

**ALCOHOLIC BEVERAGE CONTROL**

**AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill modifies the Alcoholic Beverage Control Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies definition provisions;
- ▶ addresses presentation of proof of age;
- ▶ enacts the Malted Beverage Act, including:
  - providing for the treatment of a flavored malt beverage as a liquor;
  - addressing approval of the label and packaging of a malt beverage; and
  - providing transition protections;
- ▶ enacts provisions related to criminal background checks;
- ▶ addresses proximity restrictions;
- ▶ addresses markups;
- ▶ adjusts quota requirements for licenses;
- ▶ prohibits conduct related to controlled substances and drug paraphernalia;
- ▶ modifies requirements related to price lists and private clubs;
- ▶ establishes requirements related to the display of beer;
- ▶ expands provisions prohibiting operation without a license or permit; and
- ▶ makes technical and conforming amendments.



28 **Monies Appropriated in this Bill:**

29           None

30 **Other Special Clauses:**

31           None

32 **Utah Code Sections Affected:**

33 **AMENDS:**

- 34           **32A-1-105**, as last amended by Laws of Utah 2007, Chapter 284
- 35           **32A-1-116**, as last amended by Laws of Utah 2007, Chapter 284
- 36           **32A-1-119**, as last amended by Laws of Utah 2007, Chapter 284
- 37           **32A-1-122**, as last amended by Laws of Utah 2007, Chapter 284
- 38           **32A-1-302**, as last amended by Laws of Utah 2002, Chapter 161
- 39           **32A-1-304**, as last amended by Laws of Utah 2002, Chapter 161
- 40           **32A-2-101**, as last amended by Laws of Utah 2003, Chapters 292 and 314
- 41           **32A-3-101**, as last amended by Laws of Utah 2003, Chapters 292 and 314
- 42           **32A-3-102**, as last amended by Laws of Utah 2003, Chapter 314
- 43           **32A-4-101**, as last amended by Laws of Utah 2006, Chapter 162
- 44           **32A-4-102**, as last amended by Laws of Utah 2007, Chapter 284
- 45           **32A-4-104**, as renumbered and amended by Laws of Utah 1990, Chapter 23
- 46           **32A-4-106**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 47           **32A-4-206**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 48           **32A-4-302**, as last amended by Laws of Utah 2006, Chapter 162
- 49           **32A-4-303**, as last amended by Laws of Utah 2007, Chapter 284
- 50           **32A-4-305**, as enacted by Laws of Utah 2003, Chapter 314
- 51           **32A-4-307**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341
- 52           **32A-4-401**, as last amended by Laws of Utah 2007, Chapter 284
- 53           **32A-4-402**, as last amended by Laws of Utah 2007, Chapter 284
- 54           **32A-4-406**, as last amended by Laws of Utah 2007, Chapters 284 and 341
- 55           **32A-5-101**, as last amended by Laws of Utah 2006, Chapter 162
- 56           **32A-5-102**, as last amended by Laws of Utah 2007, Chapter 284
- 57           **32A-5-104**, as last amended by Laws of Utah 2003, Chapter 314
- 58           **32A-5-107**, as last amended by Laws of Utah 2007, Chapters 284, 329, and 341

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

80 ENACTS:

- 81           **32A-1-701**, Utah Code Annotated 1953
- 82           **32A-1-702**, Utah Code Annotated 1953
- 83           **32A-1-703**, Utah Code Annotated 1953
- 84           **32A-1-704**, Utah Code Annotated 1953
- 85           **32A-1-801**, Utah Code Annotated 1953
- 86           **32A-1-802**, Utah Code Annotated 1953
- 87           **32A-1-803**, Utah Code Annotated 1953
- 88           **32A-1-804**, Utah Code Annotated 1953
- 89           **32A-1-805**, Utah Code Annotated 1953

- 90           **32A-1-806**, Utah Code Annotated 1953  
 91           **32A-1-807**, Utah Code Annotated 1953  
 92           **32A-1-808**, Utah Code Annotated 1953  
 93           **32A-1-809**, Utah Code Annotated 1953

---

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

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

97           **32A-1-105. Definitions.**

98           As used in this title:

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

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

104           (a) beer;

105           (b) flavored malt beverage; and

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

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

108           [~~(i) contain:~~]

109           [~~(A)~~] (i) contains at least [~~63/100 of 1%~~] .5% of alcohol by volume; [~~or~~] and

110           [~~(B)~~] at least 1/2 of 1% by weight; and

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

114           (b) "Alcoholic [~~products~~] product" does not include any of the following common  
 115 items that otherwise come within the definition of an alcoholic [~~products~~] product:

116           (i) [~~extracts~~] except as provided in Subsection (3)(c), extract;

117           (ii) [~~vinegars~~] vinegar;

118           (iii) [~~ciders~~] cider;

119           (iv) [~~essences~~] essence;

120           (v) [~~tinctures~~] tincture;

- 121 (vi) food [~~preparations~~] preparation; or
- 122 (vii) an over-the-counter [~~drugs and medicines~~] drug or medicine.
- 123 (c) An extract containing alcohol obtained by distillation is regulated as an alcoholic
- 124 product when it is used as a flavoring in the manufacturing of an alcoholic product.
- 125 (4) "Bar" means a counter or similar structure:
- 126 (a) at which an alcoholic [~~beverages are~~] beverage is:
- 127 (i) stored; or
- 128 (ii) dispensed; or
- 129 (b) from which an alcoholic [~~beverages are~~] beverage is served.
- 130 (5) (a) [~~"Beer"~~] Subject to Subsection (5)(d), "beer" means [~~any~~] a product that:
- 131 (i) contains [~~63/100 of 1%~~] at least .5% of alcohol by volume [~~or 1/2 of 1% of alcohol~~
- 132 ~~by weight~~], but not more than 4% of alcohol by volume or 3.2% by weight; and
- 133 (ii) is obtained by fermentation, infusion, or decoction of [~~any~~] malted grain.
- 134 (b) Beer may or may not contain hops or other vegetable products.
- 135 (c) Beer includes a product that:
- 136 (i) contains alcohol in the percentages described in Subsection (5)(a); and
- 137 (ii) is referred to as:
- 138 [~~(A) malt liquor;~~]
- 139 [~~(B) malted beverages; or~~]
- 140 [~~(C) malt coolers;~~]
- 141 (A) beer;
- 142 (B) ale;
- 143 (C) porter;
- 144 (D) stout;
- 145 (E) lager; or
- 146 (F) a malt or malted beverage.
- 147 (d) On or after October 1, 2008, "beer" does not include a flavored malt beverage.
- 148 (6) (a) "Beer retailer" means a business that is:
- 149 (i) engaged, primarily or incidentally, in the retail sale of beer to [~~patrons~~] a patron,
- 150 whether for consumption on or off the business premises; and
- 151 (ii) licensed to sell beer by:

- 152 (A) the commission;
- 153 (B) a local authority; or
- 154 (C) both the commission and a local authority.
- 155 (b) (i) "Off-premise beer retailer" means a business that is engaged in the retail sale of
- 156 beer to ~~[patrons]~~ a patron for consumption off the beer retailer's premises.
- 157 (ii) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 158 (c) "On-premise beer retailer" means a business that is engaged in the sale of beer to
- 159 ~~[patrons]~~ a patron for consumption on the beer retailer's premises, regardless of whether the
- 160 business sells beer for consumption off the beer retailer's premises.
- 161 (7) "Billboard" means ~~[any]~~ a public display used to advertise including:
- 162 (a) a light device;
- 163 (b) a painting;
- 164 (c) a drawing;
- 165 (d) a poster;
- 166 (e) a sign;
- 167 (f) a signboard; or
- 168 (g) a scoreboard.
- 169 (8) "Brewer" means ~~[any]~~ a person engaged in manufacturing:
- 170 (a) beer[-];
- 171 (b) heavy beer; or
- 172 (c) a flavored malt beverage.
- 173 (9) "Cash bar" means the service of an alcoholic ~~[beverages]~~ beverage:
- 174 (a) at:
- 175 (i) a banquet; or
- 176 (ii) a temporary event for which a permit is issued under this title; and
- 177 (b) if an attendee at the banquet or temporary event is charged for the alcoholic
- 178 beverage.
- 179 (10) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
- 180 a bus company to a group of persons pursuant to a common purpose:
- 181 (a) under a single contract;
- 182 (b) at a fixed charge in accordance with the bus company's tariff; and

183 (c) for the purpose of giving the group of persons the exclusive use of the passenger  
184 bus, coach, or other motor vehicle and a driver to travel together to [~~a~~] one or more specified  
185 [~~destination or~~] destinations.

186 (11) "Church" means a building:

- 187 (a) set apart for the purpose of worship;
- 188 (b) in which religious services are held;
- 189 (c) with which clergy is associated; and
- 190 (d) which is tax exempt under the laws of this state.

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

- 193 (a) a social club;
- 194 (b) a recreational association;
- 195 (c) a fraternal association;
- 196 (d) an athletic association; or
- 197 (e) a kindred association.

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

199 (14) "Community location" means:

- 200 (a) a public or private school;
- 201 (b) a church;
- 202 (c) a public library;
- 203 (d) a public playground; or
- 204 (e) a public park.

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

- 206 (a) the governing body of the community location; or
- 207 (b) a person who appears to the commission to have been given on behalf of the  
208 community location authority to prohibit an activity at the community location.

209 [~~(14)~~] (16) "Department" means the Department of Alcoholic Beverage Control.

210 (17) "Director," unless the context requires otherwise, means the director appointed  
211 under Section 32A-1-108.

212 [~~(15)~~] (18) "Distressed merchandise" means [~~any~~] an alcoholic beverage in the  
213 possession of the department that is saleable, but for some reason is unappealing to the public.

214           (19) "Flavored malt beverage" means a beverage:  
215           (a) that contains at least .5% alcohol by volume;  
216           (b) that is treated by processing, filtration, or another method of manufacture that is not  
217 generally recognized as a traditional process in the production of a beer as described in 27  
218 C.F.R. Sec. 25.55;  
219           (c) to which is added a flavor or other ingredient containing alcohol, except for a hop  
220 extract; and  
221           (d) (i) for which the producer is required to file a formula for approval with the United  
222 States Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec. 25.55; or  
223           (ii) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.  
224           ~~[(16)]~~ (20) "Guest" means a person accompanied by an active member or visitor of a  
225 club who enjoys only those privileges derived from the host for the duration of the visit to the  
226 club.  
227           ~~[(17)]~~ (21) (a) "Heavy beer" means [any] a product that:  
228           (i) contains more than 4% alcohol by volume; and  
229           (ii) is obtained by fermentation, infusion, or decoction of [any] malted grain.  
230           (b) "Heavy beer" is considered "liquor" for the purposes of this title.  
231           ~~[(18)]~~ (22) "Hosted bar" means the service of an alcoholic [beverages] beverage:  
232           (a) without charge; and  
233           (b) at a:  
234           (i) banquet; or  
235           (ii) privately hosted event.  
236           ~~[(19)]~~ (23) "Identification card" means [the] an identification card issued under Title  
237 53, Chapter 3, Part 8, Identification Card Act.  
238           ~~[(20)]~~ (24) "Interdicted person" means a person to whom the sale, gift, or provision of  
239 an alcoholic beverage is prohibited by:  
240           (a) law; or  
241           (b) court order.  
242           ~~[(21)]~~ (25) "Intoxicated" means that to a degree that is unlawful under Section  
243 76-9-701 a person is under the influence of:  
244           (a) an alcoholic beverage;



245 (b) a controlled substance;

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

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

248 ~~[(22)]~~ (26) "Licensee" means ~~[any]~~ a person issued a license by the commission to sell,  
249 manufacture, store, or allow consumption of ~~an alcoholic [beverages]~~ beverage on premises  
250 owned or controlled by the person.

251 ~~[(23)]~~ (27) "Limousine" means ~~[any]~~ a motor vehicle licensed by the state or a local  
252 authority, other than a bus or taxicab:

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

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

259 ~~[(24)]~~ (28) (a) (i) "Liquor" means alcohol, or ~~[any]~~ an alcoholic, spirituous, vinous,  
260 fermented, malt, or other liquid, or combination of liquids, a part of which is spirituous,  
261 vinous, or fermented, ~~[and all other drinks]~~ or a drink, or drinkable ~~[liquids]~~ liquid that ~~[contain~~  
262 ~~more than 1/2 of 1% of]~~:

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

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

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

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

268 ~~[(25)]~~ (29) "Local authority" means:

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

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

273 ~~[(26)]~~ (30) "Manufacture" means to distill, brew, rectify, mix, compound, process,  
274 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to  
275 others.

276            [~~(27)~~] (31) "Member" means a person who, after paying regular dues, has full  
277 privileges of a club under this title.

278            [~~(28)~~] (32) (a) "Military installation" means a base, air field, camp, post, station, yard,  
279 center, or homeport facility for ~~[any]~~ a ship:

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

281            (B) of the National Guard;

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

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

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

285            (i) civil works;

286            (ii) rivers and harbors projects; or

287            (iii) flood control projects.

288            [~~(29)~~] (33) "Minor" means ~~[any person]~~ an individual under the age of 21 years.

289            [~~(30)~~] (34) "Nude," "nudity," or "state of nudity" means:

290            (a) the appearance of:

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

292            (ii) a human genital;

293            (iii) a human pubic area; or

294            (iv) a human anus; or

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

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

297            (ii) a human genital;

298            (iii) a human pubic area; or

299            (iv) a human anus.

300            [~~(31)~~] (35) "Outlet" means a location other than a state store or package agency where  
301 an alcoholic beverage is ~~[beverages are]~~ beverage is sold pursuant to a license issued by the commission.

302            [~~(32)~~] (36) "Package" means any of the following containing liquor:

303            (a) a container;

304            (b) a bottle;

305            (c) a vessel; or

306            (d) other receptacle.

307 ~~[(33)]~~ (37) "Package agency" means a retail liquor location operated;

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

309 (b) by a person;

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

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

313 ~~[(34)]~~ (38) "Package agent" means ~~[any]~~ a person permitted by the commission to  
314 operate a package agency pursuant to a contractual agreement with the department to sell liquor  
315 from premises that the package agent shall provide and maintain.

316 ~~[(35)]~~ (39) "Permittee" means ~~[any]~~ a person issued a permit by the commission to  
317 perform ~~[acts]~~ an act or exercise ~~[privileges]~~ a privilege as specifically granted in the permit.

318 ~~[(36)]~~ (40) "Person" means ~~[any]~~ an individual, partnership, firm, corporation, limited  
319 liability company, association, business trust, or other form of business enterprise, including a  
320 receiver or trustee, and the plural as well as the singular number, unless the intent to give a  
321 more limited meaning is disclosed by the context.

322 ~~[(37)]~~ (41) "Premises" means ~~[any]~~ a building, enclosure, room, or equipment used in  
323 connection with the sale, storage, service, manufacture, distribution, or consumption of an  
324 alcoholic ~~[products]~~ product, unless otherwise defined in this title or in the rules adopted by the  
325 commission.

326 ~~[(38)]~~ (42) "Prescription" means a writing in legal form, signed by a physician or  
327 dentist and given to a patient for obtaining an alcoholic beverage for medicinal purposes only.

328 ~~[(39)]~~ (43) (a) "Privately hosted event" or "private social function" means a specific  
329 social, business, or recreational event;

330 (i) for which an entire room, area, or hall ~~[has been]~~ is leased or rented~~[-]~~ in advance by  
331 an identified group~~[-]~~; and ~~[the event or function]~~

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

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

336 ~~[(40)]~~ (44) "Proof of age" means:

337 (a) an identification card;

- 338 (b) an identification that:
- 339 (i) is substantially similar to an identification card;
- 340 (ii) is issued in accordance with the laws of a state other than Utah in which the
- 341 identification is issued;
- 342 (iii) includes date of birth; and
- 343 (iv) has a picture affixed;
- 344 (c) a valid driver license certificate that:
- 345 (i) includes date of birth;
- 346 (ii) has a picture affixed; and
- 347 (iii) is issued:
- 348 (A) under Title 53, Chapter 3, Uniform Driver License Act; or
- 349 (B) in accordance with the laws of the state in which it is issued;
- 350 (d) a military identification card that:
- 351 (i) includes date of birth; and
- 352 (ii) has a picture affixed; or
- 353 (e) a valid passport.

354 ~~[(41)]~~ (45) (a) "Public building" means ~~[any]~~ a building or permanent structure owned  
 355 or leased by the state, a county, or local government entity that is used for:

- 356 (i) public education;
- 357 (ii) transacting public business; or
- 358 (iii) regularly conducting government activities.

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

362 ~~[(42)]~~ (46) "Representative" means an individual who is compensated by salary,  
 363 commission, or ~~[any]~~ other means for representing and selling ~~[the]~~ an alcoholic beverage  
 364 ~~[products]~~ product of a manufacturer, supplier, or importer of liquor~~;~~ including:

- 365 (a) wine~~[-or]~~;
- 366 (b) heavy beer; or
- 367 (c) on or after October 1, 2008, a flavored malt beverage.

368 ~~[(43)]~~ (47) "Residence" means ~~[the]~~ a person's principal place of abode within Utah.

369 [(44)] (48) "Restaurant" means [~~any~~] a business establishment:

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

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

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

375 [(45)] (49) "Retailer" means [~~any~~] a person engaged in the sale or distribution of an  
376 alcoholic [~~beverages~~] beverage to [~~the~~] a consumer.

377 [(46)] (50) (a) "Sample" includes:

378 (i) a department sample; and

379 (ii) an industry representative sample.

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

382 (i) wine;

383 (ii) heavy beer; or

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

385 (c) "Industry representative sample" means liquor[~~, wine, and heavy beer~~] that [~~has~~  
386 ~~been~~] is placed in the possession of the department:

387 (i) for testing, analysis, and sampling by a local industry [~~representatives~~]

388 representative on the premises of the department to educate the local industry [~~representatives~~]

389 representative of the quality and characteristics of the product[~~;~~]; and

390 (ii) including:

391 (A) wine;

392 (B) heavy beer; or

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

394 [(47)] (51) (a) "School" means [~~any~~] a building used primarily for the general  
395 education of minors.

396 (b) "School" does not include:

397 (i) a nursery school;

398 (ii) an infant day care center; or

399 (iii) a trade or technical school.

400           ~~[(48)]~~ (52) "Sell," "sale," and "to sell" means ~~[any]~~ a transaction, exchange, or barter  
401 whereby, for ~~[any]~~ consideration, an alcoholic beverage is either directly or indirectly  
402 transferred, solicited, ordered, delivered for value, or by ~~[any]~~ a means or under ~~[any]~~ a pretext  
403 is promised or obtained, whether done by a person as a principal, proprietor, or as an agent,  
404 servant, or employee, unless otherwise defined in this title or the rules made by the  
405 commission.

406           ~~[(49)]~~ (53) "Seminude," "seminudity," or "state of seminudity" means a state of dress in  
407 which opaque clothing covers no more than:

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

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

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

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

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

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

415           ~~[(50)]~~ (54) "Sexually oriented entertainer" means a person who while in a state of  
416 seminudity appears at or performs:

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

418           (b) on the premises of:

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

420           (ii) a tavern;

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

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

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

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

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

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

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

428           ~~[(51)]~~ (55) "Small brewer" means a brewer who manufactures less than 60,000 barrels  
429 of beer ~~[and]~~, heavy beer, and flavored malt beverages per year.

430           ~~[(52)]~~ (56) (a) "Spirituous liquor" means liquor that is distilled.

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

433 [~~53~~] (57) (a) "State label" means the official label designated by the commission  
434 affixed to ~~an~~ a liquor ~~containers~~ container sold in the state.

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

437 [~~54~~] (58) (a) "State store" means a facility for the sale of package liquor:

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

439 (ii) operated by one or more state employees.

440 (b) "State store" does not apply to ~~any~~ a:

441 (i) licensee;

442 (ii) permittee; or

443 (iii) package agency.

444 [~~55~~] (59) "Supplier" means ~~any~~ a person selling an alcoholic ~~beverages~~ beverage  
445 to the department.

446 [~~56~~] (60) (a) "Tavern" means ~~any~~ a business establishment that is:

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

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

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

452 (i) a beer bar;

453 (ii) a parlor;

454 (iii) a lounge;

455 (iv) a cabaret; or

456 (v) a nightclub.

457 [~~57~~] (61) "Temporary domicile" means the principal place of abode within Utah of a  
458 person who does not have a present intention to continue residency within Utah permanently or  
459 indefinitely.

460 [~~58~~] (62) "Unsaleable liquor merchandise" means merchandise that:

461 (a) is unsaleable because the merchandise is:

- 462 (i) unlabeled;  
 463 (ii) leaky;  
 464 (iii) damaged;  
 465 (iv) difficult to open; or  
 466 (v) partly filled;  
 467 (b) is in a container:  
 468 (i) having faded labels or defective caps or corks;  
 469 (ii) in which the contents are:  
 470 (A) cloudy;  
 471 (B) spoiled; or  
 472 (C) chemically determined to be impure; or  
 473 (iii) that contains:  
 474 (A) sediment; or  
 475 (B) ~~[any]~~ a foreign substance; or  
 476 (c) is otherwise considered by the department as unfit for sale.

477 ~~[(59)]~~ (63) "Visitor" means an individual that in accordance with Section 32A-5-107  
 478 holds limited privileges in a private club by virtue of a visitor card.

479 ~~[(60)]~~ (64) "Warehouser" means ~~[any]~~ a person, other than a licensed manufacturer,  
 480 engaged in the importation for sale, storage, or distribution of liquor regardless of amount.

481 ~~[(61)]~~ (65) (a) "Wholesaler" means ~~[any]~~ a person engaged in the importation for sale,  
 482 or in the sale of beer in wholesale or jobbing quantities to one or more retailers~~[-other than a]~~.

483 (b) Notwithstanding Subsection (65)(a), "wholesaler" does not include a small brewer  
 484 selling beer manufactured by that brewer.

485 ~~[(62)]~~ (66) (a) "Wine" means ~~[any]~~ an alcoholic beverage obtained by the fermentation  
 486 of the natural sugar content of fruits, plants, honey, or milk, or ~~[any]~~ other like substance,  
 487 whether or not ~~[other ingredients are]~~ another ingredient is added.

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

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

491 **32A-1-116. Purchase of liquor.**

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



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

494 (2) (a) Each order by the department for the purchase of spirituous liquor, wine, [or]  
495 heavy beer, or flavored malt beverage, or any cancellation by the department of an order for  
496 spirituous liquor, wine, [or] heavy beer, or flavored malt beverage:

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

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

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

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

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

504 **32A-1-119. Disciplinary proceedings -- Procedure.**

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

507 (i) against:

508 (A) a permittee;

509 (B) a licensee;

510 (C) a manufacturer;

511 (D) a supplier;

512 (E) an importer;

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

514 or

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

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

517 (II) a package agent; and

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

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

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

523 (i) the commission;

524 (ii) a hearing examiner appointed by the commission for the purposes provided in  
525 Subsection 32A-1-107(3);

526 (iii) the director; and

527 (iv) the department.

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

531 (i) the commission;

532 (ii) a hearing examiner appointed by the commission;

533 (iii) the director; and

534 (iv) the department.

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

537 (i) video or audio recorded; and

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

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

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

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

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

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

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

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

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

557 (II) conclusions of law; and  
558 (III) recommendations.

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

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

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

567 (ii) a final adjudication of criminal liability against any person listed in Subsections  
568 (1)(a)(i)(A) through (G) based on an alleged violation of this title; or  
569 (iii) a final adjudication of civil liability under Chapter 14a, Alcoholic Beverage  
570 Liability, against any person listed in Subsections (1)(a)(i)(A) through (G) based on an alleged  
571 violation of this title.

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

574 (i) whether any person listed in Subsections (1)(a)(i)(A) through (G) violated this title  
575 or rules of the commission; and  
576 (ii) if a violation is found, the appropriate sanction to be imposed.

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

578 (i) if required by law;  
579 (ii) before revoking or suspending any permit, license, or certificate of approval issued  
580 under this title; or  
581 (iii) before imposing a fine against any person listed in Subsections (1)(a)(i)(A)  
582 through (G).

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

585 (c) The validity of a disciplinary proceeding is not affected by the failure of any person

586 to attend or remain in attendance.

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

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

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

594 (A) administer oaths or affirmations;

595 (B) take evidence;

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

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

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

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

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

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

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

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

612 (I) appear before the issuing party; and

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

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

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

616 (g) (i) In all disciplinary proceeding hearings heard by a hearing examiner, the hearing

617 examiner shall prepare a report required by Subsection (3)(b)(ii) to the commission.

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

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

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

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

628 (6) (a) The commission shall:

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

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

631 (b) ~~Any~~ An order of the commission is considered final on the date the order  
632 becomes effective.

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

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

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

638 (iii) assess the administrative costs of any disciplinary proceeding to the permittee, the  
639 licensee, or certificate holder; or

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

641 (d) A fine imposed in accordance with this Subsection (6) is subject to Subsections  
642 32A-1-107(1)(p) and (4).

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

645 (A) during the suspension;

646 (B) by the permittee or licensee; and

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

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

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

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

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

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

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

660 (h) [~~All costs~~] Costs assessed by the commission shall be transferred into the General  
661 Fund in accordance with Section 32A-1-113.

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

665 (b) If any officer, employee, or agent is found to have violated this title, the  
666 commission may prohibit the officer, employee, or agent from serving, selling, distributing,  
667 manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of  
668 employment with any permittee, licensee, or certificate holder under this title for a period  
669 determined by the commission.

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

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

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

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

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

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

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

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

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

686 (I) directly committed the violation; or

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

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

692 (b) If the commission makes a finding that the brewer holding a certificate of approval  
693 violates this title or rules of the commission, the commission may take any action against the  
694 brewer holding a certificate of approval that the commission could take against a licensee  
695 including:

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

697 (ii) imposition of a fine.

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

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

703 (ii) the alleged violation involves:

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

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

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

709 (D) interfering or refusing to cooperate with:

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

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

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

715 (F) unlawful importation of alcoholic products; or

716 (G) unlawful supply of liquor by a liquor industry member, as defined in Subsection  
717 32A-12-601(2), to any person other than the department or a military installation, except to the  
718 extent permitted by this title; or

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

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

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

722 or

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

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

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

727 **32A-1-122. Liquor prices -- School lunch program.**

728 (1) For purposes of this section:

729 (a) "Landed case cost" means:

730 (i) the cost of the product; and

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

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

734 (2) (a) Except as provided in Subsections (2)(b) and (c), ~~[all]~~ spirituous liquor and  
735 wine sold by the department within the state shall be marked up in an amount not less than  
736 86% above the landed case cost to the department.

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

740 (c) If a wine manufacturer producing less than 20,000 gallons of wine in any calendar



741 year, as verified by the department pursuant to federal or other verifiable production reports,  
 742 first applies to the department for a reduced markup, all wine produced by the wine  
 743 manufacturer and sold to the department shall be marked up by the department in an amount  
 744 not less than 47% above the landed case cost to the department.

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

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

751 (4) (a) Except as provided in Subsection (4)(b), a flavored malt beverage sold by the  
 752 department within the state shall be marked up in an amount not less than 86% above the  
 753 landed case cost to the department.

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

757 ~~[(4)]~~ (5) Ten percent of the total gross revenue from sales of ~~[spiritous]~~ spirituous  
 758 liquor, wine, ~~[and]~~ heavy beer, and flavored malt beverages shall be deposited by the  
 759 department with the state treasurer and credited to the Uniform School Fund to be used to  
 760 support the school lunch program administered by the State Board of Education under Section  
 761 53A-19-201.

762 ~~[(5)]~~ (6) Nothing in this section prohibits the department from selling discontinued  
 763 items at a discount.

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

765 **32A-1-302. Presentation of proof of age upon request.**

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

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

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

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

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

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

776 (b) a peace officer;

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

779 (d) an authorized employee of the department.

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

781 **32A-1-304. Acceptance of identification -- Evidence.**

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

785 (a) proof of age; or

786 (b) if a statement of age is required under Subsection 32A-1-303(1):

787 (i) proof of age; and

788 (ii) a statement of age obtained under Section 32A-1-303.

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

792 (a) selling or otherwise furnishing an alcoholic beverage or product to the person who  
793 signed the statement of age; [or]

794 (b) admitting a minor to a premises where an alcoholic beverage or alcoholic product is  
795 sold or consumed; or

796 [(b)] (c) allowing the person who signed the statement of age to be employed in any  
797 employment that under this title may not be obtained by a minor.

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

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

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

803 **32A-1-701. Title.**

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

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

806 **32A-1-702. Requirement for a criminal background check.**

807 (1) The department shall require an individual listed in Subsection (2) to, in accordance  
808 with this part:

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

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

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

812 (ii) the Federal Bureau of Investigation.

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

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

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

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

817 (d) an individual who with regard to an entity that is applying to the commission to  
818 operate a package agency or for a license is:

819 (i) a partner;

820 (ii) a managing agent;

821 (iii) a manager;

822 (iv) an officer;

823 (v) a director;

824 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a  
825 corporation;

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

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

828 (e) an individual who becomes involved in an entity listed in Subsection (2)(b) or (c) in  
829 a capacity listed in Subsection (2)(d) on or after the day on which the entity:

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

831 (ii) is licensed by the commission.

832 (3) The department shall require compliance with Subsection (2)(e) as a condition of  
833 an entity's:

834 (a) continued operation of a package agency; or  
835 (b) renewal of a license.  
836 (4) The department may require as a condition of continued employment that an  
837 employee:

838 (a) submit a fingerprint card in a form acceptable to the department; and  
839 (b) consent to a fingerprint criminal background check by:  
840 (i) the Utah Bureau of Criminal Identification; and  
841 (ii) the Federal Bureau of Investigation.

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

843 **32A-1-703. Use of information from a criminal background check.**

844 The commission or department may use information obtained pursuant to Section  
845 32A-1-702 only for one or more of the following purposes:

846 (1) enforcing this title;  
847 (2) determining whether or not an individual is convicted of any of the following  
848 offenses that disqualify the individual under this title from acting in a capacity described in  
849 Subsection 32A-1-702(2):

850 (a) a felony under federal or state law;  
851 (b) a violation of a federal law, state law, or local ordinance concerning the sale,  
852 manufacture, distribution, warehousing, adulteration, or transportation of an alcoholic  
853 beverage;  
854 (c) a crime involving moral turpitude; or  
855 (d) on two or more occasions within the previous five years, driving under the  
856 influence of alcohol, a drug, or the combined influence of alcohol and a drug;  
857 (3) determining whether or not an individual fails to accurately disclose the person's  
858 criminal history on an application or document filed with the department or commission;  
859 (4) approving or denying an application for employment with the department;  
860 (5) taking disciplinary action against an employee of the department, including  
861 possible termination of employment;  
862 (6) granting or denying an application to operate a package agency;  
863 (7) granting or denying an application for a license;  
864 (8) granting or denying the renewal of a package agency contract;

- 865 (9) granting or denying the renewal of a license;  
866 (10) suspending the operation of a package agency;  
867 (11) terminating a package agency contract; or  
868 (12) suspending or revoking a license.

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

870 **32A-1-704. Criminal background check procedure.**

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

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

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

875 (ii) an employee of the department.

876 (2) (a) The department shall obtain information from a criminal history record  
877 maintained by the Utah Bureau of Criminal Identification pursuant to Title 53, Chapter 10, Part  
878 2, Bureau of Criminal Identification, for a purpose outlined in Section 32A-1-703.

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

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

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

885 (ii) an employee of the department.

886 (3) (a) The department shall submit a fingerprint card obtained under Section  
887 32A-1-702 of an individual who has not resided in the state for at least two years before the day  
888 on which the fingerprint card is submitted to the Utah Bureau of Criminal Identification to be  
889 forwarded to the Federal Bureau of Investigation for a nationwide criminal history record  
890 check.

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

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

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

897 (ii) an employee of the department.

898 (4) The department shall pay the Utah Bureau of Criminal Identification the costs  
899 incurred in providing the department criminal background information.

900 (5) (a) The commission, the department, or an official or employee of the commission  
901 or department may not disseminate a criminal history record obtained under this part to any  
902 person except for a purpose described in Subsection 32A-1-703.

903 (b) (i) Notwithstanding Subsection (5)(a), a criminal history record obtained under this  
904 part may be provided by the department to the individual who is the subject of the criminal  
905 history record.

906 (ii) The department shall provide an individual who is the subject of a criminal history  
907 record and who requests the criminal history record an opportunity to:

908 (A) review the criminal history record; and

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

910 (6) If an individual described in Subsection 32A-1-702(2) is determined to be  
911 disqualified under Subsection 32A-1-703(2)(b), the department shall provide the individual  
912 with:

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

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

915 (7) The department shall maintain the following in one or more separate files so that  
916 they may be accessed only for a purpose under Section 32A-1-703:

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

918 (b) a criminal history record received from:

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

920 (ii) the Federal Bureau of Investigation.

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

922 **Part 8. Malted Beverages Act**

923 **32A-1-801. Title.**

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

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

926 **32A-1-802. Definitions.**

927 As used in this part:

928 (1) "Malted beverages means:

929 (a) beer;

930 (b) a flavored malt beverage; and

931 (c) heavy beer.

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

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

935 **32A-1-803. Power of the commission and department to classify flavored malted**  
936 **beverages.**

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

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

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

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

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

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

949 (b) On or after October 1, 2008, a manufacturer may not distribute or sell in this state a  
950 flavored malt beverage if the manufacturer does not list the flavored malt beverage in a filing  
951 with the department in accordance with this Subsection (3) before distributing or selling the  
952 flavored malt beverage.

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

956 (a) a statement of process; or

957 (b) a formula.

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

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

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

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

968 (iv) (A) is not one for which the producer is not required to file a formula for approval  
969 with the United States Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec.  
970 25.55; or

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

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

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

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

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

979 **32A-1-804. Requirements for labeling and packaging -- Authority of the**  
980 **commission and department.**

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

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

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

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

986 and

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



989           (2) The department shall review the label and packaging of a malted beverage to ensure  
990 that the label and packaging meets the requirements of Subsection (1)(a).

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

993           (a) beer;

994           (b) ale;

995           (c) porter;

996           (d) stout;

997           (e) lager;

998           (f) lager beer; or

999           (g) another class or type designation commonly applied to a malted beverage that  
1000 conveys by a recognized term that the product contains alcohol.

1001           Section 15. Section **32A-1-805** is enacted to read:

1002           **32A-1-805. General procedure for approval.**

1003           (1) To obtain approval of the label and packaging of a malted beverage, the  
1004 manufacturer of the malted beverage shall submit an application to the department for  
1005 approval.

1006           (2) The application described in Subsection (1) shall be on a form approved by the  
1007 department and include the following:

1008           (a) a copy of a federal certificate of label approval from the Department of Treasury,  
1009 Tax and Trade Bureau, for each brand and label for which the manufacturer is seeking  
1010 approval;

1011           (b) a complete set of original labels for each size of container of the malted beverage;

1012           (c) a description of the size of the container on which a label will be placed;

1013           (d) a description of each type of container of the malted beverage; and

1014           (e) a description of any packaging for the malted beverage.

1015           (3) The department may assess a reasonable fee for reviewing a label and packaging for  
1016 approval.

1017           (4) (a) The department shall notify a manufacturer within 30 days after the day on  
1018 which the manufacturer submits an application whether the label and packaging is approved or  
1019 denied.

1020 (b) If the department determines that an unusual circumstance requires additional time,  
1021 the department may extend the time period described in Subsection (4)(a).

1022 (5) A manufacturer shall obtain the approval of the department of a revision of a  
1023 previously approved label and packaging before a malted beverage using the revised label and  
1024 packaging may be distributed or sold in this state.

1025 (6) (a) The department may revoke a label and packaging previously approved upon a  
1026 finding that the label and packaging is not in compliance with this title or rules of the  
1027 commission.

1028 (b) The department shall notify the person that applies for the approval of a label and  
1029 packaging at least five business days before the day on which a label and packaging approval is  
1030 considered revoked.

1031 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written  
1032 argument or evidence to the department on why the revocation should not occur.

1033 (7) A manufacturer that applies for approval of a label and packaging may appeal a  
1034 denial or revocation of a label and packaging approval to the commission.

1035 Section 16. Section **32A-1-806** is enacted to read:

1036 **32A-1-806. Special procedure for flavored malted beverages.**

1037 (1) If a flavored malt beverage is labeled or packaged in a manner that is similar to a  
1038 label or package used for a nonalcoholic beverage, beginning October 1, 2008, a manufacturer  
1039 of the flavored malt beverage may not distribute or sell the flavored malt beverage in this state  
1040 until the day on which the manufacturer receives approval of the labeling and packaging from  
1041 the department in accordance with:

1042 (a) Sections 32A-1-804 and 32A-1-805; and

1043 (b) this section.

