in this Subsection (1).

5616 (2) In addition to any other offense the actor's conduct may constitute, it is a criminal  
5617 offense for a person, surreptitiously or by means of fraud, deception, or misrepresentation, to  
5618 cause another person to unknowingly consume or receive the administration of:

5619 (a) any poisonous, deleterious, or controlled substance; or

5620 (b) any alcoholic beverage.

5621 (3) A violation of Subsection (2) is:

5622 (a) a second degree felony if the substance is a poisonous substance, regardless of  
5623 whether the substance is a controlled substance or a prescription drug;

5624 (b) a third degree felony if the substance is not within the scope of Subsection (3)(a),  
5625 and is a controlled substance or a prescription drug; and

5626 (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic  
5627 beverage.

5628 (4) (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:

5629 (i) provided the appropriate administration of a prescription drug; and

5630 (ii) acted on the reasonable belief that his conduct was in the best interest of the  
5631 well-being of the person to whom the prescription drug was administered.

5632 (b) (i) The defendant shall file and serve on the prosecuting attorney a notice in writing  
5633 of his intention to claim a defense under Subsection (4)(a) not fewer than 20 days before the  
5634 trial.

5635 (ii) The notice shall specifically identify the factual basis for the defense and the names  
5636 and addresses of the witnesses the defendant proposes to examine to establish the defense.

5637 (c) The prosecuting attorney shall file and serve the defendant with a notice containing  
5638 the names and addresses of the witnesses the prosecutor proposes to examine in order to  
5639 contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a). This  
5640 notice shall be filed or served not more than ten days after receipt of the defendant's notice  
5641 under Subsection (4)(b), or at another time as the court may direct.

5642 (d) (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c)  
5643 entitles the opposing party to a continuance to allow for preparation.

5644 (ii) If the court finds that a party's failure to comply is the result of bad faith, it may  
5645 impose appropriate sanctions.

5646 (5) This section does not diminish the scope of authorized health care by a health care  
5647 provider as defined in Section 26-23a-1.

5648 **Section 61. Appropriation.**

5649 As an ongoing appropriation subject to future budget constraints, there is appropriated  
5650 from the Liquor Control Fund for fiscal year 2008-09, \$1,589,100 to the Division of Substance  
5651 Abuse and Mental Health within the Department of Human Services for purposes of substance  
5652 abuse prevention and treatment.