1044 (2) The department may not approve the labeling and packaging of a flavored malt  
1045 beverage described in Subsection (1) unless in addition to the requirements of Section  
1046 32A-1-804 the labeling and packaging complies with the following:

1047 (a) The label on the flavored malt beverage shall bear a prominently displayed label or  
1048 a firmly affixed sticker that provides the following information:

1049 (i) the statement:

1050 (A) "alcoholic beverage"; or

1051 (B) "contains alcohol"; and  
1052 (ii) the alcohol content of the flavored malt beverage.  
1053 (b) Any packaging of the flavored malt beverage shall prominently include, either  
1054 imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging, the  
1055 statement:  
1056 (i) "alcoholic beverage"; or  
1057 (ii) "contains alcohol".  
1058 (c) A statement required by Subsection (2)(a) or (b) shall appear in a format required  
1059 by rule made by the commission in accordance with Title 63, Chapter 46a, Utah Administrative  
1060 Rulemaking Act.  
1061 (d) A statement of alcohol content required by Subsection (2)(a)(ii):  
1062 (i) shall state the alcohol content as a percentage of alcohol by volume or by weight;  
1063 (ii) may not use an abbreviation, but shall use the complete words "alcohol," "volume,"  
1064 or "weight"; and  
1065 (iii) shall be in a format required by rule made by the commission:  
1066 (3) The department may reject a label or packaging that appears designed to obscure  
1067 the information required by Subsection (2).  
1068 (4) To determine whether or not a flavored malt beverage is described in Subsection  
1069 (1) and subject to this section, the department may consider in addition to other factors one or  
1070 more of the following factors:  
1071 (a) whether the coloring, carbonation, and packaging of the flavored malt beverage:  
1072 (i) is similar to those of a nonalcoholic beverage or product; or  
1073 (ii) can be confused with a nonalcoholic beverage;  
1074 (b) whether the flavored malt beverage possesses a character and flavor distinctive  
1075 from a traditional malted beverage;  
1076 (c) whether the flavored malt beverage is:  
1077 (i) prepackaged;  
1078 (ii) contains high levels of caffeine and other additives; and  
1079 (iii) is marketed as a beverage that is specifically designed to provide energy;  
1080 (d) whether the flavored malt beverage contains added sweetener or sugar substitutes;  
1081 or

1082 (e) whether the flavored malt beverage contains an added fruit flavor or other flavor  
1083 that masks the taste of a traditional malted beverage.

1084 Section 17. Section **32A-1-807** is enacted to read:

1085 **32A-1-807. Rulemaking authority.**

1086 The commission may adopt rules necessary to implement this part.

1087 Section 18. Section **32A-1-808** is enacted to read:

1088 **32A-1-808. Disciplinary proceeding for violation.**

1089 A person who violates this part is subject to a disciplinary proceeding under Section  
1090 32A-1-119.

1091 Section 19. Section **32A-1-809** is enacted to read:

1092 **32A-1-809. Transition protections.**

1093 (1) Except as provided in Subsection (3), a manufacturer of a flavored malt beverage  
1094 may not be held liable under this title for distributing or selling a flavored malt beverage as a  
1095 beer if:

1096 (a) the flavored malt beverage is distributed or sold on or before September 30, 2008;

1097 and

1098 (b) the manufacturer when distributing or selling the flavored malt beverage complies  
1099 with the requirements of this title for distributing or selling a beer including holding:

1100 (i) a brewery license under Chapter 8, Part 4, Brewery Licenses; or

1101 (ii) a certificate of approval issued by the department under Subsection 32A-8-101(4).

1102 (2) Except as provided in Subsection (3), a licensee or permittee may not be held liable  
1103 for the sale, offering, or furnishing of a flavored malt beverage as a beer if:

1104 (a) the flavored malt beverage is sold, offered, or furnished on or before September 30,  
1105 2008; and

1106 (b) the licensee or permittee when selling, offering, or furnishing the flavored malt  
1107 beverage complies with the requirements of this title for selling, offering, or furnishing a beer  
1108 under the license or permit held by the licensee or permittee.

1109 (3) This section does not apply to liability under Chapter 14a, Alcoholic Beverage  
1110 Liability.

1111 Section 20. Section **32A-2-101** is amended to read:

1112 **32A-2-101. Commission's power to establish state stores -- Limitations.**

1113 (1) (a) The commission may establish state stores in numbers and at places, owned or  
 1114 leased by the department, [it] the commission considers proper for the sale of liquor, by  
 1115 employees of the state, in accordance with this title and the rules made under this title.

1116 (b) [~~Employees of state stores are~~] An employee of a state store is considered  
 1117 [~~employees~~] an employee of the department and shall meet all qualification requirements for  
 1118 employment [~~outlined~~] in Section 32A-1-111.

1119 (2) (a) The total number of state stores may not at any time aggregate more than that  
 1120 number determined by dividing the population of the state by 48,000.

1121 (b) For purposes of this Subsection (2), population shall be determined by:

1122 (i) the most recent United States decennial or special census; or

1123 (ii) [~~any other~~] another population determination made by the United States or state  
 1124 governments.

1125 (3) (a) [~~A~~] Except as provided in Subsection (3)(b), a state store may not be  
 1126 established;

1127 (i) within 600 feet of [~~any public or private school, church, public library, public~~  
 1128 ~~playground, or park~~] a community location, as measured by the method in Subsection [(4):]

1129 (3)(c); or

1130 [~~(b) A state store may not be established~~]

1131 (ii) within 200 feet of [~~any public or private school, church, public library, public~~  
 1132 ~~playground, or park~~] a community location, measured in a straight line from the nearest  
 1133 entrance of the proposed state store to the nearest property boundary of the [~~public or private~~  
 1134 ~~school, church, public library, public playground, or park~~] community location.

1135 [(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the  
 1136 following exceptions applies:]

1137 [(i) with] (b) With respect to the establishment of a state store [~~within a city of the~~  
 1138 ~~third, fourth, or fifth class, a town, or the unincorporated area of a county~~], the commission  
 1139 may authorize a variance that reduces the proximity [~~requirements~~] requirement of Subsection  
 1140 (3)(a)(i) [~~or (b)~~] if:

1141 [(A)] (i) the commission finds that alternative locations for establishing a state store in  
 1142 the community are limited;

1143 [(B)] (ii) a public hearing [~~has been~~] is held in the city, town, or county, and where

1144 practical in the neighborhood concerned; ~~[and]~~

1145 ~~[(C)]~~ (iii) after giving full consideration to all of the attending circumstances and the  
1146 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
1147 establishing the state store would not be detrimental to the public health, peace, safety, and  
1148 welfare of the community; ~~[or]~~ and

1149 ~~[(ii) with respect to the establishment of a state store in any location, the commission  
1150 may authorize a variance to reduce the proximity requirements of Subsection (3)(a) or (b) in  
1151 relation to a church:]~~

1152 ~~[(A) if the local governing body of the church in question gives its written consent to  
1153 the variance;]~~

1154 ~~[(B) following a public hearing in the county, and where practical in the neighborhood  
1155 concerned; and]~~

1156 ~~[(C) after giving full consideration to all of the attending circumstances and the  
1157 policies stated in Subsections 32A-1-104(3) and (4).]~~

1158 ~~[(4) With respect to any public or private school, church, public library, public  
1159 playground, or park, the]~~

1160 (iv) (A) the community location governing authority gives its written consent to the  
1161 variance; or

1162 (B) when written consent is not given by the community location governing authority,  
1163 the commission finds that:

1164 (I) there is substantial unmet public demand to consume alcohol within the geographic  
1165 boundary of the local authority in which the state store is to be located;

1166 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1167 described in Subsection (3)(b)(iv)(B)(I) other than through the establishment of a state store;  
1168 and

1169 (III) there is no reasonably viable alternative location within the geographic boundary  
1170 of the local authority in which the state store is to be located for establishing a state store to  
1171 satisfy the unmet demand described in Subsection (3)(b)(iv)(B)(I).

1172 (c) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the  
1173 nearest entrance of the state store by following the shortest route of ordinary pedestrian travel  
1174 to the property boundary of the [public or private school, church, public library, public

1175 ~~playground, school playground, or park]~~ community location.

1176 [~~(5)~~] (4) (a) Nothing in this section prevents the commission from considering the  
1177 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
1178 reaching a decision on a proposed location.

1179 (b) For purposes of this Subsection [~~(5)~~] (4), "educational facility" includes:

1180 (i) a nursery school;

1181 (ii) an infant day care center; and

1182 (iii) a trade and technical school.

1183 Section 21. Section **32A-3-101** is amended to read:

1184 **32A-3-101. Commission's power to establish package agencies -- Limitations.**

1185 (1) (a) The commission may, when [~~considered~~] it considers necessary, create a  
1186 package [~~agencies~~] agency by entering into a contractual [~~relationships with persons~~]  
1187 relationship with a person to sell liquor in sealed packages from premises other than those  
1188 owned or leased by the state.

1189 (b) The commission shall authorize a person to operate a package agency by issuing a  
1190 certificate from the commission that designates the person in charge of the agency as a  
1191 "package agent" as defined under Section 32A-1-105.

1192 (2) (a) Subject to this Subsection (2), the total number of package agencies may not at  
1193 any time aggregate more than that number determined by dividing the population of the state  
1194 by 18,000.

1195 (b) For purposes of Subsection (2)(a), population shall be determined by:

1196 (i) the most recent United States decennial or special census; or

1197 (ii) [~~any other~~] another population determination made by the United States or state  
1198 governments.

1199 (c) (i) The commission may establish seasonal package agencies established in areas  
1200 the commission considers necessary.

1201 (ii) A seasonal package agency shall be for a period of six consecutive months.

1202 (iii) A package agency established for operation during a summer time period is known  
1203 as a "Seasonal A" package agency. The period of operation for a "Seasonal A" agency shall:

1204 (A) begin on May 1; and

1205 (B) end on October 31.

1206 (iv) A package agency established for operation during a winter time period is known as  
1207 a "Seasonal B" package agency. The period of operation for a "Seasonal B" agency shall:

1208 (A) begin on November 1; and

1209 (B) end on April 30.

1210 (v) In determining the number of package agencies that the commission may establish  
1211 under this section:

1212 (A) a seasonal package agency is counted as 1/2 of one package agency; and

1213 (B) each "Seasonal A" agency shall be paired with a "Seasonal B" agency.

1214 (d) (i) If the location, design, and construction of a hotel may require more than one  
1215 package agency sales location to serve the public convenience, the commission may authorize a  
1216 single package agent to sell liquor at as many as three locations within the hotel under one  
1217 package agency if:

1218 (A) the hotel has a minimum of 150 guest rooms; and

1219 (B) all locations under the agency are:

1220 (I) within the same hotel facility; and

1221 (II) on premises that are managed or operated and owned or leased by the package  
1222 agent.

1223 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel may not have more than one sales  
1224 location under a single package agency.

1225 (3) (a) ~~[As measured by the method in Subsection (4), the]~~ Except as provided in  
1226 Subsection (3)(b) or (c), the premises of a package agency may not be established:

1227 (i) within 600 feet of [any public or private school, church, public library, public  
1228 playground, or park.] a community location, as measured by the method described in  
1229 Subsection (3)(d); or

1230 ~~[(b) The premises of a package agency may not be established]~~

1231 (ii) within 200 feet of [any public or private school, church, public library, public  
1232 playground, or park] a community location, measured in a straight line from the nearest  
1233 entrance of the proposed package agency to the nearest property boundary of the [public or  
1234 private school, church, public library, public playground, or park] community location.

1235 ~~[(c) The restrictions contained in Subsections (3)(a) and (b) govern unless one of the~~  
1236 ~~following exemptions applies:]~~



1237 ~~[(i) with]~~ (b) With respect to the establishment of a package agency [~~within a city of~~  
 1238 ~~the third, fourth, or fifth class, a town, or the unincorporated area of a county~~], the commission  
 1239 may authorize a variance to reduce the proximity [~~requirements~~] requirement of Subsection  
 1240 (3)(a)~~(i)~~ [~~or (b)~~] if:

1241 ~~[(A)]~~ (i) the local governing authority [~~has granted~~] grants its written consent to the  
 1242 variance;

1243 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a package  
 1244 agency in the community are limited;

1245 ~~[(C)]~~ (iii) a public hearing [~~has been~~] is held in the city, town, or county, and where  
 1246 practical in the neighborhood concerned; [~~and~~]

1247 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the  
 1248 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
 1249 establishing the package agency would not be detrimental to the public health, peace, safety,  
 1250 and welfare of the community; and

1251 ~~[(i) with respect to the establishment of a package agency in any location, the~~  
 1252 ~~commission may authorize a variance to reduce the proximity requirements of Subsection~~  
 1253 ~~(3)(a) or (b) in relation to a church:]~~

1254 ~~[(A) if the local governing body of the church in question gives its written consent to~~  
 1255 ~~the variance;]~~

1256 ~~[(B) following a public hearing in the city, town, or county and where practical in the~~  
 1257 ~~neighborhood concerned; and]~~

1258 ~~[(C) after giving full consideration to all of the attending circumstances and the~~  
 1259 ~~policies stated in Subsections 32A-1-104(3) and (4); or]~~

1260 (v) (A) the community location governing authority gives its written consent to the  
 1261 variance; or

1262 (B) when written consent is not given by the community location governing authority,  
 1263 the commission finds that the applicant has established that:

1264 (I) there is substantial unmet public demand to consume alcohol within the geographic  
 1265 boundary of the local authority in which the package agency is to be located;

1266 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
 1267 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of a package

1268 agency; and

1269 (III) there is no reasonably viable alternative location within the geographic boundary  
1270 of the local authority in which the package agency is to be located for establishing a package  
1271 agency to satisfy the unmet demand described in Subsection (3)(b)(v)(B)(I).

1272 [~~(iii) with~~] (c) With respect to the premises of a package agency issued by the  
1273 commission that undergoes a change of ownership, the commission may waive or vary the  
1274 proximity requirements of Subsection (3)(a) [~~or (b)~~] in considering whether to grant a package  
1275 agency to the new owner of the premises if:

1276 (A) (I) the premises previously received a variance reducing the proximity  
1277 [~~requirements~~] requirement of Subsection (3)(a)(i) [~~or (b)~~]; or

1278 (II) the premises received a variance reducing the proximity requirement of Subsection  
1279 (3)(a)(ii) on or before May 4, 2008; or

1280 (B) a variance from proximity [~~or distance~~] requirements was otherwise allowed under  
1281 this title.

1282 [~~(4) With respect to any public or private school, church, public library, public~~  
1283 ~~playground, or park, the]~~

1284 (d) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the  
1285 nearest entrance of the package agency by following the shortest route of ordinary pedestrian  
1286 travel to the property boundary of the [public or private school, church, public library, public  
1287 playground, school playground, or park] community location.

1288 [~~(5)~~] (4) (a) Nothing in this section prevents the commission from considering the  
1289 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
1290 reaching a decision on a proposed location.

1291 (b) For purposes of Subsection [~~(5)~~] (4)(a), "educational facility" includes:

1292 (i) a nursery school;

1293 (ii) an infant day care center; and

1294 (iii) a trade and technical school.

1295 [~~(6)~~] (5) (a) The package agent, under the direction of the department, [~~shall be~~] is  
1296 responsible for implementing and enforcing this title and the rules adopted under this title to  
1297 the extent they relate to the conduct of the package agency and its sale of liquor.

1298 (b) A package agent may not be, or construed to be, a state employee nor be otherwise

1299 entitled to any benefits of employment from the state.

1300 (c) A package agent, when selling liquor from a package agency, is considered an agent  
1301 of the state only to the extent specifically expressed in the package agency agreement.

1302 [(7)] (6) The commission may prescribe by policy, directive, or rule, consistent with  
1303 this title, general operational requirements of all package agencies relating to:

1304 (a) physical facilities;

1305 (b) conditions of operation;

1306 (c) hours of operation;

1307 (d) inventory levels;

1308 (e) payment schedules;

1309 (f) methods of payment;

1310 (g) premises security; and

1311 (h) any other matters considered appropriate by the commission.

1312 Section 22. Section **32A-3-102** is amended to read:

1313 **32A-3-102. Application requirements.**

1314 (1) A person seeking to operate a package agency as a package agent under this chapter  
1315 shall file a written application with the department in a form prescribed by the department.

1316 (2) The application shall be accompanied by:

1317 (a) a nonrefundable application fee of \$100;

1318 (b) written consent of the local authority;

1319 (c) evidence of proximity to any [~~public or private school, church, public library,~~  
1320 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of~~

1321 ~~Subsections 32A-3-101(3) and (4), the application shall be processed in accordance with those~~  
1322 ~~subsections] community location, with proximity requirements being governed by Section~~

1323 32A-3-101;

1324 (d) a bond as specified by Section 32A-3-105;

1325 (e) a floor plan of the premises, including a description and highlighting of that part of  
1326 the premises in which the applicant proposes that the package agency be established;

1327 (f) evidence that the package agency is carrying public liability insurance in an amount  
1328 and form satisfactory to the department;

1329 (g) a signed consent form stating that the package agent will permit any authorized

1330 representative of the commission, department, or any law enforcement officer to have  
1331 unrestricted right to enter the package agency;

1332 (h) in the case of an applicant that is a partnership, corporation, or limited liability  
1333 company, proper verification evidencing that the person or persons signing the package agency  
1334 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
1335 company; and

1336 (i) any other information as the commission or department may direct.

1337 Section 23. Section **32A-4-101** is amended to read:

1338 **32A-4-101. Commission's power to grant licenses -- Limitations.**

1339 (1) Before a restaurant may sell or allow the consumption of liquor on its premises, it  
1340 shall first obtain a license from the commission as provided in this part.

1341 (2) The commission may issue restaurant liquor licenses for the purpose of establishing  
1342 restaurant liquor outlets at places and in numbers it considers proper for the storage, sale, and  
1343 consumption of liquor on premises operated as public restaurants.

1344 (3) (a) Subject to the other provisions of this Subsection (3), the total number of  
1345 restaurant liquor licenses may not at any time aggregate more than that number determined by  
1346 dividing the population of the state by 5,200.

1347 (b) For purposes of this Subsection (3), population shall be determined by:

1348 (i) the most recent United States decennial or special census; or

1349 (ii) ~~any other~~ another population determination made by the United States or state  
1350 governments.

1351 (c) (i) The commission may issue seasonal restaurant liquor licenses established in  
1352 areas the commission considers necessary.

1353 (ii) A seasonal restaurant liquor license shall be for a period of six consecutive months.

1354 (iii) A restaurant liquor license issued for operation during a summer time period is  
1355 known as a "Seasonal A" restaurant liquor license. The period of operation for a "Seasonal A"  
1356 restaurant liquor license shall:

1357 (A) begin on May 1; and

1358 (B) end on October 31.

1359 (iv) A restaurant liquor license issued for operation during a winter time period is

1360 known as a "Seasonal B" restaurant liquor license. The period of operation for a "Seasonal B"

1361 restaurant liquor license shall:

1362 (A) begin on November 1; and

1363 (B) end on April 30.

1364 (v) In determining the number of restaurant liquor licenses that the commission may  
1365 issue under this section:

1366 (A) a seasonal license is counted as 1/2 of one restaurant liquor license; and

1367 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

1368 (d) (i) If the location, design, and construction of a hotel may require more than one  
1369 restaurant liquor sales location within the hotel to serve the public convenience, the  
1370 commission may authorize the sale of liquor at as many as three restaurant locations within the  
1371 hotel under one license if:

1372 (A) the hotel has a minimum of 150 guest rooms; and

1373 (B) all locations under the license are:

1374 (I) within the same hotel facility; and

1375 (II) on premises that are managed or operated and owned or leased by the licensee.

1376 (ii) ~~[Facilities]~~ A facility other than [hotels] a hotel shall have a separate restaurant  
1377 liquor license for each restaurant where liquor is sold.

1378 (4) (a) ~~[The]~~ Except as provided in Subsection (4)(b) or (c), the premises of a  
1379 restaurant liquor license may not be established:

1380 (i) within 600 feet of ~~[any public or private school, church, public library, public~~  
1381 ~~playground, or park,]~~ a community location, as measured by the method in Subsection ~~[(5):]~~  
1382 (4)(d);

1383 ~~[(b) The premises of a restaurant liquor license may not be established]~~

1384 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~  
1385 ~~playground, or park]~~ a community location, measured in a straight line from the nearest  
1386 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~  
1387 ~~school, church, public library, public playground, or park]~~ community location.

1388 ~~[(c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the~~  
1389 ~~following exemptions applies:]~~

1390 ~~[(i) with]~~ (b) With respect to the establishment of a restaurant liquor license ~~[in any~~  
1391 ~~location]~~, the commission may authorize a variance to reduce the proximity ~~[requirements]~~

1392 requirement of Subsection (4)(a)(i) [~~or (b)~~] if:

1393 [~~(A)~~] (i) the local [~~governing~~] authority [~~has granted~~] grants its written consent to the  
1394 variance;

1395 [~~(B)~~] (ii) the commission finds that alternative locations for establishing a restaurant  
1396 liquor license in the community are limited;

1397 [~~(C)~~] (iii) a public hearing [~~has been~~] is held in the city, town, or county, and where  
1398 practical in the neighborhood concerned; [~~and~~]

1399 [~~(D)~~] (iv) after giving full consideration to all of the attending circumstances and the  
1400 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
1401 establishing the restaurant liquor license would not be detrimental to the public health, peace,  
1402 safety, and welfare of the community; [~~or~~] and

1403 (v) (A) the community location governing authority gives its written consent to the  
1404 variance; or

1405 (B) when written consent is not given by the community location governing authority,  
1406 the commission finds that the applicant has established that:

1407 (I) there is substantial unmet public demand to consume alcohol in a public setting  
1408 within the geographic boundary of the local authority in which the restaurant is to be located;

1409 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
1410 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a restaurant  
1411 liquor license; and

1412 (III) there is no reasonably viable alternative location within the geographic boundary  
1413 of the local authority in which the restaurant is to be located for establishing a restaurant liquor  
1414 license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

1415 [~~(ii) with~~] (c) With respect to the premises of a restaurant liquor license issued by the  
1416 commission that undergoes a change of ownership, the commission may waive or vary the  
1417 proximity requirements of Subsection (4)(a) [~~or (b)~~] in considering whether to grant a  
1418 restaurant liquor license to the new owner of the premises if:

1419 (A) (I) the premises previously received a variance reducing the proximity

1420 [~~requirements~~] requirement of Subsection (4)(a)(i) [~~or (b)~~]; or

1421 (II) the premises received a variance reducing the proximity requirement of Subsection  
1422 (4)(a)(ii) on or before May 4, 2008; or

1423 (B) a variance from proximity [~~or distance~~] requirements was otherwise allowed under  
1424 this title.

1425 [~~(5) With respect to any public or private school, church, public library, public  
1426 playground, or park, the~~]

1427 (d) The 600 foot limitation described in Subsection (4)(a)(i) is measured from the  
1428 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
1429 [property boundary of the public or private school, church, public library, public playground,  
1430 school playground, or park] community location.

1431 [~~(6)~~] (5) (a) Nothing in this section prevents the commission from considering the  
1432 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
1433 reaching a decision on a proposed location.

1434 (b) For purposes of this Subsection [~~(6)~~] (5), "educational facility" includes:

- 1435 (i) a nursery school;
- 1436 (ii) an infant day care center; and
- 1437 (iii) a trade and technical school.

1438 Section 24. Section **32A-4-102** is amended to read:

1439 **32A-4-102. Application and renewal requirements.**

1440 (1) A person seeking a restaurant liquor license under this part shall file a written  
1441 application with the department, in a form prescribed by the department. It shall be  
1442 accompanied by:

- 1443 (a) a nonrefundable \$250 application fee;
- 1444 (b) an initial license fee of \$1,750, which is refundable if a license is not granted;
- 1445 (c) written consent of the local authority;
- 1446 (d) a copy of the applicant's current business license;
- 1447 (e) evidence of proximity to any [~~public or private school, church, public library,~~  
1448 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~  
1449 ~~Subsections 32A-4-101(4) and (5), the application shall be processed in accordance with those~~  
1450 ~~subsections] community location, with proximity requirements being governed by Section~~  
1451 32A-4-101;

1452 (f) a bond as specified by Section 32A-4-105;

1453 (g) a floor plan of the restaurant, including consumption areas and the area where the

1454 applicant proposes to keep, store, and sell liquor;

1455 (h) evidence that the restaurant is carrying public liability insurance in an amount and  
1456 form satisfactory to the department;

1457 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least  
1458 \$500,000 per occurrence and \$1,000,000 in the aggregate;

1459 (j) a signed consent form stating that the restaurant will permit any authorized  
1460 representative of the commission, department, or any law enforcement officer unrestricted right  
1461 to enter the restaurant;

1462 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
1463 company, proper verification evidencing that the person or persons signing the restaurant  
1464 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
1465 company; and

1466 (l) any other information the commission or department may require.

1467 (2) (a) All restaurant liquor licenses expire on October 31 of each year.

1468 (b) ~~[Persons]~~ A person desiring to renew ~~[their]~~ the person's restaurant liquor license  
1469 shall by no later than September 30 submit:

1470 (i) a completed renewal application to the department; and

1471 (ii) a renewal fee in the following amount:

Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
1472 under \$5,000	\$750
1473 equals or exceeds \$5,000 but less than \$10,000	\$900
1474 equals or exceeds \$10,000 but less than \$25,000	\$1,250
1475 equals or exceeds \$25,000	\$1,500

1476 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
1477 the license effective on the date the existing license expires.

1478 (d) ~~[Renewal applications]~~ A renewal application shall be in a form as prescribed by  
1479 the department.

1481 (3) To ensure compliance with Subsection 32A-4-106(25), the commission may  
1482 suspend or revoke ~~[any]~~ a restaurant liquor license if the restaurant liquor licensee does not  
1483 immediately notify the department of any change in:

1484 (a) ownership of the restaurant;



1485 (b) for a corporate owner, the:  
 1486 (i) corporate officers or directors; or  
 1487 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
 1488 corporation; or

1489 (c) for a limited liability company:  
 1490 (i) managers; or  
 1491 (ii) members owning at least 20% of the limited liability company.

1492 Section 25. Section **32A-4-104** is amended to read:

1493 **32A-4-104. Commission and department duties before granting licenses.**

1494 (1) (a) Before a restaurant liquor license may be granted by the commission, the  
 1495 department shall conduct an investigation and may hold public hearings for the purpose of  
 1496 gathering information and making recommendations to the commission as to whether or not a  
 1497 license should be granted. [~~This~~]

1498 (b) The department shall forward the information [~~shall be forwarded~~] and  
 1499 recommendations described in Subsection (1)(a) to the commission to aid in [~~its~~] the  
 1500 commission's determination.

1501 (2) Before issuing [~~any~~] a restaurant liquor license, the commission shall:

1502 (a) determine that:

1503 (i) the applicant has complied with all basic qualifications and requirements for making  
 1504 application for a license as provided by Sections 32A-4-102 and 32A-4-103[;]; and [~~that~~]

1505 (ii) the application is complete;

1506 (b) consider the locality within which the proposed restaurant liquor outlet is located,  
 1507 including [~~but not limited to~~]:

1508 (i) physical characteristics such as:

1509 (A) condition of the premises[;];

1510 (B) square footage[;]; and

1511 (C) parking availability; and

1512 (ii) operational factors such as:

1513 (A) tourist traffic[;];

1514 (B) proximity to and density of other state stores, package agencies, and outlets[;];

1515 (C) demographics[;];

- 1516           (D) population to be served[;]; and  
 1517           (E) the extent of and proximity to any [~~school, church, public library, public~~  
 1518 ~~playground, or park~~] community location;
- 1519           (c) consider the applicant's ability to manage and operate a restaurant liquor license,  
 1520 including [~~but not limited to~~];
- 1521           (i) management experience[;];  
 1522           (ii) past retail liquor experience[;]; and  
 1523           (iii) the type of management scheme employed by the restaurant;
- 1524           (d) consider the nature or type of restaurant operation of the proposed liquor licensee,  
 1525 including [~~but not limited to~~];
- 1526           (i) the type of menu items offered and emphasized[;];  
 1527           (ii) whether the restaurant emphasizes service to an adult clientele or to minors[;];  
 1528           (iii) the hours of operation[;];  
 1529           (iv) the seating capacity of the facility[;]; and  
 1530           (v) the gross sales of food items; and
- 1531           (e) consider any other factors or circumstances [it] the commission considers  
 1532 necessary.

1533           Section 26. Section **32A-4-106** is amended to read:

1534           **32A-4-106. Operational restrictions.**

1535           [Each] A person granted a restaurant liquor license and the employees and management  
 1536 personnel of the restaurant shall comply with the following conditions and requirements.  
 1537 Failure to comply may result in a suspension or revocation of the restaurant liquor license or  
 1538 other disciplinary action taken against individual employees or management personnel.

1539           (1) (a) Liquor may not be purchased by a restaurant liquor licensee except from a state  
 1540 [~~stores~~] store or package [~~agencies~~] agency.

1541           (b) Liquor purchased from a state store or package agency may be transported by the  
 1542 restaurant liquor licensee from the place of purchase to the licensed premises.

1543           (c) Payment for liquor shall be made in accordance with rules established by the  
 1544 commission.

1545           (2) A restaurant liquor licensee may sell or provide a primary spirituous liquor only in  
 1546 a quantity not to exceed one ounce per beverage dispensed through a calibrated metered

1547 dispensing system approved by the department in accordance with commission rules adopted  
1548 under this title, except that:

1549 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1550 system if used as a secondary flavoring ingredient in a beverage subject to the following  
1551 restrictions:

1552 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of  
1553 a primary spirituous liquor;

1554 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

1555 (iii) the restaurant liquor licensee shall designate a location where flavorings are stored  
1556 on the floor plan provided to the department; and

1557 (iv) ~~all~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled  
1558 "flavorings";

1559 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1560 system if used:

1561 (i) as a flavoring on ~~desserts~~ a dessert; and

1562 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or  
1563 dessert;

1564 (c) ~~each~~ a restaurant patron may have no more than 2.75 ounces of spirituous liquor  
1565 at a time; and

1566 (d) ~~each~~ a restaurant patron may have no more than one spirituous liquor drink at a  
1567 time before the patron.

1568 (3) (a) (i) Wine may be sold and served by the glass or in an individual portion not to  
1569 exceed five ounces per glass or individual portion.

1570 (ii) An individual portion of wine may be served to a patron in more than one glass as  
1571 long as the total amount of wine does not exceed five ounces.

1572 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
1573 Subsection (7)(e).

1574 (b) (i) Wine may be sold and served in ~~containers~~ a container not exceeding 1.5 liters  
1575 at ~~prices~~ a price fixed by the commission to ~~tables~~ a table of four or more persons.

1576 (ii) Wine may be sold and served in ~~containers~~ a container not exceeding 750  
1577 milliliters at ~~prices~~ a price fixed by the commission to ~~tables~~ a table of less than four

1578 persons.

1579 (c) A wine service may be performed and a service charge assessed by ~~[the]~~ a  
1580 restaurant liquor licensee as authorized by commission rule for wine purchased at the  
1581 restaurant.

1582 (4) (a) Heavy beer may be served in an original ~~[containers]~~ container not exceeding  
1583 one liter at ~~[prices]~~ a price fixed by the commission.

1584 (b) A flavored malt beverage may be served in an original container not exceeding one  
1585 liter at a price fixed by the commission.

1586 ~~[(b)]~~ (c) A service charge may be assessed by ~~[the]~~ a restaurant liquor licensee as  
1587 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the  
1588 restaurant.

1589 (5) (a) (i) Subject to Subsection (5)(a)(ii), a restaurant ~~[licensed to sell]~~ liquor licensee  
1590 may sell beer for on-premise consumption:

1591 (A) in an open container; and

1592 (B) on draft.

1593 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
1594 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
1595 container that exceeds one liter.

1596 (b) A restaurant ~~[licensed under this chapter]~~ liquor licensee that sells beer pursuant to  
1597 Subsection (5)(a):

1598 (i) may do so without obtaining a separate on-premise beer retailer license from the  
1599 commission; and

1600 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
1601 Retailer Licenses, that apply to an on-premise beer ~~[retailers]~~ retailer except when those  
1602 restrictions are inconsistent with or less restrictive than the operational restrictions under this  
1603 part.

1604 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
1605 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the  
1606 restaurant's:

1607 (i) state liquor license; and

1608 (ii) alcoholic beverage license issued by the local authority.

1609 (6) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in  
 1610 [~~any~~] a place other than as designated in the restaurant liquor licensee's application, unless the  
 1611 restaurant liquor licensee first applies for and receives approval from the department for a  
 1612 change of location within the restaurant.

1613 (7) (a) (i) A patron may only make an alcoholic beverage [~~purchases~~] purchase in the  
 1614 restaurant from and be served by a person employed, designated, and trained by the restaurant  
 1615 liquor licensee to sell and serve an alcoholic [~~beverages~~] beverage.

1616 (ii) Notwithstanding Subsection (7)(a)(i), a patron who [~~has purchased~~] purchases  
 1617 bottled wine from an employee of the restaurant or [~~has carried~~] carries bottled wine onto the  
 1618 premises of the restaurant pursuant to Subsection (14) may thereafter serve wine from the  
 1619 bottle to the patron or others at the patron's table.

1620 (b) [~~Alcoholic beverages~~] An alcoholic beverage shall be delivered by a server to the  
 1621 patron.

1622 (c) [~~Any~~] An alcoholic beverage may only be consumed at the patron's table or counter.

1623 (d) [~~Alcoholic beverages~~] An alcoholic beverage may not be served to or consumed by  
 1624 a patron at a bar.

1625 (e) [~~Each~~] A restaurant patron may have no more than two alcoholic beverages of any  
 1626 kind at a time before the patron, subject to the limitation in Subsection (2)(d).

1627 (8) The liquor storage area shall remain locked at all times other than those hours and  
 1628 days when liquor sales are authorized by law.

1629 (9) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a  
 1630 restaurant of a restaurant liquor licensee during the following days or hours:

1631 (i) until after the polls are closed on the day of [~~any~~] a:

1632 (A) regular general election;

1633 (B) regular primary election; or

1634 (C) statewide special election;

1635 (ii) until after the polls are closed on the day of [~~any~~] a municipal, local district, special  
 1636 service district, or school election, but only:

1637 (A) within the boundaries of the municipality, local district, special service district, or  
 1638 school district; and

1639 (B) if required by local ordinance; and

- 1640 (iii) on ~~[any other]~~ another day after 12 midnight and before 12 noon.
- 1641 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
1642 Licenses, for on-premise beer licensees.
- 1643 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold except in  
1644 connection with an order for food prepared, sold, and served at the restaurant.
- 1645 (11) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold, served, or  
1646 otherwise furnished to ~~[any]~~ a:
- 1647 (a) minor;
- 1648 (b) person actually, apparently, or obviously intoxicated;
- 1649 (c) known habitual drunkard; or
- 1650 (d) known interdicted person.
- 1651 (12) (a) (i) Liquor may be sold only at ~~[prices]~~ a price fixed by the commission.
- 1652 (ii) Liquor may not be sold at a discount ~~[prices]~~ price on any date or at any time.
- 1653 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic  
1654 beverage to the restaurant liquor licensee.
- 1655 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
1656 over consumption or intoxication.
- 1657 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
1658 hours of ~~[the restaurant's]~~ a restaurant liquor licensee's business day such as a "happy hour."
- 1659 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or  
1660 served for the price of a single alcoholic beverage ~~[is prohibited]~~.
- 1661 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages  
1662 during ~~[any]~~ a set period may not be sold or served for a fixed price ~~[is prohibited]~~.
- 1663 (g) A restaurant liquor licensee may not engage in a public promotion involving or  
1664 offering free an alcoholic ~~[beverages]~~ beverage to the general public.
- 1665 (13) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of  
1666 a restaurant by:
- 1667 (a) the restaurant liquor licensee; or
- 1668 (b) ~~[any]~~ an employee or agent of the restaurant liquor licensee.
- 1669 (14) (a) A person may not bring onto the premises of a restaurant liquor licensee ~~[any]~~  
1670 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the

1671 discretion of the restaurant liquor licensee, bottled wine onto the premises of [~~any~~] a restaurant  
1672 liquor licensee for on-premise consumption.

1673 (b) Except bottled wine under Subsection (14)(a), a restaurant liquor licensee or [~~its~~  
1674 ~~officers, managers, employees, or agents~~] an officer, manager, employee, or agent of the  
1675 restaurant liquor licensee may not allow:

1676 (i) a person to bring onto the restaurant premises [~~any~~] an alcoholic beverage for  
1677 on-premise consumption; or

1678 (ii) consumption of [~~any such~~] an alcoholic beverage [~~on its~~] described in this  
1679 Subsection (14) on the restaurant liquor licensee's premises.

1680 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
1681 or other representative of the restaurant liquor licensee upon entering the restaurant.

1682 (d) A wine service may be performed and a service charge assessed by [~~the~~] a  
1683 restaurant liquor licensee as authorized by commission rule for wine carried in by a patron.

1684 (15) (a) Except as provided in Subsection (15)(b), a restaurant liquor licensee [~~and its~~  
1685 ~~employees~~] or an employee of the restaurant liquor licensee may not permit a restaurant patron  
1686 to carry from the restaurant premises an open container that:

1687 (i) is used primarily for drinking purposes; and

1688 (ii) contains [~~any~~] an alcoholic beverage.

1689 (b) Notwithstanding Subsection (15)(a), a restaurant patron may remove from the  
1690 restaurant the unconsumed contents of a bottle of wine purchased in the restaurant, or brought  
1691 onto the premises of the restaurant in accordance with Subsection (14), [~~provided~~] only if the  
1692 bottle [~~has been~~] is recorked or recapped before removal.

1693 (16) (a) A restaurant liquor licensee may not employ a minor [~~may not be employed by~~  
1694 ~~a restaurant licensee~~] to sell or dispense an alcoholic [~~beverages~~] beverage.

1695 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be  
1696 employed to enter the sale at a cash register or other sales recording device.

1697 (17) An employee of a restaurant liquor licensee, while on duty, may not:

1698 (a) consume an alcoholic beverage; or

1699 (b) be intoxicated.

1700 (18) [~~Any~~] A charge or fee made in connection with the sale, service, or consumption  
1701 of liquor may be stated in food or alcoholic beverage menus including:

- 1702 (a) a set-up charge;
- 1703 (b) a service charge; or
- 1704 (c) a chilling fee.
- 1705 (19) [~~Each~~] A restaurant liquor licensee shall display in a prominent place in the
- 1706 restaurant:
- 1707 (a) the liquor license that is issued by the department;
- 1708 (b) a list of the types and brand names of liquor being served through its calibrated
- 1709 metered dispensing system; and
- 1710 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 1711 drugs is a serious crime that is prosecuted aggressively in Utah."
- 1712 (20) A restaurant liquor licensee may not on the premises of the restaurant liquor
- 1713 licensee:
- 1714 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
- 1715 Chapter 10, Part 11, Gambling;
- 1716 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 1717 Part 11, Gambling; or
- 1718 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 1719 the risking of something of value for a return or for an outcome when the return or outcome is
- 1720 based upon an element of chance, excluding the playing of an amusement device that confers
- 1721 only an immediate and unrecorded right of replay not exchangeable for value.
- 1722 (21) (a) [~~Each~~] A restaurant liquor licensee shall maintain an expense ledger or record
- 1723 showing in detail:
- 1724 (i) quarterly expenditures made separately for:
- 1725 (A) malt or brewed beverages;
- 1726 (B) set-ups;
- 1727 (C) liquor;
- 1728 (D) food; and
- 1729 (E) all other items required by the department; and
- 1730 (ii) sales made separately for:
- 1731 (A) malt or brewed beverages;
- 1732 (B) set-ups;



- 1733 (C) food; and
- 1734 (D) all other items required by the department.
- 1735 (b) ~~[The]~~ A restaurant liquor licensee shall keep a record required by Subsection
- 1736 (21)(a) ~~[shall be kept]:~~
- 1737 (i) in a form approved by the department; and
- 1738 (ii) current for each three-month period.
- 1739 (c) ~~[Each]~~ An expenditure shall be supported by:
- 1740 (i) a delivery ~~[tickets]~~ ticket;
- 1741 (ii) ~~[invoices]~~ an invoice;
- 1742 (iii) a receipted ~~[bills]~~ bill;
- 1743 (iv) a canceled ~~[checks]~~ check;
- 1744 (v) a petty cash ~~[vouchers]~~ voucher; or
- 1745 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.
- 1746 (d) In addition to a ledger or record required under Subsection (21)(a), a restaurant
- 1747 liquor licensee shall maintain accounting and other records and documents as the department
- 1748 may require.
- 1749 (e) ~~[Any]~~ A restaurant liquor licensee or person acting for the restaurant, who
- 1750 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of~~
- 1751 ~~the books]~~ an entry in a book of account or other ~~[documents]~~ document of the restaurant that
- 1752 is required to be made, maintained, or preserved by this title or the rules of the commission for
- 1753 the purpose of deceiving the commission or the department, or ~~[any of their officials or~~
- 1754 ~~employees]~~ an official or employee of the commission or department, is subject to:
- 1755 (i) the suspension or revocation of the restaurant's liquor license; and
- 1756 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 1757 (22) (a) A restaurant liquor licensee may not close or cease operation for a period
- 1758 longer than 240 hours, unless:
- 1759 (i) the restaurant liquor licensee notifies the department in writing at least seven days
- 1760 before the ~~[closing]~~ day on which the restaurant liquor licensee closes or ceases operation; and
- 1761 (ii) the closure or cessation of operation is first approved by the department.
- 1762 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, ~~[immediate~~
- 1763 ~~notice of closure shall be made to]~~ the restaurant liquor licensee shall immediately notify the

1764 department by telephone.

1765 (c) (i) The department may authorize a closure or cessation of operation for a period  
1766 not to exceed 60 days.

1767 (ii) The department may extend the initial period an additional 30 days upon:

1768 (A) written request of the restaurant liquor licensee; and ~~upon~~

1769 (B) a showing of good cause.

1770 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
1771 commission approval.

1772 (d) ~~Any~~ A notice shall include:

1773 (i) the dates of closure or cessation of operation;

1774 (ii) the reason for the closure or cessation of operation; and

1775 (iii) the date on which the restaurant liquor licensee will reopen or resume operation.

1776 (e) Failure of the restaurant liquor licensee to provide notice and to obtain department  
1777 authorization ~~prior to~~ before closure or cessation of operation ~~shall result~~ results in an  
1778 automatic forfeiture of:

1779 (i) the license; and

1780 (ii) the unused portion of the license fee for the remainder of the license year effective  
1781 immediately.

1782 (f) Failure of the restaurant liquor licensee to reopen or resume operation by the  
1783 approved date ~~shall result~~ results in an automatic forfeiture of:

1784 (i) the license; and

1785 (ii) the unused portion of the license fee for the remainder of the license year.

1786 (23) ~~Each~~ A restaurant liquor licensee shall maintain at least 70% of its total  
1787 restaurant business from the sale of food, which does not include mix for an alcoholic  
1788 ~~beverages~~ beverage or service charges.

1789 (24) A restaurant liquor license may not be transferred from one location to another,  
1790 without prior written approval of the commission.

1791 (25) (a) A person, having been granted a restaurant liquor license may not sell, transfer,  
1792 assign, exchange, barter, give, or attempt in any way to dispose of the restaurant liquor license  
1793 to ~~any other~~ another person whether for monetary gain or not.

1794 (b) A restaurant liquor license has no monetary value for the purpose of any type of

1795 disposition.

1796 (26) ~~[Each]~~ A server of an alcoholic [beverages] beverage in a restaurant liquor  
1797 licensee's establishment shall keep a written beverage tab for each table or group that orders or  
1798 consumes an alcoholic [beverages] beverage on the premises. The beverage tab shall list the  
1799 type and amount of an alcoholic [beverages] beverage ordered or consumed.

1800 (27) A person's willingness to serve an alcoholic [beverages] beverage may not be  
1801 made a condition of employment as a server with a restaurant that has a restaurant liquor  
1802 license.

1803 (28) A restaurant liquor licensee or an employee of the restaurant liquor licensee may  
1804 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
1805 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1806 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
1807 58-37-2; or

1808 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
1809 Section 58-37a-3.

1810 Section 27. Section **32A-4-206** is amended to read:

1811 **32A-4-206. Operational restrictions.**

1812 ~~[Each]~~ A person granted an airport lounge liquor license and the employees and  
1813 management personnel of the airport lounge shall comply with the following conditions and  
1814 requirements. Failure to comply may result in a suspension or revocation of the airport lounge  
1815 liquor license or other disciplinary action taken against individual employees or management  
1816 personnel.

1817 (1) (a) Liquor may not be purchased by an airport lounge liquor licensee except from a  
1818 state ~~[stores]~~ store or package ~~[agencies]~~ agency.

1819 (b) Liquor purchased from a state store or package agency may be transported by the  
1820 airport lounge liquor licensee from the place of purchase to the licensed premises.

1821 (c) Payment for liquor shall be made in accordance with the rules established by the  
1822 commission.

1823 (2) An airport lounge liquor licensee may sell or provide a primary spirituous liquor  
1824 only in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered  
1825 dispensing system approved by the department in accordance with commission rules adopted

1826 under this title, except that:

1827 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1828 system if used as a secondary flavoring ingredient in a beverage subject to the following  
1829 restrictions:

1830 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of  
1831 a spirituous primary liquor;

1832 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

1833 (iii) the airport lounge liquor licensee shall designate a location where flavorings are  
1834 stored on the floor plan provided to the department; and

1835 (iv) ~~all~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled  
1836 "flavorings";

1837 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
1838 system if used:

1839 (i) as a flavoring on ~~desserts~~ a dessert; and

1840 (ii) in the preparation of a flaming food ~~dishes, drinks, and desserts~~ dish, drink, or  
1841 dessert; and

1842 (c) ~~each~~ an airport lounge patron may have no more than 2.75 ounces of spirituous  
1843 liquor at a time before the patron.

1844 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to  
1845 exceed five ounces per glass or individual portion.

1846 (ii) An individual portion may be served to a patron in more than one glass as long as  
1847 the total amount of wine does not exceed five ounces.

1848 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
1849 Subsection (7)(c).

1850 (b) (i) Wine may be sold and served in ~~containers~~ a container not exceeding 1.5 liters  
1851 at ~~prices~~ a price fixed by the commission to ~~tables~~ a table of four or more persons.

1852 (ii) Wine may be sold and served in ~~containers~~ a container not exceeding 750  
1853 milliliters at ~~prices~~ a price fixed by the commission to ~~tables~~ a table of less than four  
1854 persons.

1855 (c) A wine service may be performed and a service charge assessed by the airport  
1856 lounge liquor licensee as authorized by commission rule for wine purchased at the airport

1857 lounge.

1858 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding  
1859 one liter at [~~prices~~] a price fixed by the commission.

1860 (b) A flavored malt beverage may be served in an original container not exceeding one  
1861 liter at a price fixed by the commission.

1862 [~~(b)~~] (c) A service charge may be assessed by the airport lounge liquor licensee as  
1863 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the  
1864 airport lounge.

1865 (5) (a) (i) Subject to Subsection (5)(a)(ii), an airport lounge [~~licensed to sell~~] liquor  
1866 licensee may sell beer for on-premise consumption:

1867 (A) in an open container; and

1868 (B) on draft.

1869 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does  
1870 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
1871 container that exceeds one liter.

1872 (b) An airport lounge liquor licensee that sells beer pursuant to Subsection (5)(a):

1873 (i) may do so without obtaining a separate on-premise beer retailer license from the  
1874 commission; and

1875 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
1876 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those  
1877 restrictions are inconsistent with or less restrictive than the operational restrictions under this  
1878 part.

1879 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
1880 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the airport  
1881 lounge's:

1882 (i) state liquor license; and

1883 (ii) alcoholic beverage license issued by the local authority.

1884 (6) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in  
1885 [~~any~~] a place other than as designated in the airport lounge liquor licensee's application, unless  
1886 the airport lounge liquor licensee first applies for and receives approval from the department  
1887 for a change of location within the airport lounge.

1888 (7) (a) A patron may only make [~~purchases~~] a purchase in the airport lounge from and  
1889 be served by a person employed, designated, and trained by the airport lounge liquor licensee to  
1890 sell, dispense, and serve an alcoholic [~~beverages~~] beverage.

1891 (b) Notwithstanding Subsection (7)(a), a patron who [~~has purchased~~] purchases bottled  
1892 wine from an employee of the airport lounge may serve wine from the bottle to the patron or  
1893 others at the patron's table.

1894 (c) [~~Each~~] An airport lounge patron may have no more than two alcoholic beverages of  
1895 any kind at a time before the patron.

1896 (8) The liquor storage area shall remain locked at all times other than those hours and  
1897 days when liquor sales and service are authorized by law.

1898 (9) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, offered for sale,  
1899 served, or otherwise furnished at an airport lounge on any day after 12 midnight and before 8  
1900 a.m.

1901 (10) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or  
1902 otherwise furnished to [~~any~~] a:

1903 (a) minor;

1904 (b) person actually, apparently, or obviously intoxicated;

1905 (c) known habitual drunkard; or

1906 (d) known interdicted person.

1907 (11) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.

1908 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.

1909 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost  
1910 of the alcoholic beverage to the airport lounge liquor licensee.

1911 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
1912 over consumption or intoxication.

1913 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
1914 hours of the airport [~~lounge's~~] lounge liquor licensee's business day such as a "happy hour."

1915 (e) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or  
1916 served for the price of a single alcoholic beverage [~~is prohibited~~].

1917 (f) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic beverages  
1918 during [~~any~~] a set period may not be sold or served for a fixed price [~~is prohibited~~].

1919 (g) An airport lounge liquor licensee may not engage in a public promotion involving  
1920 or offering free an alcoholic [beverages] beverage to the general public.

1921 (12) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for a patron of  
1922 an airport lounge by:

1923 (a) the airport lounge liquor licensee; or

1924 (b) [~~any~~] an employee or agent of the airport lounge liquor licensee.

1925 (13) (a) A person may not bring onto the premises of an airport lounge liquor licensee  
1926 [~~any~~] an alcoholic beverage for on-premise consumption.

1927 (b) An airport lounge [~~or its officers, managers, employees, or agents~~] liquor licensee  
1928 or an officer, manager, employee, or agent of the airport lounge liquor licensee may not allow a  
1929 person to bring onto the airport lounge premises [~~any~~] an alcoholic beverage for on-premise  
1930 consumption or allow consumption of [~~any such~~] the alcoholic beverage on [~~its~~] the airport  
1931 lounge liquor licensee's premises.

1932 (14) An airport lounge liquor licensee and [~~its employees~~] an employee of the airport  
1933 lounge liquor licensee may not permit a patron to remove [~~any~~] an alcoholic [~~beverages~~]  
1934 beverage from the airport lounge premises.

1935 (15) (a) [~~A minor may not be employed by an~~] An airport lounge liquor licensee may  
1936 not employ a minor to sell or dispense an alcoholic [~~beverages~~] beverage.

1937 (b) Notwithstanding Subsection (15)(a), a minor who is at least 16 years of age may be  
1938 employed to enter the sale at a cash register or other sales recording device.

1939 (16) An employee of an airport lounge liquor licensee, while on duty, may not:

1940 (a) consume an alcoholic beverage; or

1941 (b) be intoxicated.

1942 (17) [~~Any~~] A charge or fee made in connection with the sale, service, or consumption  
1943 of liquor may be stated in a food or alcoholic beverage menu including:

1944 (a) a set-up charge;

1945 (b) a service charge; or

1946 (c) a chilling fee.

1947 (18) [~~Each~~] An airport lounge liquor licensee shall display in a prominent place in the  
1948 airport lounge:

1949 (a) the liquor license that is issued by the department;

1950 (b) a list of the types and brand names of liquor being served through its calibrated  
 1951 metered dispensing system; and

1952 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
 1953 drugs is a serious crime that is prosecuted aggressively in Utah."

1954 (19) (a) ~~[Each]~~ An airport lounge liquor licensee shall maintain an expense ledger or  
 1955 record showing in detail:

1956 (i) quarterly expenditures made separately for malt or brewed beverages, liquor, and all  
 1957 other items required by the department; and

1958 (ii) sales made separately for malt or brewed beverages, food, and all other items  
 1959 required by the department.

1960 ~~[(b) This record shall be kept:]~~

1961 (b) An airport lounge liquor licensee shall keep a record required by Subsection

1962 (19)(a):

1963 (i) in a form approved by the department; and

1964 (ii) current for each three-month period.

1965 (c) ~~[Each]~~ An expenditure shall be supported by:

1966 (i) a delivery ~~[tickets]~~ ticket;

1967 (ii) ~~[invoices]~~ an invoice;

1968 (iii) a receipted ~~[bills]~~ bill;

1969 (iv) a canceled ~~[checks]~~ check;

1970 (v) a petty cash ~~[vouchers]~~ voucher; or

1971 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.

1972 (d) In addition to a ledger or record required by Subsection (19)(a), ~~[each]~~ an airport  
 1973 lounge liquor licensee shall maintain accounting and other records and documents as the  
 1974 department may require.

1975 (e) ~~[Any]~~ An airport lounge liquor licensee or person acting for the airport lounge, who  
 1976 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of~~  
 1977 ~~the books]~~ an entry in a book of account or other ~~[documents]~~ document of the airport lounge  
 1978 required to be made, maintained, or preserved by this title or the rules of the commission for  
 1979 the purpose of deceiving the commission ~~[or]~~, the department, or ~~[any of their officials or~~  
 1980 ~~employees]~~ an official or employee of the commission or department, is subject to:



1981 (i) the immediate suspension or revocation of the airport lounge's liquor license; and  
1982 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

1983 (20) An airport lounge liquor license may not be transferred from one location to  
1984 another, without prior written approval of the commission.

1985 (21) (a) An airport lounge liquor licensee may not sell, transfer, assign, exchange,  
1986 barter, give, or attempt in any way to dispose of the airport lounge liquor license to [~~any other~~]  
1987 another person, whether for monetary gain or not.

1988 (b) An airport lounge liquor license has no monetary value for the purpose of any type  
1989 of disposition.

1990 (22) [~~Each~~] A server of an alcoholic [~~beverages~~] beverage in [~~a~~] an airport lounge  
1991 liquor licensee's establishment shall keep a written beverage tab for each table or group that  
1992 orders or consumes an alcoholic [~~beverages~~] beverage on the premises. The beverage tab shall  
1993 list the type and amount of an alcoholic [~~beverages~~] beverage ordered or consumed.

1994 (23) An airport lounge liquor licensee's premises may not be leased for a private  
1995 [~~functions~~] function.

1996 (24) An airport lounge liquor licensee may not on the premises of the airport lounge  
1997 liquor licensee:

1998 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
1999 Chapter 10, Part 11, Gambling;

2000 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
2001 Part 11, Gambling; or

2002 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
2003 the risking of something of value for a return or for an outcome when the return or outcome is  
2004 based upon an element of chance, excluding the playing of an amusement device that confers  
2005 only an immediate and unrecorded right of replay not exchangeable for value.

2006 (25) An airport lounge liquor licensee or an employee of the airport lounge liquor  
2007 licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58,  
2008 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2009 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
2010 58-37-2; or

2011 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in

2012 Section 58-37a-3.

2013 Section 28. Section **32A-4-302** is amended to read:

2014 **32A-4-302. Commission's power to grant licenses -- Limitations.**

2015 (1) A restaurant wanting to sell and allow the consumption of only wine, heavy beer,  
2016 and beer on its premises, but not spirituous liquor[;] or, on or after October 1, 2008, a flavored  
2017 malt beverage, shall obtain a limited restaurant license from the commission as provided in this  
2018 part before selling or allowing the consumption of wine, heavy beer, or beer on its premises.

2019 (2) (a) Subject to the other provisions of this section, the commission may issue limited  
2020 restaurant licenses for the purpose of establishing limited restaurant outlets at places and in  
2021 numbers the commission considers proper for the storage, sale, and consumption of wine,  
2022 heavy beer, and beer on premises operated as public restaurants.

2023 (b) The total number of limited restaurant licenses issued under this part may not at any  
2024 time aggregate more than that number determined by dividing the population of the state by  
2025 [~~11,000~~] 9,300.

2026 (c) For purposes of this Subsection (2), population shall be determined by:

2027 (i) the most recent United States decennial or special census; or

2028 (ii) [~~any other~~] another population determination made by the United States or state  
2029 governments.

2030 (3) (a) (i) The commission may issue seasonal limited restaurant licenses established in  
2031 areas the commission considers necessary.

2032 (ii) A seasonal limited restaurant license shall be for a period of six consecutive  
2033 months.

2034 (b) (i) A limited restaurant license issued for operation during a summer time period is  
2035 known as a "Seasonal A" limited restaurant license. The period of operation for a "Seasonal A"  
2036 limited restaurant license shall:

2037 (A) begin on May 1; and

2038 (B) end on October 31.

2039 (ii) A limited restaurant license issued for operation during a winter time period is  
2040 known as a "Seasonal B" limited restaurant license. The period of operation for a "Seasonal B"  
2041 limited restaurant license shall:

2042 (A) begin on November 1; and

2043 (B) end on April 30.

2044 (iii) In determining the number of limited restaurant licenses that the commission may  
2045 issue under this section:

2046 (A) a seasonal limited restaurant license is counted as 1/2 of one limited restaurant  
2047 license; and

2048 (B) each "Seasonal A" limited restaurant license shall be paired with a "Seasonal B"  
2049 limited restaurant license.

2050 (c) If the location, design, and construction of a hotel may require more than one  
2051 limited restaurant sales location within the hotel to serve the public convenience, the  
2052 commission may authorize the sale of wine, heavy beer, and beer at as many as three limited  
2053 restaurant locations within the hotel under one license if:

2054 (i) the hotel has a minimum of 150 guest rooms; and

2055 (ii) all locations under the license are:

2056 (A) within the same hotel facility; and

2057 (B) on premises that are:

2058 (I) managed or operated by the licensee; and

2059 (II) owned or leased by the licensee.

2060 (d) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel shall have a separate limited  
2061 restaurant license for each restaurant where wine, heavy beer, and beer are sold.

2062 (4) (a) ~~[The]~~ Except as provided in Subsection (4)(b) or (c), the premises of a limited  
2063 restaurant license may not be established:

2064 (i) within 600 feet of ~~[any public or private school, church, public library, public~~  
2065 ~~playground, or park]~~ a community location, as measured by the method in Subsection ~~[(5);]~~  
2066 ~~(4)(d);~~ or

2067 ~~[(b) The premises of a limited restaurant license may not be established]~~

2068 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~  
2069 ~~playground, or park]~~ a community location, measured in a straight line from the nearest  
2070 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~  
2071 ~~school, church, public library, public playground, or park]~~ community location.

2072 ~~[(c) The restrictions contained in Subsections (4)(a) and (b) govern unless one of the~~  
2073 ~~following exemptions applies:]~~

2074 ~~[(i) with]~~ (b) With respect to the establishment of a limited restaurant license ~~[in any~~  
2075 ~~location]~~, the commission may authorize a variance to reduce the proximity ~~[requirements]~~  
2076 requirement of Subsection (4)(a)(i) ~~[or (b)]~~ if:

2077 ~~[(A)]~~ (i) the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the  
2078 variance;

2079 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a limited  
2080 restaurant license in the community are limited;

2081 ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where  
2082 practical in the neighborhood concerned; ~~[and]~~

2083 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the  
2084 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
2085 establishing the license would not be detrimental to the public health, peace, safety, and  
2086 welfare of the community; ~~[or]~~ and

2087 (v) (A) the community location governing authority gives its written consent to the  
2088 variance; or

2089 (B) when written consent is not given by the community location governing authority,  
2090 the commission finds that the applicant has established that:

2091 (I) there is substantial unmet public demand to consume alcohol in a public setting  
2092 within the geographic boundary of the local authority in which the limited restaurant licensee is  
2093 to be located;

2094 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
2095 described in Subsection (4)(b)(v)(B)(I) other than through the establishment of a limited  
2096 restaurant license; and

2097 (III) there is no reasonably viable alternative location within the geographic boundary  
2098 of the local authority in which the limited restaurant licensee is to be located for establishing a  
2099 limited restaurant license to satisfy the unmet demand described in Subsection (4)(b)(v)(B)(I).

2100 ~~[(ii) with]~~ (c) With respect to the premises of ~~[any]~~ a limited restaurant license issued  
2101 by the commission that undergoes a change of ownership, the commission may waive or vary  
2102 the proximity requirements of ~~[Subsections]~~ Subsection (4)(a) ~~[and (b)]~~ in considering whether  
2103 to grant a limited restaurant license to the new owner of the premises if:

2104 (A) (I) the premises previously received a variance reducing the proximity

2105 [~~requirements~~] requirement of Subsection (4)(a)(i) [~~or (b)~~]; or

2106 (II) the premises received a variance reducing the proximity requirement of Subsection  
 2107 (4)(a)(ii) on or before May 5, 2008; or

2108 (B) a variance from proximity [~~or distance requirement~~] requirements was otherwise  
 2109 allowed under this title.

2110 [~~(5) With respect to any public or private school, church, public library, public~~  
 2111 ~~playground, or park, the]~~

2112 (d) The 600 foot limitation as described in Subsection (4)(a)(i) is measured from the  
 2113 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
 2114 property boundary of the [public or private school, church, public library, public playground,  
 2115 school playground, or park] community location.

2116 [~~(6)~~] (5) (a) Nothing in this section prevents the commission from considering the  
 2117 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
 2118 reaching a decision on a proposed location.

2119 (b) For purposes of this Subsection [~~(6)~~] (5), "educational facility" includes:

2120 (i) a nursery school;

2121 (ii) an infant day care center; and

2122 (iii) a trade and technical school.

2123 Section 29. Section **32A-4-303** is amended to read:

2124 **32A-4-303. Application and renewal requirements.**

2125 (1) A person seeking a limited restaurant license under this part shall file a written  
 2126 application with the department, in a form prescribed by the department. The application shall  
 2127 be accompanied by:

2128 (a) a nonrefundable \$250 application fee;

2129 (b) an initial license fee of \$500, which is refundable if a license is not granted;

2130 (c) written consent of the local authority;

2131 (d) a copy of the applicant's current business license;

2132 (e) evidence of proximity to any [~~public or private school, church, public library,~~  
 2133 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~  
 2134 ~~Subsections 32A-4-302(4) and (5), the application shall be processed in accordance with those~~  
 2135 ~~subsections]~~ community location, with proximity requirements being governed by Section

2136 32A-4-302;

2137 (f) a bond as specified by Section 32A-4-306;

2138 (g) a floor plan of the restaurant, including:

2139 (i) consumption areas; and

2140 (ii) the area where the applicant proposes to keep, store, and sell wine, heavy beer, and  
2141 beer;

2142 (h) evidence that the restaurant is carrying public liability insurance in an amount and  
2143 form satisfactory to the department;

2144 (i) evidence that the restaurant is carrying dramshop insurance coverage of at least  
2145 \$500,000 per occurrence and \$1,000,000 in the aggregate;

2146 (j) a signed consent form stating that the restaurant will permit any authorized  
2147 representative of the commission, department, or any law enforcement officer unrestricted right  
2148 to enter the restaurant;

2149 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
2150 company, proper verification evidencing that the person or persons signing the restaurant  
2151 application are authorized to so act on behalf of the partnership, corporation, or limited liability  
2152 company; and

2153 (l) any other information the commission or department may require.

2154 (2) (a) All limited restaurant licenses expire on October 31 of each year.

2155 (b) A person desiring to renew that person's limited restaurant license shall submit:

2156 (i) a renewal fee of \$300; and

2157 (ii) a renewal application to the department no later than September 30.

2158 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
2159 the license effective on the date the existing license expires.

2160 (d) [~~Renewal applications~~] A renewal application shall be in a form as prescribed by  
2161 the department.

2162 (3) To ensure compliance with Subsection 32A-4-307(25), the commission may  
2163 suspend or revoke a limited restaurant license if the limited restaurant licensee does not  
2164 immediately notify the department of any change in:

2165 (a) ownership of the restaurant;

2166 (b) for a corporate owner, the:

- 2167 (i) corporate officer or directors; or
- 2168 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
- 2169 corporation; or
- 2170 (c) for a limited liability company:
- 2171 (i) managers; or
- 2172 (ii) members owning at least 20% of the limited liability company.

2173 Section 30. Section **32A-4-305** is amended to read:

2174 **32A-4-305. Commission and department duties before granting licenses.**

2175 (1) (a) Before a limited restaurant license may be granted by the commission, the

2176 department shall conduct an investigation and may hold public hearings for the purpose of

2177 gathering information and making recommendations to the commission as to whether or not a

2178 license should be granted.

2179 (b) The department shall forward the information and recommendations described in

2180 Subsection (1)(a) to the commission to aid in the commission's determination.

2181 (2) Before issuing [~~any~~] a limited restaurant license, the commission shall:

2182 (a) determine that the applicant has complied with all basic qualifications and

2183 requirements for making application for a license as provided by Sections 32A-4-302 and

2184 32A-4-303;

2185 (b) determine that the application is complete;

2186 (c) consider the locality within which the proposed limited restaurant outlet is located,

2187 including:

2188 (i) physical characteristics such as:

2189 (A) the condition of the premises;

2190 (B) square footage; and

2191 (C) parking availability; and

2192 (ii) operational factors such as:

2193 (A) tourist traffic;

2194 (B) proximity to and density of other state stores, package agencies, and outlets;

2195 (C) demographics;

2196 (D) population to be served; and

2197 (E) the extent of and proximity to any [~~school, church, public library, public~~]

2198 ~~playground, or park]~~ community location;

2199 (d) consider the applicant's ability to manage and operate a limited restaurant license,  
2200 including:

2201 (i) management experience;

2202 (ii) past retail liquor experience; and

2203 (iii) the type of management scheme employed by the restaurant;

2204 (e) consider the nature or type of restaurant operation, including:

2205 (i) the type of menu items offered and emphasized;

2206 (ii) whether the restaurant emphasizes service to an adult clientele or to minors;

2207 (iii) the hours of operation;

2208 (iv) the seating capacity of the facility; and

2209 (v) the gross sales of food items; and

2210 (f) consider any other factors or circumstances the commission considers necessary.

2211 Section 31. Section **32A-4-307** is amended to read:

2212 **32A-4-307. Operational restrictions.**

2213 [~~Each~~] A person granted a limited restaurant license and the employees and  
2214 management personnel of the limited restaurant shall comply with the following conditions and  
2215 requirements. Failure to comply may result in a suspension or revocation of the license or  
2216 other disciplinary action taken against individual employees or management personnel.

2217 (1) (a) Wine and heavy beer may not be purchased by a limited restaurant licensee  
2218 except from a state [stores] store or package [agencies] agency.

2219 (b) Wine and heavy beer purchased [~~in accordance with Subsection (1)(a)] from a state  
2220 store or package agency may be transported by the limited restaurant licensee from the place of  
2221 purchase to the licensed premises.~~

2222 (c) Payment for wine and heavy beer shall be made in accordance with rules  
2223 established by the commission.

2224 (2) (a) A limited restaurant licensee may not sell, serve, or allow consumption of  
2225 [~~spirituous liquor~~] the products listed in Subsection (2)(c) on the premises of the limited  
2226 restaurant.

2227 (b) [~~Spirituous liquor~~] A product listed in Subsection (2)(c) may not be on the premises  
2228 of the limited restaurant except for use:



- 2229 (i) as a flavoring on [~~desserts~~] a dessert; and
- 2230 (ii) in the preparation of a flaming food [~~dishes, drinks, and desserts~~] dish, drink, or
- 2231 dessert.
- 2232 (c) This Subsection (2) applies to:
- 2233 (i) spirituous liquor; and
- 2234 (ii) on or after October 1, 2008, a flavored malt beverage.
- 2235 (3) (a) (i) Wine may be sold and served by the glass or an individual portion not to
- 2236 exceed five ounces per glass or individual portion.
- 2237 (ii) An individual portion may be served to a patron in more than one glass as long as
- 2238 the total amount of wine does not exceed five ounces.
- 2239 (iii) An individual portion of wine is considered to be one alcoholic beverage under
- 2240 Subsection (7)(e).
- 2241 (b) (i) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters
- 2242 at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of four or more persons.
- 2243 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 750
- 2244 milliliters at [~~prices~~] a price fixed by the commission to [~~tables~~] a table of less than four
- 2245 persons.
- 2246 (c) A wine service may be performed and a service charge assessed by the limited
- 2247 restaurant licensee as authorized by commission rule for wine purchased at the limited
- 2248 restaurant.
- 2249 (4) (a) Heavy beer may be served in an original [~~containers~~] container not exceeding
- 2250 one liter at [~~prices~~] a price fixed by the commission.
- 2251 (b) A service charge may be assessed by the limited restaurant licensee as authorized
- 2252 by commission rule for heavy beer purchased at the limited restaurant.
- 2253 (5) (a) (i) Subject to Subsection (5)(a)(ii), a limited restaurant licensee may sell beer for
- 2254 on-premise consumption:
- 2255 (A) in an open container; and
- 2256 (B) on draft.
- 2257 (ii) Beer sold pursuant to Subsection (5)(a)(i) shall be in a size of container that does
- 2258 not exceed two liters, except that beer may not be sold to an individual patron in a size of
- 2259 container that exceeds one liter.

2260 (b) A limited restaurant licensee that sells beer pursuant to Subsection (5)(a):  
2261 (i) may do so without obtaining a separate on-premise beer retailer license from the  
2262 commission; and  
2263 (ii) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
2264 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those  
2265 restrictions are inconsistent with or less restrictive than the operational restrictions under this  
2266 part.

2267 (c) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
2268 Licenses, required by Subsection (5)(b) may result in a suspension or revocation of the limited  
2269 restaurant's:

2270 (i) limited restaurant license; and  
2271 (ii) alcoholic beverage license issued by the local authority.

2272 (6) Wine, heavy beer, and beer may not be stored, served, or sold in [~~any~~] a place other  
2273 than as designated in the limited restaurant licensee's application, unless the limited restaurant  
2274 licensee first applies for and receives approval from the department for a change of location  
2275 within the limited restaurant.

2276 (7) (a) (i) A patron may only make an alcoholic beverage [~~purchases~~] purchase in [~~the~~]  
2277 a limited restaurant from and be served by a person employed, designated, and trained by the  
2278 limited restaurant licensee to sell and serve an alcoholic [~~beverages~~] beverage.

2279 (ii) Notwithstanding Subsection (7)(a)(i), a patron who [~~has purchased~~] purchases  
2280 bottled wine from an employee of the limited restaurant [~~or has carried~~] licensee or carries  
2281 bottled wine onto the premises of the limited restaurant pursuant to Subsection (14) may  
2282 thereafter serve wine from the bottle to the patron or others at the patron's table.

2283 (b) [~~Alcoholic beverages~~] An alcoholic beverage shall be delivered by a server to the  
2284 patron.

2285 (c) [~~Any~~] An alcoholic beverage may only be consumed at the patron's table or counter.

2286 (d) [~~Alcoholic beverages~~] An alcoholic beverage may not be served to or consumed by  
2287 a patron at a bar.

2288 (e) [~~Each~~] A limited restaurant patron may have no more than two alcoholic beverages  
2289 of any kind at a time before the patron.

2290 (8) The alcoholic beverage storage area shall remain locked at all times other than

2291 those hours and days when alcoholic beverage sales are authorized by law.

2292 (9) (a) Wine and heavy beer may not be sold, offered for sale, served, or otherwise  
2293 furnished at a limited restaurant during the following days or hours:

2294 (i) until after the polls are closed on the day of ~~[any]~~ a:

2295 (A) regular general election;

2296 (B) regular primary election; or

2297 (C) statewide special election;

2298 (ii) until after the polls are closed on the day of ~~[any]~~ a municipal, local district, special  
2299 service district, or school election, but only:

2300 (A) within the boundaries of the municipality, local district, special service district, or  
2301 school district; and

2302 (B) if required by local ordinance; and

2303 (iii) on ~~[any other]~~ another day after 12 midnight and before 12 noon.

2304 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
2305 Licenses, for on-premise beer licensees.

2306 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold except in  
2307 connection with an order of food prepared, sold, and served at the limited restaurant.

2308 (11) Wine, heavy beer, and beer may not be sold, served, or otherwise furnished to  
2309 ~~[any]~~ a:

2310 (a) minor;

2311 (b) person actually, apparently, or obviously intoxicated;

2312 (c) known habitual drunkard; or

2313 (d) known interdicted person.

2314 (12) (a) (i) Wine and heavy beer may be sold only at ~~[prices]~~ a price fixed by the  
2315 commission.

2316 (ii) Wine and heavy beer may not be sold at a discount ~~[prices]~~ price on any date or at  
2317 any time.

2318 (b) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be sold at less than the cost  
2319 of the alcoholic ~~[beverages]~~ beverage to the limited restaurant licensee.

2320 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
2321 over consumption or intoxication.

2322 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
2323 hours of the limited ~~[restaurant's]~~ restaurant licensee's business day such as a "happy hour."

2324 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or  
2325 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

2326 (f) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic beverages  
2327 during ~~[any]~~ a set period may not be sold or service for a fixed price ~~[is prohibited]~~.

2328 (g) A limited restaurant licensee may not engage in a public promotion involving or  
2329 offering free alcoholic beverages to the general public.

2330 (13) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for a patron of  
2331 the limited restaurant by:

2332 (a) the limited restaurant licensee; or

2333 (b) ~~[any]~~ an employee or agent of the limited restaurant licensee.

2334 (14) (a) A person may not bring onto the premises of a limited restaurant licensee ~~[any]~~  
2335 an alcoholic beverage for on-premise consumption, except a person may bring, subject to the  
2336 discretion of the limited restaurant licensee, bottled wine onto the premises of ~~[any]~~ a limited  
2337 restaurant licensee for on-premise consumption.

2338 (b) Except bottled wine under Subsection (14)(a), a limited restaurant licensee ~~[or its~~  
2339 ~~officers, managers, employees, or agents]~~ or an officer, manager, employee, or agent of a  
2340 limited restaurant licensee may not allow:

2341 (i) a person to bring onto the limited restaurant premises ~~[any]~~ an alcoholic beverage  
2342 for on-premise consumption; or

2343 (ii) consumption of ~~[any]~~ an alcoholic beverage described in Subsection (14)(b)(i) on  
2344 ~~[its]~~ the limited restaurant licensee's premises.

2345 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
2346 or other representative of the limited restaurant licensee upon entering the limited restaurant.

2347 (d) A wine service may be performed and a service charge assessed by the limited  
2348 restaurant licensee as authorized by commission rule for wine carried in by a patron.

2349 (15) (a) Except as provided in Subsection (15)(b), a limited restaurant licensee ~~[and its~~  
2350 ~~employees]~~ and an employee of the limited restaurant licensee may not permit a restaurant  
2351 patron to carry from the limited restaurant premises an open container that:

2352 (i) is used primarily for drinking purposes; and

- 2353 (ii) contains ~~[any]~~ an alcoholic beverage.
- 2354 (b) Notwithstanding Subsection (15)(a), a patron may remove the unconsumed  
2355 contents of a bottle of wine if before removal, the bottle ~~[has been]~~ is recorked or recapped.
- 2356 (16) (a) A ~~[minor may not be employed by a]~~ limited restaurant licensee may not  
2357 employ a minor to sell or dispense an alcoholic ~~[beverages]~~ beverage.
- 2358 (b) Notwithstanding Subsection (16)(a), a minor who is at least 16 years of age may be  
2359 employed to enter the sale at a cash register or other sales recording device.
- 2360 (17) An employee of a limited restaurant licensee, while on duty, may not:
- 2361 (a) consume an alcoholic beverage; or
- 2362 (b) be intoxicated.
- 2363 (18) A charge or fee made in connection with the sale, service, or consumption of wine  
2364 or heavy beer may be stated in food or alcoholic beverage menus including:
- 2365 (a) a service charge; or
- 2366 (b) a chilling fee.
- 2367 (19) ~~[Each]~~ A limited restaurant licensee shall display in a prominent place in the  
2368 restaurant:
- 2369 (a) the limited restaurant license that is issued by the department; and
- 2370 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
2371 drugs is a serious crime that is prosecuted aggressively in Utah."
- 2372 (20) A limited restaurant licensee may not on the premises of the restaurant:
- 2373 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
2374 Chapter 10, Part 11, Gambling;
- 2375 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
2376 Part 11, Gambling; or
- 2377 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
2378 the risking of something of value for a return or for an outcome when the return or outcome is  
2379 based upon an element of chance, excluding the playing of an amusement device that confers  
2380 only an immediate and unrecorded right of replay not exchangeable for value.
- 2381 (21) (a) ~~[Each]~~ A limited restaurant licensee shall maintain an expense ledger or record  
2382 showing in detail:
- 2383 (i) quarterly expenditures made separately for:

- 2384 (A) wine;
- 2385 (B) heavy beer;
- 2386 (C) beer;
- 2387 (D) food; and
- 2388 (E) all other items required by the department; and
- 2389 (ii) sales made separately for:
- 2390 (A) wine;
- 2391 (B) heavy beer;
- 2392 (C) beer;
- 2393 (D) food; and
- 2394 (E) all other items required by the department.
- 2395 (b) ~~[The]~~ A limited restaurant licensee shall keep a record required by Subsection
- 2396 (21)(a) ~~[shall be kept]:~~
- 2397 (i) in a form approved by the department; and
- 2398 (ii) current for each three-month period.
- 2399 (c) ~~[Each]~~ An expenditure shall be supported by:
- 2400 (i) a delivery ~~[tickets]~~ ticket;
- 2401 (ii) ~~[invoices]~~ an invoice;
- 2402 (iii) a receipted ~~[bills]~~ bill;
- 2403 (iv) a canceled ~~[checks]~~ check;
- 2404 (v) a petty cash ~~[vouchers]~~ voucher; or
- 2405 (vi) other sustaining ~~[data or memoranda]~~ datum or memorandum.
- 2406 (d) In addition to the ledger or record maintained under Subsections (21)(a) through
- 2407 (c), a limited restaurant licensee shall maintain accounting and other records and documents as
- 2408 the department may require.
- 2409 (e) Any limited restaurant licensee or person acting for the restaurant, who knowingly
- 2410 forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of the books]~~
- 2411 an entry in a book of account or other ~~[documents]~~ document of the limited restaurant that is
- 2412 required to be made, maintained, or preserved by this title or the rules of the commission for
- 2413 the purpose of deceiving the commission ~~[or], the~~ department, or ~~[any of their officials or~~
- 2414 ~~employees]~~ an official or employee of the commission or department, is subject to:

- 2415 (i) the suspension or revocation of the limited restaurant's license; and  
2416 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 2417 (22) (a) A limited restaurant licensee may not close or cease operation for a period  
2418 longer than 240 hours, unless:
- 2419 (i) the limited restaurant licensee notifies the department in writing at least seven days  
2420 before the ~~[closing]~~ day on which the limited restaurant licensee closes or ceases operation; and  
2421 (ii) the closure or cessation of operation is first approved by the department.
- 2422 (b) Notwithstanding Subsection (22)(a), in the case of emergency closure, ~~[immediate~~  
2423 ~~notice of closure shall be made to]~~ the limited restaurant licensee shall immediately notify the  
2424 department by telephone.
- 2425 (c) (i) Subject to Subsection (22)(c)(iii), the department may authorize a closure or  
2426 cessation of operation for a period not to exceed 60 days.
- 2427 (ii) The department may extend the initial period an additional 30 days upon:  
2428 (A) written request of the limited restaurant licensee; and  
2429 (B) a showing of good cause.
- 2430 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
2431 commission approval.
- 2432 (d) ~~[Any]~~ A notice required by Subsection (22)(a) shall include:  
2433 (i) the dates of closure or cessation of operation;  
2434 (ii) the reason for the closure or cessation of operation; and  
2435 (iii) the date on which the limited restaurant licensee will reopen or resume operation.
- 2436 (e) Failure of the limited restaurant licensee to provide notice and to obtain department  
2437 authorization before closure or cessation of operation ~~[shall result]~~ results in an automatic  
2438 forfeiture of:  
2439 (i) the limited restaurant license; and  
2440 (ii) the unused portion of the license fee for the remainder of the license year effective  
2441 immediately.
- 2442 (f) Failure of the limited restaurant licensee to reopen or resume operation by the  
2443 approved date ~~[shall result]~~ results in an automatic forfeiture of:  
2444 (i) the limited restaurant license; and  
2445 (ii) the unused portion of the license fee for the remainder of the license year.

2446 (23) ~~[Each]~~ A limited restaurant licensee shall maintain at least 70% of its total  
2447 restaurant business from the sale of food, which does not include service charges.

2448 (24) A limited restaurant license may not be transferred from one location to another,  
2449 without prior written approval of the commission.

2450 (25) (a) A limited restaurant licensee may not sell, transfer, assign, exchange, barter,  
2451 give, or attempt in any way to dispose of the limited restaurant license to ~~[any other]~~ another  
2452 person whether for monetary gain or not.

2453 (b) A limited restaurant license has no monetary value for the purpose of any type of  
2454 disposition.

2455 (26) (a) ~~[Each]~~ A server of wine, heavy beer, and beer in a limited restaurant licensee's  
2456 establishment shall keep a written beverage tab for each table or group that orders or consumes  
2457 an alcoholic [beverages] beverage on the premises.

2458 (b) The beverage tab required by Subsection (26)(a) shall list the type and amount of an  
2459 alcoholic ~~[beverages]~~ beverage ordered or consumed.

2460 (27) A limited restaurant licensee may not make a person's willingness to serve an  
2461 alcoholic ~~[beverages]~~ beverage a condition of employment as a server with the limited  
2462 restaurant.

2463 (28) A limited restaurant licensee or an employee of the limited restaurant licensee may  
2464 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
2465 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2466 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
2467 58-37-2; or

2468 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
2469 Section 58-37a-3.

2470 Section 32. Section **32A-4-401** is amended to read:

2471 **32A-4-401. Definitions -- Commission's power to grant licenses -- Limitations.**

2472 (1) (a) For purposes of this part:

2473 (i) "Banquet" means an event:

2474 (A) for which there is a contract:

2475 (I) between any person and a person listed in Subsection (1)(a)(i)(B); and

2476 (II) under which a person listed in Subsection (1)(a)(i)(B) is required to provide



2477 alcoholic beverages at the event;

2478 (B) held at one or more designated locations approved by the commission in or on the  
2479 premises of a:

2480 (I) hotel;

2481 (II) resort facility;

2482 (III) sports center; or

2483 (IV) convention center; and

2484 (C) at which food and alcoholic beverages may be sold and served.

2485 (ii) "Convention center" is as defined by the commission by rule.

2486 (iii) "Hotel" is as defined by the commission by rule.

2487 (iv) "Resort facility" is as defined by the commission by rule.

2488 (v) "Room service" means service of alcoholic beverages to a guest room of a:

2489 (A) hotel; or

2490 (B) resort facility.

2491 (vi) "Sports center" is as defined by the commission by rule.

2492 (b) The commission may issue an on-premise banquet license to any of the following  
2493 persons for the purpose of allowing the storage, sale, service, and consumption of alcoholic  
2494 beverages in connection with that person's banquet and room service activities:

2495 (i) hotel;

2496 (ii) resort facility;

2497 (iii) sports center; or

2498 (iv) convention center.

2499 (c) This chapter is not intended to prohibit alcoholic beverages on the premises of a  
2500 person listed in Subsection (1) to the extent otherwise permitted by this title.

2501 (2) (a) Subject to this section, the total number of on-premise banquet licenses may not  
2502 at any time aggregate more than that number determined by dividing the population of the state  
2503 by 30,000.

2504 (b) For purposes of this Subsection (2), the population of the state shall be determined  
2505 by:

2506 (i) the most recent United States decennial or special census; or

2507 (ii) [~~any other~~] another population determination made by the United States or state

2508 governments.

2509 (3) Pursuant to a contract between the host of a banquet and an on-premise banquet  
2510 licensee:

2511 (a) the host of a contracted banquet may request an on-premise banquet licensee to  
2512 provide alcoholic beverages served at a banquet; and

2513 (b) an on-premise banquet licensee may provide the alcoholic beverages served at a  
2514 banquet.

2515 (4) At a banquet, an on-premise banquet licensee may provide:

2516 (a) a hosted bar; or

2517 (b) a cash bar.

2518 (5) Nothing in this section shall prohibit a qualified on-premise banquet license  
2519 applicant from applying for a package agency.

2520 (6) (a) ~~[The]~~ Except as provided in Subsection (6)(b) or (c), the premises of an  
2521 on-premise banquet license may not be established:

2522 (i) within 600 feet of [any public or private school, church, public library, public  
2523 playground, or park] a community location, as measured by the method in Subsection (6)(d)[-];  
2524 or

2525 ~~[(b) The premises of an on-premise banquet license may not be established]~~

2526 (ii) within 200 feet of [any public or private school, church, public library, public  
2527 playground, or park] a community location, measured in a straight line from the nearest  
2528 entrance of the proposed outlet to the nearest property boundary of the [public or private  
2529 school, church, public library, public playground, or park] community location.

2530 ~~[(c) The restrictions contained in Subsections (6)(a) and (b) govern unless one of the~~  
2531 ~~following exemptions applies:]~~

2532 ~~[(i) with]~~ (b) With respect to the establishment of an on-premise banquet license  
2533 ~~[within any location],~~ the commission may authorize a variance to reduce the proximity  
2534 ~~[requirements]~~ requirement of Subsection (6)(a)(i) ~~[or (b)]~~ if:

2535 ~~[(A)]~~ (i) the local authority grants its written consent to the variance;

2536 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing an on-premise  
2537 banquet license in the community are limited;

2538 ~~[(C)]~~ (iii) the variance is authorized after a public hearing is held in the city, town, or

2539 county, and where practical in the neighborhood concerned; ~~[and]~~

2540 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the  
 2541 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
 2542 establishing the license would not be detrimental to the public health, peace, safety, and  
 2543 welfare of the community; ~~[or]~~ and

2544 (v) (A) the community location governing authority gives its written consent to the  
 2545 variance; or

2546 (B) when written consent is not given by the community location governing authority,  
 2547 the commission finds that the applicant has established that:

2548 (I) there is substantial unmet public demand to consume alcohol in a public setting  
 2549 within the geographic boundary of the local authority in which the on-premise banquet license  
 2550 premises is to be located;

2551 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
 2552 described in Subsection (6)(b)(v)(B)(I) other than through the establishment of an on-premise  
 2553 banquet license; and

2554 (III) there is no reasonably viable alternative location within the geographic boundary  
 2555 of the local authority in which the on-premise banquet license premises is to be located for  
 2556 establishing an on-premise banquet license to satisfy the unmet demand described in  
 2557 Subsection (6)(b)(v)(B)(I).

2558 ~~[(ii) with]~~ (c) With respect to the premises of any on-premise banquet license issued  
 2559 by the commission that undergoes a change of ownership, the commission may waive or vary  
 2560 the proximity requirements of ~~[Subsections]~~ Subsection (6)(a) ~~[and (b)]~~ in considering whether  
 2561 to grant an on-premise banquet license to the new owner of the premises if:

2562 (A) (I) the premises previously received a variance reducing the proximity  
 2563 [requirements] requirement of Subsection (6)(a)(i) [or (b)]; or

2564 (II) the premises received a variance reducing the proximity requirement of Subsection  
 2565 (6)(a)(ii) on or before May 4, 2008; or

2566 (B) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed under  
 2567 this title.

2568 (d) ~~[With respect to any public or private school, church, public library, public~~  
 2569 ~~playground, or park, the]~~ The 600 foot limitation described in Subsection (6)(a) is measured

2570 from the nearest entrance of the outlet by following the shortest route of ordinary pedestrian  
 2571 travel to the property boundary of the [~~public or private school, church, public library, public~~  
 2572 ~~playground, school playground, or park~~] community location.

2573 (7) (a) Nothing in this section prevents the commission from considering the proximity  
 2574 of any educational, religious, and recreational facility, or any other relevant factor in reaching a  
 2575 decision on a proposed location.

2576 (b) For purposes of this Subsection (7), "educational facility" includes:

2577 (i) a nursery school;

2578 (ii) an infant day care center; and

2579 (iii) a trade and technical school.

2580 Section 33. Section **32A-4-402** is amended to read:

2581 **32A-4-402. Application and renewal requirements.**

2582 (1) (a) A person seeking an on-premise banquet license under this part shall file a  
 2583 written application with the department, in a form prescribed by the department. The  
 2584 application shall be accompanied by:

2585 (i) a nonrefundable \$250 application fee;

2586 (ii) an initial license fee of \$500, which is refundable if a license is not granted;

2587 (iii) written consent of the local authority;

2588 (iv) a copy of the applicant's current business license;

2589 (v) evidence of proximity to any [~~public or private school, church, public library,~~  
 2590 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~  
 2591 ~~Subsection 32A-4-401(6), the application shall be processed in accordance with those~~  
 2592 ~~subsections~~] community location, with proximity requirements being governed by Section  
 2593 32A-4-401;

2594 (vi) a bond as specified by Section 32A-4-405;

2595 (vii) a description or floor plan and boundary map of the premises, where appropriate,  
 2596 of the on-premise banquet license applicant's location, designating:

2597 (A) the location at which the on-premise banquet license applicant proposes that  
 2598 alcoholic beverages be stored; and

2599 (B) the designated locations on the premises of the applicant from which the  
 2600 on-premise banquet license applicant proposes that alcoholic beverages be sold or served, and

2601 consumed;

2602 (viii) evidence that the on-premise banquet license applicant is carrying public liability  
2603 insurance in an amount and form satisfactory to the department;

2604 (ix) evidence that the on-premise banquet license applicant is carrying dramshop  
2605 insurance coverage of at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

2606 (x) a signed consent form stating that the on-premise banquet license applicant will  
2607 permit any authorized representative of the commission, department, or any law enforcement  
2608 officer unrestricted right to enter the on-premise banquet premises;

2609 (xi) in the case of an applicant that is a partnership, corporation, or limited liability  
2610 company, proper verification evidencing that the person or persons signing the on-premise  
2611 banquet license application are authorized to so act on behalf of the partnership, corporation, or  
2612 limited liability company; and

2613 (xii) any other information the commission or department may require.

2614 (b) An applicant need not meet the requirements of Subsections (1)(a)(i), (ii), (iii), (iv),  
2615 and (vi) if the applicant is:

2616 (i) a state agency; or  
2617 (ii) a political subdivision of the state including:  
2618 (A) a county; or  
2619 (B) a municipality.

2620 (2) Additional locations in or on the premises of an on-premise banquet license  
2621 applicant's business from which the on-premise banquet license applicant may propose that  
2622 alcoholic beverages may be stored, sold or served, or consumed, not included in the applicant's  
2623 original application may be approved by the department upon proper application, in accordance  
2624 with guidelines approved by the commission.

2625 (3) (a) All on-premise banquet licenses expire on October 31 of each year.

2626 (b) (i) Except as provided in Subsection (3)(b)(ii), a person desiring to renew that  
2627 person's on-premise banquet license shall submit a renewal fee of \$500 and a completed  
2628 renewal application to the department no later than September 30.

2629 (ii) A licensee is not required to submit the renewal fee if the licensee is:  
2630 (A) a state agency; or  
2631 (B) a political subdivision of the state including:

2632 (I) a county; or

2633 (II) a municipality.

2634 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
2635 the license effective on the date the existing license expires.

2636 (d) [~~Renewal applications~~] A renewal application shall be in a form as prescribed by  
2637 the department.

2638 (4) To ensure compliance with Subsection 32A-4-406(24), the commission may  
2639 suspend or revoke an on-premise banquet license if the on-premise banquet licensee fails to  
2640 immediately notify the department of any change in:

2641 (a) ownership of the licensee;

2642 (b) for a corporate owner, the:

2643 (i) corporate officers or directors; or

2644 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
2645 corporation; or

2646 (c) for a limited liability company:

2647 (i) managers; or

2648 (ii) members owning at least 20% of the limited liability company.

2649 Section 34. Section ~~32A-4-406~~ is amended to read:

2650 **32A-4-406. Operational restrictions.**

2651 [~~Each~~] A person granted an on-premise banquet license and the employees and  
2652 management personnel of the on-premise banquet licensee shall comply with this title, the rules  
2653 of the commission, and the following conditions and requirements. Failure to comply may  
2654 result in a suspension or revocation of the on-premise banquet license or other disciplinary  
2655 action taken against individual employees or management personnel.

2656 (1) A person involved in the sale or service of an alcoholic [~~beverages~~] beverage under  
2657 the on-premise banquet license shall:

2658 (a) be under the supervision and direction of the on-premise banquet licensee; and

2659 (b) complete the seminar provided for in Section 62A-15-401.

2660 (2) (a) Liquor may not be purchased by [~~the~~] an on-premise banquet licensee except  
2661 from a state [~~stores~~] store or package [~~agencies~~] agency.

2662 (b) Liquor purchased [~~in accordance with Subsection (2)(a)] from a state store or~~

2663 package agency may be transported by the on-premise banquet licensee from the place of  
2664 purchase to the licensed premises.

2665 (c) Payment for liquor shall be made in accordance with rules established by the  
2666 commission.

2667 (3) [~~Alcoholic beverages~~] An alcoholic beverage may be sold or provided at a banquet  
2668 by an on-premise banquet licensee subject to the restrictions set forth in this Subsection (3).

2669 (a) An on-premise banquet licensee may sell or provide [~~any~~] a primary spirituous  
2670 liquor only in a quantity not to exceed one ounce per beverage dispensed through a calibrated  
2671 metered dispensing system approved by the department in accordance with commission rules  
2672 adopted under this title, except that:

2673 (i) spirituous liquor need not be dispensed through a calibrated metered dispensing  
2674 system if used as a secondary flavoring ingredient in a beverage subject to the following  
2675 restrictions:

2676 (A) the secondary ingredient may be dispensed only in conjunction with the purchase  
2677 of a primary spirituous liquor;

2678 (B) the secondary ingredient may not be the only spirituous liquor in the beverage;

2679 (C) the on-premise banquet licensee shall designate a location where flavorings are  
2680 stored on the floor plan provided to the department; and

2681 (D) [~~all~~] a flavoring [~~containers~~] container shall be plainly and conspicuously labeled  
2682 "flavorings";

2683 (ii) spirituous liquor need not be dispensed through a calibrated metered dispensing  
2684 system if used:

2685 (A) as a flavoring on [~~desserts~~] a dessert; and

2686 (B) in the preparation of a flaming food [~~dishes, drinks, and desserts~~] dish, drink, or  
2687 dessert;

2688 (iii) [~~each~~] an attendee may have no more than 2.75 ounces of spirituous liquor at a  
2689 time before the attendee; and

2690 (iv) [~~each~~] an attendee may have no more than one spirituous liquor drink at a time  
2691 before the attendee.

2692 (b) (i) (A) Wine may be sold and served by the glass or an individual portion not to  
2693 exceed five ounces per glass or individual portion.

2694 (B) An individual portion may be served to an attendee in more than one glass as long  
2695 as the total amount of wine does not exceed five ounces.

2696 (C) An individual portion of wine is considered to be one alcoholic beverage under  
2697 Subsection (5)(c).

2698 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters at  
2699 [~~prices~~] a price fixed by the commission.

2700 (iii) A wine service may be performed and a service charge assessed by the on-premise  
2701 banquet licensee as authorized by commission rule for wine purchased on the banquet  
2702 premises.

2703 (c) (i) Heavy beer may be served in an original [~~containers~~] container not exceeding  
2704 one liter at [~~prices~~] a price fixed by the commission.

2705 (ii) A flavored malt beverage may be served in an original container not exceeding one  
2706 liter at a price fixed by the commission.

2707 [~~(ii)~~] (iii) A service charge may be assessed by the on-premise banquet licensee as  
2708 authorized by commission rule for heavy beer or a flavored malt beverage purchased on the  
2709 banquet premises.

2710 (d) (i) Except as provided in Subsection (3)(d)(ii), beer may be sold and served for  
2711 on-premise consumption:

2712 (A) in an open container; and

2713 (B) on draft.

2714 (ii) Beer sold pursuant to Subsection (3)(d)(i) shall be in a size of container that does  
2715 not exceed two liters, except that beer may not be sold to an individual attendee in a container  
2716 size that exceeds one liter.

2717 (4) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in  
2718 any place other than as designated in the on-premise banquet licensee's application, except that  
2719 additional locations in or on the premises of an on-premise banquet licensee may be approved  
2720 in accordance with guidelines approved by the commission as provided in Subsection  
2721 32A-4-402(2).

2722 (5) (a) An attendee may only make an alcoholic beverage [~~purchases~~] purchase from  
2723 and be served by a person employed, designated, and trained by the on-premise banquet  
2724 licensee to sell and serve an alcoholic [~~beverages~~] beverage.



2725 (b) Notwithstanding Subsection (5)(a), an attendee who [~~has purchased~~] purchases  
2726 bottled wine from an employee of the on-premise banquet licensee may thereafter serve wine  
2727 from the bottle to the attendee or others at the attendee's table.

2728 (c) [~~Each~~] An attendee may have no more than two alcoholic beverages of any kind at a  
2729 time before the attendee.

2730 (6) The alcoholic beverage storage area shall remain locked at all times other than  
2731 those hours and days when alcoholic beverage sales are authorized by law.

2732 (7) (a) Except as provided in Subsection (7)(b), an alcoholic [~~beverages~~] beverage may  
2733 be offered for sale, sold, served, or otherwise furnished by an on-premise banquet licensee  
2734 from 10 a.m. to 1 a.m. seven days a week:

- 2735 (i) at a banquet; or
- 2736 (ii) in connection with room service.

2737 (b) Notwithstanding Subsection (7)(a), a sale or service of liquor may not occur at a  
2738 banquet or in connection with room service until after the polls are closed on the day of:

- 2739 (i) a regular general election;
- 2740 (ii) a regular primary election; or
- 2741 (iii) a statewide special election.

2742 (8) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise  
2743 furnished to [~~any~~] a:

- 2744 (a) minor;
- 2745 (b) person actually, apparently, or obviously intoxicated;
- 2746 (c) known habitual drunkard; or
- 2747 (d) known interdicted person.

2748 (9) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.

2749 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.

2750 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost  
2751 of the alcoholic beverage to the on-premise banquet licensee.

2752 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
2753 over consumption or intoxication.

2754 (d) An alcoholic beverage may not be sold at a special or reduced price for only certain  
2755 hours of the on-premise banquet licensee's business day such as a "happy hour."

2756 (e) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or  
2757 served for the price of a single alcoholic beverage ~~[is prohibited]~~.

2758 (f) An on-premise banquet licensee may not engage in a public promotion involving or  
2759 offering free alcoholic beverages to the general public.

2760 (10) ~~[Alcoholic beverages]~~ An alcoholic beverage may not be purchased for an  
2761 attendee by:

2762 (a) the on-premise banquet licensee; or

2763 (b) ~~[any]~~ an employee or agent of the on-premise banquet licensee.

2764 (11) An attendee of a banquet may not bring ~~[any]~~ an alcoholic beverage into or onto,  
2765 or remove ~~[any]~~ an alcoholic beverage from the premises of a banquet.

2766 (12) (a) Except as otherwise provided in this title, the sale and service of an alcoholic  
2767 ~~[beverages]~~ beverage by an on-premise banquet licensee at a banquet shall be made only for  
2768 consumption at the location of the banquet.

2769 (b) The host of a banquet, an attendee, or ~~[any other]~~ a person other than the  
2770 on-premise banquet licensee or ~~[its employees]~~ an employee of the on-premise banquet  
2771 licensee, may not remove ~~[any]~~ an alcoholic beverage from the premises of the banquet.

2772 (13) An on-premise banquet licensee employee shall remain at the banquet at all times  
2773 when an alcoholic ~~[beverages are being]~~ beverage is sold, served, or consumed at the banquet.

2774 (14) (a) An on-premise banquet licensee may not leave ~~[any]~~ an unsold alcoholic  
2775 ~~[beverages]~~ beverage at the banquet following the conclusion of the banquet.

2776 (b) At the conclusion of a banquet, the on-premise banquet licensee or ~~[its employees]~~  
2777 an employee of the on-premise banquet licensee, shall:

2778 (i) destroy ~~[any]~~ an opened and unused alcoholic ~~[beverages]~~ beverage that ~~[are]~~ is not  
2779 saleable, under conditions established by the department; and

2780 (ii) return to the on-premise banquet licensee's approved locked storage area any:

2781 (A) opened and unused alcoholic beverage that is saleable; and

2782 (B) unopened ~~[containers]~~ container of an alcoholic ~~[beverages]~~ beverage.

2783 (15) Except as provided in Subsection (14), ~~[any]~~ an open or sealed container of an  
2784 alcoholic ~~[beverages]~~ beverage not sold or consumed at a banquet:

2785 (a) shall be stored by the on-premise banquet licensee in the on-premise banquet  
2786 licensee's approved locked storage area; and

2787 (b) may be used at more than one banquet.

2788 (16) An on-premise banquet licensee may not employ a minor to sell, serve, dispense,  
2789 or otherwise furnish an alcoholic [~~beverages~~] beverage in connection with the on-premise  
2790 banquet licensee's banquet and room service activities.

2791 (17) An employee of an on-premise banquet licensee, while on duty, may not:

2792 (a) consume an alcoholic beverage; or

2793 (b) be intoxicated.

2794 (18) An on-premise banquet licensee shall prominently display at [~~each~~] a banquet at  
2795 which an alcoholic [~~beverages are~~] beverage is sold or served:

2796 (a) a copy of the licensee's on-premise banquet license; and

2797 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
2798 drugs is a serious crime that is prosecuted aggressively in Utah."

2799 (19) An on-premise banquet licensee may not on the premises of the hotel, resort  
2800 facility, sports center, or convention center:

2801 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
2802 Chapter 10, Part 11, Gambling;

2803 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
2804 Part 11, Gambling; or

2805 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
2806 the risking of something of value for a return or for an outcome when the return or outcome is  
2807 based upon an element of chance, excluding the playing of an amusement device that confers  
2808 only an immediate and unrecorded right of replay not exchangeable for value.

2809 (20) (a) An on-premise banquet licensee shall maintain accounting and such other  
2810 records and documents as the commission or department may require.

2811 (b) An on-premise banquet licensee or person acting for the on-premise banquet  
2812 licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes [~~the~~  
2813 ~~entries in any of the books~~] an entry in a book of account or other [~~documents~~] document of the  
2814 on-premise banquet licensee required to be made, maintained, or preserved by this title or the  
2815 rules of the commission for the purpose of deceiving the commission [~~or~~], the department, or  
2816 [~~any of their officials or employees~~] an official or employee of the commission or department,  
2817 is subject to:

2818 (i) the suspension or revocation of the on-premise banquet license; and  
2819 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

2820 (21) (a) For the purpose described in Subsection (21)(b), an on-premise banquet  
2821 licensee shall provide the department with advance notice of a scheduled banquet in  
2822 accordance with rules made by the commission in accordance with Title 63, Chapter 46a, Utah  
2823 Administrative Rulemaking Act.

2824 (b) The advance notice required by Subsection (21)(a) is required to provide any of the  
2825 following the opportunity to conduct a random inspection of a banquet:

2826 (i) an authorized representative of the commission or the department; or  
2827 (ii) a law enforcement officer.

2828 (22) An on-premise banquet licensee shall maintain at least 50% of its total annual  
2829 banquet gross receipts from the sale of food, not including:

2830 (a) mix for an alcoholic [~~beverages~~] beverage; and  
2831 (b) [~~charges~~] a charge in connection with the service of an alcoholic [~~beverages~~]  
2832 beverage.

2833 (23) A person may not transfer an on-premise banquet license from one business  
2834 location to another without prior written approval of the commission.

2835 (24) (a) An on-premise banquet licensee may not sell, transfer, assign, exchange,  
2836 barter, give, or attempt in any way to dispose of the license to [~~any other~~] another person,  
2837 whether for monetary gain or not.

2838 (b) An on-premise banquet license has no monetary value for the purpose of any type  
2839 of disposition.

2840 (25) (a) Room service of an alcoholic [~~beverages~~] beverage to a guest room of a hotel  
2841 or resort facility shall be provided in person by an on-premise banquet licensee employee only  
2842 to an adult guest in the guest room.

2843 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be left outside a guest room  
2844 for retrieval by a guest.

2845 (c) An on-premise banquet licensee may only provide an alcoholic [~~beverages~~]  
2846 beverage for room service in a sealed [~~containers~~] container.

2847 (26) An on-premise banquet licensee or an employee of the on-premise banquet  
2848 licensee may not knowingly allow a person on a banquet location of a hotel, resort facility,

2849 sports center, or convention center to, in violation of Title 58, Chapter 37, Utah Controlled  
2850 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

2851 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
2852 58-37-2; or

2853 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
2854 Section 58-37a-3.

2855 Section 35. Section **32A-5-101** is amended to read:

2856 **32A-5-101. Commission's power to license private clubs -- Limitations.**

2857 (1) Before a private club may sell or allow the consumption of alcoholic beverages on  
2858 its premises, the private club shall first obtain a license from the commission as provided in  
2859 this chapter.

2860 (2) The commission may grant private club licenses to social clubs, recreational,  
2861 athletic, or kindred associations that desire to maintain premises upon which alcoholic  
2862 beverages may be stored, sold, served, and consumed.

2863 (3) At the time the commission grants a private club license the commission shall  
2864 designate whether the private club license qualifies as a class A, B, C, or D license as defined  
2865 in Subsections (3)(a) through (d).

2866 (a) A "class A licensee" is a private club licensee that:

2867 (i) meets the requirements of this chapter;

2868 (ii) owns, maintains, or operates a substantial recreational facility in conjunction with a  
2869 club house such as:

2870 (A) a golf course; or

2871 (B) a tennis facility;

2872 (iii) has at least 50% of the total membership having:

2873 (A) full voting rights; and

2874 (B) an equal share of the equity of the club; and

2875 (iv) if there is more than one class of membership, has at least one class of membership  
2876 that entitles each member in that class to:

2877 (A) full voting rights; and

2878 (B) an equal share of the equity of the club.

2879 (b) A "class B licensee" is a private club licensee that:

- 2880 (i) meets the requirements of this chapter;
- 2881 (ii) has no capital stock;
- 2882 (iii) exists solely for:
  - 2883 (A) the benefit of its members and their beneficiaries; and
  - 2884 (B) ~~any~~ a lawful social, intellectual, educational, charitable, benevolent, moral,
  - 2885 fraternal, patriotic, or religious purpose for the benefit of its members or the public, carried on
  - 2886 through voluntary activity of its members in their local lodges;
  - 2887 (iv) has a representative form of government; and
  - 2888 (v) has a lodge system in which:
    - 2889 (A) there is a supreme governing body;
    - 2890 (B) subordinate to the supreme governing body are local lodges, however designated,
    - 2891 into which individuals are admitted as members in accordance with the laws of the fraternal;
    - 2892 (C) the local lodges are required by the laws of the fraternal to hold regular meetings at
    - 2893 least monthly; and
    - 2894 (D) the local lodges regularly engage in one or more programs involving member
    - 2895 participation to implement the purposes of Subsection (3)(b)(iii).
- 2896 (c) A "class C licensee" is a private club licensee that:
  - 2897 (i) meets the requirements of this chapter;
  - 2898 (ii) is a dining club, as determined by the commission in accordance with Subsection
  - 2899 (4); and
  - 2900 (iii) maintains at least 50% of its total private club business from the sale of food, not
  - 2901 including:
    - 2902 (A) mix for alcoholic beverages; or
    - 2903 (B) service charges.
  - 2904 (d) A "class D licensee" is a private club licensee that:
    - 2905 (i) meets the requirements of this chapter; and
    - 2906 (ii) (A) does not meet the requirements of a class A, B, or C license; or
    - 2907 (B) seeks to qualify as a class D licensee.
  - 2908 (4) In determining whether an applicant is a dining club under Subsection (3)(c), the
  - 2909 commission:
    - 2910 (a) shall determine whether the applicant maintains at least 50% of its total private club

- 2911 business from the sale of food, not including:
- 2912 (i) mix for alcoholic beverages;
- 2913 (ii) service charges; or
- 2914 (iii) membership and visitor card fees; and
- 2915 (b) may consider:
- 2916 (i) the square footage and seating capacity of the applicant;
- 2917 (ii) what portion of the square footage and seating capacity will be used for a dining
- 2918 area in comparison to the portion that will be used as a bar area;
- 2919 (iii) whether full meals including appetizers, main courses, and desserts are served;
- 2920 (iv) whether the applicant will maintain adequate on-premise culinary facilities to
- 2921 prepare full meals, except an applicant that is located on the premise of a hotel or resort facility
- 2922 may use the culinary facilities of the hotel or resort facility;
- 2923 (v) whether the entertainment provided at the club is suitable for minors; and
- 2924 (vi) the club management's ability to manage and operate a dining club including:
- 2925 (A) management experience;
- 2926 (B) past dining club or restaurant management experience; and
- 2927 (C) the type of management scheme employed by the private club.
- 2928 (5) (a) A private club or any officer, director, managing agent, or employee of a private
- 2929 club may not store, sell, serve, or permit consumption of alcoholic beverages upon the premises
- 2930 of the club, under a permit issued by local authority or otherwise, unless a private club license
- 2931 ~~has been~~ is first issued by the commission.
- 2932 (b) Violation of this Subsection (5) is a class B misdemeanor.
- 2933 (6) (a) Subject to the other provisions of this Subsection (6), the commission may issue
- 2934 private club licenses at places and in numbers as ~~it~~ the commission considers necessary.
- 2935 (b) The total number of private club licenses may not at any time aggregate more than
- 2936 that number determined by dividing the population of the state by ~~[7,300]~~ 7,850.
- 2937 (c) For purposes of this Subsection (6), population shall be determined by:
- 2938 (i) the most recent United States decennial or special census; or
- 2939 (ii) ~~any other~~ another population determination made by the United States or state
- 2940 governments.
- 2941 (d) (i) The commission may issue seasonal private club licenses to be established in

2942 areas the commission considers necessary.

2943 (ii) A seasonal private club license shall be for a period of six consecutive months.

2944 (iii) A private club license issued for operation during a summer time period is known  
2945 as a "Seasonal A" private club license. The period of operation for a "Seasonal A" club license  
2946 shall:

2947 (A) begin on May 1; and

2948 (B) end on October 31.

2949 (iv) A private club license issued for operation during a winter time period is known as  
2950 a "Seasonal B" private club license. The period of operation for a "Seasonal B" club license  
2951 shall:

2952 (A) begin on November 1; and

2953 (B) end on April 30.

2954 (v) In determining the number of private club licenses that the commission may issue  
2955 under this section:

2956 (A) a seasonal private club license is counted as 1/2 of one private club license; and

2957 (B) each "Seasonal A" license shall be paired with a "Seasonal B" license.

2958 (e) (i) If the location, design, and construction of a hotel may require more than one  
2959 private club location within the hotel to serve the public convenience, the commission may  
2960 authorize as many as three private club locations within the hotel under one license if:

2961 (A) the hotel has a minimum of 150 guest rooms; and

2962 (B) all locations under the license are:

2963 (I) within the same hotel facility; and

2964 (II) on premises which are managed or operated and owned or leased by the licensee.

2965 (ii) ~~[Facilities]~~ A facility other than ~~[hotels]~~ a hotel may not have more than one private  
2966 club location under a single private club license.

2967 (7) (a) ~~[The]~~ Except as provided in Subsection (7)(b) or (c), the premises of a private  
2968 club license may not be established;

2969 (i) within 600 feet of [any public or private school, church, public library, public  
2970 playground, or park] a community location, as measured by the method in Subsection [(8):]  
2971 (7)(d); or

2972 ~~[(b) The premises of a private club license may not be established]~~



2973           (ii) within 200 feet of [~~any public or private school, church, public library, public~~  
 2974 ~~playground, or park~~] a community location, measured in a straight line from the nearest  
 2975 entrance of the proposed outlet to the nearest property boundary of the [~~public or private~~  
 2976 ~~school, church, public library, public playground, or park~~] community location.

2977           ~~[(c) The restrictions contained in Subsections (7)(a) and (b) govern unless one of the~~  
 2978 ~~following exemptions applies:]~~

2979           ~~[(i) with]~~ (b) With respect to the establishment of a private club license [~~within a city~~  
 2980 ~~of the third, fourth, or fifth class, a town, or the unincorporated area of a county~~], the  
 2981 commission may authorize a variance to reduce the proximity [~~requirements~~] requirement of  
 2982 Subsection (7)(a)(i) [~~or (b)~~] if:

2983           ~~[(A)]~~ (i) the local governing authority [~~has granted~~] grants its written consent to the  
 2984 variance;

2985           ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing a private club  
 2986 license in the community are limited;

2987           ~~[(C)]~~ (iii) a public hearing [~~has been~~] is held in the city, town, or county, and where  
 2988 practical in the neighborhood concerned; [~~and~~]

2989           ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the  
 2990 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
 2991 establishing the license would not be detrimental to the public health, peace, safety, and  
 2992 welfare of the community; and

2993           ~~[(ii) with respect to the establishment of a private club license in any location, the~~  
 2994 ~~commission may authorize a variance to reduce the proximity requirements of Subsection~~  
 2995 ~~(7)(a) or (b) in relation to a church:]~~

2996           ~~[(A) if the local governing body of the church in question gives its written consent to~~  
 2997 ~~the variance;]~~

2998           ~~[(B) following a public hearing in the city, town, or county and where practical in the~~  
 2999 ~~neighborhood concerned; and]~~

3000           ~~[(C) after giving full consideration to all of the attending circumstances and the~~  
 3001 ~~policies stated in Subsections 32A-1-104(3) and (4); or]~~

3002           (v) (A) the community location governing authority gives its written consent to the  
 3003 variance; or

3004 (B) when written consent is not given by the community location governing authority,  
3005 the commission finds that the applicant has established that:

3006 (I) there is substantial unmet public demand to consume alcohol in a public setting  
3007 within the geographic boundary of the local authority in which the private club licensee is to be  
3008 located;

3009 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
3010 described in Subsection (7)(b)(v)(B)(I) other than through the establishment of a private club  
3011 licensee; and

3012 (III) there is no reasonably viable alternative location within the geographic boundary  
3013 of the local authority in which the private club licensee is to be located for establishing a  
3014 private club license to satisfy the unmet demand described in Subsection (7)(b)(v)(B)(I).

3015 ~~[(iii) with]~~ (c) With respect to the premises of a private club license issued by the  
3016 commission that undergoes a change of ownership, the commission may waive or vary the  
3017 proximity requirements of Subsection (7)(a) ~~[or (b)]~~ in considering whether to grant a private  
3018 club license to the new owner of the premises if:

3019 (A) (I) the premises previously received a variance reducing the proximity  
3020 ~~[requirements]~~ requirement of Subsection (7)(a)(i) ~~[or (b)]~~; or

3021 (II) the premises received a variance reducing the proximity requirement of Subsection  
3022 (7)(a)(ii) on or before May 4, 2008;

3023 (B) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed under  
3024 this title.

3025 ~~[(8) With respect to any public or private school, church, public library, public~~  
3026 ~~playground, or park, the]~~

3027 (d) The 600 foot limitation described in Subsection (7)(a)(i) is measured from the  
3028 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
3029 property boundary of the [public or private school, church, public library, public playground, or  
3030 park] community location.

3031 ~~[(9)]~~ (8) (a) Nothing in this section prevents the commission from considering the  
3032 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
3033 reaching a decision on whether to issue a private club license.

3034 (b) For purposes of this Subsection ~~[(9)]~~ (8), "educational facility" includes:

- 3035 (i) a nursery school;
- 3036 (ii) infant day care center; and
- 3037 (iii) a trade and technical school.
- 3038 ~~[(10)]~~ (9) If requested by a private club licensee, the commission may approve a
- 3039 change in the class of private club license in accordance with rules made by the commission.
- 3040 Section 36. Section **32A-5-102** is amended to read:
- 3041 **32A-5-102. Application and renewal requirements.**
- 3042 (1) A club seeking a class A, B, C, or D private club license under this chapter shall
- 3043 file a written application with the department in a form prescribed by the department. The
- 3044 application shall be accompanied by:
- 3045 (a) a nonrefundable \$250 application fee;
- 3046 (b) an initial license fee of \$2,500, which is refundable if a license is not granted;
- 3047 (c) written consent of the local authority;
- 3048 (d) a copy of the applicant's current business license;
- 3049 (e) evidence of proximity to any ~~[public or private school, church, public library,~~
- 3050 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitations of~~
- 3051 ~~Subsections 32A-5-101(7) and (8), the application shall be processed in accordance with those~~
- 3052 ~~subsections]~~ community location, with proximity requirements being governed by Section
- 3053 32A-5-101;
- 3054 (f) evidence that the applicant operates a club where a variety of food is prepared and
- 3055 served in connection with dining accommodations;
- 3056 (g) a bond as specified by Section 32A-5-106;
- 3057 (h) a floor plan of the club premises, including consumption areas and the area where
- 3058 the applicant proposes to keep and store liquor;
- 3059 (i) evidence that the club is carrying public liability insurance in an amount and form
- 3060 satisfactory to the department;
- 3061 (j) evidence that the club is carrying dramshop insurance coverage of at least \$500,000
- 3062 per occurrence and \$1,000,000 in the aggregate;
- 3063 (k) a copy of the club's bylaws or house rules, and any amendments to those
- 3064 documents, which shall be kept on file with the department at all times;
- 3065 (l) a signed consent form stating that the club and its management will permit any

3066 authorized representative of the commission, department, or any law enforcement officer  
3067 unrestricted right to enter the club premises;

3068 (m) (i) a statement as to whether the private club is seeking to qualify as a class A, B,  
3069 C, or D private club licensee; and

3070 (ii) evidence that the private club meets the requirements for the classification for  
3071 which the club is applying;

3072 (n) in the case of a partnership, corporation, or limited liability company applicant,  
3073 proper verification evidencing that the person or persons signing the private club application  
3074 are authorized to so act on behalf of the partnership, corporation, or limited liability company;  
3075 and

3076 (o) any other information the commission or department may require.

3077 (2) (a) The commission may refuse to issue a license if the commission determines that  
3078 any provisions of the club's bylaws or house rules, or amendments to those documents are not:

3079 (i) reasonable; and

3080 (ii) consistent with:

3081 (A) the declared nature and purpose of the applicant; and

3082 (B) the purposes of this chapter.

3083 (b) Club bylaws or house rules shall include provisions respecting the following:

3084 (i) standards of eligibility for members;

3085 (ii) limitation of members, consistent with the nature and purpose of the private club;

3086 (iii) the period for which dues are paid, and the date upon which the period expires;

3087 (iv) provisions for dropping members for the nonpayment of dues or other cause; and

3088 (v) provisions for guests or visitors, if any, and for the issuance and use of visitor

3089 cards.

3090 (3) (a) All private club licenses expire on June 30 of each year.

3091 (b) A person desiring to renew that person's private club license shall submit by no later  
3092 than May 31:

3093 (i) a completed renewal application to the department; and

3094 (ii) a renewal fee in the following amount:

3095	Gross Cost of Liquor in Previous License Year for the Licensee	Renewal Fee
3096	under \$10,000	\$1,000

3097	equals or exceeds \$10,000 but less than \$25,000	\$1,250
3098	equals or exceeds \$25,000 but less than \$75,000	\$1,750
3099	equals or exceeds \$75,000	\$2,250

3100 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of  
 3101 the license effective on the date the existing license expires.

3102 (d) ~~[Renewal applications]~~ A renewal application shall be in a form as prescribed by  
 3103 the department.

3104 (4) To ensure compliance with Subsection 32A-5-107(40), the commission may  
 3105 suspend or revoke any private club license if the private club licensee does not immediately  
 3106 notify the department of any change in:

- 3107 (a) ownership of the club;
- 3108 (b) for a corporate owner, the:
  - 3109 (i) corporate officers or directors; or
  - 3110 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the  
 3111 corporation; or

- 3112 (c) for a limited liability company:
  - 3113 (i) managers; or
  - 3114 (ii) members owning at least 20% of the limited liability company.

3115 Section 37. Section **32A-5-104** is amended to read:

3116 **32A-5-104. Commission and department duties before granting licenses.**

3117 (1) (a) Before a private club license may be granted by the commission, the department  
 3118 shall conduct an investigation and may hold public hearings for the purpose of gathering  
 3119 information and making recommendations to the commission as to whether or not a license  
 3120 should be granted.

3121 (b) The department shall forward the information and recommendations described in  
 3122 Subsection (1)(a) to the commission to aid in the commission's determination.

3123 (2) Before issuing ~~[any]~~ a private club license, the commission shall:

- 3124 (a) determine that:
  - 3125 (i) the applicant has complied with all basic qualifications and requirements for making  
 3126 application for a license as provided by Sections 32A-5-102 and 32A-5-103~~[-];~~ and ~~[that]~~
  - 3127 (ii) the application is complete;

3128 (b) determine whether the applicant qualifies as a class A, B, C, or D private club  
3129 licensee;

3130 (c) consider the locality within which the proposed private club outlet is located  
3131 including:

3132 (i) physical characteristics such as:

3133 (A) condition of the premises;

3134 (B) square footage; and

3135 (C) parking availability; and

3136 (ii) operational factors such as:

3137 (A) tourist traffic;

3138 (B) proximity to and density of other state stores, package agencies, and licensed  
3139 outlets;

3140 (C) demographics;

3141 (D) population to be served; and

3142 (E) the extent of and proximity to any [~~school, church, public library, public~~  
3143 ~~playground, or park~~] community location;

3144 (d) consider the club management's ability to manage and operate a private club  
3145 license, including:

3146 (i) management experience[;];

3147 (ii) past retail liquor experience[;]; and

3148 (iii) the type of management scheme employed by the private club;

3149 (e) consider the nature or type of private club operation of the proposed liquor licensee,  
3150 including:

3151 (i) the type of menu items offered and emphasized[;];

3152 (ii) the hours of operation[;];

3153 (iii) the seating capacity of the facility[;]; and

3154 (iv) the gross sales of food items; and

3155 (f) consider any other factor or circumstance the commission considers necessary.

3156 Section 38. Section **32A-5-107** is amended to read:

3157 **32A-5-107. Operational restrictions.**

3158 [~~Each~~] A club granted a private club license and the employees, management personnel,

3159 and members of the club shall comply with the following conditions and requirements. Failure  
3160 to comply may result in a suspension or revocation of the private club license or other  
3161 disciplinary action taken against individual employees or management personnel.

3162 (1) ~~[Each]~~ A private club shall have a governing body that:

3163 (a) consists of three or more members of the private club; and

3164 (b) holds regular meetings to:

3165 (i) review membership applications; and

3166 (ii) conduct ~~[any]~~ other business as required by the bylaws or house rules of the private  
3167 club.

3168 (2) (a) ~~[Each]~~ A private club may admit an individual as a member only on written  
3169 application signed by the applicant, subject to:

3170 (i) the applicant paying an application fee as required by Subsection (4); and

3171 (ii) investigation, vote, and approval of a quorum of the governing body.

3172 (b) (i) ~~[Admissions]~~ An admission of a member shall be recorded in the official  
3173 minutes of a regular meeting of the governing body.

3174 (ii) An application, whether approved or disapproved, shall be filed as a part of the  
3175 official records of the private club licensee.

3176 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an  
3177 applicant and immediately accord the applicant temporary privileges of a member until the  
3178 governing body completes its investigation and votes on the application, subject to the  
3179 following conditions:

3180 (i) the applicant shall:

3181 (A) submit a written application; and

3182 (B) pay the application fee required by Subsection (4);

3183 (ii) the governing body votes on the application at its next meeting, which shall take  
3184 place no later than 31 days following the day on which the application ~~[was]~~ is submitted; and

3185 (iii) the applicant's temporary membership privileges ~~[are terminated]~~ terminate if the  
3186 governing body disapproves the application.

3187 (d) The spouse of a member of any class of private club ~~[is entitled to all]~~ has the rights  
3188 and privileges of the member:

3189 (i) to the extent permitted by the bylaws or house rules of the private club; and

- 3190 (ii) except to the extent restricted by this title.
- 3191 (e) The minor child of a member of a class A private club [~~is entitled to all~~] has the
- 3192 rights and privileges of the member:
- 3193 (i) to the extent permitted by the bylaws or house rules of the private club; and
- 3194 (ii) except to the extent restricted by this title.
- 3195 (3) (a) [~~Each~~] A private club shall maintain a current and complete membership record
- 3196 showing:
- 3197 (i) the date of application of [~~each~~] a proposed member;
- 3198 (ii) [~~each~~] a member's address;
- 3199 (iii) the date the governing body approved a member's admission;
- 3200 (iv) the date initiation fees and dues [~~were~~] are assessed and paid; and
- 3201 (v) the serial number of the membership card issued to [~~each~~] a member.
- 3202 (b) A current record shall [~~also~~] be kept indicating when [~~members are dropped or~~
- 3203 ~~resigned~~] a member is dropped or resigns.
- 3204 (4) (a) [~~Each~~] A private club shall establish in the private club bylaws or house rules
- 3205 application fees and membership dues:
- 3206 (i) as established by commission rules; and
- 3207 (ii) [~~which~~] that are collected from all members.
- 3208 (b) An application fee:
- 3209 (i) [~~shall~~] may not be less than \$4;
- 3210 (ii) shall be paid when the applicant applies for membership; and
- 3211 (iii) at the discretion of the private club, may be credited toward membership dues if
- 3212 the governing body approves the applicant as a member.
- 3213 (5) (a) [~~Each~~] A private club may, in its discretion, allow an individual to be admitted
- 3214 to or use the private club premises as a guest only under the following conditions:
- 3215 (i) [~~each~~] a guest must be previously authorized by one of the following who agrees to
- 3216 host the guest into the private club:
- 3217 (A) an active member of the private club; or
- 3218 (B) a holder of a current visitor card;
- 3219 (ii) [~~each~~] a guest must be known by the guest's host based on a preexisting bonafide
- 3220 business or personal relationship with the host [~~prior to~~] before the guest's admittance to the



3221 private club;

3222 (iii) [~~each~~] a guest must be accompanied by the guest's host for the duration of the  
3223 guest's visit to the private club;

3224 (iv) [~~each~~] a guest's host must remain on the private club premises for the duration of  
3225 the guest's visit to the private club;

3226 (v) [~~each~~] a guest's host is responsible for the cost of [~~all~~] services extended to the  
3227 guest;

3228 (vi) [~~each~~] a guest [~~enjoys~~] has only those privileges derived from the guest's host for  
3229 the duration of the guest's visit to the private club;

3230 (vii) an employee of the private club, while on duty, may not act as a host for a guest;

3231 (viii) an employee of the private club, while on duty, may not attempt to locate a  
3232 member or current visitor card holder to serve as a host for a guest with whom the member or  
3233 visitor card holder has no acquaintance based on a preexisting bonafide business or personal  
3234 relationship prior to the guest's arrival at the private club; and

3235 (ix) a private club [~~and its employees~~] or an employee of the private club may not enter  
3236 into an agreement or arrangement with a club member or holder of a current visitor card to  
3237 indiscriminately host [~~members~~] a member of the general public into the private club as  
3238 [~~guests~~] a guest.

3239 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

3240 (i) the private club licensee is a class B private club; and

3241 (ii) the guest is a member of the same fraternal organization as the private club  
3242 licensee.

3243 (6) [~~Each~~] A private club may, in its discretion, issue a visitor [~~cards~~] card to allow  
3244 [~~individuals~~] an individual to enter and use the private club premises on a temporary basis  
3245 under the following conditions:

3246 (a) [~~each~~] a visitor card shall be issued for a period not to exceed three weeks;

3247 (b) a fee of not less than \$4 shall be assessed for [~~each~~] a visitor card that is issued;

3248 (c) a visitor card [~~shall~~] may not be issued to a minor;

3249 (d) a holder of a visitor card may not host more than seven guests at one time;

3250 (e) [~~each~~] a visitor card issued shall include:

3251 (i) the visitor's full name and signature;

- 3252 (ii) the date the visitor card [~~was~~] is issued;
- 3253 (iii) the date the visitor card expires;
- 3254 (iv) the club's name; and
- 3255 (v) the serial number of the visitor card; and
- 3256 (f) (i) the private club shall maintain a current record of the issuance of [~~each~~] a visitor
- 3257 card on the private club premises; and
- 3258 (ii) the record described in Subsection (6)(f)(i) shall:
- 3259 (A) be available for inspection by the department; and
- 3260 (B) include:
- 3261 (I) the name of the person to whom the visitor card [~~was~~] is issued;
- 3262 (II) the date the visitor card [~~was~~] is issued;
- 3263 (III) the date the visitor card expires; and
- 3264 (IV) the serial number of the visitor card.
- 3265 (7) A private club may not sell an alcoholic [~~beverages~~] beverage to or allow [~~any~~] a
- 3266 patron to be admitted to or use the private club premises other than:
- 3267 (a) a member;
- 3268 (b) a visitor who holds a valid visitor card issued under Subsection (6); or
- 3269 (c) a guest of:
- 3270 (i) a member; or
- 3271 (ii) a holder of a [~~current~~] valid visitor card.
- 3272 (8) (a) A minor may not be:
- 3273 (i) a member, officer, director, or trustee of a private club;
- 3274 (ii) issued a visitor card;
- 3275 (iii) admitted into, use, or be on the premises of [~~any~~] a lounge or bar area, as defined
- 3276 by commission rule, of [~~any~~] a private club except to the extent authorized under Subsection
- 3277 (8)(c)(ii);
- 3278 (iv) admitted into, use, or be on the premises of [~~any~~] a class D private club:
- 3279 (A) that operates as a sexually oriented business as defined by local ordinance; or
- 3280 (B) when a sexually oriented entertainer is performing on the premises; or
- 3281 (v) admitted into, use, or be on the premises of a class D private club except to the
- 3282 extent authorized under Subsections (8)(b) through (g).

3283 (b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private  
3284 club, a minor may be admitted into, use, or be on the premises of a class D private club under  
3285 the following circumstances:

3286 (i) during [~~periods~~] a period when no alcoholic beverages are sold, served, otherwise  
3287 furnished, or consumed on the premises, but in no event later than 1 p.m.;

3288 (ii) when accompanied at all times by a member or holder of a current visitor card who  
3289 is the minor's parent, legal guardian, or spouse; and

3290 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food  
3291 service provider.

3292 (c) A [~~minor may be employed by a~~] class D private club may employ a minor on the  
3293 premises of the private club if:

3294 (i) the parent or legal guardian of the minor owns or operates the class D private club;  
3295 or

3296 (ii) the minor performs maintenance and cleaning services during the hours when the  
3297 private club is not open for business.

3298 (d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be  
3299 admitted into, use, or be on the premises of a dance or concert hall if:

3300 (A) the dance or concert hall is located:

3301 (I) on the premises of a class D private club; or

3302 (II) on the property that immediately adjoins the premises of and is operated by a class  
3303 D private club; and

3304 (B) the commission [~~has issued~~] issues the class D private club a permit to operate a  
3305 minor dance or concert hall based on the criteria described in Subsection (8)(d)(iii).

3306 (ii) If the dance or concert hall is located on the premises of a class D private club, a  
3307 minor must be properly hosted in accordance with Subsection (5) by:

3308 (A) a member; or

3309 (B) a holder of a current visitor card.

3310 (iii) The commission may issue a minor dance or concert hall permit if:

3311 (A) the private club's lounge, bar, and alcoholic beverage consumption area is:

3312 (I) not accessible to [~~minors~~] a minor;

3313 (II) clearly defined; and

3314 (III) separated from the dance or concert hall area by one or more walls, multiple floor  
3315 levels, or other substantial physical barriers;

3316 (B) [~~any~~] a bar or dispensing area is not visible to [~~minors~~] a minor;

3317 (C) [~~no~~] consumption of an alcoholic [~~beverages~~] beverage may not occur in:

3318 (I) the dance or concert hall area; or

3319 (II) [~~any~~] an area of the private club accessible to a minor;

3320 (D) the private club maintains sufficient security personnel to prevent the passing of  
3321 beverages from the private club's lounge, bar, or an alcoholic beverage consumption [~~areas~~

3322 area to:

3323 (I) the dance or concert hall area; or

3324 (II) [~~any~~] an area of the private club accessible to a minor;

3325 (E) there are one or more separate entrances, exits, and restroom facilities from the  
3326 private club's lounge, bar, and alcoholic beverage consumption areas than for:

3327 (I) the dance or concert hall area; or

3328 (II) [~~any~~] an area accessible to a minor; and

3329 (F) the private club complies with any other restrictions imposed by the commission by  
3330 rule.

3331 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal  
3332 guardian who is a member or holder of a current visitor card may be admitted into, use, or be  
3333 on the premises of a concert hall described in Subsection (8)(d)(i) if:

3334 (i) [~~all~~] the requirements of Subsection (8)(d) are met; and

3335 (ii) [~~all~~] signage, product, and dispensing equipment containing recognition of an  
3336 alcoholic [~~beverages~~] beverage is not visible to the minor.

3337 (f) A minor under 18 years of age but who is 14 years of age or older who is not  
3338 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of  
3339 a concert hall described in Subsection (8)(d)(i) if:

3340 (i) [~~all~~] the requirements of Subsections (8)(d) and (8)(e)(ii) are met; and

3341 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the  
3342 class D private club.

3343 (g) The commission may suspend or revoke a minor dance or concert permit issued to  
3344 a class D private club and suspend or revoke the license of the class D private club if:

- 3345 (i) the private club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);
- 3346 (ii) the private club sells, serves, or otherwise furnishes an alcoholic [beverages]
- 3347 beverage to a minor;
- 3348 (iii) the private club licensee or a supervisory or managerial level employee of the
- 3349 private club licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act,
- 3350 on the basis of [activities] an activity that [occurred] occurs on:
- 3351 (A) the licensed premises; or
- 3352 (B) the dance or concert hall that is located on property that immediately adjoins the
- 3353 premises of and is operated by the class D private club;
- 3354 (iv) there are three or more convictions of patrons of the private club under Title 58,
- 3355 Chapter 37, Utah Controlled Substances Act, based on activities that [occurred] occur on:
- 3356 (A) the licensed premises; or
- 3357 (B) the dance or concert hall that is located on property that immediately adjoins the
- 3358 premises of and is operated by the class D private club;
- 3359 (v) there is more than one conviction:
- 3360 (A) of:
- 3361 (I) the private club licensee;
- 3362 (II) an employee of the private club licensee;
- 3363 (III) an entertainer contracted by the private club licensee; or
- 3364 (IV) a patron of the private club licensee; and
- 3365 (B) made on the basis of a lewd [acts] act or lewd entertainment prohibited by this title
- 3366 that [occurred] occurs on:
- 3367 (I) the licensed premises; or
- 3368 (II) the dance or concert hall that is located on property that immediately adjoins the
- 3369 premises of and is operated by the class D private club; or
- 3370 (vi) the commission finds acts or conduct contrary to the public welfare and morals
- 3371 involving lewd acts or lewd entertainment prohibited by this title that [occurred] occurs on:
- 3372 (A) the licensed premises; or
- 3373 (B) the dance or concert hall that is located on property that immediately adjoins the
- 3374 premises of and is operated by the class D private club.
- 3375 (h) Nothing in this Subsection (8) [shall prohibit] prohibits a class D private club from

3376 selling, serving, or otherwise furnishing an alcoholic [~~beverages~~] beverage in a dance or  
 3377 concert area located on the private club premises on days and times when the private club does  
 3378 not allow [~~minors~~] a minor into those areas.

3379 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being  
 3380 more restrictive of a minor's admittance to, use of, or presence on the premises of [~~any~~] a  
 3381 private club.

3382 (9) (a) [~~Each~~] A private club shall maintain an expense ledger or record showing in  
 3383 detail all expenditures separated by payments for:

3384 (i) malt or brewed beverages;

3385 (ii) liquor;

3386 (iii) food;

3387 (iv) detailed payroll;

3388 (v) entertainment;

3389 (vi) rent;

3390 (vii) utilities;

3391 (viii) supplies; and

3392 (ix) [~~all~~] other expenditures.

3393 (b) [~~The~~] A private club shall keep a record required by this Subsection (9) [~~shall be~~]:

3394 (i) [~~kept~~] in a form approved by the department; and

3395 (ii) balanced each month.

3396 (c) [~~Each~~] An expenditure shall be supported by:

3397 (i) a delivery [~~tickets~~] ticket;

3398 (ii) [~~invoices~~] an invoice;

3399 (iii) a receipted [~~bills~~] bill;

3400 (iv) a canceled [~~checks~~] check;

3401 (v) a petty cash [~~vouchers~~] voucher; or

3402 (vi) other sustaining [~~data or memoranda~~] datum or memorandum.

3403 (d) [~~All invoices and receipted bills~~] An invoice or receipted bill for the current  
 3404 calendar or fiscal year documenting [~~purchases~~] a purchase made by the private club shall  
 3405 [~~also~~] be maintained.

3406 (10) (a) [~~Each~~] A private club shall maintain a minute book that is posted currently by

3407 the private club.

3408 (b) The minute book required by this Subsection (10) shall contain the minutes of ~~[all]~~  
3409 a regular ~~[and]~~ or special ~~[meetings]~~ meeting of the governing body.

3410 ~~[(c) Membership lists shall also be maintained.]~~

3411 (c) A private club shall maintain a membership list.

3412 (11) (a) ~~[Each]~~ A private club shall maintain a current ~~[copies]~~ copy of the private  
3413 club's current bylaws and current house rules.

3414 (b) ~~[Changes]~~ A change in the bylaws or house rules:

3415 (i) ~~[are]~~ is not effective unless submitted to the department within ten days after  
3416 adoption; and

3417 (ii) ~~[become]~~ becomes effective 15 days after received by the department unless  
3418 rejected by the department before the expiration of the 15-day period.

3419 (12) ~~[Each]~~ A private club shall maintain accounting and other records and documents  
3420 as the department may require.

3421 (13) ~~[Any]~~ A private club or person acting for the private club, who knowingly forges,  
3422 falsifies, alters, cancels, destroys, conceals, or removes ~~[the entries in any of the books]~~ an  
3423 entry in a book of account or other ~~[documents]~~ document of the private club licensee required  
3424 to be made, maintained, or preserved by this title or the rules of the commission for the purpose  
3425 of deceiving the commission ~~[or]~~, the department, or ~~[any of their officials or employees]~~ an  
3426 official or employee of the commission or department, is subject to:

3427 (a) the suspension or revocation of the private club's license; and

3428 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.

3429 (14) (a) ~~[Each]~~ A private club licensee shall maintain and keep ~~[all the records]~~ a  
3430 record required by this section and ~~[all other books, records, receipts, and disbursements]~~ a  
3431 book, record, receipt, or disbursement maintained or used by the licensee, as the department  
3432 requires, for a minimum period of three years.

3433 (b) ~~[All records, books, receipts, and disbursements are]~~ A record, book, receipt, or  
3434 disbursement is subject to inspection by an authorized ~~[representatives]~~ representative of the  
3435 commission and the department.

3436 (c) ~~[The]~~ A private club licensee shall allow the department, through ~~[its auditors or~~  
3437 examiners] an auditor or examiner of the department, to audit ~~[all]~~ the records of the private

3438 club licensee at times the department considers advisable.

3439 (d) The department shall audit the records of the private club licensee at least once  
3440 annually.

3441 (15) ~~[Each]~~ A private club licensee shall own or lease premises suitable for the private  
3442 club's activities.

3443 (16) (a) A private club licensee may not maintain facilities in ~~[any]~~ a manner that  
3444 barricades or conceals the private club licensee's operation.

3445 (b) ~~[Any]~~ A member of the commission, authorized department personnel, or ~~[any]~~ a  
3446 peace officer shall, upon presentation of credentials, be admitted immediately to the private  
3447 club and permitted without hindrance or delay to inspect completely the entire private club  
3448 premises and ~~[all]~~ the books and records of the private club licensee, at any time during which  
3449 ~~[the same are open]~~ the private club licensee is open for the transaction of business to its  
3450 members.

3451 (17) ~~[Any public]~~ Public advertising related to a private club licensee by the following  
3452 shall clearly identify a private club as being "a private club for members":

3453 (a) the private club licensee;

3454 (b) ~~[the employees or agents]~~ an employee or agent of the private club licensee; or

3455 (c) ~~[any]~~ a person under a contract or agreement with the private club licensee.

3456 (18) A private club licensee must have food available at all times when an alcoholic  
3457 ~~[beverages are]~~ beverage is sold, served, or consumed on the premises.

3458 (19) (a) Liquor may not be purchased by a private club licensee except from a state  
3459 ~~[stores]~~ store or package ~~[agencies]~~ agency.

3460 (b) Liquor purchased ~~[in accordance with Subsection (19)(a)]~~ from a state store or  
3461 package agency may be transported by the private club licensee from the place of purchase to  
3462 the licensed premises.

3463 (c) Payment for liquor shall be made in accordance with rules established by the  
3464 commission.

3465 (20) A private club licensee may sell or provide ~~[any]~~ a primary spirituous liquor only  
3466 in a quantity not to exceed one ounce per beverage dispensed through a calibrated metered  
3467 dispensing system approved by the department in accordance with commission rules adopted  
3468 under this title, except that:



3469 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
3470 system if used as a secondary flavoring ingredient in a beverage subject to the following  
3471 restrictions:

3472 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of  
3473 a primary spirituous liquor;

3474 (ii) the secondary ingredient is not the only spirituous liquor in the beverage;

3475 (iii) the private club licensee shall designate a location where flavorings are stored on  
3476 the floor plan provided to the department; and

3477 (iv) ~~all~~ a flavoring ~~containers~~ container shall be plainly and conspicuously labeled  
3478 "flavorings";

3479 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
3480 system if used:

3481 (i) as a flavoring on ~~desserts~~ a dessert; and

3482 (ii) in the preparation of a flaming food ~~[dishes, drinks, and desserts]~~ dish, drink, or  
3483 dessert; and

3484 (c) ~~each~~ a private club patron may have no more than 2.75 ounces of spirituous liquor  
3485 at a time before the private club patron.

3486 (21) (a) (i) Wine may be sold and served by the glass or an individual portion not to  
3487 exceed five ounces per glass or individual portion.

3488 (ii) An individual portion may be served to a patron in more than one glass as long as  
3489 the total amount of wine does not exceed five ounces.

3490 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
3491 Subsection (25)(c).

3492 (b) (i) Wine may be sold and served in ~~containers~~ a container not exceeding 1.5 liters  
3493 at ~~prices~~ a price fixed by the commission to ~~tables~~ a table of four or more persons.

3494 (ii) Wine may be sold and served in ~~containers~~ a container not exceeding 750  
3495 milliliters at ~~prices~~ a price fixed by the commission to ~~tables~~ a table of less than four  
3496 persons.

3497 (c) A wine service may be performed and a service charge assessed by the private club  
3498 licensee as authorized by commission rule for wine purchased at the private club.

3499 (22) (a) Heavy beer may be served in an original ~~containers~~ container not exceeding

3500 one liter at [~~prices~~] a price fixed by the commission.

3501 (b) A flavored malt beverage may be served in an original container not exceeding one  
3502 liter at a price fixed by the commission.

3503 [~~(b)~~] (c) A service charge may be assessed by the private club licensee for heavy beer  
3504 or a flavored malt beverage purchased at the private club.

3505 (23) (a) (i) Subject to Subsection (23)(a)(ii), a private club [~~licensed to sell liquor~~]  
3506 licensee may sell beer for on-premise consumption:

3507 (A) in an open container; and

3508 (B) on draft.

3509 (ii) Beer sold pursuant to Subsection (23)(a)(i) shall be in a size of container that does  
3510 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
3511 container that exceeds one liter.

3512 (b) (i) A private club [~~licensed under this chapter~~] licensee that sells beer pursuant to  
3513 Subsection (23)(a):

3514 (A) may do so without obtaining a separate on-premise beer retailer license from the  
3515 commission; and

3516 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
3517 Retailer Licenses, that apply to an on-premise beer [~~retailers~~] retailer except when those  
3518 restrictions are inconsistent with or less restrictive than the operational restrictions under this  
3519 chapter.

3520 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer  
3521 Licenses, required by Subsection (23)(b)(i) may result in a suspension or revocation of the  
3522 private club's:

3523 (A) state liquor license; and

3524 (B) alcoholic beverage license issued by the local authority.

3525 (24) [~~Alcoholic beverages~~] An alcoholic beverage may not be stored, served, or sold in  
3526 [~~any~~] a place other than as designated in the private club licensee's application, unless the  
3527 private club licensee first applies for and receives approval from the department for a change of  
3528 location within the private club.

3529 (25) (a) A patron may only make an alcoholic beverage [~~purchases~~] purchase in the  
3530 private club from and be served by a person employed, designated, and trained by the private

3531 club licensee to sell, dispense, and serve an alcoholic [~~beverages~~] beverage.

3532 (b) Notwithstanding Subsection (25)(a), a patron who [~~has purchased~~] purchases  
 3533 bottled wine from an employee of the private club [~~or has carried~~] licensee or carries bottled  
 3534 wine onto the premises of the private club pursuant to Subsection (31) may thereafter serve  
 3535 wine from the bottle to the patron or others at the patron's table.

3536 (c) [~~Each~~] A private club patron may have no more than two alcoholic beverages of  
 3537 any kind at a time before the private club patron.

3538 (26) The liquor storage area shall remain locked at all times other than those hours and  
 3539 days when liquor sales and service are authorized by law.

3540 (27) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a  
 3541 private club during the following days or hours:

3542 (i) until after the polls are closed on the day of [~~any~~] a:

3543 (A) regular general election;

3544 (B) regular primary election; or

3545 (C) statewide special election;

3546 (ii) until after the polls are closed on the day of [~~any~~] a municipal, local district, special  
 3547 service district, or school election, but only:

3548 (A) within the boundaries of the municipality, local district, special service district, or  
 3549 school district; and

3550 (B) if required by local ordinance; and

3551 (iii) on [~~any other~~] another day after 1 a.m. and before 10 a.m.

3552 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
 3553 Licenses, for on-premise beer licenses.

3554 (c) (i) Notwithstanding Subsections (27)(a) and (b), a private club shall remain open  
 3555 for one hour after the private club ceases the sale and service of an alcoholic [~~beverages~~]  
 3556 beverage during which time a patron of the private club may finish consuming:

3557 (A) [~~any~~] a single drink containing spirituous liquor;

3558 (B) a single serving of wine not exceeding five ounces;

3559 (C) a single serving of heavy beer; [~~or~~]

3560 (D) a single serving of beer not exceeding 26 ounces[~~;~~]; or

3561 (E) a single serving of a flavored malt beverage.

3562 (ii) A private club is not required to remain open:

3563 (A) after all patrons have vacated the premises; or

3564 (B) during an emergency.

3565 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club licensee may not

3566 allow a patron to remain on the premises of the private club to consume an alcoholic

3567 [~~beverages~~] beverage on the premises.

3568 (28) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or

3569 otherwise furnished to [~~any~~] a:

3570 (a) minor;

3571 (b) person actually, apparently, or obviously intoxicated;

3572 (c) known habitual drunkard; or

3573 (d) known interdicted person.

3574 (29) (a) (i) Liquor may be sold only at [~~prices~~] a price fixed by the commission.

3575 (ii) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.

3576 (b) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost

3577 of the alcoholic beverage to the private club licensee.

3578 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages  
3579 over consumption or intoxication.

3580 (d) The price of a single serving of a primary spirituous liquor shall be the same  
3581 whether served as a single drink or in conjunction with another alcoholic beverage.

3582 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain  
3583 hours of the private club's business day such as a "happy hour."

3584 (f) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or  
3585 served for the price of a single alcoholic beverage [~~is prohibited~~].

3586 (g) [~~The sale or service of an~~] An indefinite or unlimited number of alcoholic  
3587 beverages may not be sold or served during [~~any~~] a set period for a fixed price [~~is prohibited~~].

3588 (h) A private club licensee may not engage in a promotion involving or offering free  
3589 alcoholic beverages to patrons of the private club.

3590 (30) [~~Alcoholic beverages~~] An alcoholic beverage may not be purchased for a patron of  
3591 the private club licensee by:

3592 (a) the private club licensee; or

3593 (b) [~~any~~] an employee or agent of the private club licensee.

3594 (31) (a) A person may not bring onto the premises of a private club licensee [~~any~~] an  
3595 alcoholic beverage for on-premise consumption, except a person may bring, subject to the  
3596 discretion of the licensee, bottled wine onto the premises of [~~any~~] a private club licensee for  
3597 on-premise consumption.

3598 (b) Except bottled wine under Subsection (31)(a), a private club [~~or its officers,~~  
3599 ~~managers, employees, or agents~~] licensee or an officer, manager, employee, or agent of a  
3600 private club licensee may not allow:

3601 (i) a person to bring onto the private club premises [~~any~~] an alcoholic beverage for  
3602 consumption on the private club premises; or

3603 (ii) consumption of an alcoholic [~~beverages~~] beverage described in Subsection  
3604 (31)(b)(i) on the premises of the private club.

3605 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
3606 or other representative of the private club licensee upon entering the private club.

3607 (d) A wine service may be performed and a service charge assessed by the private club  
3608 licensee as authorized by commission rule for wine carried in by a patron.

3609 (32) (a) Except as provided in Subsection (32)(b), a private club [~~and its employees~~]  
3610 licensee or an employee of the private club licensee may not permit a patron of the private club  
3611 to carry from the private club premises an open container that:

3612 (i) is used primarily for drinking purposes; and

3613 (ii) contains [~~any~~] an alcoholic beverage.

3614 (b) A patron may remove the unconsumed contents of a bottle of wine if before  
3615 removal, the bottle [~~has been~~] is recorked or recapped.

3616 (33) (a) A minor may not be employed by [~~any~~] a class A, B, or C private club licensee  
3617 to sell, dispense, or handle [~~any~~] an alcoholic beverage.

3618 (b) Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may be  
3619 employed by a class A or C private club licensee to enter the sale at a cash register or other  
3620 sales recording device.

3621 (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed  
3622 by or be on the premises of [~~any~~] a class D private club.

3623 (d) A minor may not be employed to work in [~~any~~] a lounge or bar area of [~~any~~] a class

3624 A, B, or C private club licensee.

3625 (34) An employee of a private club licensee, while on duty, may not:

3626 (a) consume an alcoholic beverage; or

3627 (b) be intoxicated.

3628 [~~(35) (a) A private club may not charge for the service or supply of glasses, ice, or~~  
3629 ~~mixers unless:~~]

3630 [~~(i) the charges are fixed in the house rules of the club; and]~~

3631 [~~(ii) a copy of the house rules is kept on the club premises and available at all times for~~  
3632 ~~examination by patrons of the club.]~~

3633 [~~(b) A charge or fee made in connection with the sale, service, or consumption of~~  
3634 ~~liquor may be stated in food or alcoholic beverage menus including:]~~

3635 (35) A private club licensee shall have available on the premises for a patron to review  
3636 at the time that the customer requests it, a written alcoholic beverage price list or a menu  
3637 containing the price of an alcoholic beverage sold or served by the private club licensee  
3638 including:

3639 [(~~i~~)] (a) a set-up charge;

3640 [(~~ii~~)] (b) a service charge; or

3641 [(~~iii~~)] (c) a chilling fee.

3642 (36) [~~Each~~] A private club licensee shall display in a prominent place in the private  
3643 club:

3644 (a) the private club license that is issued by the department;

3645 (b) a list of the types and brand names of liquor being served through its calibrated  
3646 metered dispensing system; and

3647 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
3648 drugs is a serious crime that is prosecuted aggressively in Utah."

3649 (37) A private club licensee may not on the premises of the private club:

3650 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
3651 Chapter 10, Part 11, Gambling;

3652 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,  
3653 Part 11, Gambling; or

3654 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires

3655 the risking of something of value for a return or for an outcome when the return or outcome is  
3656 based upon an element of chance, excluding the playing of an amusement device that confers  
3657 only an immediate and unrecorded right of replay not exchangeable for value.

3658 (38) (a) A private club licensee may not close or cease operation for a period longer  
3659 than 240 hours, unless:

3660 (i) the private club licensee notifies the department in writing at least seven days before  
3661 the ~~[closing]~~ day on which the private club licensee closes or ceases operation; and

3662 (ii) the closure or cessation of operation is first approved by the department.

3663 (b) Notwithstanding Subsection (38)(a), in the case of emergency closure, ~~[immediate~~  
3664 ~~notice of closure shall be made to]~~ the private club licensee shall immediately notify the  
3665 department by telephone.

3666 (c) (i) The department may authorize a closure or cessation of operation for a period  
3667 not to exceed 60 days.

3668 (ii) The department may extend the initial period an additional 30 days upon:

3669 (A) written request of the private club; and ~~[upon]~~

3670 (B) a showing of good cause.

3671 (ii) A closure or cessation of operation may not exceed a total of 90 days without  
3672 commission approval.

3673 (d) The notice required by Subsection (38)(a) shall include:

3674 (i) the dates of closure or cessation of operation;

3675 (ii) the reason for the closure or cessation of operation; and

3676 (iii) the date on which the private club licensee will reopen or resume operation.

3677 (e) Failure of the private club licensee to provide notice and to obtain department  
3678 authorization ~~[prior to]~~ before closure or cessation of operation ~~[shall result]~~ results in an  
3679 automatic forfeiture of:

3680 (i) the private club license; and

3681 (ii) the unused portion of the private club license fee for the remainder of the license  
3682 year effective immediately.

3683 (f) Failure of the private club licensee to reopen or resume operation by the approved  
3684 date ~~[shall result]~~ results in an automatic forfeiture of:

3685 (i) the private club license; and

3686 (ii) the unused portion of the [~~club's~~] private club license fee for the remainder of the  
3687 license year.

3688 (39) A private club license may not be transferred from one location to another person,  
3689 without prior written approval of the commission.

3690 (40) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give, or  
3691 attempt in any way to dispose of the private club license to [~~any other~~] another person, whether  
3692 for monetary gain or not.

3693 (b) A private club license has no monetary value for the purpose of any type of  
3694 disposition.

3695 (41) A private club licensee or an employee of the private club licensee may not  
3696 knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
3697 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3698 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
3699 58-37-2; or

3700 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
3701 Section 58-37a-3.

3702 Section 39. Section **32A-7-101** is amended to read:

3703 **32A-7-101. Issuance of single event permits -- Limitations.**

3704 (1) The commission may issue a single event permit to any of the following that is  
3705 conducting a convention, civic, or community enterprise, a bona fide:

3706 (a) partnership;

3707 (b) corporation;

3708 (c) limited liability company;

3709 (d) church;

3710 (e) political organization;

3711 (f) incorporated association;

3712 (g) recognized subordinate lodge, chapter, or other local unit of an entity described in  
3713 Subsections (1)(a) through (f);

3714 (h) state agency; or

3715 (i) political subdivision of the state including:

3716 (i) a county; or



3717 (ii) a municipality.

3718 (2) ~~[The]~~ A single event permit may authorize:

3719 (a) for a period not to exceed 120 consecutive hours, the storage, sale, service, and  
3720 consumption of liquor at an event at which the storage, sale, service, or consumption of liquor  
3721 is otherwise prohibited by this title; and

3722 (b) the storage, sale, service, and consumption of beer at the same event for the period  
3723 that the storage, sale, service, or consumption of liquor is authorized under Subsection (2)(a)  
3724 for the single event permit.

3725 (3) The commission may not issue more than four single event permits in any one  
3726 calendar year to the same:

3727 (a) partnership;

3728 (b) corporation;

3729 (c) limited liability company;

3730 (d) church;

3731 (e) political organization;

3732 (f) incorporated association;

3733 (g) recognized subordinate lodge, chapter, or other local unit of an entity described in  
3734 Subsections (3)(a) through (f);

3735 (h) state agency; or

3736 (i) political subdivision of the state including:

3737 (i) a county; or

3738 (ii) a municipality.

3739 (4) (a) The 600 foot and 200 foot proximity [~~limitations to educational, religious, and~~  
3740 ~~recreational facilities~~] requirements in relation to a community location that are applicable to a  
3741 state [~~stores~~] store, package [~~agencies~~] agency, [~~and licensees~~] or licensee, do not apply to a  
3742 single event [~~permits~~] permit.

3743 (b) [~~Nothing~~] Notwithstanding Subsection (4)(a), nothing in this section[~~, however,~~]  
3744 prevents the commission from considering the proximity of [~~any~~] an educational, religious, or  
3745 recreational facility, or any other relevant factor in deciding whether to [~~grant~~] issue a single  
3746 event permit.

3747 Section 40. Section **32A-7-106** is amended to read:

3748 **32A-7-106. Operational restrictions.**

3749 (1) (a) [~~Any~~] An organization granted a single event permit and [~~any~~] a person  
3750 involved in the storage, sale, or service of an alcoholic [~~beverages~~] beverage at the event for  
3751 which the permit is issued, shall abide by:

3752 (i) this title;

3753 (ii) the rules of the commission; and

3754 (iii) the special conditions and requirements provided in this section.

3755 (b) Failure to comply with Subsection (1)(a) by an organization or person described in

3756 Subsection (1)(a):

3757 (i) may result in:

3758 (A) an immediate revocation of the single event permit;

3759 (B) forfeiture of the surety bond; and

3760 (C) immediate seizure of [~~an~~] an alcoholic [~~beverages~~] beverage present at the event;

3761 and

3762 (ii) disqualifies the organization from applying [~~for a single event permit under this~~  
3763 ~~chapter, or a temporary special event beer permit under Chapter 10, Part 3, Temporary Special~~  
3764 ~~Event Beer Permits;]~~ for a period of three years from the date of revocation of the permit[:] for:

3765 (A) a single event permit under this chapter; or

3766 (B) a temporary special event beer permit under Chapter 10, Part 3, Temporary Special  
3767 Event Beer Permits.

3768 (c) [~~Any~~] An alcoholic [~~beverages~~] beverage seized under this Subsection (1) shall be  
3769 returned to the organization after the event if forfeiture proceedings are not instituted under  
3770 Section 32A-13-103.

3771 (2) Special conditions and requirements for a single event [~~permittees~~] permittee  
3772 include the following:

3773 (a) (i) [~~All persons~~] A person involved in the storage, sale, or service of an alcoholic  
3774 [~~beverages~~] beverage at the event must do so under the supervision and direction of the  
3775 permittee.

3776 (ii) [~~All persons~~] A person involved in the sale or service of an alcoholic [~~beverages~~]  
3777 beverage at the event may not, while on duty:

3778 (A) consume an alcoholic beverage; or

- 3779 (B) be intoxicated.
- 3780 (b) (i) ~~[AH]~~ A permittee shall purchase liquor stored, sold, served, and consumed at the  
3781 event ~~[shall be purchased by the permittee]~~ from a state store or package agency.
- 3782 ~~[(ii) All beer purchased by the permittee shall be purchased from:]~~
- 3783 (ii) The permittee shall purchase beer from:
- 3784 (A) a licensed beer wholesaler; or
- 3785 (B) a licensed beer retailer.
- 3786 (iii) ~~[AH]~~ An alcoholic ~~[beverages are]~~ beverage is considered under the control of the  
3787 permittee during the event.
- 3788 (iv) ~~[Attendees]~~ An attendee of the event may not bring ~~[any]~~ an alcoholic ~~[beverages]~~  
3789 beverage onto the premises of the event.
- 3790 (c) A permittee may not charge more than the maximum amount set forth in the permit  
3791 for ~~[any]~~ an alcoholic beverage.
- 3792 (d) ~~[Each]~~ A permittee shall post in a prominent place in the area in which an alcoholic  
3793 ~~[beverages are being]~~ beverage is sold, served, and consumed, a copy of the permit, together  
3794 with a list of the operational restrictions and requirements of a single event ~~[permittees]~~  
3795 permittee set forth in this section.
- 3796 (e) ~~[Alcoholic beverages]~~ An alcoholic beverage purchased for the event may not be  
3797 stored, sold, served, or consumed in ~~[any]~~ a location other than that described in the application  
3798 and designated on the permit unless the permittee first applies for and receives approval from  
3799 the commission for a change of location.
- 3800 (f) (i) A single event permittee may sell or provide a primary spirituous liquor only in a  
3801 quantity not to exceed one ounce per beverage except that additional spirituous liquor may be  
3802 used in a beverage if:
- 3803 (A) used as a secondary flavoring ingredient;
- 3804 (B) used in conjunction with the primary spirituous liquor;
- 3805 (C) the secondary ingredient is not the only spirituous liquor in the beverage; and
- 3806 (D) ~~[each]~~ an attendee may have no more than 2.75 ounces of spirituous liquor at a  
3807 time before the attendee.
- 3808 (ii) Spirituous liquor need not be dispensed through a calibrated metered dispensing  
3809 system.

3810 (g) (i) (A) Wine may be sold and served by the glass or an individual portion that does  
3811 not exceed five ounces per glass or individual portion.

3812 (B) An individual portion may be served to an attendee in more than one glass as long  
3813 as the total amount of wine does not exceed five ounces.

3814 (C) An individual portion of wine is considered to be one alcoholic beverage under  
3815 Subsection (2)(p).

3816 (ii) Wine may be sold and served in [~~containers~~] a container not exceeding 1.5 liters at  
3817 [~~prices~~] a price fixed by the commission.

3818 (iii) A wine service may be performed and a service charge assessed by the single event  
3819 permittee as authorized by commission rule for wine purchased at the event.

3820 (h) (i) Heavy beer may be served in an original [~~containers~~] container not exceeding  
3821 one liter at [~~prices~~] a price fixed by the commission.

3822 (ii) A flavored malt beverage may be served in an original container not exceeding one  
3823 liter at a price fixed by the commission.

3824 [~~(i)~~] (iii) A service charge may be assessed by [~~the~~] a single event permittee as  
3825 authorized by commission rule for heavy beer or a flavored malt beverage purchased at the  
3826 event.

3827 (i) (i) Subject to Subsection (2)(i)(ii), beer may be sold for on-premise consumption:

3828 (A) in an open container; and

3829 (B) on draft.

3830 (ii) Beer sold pursuant to Subsection (2)(i)(i) shall be in a size of container that does  
3831 not exceed two liters, except that beer may not be sold to an individual attendee in a size of  
3832 container that exceeds one liter.

3833 (j) (i) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or  
3834 consumed between the hours of 1 a.m. and 10 a.m.

3835 (ii) This Subsection (2)(j) does not preclude a local authority from being more  
3836 restrictive with respect to the hours of sale, service, or consumption of an alcoholic [~~beverages~~]  
3837 beverage at a temporary single event.

3838 (k) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise  
3839 furnished until after the polls are closed on the day of [~~any~~] a:

3840 (i) regular general election;

- 3841 (ii) regular primary election; or  
3842 (iii) statewide special election.
- 3843 (l) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold, served, or otherwise  
3844 furnished to [~~any~~] a:
- 3845 (i) minor;  
3846 (ii) person actually, apparently, or obviously intoxicated;  
3847 (iii) known habitual drunkard; or  
3848 (iv) known interdicted person.
- 3849 (m) (i) (A) Liquor may be sold only at [~~prices~~] a price fixed by the commission.  
3850 (B) Liquor may not be sold at a discount [~~prices~~] price on any date or at any time.
- 3851 (ii) [~~Alcoholic beverages~~] An alcoholic beverage may not be sold at less than the cost  
3852 of the alcoholic beverage to the permittee.
- 3853 (iii) An alcoholic beverage may not be sold at a price that encourages over  
3854 consumption or intoxication.
- 3855 (iv) An alcoholic beverage may not be sold at a special or reduced price for only  
3856 certain hours of the day of the permitted event.
- 3857 (v) [~~The sale or service of more~~] More than one alcoholic beverage may not be sold or  
3858 served for the price of a single alcoholic beverage [~~is prohibited~~].
- 3859 (vi) The permittee may not engage in a public promotion involving or offering free  
3860 alcoholic beverages to the general public.
- 3861 (n) A single event permittee and its employees may not permit an attendee to carry  
3862 from the premises an open container that:
- 3863 (i) is used primarily for drinking purposes; and  
3864 (ii) contains [~~any~~] an alcoholic beverage.
- 3865 (o) A minor may not sell, serve, dispense, or handle [~~any~~] an alcoholic beverage at the  
3866 event.
- 3867 (p) [~~Each~~] An attendee may have no more than one alcoholic beverage of any kind at a  
3868 time before the patron.
- 3869 (3) The permittee shall maintain an expense and revenue ledger or record showing:  
3870 (a) expenditures made for liquor and beer, set-ups, and other ingredients and  
3871 components of an alcoholic [~~beverages~~] beverage; and

3872 (b) the revenue from the sale of an alcoholic [~~beverages~~] beverage.

3873 (4) A single event permit may not be transferred.

3874 (5) A single event permittee may not on the premises serviced by the single event  
3875 permittee:

3876 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,  
3877 Chapter 10, Part 11, Gambling;

3878 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,  
3879 Part 11, Gambling; or

3880 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires  
3881 the risking of something of value for a return or for an outcome when the return or outcome is  
3882 based upon an element of chance, excluding the playing of an amusement device that confers  
3883 only an immediate and unrecorded right of replay not exchangeable for value.

3884 (6) A single event permittee or an employee of the single event permittee may not  
3885 knowingly allow a person at an event to, in violation of Title 58, Chapter 37, Utah Controlled  
3886 Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

3887 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
3888 58-37-2; or

3889 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
3890 Section 58-37a-3.

3891 Section 41. Section **32A-8-101** is amended to read:

3892 **32A-8-101. Commission's power to grant licenses -- Limitations.**

3893 (1) The commission may issue an alcoholic beverage manufacturing [~~licenses to~~  
3894 ~~manufacturers whose businesses are~~] license to a manufacturer whose business in this state is  
3895 located in this state for the manufacture, storage, and sale of alcoholic beverages for each type  
3896 of license provided by this chapter.

3897 (2) The type of manufacturing licenses issued under this chapter are known as:

3898 (a) a winery [~~licenses~~] license;

3899 (b) a distillery [~~licenses~~] license; and

3900 (c) a brewery [~~licenses~~] license.

3901 (3) (a) A person may not manufacture [~~any~~] an alcoholic beverage unless an alcoholic  
3902 beverage manufacturing license [~~has been~~] is issued by the commission.

3903 (b) A separate license is required for each place of manufacture, storage, and sale of an  
 3904 alcoholic [~~beverages~~] beverage.

3905 (c) Violation of this Subsection (3) is a class B misdemeanor.

3906 (4) [~~Brewers~~] (a) A brewer located outside the state [~~are~~] is not required to be licensed  
 3907 under this chapter. [~~However, they~~]

3908 (b) A brewer described in Subsection (4)(a) must obtain a certificate of approval from  
 3909 the department before selling or delivering:

3910 (i) beer to a licensed beer [~~wholesalers~~] wholesaler in this state[~~, or~~];

3911 (ii) on or after October 1, 2008, a flavored malt beverage to the department or a  
 3912 military installation; or

3913 (iii) if a small brewer, beer to a licensed beer [~~wholesalers or retailers~~] wholesaler or  
 3914 retailer in this state.

3915 [~~(a)~~] (c) A brewer seeking a certificate of approval shall file a written application with  
 3916 the department, in a form prescribed by the department. The application shall be accompanied  
 3917 by:

3918 (i) a nonrefundable \$50 application fee;

3919 (ii) an initial certificate of approval fee of \$250 that is refundable if a certificate is not  
 3920 granted;

3921 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and  
 3922 Firearms to brew beer [~~and~~], heavy beer [~~products~~], or a flavored malt beverage; and

3923 (iv) any other information or documents the department may require.

3924 [~~(b) Each~~] (d) (i) An application shall be signed and verified by oath or affirmation by:

3925 (A) a partner if the brewer is a partnership[~~;~~]; or [~~by~~]

3926 (B) an executive officer, manager, or person specifically authorized by a corporation or  
 3927 limited liability company to sign the application [~~to which shall be attached~~].

3928 (ii) The brewer filing an application shall attach to the application written evidence of  
 3929 [~~this~~] the authority of the person described in Subsection (4)(d)(i) to sign the application.

3930 [~~(e)~~] (e) (i) All certificates of approval expire on December 31 of each year.

3931 (ii) [~~Brewers~~] A brewer desiring to renew [~~their certificates~~] its certificate shall submit  
 3932 a renewal fee of \$200, and a completed renewal application to the department no later than  
 3933 November 30 of the year the certificate expires.

3934 (iii) Failure to meet the renewal requirements [~~shall result~~] results in an automatic  
 3935 forfeiture of the certificate effective on the date the existing certificate expires.

3936 (iv) [~~Renewal applications~~] A renewal application shall be in a form prescribed by the  
 3937 department.

3938 (5) The commission may prescribe by policy, directive, or rule, consistent with this  
 3939 title, the general operational requirements of licensees relating to:

3940 (a) physical facilities;

3941 (b) conditions of sale, storage, or manufacture of alcoholic beverages;

3942 (c) storage and sales quantity limitations; and

3943 (d) other matters considered appropriate by the commission.

3944 Section 42. Section **32A-8-401** is amended to read:

3945 **32A-8-401. Authority and operational restrictions.**

3946 (1) A brewery license allows the licensee to:

3947 (a) manufacture, brew, store, transport, or export beer [~~and~~], heavy beer, and flavored  
 3948 malt beverages;

3949 (b) sell heavy beer [~~to~~] and, on or after October 1, 2008, a flavored malt beverage to:

3950 (i) the department[~~, to~~];

3951 (ii) a military [~~installations,~~] installation; and [~~to~~]

3952 (iii) an out-of-state [~~customers~~] customer;

3953 (c) sell beer to a licensed [~~wholesalers~~] wholesaler;

3954 (d) in the case of a small brewer, sell in accordance with Subsection (5), beer  
 3955 manufactured by the brewer to:

3956 (i) a licensed retailer;

3957 (ii) a holder of a single event permit issued by the commission pursuant to Chapter 7,  
 3958 Single Event Permits; and

3959 (iii) a holder of a temporary retail beer permit issued by the commission for a  
 3960 temporary special event pursuant to Chapter 10, Part 3, Temporary Special Event Beer Permits;  
 3961 and

3962 (e) warehouse on its premises an alcoholic [~~beverages which~~] beverage that it  
 3963 manufactures or purchases for manufacturing purposes.

3964 (2) If considered necessary, the commission or department may:



- 3965 (a) require certain alterations to the plant, equipment, or premises;
- 3966 (b) require the alteration or removal of any unsuitable alcoholic beverage-making  
3967 equipment or material;
- 3968 (c) require the licensee to clean, disinfect, ventilate, or otherwise improve the sanitary  
3969 and working conditions of any plant, premises, and equipment; or
- 3970 (d) demand that all books, records, or data pertaining to the materials and ingredients  
3971 used in the manufacture of alcoholic products are available to the commission or department  
3972 upon request.
- 3973 (3) A brewery licensee may not sell [~~heavy beer~~] the following to any person within the  
3974 state except the department [~~and~~] or a military [~~installations.~~] installation:
- 3975 (a) heavy beer; or
- 3976 (b) on or after October 1, 2008, a flavored malt beverage.
- 3977 (4) A brewery licensee may not permit any beer, heavy beer, or flavored malt beverage  
3978 to be consumed on its premises, except under the circumstances described in this Subsection  
3979 (4).
- 3980 (a) A brewer may allow its off-duty employees to consume beer, heavy beer, or a  
3981 flavored malt beverage on its premises without charge.
- 3982 (b) A brewery licensee may allow any person who can lawfully buy [~~beer or malted~~  
3983 ~~beverages~~] the following for wholesale or retail distribution to consume bona fide samples of  
3984 its product on the brewery premises[-]:
- 3985 (i) beer;
- 3986 (ii) heavy beer; or
- 3987 (iii) on or after October 1, 2008, a flavored malt beverage.
- 3988 (c) (i) A brewery licensee may operate on its manufacturing premises a retail facility  
3989 allowing consumption on premises of beer in bottles or draft as long as food is also available.
- 3990 (ii) [~~Any~~] A retail facility located on the premises of a brewery licensee shall be  
3991 operated or supervised by the brewer.
- 3992 (iii) In operating an on-site retail facility, a brewery licensee shall comply with the  
3993 requirements of Sections 32A-10-101 and 32A-10-102.
- 3994 (5) (a) [~~Every~~] A small brewer licensee located in this state, and [~~every~~] a small brewer  
3995 located outside this state that obtains a certificate of approval from the department to sell beer

3996 in this state under Subsection 32A-8-101(4), that sells beer manufactured by the small brewer  
 3997 directly to a retailer licensee or permittee shall own, lease, or maintain and control a warehouse  
 3998 facility located in this state for the storage of all beer to be sold to any retailer licensee or  
 3999 permittee.

4000 (b) A small brewer may not sell beer to a retailer licensee or permittee unless the beer:

4001 (i) ~~[was]~~ is manufactured by the small brewer; and

4002 (ii) ~~[has first been]~~ is first placed in the small brewer's warehouse facility in this state.

4003 (c) (i) ~~[Each]~~ A small brewer warehouse shall maintain complete beer importation,  
 4004 inventory, tax, distribution, sales records, and other documents as the department and State Tax  
 4005 Commission may require.

4006 (ii) The records and documents described in Subsection (5)(c)(i) are subject to  
 4007 inspection by:

4008 (A) the department; and

4009 (B) the State Tax Commission.

4010 (iii) ~~[Any]~~ A small brewer or person acting for the small brewer, who knowingly  
 4011 forges, falsifies, alters, cancels, destroys, conceals, or removes ~~[the records or documents]~~ a  
 4012 record or document required to be made, maintained, or preserved by this title or the rules of  
 4013 the commission, or State Tax Commission for the purpose of deceiving the commission,  
 4014 department, State Tax Commission, or any of their officials or employees, is subject to:

4015 (A) the immediate suspension or revocation of:

4016 (I) the brewery license; or

4017 (II) the certificate of approval; and

4018 (B) possible criminal prosecution under Chapter 12, Criminal Offenses.

4019 Section 43. Section **32A-8-501** is amended to read:

4020 **32A-8-501. Commission's power to grant licenses.**

4021 (1) The commission may issue a local industry representative ~~[licenses]~~ license to an  
 4022 individual ~~[residents]~~ resident of Utah, Utah ~~[partnerships]~~ partnership, Utah ~~[corporations]~~  
 4023 corporation, ~~[and]~~ or Utah limited liability ~~[companies]~~ company who ~~[are]~~ is employed by a  
 4024 manufacturer, supplier, or importer, whether compensated by salary, commission, or ~~[any~~  
 4025 ~~other]~~ another means, to represent liquor~~[, wine, or heavy beer]~~ products with the department,  
 4026 package agencies, licensees, and permittees under this title~~[-]~~ including:

- 4027           (a) wine;  
4028           (b) heavy beer; or  
4029           (c) on or after October 1, 2008, a flavored malt beverage.
- 4030           (2) (a) Before [~~any Utah resident, Utah partnership, Utah corporation, or Utah limited~~  
4031 ~~liability company~~] a person described in Subsection (1) may represent [~~a liquor, wine, or heavy~~  
4032 ~~beer~~] an alcoholic product of a manufacturer, supplier, or importer, the [~~resident, partnership,~~  
4033 ~~or corporation~~] person shall [~~first~~] obtain a local industry representative license from the  
4034 commission as provided in this part.
- 4035           (b) A violation of this Subsection (2) is a class B misdemeanor.
- 4036           (3) [~~Individual employees or agents~~] An individual employee or agent of a local  
4037 industry representative [~~licensees are~~] licensee is not required to be separately licensed.
- 4038           (4) A local industry representative may represent more than one manufacturer,  
4039 supplier, or importer at a time.
- 4040           (5) (a) A manufacturer, supplier, or importer is not required to use a local industry  
4041 representative to represent its products with the department, package agencies, licensees, or  
4042 permittees.
- 4043           (b) [~~Any~~] An employee or agent of the manufacturer, supplier, or importer who is not a  
4044 local industry representative while in the state shall first register with the department, on forms  
4045 provided by the department, before representing alcoholic beverage products with the  
4046 department, package agencies, licensees, and permittees of the department.
- 4047           (c) A manufacturer, supplier, or importer described in Subsection (5)(b) and [~~their~~] its  
4048 employees and agents are subject to the same operational restrictions of this part and Chapter  
4049 12, Criminal Offenses.
- 4050           Section 44. Section **32A-8-503** is amended to read:
- 4051           **32A-8-503. Qualifications.**
- 4052           (1) (a) The commission may not grant a local industry representative license to [~~any~~] a  
4053 person who has been convicted of:
- 4054           (i) a felony under any federal or state law;
- 4055           (ii) any violation of any federal or state law or local ordinance concerning the sale,  
4056 manufacture, distribution, importing, warehousing, adulteration, or transportation of alcoholic  
4057 beverages;

4058 (iii) any crime involving moral turpitude; or  
4059 (iv) on two or more occasions within the five years before the day on which the license  
4060 is granted, driving under the influence of alcohol, any drug, or the combined influence of  
4061 alcohol and any drug.

4062 (b) In the case of a partnership, corporation, or limited liability company the  
4063 proscription under Subsection (1)(a) applies if any of the following has been convicted of any  
4064 offense described in Subsection (1)(a):

4065 (i) a partner;

4066 (ii) a managing agent;

4067 (iii) a manager;

4068 (iv) an officer;

4069 (v) a director;

4070 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of  
4071 the applicant corporation; or

4072 (vii) a member who owns at least 20% of the applicant limited liability company.

4073 (c) The proscription under Subsection (1)(a) applies if any person employed to act in a  
4074 supervisory or managerial capacity for the local industry representative has been convicted of  
4075 any offense described in Subsection (1)(a).

4076 (2) The commission may immediately suspend or revoke the local industry  
4077 representative license if after the day on which the local industry representative license is  
4078 granted, a person described in Subsection (1)(a), (b), or (c):

4079 (a) is found to have been convicted of any offense described in Subsection (1)(a) prior  
4080 to the license being granted; or

4081 (b) on or after the day on which the license is granted:

4082 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

4083 (ii) (A) is convicted of driving under the influence of alcohol, any drug, or the  
4084 combined influence of alcohol and any drug; and

4085 (B) was convicted of driving under the influence of alcohol, any drug, or the combined  
4086 influence of alcohol and any drug within five years before the day on which the person is  
4087 convicted of the offense described in Subsection (2)(b)(ii)(A).

4088 (3) The director may take emergency action by immediately suspending the operation

4089 of the local industry representative license according to the procedures and requirements of  
4090 Title 63, Chapter 46b, Administrative Procedures Act, for the period during which the criminal  
4091 matter is being adjudicated if a person described in Subsection (1)(a), (b), or (c):

4092 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

4093 or

4094 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,  
4095 any drug, or the combined influence of alcohol and any drug; and

4096 (ii) was convicted of driving under the influence of alcohol, any drug, or the combined  
4097 influence of alcohol and any drug within five years before the day on which the person is  
4098 arrested on a charge described in Subsection (3)(b)(i).

4099 (4) (a) (i) The commission may not grant a local industry representative license to [~~any~~]  
4100 an individual who has had any type of license, agency, or permit issued under this title revoked  
4101 within the last three years.

4102 (ii) The commission may not grant a local industry representative license to an  
4103 applicant that is a partnership, corporation, or limited liability company if any partner,  
4104 managing agent, manager, officer, director, stockholder who holds at least 20% of the total  
4105 issued and outstanding stock of an applicant corporation, or member who owns at least 20% of  
4106 an applicant limited liability company is or was:

4107 (A) a partner or managing agent of any partnership that had any type of license, agency,  
4108 or permit issued under this title revoked within the last three years;

4109 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%  
4110 of the total issued and outstanding stock of any corporation that had any type of license,  
4111 agency, or permit issued under this title revoked within the last three years; or

4112 (C) a manager or member who owns or owned at least 20% of any limited liability  
4113 company that had any type of license, agency, or permit issued under this title revoked within  
4114 the last three years.

4115 (b) An applicant that is a partnership, corporation, or limited liability company may not  
4116 be granted a local industry representative license if any of the following had any type of  
4117 license, agency, or permit issued under this title revoked while acting in that person's individual  
4118 capacity within the last three years:

4119 (i) [~~any~~] a partner or managing agent of the applicant partnership;

4120 (ii) ~~any~~ a managing agent, officer, director, or stockholder who holds at least 20% of  
4121 the total issued and outstanding stock of the applicant corporation; or

4122 (iii) ~~any~~ a manager or member who owns at least 20% of the applicant limited  
4123 liability company.

4124 (c) A person acting in an individual capacity may not be granted an industry  
4125 representative license if that person was:

4126 (i) a partner or managing agent of a partnership that had any type of license, agency, or  
4127 permit issued under this title revoked within the last three years;

4128 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the  
4129 total issued and outstanding stock of a corporation that had any type of license, agency, or  
4130 permit issued under this title revoked within the last three years; or

4131 (iii) a manager or member who owned at least 20% of a limited liability company that  
4132 had any type of license, agency, or permit issued under this title revoked within the last three  
4133 years.

4134 (5) (a) The commission may not grant a local industry representative license to a  
4135 minor.

4136 (b) The commission may not grant a local industry representative license to an  
4137 applicant that is a partnership, corporation, or limited liability company if any of the following  
4138 is a minor:

4139 (i) a partner or managing agent of the applicant partnership;

4140 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
4141 total issued and outstanding stock of the applicant corporation; or

4142 (iii) a manager or member who owns at least 20% of the applicant limited liability  
4143 company.

4144 (6) Except as otherwise provided, the commission may not grant a local industry  
4145 representative license to:

4146 (a) ~~any~~ a holder of any retail license issued under this title that sells:

4147 (i) spirituous liquor~~;~~;

4148 (ii) wine~~;~~~~or~~;

4149 (iii) heavy beer; ~~or~~

4150 (iv) on or after October 1, 2008, a flavored malt beverage;

4151 (b) [~~any~~] an employee or agent of any retail license issued under this title that sells;

4152 (i) spirituous liquor[~~;~~];

4153 (ii) wine[~~;~~or];

4154 (iii) heavy beer; or

4155 (iv) on or after October 1, 2008, a flavored malt beverage; or

4156 (c) [~~any~~] an individual, partnership, corporation, or limited liability company who

4157 holds any interest in any retail license issued under this title that sells;

4158 (i) spirituous liquor[~~;~~];

4159 (ii) wine[~~;~~or];

4160 (iii) heavy beer; or

4161 (iv) on or after October 1, 2008, a flavored malt beverage.

4162 (7) If [~~any~~] an individual, partnership, corporation, or limited liability company to  
 4163 whom a local industry representative license has been issued under this part no longer  
 4164 possesses the qualifications required by this title for obtaining that license, the commission  
 4165 may suspend or revoke that license.

4166 Section 45. Section **32A-8-505** is amended to read:

4167 **32A-8-505. Operational restrictions.**

4168 (1) (a) A local industry representative licensee, employee or agent of the licensee, or  
 4169 employee or agent of a manufacturer, supplier, or importer who is conducting business in the  
 4170 state, shall abide by the conditions and requirements set forth in this section.

4171 (b) If [~~any~~] a person listed in Subsection (1)(a) knowingly violates or fails to comply  
 4172 with the conditions and requirements set forth in this section:

4173 (i) [~~such~~] the violation or failure to comply may result in:

4174 (A) a suspension or revocation of the license; or

4175 (B) other disciplinary action taken against individual employees or agents of the  
 4176 licensee; and

4177 (ii) the commission may order the removal of the manufacturer's, supplier's, or  
 4178 importer's products from the department's sales list and a suspension of the department's  
 4179 purchase of those products for a period determined by the commission if the manufacturer,  
 4180 supplier, or importer:

4181 (A) directly committed the violation; or

4182 (B) solicited, requested, commanded, encouraged, or intentionally aided another to  
4183 engage in the violation.

4184 (2) A local industry representative licensee, employee or agent of the licensee, or  
4185 employee or agent of a manufacturer, supplier, or importer who is conducting business in the  
4186 state:

4187 (a) only to the extent authorized by Chapter 12, Criminal Offenses, may:

4188 (i) assist the department in:

4189 (A) ordering, shipping, and delivering merchandise;

4190 (B) providing new product notification;

4191 (C) obtaining listing and delisting information;

4192 (D) receiving price quotations;

4193 (E) providing product sales analysis;

4194 (F) conducting shelf management; and

4195 (G) conducting educational seminars; and

4196 (ii) for the purpose of acquiring new listings:

4197 (A) solicit orders from the department; and

4198 (B) submit to the department price lists and samples of the products of the  
4199 manufacturer, supplier, or importer;

4200 (b) may not sell any liquor[~~-, wine, or heavy beer~~] within the state except to the  
4201 department and military installations[~~;~~] including:

4202 (i) wine;

4203 (ii) heavy beer; or

4204 (iii) on or after October 1, 2008, a flavored malt beverage;

4205 (c) may not ship or transport, or cause to be shipped or transported, into this state or  
4206 from one place to another within this state any liquor[~~;~~] including:

4207 (i) wine[~~-or~~];

4208 (ii) heavy beer; or

4209 (iii) on or after October 1, 2008, a flavored malt beverage;

4210 (d) may not sell or furnish any liquor[~~-, wine, or heavy beer~~] to any person within this  
4211 state other than to the department and military installations[~~;~~] including:

4212 (i) wine;



- 4213           (ii) heavy beer; or
- 4214           (iii) on or after October 1, 2008, a flavored malt beverage;
- 4215           (e) except as otherwise provided, may not advertise products it represents in violation
- 4216 of this title or any other federal or state law;
- 4217           (f) shall comply with all trade practices provided in Chapter 12, Criminal Offenses; and
- 4218           (g) may only provide samples of products of the manufacturer, supplier, or importer for
- 4219 tasting and sampling purposes as provided in Section 32A-12-603 by the department.
- 4220           (3) (a) A local industry representative licensee shall maintain on file with the
- 4221 department a current accounts list of the names and addresses of all manufacturers, suppliers,
- 4222 and importers the licensee represents.
- 4223           (b) The licensee shall notify the department in writing of any changes to the accounts
- 4224 listed within 14 days from the date the licensee either acquired or lost the account of a
- 4225 particular manufacturer, supplier, or importer.
- 4226           (4) A local industry representative licensee shall maintain accounting and other records
- 4227 and documents as the department may require for at least three years.
- 4228           (5) ~~[Any]~~ A local industry representative licensee or person acting for the licensee, who
- 4229 knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes the entries in any of
- 4230 the books of account or other documents of the licensee required to be made, maintained, or
- 4231 preserved by this title or the rules of the commission for the purpose of deceiving the
- 4232 commission or the department, or any of their officials or employees, is subject to:
- 4233           (a) the immediate suspension or revocation of the industry representative's license; and
- 4234           (b) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 4235           (6) A local industry representative licensee may, for the purpose of becoming educated
- 4236 as to the quality and characteristics of a liquor, wine, or heavy beer product which the licensee
- 4237 represents, taste and analyze industry representative samples under the conditions listed in this
- 4238 Subsection (6).
- 4239           (a) The licensee may not receive more than two industry representative samples of a
- 4240 particular type, vintage, and production lot of a particular branded product within a consecutive
- 4241 120-day period.
- 4242           (b) (i) ~~[Each]~~ A sample of liquor may not exceed 1 liter.
- 4243           (ii) ~~[Each]~~ Notwithstanding Subsection (6)(b)(i), a sample of [wine or heavy beer] the

4244 following may not exceed 1.5 liters unless that exact product is only commercially packaged in  
4245 a larger size, not to exceed 5 liters[-];

4246 (A) wine;

4247 (B) heavy beer; or

4248 (C) on or after October 1, 2008, a flavored malt beverage.

4249 (c) [~~Each~~] An industry representative sample may only be of a product not presently  
4250 listed on the department's sales list.

4251 (d) (i) [~~Industry~~] An industry representative [~~samples~~] sample shall be shipped:

4252 (A) prepaid by the manufacturer, supplier, or importer;

4253 (B) by common carrier and not via United States mail; and

4254 (C) directly to the department's central administrative warehouse office.

4255 (ii) [~~These samples~~] An industry representative sample may not be shipped to any other  
4256 location within the state.

4257 (e) [~~Industry~~] An industry representative [~~samples~~] sample shall be accompanied by a  
4258 letter from the manufacturer, supplier, or importer:

4259 (i) clearly identifying the product as an "industry representative sample"; and

4260 (ii) clearly stating:

4261 (A) the FOB case price of the product; and

4262 (B) the name of the local industry representative for who it is intended.

4263 (f) The department shall assess a reasonable handling, labeling, and storage fee for  
4264 each industry representative sample received.

4265 (g) The department shall affix to [~~each~~] a bottle or container a label clearly identifying  
4266 the product as an "industry representative sample."

4267 (h) The department shall:

4268 (i) account for and record each industry representative sample received;

4269 (ii) account for the sample's disposition; and

4270 (iii) maintain a record of the sample and its disposition for a two-year period.

4271 (i) [~~Industry~~] An industry representative [~~samples~~] sample may not leave the premises  
4272 of the department's central administrative warehouse office.

4273 (j) [~~Licensed~~] A licensed industry [~~representatives~~] representative and [~~their~~] the  
4274 industry representative's employees and agents may, at regularly scheduled days and times

4275 established by the department, taste and analyze one or more industry representative samples  
 4276 on the premises of the department's central administrative warehouse office.

4277 (k) Any unused contents of an opened product remaining after the product [~~has been~~] is  
 4278 sampled shall be destroyed by the department under controlled and audited conditions  
 4279 established by the department.

4280 (l) [~~Industry representative samples~~] An industry representative sample that [~~are~~] is not  
 4281 tasted within 30 days of receipt by the department shall be disposed of at the discretion of the  
 4282 department in one of the following ways:

4283 (i) contents destroyed under controlled and audited conditions established by the  
 4284 department; or

4285 (ii) added to the inventory of the department for sale to the public.

4286 (7) An employee or agent of a local industry representative licensee may not be:

4287 (a) the holder of any retail license issued under this title that sells:

4288 (i) spirituous liquor[;];

4289 (ii) wine[~~;~~or];

4290 (iii) heavy beer; or

4291 (iv) on or after October 1, 2008, a flavored malt beverage;

4292 (b) an employee or agent of any retail licensee issued under this title that sells:

4293 (i) spirituous liquor[;];

4294 (ii) wine[~~;~~or];

4295 (iii) heavy beer; or

4296 (iv) on or after October 1, 2008, a flavored malt beverage; or

4297 (c) a minor.

4298 (8) (a) A local representative licensee may not sell, transfer, assign, exchange, barter,  
 4299 give, or attempt in any way to dispose of the license to any other person, whether for monetary  
 4300 gain or not.

4301 (b) A local industry representative license has no monetary value for the purpose of any  
 4302 type of disposition.

4303 Section 46. Section **32A-10-101** is amended to read:

4304 **32A-10-101. State and local licensing -- Limitations.**

4305 (1) [~~Any~~] A local authority may:

- 4306 (a) tax or prohibit any retail sale of beer;
- 4307 (b) issue, suspend, and revoke licenses to sell beer at retail for on-premise
- 4308 consumption;
- 4309 (c) issue, suspend, and revoke temporary permits or licenses to sell beer for on-premise
- 4310 consumption at temporary special events that do not last longer than 30 days;
- 4311 (d) issue, suspend, and revoke licenses to businesses to sell beer at retail for
- 4312 off-premise consumption;
- 4313 (e) establish proximity restrictions for establishing premises where beer is sold at retail
- 4314 for off-premise consumption in relation to any [~~public or private school, church, public library,~~
- 4315 ~~public playground, or park~~] community location; and
- 4316 (f) otherwise regulate the retail sale of beer for off-premise consumption subject to the
- 4317 requirements of Sections 32A-10-102 and 32A-10-103.
- 4318 (2) The commission shall issue [~~licenses~~] a license to sell beer at retail for on-premise
- 4319 consumption as provided in Part 2, On-Premise Beer Retailer Licenses.
- 4320 (3) [~~Each~~] A licensee issued a license for on-premise consumption, by the commission
- 4321 under Subsection (2) or by the local authority under Subsection (1), is subject to the operational
- 4322 restrictions provided in Section 32A-10-206, except as otherwise provided.
- 4323 (4) Suspension or revocation of an on-premise beer retailer license issued by the
- 4324 commission under Subsection (2) or an on-premise beer retailer license issued by a local
- 4325 authority under Subsection (1) prohibits the establishment whose license is suspended or
- 4326 revoked from continuing to operate under the other state or local license it may have.
- 4327 (5) The commission shall issue temporary permits to sell beer at retail for on-premise
- 4328 consumption at temporary special events that do not last longer than 30 days as provided in
- 4329 Part 3, Temporary Special Event Beer Permits.
- 4330 (6) [~~Each~~] A permittee issued a temporary permit by the commission under Subsection
- 4331 (5) or by the local authority under Subsection (1), is subject to the operational restrictions
- 4332 provided in Section 32A-10-306, except as otherwise provided.
- 4333 (7) Suspension or revocation of a temporary permit issued by the commission under
- 4334 Subsection (5) or by a local authority under Subsection (1) prohibits the permittee whose
- 4335 permit is suspended or revoked from continuing to operate under the other state or local permit
- 4336 the permittee may have.

4337 Section 47. Section **32A-10-102** is amended to read:

4338 **32A-10-102. General restrictions.**

4339 (1) (a) (i) A beer retailer licensed under this part or Part 2, On-Premise Beer Retailer  
4340 Licenses, may not purchase, acquire, possess for the purpose of resale, or sell ~~[any]~~ beer except  
4341 that which ~~[has been]~~ is lawfully purchased from:

4342 (A) a wholesaler licensed under this title; or ~~[from]~~

4343 (B) a small brewer that ~~[manufactured]~~ manufactures the beer.

4344 (ii) Violation of Subsection (1)(a) is a class A misdemeanor.

4345 (b) (i) ~~[All purchases made of beer by any]~~ A beer retailer shall purchase beer only  
4346 from a licensed wholesaler ~~[shall be from that wholesaler]~~ who is authorized by the  
4347 commission to sell beer in the geographical area in which the beer retailer is located, unless an  
4348 alternate wholesaler is authorized by the department to sell to the beer retailer as provided in  
4349 Section 32A-11-106.

4350 (ii) Violation of Subsection (1)(b) is a class B misdemeanor.

4351 (2) (a) Beer may not be sold, provided, or possessed for off-premise consumption in  
4352 ~~[containers]~~ a container larger than two liters.

4353 (b) For a special event that does not last longer than 30 days:

4354 (i) an on-premise beer retailer license issued by the commission as provided in this part  
4355 is not required for the sale of beer at the special event; and

4356 (ii) a temporary beer permit must be obtained from the commission, director, or  
4357 director's designee as provided in Part 3, Temporary Special Event Beer Permits.

4358 (3) (a) A minor may not be granted a beer retailer license.

4359 (b) The commission may not grant a beer retailer license to an applicant that is a  
4360 partnership, corporation, or limited liability company if any of the following is a minor:

4361 (i) a partner or managing agent of the applicant partnership;

4362 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
4363 total issued and outstanding stock of the applicant corporation; or

4364 (iii) a manager or member who owns at least 20% of the applicant limited liability  
4365 company.

4366 (4) A minor may not sell beer on the premises of a beer retailer for off-premise  
4367 consumption unless:

4368 (a) the sale is done under the supervision of a person 21 years of age or older who is on  
4369 the premises; and

4370 (b) the minor is at least 16 years of age.

4371 (5) (a) ~~[If malt beverage coolers or malt liquor is sold by a beer retailer for off-premise~~  
4372 ~~consumption, the] A beer retailer shall [display a sign at the location on the premises where~~  
4373 ~~malt beverages or malt liquor is sold stating: "Many malt beverages contain alcohol. Please~~  
4374 ~~read the label."];~~

4375 (i) display a beer sold by the retailer in an area that is visibly separate and distinct from  
4376 the area where a nonalcoholic beverage is displayed; and

4377 (ii) post a sign in the area described in Subsection (5)(a)(i) that:

4378 (A) is prominent;

4379 (B) is easily readable by a consumer;

4380 (C) meets the requirements for format made by the commission by rule made in  
4381 accordance with Title 63, Title 46a, Utah Administrative Rulemaking Act; and

4382 (D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain  
4383 alcohol. Please read the label carefully."

4384 (b) The requirements of this Subsection (5) apply to a beer notwithstanding that its  
4385 labeled, packaged, or advertised as:

4386 (i) a malt cooler; or

4387 (ii) a beverage that may provide energy.

4388 ~~[(b)] (c)~~ A violation of this Subsection (5) is an infraction.

4389 Section 48. Section **32A-10-201** is amended to read:

4390 **32A-10-201. Commission's power to grant licenses -- Limitations.**

4391 (1) Before ~~[any]~~ an establishment may sell beer at retail for on-premise consumption, it  
4392 shall first obtain:

4393 (a) an on-premise beer retailer license from the commission as provided in this part;

4394 and

4395 (b) (i) a license issued by the local authority, as provided in Section 32A-10-101, to  
4396 sell beer at retail for on-premise consumption; or

4397 (ii) other written consent of the local authority to sell beer at retail for on-premise  
4398 consumption.

4399 (2) (a) Subject to the requirements of this section, the commission may issue  
4400 on-premise beer retailer licenses for the purpose of establishing on-premise beer retailer outlets  
4401 at places and in numbers as it considers proper for the storage, sale, and consumption of beer  
4402 on premises operated as on-premise beer retailer outlets.

4403 (b) Notwithstanding Subsection (2)(a), the total number of on-premise beer retailer  
4404 licenses that are taverns may not at any time aggregate more than that number determined by  
4405 dividing the population of the state by [~~25,000~~] 30,500.

4406 (c) For purposes of this Subsection (2), the population of the state shall be determined  
4407 by:

4408 (i) the most recent United States decennial special census; or

4409 (ii) [~~any other~~] another population determination made by the United States or state  
4410 governments.

4411 (d) (i) The commission may issue seasonal licenses for taverns established in areas the  
4412 commission considers necessary.

4413 (ii) A seasonal license for taverns shall be for a period of six consecutive months.

4414 (iii) An on-premise beer retailer license for a tavern issued for operation during a  
4415 summer time period is known as a "Seasonal A" on-premise beer retailer license for a tavern.  
4416 The period of operation for a "Seasonal A" on-premise beer retailer license for a tavern shall:

4417 (A) begin on May 1; and

4418 (B) end on October 31.

4419 (iv) An on-premise beer retailer license for a tavern issued for operation during a  
4420 winter time period is known as a "Seasonal B" on-premise beer retailer license for a tavern.

4421 The period of operation for a "Seasonal B" on-premise beer retailer license for a tavern shall:

4422 (A) begin on November 1; and

4423 (B) end on April 30.

4424 (v) In determining the number of tavern licenses that the commission may issue under  
4425 this section:

4426 (A) a seasonal on-premise beer retailer license for a tavern is counted as 1/2 of one  
4427 on-premise beer retailer license for a tavern; and

4428 (B) each "Seasonal A" on-premise beer retailer license for a tavern shall be paired with  
4429 a "Seasonal B" on-premise beer retailer license for a tavern.

4430 (3) (a) ~~[The]~~ Except as provided in Subsection (3)(b) or (c), the premises of an  
4431 on-premise beer retailer license may not be established;

4432 (i) within 600 feet of ~~[any public or private school, church, public library, public~~  
4433 ~~playground, or park]~~ a community location, as measured by the method in Subsection ~~[(4):]~~  
4434 (3)(d); or

4435 ~~[(b) The premises of an on-premise beer retailer license may not be established]~~

4436 (ii) within 200 feet of ~~[any public or private school, church, public library, public~~  
4437 ~~playground, or park]~~ a community location, measured in a straight line from the nearest  
4438 entrance of the proposed outlet to the nearest property boundary of the ~~[public or private~~  
4439 ~~school, church, public library, public playground, or park]~~ community location.

4440 ~~[(c) The restrictions of Subsections (3)(a) and (b) govern unless one of the following~~  
4441 ~~exemptions applies:]~~

4442 ~~[(i) with]~~ (b) With respect to the establishment of an on-premise beer retailer license  
4443 ~~[that operates as a tavern within a city of the third, fourth, or fifth class, a town, or the~~  
4444 ~~unincorporated area of a county]~~, the commission may authorize a variance to reduce the  
4445 proximity ~~[requirements]~~ requirement of Subsection (3)(a)(i) ~~[or (b)]~~ if:

4446 ~~[(A)]~~ (i) the local ~~[governing]~~ authority ~~[has granted]~~ grants its written consent to the  
4447 variance;

4448 ~~[(B)]~~ (ii) the commission finds that alternative locations for establishing an on-premise  
4449 beer retailer ~~[tavern]~~ license in the community are limited;

4450 ~~[(C)]~~ (iii) a public hearing ~~[has been]~~ is held in the city, town, or county, and where  
4451 practical, in the neighborhood concerned; ~~[and]~~

4452 ~~[(D)]~~ (iv) after giving full consideration to all of the attending circumstances and the  
4453 policies stated in Subsections 32A-1-104(3) and (4), the commission determines that  
4454 establishing the license would not be detrimental to the public health, peace, safety, and  
4455 welfare of the community; and

4456 ~~[(ii) with respect to the establishment of an on-premise beer retailer license that~~  
4457 ~~operates as a tavern in any location, the commission may authorize a variance to reduce the~~  
4458 ~~proximity requirements of Subsection (3)(a) or (b) in relation to a church:]~~

4459 ~~[(A) if the local governing body of the church in question gives its written consent to~~  
4460 ~~the variance;]~~



4461 ~~[(B) following a public hearing in the city, town, or county and where practical in the~~  
4462 ~~neighborhood concerned; and]~~

4463 ~~[(C) after giving full consideration to all of the attending circumstances and the~~  
4464 ~~policies stated in Subsections 32A-1-104(3) and (4);]~~

4465 ~~[(iii) with respect to the establishment of an on-premise beer retailer license that does~~  
4466 ~~not operate as a tavern in any location, the commission may authorize a variance that reduces~~  
4467 ~~the proximity requirements of Subsection (3)(a) or (b) if:]~~

4468 ~~[(A) the local governing authority has granted its written consent to the variance;]~~

4469 ~~[(B) alternative locations for establishing an on-premise beer retailer license that does~~  
4470 ~~not operate as a tavern in the community are limited;]~~

4471 ~~[(C) a public hearing has been held in the city, town, or county, and where practical in~~  
4472 ~~the neighborhood concerned; and]~~

4473 ~~[(D) after giving full consideration to all of the attending circumstances and the~~  
4474 ~~policies stated in Subsections 32A-1-104(3) and (4), the commission determines that~~  
4475 ~~establishing a license would not be detrimental to the public health, peace, safety, and welfare~~  
4476 ~~of the community;]~~

4477 (v) (A) the community location governing authority gives its written consent to the  
4478 variance; or

4479 (B) when written consent is not given by the community location governing authority,  
4480 the commission finds that the applicant has established that:

4481 (I) there is substantial unmet public demand to consume alcohol in a public setting  
4482 within the geographic boundary of the local authority in which the on-premise beer retailer  
4483 licensee is to be located;

4484 (II) there is no reasonably viable alternative for satisfying substantial unmet demand  
4485 described in Subsection (3)(b)(v)(B)(I) other than through the establishment of an on-premise  
4486 beer retailer license; and

4487 (III) there is no reasonably viable alternative location within the geographic boundary  
4488 of the local authority in which the on-premise beer retailer licensee is to be located for  
4489 establishing an on-premise beer retailer license to satisfy the unmet demand described in  
4490 Subsection (3)(b)(v)(B)(I).

4491 ~~[(iv) with] (c) (i) With respect to [any] an on-premise beer retailer license issued by~~

4492 the commission before July 1, 1991, to an establishment that undergoes a change in ownership  
4493 after that date, the commission may waive or vary the proximity requirements of this  
4494 Subsection (3) in considering whether to grant an on-premise retailer beer license to the new  
4495 owner~~;~~~~and~~.

4496 ~~[(v) with]~~ (ii) With respect to the premises of an on-premise beer retailer license  
4497 issued by the commission that undergoes a change of ownership, the commission may waive or  
4498 vary the proximity requirements of Subsection (3)(a) ~~[or (b)]~~ in considering whether to grant an  
4499 on-premise beer retailer license to the new owner of the premises if:

4500 (A) (I) the premises previously received a variance from the proximity ~~[requirements]~~  
4501 requirement of Subsection (3)(a)(i) ~~[or (b)]~~; or

4502 (II) the premises received a variance from the proximity requirement of Subsection  
4503 (3)(a)(ii) on or before May 4, 2008; or

4504 (B) a variance from proximity ~~[or distance]~~ requirements was otherwise allowed under  
4505 this title.

4506 ~~[(4) With respect to any public or private school, church, public library, public~~  
4507 ~~playground, or park, the]~~

4508 (d) The 600 foot limitation described in Subsection (3)(a)(i) is measured from the  
4509 nearest entrance of the outlet by following the shortest route of ordinary pedestrian travel to the  
4510 property boundary of the ~~[public or private school, church, public library, public playground,~~  
4511 ~~school playground or park]~~ community location.

4512 ~~[(5)]~~ (4) (a) Nothing in this section prevents the commission from considering the  
4513 proximity of any educational, religious, and recreational facility, or any other relevant factor in  
4514 reaching a decision on a proposed location.

4515 (b) For purposes of this Subsection ~~[(5)]~~ (4), "educational facility" includes:

4516 (i) a nursery school;

4517 (ii) an infant day care center; and

4518 (iii) a trade and technical school.

4519 Section 49. Section **32A-10-202** is amended to read:

4520 **32A-10-202. Application and renewal requirements.**

4521 (1) A person seeking an on-premise beer retailer license under this chapter shall file a  
4522 written application with the department, in a form prescribed by the department. The

4523 application shall be accompanied by:

4524 (a) a nonrefundable \$250 application fee;

4525 (b) an initial license fee that is refundable if a license is not granted in the following  
4526 amount:

4527 (i) if the on-premise beer retailer licensee does not operate as a tavern, the initial  
4528 license fee is \$150; or

4529 (ii) if the on-premise beer retailer licensee operates as a tavern, the initial license fee is  
4530 \$1,250;

4531 (c) written consent of the local authority or a license to sell beer at retail for on-premise  
4532 consumption granted by the local authority under Section 32A-10-101;

4533 (d) a copy of the applicant's current business license;

4534 (e) evidence of proximity to any [~~public or private school, church, public library,~~  
4535 ~~public playground, or park, and if the proximity is within the 600 foot or 200 foot limitation of~~  
4536 ~~Subsections 32A-10-201(3) and (4), the application shall be processed in accordance with~~  
4537 ~~those subsections]~~ community location, with proximity requirements being governed by  
4538 Section 32A-10-201;

4539 (f) a bond as specified by Section 32A-10-205;

4540 (g) a floor plan of the premises, including consumption areas and the area where the  
4541 applicant proposes to keep, store, and sell beer;

4542 (h) evidence that the on-premise beer retailer licensee is carrying public liability  
4543 insurance in an amount and form satisfactory to the department;

4544 (i) for [~~those licensees that sell]~~ a licensee that sells more than \$5,000 of beer annually,  
4545 evidence that the on-premise beer retailer licensee is carrying dramshop insurance coverage of  
4546 at least \$500,000 per occurrence and \$1,000,000 in the aggregate;

4547 (j) a signed consent form stating that the on-premise beer retailer licensee will permit  
4548 any authorized representative of the commission, department, or any peace officer unrestricted  
4549 right to enter the licensee premises;

4550 (k) in the case of an applicant that is a partnership, corporation, or limited liability  
4551 company, proper verification evidencing that the person or persons signing the on-premise beer  
4552 retailer licensee application are authorized to so act on the behalf of the partnership,  
4553 corporation, or limited liability company; and

- 4554 (1) any other information the department may require.
- 4555 (2) (a) All on-premise beer retailer licenses expire on the last day of February of each
- 4556 year.
- 4557 (b) (i) Except as provided in Subsection (2)(b)(ii), a person desiring to renew the
- 4558 person's on-premise beer retailer license shall submit by no later than January 31:
- 4559 (A) a completed renewal application to the department; and
- 4560 (B) a renewal fee in the following amount:
- 4561 (I) if the on-premise beer retailer licensee does not operate as a tavern, the renewal fee
- 4562 is \$200; or
- 4563 (II) if the on-premise beer retailer licensee operates as a tavern, the renewal fee is
- 4564 \$1,000.
- 4565 (ii) A licensee is not required to submit a renewal fee if the licensee is:
- 4566 (A) a state agency; or
- 4567 (B) a political subdivision of the state including:
- 4568 (I) a county; or
- 4569 (II) a municipality.
- 4570 (c) Failure to meet the renewal requirements shall result in an automatic forfeiture of
- 4571 the license, effective on the date the existing license expires.
- 4572 (d) [~~Renewal applications~~] A renewal statement shall be in a form as prescribed by the
- 4573 department.
- 4574 (3) To ensure compliance with Subsection 32A-10-206(17), the commission may
- 4575 suspend or revoke a beer retailer license if [~~any~~] a beer retailer licensee does not immediately
- 4576 notify the department of any change in:
- 4577 (a) ownership of the beer retailer;
- 4578 (b) for a corporate owner, the:
- 4579 (i) corporate officers or directors; and
- 4580 (ii) shareholders holding at least 20% of the total issued and outstanding stock of the
- 4581 corporation; or
- 4582 (c) for a limited liability company:
- 4583 (i) managers; or
- 4584 (ii) members owning at least 20% of the limited liability company.

4585 (4) An applicant need not meet the requirements of Subsections (1)(a), (b), (c), (d), and  
4586 (f) if the applicant is:

4587 (a) a state agency; or

4588 (b) a political subdivision of the state including:

4589 (i) a county; or

4590 (ii) a municipality.

4591 (5) (a) Except as provided in Subsection (5)(c), only one state on-premise beer retailer  
4592 license is required for each building or resort facility owned or leased by the same applicant.

4593 (b) Except as provided in Subsection (5)(c), separate licenses are not required for each  
4594 retail beer dispensing outlet located in the same building or on the same resort premises owned  
4595 or operated by the same applicant.

4596 (c) (i) Subsections (5)(a) and (5)(b) apply only if all of the retail beer dispensing outlets  
4597 in the building or resort facility operate in the same manner.

4598 (ii) If the condition described in Subsection (5)(c)(i) is not met:

4599 (A) one state on-premise beer retailer tavern license is required for all outlets in the  
4600 same building or on the same resort premises that operate as a tavern; and

4601 (B) one state on-premise beer retailer license is required for all outlets in the same  
4602 building or on the same resort premises that do not operate as a tavern.

4603 Section 50. Section **32A-10-204** is amended to read:

4604 **32A-10-204. Commission and department duties before granting licenses.**

4605 (1) (a) Before an on-premise beer retailer license may be granted by the commission  
4606 the department shall conduct an investigation and may hold public hearings for the purpose of  
4607 gathering information and making recommendations to the commission as to whether or not a  
4608 license should be granted. [~~This~~]

4609 (b) The department shall forward the information [~~shall be forwarded~~] and  
4610 recommendations described in Subsection (1)(a) to the commission to aid in [~~its~~] the  
4611 commission's determination.

4612 (2) Before issuing an on-premise beer retailer license, the commission shall:

4613 (a) determine that:

4614 (i) the applicant has complied with all basic qualifications and requirements for making  
4615 application for a license as provided by Sections 32A-10-202 and 32A-10-203[~~;~~]; and [~~that~~]

- 4616           (ii) the application is complete;
- 4617           (b) consider the locality within which the proposed on-premise beer retailer outlet is
- 4618 located including~~[-but not limited to]:~~
- 4619           (i) physical characteristics such as:
- 4620           (A) the condition of the premises~~[-];~~
- 4621           (B) square footage~~[-];~~ and
- 4622           (C) parking availability; and
- 4623           (ii) operational factors such as:
- 4624           (A) tourist traffic~~[-];~~
- 4625           (B) proximity to and density of other state stores, package agencies, and licensed
- 4626 outlets~~[-];~~
- 4627           (C) demographics~~[-];~~
- 4628           (D) population served~~[-];~~ and
- 4629           (E) the extent of and proximity to any ~~[school, church, public library, public~~
- 4630 ~~playground, or park]~~ community location;
- 4631           (c) consider the applicant's ability to manage and operate an on-premise beer retailer
- 4632 license including~~[-but not limited to,];~~
- 4633           (i) management experience~~[-];~~
- 4634           (ii) past beer retailer experience~~[-];~~ and
- 4635           (iii) the type of management scheme employed by the outlet;
- 4636           (d) consider the nature or type of beer retailer operation of the proposed licensee; and
- 4637           (e) consider any other factors or circumstances [it] the commission considers
- 4638 necessary.
- 4639           Section 51. Section **32A-10-206** is amended to read:
- 4640           **32A-10-206. Operational restrictions.**
- 4641           ~~[Each]~~ A person granted an on-premise beer retailer license and the employees and
- 4642 management personnel of the on-premise beer retailer licensee shall comply with the following
- 4643 conditions and requirements. Failure to comply may result in a suspension or revocation of the
- 4644 license or other disciplinary action taken against individual employees or management
- 4645 personnel.
- 4646           (1) (a) Subject to Subsection (1)(b), a beer retailer licensee may sell beer for

4647 on-premise consumption:

4648 (i) in an open container; and

4649 (ii) on draft.

4650 (b) Beer sold pursuant to Subsection (1)(a) shall be in a size of container that does not  
4651 exceed two liters, except that beer may not be sold to an individual patron in a size of container  
4652 that exceeds one liter.

4653 (2) Liquor may not be stored or sold on the premises of any on-premise beer retailer  
4654 licensee.

4655 (3) A patron of the on-premise beer retailer may only make [~~purchases~~] a purchase  
4656 from and be served by a person employed, designated, and trained by the licensee to sell and  
4657 serve beer.

4658 (4) (a) Beer may not be sold, offered for sale, served, or otherwise furnished at [~~any~~] an  
4659 on-premise beer retailer establishment after 1 a.m. and before 10 a.m.

4660 (b) Beer may not be sold, served, or otherwise furnished to [~~any~~] a:

4661 (i) minor;

4662 (ii) person actually, apparently, or obviously intoxicated;

4663 (iii) known habitual drunkard; or

4664 (iv) known interdicted person.

4665 (c) (i) Notwithstanding Subsection (4)(a), a tavern licensed under this chapter shall  
4666 remain open for one hour after the tavern ceases the sale and service of alcoholic beverages  
4667 during which time a patron of the tavern may finish consuming a single serving of beer not  
4668 exceeding 26 ounces.

4669 (ii) A tavern is not required to remain open:

4670 (A) after all patrons have vacated the premises; or

4671 (B) during an emergency.

4672 (d) Between the hours of 2 a.m. and 10 a.m. on any day a tavern may not allow a patron  
4673 to remain on the premises to consume alcoholic beverages on the premises.

4674 (5) (a) Beer may not be sold at less than the cost of the beer to the licensee.

4675 (b) Beer may not be sold at a special or reduced price that encourages over  
4676 consumption or intoxication.

4677 (c) Beer may not be sold at a special or reduced price for only certain hours of the beer

4678 retailer's business day such as a "happy hour."

4679 (d) ~~[The sale or service of more]~~ More than one alcoholic beverage may not be sold or  
4680 served for the price of a single alcoholic beverage ~~[is prohibited].~~

4681 (e) ~~[The sale or service of an]~~ An indefinite or unlimited number of alcoholic  
4682 beverages may not be sold or served during ~~[any]~~ a set period for a fixed price ~~[is prohibited].~~

4683 (f) An on-premise beer licensee may not engage in a public promotion involving or  
4684 offering free alcoholic beverages to the general public.

4685 (6) Beer may not be purchased for a patron of the on-premise beer establishment by:

4686 (a) the on-premise beer licensee; or

4687 (b) an employee or agent of the on-premise beer licensee.

4688 (7) Beer sold in a sealed ~~[containers]~~ container by the on-premise beer retailer licensee  
4689 may be removed from the on-premise beer retailer premises.

4690 (8) (a) A person may not bring onto the premises of an on-premise beer retailer  
4691 licensee ~~[any]~~ an alcoholic beverage for on-premise consumption.

4692 (b) An on-premise beer retailer licensee or ~~[its officers, managers, employees, or~~  
4693 ~~agents]~~ an officer, manager, employee, or agent of the licensee may not:

4694 (i) allow a person to bring onto the on-premise beer retailer licensee premises ~~[any]~~ an  
4695 alcoholic beverage for on-premise consumption; or

4696 (ii) allow consumption of ~~[any such]~~ an alcoholic beverage described in this  
4697 Subsection (8) on its premises.

4698 (9) An on-premise beer retailer licensee and ~~[its employees]~~ an employee or the  
4699 licensee may not permit a patron to carry from the premises an open container that:

4700 (a) is used primarily for drinking purposes; and

4701 (b) contains ~~[any]~~ an alcoholic beverage.

4702 (10) (a) Except as provided in Subsection (10)(b), a minor may not be:

4703 (i) employed by or be on the premises of an on-premise beer retailer licensee to sell,  
4704 dispense, or otherwise furnish beer; or

4705 (ii) on the premises of ~~[any]~~ a tavern.

4706 (b) Notwithstanding Subsection (10)(a), a minor who is at least 16 years of age may be  
4707 employed to enter the sale at a cash register or other sales recording device on the premises of  
4708 an on-premise beer retailer that is not a tavern.



- 4709 (11) An employee of a licensee, while on duty, may not:
- 4710 (a) consume an alcoholic beverage; or
- 4711 (b) be intoxicated.
- 4712 (12) ~~[Each]~~ An on-premise beer retailer licensee shall display in a prominent place in
- 4713 the on-premise beer retailer licensee:
- 4714 (a) the on-premise beer retailer license that is issued by the department; and
- 4715 (b) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 4716 drugs is a serious crime that is prosecuted aggressively in Utah."
- 4717 (13) An on-premise beer retailer licensee may not on the premises of the on-premise
- 4718 beer retailer licensee:
- 4719 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
- 4720 Chapter 10, Part 11, Gambling;
- 4721 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
- 4722 Part 11, Gambling; or
- 4723 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 4724 the risking of something of value for a return or for an outcome when the return or outcome is
- 4725 based upon an element of chance, excluding the playing of an amusement device that confers
- 4726 only an immediate and unrecorded right of replay not exchangeable for value.
- 4727 (14) (a) Each on-premise beer retailer licensee shall maintain accounting and other
- 4728 records and documents as the department may require.
- 4729 (b) Any on-premise beer retailer licensee or person acting for the on-premise beer
- 4730 retailer licensee, who knowingly forges, falsifies, alters, cancels, destroys, conceals, or removes
- 4731 ~~[the entries in any of the books]~~ an entry in a book of account or other ~~[documents]~~ document
- 4732 of the on-premise beer retailer licensee required to be made, maintained, or preserved by this
- 4733 title or the rules of the commission for the purpose of deceiving the commission ~~[or]~~, the
- 4734 department, or any of their officials or employees, is subject to:
- 4735 (i) the immediate suspension or revocation of the on-premise beer retailer license; and
- 4736 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 4737 (15) (a) A tavern licensed under this chapter may not close or cease operation for a
- 4738 period longer than 240 hours, unless:
- 4739 (i) the tavern licensee notifies the department in writing at least seven days before the

- 4740 closing; and
- 4741 (ii) the closure or cessation of operation is first approved by the department.
- 4742 (b) Notwithstanding Subsection (15)(a), in the case of emergency [~~closure, immediate~~  
4743 ~~notice of closure shall be made to~~], a tavern licensee shall immediately notify the department  
4744 by telephone.
- 4745 (c) (i) The department may authorize a closure or cessation of operation for a period  
4746 not to exceed 60 days.
- 4747 (ii) The department may extend the initial period an additional 30 days upon:
- 4748 (A) written request of the tavern licensee; and
- 4749 (B) a showing of good cause.
- 4750 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
4751 commission approval.
- 4752 (d) A notice of closure or cessation by a tavern licensee shall include:
- 4753 (i) the date of closure or cessation of operation;
- 4754 (ii) the reason for the closure or cessation of operation; and
- 4755 (iii) the dates on which the tavern licensee will reopen or resume operation.
- 4756 (e) Failure of the tavern licensee to provide notice and to obtain department  
4757 authorization before closure or cessation of operation [~~shall result~~] results effective  
4758 immediately in an automatic forfeiture of:
- 4759 (i) the license; and
- 4760 (ii) the unused portion of the license fee for the remainder of the license year.
- 4761 (f) Failure of the tavern licensee to reopen or resume operation by the approved date  
4762 [~~shall result~~] results in an automatic forfeiture of:
- 4763 (i) the license; and
- 4764 (ii) the unused portion of the license fee for the remainder of the license year.
- 4765 (16) An on-premise beer retailer license may not be transferred from one location to  
4766 another, without prior written approval of the commission.
- 4767 (17) (a) An on-premise beer retailer licensee may not sell, transfer, assign, exchange,  
4768 barter, give, or attempt in any way to dispose of the license to any person, whether for  
4769 monetary gain or not.
- 4770 (b) An on-premise beer retailer license has no monetary value for the purpose of any

4771 type of disposition.

4772 (18) An on-premise beer retailer or an employee of the on-premise beer retailer may  
 4773 not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
 4774 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

4775 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
 4776 58-37-2; or

4777 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
 4778 Section 58-37a-3.

4779 Section 52. Section **32A-10-306** is amended to read:

4780 **32A-10-306. Operational restrictions.**

4781 (1) (a) [~~Any~~] A person granted a temporary special event beer permit and any person  
 4782 involved in the storage, sale, or service of beer at the event for which a temporary special event  
 4783 the permit is issued, shall abide by this title, the rules of the commission, and the special  
 4784 conditions and requirements provided in this section.

4785 (b) Failure to comply as provided in Subsection (1)(a):

4786 (i) may result in:

4787 (A) an immediate revocation of the permit;

4788 (B) forfeiture of the surety bond; and

4789 (C) immediate seizure of all beer present at the event; and

4790 (ii) disqualifies the organization from applying for a temporary special event beer  
 4791 permit under this part or a single event permit under Chapter 7, Single Event Permits, for a  
 4792 period of three years from the date of revocation of the temporary special event permit.

4793 (c) [~~Any beer~~] Beer seized under this Subsection (1) shall be returned to the  
 4794 organization after the event if forfeiture proceedings are not instituted under Section  
 4795 32A-13-103.

4796 (2) Special conditions and requirements for temporary special event beer permittees  
 4797 include the following:

4798 (a) (i) [~~All persons~~] A person involved in the storage, sale, or service of beer at the  
 4799 temporary special event [~~do so~~] is considered to be under the supervision and direction of the  
 4800 permittee.

4801 (ii) [~~All persons~~] A person involved in the sale or service of beer at the temporary

4802 special event may not, while on duty:

4803 (A) consume an alcoholic beverage; or

4804 (B) be intoxicated.

4805 (b) (i) ~~[All beer]~~ A permittee shall purchase beer stored, sold, served, and consumed at  
4806 the temporary special event ~~[shall be purchased by the permittee]~~ from a licensed beer  
4807 wholesaler or retailer.

4808 (ii) ~~[All beer]~~ Beer is considered under the control of the permittee during the  
4809 temporary special event.

4810 (iii) An attendee of the temporary special event may not bring ~~[any]~~ an alcoholic  
4811 ~~[beverages]~~ beverage onto the premises of the temporary special event.

4812 (c) ~~[Each]~~ A permittee shall post in a prominent place in the area in which beer is being  
4813 sold, served, and consumed:

4814 (i) a copy of the permit; and

4815 (ii) a list of the operational restrictions and requirements of temporary special event  
4816 beer permittees set forth in this section.

4817 (d) Beer purchased for a temporary special event may not be stored, sold, served, or  
4818 consumed in ~~[any]~~ a location other than that described in the application and designated on the  
4819 temporary special event permit unless the permittee first applies for and receives approval from  
4820 the commission for a change of location.

4821 (e) (i) Subject to Subsection (2)(e)(ii), beer may be sold for on-premise consumption:

4822 (A) in an open container; and

4823 (B) on draft.

4824 (ii) Beer sold pursuant to Subsection (2)(e)(i) shall be in a size of container that does  
4825 not exceed two liters, except that beer may not be sold to an individual attendee in a size of  
4826 container that exceeds one liter.

4827 (f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed  
4828 between the hours of 1 a.m. and 10 a.m.

4829 (ii) This Subsection (2)(f) does not preclude a local authority from being more  
4830 restrictive with respect to the hours of sale, service, or consumption of beer at a temporary  
4831 special event.

4832 (g) Beer may not be sold, served, or otherwise furnished to ~~[any]~~ a:

- 4833 (i) minor;
- 4834 (ii) person actually, apparently, or obviously intoxicated;
- 4835 (iii) known habitual drunkard; or
- 4836 (iv) known interdicted person.
- 4837 (h) (i) Beer may not be sold at less than the cost of the beer to the permittee.
- 4838 (ii) Beer may not be sold at a price that encourages over consumption or intoxication.
- 4839 (iii) Beer may not be sold at a special or reduced price for only certain hours of the day
- 4840 of the permitted event.
- 4841 (iv) [~~The sale or service of more~~] More than one beer beverage may not be sold or
- 4842 served for the price of a single beer beverage [~~is prohibited~~].
- 4843 (v) The permittee may not engage in a public promotion involving or offering free beer
- 4844 to the general public.
- 4845 (i) The permittee and its employees may not permit an attendee to carry from the
- 4846 premises an open container that:
- 4847 (i) is used for drinking purposes; and
- 4848 (ii) contains [~~any~~] an alcoholic beverage.
- 4849 (j) A minor may not sell, serve, dispense, or handle any beer at a temporary special
- 4850 event.
- 4851 (3) The permittee shall maintain an expense and revenue ledger or record showing:
- 4852 (a) expenditures made for beer; and
- 4853 (b) the revenue from sale of beer.
- 4854 (4) A temporary special event beer permit may not be transferred.
- 4855 (5) A temporary special event beer permittee may not on the premises serviced by the
- 4856 permittee:
- 4857 (a) engage in or allow any form of gambling, as defined and proscribed in Title 76,
- 4858 Chapter 10, Part 11, Gambling;
- 4859 (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10,
- 4860 Part 11, Gambling; or
- 4861 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 4862 the risking of something of value for a return or for an outcome when the return or outcome is
- 4863 based upon an element of chance, excluding the playing of an amusement device that confers

4864 only an immediate and unrecorded right of replay not exchangeable for value.

4865 (6) A temporary special event beer permittee or an employee of the temporary special  
4866 event beer permittee may not knowingly allow a person at an event to, in violation of Title 58,  
4867 Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

4868 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
4869 58-37-2; or

4870 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
4871 Section 58-37a-3.

4872 Section 53. Section **32A-11-106** is amended to read:

4873 **32A-11-106. Operational restrictions.**

4874 [Each] A person granted a beer wholesaling license, and the employees and  
4875 management personnel of the beer wholesaling licensee, shall comply with the following  
4876 conditions and requirements. Failure to comply may result in a suspension or revocation of the  
4877 beer wholesaling license or other disciplinary action taken against individual employees or  
4878 management personnel of the licensee.

4879 (1) A licensee may not wholesale [~~any~~] a beer manufactured within the state by a  
4880 brewer who is not licensed by the commission as a manufacturing licensee.

4881 (2) A licensee may not wholesale [~~any~~] a beer manufactured out of state by a brewer  
4882 who has not obtained a certificate of approval from the department.

4883 (3) (a) A licensee may not sell or distribute beer to [~~any~~] a person within the state  
4884 except:

4885 (i) a licensed beer retailer;

4886 (ii) a holder of a single event permit issued [~~by the commission~~] pursuant to Chapter 7,  
4887 Single Event Permits; or

4888 (iii) a holder of a temporary [~~retail~~] special event beer permit issued [~~by the~~  
4889 ~~commission~~] for a temporary special event pursuant to Chapter 10, Part 3, Temporary Special  
4890 Event Beer Permits.

4891 (b) A violation of this Subsection (3) is a class A misdemeanor.

4892 (4) (a) A licensee may not sell or distribute [~~any~~] a beer to [~~any~~] a retailer outside of the  
4893 geographic area designated on its application, except that if a licensee is temporarily unable to  
4894 supply retail dealers within its authorized geographical area, the department may grant

4895 temporary authority to another licensed wholesaler who distributes the same brand in another  
4896 area to supply retailers.

4897 (b) A violation of this Subsection (4) is a class B misdemeanor.

4898 (5) (a) ~~Every~~ A licensee shall own, lease, or otherwise control and maintain a  
4899 warehouse facility located in this state for the receipt, storage, and further distribution of all  
4900 beer sold by the licensee to ~~[any]~~ a person within the state.

4901 (b) A licensee may not sell beer to ~~[any]~~ a person in this state, other than the  
4902 department, unless the beer ~~[has]~~ is first ~~[been]~~:

4903 (i) physically removed from the vehicle used to transport the beer from the supplier to  
4904 the licensee; and

4905 (ii) delivered into the actual possession and control of the licensee in its warehouse or  
4906 other facility.

4907 (6) (a) ~~[Each]~~ A beer wholesaling licensee shall maintain accounting and other records  
4908 and documents as the department may require.

4909 (b) ~~[Any]~~ A licensee or person acting for the licensee, who knowingly forges, falsifies,  
4910 alters, cancels, destroys, conceals, or removes the entries in ~~[any of the books]~~ a book of  
4911 account or other ~~[documents]~~ document of the licensee required to be made, maintained, or  
4912 preserved by this title or the rules of the commission for the purpose of deceiving the  
4913 commission ~~[or]~~, the department, or ~~[any of their officials or employees]~~ an official or  
4914 employee of the commission or department, is subject to:

4915 (i) the immediate suspension or revocation of the beer wholesaling license; and

4916 (ii) possible criminal prosecution under Chapter 12, Criminal Offenses.

4917 (7) A licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any  
4918 way to dispose of the beer wholesaling license to ~~[any]~~ a person, whether for monetary gain or  
4919 not, unless it is done:

4920 (a) in accordance with the commission rules; and

4921 (b) after written consent ~~[has been]~~ is given by the commission.

4922 (8) A licensee may not sell or distribute ~~[any]~~ an alcoholic beverage that ~~[is not clearly~~  
4923 ~~labeled in a manner reasonably calculated to put the public on notice that the beverage is an~~  
4924 ~~alcoholic beverage. The beverage shall bear the label "alcoholic beverage" or a manufacturer's~~  
4925 ~~label which in common usage apprises the general public that the beverage contains alcohol]~~

4926 has not had its label and packaging approved by the department under Chapter 1, Part 8, Malted  
4927 Beverages Act.

4928 Section 54. Section **32A-12-212** is amended to read:

4929 **32A-12-212. Unlawful possession -- Exceptions.**

4930 (1) A person may not have or possess within this state any liquor unless authorized by  
4931 this title or the rules of the commission, except that:

4932 (a) a person who clears United States Customs when entering this country may have or  
4933 possess for personal consumption and not for sale or resale, a maximum of two liters of liquor  
4934 purchased from without the United States;

4935 (b) a person who moves the person's residence to this state from outside of this state  
4936 may have or possess for personal consumption and not for sale or resale, [~~any~~] liquor  
4937 previously purchased outside the state and brought into this state during the move, if:

4938 (i) the person first obtains department approval [~~prior to~~] before moving the liquor into  
4939 the state;

4940 (ii) the department affixes the official state label to the liquor; and

4941 (iii) the person pays the department a reasonable administrative handling fee as  
4942 determined by the commission;

4943 (c) a person who as a beneficiary inherits as part of an estate liquor that is located  
4944 outside the state, may have or possess the liquor and transport or cause the liquor to be  
4945 transported into the state if:

4946 (i) the person first obtains department approval [~~prior to~~] before moving the liquor into  
4947 the state;

4948 (ii) the person provides sufficient documentation to the department to establish the  
4949 person's legal right to the liquor as a beneficiary;

4950 (iii) the department affixes the official state label to the liquor; and

4951 (iv) the person pays the department a reasonable administrative handling fee as  
4952 determined by the commission; or

4953 (d) a person may transport, have, or possess liquor if:

4954 (i) the person transports, has, or possesses the liquor:

4955 (A) for personal household use and consumption; and

4956 (B) not for:



- 4957 (I) sale;
- 4958 (II) resale;
- 4959 (III) gifting to another; or
- 4960 (IV) consumption on a premise licensed by the commission;
- 4961 (ii) the liquor is purchased from a store or outlet on a military installation; and
- 4962 (iii) the maximum amount the person transports, has, or possesses under this
- 4963 Subsection (1)(d) is:
- 4964 (A) two liters of:
- 4965 (I) spirituous liquor;
- 4966 (II) wine; or
- 4967 (III) a combination of spirituous liquor and wine; and
- 4968 (B) (I) one case of heavy beer that does not exceed 288 ounces[-]; or
- 4969 (II) on or after October 1, 2008, one case of a flavored malt beverage that does not
- 4970 exceed 288 ounces.
- 4971 (2) (a) Approval under Subsection (1)(b) may be obtained by a person who:
- 4972 (i) is transferring the person's permanent residence to this state; or
- 4973 (ii) maintains separate residences both in and out of this state.
- 4974 (b) A person may not obtain approval to transfer liquor under Subsection (1)(b) more
- 4975 than once.
- 4976 Section 55. Section **32A-12-301** is amended to read:
- 4977 **32A-12-301. Operating without a license or permit.**
- 4978 (1) [~~Except as provided by this title or the rules of the commission, a~~] A person may
- 4979 not operate the following [if that establishment allows patrons, customers, members, guests,
- 4980 visitors, or other persons] businesses without first obtaining a license under this title if the
- 4981 business allows a patron, customer, member, guest, visitor, or other person to purchase or
- 4982 consume an alcoholic [beverages] beverage on the premises of the business:
- 4983 (a) a restaurant;
- 4984 (b) an airport lounge;
- 4985 (c) a private club;
- 4986 (d) an on-premise beer retailer outlet;
- 4987 (e) on-premise banquet premises; or

4988 (f) ~~[an establishment]~~ a business similar to one listed in Subsections (1)(a) through (e).

4989 (2) A person conducting an event or function that is open to the general public may not  
4990 directly or indirectly sell, offer to sell, or otherwise furnish an alcoholic ~~[beverages to persons]~~  
4991 beverage to a person attending the event or function without first obtaining a permit under this  
4992 title.

4993 (3) A person conducting a privately hosted event or private social function may not  
4994 directly or indirectly sell or offer to sell an alcoholic ~~[beverages to persons]~~ beverage to a  
4995 person attending the privately hosted event or private social function without first obtaining a  
4996 permit under this title.

4997 (4) A person may not operate the following businesses without first obtaining a license  
4998 under this title:

4999 (a) a winery manufacturer;

5000 (b) a distillery manufacturer;

5001 (c) a brewery manufacturer;

5002 (d) a local industry representative of:

5003 (i) a manufacturer of an alcoholic beverage;

5004 (ii) a supplier of an alcoholic beverage; or

5005 (iii) an importer of an alcoholic beverage;

5006 (e) a liquor warehouse; or

5007 (f) a beer wholesaler.

5008 (5) A person may not operate a public conveyance in this state without first obtaining a  
5009 public service permit under this title if that public conveyance allows a person to purchase or  
5010 consume an alcoholic beverage or alcoholic product:

5011 (a) on the public conveyance; or

5012 (b) on the premises of a hospitality room located with a depot, terminal, or similar  
5013 facility at which a service is provided to a patron of the public conveyance.

5014 Section 56. Section **32A-12-307** is amended to read:

5015 **32A-12-307. Interfering with suppliers.**

5016 [A] (1) Except as provided in Subsection (2), a member of the commission, the  
5017 ~~[department]~~ director, or an employee of the department may not directly or indirectly  
5018 participate in any manner, by recommendation or otherwise, in the appointment, employment,

5019 or termination of appointment or employment of [~~any~~] an agent, representative, employee, or  
5020 officer of [~~any~~] a manufacturer, supplier, or importer of liquor [~~, wine, or heavy beer~~] to the  
5021 department [~~except to~~] including a manufacturer, supplier, or importer of:

5022 (a) wine;

5023 (b) heavy beer; or

5024 (c) on or after October 1, 2008, a flavored malt beverage.

5025 (2) A person described in Subsection (1) may participate in the appointment,  
5026 employment, or termination of appointment or employment to determine qualifications for  
5027 licensing under Chapter 8, Part 5, Local Industry Representative Licenses, and to enforce  
5028 compliance with this title.

5029 Section 57. Section **32A-12-603** is amended to read:

5030 **32A-12-603. Tied house -- Prohibitions.**

5031 (1) (a) It is unlawful for [~~any~~] an industry member, directly or indirectly or through an  
5032 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member  
5033 or from the department to the exclusion in whole or in part of any of those products sold or  
5034 offered for sale by other persons by acquiring or holding any interest in any license with respect  
5035 to the premises of a retailer, except where the license is held by a retailer that is completely  
5036 owned by the industry member.

5037 (b) Interest in any retail license includes any interest acquired by a corporate official,  
5038 partner, employee, or other representative of the industry member.

5039 (c) Any interest in a retail license acquired by a separate corporation in which the  
5040 industry member or the industry member's officials hold ownership or are otherwise affiliated  
5041 is an interest in a retail license.

5042 (d) Less than complete ownership of a retail business by an industry member  
5043 constitutes an interest in a retail license within the meaning of Subsection (1)(a).

5044 (2) (a) It is unlawful for any industry member, directly or indirectly or through an  
5045 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member  
5046 or from the department to the exclusion in whole or in part of any of those products sold or  
5047 offered for sale by other persons by acquiring any interest in real or personal property owned,  
5048 occupied, or used by the retailer in the conduct of the retailer's business.

5049 (b) For purposes of Subsection (2)(a):

5050 (i) "interest" does not include complete ownership of a retail business by an industry  
5051 member;

5052 (ii) interest in retail property includes any interest acquired by a corporate official,  
5053 partner, employee, or other representative of the industry member;

5054 (iii) any interest in a retail license acquired by a separate corporation in which the  
5055 industry member or its officials hold ownership or are otherwise affiliated is an interest in the  
5056 retailer's property;

5057 (iv) less than complete ownership of a retail business by an industry member  
5058 constitutes an interest in retail property;

5059 (v) the acquisition of a mortgage on a retailer's real or personal property by an industry  
5060 member constitutes an interest in the retailer's property; and

5061 (vi) the renting of display space by an industry member at a retail establishment  
5062 constitutes an interest in the retailer's property.

5063 (3) (a) It is unlawful for any industry member, directly or indirectly or through an  
5064 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member  
5065 or from the department to the exclusion in whole or in part of any of those products sold or  
5066 offered for sale by other persons by furnishing, giving, renting, lending, or selling to the retailer  
5067 any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to the  
5068 exceptions enumerated in Subsection (4).

5069 (b) (i) For purposes of this Subsection (3), indirect inducement includes:

5070 (A) furnishing things of value to a third party where the benefits resulting from the  
5071 things of value flow to individual retailers; and

5072 (B) making payments for advertising to a retailer association or a display company  
5073 where the resulting benefits flow to individual retailers.

5074 (ii) Notwithstanding Subsection (3)(b)(i), an indirect inducement does not arise if:

5075 (A) the thing of value was furnished to a retailer by the third party without the  
5076 knowledge or intent of the industry member; or

5077 (B) the industry member did not reasonably foresee that the thing of value would have  
5078 been furnished to a retailer.

5079 (iii) Anything that may lawfully be furnished, given, rented, lent, or sold by industry  
5080 members to retailers under Subsection (4) may be furnished directly by a third party to a

5081 retailer.

5082 (c) (i) A transaction in which equipment is sold to a retailer by an industry member,  
5083 except as provided in Subsection (4), is the selling of equipment within the meaning of  
5084 Subsection (3)(a) regardless of how the equipment is sold.

5085 (ii) The negotiation by an industry member of a special price to a retailer for equipment  
5086 from an equipment company is the furnishing of a thing of value within the meaning of  
5087 Subsection (3)(a).

5088 (d) The furnishing of free warehousing by delaying delivery of alcoholic beverages  
5089 beyond the time that payment for the product is received, or if a retailer is purchasing on credit,  
5090 delaying final delivery of products beyond the close of the period of time for which credit is  
5091 lawfully extended, is the furnishing of a service or thing of value within the meaning of  
5092 Subsection (3)(a).

5093 (e) Any financial, legal, administrative, or influential assistance given a retailer by an  
5094 industry member in the retailer's acquisition of the retailer's license is the furnishing of a  
5095 service or thing of value within the meaning of Subsection (3)(a).

5096 (4) (a) Notwithstanding Subsection (3), things of value may be furnished by industry  
5097 members to retailers under the conditions and within the limitations prescribed in:

5098 (i) this Subsection (4); and

5099 (ii) the applicable federal laws cited in this Subsection (4).

5100 (b) (i) The following may be furnished by an industry member:

5101 (A) a product display as provided in 27 C.F.R. Sec. 6.83;

5102 (B) point of sale advertising materials and consumer advertising specialties as provided  
5103 in 27 C.F.R. Sec. 6.84;

5104 (C) things of value to a temporary retailer to the extent allowed in 27 C.F.R. Sec. 6.85;

5105 (D) equipment and supplies as provided in 27 C.F.R. Sec. 6.88;

5106 (E) combination packaging as provided in 27 C.F.R. Sec. 6.93;

5107 (F) educational seminars as provided in 27 C.F.R. Sec. 6.94;

5108 (G) consumer promotions as provided in 27 C.F.R. Sec. 6.96;

5109 (H) advertising service as provided in 27 C.F.R. Sec. 6.98;

5110 (I) stocking, rotation, and pricing service as provided in 27 C.F.R. Sec. 6.99;

5111 (J) merchandise as provided in 27 C.F.R. Sec. 6.101; and

5112 (K) outside signs as provided in 27 C.F.R. Sec. 6.102.

5113 (ii) The following exceptions provided in federal law are not adopted:

5114 (A) the exception for samples provided in 27 C.F.R. Sec. 6.91;

5115 (B) the exception for consumer tasting or sampling at retail establishments provided in

5116 27 C.F.R. Sec. 6.95; and

5117 (C) the exception for participation in retailer association activities provided in 27

5118 C.F.R. Sec. 6.100.

5119 (iii) To the extent required by 27 C.F.R. Sec. 6.81(b) an industry member shall keep

5120 and maintain a record:

5121 (A) of all items furnished to a retailer;

5122 (B) on premises of the industry member; and

5123 (C) for a three-year period.

5124 (c) ~~[Samples of liquor, wine, and heavy beer]~~ A sample of liquor may be provided to

5125 the department under the following conditions ~~[listed in this Subsection (4)(c):]~~:

5126 (i) This Subsection (4)(c) includes a sample of:

5127 (A) wine;

5128 (B) heavy beer; or

5129 (C) on or after October 1, 2008, a flavored malt beverage.

5130 ~~[(†)]~~ (ii) With the department's permission, an industry member may submit department

5131 samples to the department for product testing, analysis, and sampling.

5132 ~~[(††)]~~ (iii) No more than two department samples of a particular type, vintage, and

5133 production lot of a particular branded product may be submitted to the department for

5134 department testing, analysis, and sampling within a consecutive 120-day period.

5135 ~~[(†††)]~~ (iv) (A) ~~[Each]~~ A sample of liquor may not exceed 1 liter.

5136 (B) ~~[Each]~~ Notwithstanding Subsection (4)(c)(iv)(A), a sample of ~~[wine and heavy]~~ the

5137 following beer may not exceed 1.5 liters unless that exact product is only commercially

5138 packaged in a larger size, not to exceed 5 liters~~[-]~~:

5139 (I) wine;

5140 (II) heavy beer; or

5141 (III) on or after October 1, 2008, a flavored malt beverage.

5142 ~~[(iv)]~~ (v) (A) ~~[Department samples]~~ A department sample submitted to the department:

- 5143 (I) shall be shipped prepaid by the industry member by common carrier; and  
5144 (II) may not be shipped by United States mail directly to the department's central  
5145 administrative warehouse office.
- 5146 (B) [~~Department samples~~] A department sample may not be shipped to any other  
5147 location within the state.
- 5148 [~~(v) Department samples~~] (vi) A department sample submitted to the department shall  
5149 be accompanied by a letter from the industry member:
- 5150 (A) clearly identifying the product as a "department sample"; and  
5151 (B) clearly stating the FOB case price of the product.
- 5152 [~~(vi)~~] (vii) (A) The department may transfer listed items from current stock for use as  
5153 comparison control samples or to verify product spoilage as [~~deemed~~] considered appropriate.
- 5154 (B) Each sample transferred under Subsection (4)(c)(vi)(A) shall be charged back to  
5155 the respective industry member.
- 5156 [~~(vii)~~] (viii) The department shall:
- 5157 (A) account for, label, and record all department samples received or transferred;  
5158 (B) account for the department sample's disposition; and  
5159 (C) maintain a record:
- 5160 (I) of the samples and their disposition; and  
5161 (II) for a two-year period.
- 5162 [~~(viii)~~] (ix) The department shall affix to each bottle or container a label clearly  
5163 identifying the product as a "department sample".
- 5164 [~~(ix) Each~~] (x) A department sample delivered to the department or transferred from  
5165 the department's current stock shall be disposed of at the discretion of the department in one of  
5166 the following ways:
- 5167 (A) tested and analyzed with the remaining contents destroyed under controlled and  
5168 audited conditions established by the department;
- 5169 (B) entire contents destroyed under controlled and audited conditions established by  
5170 the department; or
- 5171 (C) added to the inventory of the department for sale to the public.
- 5172 [~~(x)~~] (xi) Persons other than authorized department officials may not be in possession  
5173 of department samples except as otherwise provided.

5174 (d) Samples of beer may be provided by a beer industry member to a retailer under the  
5175 conditions listed in this Subsection (4)(d).

5176 (i) Samples of beer may be provided by an industry member only to a retailer who has  
5177 not purchased the brand of beer from that industry member within the last 12 months.

5178 (ii) For each retailer, the industry member may give not more than three gallons of any  
5179 brand of beer, except that if a particular product is not available in a size within the quantity  
5180 limitation an industry member may furnish the next largest size.

5181 (e) Educational seminars may involve an industry member under the conditions listed  
5182 in this Subsection (4)(e).

5183 (i) An industry member may provide or participate in educational seminars:

5184 (A) involving:

5185 (I) the department;

5186 (II) retailers;

5187 (III) holders of educational or scientific special use permits;

5188 (IV) other industry members; or

5189 (V) employees of the persons listed in Subsections (4)(e)(i)(A)(I) through (IV); and

5190 (B) regarding such topics as:

5191 (I) merchandising and product knowledge;

5192 (II) use of equipment; and

5193 (III) tours of alcoholic beverage manufacturing facilities.

5194 (ii) An industry member may not pay a department employee's, retailer's, or permittee's  
5195 expenses or compensate them for attending a seminar or tour described in Subsection (4)(e)(i).

5196 (iii) (A) A liquor industry member for purposes of this Subsection (4)(e)(iii) includes  
5197 an industry member for:

5198 (I) wine;

5199 (II) heavy beer; and

5200 (III) on or after October 1, 2008, a flavored malt beverage.

5201 ~~[(iii)-(A)]~~ (B) A liquor~~[, wine, and heavy beer]~~ industry member may conduct ~~[tastings]~~  
5202 a tasting of the industry member's liquor products:

5203 (I) for the department, at the department's request; and

5204 (II) for licensed industry representatives, but only at the department's central



5205 administrative warehouse office.

5206 ~~(B)~~ (C) The industry member may only use department or industry representative  
5207 samples when conducting any tasting of the industry member's products.

5208 (iv) A beer industry member may conduct tastings of beer products for a licensed beer  
5209 retailer either at:

5210 (A) the industry member's premises; or

5211 (B) a retail establishment.

5212 (v) Except to the extent authorized by commission rule, an alcoholic beverage industry  
5213 member may not conduct tasting or sampling activities with:

5214 (A) a retailer; or

5215 (B) a member of the general public.

5216 (f) A beer industry member may participate in beer retailer association activities to the  
5217 extent authorized by 27 C.F.R. Sec. 6.100.

5218 (g) (i) An industry member may contribute to charitable, civic, religious, fraternal,  
5219 educational, or community activities.

5220 (ii) A contribution described in Subsection (4)(g)(i) may not be given to influence a  
5221 retailer in the selection of the alcoholic beverage products that may be sold at these activities  
5222 and events.

5223 (iii) An industry member or retailer violates this section if:

5224 (A) the industry member's contribution described in Subsection (4)(g)(i) influences,  
5225 directly or indirectly, the retailer in the selection of alcoholic beverage products; and

5226 (B) a competitor's alcoholic beverage products are excluded in whole or in part from  
5227 sale at the activity or event.

5228 (h) (i) An industry member may lease or furnish equipment listed in Subsection  
5229 (4)(h)(ii) to a retailer if:

5230 (A) the equipment is leased or furnished for a special event;

5231 (B) a reasonable rental or service fee is charged for the equipment; and

5232 (C) the period for which the equipment is leased or furnished does not exceed 30 days.

5233 (ii) This Subsection (4)(h) applies to the following equipment:

5234 (A) a picnic pump;

5235 (B) a cold plate;

- 5236 (C) a tub;
- 5237 (D) a keg box;
- 5238 (E) a refrigerated trailer;
- 5239 (F) a refrigerated van; or
- 5240 (G) a refrigerated draft system.
- 5241 (i) (i) A liquor industry member for purposes of this Subsection (4)(i) includes an
- 5242 industry member for:
- 5243 (A) wine;
- 5244 (B) heavy beer; or
- 5245 (C) on or after October 1, 2008, a flavored malt beverage.
- 5246 ~~[(i)]~~ (ii) A liquor~~[- wine, and heavy beer]~~ industry member may assist the department
- 5247 in:
- 5248 (A) ordering, shipping, and delivering merchandise;
- 5249 (B) new product notification;
- 5250 (C) listing and delisting information;
- 5251 (D) price quotations;
- 5252 (E) product sales analysis;
- 5253 (F) shelf management; and
- 5254 (G) educational seminars.
- 5255 ~~[(ii)]~~ (iii) (A) Subject to Subsection (4)(i)~~[(ii)]~~ (iii)(B), a liquor~~[- wine, and heavy beer]~~
- 5256 industry member may, for the purpose of acquiring new listings:
- 5257 (I) solicit orders from the department; and
- 5258 (II) submit to the department samples of their products under Subsection (4)(c) and
- 5259 price lists.
- 5260 (B) An industry member may not solicit either in person, by mail, or otherwise, any
- 5261 state store personnel for the purpose or with the intent of furthering the sale of a particular
- 5262 brand or brands of alcoholic beverage product as against another brand or brands.
- 5263 ~~[(iii)]~~ (iv) (A) Any visitations to a state store or package agency by an industry member
- 5264 shall be confined to the customer areas of the store unless otherwise approved.
- 5265 (B) Calls on the state warehouse by industry members are to be confined to the office
- 5266 area only unless otherwise approved.

5267 [~~(iv)~~] (v) A beer industry member may assist licensed retailers in:

5268 (A) ordering, shipping, and delivering beer merchandise;

5269 (B) new product notification;

5270 (C) listing and delisting information;

5271 (D) price quotations;

5272 (E) product sales analysis;

5273 (F) shelf management; and

5274 (G) educational seminars.

5275 [~~(v)~~] (vi) A beer industry member may, for the purpose of acquiring new listings:

5276 (A) solicit orders from licensed retailers; and

5277 (B) submit to licensed retailers samples of their beer products under Subsection (4)(c)

5278 and price lists.

5279 (5) It is unlawful for any industry member, directly or indirectly or through an affiliate,

5280 to induce any retailer to purchase any alcoholic beverages from the industry member or from

5281 the department to the exclusion in whole or in part of any of those products sold or offered for

5282 sale by other persons by paying or crediting the retailer for any advertising, display, or

5283 distribution service:

5284 (a) as defined in and to the extent restricted by 27 C.F.R. Sections 6.51 through 6.56;

5285 and

5286 (b) subject to the exceptions:

5287 (i) for newspaper cuts listed in 27 C.F.R. Sec. 6.92; and

5288 (ii) for advertising services listed in 27 C.F.R. Sec. 6.98.

5289 (6) It is unlawful for any industry member, directly or indirectly or through an affiliate,

5290 to induce any retailer to purchase any alcoholic beverages from the industry member or from

5291 the department to the exclusion in whole or in part of any of those products sold or offered for

5292 sale by other persons by guaranteeing any loan or the repayment of any financial obligation of

5293 the retailer.

5294 (7) (a) It is unlawful for any industry member, directly or indirectly or through an

5295 affiliate, to induce any retailer to purchase any beer from the industry member to the exclusion

5296 in whole or in part of any beer products sold or offered for sale by other persons by extending

5297 to any retailer credit for a period in excess of 15 days from the date of delivery to the date of

5298 full legal discharge of the retailer through the payment of cash or its equivalent, from all  
5299 indebtedness arising from the transaction, so long as that beer purchased or delivered during  
5300 the first 15 days of any month is paid for in cash or its equivalent on or before the 25th day of  
5301 the same month, and beer purchased or delivered after the 15th day of any month is paid for in  
5302 cash or its equivalent on or before the 10th day of the next succeeding month.

5303 (b) First party in-state checks are considered cash payment if the checks:

5304 (i) are honored on presentment; and

5305 (ii) received under the terms prescribed in Subsection (7)(a).

5306 (c) An extension of credit for product purchased by an industry member to a retailer  
5307 whose account is in arrears does not constitute a violation of Subsection (7)(a) if the retailer  
5308 pays in advance or on delivery an amount equal to or greater than the value of each order,  
5309 regardless of the manner in which the industry member applies the payment in its records.

5310 (8) (a) It is unlawful for any industry member, directly or indirectly or through an  
5311 affiliate, to induce any retailer to purchase any alcoholic beverages from the industry member  
5312 or from the department to the exclusion in whole or in part of any of those products sold or  
5313 offered for sale by other persons by requiring:

5314 (i) the department to take and dispose of a certain quota of any alcoholic products; or

5315 (ii) a beer retailer to take and dispose of a certain quota of any beer products.

5316 (b) (i) It is an unlawful means to induce to require:

5317 (A) the department to purchase one product in order to purchase another; or

5318 (B) a beer retailer to purchase one beer product in order to purchase another.

5319 (ii) This Subsection (8)(b) includes:

5320 (A) the requirement to take a minimum quantity of a product in standard packaging in  
5321 order to obtain the same product in some type of premium package such as:

5322 (I) a distinctive decanter; or

5323 (II) a wooden or tin box; or

5324 (B) combination sales if one or more products may be purchased only in combination  
5325 with other products and not individually.

5326 (c) This Subsection (8) does not preclude the selling, at a special combination price,  
5327 two or more kinds or brands of products so long as the department or beer retailer:

5328 (i) has the option of purchasing either product at the usual price; and

5329 (ii) is not required to purchase any product the department or beer retailer does not  
5330 want.

5331 (d) An industry member may package and distribute alcoholic beverages in  
5332 combination with other nonalcoholic items or products.

5333 (e) The combination package shall be designed to be delivered intact to the consumer  
5334 and the additional cost incurred by the industry member shall be included in the cost to the  
5335 department or beer retailer.

5336 Section 58. Section **53-10-102** is amended to read:

5337 **53-10-102. Definitions.**

5338 As used in this chapter:

5339 (1) "Administration of criminal justice" means performance of any of the following:  
5340 detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication,  
5341 correctional supervision, or rehabilitation of accused persons or criminal offenders.

5342 (2) "Alcoholic [~~beverages~~] beverage" has the same meaning as provided in Section  
5343 32A-1-105.

5344 (3) "Alcoholic [~~products~~] product" has the same meaning as provided in Section  
5345 32A-1-105.

5346 (4) "Commission" means the Alcoholic Beverage Control Commission.

5347 (5) "Communications services" means the technology of reception, relay, and  
5348 transmission of information required by public safety agencies in the performance of their duty.

5349 (6) "Conviction record" means criminal history information indicating a record of a  
5350 criminal charge which has led to a declaration of guilt of an offense.

5351 (7) "Criminal history record information" means information on individuals consisting  
5352 of identifiable descriptions and notations of:

5353 (a) arrests, detentions, indictments, informations, or other formal criminal charges, and  
5354 any disposition arising from any of them; and

5355 (b) sentencing, correctional supervision, and release.

5356 (8) "Criminalist" means the scientific discipline directed to the recognition,  
5357 identification, individualization, and evaluation of physical evidence by application of the  
5358 natural sciences in law-science matters.

5359 (9) "Criminal justice agency" means courts or a government agency or subdivision of a

5360 government agency that administers criminal justice under a statute, executive order, or local  
5361 ordinance and that allocates greater than 50% of its annual budget to the administration of  
5362 criminal justice.

5363 (10) "Department" means the Department of Public Safety.

5364 (11) "Director" means the division director appointed under Section 53-10-103.

5365 (12) "Division" means the Criminal Investigations and Technical Services Division  
5366 created in Section 53-10-103.

5367 (13) "Executive order" means an order of the president of the United States or the chief  
5368 executive of a state that has the force of law and that is published in a manner permitting  
5369 regular public access to it.

5370 (14) "Forensic" means dealing with the application of scientific knowledge relating to  
5371 criminal evidence.

5372 (15) "Missing child" means any person under the age of 18 years who is missing from  
5373 his or her home environment or a temporary placement facility for any reason and whose  
5374 location cannot be determined by the person responsible for the child's care.

5375 (16) "Missing person" has the same meaning as provided in Section 26-2-27.

5376 (17) "Pathogens" means disease-causing agents.

5377 (18) "Physical evidence" means something submitted to the bureau to determine the  
5378 truth of a matter using scientific methods of analysis.

5379 (19) "Qualifying entity" means a business, organization, or a governmental entity  
5380 which employs persons who deal with:

5381 (a) national security interests;

5382 (b) care, custody, or control of children;

5383 (c) fiduciary trust over money; or

5384 (d) health care to children or vulnerable adults.

5385 Section 59. Section **76-5-113** is amended to read:

5386 **76-5-113. Surreptitious administration of certain substances -- Definitions --**  
5387 **Penalties -- Defenses.**

5388 (1) As used in this section:

5389 (a) "Administer" means the introduction of a substance into the body by injection,  
5390 inhalation, ingestion, or by any other means.

5391 (b) "Alcoholic beverage" has the same meaning as "alcoholic [~~beverages~~] beverage" in  
5392 Section 32A-1-105.

5393 (c) "Bodily injury" has the same definition as in Section 76-1-601.

5394 (d) "Controlled substance" has the same definition as in Section 58-37-2.

5395 (e) "Deleterious substance" means a substance which, if administered, would likely  
5396 cause bodily injury.

5397 (f) "Poisonous" means a substance which, if administered, would likely cause serious  
5398 bodily injury or death.

5399 (g) "Prescription drug" has the same definition as in Section 58-17b-102.

5400 (h) "Serious bodily injury" has the same definition as in Section 19-2-115.

5401 (i) "Substance" means a controlled substance, poisonous substance, or deleterious  
5402 substance as defined in this Subsection (1).

5403 (2) In addition to any other offense the actor's conduct may constitute, it is a criminal  
5404 offense for a person, surreptitiously or by means of fraud, deception, or misrepresentation, to  
5405 cause another person to unknowingly consume or receive the administration of:

5406 (a) any poisonous, deleterious, or controlled substance; or

5407 (b) any alcoholic beverage.

5408 (3) A violation of Subsection (2) is:

5409 (a) a second degree felony if the substance is a poisonous substance, regardless of  
5410 whether the substance is a controlled substance or a prescription drug;

5411 (b) a third degree felony if the substance is not within the scope of Subsection (3)(a),  
5412 and is a controlled substance or a prescription drug; and

5413 (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic  
5414 beverage.

5415 (4) (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:

5416 (i) provided the appropriate administration of a prescription drug; and

5417 (ii) acted on the reasonable belief that his conduct was in the best interest of the  
5418 well-being of the person to whom the prescription drug was administered.

5419 (b) (i) The defendant shall file and serve on the prosecuting attorney a notice in writing  
5420 of his intention to claim a defense under Subsection (4)(a) not fewer than 20 days before the  
5421 trial.

5422 (ii) The notice shall specifically identify the factual basis for the defense and the names  
5423 and addresses of the witnesses the defendant proposes to examine to establish the defense.

5424 (c) The prosecuting attorney shall file and serve the defendant with a notice containing  
5425 the names and addresses of the witnesses the prosecutor proposes to examine in order to  
5426 contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a).  
5427 This notice shall be filed or served not more than ten days after receipt of the defendant's notice  
5428 under Subsection (4)(b), or at another time as the court may direct.

5429 (d) (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c)  
5430 entitles the opposing party to a continuance to allow for preparation.

5431 (ii) If the court finds that a party's failure to comply is the result of bad faith, it may  
5432 impose appropriate sanctions.

5433 (5) This section does not diminish the scope of authorized health care by a health care  
5434 provider as defined in Section 26-23a-1.

---

---

**Legislative Review Note**  
**as of 2-7-08 2:01 PM**

**Office of Legislative Research and General Counsel**



---

---

**S.B. 211 - Alcoholic Beverage Control Amendments**

**Fiscal Note**

2008 General Session  
State of Utah

---

---

**State Impact**

Enactment of this bill will reduce sales and excise tax from off-premises retail stores by \$604,700 consequently reducing General Fund Revenues by the same amount. Sales through the Department of Alcoholic Beverage Control would generate offsetting sales tax increases of \$467,400. Additionally, the Department of Alcoholic Beverage Control anticipates an increase in revenue of \$2,491,400 which includes profit by the Department of \$1,725,600. That profit accrues to the General Fund, for a net increase in General Fund revenue of \$1,589,100 per year. The remaining revenue - \$765,800 - is transferred to the school lunch program.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	\$1,589,100	\$1,589,100
Transfers	\$0	\$765,800	\$765,800	\$0	\$765,800	\$765,800
<b>Total</b>	<b>\$0</b>	<b>\$765,800</b>	<b>\$765,800</b>	<b>\$0</b>	<b>\$2,354,900</b>	<b>\$2,354,900</b>

---

**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals and local governments. Certain businesses may be impacted due to the reduction in inventory they are able to carry.

---